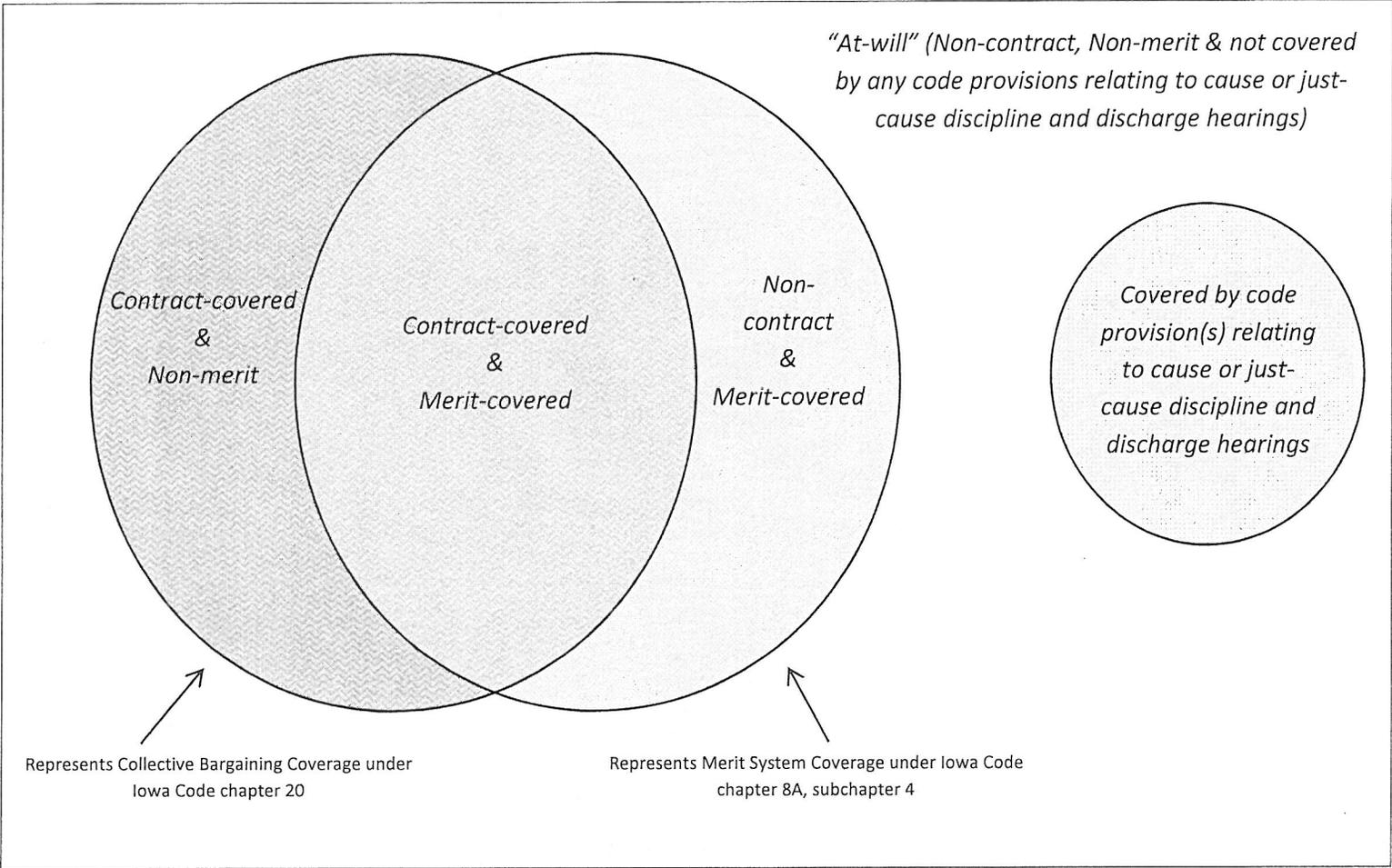


State of Iowa Employment Statuses



Minnehan, Michelle [DAS]

From: Hunter, Caleb [DAS]
Sent: Wednesday, April 16, 2014 4:12 PM
To: Minnehan, Michelle [DAS]
Subject: Fw: "Do Not Hire" List
Attachments: Disqualified Status Data.xlsx; DAS-EAB decisions 2009-2014.pdf

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

Original Message

From: Hunter, Caleb [DAS] <Caleb.Hunter@iowa.gov>

Sent: Thursday, April 10, 2014 3:13 PM

To: Petersen, Janet [LEGIS]

Cc: Godes, Bridget [LEGIS]; Mccoy, Matt [LEGIS]; Schoenjahn, Brian [LEGIS]; Gronstal, Mike [LEGIS]; Gronstal, Mike [LEGIS]; Jochum, Pam [LEGIS]; Anderson, Lon [DAS]

Subject: RE: "Do Not Hire" List

Senator Peterson,

The attached database is of employees held in exclusion status 'jst', 'cls' and 'dep' in accordance with IAC 11-54.2(6). Applicants have both informal (IAC 11-61.3), and formal (IAC 11-61.2) appeal rights. Applicants are notified at the time they apply for a vacancy of their disqualification status for that position. It is important to note that as stated in the related rule, an individual does not become disqualified until the time at which the individual becomes an applicant.

Those exclusion statuses are defined as:

CLS – job class exclusion, based on an involuntary discharge from state employment
DEP – department exclusion, based on an involuntary discharge from state employment
JST – just cause exclusion, based on an involuntary discharge from state employment

These records are individually held and not maintained and updated as a list. DAS produced a pull from a database to respond to the request from the AP. Applicants in exclusion status are only disqualified when they apply for a state position. The application is the point in time when disqualification takes place, along with appeal rights as outlined in the rule. DAS works to implement the administrative code in a way that is consistent with the rulings from the Administrative Law Judges.

Many Administrative Law Judge rulings have upheld DAS's practice. Several of those decisions are attached.

For your convenience the relevant administrative code is pasted here:

11-54.2(6) Disqualification or removal of applicants. The director may refuse to place an applicant on a list of eligibles, refuse to refer an applicant for a vacancy, refuse to approve the appointment of an applicant, or remove an applicant from a list of eligibles for a position if it is found that the applicant:

- a. Does not meet the minimum qualifications or selective requirements for the job class or position as specified in the job class description, vacancy announcement, administrative rules, or law.
- b. Is incapable of performing the essential functions of the job classification or position and a reasonable accommodation cannot be provided.
- c. Has knowingly misrepresented the facts when submitting information relative to an application, examination, certification, appeal, or any other facet of the selection process.

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- b. Is incapable of performing the essential functions of the job classification or position and a reasonable accommodation cannot be provided.
- c. Has knowingly misrepresented the facts when submitting information relative to an application, examination, certification, appeal, or any other facet of the selection process.
- d. Has used or attempted to use coercion, bribery or other illegal means to secure an advantage in the application, examination, appeal or selection process.
- e. Has obtained screening information to which applicants are not entitled.
- f. Has failed to submit the application within the designated time limits.
- g. Was previously discharged from a position in state government.
- h. Has resigned in lieu of discharge for cause.
- i. Has been convicted of a crime that is shown to have a direct relationship to the duties of a job class or position.
- j. Is proven to be an unrehabilitated substance abuser who would be unable to perform the duties of the job class or who would constitute a threat to state property or to the safety of others.
- k. Is not a United States citizen and does not have a valid permit to work in the United States under regulations issued by the U.S. Immigration and Naturalization Service.

Applicants disqualified or removed under this subrule shall be notified in writing by the director within five workdays following removal. Applicants may informally request that the director reconsider their disqualification or removal by submitting additional written evidence of their qualifications or reasons why they should not be removed in accordance with rule 11—61.3(8A). Formal appeal of disqualification or removal shall be in accordance with 11—subrule 61.2(4).

11—61.2(4) Appeal of disqualification, restriction, or removal from eligible lists. An applicant who has been disqualified or whose name has been restricted or removed from an eligible list in accordance with rule 11—54.2(8A) or 11—55.2(8A), or who has been restricted from certification in accordance with rule 11—56.7(8A) may file a written appeal to the employment appeal board in the department of inspections and appeals for a review of that action. The written appeal must be filed with the board within 30 calendar days following the notice of disqualification, removal from the eligible list, or restriction from certification. The burden of proof to establish eligibility shall rest with the appellant.

11—61.3(8A) Informal settlement. The director or an appellant may request that an informal conference be held to determine if a dispute can be resolved in a manner agreeable to all parties prior to a contested case hearing. If the director and the appellant agree to negotiate a settlement, the various points of the proposed settlement shall be included in a written statement of facts. Negotiations for a settlement shall be completed at least five workdays prior to the date of the contested case hearing, unless additional time is agreed to by the director, the appellant and the public employment relations board, the department of inspections and appeals, or the classification appeal committee, as applicable. The settlement shall be binding when approved and signed by both the director and the appellant.



April 2, 2014

#Contact-Info:FirstName# #Contact-Info:LastName#
#Contact-Info:Address#
#Contact-Info:City# #Contact-Info:State# #Contact-Info:Zip#

You recently applied for: #Requisition:Job-Title#
Vacancy Number: #Requisition:Auto-req-ID#
Department: #Requisition:Department#

Our records show that you were previously discharged from a position in state government. Your name will not be referred to the hiring authority for this vacancy. Below please find the administrative rules governing the authority for this decision and your rights to an appeal.

11-54.2(6) Disqualification or removal of applicants. The director may refuse to place an applicant on a list of eligibles, refuse to refer an applicant for a vacancy, refuse to approve the appointment of an applicant, or remove an applicant from a list of eligibles for a position if it is found that the applicant:

- a. Does not meet the minimum qualifications or selective requirements for the job class or position as specified in the job class description, vacancy announcement, administrative rules, or law.
- b. Is incapable of performing the essential functions of the job classification or position and a reasonable accommodation cannot be provided.
- c. Has knowingly misrepresented the facts when submitting information relative to an application, examination, certification, appeal, or any other facet of the selection process.
- d. Has used or attempted to use coercion, bribery or other illegal means to secure an advantage in the application, examination, appeal or selection process.
- e. Has obtained screening information to which applicants are not entitled.
- f. Has failed to submit the application within the designated time limits.
- g. Was previously discharged from a position in state government.
- h. Has resigned in lieu of discharge for cause.
- i. Has been convicted of a crime that is shown to have a direct relationship to the duties of a job class or position.
- j. Is proven to be an unrehabilitated substance abuser who would be unable to perform the duties of the job class or who would constitute a threat to state property or to the safety of others.
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