

Agencies

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SECTION 4.10 APPLICATION AND HIRING PROCESS

Last Update: 8/12

A. General Employment Application Process

Applications may be obtained from:

- The Department of Administrative Services – Human Resources Enterprise (DAS-HRE), Level A, Hoover Building, Des Moines.
- The DAS-HRE web site, at www.das.hre.iowa.gov. Click on State Jobs; then, click on Printable State Application.
- On-line application may also be made on the DAS-HRE web site at http://das.hre.iowa.gov/state_jobs.html.
- Iowa Workforce Development Offices located throughout the state.
- State departments and institutions located throughout the state.

Applications may be made for:

- Current vacancies in positions covered by the merit system.
- Some merit exempt positions are posted by departments. Those wishing to apply for positions exempt from merit system provisions must apply directly to the department filling a vacancy.
- Some positions are limited to application from current permanent state employees.

Current Vacancies

- Are posted for specified periods of time.
- Applications must be received during the posting period.
- Applications received after the posting period expires will not be considered.

Applications must meet the following criteria:

- The application must be completed properly and signed.
- The applicant must apply for a current posted vacancy.
- The applicant must meet the minimum qualifications and any applicable special or selective requirements for the vacancy for which the applicant is applying.

Applicant testing is required for:

- Positions that require typing.
- Correctional Officer positions.

Correctional Officer Testing/Examination

- Requires a series of examinations.
- Notice will be sent to applicants with instructions for scheduling of tests.
- Correctional Officer testing may be retaken every two years.
- The most recent score is used regardless of whether it is higher or lower than a previous score.

Typing Tests

- Typing tests may be required for some administrative support positions.
- When a job is posted, BrassRing automatically enters a typing test notification in the minimum qualifications section of the job posting. The notification includes a link to the actual typing requirements and instructions to take the test.
- After a candidate's application has been reviewed and approved by the employment specialist, a typing notice is sent to the candidate that includes the typing requirements and instructions to take the exam.
- DAS-HRE must receive verification of a passing score before an applicant will be referred to a department for consideration.

Other Screening

- Some positions may require a background check.

- Some positions may require a medical evaluation or screening after a conditional offer of hire is made.

Reasonable Accommodations

- May be available during the application process.
- Contact the DAS-HRE Employment Bureau at (515) 281-5889.

Positions Requiring Licensure/Certification

- Applicants for positions that require a license must provide proof of current licensure/certification.
- Following appointment, employees must maintain licensure/certification and provide proof upon request or as required by the appointing authority.

Commercial Driver's License

- All applicants for positions requiring a Commercial Driver's License must complete a supplemental application and provide it to the agency at the time of interview (CFN 552-0562).
- Federal law requires that applicants provide the names and addresses of previous employers for whom the applicant was an operator of a commercial motor vehicle. The application must provide dates of employment, reason for leaving and certification as to the truthfulness of the information for the 10 years preceding the date the application is submitted.
- A "Notice of Conviction for a Violation of a Motor Vehicle Law" form (CFN 552-0563) must be completed by a person hired into a position that requires a driver's license and requires that holders of a Commercial Driver's License:
 - Report to their employer, within 30 calendar days of conviction, any violation of the motor vehicle laws (other than parking violations).
 - Report to their employer before the end of the business day following the date the employee received notice of suspension, revocation, cancellation, or any disqualification from operating a motor vehicle.

Driver's License

- An "Acknowledgement of Driver's License Requirements" form (CFN 552-0564) must be completed by all current employees if a driver's license is a job requirement.
- All employees who must possess any kind of driver's license as a requirement of their job must report to their employer before the end of the business day following the date the employee received notice of suspension, revocation, cancellation, or any disqualification from operating a motor vehicle.

B. Promotional Hiring Process

Permanent state employees may apply for promotional opportunities. Two types of promotional lists are maintained: intra-agency (within the employing department) or inter-agency (between state departments). All positions covered by collective bargaining agreements must be posted in accordance with the agreement covering the specific job class.

Intra-Agency Promotional Opportunities

- An intra-agency promotional applicant list contains the names of:
 - All qualified employees within the employing agency who apply for the position.
 - Current interns within the agency who have completed 90 calendar days of employment with that agency.
 - An intra-agency list may screen for promotional opportunities from persons within an employing unit, or from persons within all employing units of the department.

Inter-Agency Promotional Opportunities

- An inter-agency promotional applicant list contains the names of:
 - Any qualified permanent state employees including permanent employees of the Board of Regents and Community-Based Corrections.
 - Interns who have completed at least 90 calendar days of employment with the employing agency.

General Promotional Information

- Names of promotional applicants meeting the minimum and selective qualifications are placed on promotional applicant lists in alphabetical order.
- A typing test may be required for promotional applicants who apply for a job class that requires typing, if

the promotional applicant has not previously taken the test.

- Promotional applicants for the class of Correctional Officer must successfully complete the required exams for the class.
- Background checks or other conditional screens required for specific classes or positions.
- Proof of licensure/certification must be provided upon request if the job class requires licensure/certification.
- The appointing authority must verify the applicant is a current state employee or a bona-fide intern. The contact name and phone number for the State of Iowa, board of Regents and Community Based Corrections are listed below:
 - State of Iowa: Velma Matchinsky 281-5239 velma.matchinsky@iowa.gov.
 - Board of Regents: Ilene (Ruth) Tuttle 281-6425 ituttle@ia.edu.
 - Community Based Corrections: Kathy Wolk (DOC Central) 725-5739 kathy.wolk@iowa.gov.

Promotional Hiring Policy

- Each department/agency must have a promotional policy.
- Policy should describe general methods to be used to screen promotional applicants.
- Policy should ensure that equal employment opportunity is present and affirmative action is applied appropriately.
- Each supervisor must be made aware of the policy and be held accountable for compliance with its provisions.
- The policy must include elements that address the following:
 - A general statement that promotions will be given to qualified individuals in accordance with equal employment opportunity and affirmative action policies of the State of Iowa.
 - That screening of candidates to determine who will be interviewed will be conducted based on job related factors.
 - Race, sex, and disability are never to be the sole reason that an individual is selected to be interviewed and that other applicants are to be excluded.

C. Non-Promotional Hiring Process

A position may be filled using an all applicant eligible list. All positions must be posted by DAS-HRE as open to application.

- A non-promotional applicant is an applicant who is not currently a permanent state employee.
- All applicant eligible lists contain the names of promotional applicants as well as non-promotional applicants.
- Applicants on this list are in alphabetical order. Promotional applicants are identified by the agency in which they are currently employed.
- Any applicant on the list is eligible to be hired.
- A selection process should be used to narrow the list so that the most qualified applicants are interviewed (see the Applicant Screening Manual at: http://das.hre.iowa.gov/documents/publications/applicant_screening_manual.pdf).

D. Employment Practice Standards

The following basic standards apply to all processes used to screen applicants in order to ensure that applicants are fairly compared:

- The employment system is a *merit* based system. The process must be fair, equitable, and based on hiring the most qualified applicants available.
- Job requirements based on the competencies required to perform the duties of the position being filled need to be the basis for the screening process used.
- Screening methods that provide information about the applicant's job related qualifications must be used to identify the best qualified applicants.
- Screening methods must treat all candidates in a fair, equitable, and non-discriminatory manner.
- Departments must apply the State of Iowa Equal Opportunity, Affirmative Action Policy and the State's Discrimination Policy in all of their screening and hiring activities.
- Use of reasonable accommodations in the screening process must be considered when requested and appropriate.

- Departments must apply veteran's preference points to their primary scoring system for applicants.
- Screening methods must be job-related and justifiable on the basis of business necessity.
- All persons involved in the screening and hiring process must be trained and familiar with screening process requirements as well as how to fairly, equitably, and accurately apply those processes.
- Final applicants must be notified in writing of their selection/non-selection after final decisions are made.
- Records pertaining to the screening process and how decisions were made regarding each applicant must be maintained for a minimum of three years.

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SECTION 4.15 TYPES AND SAMPLES OF OFFER LETTERS

New: 2/13

Offer letters should, at a minimum, address the following:

- **Salary** (To offer in excess of the minimum, you must submit a request for an advanced appointment rate to your Personnel Officer at DAS-HRE.)
- **Start date** (If the selected applicant is a current state employee, the start date should be at the beginning of a pay period.)
- **Date, time, and location** the applicant is to report on the first day of employment and who will meet the applicant.
- **Benefits** (If the selected applicant is a current state employee and is moving from contract to non-contract, full-time to part-time, etc., address the changes to insurance and other benefits. New hires may appreciate receiving a list of benefits in the letter and when they will become eligible. Your Personnel Assistant should be able to provide this information.)
- **Position status** (Identify whether the position is contract covered, merit covered, or exempt from either or both.)
- **Probationary period**, if applicable. (Non-merit, non-contract employees do not serve a probationary period.)
- **Signature line** for selected applicant's signature indicating acceptance.

Other items that may be appropriate to address:

- Conditional offer contingent on successful completion of a background check, criminal history check, abuse registry, etc. (Must have a background check policy on file with DAS-HRE.)

**SAMPLE OFFER OF EMPLOYMENT LETTER
FOR MERIT AND CONTRACT-COVERED POSITIONS**

Date

Name

Address

City, State, Zip Code

Dear *(first name)*:

The *(insert agency/authority name)* is pleased to confirm the offer extended you to join *(insert agency/bureau)* in the position of *(insert job title)*, reporting to *(insert supervisor's name)*. Your employment will begin on *(insert date)*. Please report to *(insert supervisor's name)* at *(time)* at *(job location)*.

This offer is contingent upon *(insert agency name)* *(include post offer conditions-for example, background check, criminal history check and/or abuse registry check)*.

Your starting salary for this full-time position (merit and collective bargaining covered) is *(insert salary)* per year. You will be paid on a bi-weekly basis and wages are subject to normal withholding. You will receive your first paycheck on *(insert paycheck date)*, which will include wages for *(insert first day of work and pay period end date)*. You will be eligible to participate in a comprehensive benefits program, which includes medical and dental insurance, life and long-term disability, a Flexible Spending Account, deferred compensation, paid holidays,

annual leave and sick leave, and IPERS (Iowa Public Employees Retirement System).

As a condition of employment, you will be expected to abide by State and Agency policies and procedures. You will be required to sign acknowledgement of policy and procedures. You will be required to show proof of citizenship or eligibility to work in the United States. Please bring appropriate documents with you on your first day of work.

Additionally, you will be in probationary status the first six months of your employment. During that time, you have all rights of a permanent employee with the following exceptions: you will not be eligible for promotional certification, voluntary demotion or transfer, and your appointment may be terminated without right of appeal.

I look forward to your joining the *(insert agency/bureau)* team. If you have any questions, please feel free to call me at *(insert phone number)*.

Sincerely,

(Insert name)
(Insert signature/title)

Please specify acceptance or rejection of this offer by returning this form with your signature.

(Applicant's name)

Date

This offer will terminate *(insert number)* days from the date of this letter.

cc: Personnel file

**SAMPLE OFFER OF EMPLOYMENT LETTER
FOR AT-WILL POSITIONS**

Date

Name
Address
City, State, Zip Code

Dear *(first name)*:

The *(Insert agency/authority name)* is pleased to confirm the offer extended you to join *(insert agency/bureau)* in the position of *(insert job title)*, reporting to *(insert supervisor's name)*. Your employment will begin on *(insert date)*. Please report to *(insert supervisor's name)* at *(time)* at *(job location)*.

This offer is contingent upon *(insert agency name)* *(include post offer conditions-for example, background check, criminal history check and/or abuse registry check)*.

Your starting salary for this full-time, at-will position (merit and collective bargaining exempt) is *(insert salary)* per

year. You will be paid on a bi-weekly basis and wages are subject to normal withholding. You will receive your first paycheck on *(insert paycheck date)*, which will include wages for *(insert first day of work and pay period end date)*. You will be eligible to participate in a comprehensive benefits program, which includes medical and dental insurance, life and long-term disability, a Flexible Spending Account, deferred compensation, paid holidays, annual leave and sick leave, and IPERS (Iowa Public Employees Retirement System).

As a condition of employment, you will be expected to abide by State and Agency policies and procedures. You will be required to sign acknowledgement of policy and procedures. You will be required to show proof of citizenship or eligibility to work in the United States. Please bring appropriate documents with you on your first day of work.

Your employment is at-will, voluntarily entered into and is for no specific period. You are free to resign at any time, for any reason or for no reason. The *(insert agency)* is free to conclude its at-will employment with you at any time, and without cause, and with or without notice. The conditions of your employment may change as operational needs dictate. *(If agency statute includes any pre-termination hearing or appeal process, modify this statement as appropriate)*.

I look forward to your joining the *(insert agency/bureau)* team. If you have any questions, please feel free to call me at *(insert phone number)*.

Sincerely,

(Insert name)

(Insert signature/title)

Please specify acceptance or rejection of this offer by returning this form with your signature.

(Applicant's name)

Date

This offer will terminate *(insert number)* days from the date of this letter.

cc: Personnel file

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Section 4.20 Recruitment Guidelines

Last Update: 2/2011

Recruitment – The Key to Successful Hiring and a Productive Workforce

Recruitment is a process that should be targeted, collaborative, continuing and accountable. The success of the recruitment process is measured in the timely attraction of quality, retainable, appropriately-skilled talent identified through the recruitment efforts of the agency, the Department of Administrative Services-Human Resources Enterprise (DAS-HRE), and inter-agency collaborations.

Keys to Success:

A. Key # 1 – Develop a Recruitment Plan

- **A Plan that Targets Talent**

Hiring the right person the first time begins with having a practical and relevant recruitment plan. The recruitment plan becomes the nexus for acquiring and retaining a skilled and productive workforce. Each agency should develop and annually review an agency-level recruitment plan based on the staffing needs as indicated by internal and external conditions. To guide the process and facilitate an ample pool of qualified talent, managers and supervisors should also develop a recruitment plan specific to each vacancy.

The agency's plan should be developed with input from managers, supervisors, and agency staff that support workforce planning, recruitment, and hiring activity. The plan should have the full support and authority of the agency director.

- **A Plan that is Collaborative**

DAS-HRE is available to consult with the agency in creating a recruitment plan and providing technical assistance in acquiring and retaining talent. Agencies may consult DAS-HRE staff as outlined:

- The **Affirmative Action Officer** is available to advise and assist the agency with its:
 - Affirmative action plan and progress
 - Demographic information gathering
- The **Personnel Officer** is available to advise and assist the agency with its:
 - Affirmative action plan and progress
 - Recruitment plan
 - Recruitment activity and events
 - Succession planning
 - Retention issues
 - Resource allocation
- The **Recruitment Coordinator** is available to advise and assist the agency with:
 - Recruitment plans
 - Recruitment activity and events
 - Targeted recruitment (protected classes - females in non-traditional occupations, minorities, and persons with disabilities)
 - Collaborative recruitment by coordinating:
 - career/job fairs
 - community events
 - inter-agency sharing of information and resources
 - job searches
 - advertising campaigns
 - Diversity Initiatives

- **A Plan that is Robust**

Critical to developing and maintaining an effective recruitment strategy is to consider the following factors:

- Job Review and Analysis
 - Keep PDQs relevant. The PDQ should be clear and concise, reflecting current job duties as

they relate to the required knowledge, skills, and abilities of incumbents. Identify those competencies essential to success in the position.

- Affirmative Action/Diversity
 - Know the demographics of available labor within the geographical locale for which the agency or unit will need to recruit. The American Community Survey and Iowa Workforce Development (IWD) may be useful in gathering this kind of data.
- Turnover Data
 - Know and understand factors that impact turnover. Use new hire and exit interview data to gain an understanding of turnover.
- Skills Inventory
 - Know the inventory of skills within the agency to understand better recruiting opportunities. Know when it's more practical to recruit internally.
- Succession Planning
 - Build bench strength within the organization by recruiting, coaching, and developing staff to fill key roles in the agency.
- Growth Indicators
 - Understanding changes in the needs and services provided by the agency and innovations impacting service offerings allows the agency to recruit strategically.
- Talent Market Conditions
 - Seek to know the availability and presence of requisite talent. Work with colleges and universities to produce students with essential skills. Collaborate with local k-12 educational systems to encourage interest in targeted public administration professions.
- Budgetary Provisions
 - Each agency should exercise fiscal prudence in the designation of resources for recruitment activities based on the projected staffing needs created through turnover and growth.

B. Key # 2 – Have an Implementation Strategy

- **Build in Accountability**

Implementation of the recruitment plan is the joint responsibility of:

- Managers
- Supervisors
- Personnel Assistants (if applicable)
- Other Staff (where feasible)
- Appointing Authority

- **Be Strategic**

The agency must be deliberate about sourcing vacancies, especially those positions indigenous to the agency. Prepare a toolkit – complete with checklists, timelines, and databases – to maximize your ability to attract highly-qualified applicants. Include at minimum a database of:

- Advertisement options
 - Job boards
 - Professional affiliations
 - Social Media Group Memberships (LinkedIn, Facebook, Twitter, etc.)
 - E-publications
 - Multimedia outlets – web banners, television, radio, newspapers, email, postal mail
- Career/Job Fairs
 - Professional/Skill focused
 - Colleges, universities, and technical schools
 - Diversity focused
- Referrals
 - DAS-HRE referral program
 - Previously interviewed
 - Networking contacts

- Employee referrals
- New hires
- Internship Strategy
 - Paid
 - Unpaid
 - Co-op education
- Networking Strategy
 - Social media
 - Professional associations
 - Community networking events
 - Employment workshops/networking socials
 - Staffing organizations
 - Diversity receptions/gatherings
- Intra-agency collaboration
 - BrassRing
 - Job Shadowing – provide an opportunity for self-identifying employees to job shadow in the agency with appropriate approvals.
- Volunteers/service learning projects
 - Corporation for National and Community Service
 - AmeriCorps
 - Independent citizens

C. Key # 3 – Recruit with Retention in Mind

Being purposeful about attracting the right talent – individuals that meet the academic, experience, and cultural stance of the agency – is vital to retaining employees. Agencies should engage those exercises that would build:

- A “pipeline” or “pool” of talent; manage relationships within that pool by communicating at regular intervals using an appropriate communication strategy.
- Brand recognition in targeted communities by attending and/or seeking out opportunities to present at workshops or panel presentations, community events, and schools’ and colleges’ career-focused programs.
- Strategic academic, business, and community partnerships to enhance the attractiveness of the agency and its job classes.

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Section 4.25 Advertising

Last Update: 02/2011

Advertising is a crucial component of effective recruitment whether filling a job vacancy or implementing a branding advertisement campaign. It is recommended that the agency include an advertising line item in its recruitment budgets.

The Iowa Department of Administrative Services – Human Resources Enterprise (DAS-HRE) has contracted with the Des Moines Register to offer reduced rates for recruitment advertising. To assure group rate pricing when advertising through the Des Moines Register, the agency should place recruitment advertisements through the Account Relationship Specialist assigned to the State of Iowa.

Sarah Holst
sholst@dmreg.com
 515-284-8486 phone
 515-284-8355 fax

The Recruitment Coordinator of DAS-HRE will maintain a database of recruitment advertising options and work to develop cost effective means of advertising to assist the agencies. The agencies are, however, responsible for planning, creating, placing, and billing of recruitment advertisement.

The Planning Process

- Use historical hiring/advertising data to determine an appropriate budget projection
- Survey applicants to determine which sources have been effective
- Identify free, low cost, and high visibility advertising options
 - Determine an appropriate budget for advertising – print, television, radio, websites, etc.
 - Consult with the DAS-HRE Recruitment Coordinator for assistance
- Implement time saving strategies by creating:
 - An advertisement template for high turnover positions
 - A database of sources based on job classifications
 - An email distribution list of applicable organizations to send advertisements
- Look for opportunities to collaborate with other state agencies in developing advertisement campaigns

Creating the Advertisement

- The hiring manager is pivotal to effective advertisement creation and should be the primary contributor of advertisement content
- The advertisement should be specific, yet brief, using adjectives that help the reader gain a clear picture of the job
- Include the current agency logo in display advertisements
- Make certain to include required content applicable to merit-covered positions (See Advertisement Content section)

Placing the Advertisement

- Be strategic about what section of the paper to place the advertisement, or the air time to run an advertisement
- Consider a referral advertisement in a different section of the paper when the position targets multiple disciplines
- Take advantage of advertisement packages that might include online advertising or other media sources
- Ask for a proof and rate quote to review before giving permission to run an advertisement
- Remove advertisements from job boards consistent with post closing date

If the agency does not have dedicated staff for creating and placing advertisements, the DAS-HRE Recruitment Coordinator is available to assist with the following:

- Creating the advertisement
- Identifying appropriate advertisement sources
- Placing the advertisement

The agency may also review the Managers and Supervisors Manual, Recruitment Guidelines for more information on advertising options.

Paying for Advertisement

The agency is responsible for paying for all job specific advertisements and agency branding advertisement campaigns. DAS-HRE will only pay for state-wide employment branding advertising and marketing materials.

When utilizing DAS-HRE staff to place an advertisement the agency must provide billing information for DAS-HRE to use. In many instances, especially with new sources, the agency must secure payment/billing arrangements before an advertisement can be placed.

Advertisement Content for Merit-Covered Positions

Merit covered recruitment advertisements **must** always contain the following information:

- Official job title (inclusion of a working title is optional)
- BrassRing requisition number
- Closing date
- Hiring department
- Job essentials – position location (city and county), hours of work, travel (if applicable)
- Summary job description
- Minimum qualifications
- Selective(s) (where applicable)
- Salary information
- Application instructions providing the following DAS-HRE information:
 - Online application website – http://www.das.hre.iowa.gov/state_jobs.html
 - Physical address – Hoover State Office Building, 1305 E Walnut Street, Des Moines, IA 50319
 - Phone, fax, and email – 515-281-5889-phone, 515-281-7970-fax, das.hre.info@iowa.gov
- The following statement: “The State of Iowa is an Equal Employment Opportunity/Affirmative Action Employer”

When the advertisement is for a non-merit job vacancy, the advertisement should include specific instructions on how to apply and provide the necessary contact information for receipt of the application and/or cover letter and resume.

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SECTION 4.35 VETERAN'S POINTS

Last Update: 7/01

AUTHORIZATION

Granting of veteran's points for hiring into merit system covered positions is governed by **Iowa Code** sections 35C.1 and 19A.9. Under these Code sections either five points or ten points are to be granted to honorably separated veterans when they meet qualifying criteria established in the Code.

QUALIFICATION CRITERIA

1. Being a citizen of the State of Iowa
2. Service during any war, campaign, or expedition for which a campaign badge or service medal has been authorized. These include service in:
 - a. Lebanon
 - b. Grenada
 - c. Panama
 - d. Somalia
3. Service during periods established in **Iowa Code** 35c.1. These include:
 - a. WW 11 service during the period December 7, 1941 through December 31, 1946
 - b. Korean service during the period of June 25, 1950 through January 31, 1955
 - c. Vietnam service during the period August 5, 1964 through May 7, 1975
 - d. Persian Gulf Conflict service during a period starting August 2, 1990 with an ending date yet to be established.
4. In order to determine if a veteran qualifies for veteran's points, their official separation papers, such as military form DD 214, must be reviewed. Information to be reviewed includes periods of active service and what medals, such as Armed Forces Expeditionary Medals, have been issued.
5. Veterans who have been awarded a Purple Heart Medal during their period of service are eligible for ten point veteran's preference based on disability.
6. Veterans who submit documentation from the Veteran's Administration that they have a service-connected disability are also eligible for ten points. Verification from the Veteran's Administration must be resubmitted every 24 months.
7. Veterans who have been given either five or ten points will be identified on the list of names provided to your department. These points must be added to the primary scoring system used to rank applicants before an interview.

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SECTION 4.50 TECHNICAL INSTRUCTIONS FOR FILLING VACANCIES

Last Update: 2/13

Vacancies can be filled through transfer, promotion, demotion, recall, outplacement, reinstatement, or a new hire.

Prior to requesting an applicant list, collective bargaining transfer provisions must be met. Steps for filling vacant positions differ based on whether or not the position is covered by a collective bargaining agreement. Check the appropriate collective bargaining agreement for required steps for filling a vacancy.

The agency Personnel Assistant submits a BrassRing requisition for an applicant list when filling a vacancy for a merit-covered position.

Agencies have the authority to request any available type of applicant list for any given vacancy. Lists must be requested in the order identified in the applicable collective bargaining agreement that covers the vacancy to be filled. Upon receiving a BrassRing Requisition form, the recall and outplacement lists are checked by the Employment Team in DAS-HRE. If recall names are available, a Recall notice is sent to the hiring agency. If outplacement names are available, notice is sent to the hiring agency. Recall names must be offered the position. Outplacement candidates must be considered before an agency hires an applicant from outside state government.

Types of Appointments that require a BrassRing Requisition

- A. Permanent Full-time.
- B. Permanent Part-time.
- C. Provisional.

Types of Appointments that do not require a BrassRing Requisition

- A. Temporary.
- B. Seasonal.
- C. Reinstatement (the agency must clear applicable recall steps; the applicant must qualify; former employees who retired and applied for retirement benefits under an eligible state retirement system or program are not eligible for reinstatement unless otherwise permitted by law).
- D. Voluntary Demotion (the agency must clear applicable recall steps; the applicant must qualify).
- E. Transfer (the agency must clear applicable recall steps; the applicant must qualify).

Types of BrassRing Requisitions

- A. Recall.
- B. Outplacement.
- C. Promotional Applicant Lists—hiring agency must verify employee eligibility for promotion.
 - 1. Intra-agency: Applicants within the employing department.
 - 2. Inter-agency: Applicants from other departments.
- D. All Applicant Lists: All applicants including promotional and non-promotional.

Posting Requirements for BrassRing Requisitions

Note: Collective Bargaining posting requirements must be met before requisitions can be requested.

- A. The position must be posted to the DAS job website as open to application.
 - 1. Intra-agency promotional vacancies are posted on the website by DAS-HRE for a minimum of 5 days.
 - 2. Inter-agency promotional vacancies and all applicant vacancies are posted on the website by DAS-HRE for a minimum period of 10 days.
 - 3. Hiring agencies may post vacancies beyond the minimum number of days.
- B. All posted vacancies are assigned a job vacancy number when the BrassRing Requisition is entered into

the DAS-HRE system by the agency Personnel Assistant. Vacancies must be posted using this job vacancy number. This number consists of four digits followed by the letters "BR."

- C. Postings must contain the job vacancy number, job class code and title, location, pay range, minimum qualifications, selective certification qualifications (if applicable), information about the specific position (i.e. shift, location, desirable qualifications are optional).

Selective Qualifications

- A. The selective(s) must appear on the DAS-HRE job specification or it cannot be used.
- B. Selective criteria must be identified on the Position Description Questionnaire for the specific position, on transfer postings required under the applicable collective bargaining agreement, on the requisition request, and must be listed in the vacancy announcement.
- C. Selective criteria can be used to narrow an applicant pool to those applicants possessing specific education, experience, or other screening criteria needed to perform the essential functions of a position.

General Information on the Applicant List

- A. Job vacancy number assigned by BrassRing system and job title.
- B. Applicant information, including name, contact information, and veterans points, if applicable.
- C. Issue date and expiration date (applicant lists are valid for 90 days from issue date).
- D. Promotional lists contain the employing agency for current permanent employees and interns.
- E. Provisional authority is granted if the non-promotional list contains five or fewer names.

Provisional Authority for Non-promotional (All-Applicant) Lists

If the statement "Provisional Authority Granted" appears on a non-promotional (all-applicant) list issued by DAS-HRE, five or fewer applicants are available for this vacancy. The hiring agency has the authority either to hire from the names on the list or to hire an applicant whose name does not appear on the list (a provisional hire). If the agency wants to hire an applicant whose name is not on the list, the agency must send the application for the applicant to DAS-HRE to be qualified for the position prior to hiring the applicant. The application should be sent to the Employment Specialist assigned to the hiring agency.

The applicant list and application for each candidate appearing on the list are sent electronically to the Personnel Assistant in the hiring agency. Applicant lists are valid for 90 days from the date issued. An agency may extend this expiration date for a period of 30 days by contacting its Employment Specialist prior to the expiration date of the list.

Applicant lists issued to agencies must be used to fill a vacancy or returned to DAS-HRE as not used. Personnel Assistants are provided with a listing of the codes to be used when working through an applicant list.

Recall

Recall of applicants is done in accordance with the applicable DAS-HRE administrative rules or collective bargaining agreement. See Chapter 16 of the Managers and Supervisors manual for additional information about the recall process.

11—54.2 (8A) Applications.

54.2(1) Applicant information. Applicant information shall be on forms prescribed by the director unless an alternate method has been authorized. Applicants must supply at least their name, current mailing address, signature and social security number; however, if an applicant requests, a nine-digit number will be assigned by the department to be used in lieu of the social security number. If other than the social security number is requested, it shall be the applicant's responsibility to ensure that all future correspondence directed to the department regarding the applicant's records contains the assigned nine-digit number. All other information requested on the application will assist the department in accurately and completely processing and evaluating the application. Applications that are not complete may not be regarded as an official application and may not be processed. The director may require an applicant to submit documented proof of the possession of any license, certificate, degree, or other evidence of eligibility or qualification to satisfactorily perform the essential duties of the job with or without a reasonable accommodation.

54.2(2) Verifying applicant information. The director may at any time verify statements contained in an application and seek further information concerning an applicant's qualifications. If information is obtained which affects or would have affected an applicant's qualifications, standing on an eligible list, or status if already employed, the director may make the necessary adjustment or take other appropriate action, including termination if the applicant has already been employed.

54.2(3) Applicant files. Applications accepted for processing and necessary related materials will be placed in the applicant files in the department and retained for no less than one year. Applications for jobs which result in the hire of the applicant will be placed in the employee files in the department and retained for no less than the period of employment.

54.2(4) Application for eligible lists. Persons may apply to be on eligible lists as follows:

a. Promotional lists. Promotional applicants shall meet the minimum qualifications. Promotional applicants may be subject to keyboard examinations, background checks, psychological examinations, and other examinations used for further screening. The following persons may apply to be on promotional eligible lists:

- (1) Permanent employees, including permanent employees of the board of regents and community-based corrections;
- (2) Persons enrolled in work experience programs who have successfully completed at least 90 calendar days in the program; and
- (3) Persons who have been formally enrolled in the department's intern development program for a period of at least 90 calendar days.

b. All-applicant lists. The following persons may apply to be on all-applicant lists:

- (1) Persons laid off and eligible for recall;
- (2) Judicial branch employees;
- (3) Legislative branch employees;
- (4) Probationary or provisional probationary employees;
- (5) Permanent employees, including permanent employees of the board of regents and community-based corrections;
- (6) Temporary employees not on the promotional list and volunteers (including persons enrolled in work experience programs who are not on the promotional list) following 60 calendar days' service with the state;
- (7) Nonpermanent employees of the board of regents and community-based corrections; and
- (8) Former permanent employees who resigned or retired from state employment in good standing.

54.2(5) Application pending license or graduation. An applicant who does not meet the minimum education or license requirements, but who is currently enrolled in an education program that will result in meeting such requirements, may be placed on the eligible list with a "pending graduation" or "pending license" status provided the applicant will meet or has a reasonable expectation of meeting,

the requirements within the following nine months. The applicant may be selected for employment, but may not be appointed until all qualification requirements are met.

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.
- 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).

54.2(7) *Qualifications.* Applicants must meet the qualifications for the class as well as any selective requirements associated with a particular class or position as indicated in the class description. The director shall determine whether or not an applicant meets such qualifications and requirements.

Applicants and employees may, as a condition of the job, be required to have a current license, certificate, or other evidence of eligibility or qualification. Employees who fail to meet and maintain this requirement shall be subject to discharge in accordance with rule 11—57.9(8A) or 11—subrule 60.2(4).

Any fees associated with obtaining or renewing a license, certificate, or other evidence of eligibility or qualification shall be the responsibility of the applicant or employee unless otherwise provided by statute.

11—54.3 (8A) Examinations.

54.3(1) *Purpose of examinations.* The director or appointing authority may conduct examinations to assess the qualifications of applicants. Possession of a valid license, certificate, registration, or work permit required by the Iowa Code or the Iowa Administrative Code in order to practice a trade or profession may qualify as evidence of an applicant's basic qualifications.

54.3(2) *Types of examinations.* Examinations may include, but are not limited to, written, oral, physical, or keyboard tests, and may screen for such factors as education, experience, aptitude, psychological traits, knowledge, character, physical fitness, or other standards related to job requirements.

54.3(3) *Background checks.* Background checks and investigations, including, but not limited to, checks of arrest or conviction records, fingerprint records, driving records, financial or credit records, and child or dependent adult abuse records, constitute an examination or test within the meaning of this subrule and Iowa Code chapter 8A. Confidential documents provided to the director by other agencies in conjunction with the administration of this rule shall continue to be maintained in the documents' confidential status. The director is subject to the same policies and penalties regarding the confidentiality of the documents as any employee of the agency providing the documents.

Background checks shall be conducted only after receiving approval from the director concerning the areas to be checked and the standards to be applied in evaluating the information gathered. Background checks are subject to the following limitations and requirements:

a. Arrest record information, unless otherwise required by law, shall not be considered in the selection of persons for employment unless expressly authorized by the director.

b. The appointing authority shall notify the director of each job class or position that requires applicants to undergo any type of background check. The notification shall document the clear business necessity for the background check and the job relatedness of each topic covered in the inquiry.

c. The appointing authority shall provide a statement that shall be presented to each applicant who is to be investigated under this subrule. This statement shall inform the applicant that the applicant is subject to a background check as a condition of employment and the topics to be covered in the background check. It shall also inform the applicant that all information gathered will be treated as confidential within the meaning of Iowa Code section 22.7, but that all such information gathered shall be available to the applicant upon request through the agency authorized to release such information, unless otherwise specifically provided by law. The statement shall be signed and dated by the applicant and shall include authorization from the applicant for the appointing authority to conduct the background check as part of the application and selection process.

11—54.4 (8A) Development and administration of examinations.

54.4(1) Examination development. The director shall oversee the development, purchase, and use of examination materials, forms, procedures, and instructions.

54.4(2) Examination administration. The director or appointing authority shall arrange for suitable locations and conditions to conduct examinations. Locations in various areas of the state and out of state may be used. Examinations may be postponed, canceled, or rescheduled.

a. Examination of persons with disabilities. Persons with disabilities may request specific examination accommodations. Reasonable accommodations will be granted in accordance with policies for accommodations established by the department.

b. Retaking examinations. Applicants may not retake aptitude, psychological, video-based or other examinations for 60 calendar days following the last date the examination was taken except as provided for in rule 11—54.6(8A). Violation of the waiting period for an examination shall result in the voiding of the current examination score and the imposition of an additional 60-calendar-day waiting period.

Keyboard examinations, such as typing, may be retaken at any time without a waiting period.

The most recent examination score shall determine the applicant's qualification for the corresponding eligible lists.

Applicants who are required to take examinations covered by the rules or procedures of other agencies are subject to applicable rules or procedures on retakes for such examinations of that agency.

54.4(3) Examination materials.

a. All examination materials, including working papers, test booklets, test answer sheets and test answer keys are not public records under Iowa Code chapter 22. All examination materials are the property of the department and shall not be released without the consent of the director.

b. Removing examination material. Any unauthorized person who removes examination material from an examination site, who participates in unauthorized distribution of examination materials, who is in unauthorized possession of examination material or who otherwise compromises the integrity of the examination process shall be subject to discipline, up to and including discharge if employed by the state, as well as prosecution.

11—54.5 (8A) Scoring examinations. All applicants shall be given uniform treatment in all phases of the examination scoring process applicable to the job class or position and status of the applicant. Applicants may be required to obtain at least a minimum score in any or all parts of the examination process in order to receive a final score or to be allowed to participate in the remaining parts of an examination.

54.5(1) *Adjustment of errors.* Examination scoring errors will be corrected. A correction shall not, however, invalidate any list already issued or any appointment already made and shall not extend the life of the score.

54.5(2) *Points for veterans.* Veterans' points shall be applied to veterans as defined in Iowa Code section 35C.1.

a. "Veteran" means a resident of this state who served in the armed forces of the United States at any time during the following dates and who was discharged under honorable conditions:

- (1) World War I from April 6, 1917, through November 11, 1918.
- (2) Occupation of Germany from November 12, 1918, through July 11, 1923.
- (3) American expeditionary forces in Siberia from November 12, 1918, through April 30, 1920.
- (4) Second Haitian suppression of insurrections from 1919 through 1920.
- (5) Second Nicaragua campaign with marines or navy in Nicaragua or on combatant ships from 1926 through 1933.
- (6) Yangtze service with navy and marines in Shanghai or in the Yangtze valley from 1926 through 1927 and 1930 through 1932.
- (7) China service with navy and marines from 1937 through 1939.
- (8) World War II from December 7, 1941, through December 31, 1946.
- (9) Korean conflict from June 25, 1950, through January 31, 1955.
- (10) Vietnam conflict from February 28, 1961, through May 7, 1975.
- (11) Lebanon or Grenada service from August 24, 1982, through July 31, 1984.
- (12) Panama service from December 20, 1989, through January 31, 1990.
- (13) Persian Gulf conflict from August 2, 1990, through the date the President or the Congress of the United States declares a cessation of hostilities. However, if the United States Congress enacts a date different from August 2, 1990, as the beginning of the Persian Gulf conflict for purposes of determining whether a veteran is entitled to receive military benefits as a veteran of the Persian Gulf conflict, that date shall be substituted for August 2, 1990.

b. "Veteran" also includes the following:

(1) Former members of the reserve forces of the United States who served at least 20 years in the reserve forces after January 28, 1973, and who were discharged under honorable conditions. However, a member of the reserve forces of the United States who completed a minimum aggregate of 90 days of active federal service, other than training, and was discharged under honorable conditions or was retired under Title X of the United States Code shall be included as a veteran.

(2) Former members of the Iowa national guard who served at least 20 years in the Iowa national guard after January 28, 1973, and who were discharged under honorable conditions. However, a member of the Iowa national guard who was activated for federal duty, other than training, for a minimum aggregate of 90 days and was discharged under honorable conditions or was retired under Title X of the United States Code shall be included as a veteran.

(3) Former members of the active, oceangoing merchant marine who served during World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive, who were discharged under honorable conditions.

(4) Former members of the women's air force service pilots and other persons who have been conferred veteran status based on their civilian duties during World War II in accordance with federal Pub. L. No. 95-202, 38 U.S.C. Section 106.

c. Proof of eligibility for points must be provided by the applicant in the form of a certified photocopy of a DD214 Form (Armed Forces Report of Transfer or Discharge) or other official document containing dates of service or a listing of service medals and campaign badges.

d. Applicants who were awarded a Purple Heart, or who have a service-connected disability, or who are receiving disability compensation or pension under laws administered by the U.S. Veterans Administration may request to have a maximum of ten points added to examination scores. Proof of current disability dated within the last 24 months and updated every 24 months after initial application must be submitted for continued eligibility.

11—54.6(8A) Review of written examination questions. Applicants may request to review their incorrectly answered questions on department-administered written examinations except that aptitude, psychological, and video-based examinations are not subject to review. An applicant who reviews written examination questions may not retake that examination or an examination with the same or similar content for 60 calendar days following the review. Violation of this waiting period shall result in the voiding of the current examination score and the imposition of an additional 60-calendar-day waiting period.

[ARC 0401C, IAB 10/17/12, effective 11/21/12]

11—54.7 (8A) Drug use and drug tests.

54.7(1) Policy. Employees shall not report to work while under the influence of alcohol or illegal drugs. The unauthorized use, possession, sale, purchase, manufacture, distribution, or transfer of any illegal drug or alcoholic beverage while engaged in state business or on state property is prohibited. Employees who violate this policy are subject to disciplinary action up to and including discharge.

54.7(2) Definition and applicability.

a. “Drug test” means any blood, urine, saliva, chemical, or skin tissue test conducted for the purpose of detecting the presence of a chemical substance in an individual. These rules authorize only the use of urinalysis tests for this purpose. Other methods of drug testing are prohibited.

b. These rules do not apply to drug tests required under federal statutes, drug tests conducted pursuant to a nuclear regulatory commission policy statement, or drug tests conducted to determine if an employee is ineligible to receive workers’ compensation under Iowa Code section 85.16, subsection 2.

54.7(3) Preemployment drug tests. A urinalysis drug test may be performed as part of a preemployment physical only for department of corrections correctional officer positions. Application materials for these positions shall include clear notice that a drug test is part of the preemployment physical. Requirements for these tests are as follows:

a. A urine sample will be collected during the preemployment physical examination.

b. The sample container will include identification for chain of custody purposes that does not include any part of the applicant’s name or social security number.

c. The container will be transported directly from the site of the physical examination to a laboratory or other testing facility. Samples may be transported via certified mail or courier service.

d. The sample will be tested and retained by the laboratory or other testing facility for a minimum of 30 days. The applicant may have the sample analyzed, at the applicant’s expense, by a laboratory or other testing facility approved in accordance with the administrative rules of the department of public health.

e. Each drug test will include an initial screen and a confirmation of positive results. The initial screening test may utilize immunoassay, thin layer, high performance liquid or gas chromatography, or an equivalent technology. If the initial test utilizes immunoassay, the test kit must meet the requirements of the Food and Drug Administration. All confirmation tests will be done by Gas Chromatography - Mass Spectrometry (GC-MS) at a laboratory or other testing facility approved in accordance with the administrative rules of the department of public health.

f. At a minimum, tests will screen for marijuana, cocaine, and amphetamines.

g. Procedures for obtaining, sealing, identifying, transporting, storing, and retention of samples shall protect the chain of custody and the viability of the sample, and shall comply with department of public health administrative rules.

h. The laboratory or other testing facility shall report the results of the drug tests to the appointing authority. The confidentiality of the information shall be protected by all parties.

i. The appointing authority shall provide an applicant an opportunity to rebut or explain the results of a positive drug test by administering a pretest questionnaire or arranging a posttest conference with the applicant.

j. A positive confirmation drug test will disqualify an applicant from further consideration and hire for department of corrections correctional officer positions.

54.7(4) Employee drug tests. Drug testing of employees is prohibited except as provided in subrule 54.7(2), paragraph “b.”

Agencies

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SECTION 11.20 CONDUCTING AND DOCUMENTING A DISCIPLINARY INVESTIGATION**Last Update: 6/11**

Most allegations of violations of work rules, policies, or law never reach an arbitrator, outside agency or court. Management should, however, investigate each allegation from the point of view that an outside party may review the matter. In all cases, maintain confidentiality to the extent possible, and do not communicate the existence or nature of the complaint to those without a need to know.

Prior to Beginning the Investigation

1. Determine if the employee must be removed from the current work assignment pending the completion of the investigation. This will primarily be due to safety concerns or to preserve evidence. Actions may include:
 - a. Suspending the employee with pay pending the completion of the investigation. DAS-HRE subrule 60.2 (1)a and the AFSCME collective bargaining agreement provide for suspension with pay pending the completion of the investigation for up to twenty-one (21) calendar days. The SPOC collective bargaining agreement allows an employee to be suspended with pay pending the outcome of the investigation. If the employee is suspended with pay pending the outcome of the investigation, management must restrict any information on the employee's status to only those who need to know. For employees covered by AFSCME, if the investigation has not been completed within twenty-one (21) calendar days, the Employer must provide the steward who was involved in the investigation (if applicable) and the local Union President with a report regarding the status of the investigation. Additional reports must be provided on a periodic twenty-one (21) day basis. A sample notice of investigation status is included in the forms section of this chapter.
 - b. Reassigning the employee to another work assignment.
 - c. Temporarily assigning the employee to a different supervisor.
2. Determine who should conduct the investigation. Investigators should be trained in conducting employee misconduct investigations, be knowledgeable of policies and procedures, have good interview skills, and be impartial. There are a number of people that should not conduct an investigation, including:
 - a. An investigator against whom the employee made a complaint.
 - b. An investigator who is personally involved with the allegation, such as a witness or complainant.
 - c. An investigator who is personally involved with the employee, such as a friend outside of work or a relative.
 - d. An investigator who is emotionally involved, such as one who is too angry to be objective, or on the other end of the spectrum, one who is too emotionally involved in defending the employee.
3. Develop an investigation outline:
 - a. Identify the allegations/complaints.
 - b. Identify who will be interviewed and the order of the interviews.
 - c. Identify documents to review. Examples may include but are not limited to:
 - Payroll records/computer log-ins
 - Work rules and policies
 - Bargaining agreements and/or administrative rules
 - Acknowledgement forms of work rules, policies, etc.
 - Training and meeting records (attendance records and dates, subject matter or agenda, or notes/minutes)

- Prior disciplinary actions, coaching and counseling, and written directives
 - Performance evaluations
- d. Outline the points to be covered in the interviews. Prepare topics that will be asked of interviewees so that answers can be compared and contrasted.
- Consider outlining topics to cover rather than questions. If questions are prepared and the witness responds differently than anticipated, it may throw the interviewer off track. With prepared questions, interviewers may become focused on the scripted questions and miss follow-up questions, or interviewers may fail to listen to the answers as they are preparing to ask the next question.
 - Questions should start as open-ended (broad) and transition to specific to gain detail.
 - Be alert to the fact you will need to ask follow-up questions based on information given during the interview.
 - Investigate the current allegations, not the employee's past behavior.
4. Investigation Notebook (See the section below titled *Assembling the Investigation Report*): During the course of the investigation, you will be obtaining documentation to prove or disprove allegations. Identify all documents as to:
- a. When received.
 - b. Where and from whom it was received.
 - c. Source of document (for example, work rules, policy manual, witness statement).
 - d. Preserve a copy of the work rules, policies, and procedures at the time of the investigation. Since these documents are subject to change, it is important to make sure that you maintain a copy of the rule/policy in effect at the time of the investigation and subsequent action.

Conducting the Investigatory Interviews

1. Utilize a private, secure location. You may consider an off-site location if the presence of the subject or witnesses will disrupt the workplace.
2. Do not interview witnesses in groups.
3. DAS-HRE recommended that all investigatory interviews be audio-recorded. Include in the opening remarks the date, time, location, purpose, person being interviewed and person(s) conducting and present during the interview. If any breaks are taken, record the time you are shutting off the recorder. When the tape is turned back on, restate the name of the person being interviewed, the purpose of the break, the date and time, and state that no interview questions were asked during the break. At the conclusion of the interview, note the date and time and state that the interview is concluded.
4. Have two investigators participate in the interviews whenever possible, even if the interview is being tape-recorded. One may ask the questions while the other takes more detailed notes and assists with follow-up questions.

Keep detailed notes of the interview even if you tape the interview. Make sure you take the time to include the questions being asked and the responses. If a statement is important and you want to quote something, ask the interviewee to wait, record the response exactly as stated, then repeat it back to the interviewee and ask them to confirm the statement.
5. At the beginning of the investigation, explain that you are conducting the investigation. Advise the employee alleged to have engaged in misconduct that the investigation could result in discipline, up to and including discharge.
6. If the employee requests representation, follow the procedures for obtaining representation outlined in Section 11.15 of the *Managers and Supervisors Manual*.
7. Pay attention to the employee's non-verbal behaviors and make note of these as appropriate. For example,

- if the employee cries, raises his/her voice, walks out of the room, document this in the investigation notes. If the employee becomes angry or loses his/her composure, advise the employee that you will give him/her a few moments to gain composure before continuing the interview. If behavior is threatening or the employee may injure him/herself, property or others, contact the appropriate authorities.
8. Do not make any promises about the outcome of the investigation. If an employee questions whether he/she will be disciplined or what will happen, indicate that you intend to do a full and complete investigation and you will determine an appropriate outcome.
 9. Do not give your opinion about what occurred or what the interviewee is saying.
 10. Tell the interviewee to contact you if anyone else contacts him/her about the investigation or if he/she recalls something not shared with you.
 11. Do not guarantee that you are accepting the information from the interviewee confidentially or that you will maintain confidentiality of who complained or what was said. Inform the interviewee that information is shared on a need-to-know basis. Reassure the interviewee that you will investigate alleged retaliation.
 12. Document only the facts. Use quotation marks only for exact quotations. Do not use them to emphasize words or your interpretation of what was said. Do not include opinion or stray remarks in your documentation. Do not include your recommendations in the notes of the interview.
 13. Types of questions to consider:
 - a. Who committed the act?
 - b. What was the act? When did it occur and exactly what happened? What were you doing when it occurred?
 - c. Where did it occur? Were you standing or seated? How far were you from the act? What were the lighting conditions or the line of sight?
 - d. How often did it occur?
 - e. Why do you think the act occurred? (Motive)
 - f. Find out if he/she actually saw or heard something (direct evidence) or if he/she concluded an act occurred based on what they saw or heard (circumstantial). Example: you saw someone eat a cookie (direct) or you saw crumbs on their face (circumstantial) which led you to believe he/she ate the cookie.
 - g. How did you react? What response did you make when it occurred or afterwards?
 - h. Who did you discuss it with and when? What did you say?
 - i. How did the act affect you? Has your job been affected in any way?
 - j. Who else was present when the act occurred? Where were they in relation to you? Who else has any knowledge of the act? Has anyone else discussed it with you? If so, who and what did that person say? Did anyone see you immediately after the act?
 - k. Did the person you are accusing of inappropriate conduct engage in the same or similar conduct with anyone else? Who, what, where, when and how? Has anyone else complained to you about similar conduct?
 - l. Did the employee alleged to have engaged in misconduct contact you about the act?
 - m. Do you have any notes, evidence or documentation about the act?
 - n. How would you like the situation resolved?
 - o. Do you know of any other relevant information?
 14. Ask open-ended questions and do not interrupt the person being interviewed unless the person needs to be redirected to answer the question asked. Do not ask leading questions. Ask clarifying questions if answers are not clear.
 15. You may require the witness or subject to respond to a question (see the section on the *Garrity* warning in

Section 11.15 of the *Managers and Supervisors Manual*).

16. You do not need to provide a witness the name of the complainant unless necessary. Consider whether the identity of the complainant is going to be kept confidential, or if release of the name is important to adequately allow the subject the opportunity to respond to the allegation. It is often not possible to withhold the complainant's name when conducting a thorough investigation. Do not discuss statements made by others unless absolutely necessary, as it may affect the recall of the interviewee, or the interviewee may adopt the testimony of others as his/her own.
17. If the employee states that the allegation is false, ask him/her how the information could have been misconstrued; what actions/statements could have caused a misunderstanding; and, why the complainant or witnesses might have a reason to make false accusations.
18. Allow the employee to provide names of witnesses that could back up his/her side of the story. If the employee suggests other witnesses, you will need to interview them prior to closing the investigation.
19. Allow the employee to provide physical evidence or documentation regarding the incident.
20. Before concluding the interview, ask the employee if there is anyone else you should talk to and whether he/she has any other information they wish to provide.

Evaluating Results of an Investigation

After the interviews have been conducted and the evidence gathered, management needs to determine the credibility and probative value of the evidence.

1. What was the demeanor of the interviewee? (Be cautious; these are only indicators.)
 - a. Appearance
 - b. Gestures
 - c. Voice
 - d. Other Behaviors
 - e. Was the witness straightforward or evasive?
2. Was there evidence of bias on the part of any witness?
 - a. Was the witness the best friend or the worst enemy of the employee being investigated?
 - b. Was there motive or an interest in the outcome on the part of the witness?
 - c. Was the complainant/witness an inmate, patient, or client and is the statement credible?
3. Did the interviewee accurately describe or explain his/her observations?
 - a. Was the interviewee impaired?
 - b. If the interviewee's memory is not clear, evidence is speculative. For example, the witness may state, "I can't recall exactly, but maybe he had his hand on her leg."
 - c. It may help to have the witness link the incident to something that can be confirmed by outside evidence. For example, the witness may say she was sure the incident occurred at 3:15 p.m. because she was on break and always goes to break at 3:15 p.m. Check the pattern of breaks and interview other people aware of where the witness was at 3:15 p.m. to verify this pattern.
4. Are the witnesses consistent in their version of the facts?
 - a. If the statements, interviews and evidence are consistent, this strengthens your case.
 - b. Are perceptions distorted or exaggerated?
 - c. Are witness timelines accurate, diminished or exaggerated?

- d. Have the witnesses attributed a motive or purpose for the incident that is not supported by the evidence?
 - e. If statements and/or interviews are inconsistent, this weakens the credibility of the case. If witness statements are unclear or inconsistent, re-interview the witnesses to clarify facts.
 - f. Compare written statements, if applicable, to answers given during an interview.
5. Review the evidence.
- a. Ensure that all witnesses have been interviewed.
 - b. What evidence has the subject provided in his/her own defense? Is it possible that there could be other evidence that the subject, complainant or witnesses have not provided?
 - c. Is there greater information supporting the allegation or disputing the allegation?
 - d. Is your evidence strong enough to convince a GRIP panel, PERB, an arbitrator and/or a jury?
 - e. Look at the evidence as if you were opposing counsel:
 - Are the policies inconsistent or unclear?
 - What are the possible defenses for the alleged violations?
 - Are there mitigating circumstances?
 - Was the investigation complete?
 - Was the investigation fair and impartial?

Concluding the Investigation

1. If the evidence supports the allegation of misconduct:
 - a. Assess the severity of the rule infraction.
 - b. Have others been disciplined for this violation in the past? If so, what discipline was imposed?
 - c. Work with the personnel officer to determine if there is just cause to take action and to determine the appropriate corrective action.
 - d. Was the employee being investigated aware of the work rule or policy and did he/she understand that an infraction of the rules or policies could result in discipline?
 - e. Is the rule or policy reasonably related to the employer's operation?
 - f. Inform the complainant that the investigation has been concluded and that appropriate action has been taken. Reassure him/her if there are other incidents or if he/she feels that retaliation is occurring, an investigation will be conducted.
 - g. If discharge is considered, prior to the imposition of the final action, a *Loudermill* meeting must be conducted. Employees are entitled to representation during this meeting. The employee must be informed that the investigation is complete and, based on the evidence, discharge is the appropriate remedy for the misconduct. Ask the employee if he/she has any additional information to offer for consideration before a final decision is made. If the employee offers additional information that could have an effect on the decision to discharge, the investigation should be reopened and the new information should be followed up on prior to a final decision being made. If the employee offers no new information during the *Loudermill* meeting, the discharge should be imposed. The *Loudermill* meeting is essentially an extension of the investigation. Notes should be taken and incorporated into the investigation report.
2. If the evidence does not support the allegation of misconduct or is inconclusive:
 - a. Inform the subject that the investigation does not support the allegations.
 - b. Remind the subject he/she cannot retaliate against the complainant or witnesses.
 - c. Inform the complainant that the investigation did not support the allegations.

3. Management should:
 - a. Revise rules/policies that are not clear or implement new rules/policies, if necessary.
 - b. Determine if employees need training on policies and establish a periodic training schedule on major policies.
 - c. If an employee is suspended from work as disciplinary action, other employees should only be informed that the employee is absent from work.
 - d. If an employee is discharged for just cause, others may be told the discharged employee no longer works there, but the reason for the discharge should be withheld.

Assembling the Investigation Report

The investigation into the allegations of misconduct should be well documented by management prior to the imposition of discipline. Since the investigation report may be turned over to the union (for contract-covered employees), or to a private attorney or representative (for noncontract-covered employees), the investigation report should include all information gathered during the investigation, including copies of evidence, documents or information that management relied on in making the disciplinary decision. In order to determine the appropriate level and type of discipline, you must consider all elements of just cause. As you investigate the misconduct and determine the appropriate action, gather and organize your documentation. One way of doing that is to use a tabbed, three-ring binder or folder. Keeping in mind that each case will need to be assembled based on the facts and materials specific to that investigation, a sample arrangement could include:

1. Index
2. Letter of Discipline
3. Employee Background:
 - a. Full name
 - b. Synopsis of employment
 - c. Copies of prior disciplinary action that remain in the employee's personnel file.

Note: For an AFSCME-covered employee, the collective bargaining agreement provides that written reprimands, clarifications of expectations, or other similar memoranda SHALL be removed from the employee's personnel file after one year, provided no further disciplinary action has been taken against the employee. This provision applies to all written reprimands in a personnel file that are older than one year, even if the documents are dated prior to the current collective bargaining agreement. If an employee does not ask to have the documents removed and the documents remain in the file, those documents may not be used in establishing progressive discipline in any subsequent actions after one year.
4. Copies of notice and rules:
 - a. Employee acknowledgement forms of policies, directives, work rules
 - b. Copies of appropriate policies, work rules, directives
 - c. Notes from coaching and counseling
 - d. Notes from team meetings/training sessions where a rule or process was discussed
 - e. Other documents relating to the misconduct
5. Investigatory interview documentation:
 - a. Interview notes from the complainant, the witnesses and the subject
 - b. Complainant statement, if applicable
 - c. Subject statements, if applicable

- d. Witness statements, if applicable
 - e. Transcripts of the interviews and any other documentation or evidence that was gathered, reviewed, or relied upon in proving the offense or used to justify the discipline imposed. If any part of the investigation or documentation will be used in the GRIP proceeding or in arbitration, it is important that this documentation be presented to the union at the second step (for contract grievances) or third step (for noncontract or non-GRIP eligible grievances) of the grievance process.
 - f. Notes for the *Loudermill* meeting, if applicable.
6. Documentation supporting the determination of the appropriate level of discipline:
- a. Proof of comparable disciplinary actions imposed on other employees for similar infractions.
 - b. Be prepared to discuss how the appropriate level of discipline was determined.
 - Have all employees who violated this rule been disciplined? You will need to know who, when, and what form of discipline was imposed.
 - Is the discipline related to the seriousness of the offense? Was the length of service and past performance record of the employee taken into consideration?
7. Timeline of the incident and investigation – Investigations must be complete and timely. Your timeline should include:
- a. Date of complaint/initiation of investigation
 - b. Date of subject and witness interviews
 - c. Date of discipline
 - d. Dates that document delays in the investigation due to leave taken by subject or witnesses, letter of suspension with pay pending investigation if applicable, and any other relevant dates regarding the investigation process.
8. Other items for inclusion, if applicable:
- a. Discovery requests and documents – If the union or noncontract-covered grievant requested copies of any documents during the course of the grievance, maintain a copy of the request and the materials furnished to the union or noncontract-covered grievant and share a copy of the request with DAS-HRE, if appropriate.
 - b. Job description
 - c. Organization chart
 - d. Performance evaluations
 - e. Maps or diagrams of incident
- * The materials gathered in the course of the investigation should be well organized and preserved. In addition to use in the grievance process, the same materials are necessary to defend the department in unemployment insurance proceedings, Civil Rights or EEOC complaints, and other legal proceedings.

Peace Officer Bill of Rights

Legislation was passed (Iowa Code Section 80F.1) which provides additional rights to certified law enforcement officers, as well as, Airport Firefighters, Correctional Officers, and Probation/Parole Officers, during formal administrative investigations.

An administrative investigation is defined as an investigative process ordered by a commanding officer or an agency or commander's designee during which the questioning of an officer is intended to gather evidence to determine the merit of a complaint which may be the basis for seeking removal, discharge, or suspension, or other disciplinary action against the officer.

A complaint is defined as a formal written allegation signed by the complainant or a written statement by an officer

receiving an oral complaint stating the complainant's allegation. Following a complaint, and prior to the administrative investigatory interview, the employee is given, at a minimum, a written summary of the complaint.

All interviews with the employee regarding the complaint and disposition of the investigation must, at a minimum, be audio recorded. In addition to a union or peer representative, the employee may also be provided representation by an attorney.

Prior to administering discipline to the employee, up to and including discharge, management must provide the employee notice of the results of the administrative investigation. If the employee, in writing, alleges a violation of the statute, discipline will be delayed by ten (10) calendar days.

11—54.1(8A) Recruitment. Classes are closed to application unless specifically opened for recruitment.

54.1(1) *Open recruitment announcements.* The director shall give public notice of positions opened for recruitment for a minimum of ten calendar days following the announcement date. Recruitment may be limited to a specific geographic area or a specific selective background area or both. Recruitment announcements shall be posted publicly. Copies may also be sent to newspapers, radio stations, educational institutions, professional and vocational associations, and other recruitment sources. Recruitment announcements may be posted as promotional opportunities for current permanent state employees only.

54.1(2) *Content of announcements.* Announcements shall specify the job title, vacancy number, salary range, location, method for making application, closing date for receiving applications, minimum qualifications, and any selective requirements. All announcements must include a statement indicating that the state of Iowa is an affirmative action and equal employment opportunity employer. Announcements for continuous recruitment shall include a statement indicating that applications will be accepted until further notice.

54.1(3) *Advertising.* The appointing authority shall send to the director copies of all advertisements announcing employment opportunities that are to be placed in any publication, and any additional information required by the director. The appointing authority shall comply with any policies established by the director regarding advertising.

11—68.6(19B) Discrimination complaints, including disability-related and sexual harassment complaints. Each agency shall take proper and immediate action to investigate complaints of alleged discrimination. The director shall investigate any discrimination complaint against an agency as the director deems necessary, and attempt to negotiate a settlement to resolve a complaint. All information gathered in the course of an investigation, including, but not limited to, investigative reports prepared by the department, is confidential and shall not be released to persons outside the department unless the director deems such disclosure to be in the best interest of the state or unless ordered by a court. This rule does not supersede the remedies provided under Iowa Code chapter 216.

68.6(1) General procedures. Each agency shall:

- a.* Identify employees who are to receive and investigate discrimination complaints.
- b.* Investigate all complaints of discrimination using, at a minimum, the procedural guidelines established by the department, and fully document all such investigations.
- c.* Provide, where possible, for the informal resolution of all complaints.
- d.* Report the filing of all discrimination complaints to the director as follows:
 - (1) Inform the director immediately upon receipt or notice of any alleged employment discrimination complaints filed against the agency under any federal, state, or local regulations.
 - (2) Provide the director with information describing allegations and issues involved.
 - (3) Provide a copy of any proposed resolution and supporting documentation to the director for review prior to the final disposition of complaints.
 - (4) Inform the director within five workdays following official notice of any suit filed in a court of law alleging employment discrimination and naming the state or the agency as a party to the alleged discrimination.

68.6(2) Sexual harassment complaint procedures. All employees shall have access to agency internal grievance procedures as authorized by Iowa Code section 19B.12. Each agency shall investigate all allegations of sexual harassment and utilize, at a minimum, procedural guidelines established by the department. Agencies shall additionally:

- a.* Identify the employee who is to receive and investigate complaints of sexual harassment.
- b.* Affirmatively address issues of sexual harassment and take immediate and effective measures to investigate and correct any sexual harassment identified.
- c.* Provide that sexual harassment complaints shall be resolved as follows:
 - (1) Aggrieved employees shall bring work-related complaints against employees and nonemployees to the attention of their immediate supervisor. Employees may also direct their complaints to the next higher supervisor, the employee identified by the agency to receive and investigate complaints of sexual harassment, or to the director.
 - (2) Aggrieved nonemployees shall bring work-related complaints against employees to the attention of the agency management or supervisory personnel, the employee identified by the agency to receive and investigate complaints of sexual harassment, or to the director. The agency shall take into consideration the extent of the agency's control.
- d.* Submit investigation findings and remedies to the director for review prior to the final disposition of complaints.

[Date]

[First and Last Name of Employee]

[Address]

[City, State, Zip Code]

Dear [Name of Employee] :

The Department of Administrative Services amended the definition of *confidential employee* for purposes of merit-system coverage (11 IAC 50.1). Your position is excluded from merit-system provisions in accordance with 8A.412. Effective [insert date], you will no longer be covered under the merit-system provisions of Iowa Code chapter 8A, subchapter IV.

You must acknowledge receipt of this notice and indicate whether you consent to the change of your position. If you do not consent to the change in coverage, a reduction in force may be initiated in accordance with the rules of the Department of Administrative Services – Human Resources Enterprise (11 IAC 60.3).

Please make your selection, sign this letter and return it to me by [insert date]. If you have any questions, please contact me at [insert phone number].

Sincerely,

[Name of Appointing Authority]

[Title]

cc: Personnel File

Please mark one of the boxes below:

I consent to the change in merit-system coverage.

I do not consent to the change in merit-system coverage.

I have received a copy of this notification of the change in merit-system coverage.

Employee Signature

Date

1.3.2013

[Date]

[First and Last Name of Employee]

[Address]

[City, State, Zip Code]

Dear [Name of Employee]:

The Department of Administrative Services amended the definition of *confidential employee* for purposes of merit-system coverage (11 IAC 50.1). Your position is excluded from merit-system provisions in accordance with 8A.412. Effective [insert date], you will no longer be covered under the merit-system provisions of Iowa Code chapter 8A, subchapter IV.

You must acknowledge receipt of this notice and indicate whether you consent to the change of your position. If you do not consent to the change in coverage, a reduction in force may be initiated in accordance with the rules of the Department of Administrative Services – Human Resources Enterprise (11 IAC 60.3) OR the provisions of the applicable collective bargaining agreement.

Please make your selection, sign this letter and return it to me by [insert date]. If you have any questions, please contact me at [insert phone number].

Sincerely,

[Name of Appointing Authority]

[Title]

cc: Personnel File

Please mark one of the boxes below:

I consent to the change in merit-system coverage.

I do not consent to the change in merit-system coverage.

I have received a copy of this notification of the change in merit-system coverage.

Employee Signature

Date

1.14.2013

[Date]:

[First and Last Name of Employee]:

[Address]:

[City, State, Zip Code]:

Dear [Name of Employee] :

The Department of Administrative Services amended the definition of *confidential employee* for purposes of merit-system coverage (Iowa Administrative Code r. 11—50.1). Your position is excluded from merit-system provisions in accordance with Iowa Code § 8A.412. Effective [insert date], you will no longer be covered under the merit-system provisions of Iowa Code chapter 8A, subchapter IV.

You must acknowledge receipt of this notice. Please sign this letter and return it to me by [insert date]. If you have any questions, please contact me at [insert phone number].

If you believe that your position does not meet the definition of confidential employee under r. 11-50.1, you may appeal the determination in accordance with Iowa Administrative Code ch. 11—61.

Sincerely,

[Name of Appointing Authority]

[Title]:

cc: Personnel File

I have received a copy of this notification of the change in merit-system coverage.

Employee Signature

Date

3.21.2013

[Date]

[First and Last Name of Employee]

[Address]

[City, State Zip Code]

Dear [Name of Employee]:

The Department of Administrative Services amended the definition of *confidential employee* for purposes of merit-system coverage (Iowa Administrative Code r. 11—50.1). Your position is excluded from merit-system provisions in accordance with Iowa Code § 8A.412. Effective [insert date] you will no longer be covered under the merit-system provisions of Iowa Code chapter 8A, subchapter IV.

You must acknowledge receipt of this notice. Please sign this letter and return it to me by [insert date]. If you have any questions, please contact me at [insert phone number].

If you believe that your position does not meet the definition of confidential employee under r. 11-50.1, you may appeal the determination in accordance with Iowa Administrative Code ch. 11—61.

This determination does not impact your bargaining status. (Use the next sentence for contract-covered employees only) To be clear, the determination that your position is excluded from the merit system does not in any way affect the terms and conditions of your employment that are set forth in the State/[insert AFSCME, IUP or SPOC] collective bargaining agreement.

Sincerely,

[Name of Appointing Authority]

[Title]

cc: Personnel File

I have received a copy of this notification of the change in merit-system coverage.

Employee Signature

Date



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.
- 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.

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.

Send your appeal to:

Mary Shineflew
Employment Appeal Board
Department of Inspections and Appeals
Lucas State Office Building, 4th Floor
Des Moines, IA 50319
515-281-4161

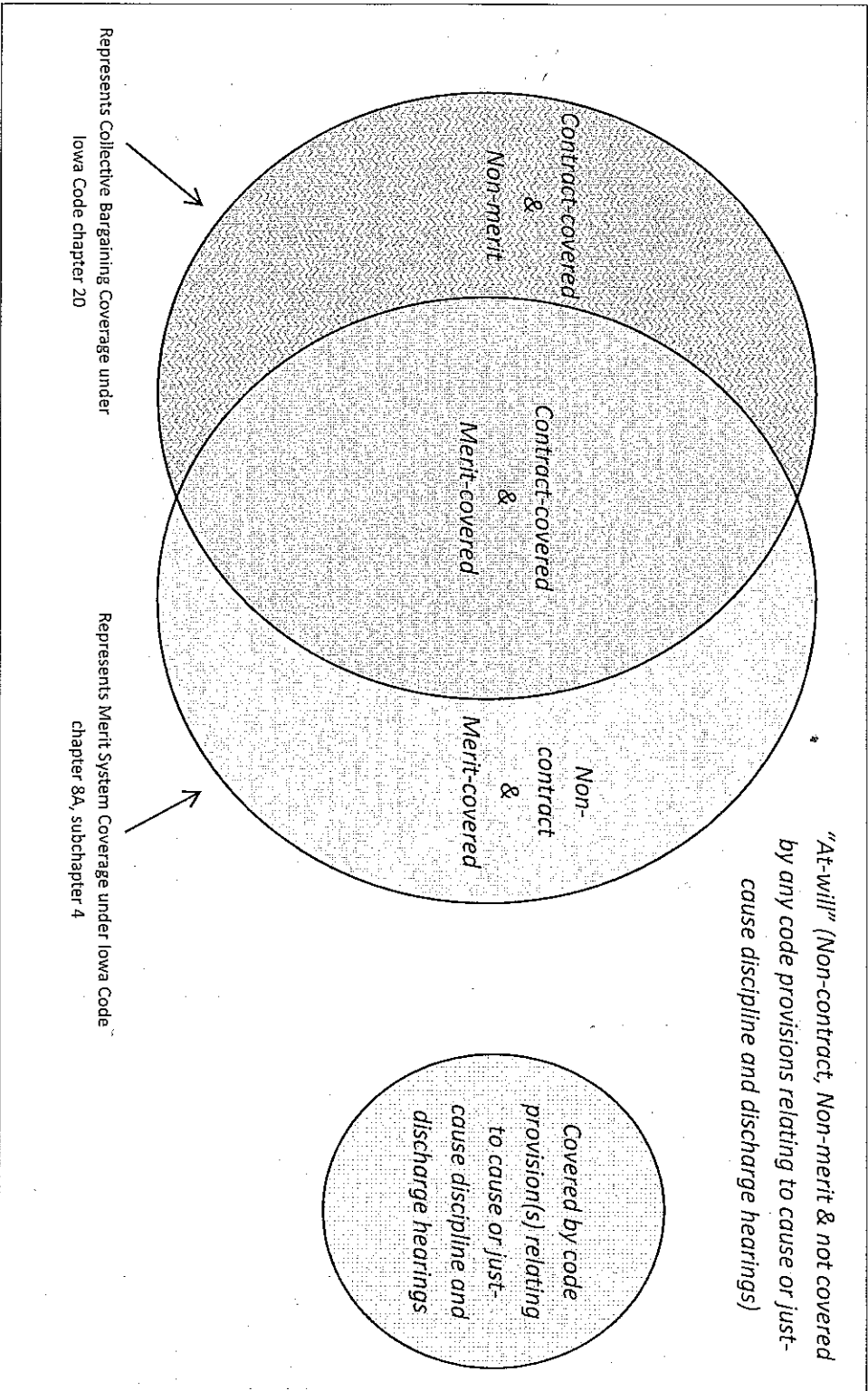
When an appeal is generated as the result of an action initiated by the department, the department shall be responsible for representation. When an appeal is generated as the result of an action initiated by an appointing authority through the department, the appointing authority shall pay the costs of the appeal assessed to the department and shall participate in representation as requested by the department.

If the applicant's name is restored to an eligible list, that decision shall not affect any certifications or appointments already made.

If you have any questions, you may contact us at the address shown below.

Iowa Department of Administrative Services
Human Resources Enterprise
Hoover State Office Building, Level A
1305 East Walnut Street
Des Moines, IA 50319-0150
Phone: 515-281-6294
Fax: 515-281-7970
DASHRE.Info@iowa.gov

State of Iowa Employment Statuses



[Agencies](#)[Online Services](#)[Search All of Iowa.gov](#)

STATE of IOWA

EQUAL OPPORTUNITY, AFFIRMATIVE ACTION, AND ANTI-DISCRIMINATION POLICY

For

Executive Branch Employees

NOTIFICATION AND EFFECTIVE DATE

All executive branch employees will be required to read this Equal Opportunity, Affirmative Action, and Anti-Discrimination Policy, and will be expected to sign an Acknowledgment indicating that the Policy was read and fully understood by the employee. This revised Policy shall become effective December 10, 2010.

A. GENERAL STATEMENT OF POLICY

It is the policy of the executive branch of state government in the State of Iowa to "Provide equal employment opportunity within state government to all persons." (Iowa Code 19B.) The intent of this policy is to ensure that individuals are not denied equal access to state employment opportunities because of their race, creed, color, religion, sex, national origin, age, physical or mental disability, sexual orientation, or gender identity, consistent with applicable state and federal policies and regulations. It is also the policy of the executive branch of state government in the State of Iowa to apply affirmative action measures to correct the underutilization of females, minorities, and persons with disabilities in the state employment system whenever remedial measures are appropriate.

B. DISCRIMINATORY HARASSMENT IN VIOLATION OF IOWA CODE CHAPTERS 216 AND 19B AND APPLICABLE FEDERAL STATUTES

Harassment of employees based upon their race, creed, color, religion, sex, national origin, age, physical or mental disability, sexual orientation or gender identity is a violation of the Iowa Civil Rights Act (Iowa Code chapter 216, as amended). Other laws also prohibiting discriminatory harassment in one or more of specified covered areas include: Iowa Code Section 19B.12, Title VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act of 1978, as amended; and the Americans with Disabilities Act of 1990.

Examples of discriminatory harassment based on the employees' protected status include, but are not limited to:

1. Abusing the dignity of an employee through insulting or degrading remarks or conduct.
2. Threats, demands, or suggestions that an employee's work status is contingent upon submission to harassment.
3. Subjecting an employee to demeaning or degrading activities in order to gain co-worker acceptance, e.g., hazing.

C. SEXUAL HARASSMENT

Sexual harassment is a violation of both federal and state statute. Harassment on the basis of sex is a violation of Section 703 Title VII of the Civil Rights Act of 1964 (42 U.S.C. Sec. 2000e et seq.) as amended and Iowa Code Sections 19B.12 and 216. Sexual harassment based on real or perceived sexual orientation or gender identity is a violation of Iowa Code Section 216. "Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment."

Within Iowa Code section 19B.12, "sexual harassment means persistent, repetitive, or highly egregious conduct directed at a specific individual or group of individuals that a reasonable person would interpret as intentional harassment of a sexual nature, taking into consideration the full context in which the conduct occurs, which conduct threatens to impair the ability of a person to perform the duties of employment, or otherwise function normally within an institution responsible for the person's care, rehabilitation, education, or training."

Examples of sexual harassment, in addition to discriminatory harassment previously described, include, but are not limited to:

1. Unwelcome sexual advances.
2. Hostile conduct based on the person's sex, sexual orientation, or gender identity.
3. Requesting or offering sexual favors in return for job benefits.
4. Actions such as cornering, patting, pinching, touching or brushing against another person's body that are sexual in nature.
5. Open speculation or inquiries about another person's sex life.
6. Jokes, remarks, or innuendos that are sexual in nature or based on real or perceived sexual orientation or gender identity about another person, or about men or women in general.
7. Displaying sexually explicit material in the work place.
8. Conditioning work benefits on submission to sexual advances, tolerance of a sexually hostile work environment or giving preferential treatment because of another person's submission to sexual advances, or tolerance of a sexually hostile

work environment.

Sexual harassment can take place between (a) any two state employees, (b) a state employee and a non-state employee, including contractors, and (c) between a state employee and a visitor, guest, client, patient, inmate, or resident.

D. DISCRIMINATORY PRACTICES IN VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990

A person with a disability is a person who has a physical or mental impairment that substantially limits a "major life activity," or has a record of such impairment, or is regarded as having such impairment. "Major life activities" include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

A "qualified" person with a disability is one who meets the legitimate job requirements and is able to perform the essential function of the position with or without reasonable accommodations and without being a direct threat to the health or safety of themselves or others. Essential functions are absolute requirements for producing critical job results/outputs. Essential, by definition, means indispensable, vital, necessary, or related to the essence of the job. It does not include marginal functions or duties performed. As such, departments are not required to provide reasonable accommodations that would result in fundamental alterations in the nature of the work to be performed.

The State of Iowa and its departments, agencies and other instrumentalities and all their employment practices, services and programs shall comply with the requirements of the ADA. The ADA requires, in part, that the State of Iowa:

1. Make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless fundamental alteration in the program or an undue hardship would result.
2. May not refuse to allow a person with a disability to participate in a service, program or activity simply because the person has a disability.
3. Provide programs and services in an integrated setting unless separate or different measures are necessary to ensure equal opportunity.
4. Prohibit requirements that tend to screen out individuals with disabilities, such as requiring a driver's license as the only acceptable means of identification.
5. Eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy their services, programs or activities unless "necessary" to the provisions of the services, program or activity.
6. Impose safety requirements only when they are necessary for the safe operation of the program in question, such as requirements for eligibility for drivers' licenses if they are based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities.
7. Ensure that individuals with disabilities are not excluded or limited from participation in services, programs, and activities because buildings are inaccessible.

8. Provide services, programs and activities offered in the facility to persons with disabilities through alternative methods, if physical barriers are not removed.

E. COMPLAINT REPORTING PROCEDURE

Any person who feels that he or she has been denied an employment opportunity or has had the terms and conditions of their employment adversely affected because of race, creed, color, religion, sex, national origin, age, physical or mental disability, sexual orientation or gender identity has the right and is encouraged, to file a complaint with the person's department, pursuant to the department's complaint procedure. A person may also file a complaint with the Iowa Civil Rights Commission or the appropriate federal enforcement agency. (For sexual orientation or gender identity, protection is offered under the State of Iowa statute only.)

There shall be no discrimination or retaliation against an individual because he or she files a complaint or who aids another individual in filing a complaint. An employee who has reason to believe that he or she has been retaliated against because of participation in an investigation of a discrimination complaint may also file a charge with the Iowa Department of Administrative Services – Human Resources Enterprise, the Iowa Civil Rights Commission, or the U.S. Equal Employment Opportunity Commission, whichever is appropriate.

Any person who believes that she or he has been the victim of discrimination under this section, or who has a concern about potential violations of this section, is directed to bring the matter to the attention of his or her immediate supervisor, appointing authority, or their designees, in accordance with the department's established complaint procedure. If the concern or complaint involves the employee's immediate supervisor, the employee is encouraged to file the concern or complaint with the next highest supervisor, or, in the alternative, to the Director of the Iowa Department of Administrative Services.

Department directors shall promptly investigate all complaints. Each agency shall take final agency action in response to a complaint. Corrective action shall be taken immediately to remedy violations of this policy, whenever warranted, up to and including the discharge of parties whose conduct violates this policy. A manager or supervisor who fails to properly act upon complaints or who has personal knowledge of a violation of this policy and fails to take appropriate action shall be subject to disciplinary action up to and including discharge. The director for the Iowa Department of Administrative Services shall assist departments and agencies with this responsibility. When applicable, state officials and employees shall cooperate fully with all appropriate individuals in the investigation of violations of this policy in order to create and maintain a workplace free from discrimination and discriminatory harassment.

A person, other than a state employee, who is the victim of discrimination prohibited under this policy, shall report the incident immediately to the director of the department affected or to the director of the Iowa Department of Administrative Services.

The Iowa Department of Administrative Services shall have the authority to conduct an investigation of practices prohibited under this policy or supervise the investigation conducted by the agency implicated when the agency director has determined that the

investigation is necessary and consistent with the intent of this policy or when the complaint involves allegations of systematic discrimination.

Individuals needing assistance may also contact the Department of Administrative Services – Human Resources Enterprise, Hoover Building, Level A, Des Moines, Iowa 50319. Phone: 515-281-3087 or dashre.info@iowa.gov.

F. ASSIGNMENT OF RESPONSIBILITIES

The director of the Department of Administrative Services shall be designated as the State Affirmative Action Administrator, as required in Iowa Code Chapter 19B.3 and shall be "Responsible for the administration and promotion of equal opportunity and affirmative action efforts in the recruitment, appointment, assignment, and advancement of personnel by all state agencies except the state board of regents and the institutions under its jurisdiction."

The director of the Department of Administrative Services shall also be designated as the State Americans with Disabilities (ADA) Coordinator in compliance with the U. S. Department of Justice's Title II Regulations Section 35.107. The director shall carry out this responsibility as follows:

1. Employment: The Human Resources Enterprise of the Department of Administrative Services shall be responsible for equal employment opportunity efforts under the ADA.
2. Accessibility: The General Services Enterprise of the Department of Administrative Services shall be responsible for equal access to State facilities under the ADA.
3. Complaint Reporting Procedure: The ADA Coordinator shall utilize existing complaint reporting procedures detailed in Section E to ensure that policies and procedures of the State of Iowa and its departments, agencies and other instrumentalities do not discriminate against persons with disabilities.

Department directors have the responsibility for the overall administration of this policy within their departments. This includes the following responsibilities:

1. Equal Opportunity: Integrating equal opportunity into all parts of human resource and program management, reviewing all policies and procedures as they affect equal opportunity and ensuring compliance with relevant statutes.
2. Affirmative Action: Implementing an internal system for auditing and remedying underutilization in the workforce, and annually reporting the effectiveness of affirmative action efforts to the director of the Iowa Department of Administrative Services.
3. Prevention of Harassment: Making every reasonable effort to prevent all forms of harassment from occurring and taking immediate and appropriate corrective action when harassment is brought to their attention, either directly or indirectly. Any administrator, supervisor, or employee who engages in any form of discrimination or harassment prohibited by this policy or who retaliates against an individual who has

complained of discrimination or harassment will be subject to disciplinary action up to and including discharge. Also, any administrator or supervisor who fails to act upon complaints of or on personal knowledge of workplace discrimination or harassment will be subject to disciplinary action up to and including discharge.

4. Access to Program Services: Department directors shall ensure their activities, services and programs are in compliance with the ADA and accessible to the general public.

G. TRAINING

Department directors and their employees should attend training offered through the Iowa Department of Administrative Services – Human Resources Enterprise intended to sensitize and inform them concerning the elimination of discrimination and harassment in the workplace. This training shall include, but is not limited to, equal opportunity, affirmative action, diversity, and prevention of discrimination/harassment.

H. POSTING

This policy shall be posted in conspicuous places throughout each of the executive branch agencies of Iowa State government, included in employee handbooks, distributed to all agency employees, chairpersons of department advisory and policy-making groups, agency-specific recruiting sources, vendors, and contractors.



Example Reasons for Termination from State Employment

- Failure to initiate CPR
- Abuse of sick leave, deliberate falsification of records, lying during an investigation
- Urinated on an inmate's food
- Failure to maintain appropriate boundaries with inmates and failing to maintain professional relations
- Threatening to resolve conflict with coworkers with a gun
- Dependent adult or child abuse
- Theft of property, cash
- Sexual or discriminatory harassment
- Providing contraband or favors to inmates
- Viewing/disseminating pornographic material on work time via state equipment

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.

- 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).

Thanks,
Caleb

-----Original Message-----

From: Petersen, Janet [LEGIS] [<mailto:Janet.Petersen@legis.iowa.gov>]

Sent: Thursday, April 10, 2014 1:48 PM

To: Hunter, Caleb [DAS]

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

Subject: "Do Not Hire" List

Caleb,

Last week DAS informed the Government Oversight Committee that "there is no 'do not hire list'." Now we are reading from the AP, the department lied to the committee once again. Members of the Government Oversight Committee need copies of the list provided to the AP immediately. I expect it by close of business today.

Senator Janet Petersen

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.
- 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.



SECTION 9.80 VIOLENCE-FREE WORKPLACE REPORT FORM

Last Update: 11/03

STATE OF IOWA			
Iowa Department of Administrative Services – Human Resources Enterprise			
WORKPLACE VIOLENCE REPORT			
Complainant/Witness:		Telephone #:	
Department/Division:		Work Location:	
Person Completing Form: (Name/Title)	Date:	Telephone #:	
ALLEGED OFFENDER INFORMATION			
(Complete the following information, if known)			
Name:		Address:	
Employer:		Job Title:	
Relationship to Complainant/Witness: (For Example: Client, Vendor, Co-Worker, Supervisor, Spouse)			
Law Enforcement Contact			
(If Applicable)			
Date:	Agency:	Officer(s) Name:	Report Number:
INCIDENT DESCRIPTION			
[Describe the alleged incident(s) in detail: who, what, when, where, why, how.]			
[Attach additional pages if necessary]			



**FORM TO BE FILED WITH THE APPOINTING AUTHORITY AND
THE IOWA DEPARTMENT OF ADMINISTRATIVE SERVICES – HUMAN RESOURCES ENTERPRISE
WORKPLACE VIOLENCE COORDINATOR**

Agencies

Online Services

Search All of Iowa.gov

SECTION 9.75 VIOLENCE-FREE WORKPLACE GUIDELINES

Last Update: 2/06

STATE OF IOWA

VIOLENCE-FREE WORKPLACE GUIDELINES for Supervisors of Executive Branch Employees

I. POLICY INTENT

The State of Iowa is committed to creating and maintaining a violence-free workplace. Threats, intimidation, harassment, or acts of violence will not be tolerated. All threats or threatening behaviors will be immediately investigated and will be grounds for disciplinary action up to and including discharge.

II. LEGAL AND CONTRACTUAL CONSIDERATIONS

The bases upon which the policy and these procedural guidelines are based include the following legal and contractual considerations:

A. Legal Authority

1. The Occupational Safety and Health Administration (OSHA) has no specific regulations for preventing occupational homicide or violence. The OSHA General Duty Clause [29 USC 1900 5(a)(1)], however, requires employers to provide a safe and healthful working environment for all workers covered by the Occupational Safety and Health Act of 1970. Additionally, OSHA is considering issuing regulations that would require employers to protect workers from the threat of violence, just as employers must protect employees against hazardous materials.
2. Incidents of violence in the workplace have lead to numerous lawsuits involving issues such as negligent hiring, protecting employees from "off the street" violence, inaccurate employment recommendations, and inadequate security.

Negligent hiring claims argue that, by virtue of having someone on the payroll, an employer is responsible for harm to the public caused by that employee. Negligent hiring claims typically hinge on whether or not an employer took reasonable precautions to prevent the incident. Did the employer check references, for example, and where applicable, driving or criminal records? Did the employer respond if co-workers or others reported suspicious or threatening behavior or comments by the employee? Was it reasonable to expect the employer to know that the employee was a risk to others?

Former employers have found themselves in court as co-defendants in negligent hiring suits on the grounds that they gave incomplete or misleading references to a subsequent employer.

The theory of **negligent retention or negligent supervision** in litigation holds that the employer should have known, based on information in the employer's possession, that the worker had a propensity for violence.

When, during the course of employment, the employer becomes aware or should have become aware that an employee is unfit, and the employer fails to take action such as investigating, discharging, or reassigning the employee, the employer may be liable under the negligent retention theory.

Courts are taking the view that protecting an employee from "off the street" violence is part of an employer's duty to provide a safe workplace, and failure to do so may expose an employer to civil liability.

B. Labor Agreements

The current collective bargaining agreements must be reviewed to determine any limitations or procedural requirements relating to discipline and discharge, the Employee Assistance Program, and other sections which may be related to dealing with incidents of violence in the workplace.

III. **HUMAN RESOURCE ISSUES**

Violence is, in part, an uncontrolled ventilation of built up stress and anger. There are several elements of human resource management that merit review to help diffuse stress and lessen the potential for violence within an organization.

A. Job Analysis

Job analysis results in the production of a job description detailing critical job tasks and detailing the prerequisite competencies required for acceptable job performance. To the extent that competencies are poorly delineated and the necessary job skills poorly defined, confusion results that can impact later processes of recruitment and selection. Other processes, such as training and development of employees in related tasks and competencies also becomes an exercise in confusion.

Supervisors should periodically review the position description questionnaires and the job descriptions for the job classes under their supervision. If revisions are necessary, the supervisor should initiate contact with the personnel officer assigned to that agency for assistance in revising job descriptions to more accurately reflect the job.

B. Selection

Selection tools such as written tests, interviews, performance tests, psychological profiles, and other job performance prediction devices should be validated. Such devices must result in the hiring of individuals competent to perform job tasks and individuals possessing the necessary competencies to adequately perform job duties. Hiring individuals mismatched for the job is an invitation for trouble. These individuals are more likely to find themselves stressed, and to turn to stress reduction remedies such as alcohol or drugs. The potential for violent workplace responses under such conditions is increased.

The hiring authority should use the application form to trace an applicant's work history. According to a recent report, approximately 42% of job applicants are untruthful on their job application. (The Age of Rage, Jenny C. McClure, Small Business Reports, March 1994). Unexplained gaps may be indicative of unstable work patterns that should be investigated. Violence prone workers often have a migratory job history. Applicants who have had many jobs of short duration warrant closer scrutiny.

Good interviewing skills should be developed and can be used to reveal much about an applicant's personality and work related attitudes. Many warning signs are evident during an interview process and continue to build in severity throughout the person's employment. Reference checks should always be conducted to collect information indicative of unstable personalities. Be wary of the applicant who cannot provide references or who cannot provide phone numbers and addresses of former employers. The applicant may have something to hide. Applicants who do not have a history of poor performance or disciplinary action and who possess the necessary skills should have no basis for omitting information, refusing to answer valid questions, or hiding the truth. (Note: The Iowa Department of Administrative Services – Human Resources Enterprise (DAS-HRE) does not conduct background, education, licensure, or reference checks.)

In accordance with the DAS-HRE rules, specifically subrule 5.2(6), applicants' names may be removed from the list of eligibles if the applicants knowingly misrepresented the facts when submitting information relative to the application, testing, or certification process. If it is suspected that an applicant has falsified an application, the appointing authority should contact the DAS-HRE personnel officer to initiate an investigation into the allegation and the possible removal of the applicant's name from the list of eligibles.

When interviewing applicants, Michael Mantell in Ticking Bombs: Diffusing Violence in the Workplace recommends asking the following seven questions:

1. When have you felt that you have been treated unfairly?
2. What did you do about it?
3. What would you like to have done about it?
4. Why did you feel you had been treated unjustly?
5. What complaints have you had about your supervisors in the past?
6. What could a supervisor do to make you angry?
7. What has a supervisor done in the past to make you really angry?

Applications, resumes, and interviews should be reviewed for indicators of stability, which may include:

1. Honorable discharge from military.
2. Increased responsibility over time.
3. Identifies with positive role models.
4. Future oriented.
5. No history of violence.

If an individual applies for a position that requires a driver's license, a driving record check should be made to verify a valid license and to look for excessive violations that may indicate potential liability for the employer.

If an individual applies for a position that requires licensure to practice a profession or a trade, the appointing authority is responsible to verify the applicant's license is valid, current, and appropriate to the position.

C. Performance Evaluation

It is important that performance evaluations be tied to the essential functions of the job. The evaluation is critical in providing timely, constructive feedback to employees on both the positive and negative aspects of their job performance. Performance evaluation conferences must be done in an objective manner that is not confrontational, and must focus on work behaviors, not personal attacks. The potential for high stress violent situations is always present when evaluation sessions are performed by untrained managers, or when criticism becomes "person directed," not "behavior directed."

D. Training and Development

Constant change is a characteristic of today's workplace: jobs change, technologies change, and people change. Training and development initiatives offer opportunities for employees to upgrade skills to meet changing job requirements. While valid recruitment and selection devices can result in hiring persons who are qualified to perform job duties, they cannot ensure that employee's skills are continuously upgraded to meet the ever changing nature and demands of jobs. That can only be performed by a well coordinated job analysis and performance evaluation system tied to a training and development program.

In severe economic times, organizations may cut back on training and development. While understandable, these cut backs often have severe long term consequences. One of the consequences will be to increase the number of employees who are not prepared to perform the changing aspects of their jobs. This can create a highly stressful workplace, ripe for violent responses from stressed employees.

Some areas of training are particularly related to alleviating the potential for violence. The following are suggested areas of focus in training for a violence-free workplace.

1. Employees need to be trained in conflict resolution including dealing with an irate customer or co-worker.
2. Managers, supervisors, and employees need to be trained in cultural diversity. Employees need to understand the difference between inappropriate behaviors and behaviors that are merely different due to cultural differences.
3. All employees need to be trained in recognizing and preventing sexual and discriminatory harassment. Employees need to understand that the State of Iowa has a zero-tolerance policy, and enforcement of the policy can make the workplace more enjoyable and productive.
4. Supervisors and managers need training on the causes of violence in the workplace, as well as the prevention and elimination of violent incidents in the workplace. Supervisors need to understand how their role in handling performance problems, discipline, and terminations may avert a violent incident.

5. Supervisors need to be trained in recognizing the signs of a troubled employee, as well as how and where to get assistance for the employee.
6. Supervisors need to develop confrontation strategies. For example:
 - a. Offer choices. This should be done even if the choices are less than full resolution alternatives. Making this gesture conveys respect for the employee as well as courtesy.
 - b. Defuse anger. In a calm manner, tell an angry person that you understand how he or she must feel. Show appreciation that the person brought forth the concerns, and tell the person you would like to sit down and discuss the situation further. Have the discussion immediately.
 - c. Be sincere. Use a friendly, professional demeanor at all times. Actively listen to the person.
 - d. Ask questions. Politely ask the angry person to explain the issues so you can better understand the person's concerns. This often helps the person calm down and begin to think logically.

E. Probationary Period

The probationary period, if used properly, offers the supervisor the opportunity to closely observe the employee's performance and interaction with management and co-workers. Often, however, the probationary period is not used properly and the employee gains permanent status, even though the employee's performance is less than adequate.

The longer an employee is with an organization, the stronger the psychological bond that the employee develops with the organization. Thus, it is important that supervisors carefully monitor performance and behavior during the probationary period. This initial investment of time and energy may prevent violent outbursts later by employees who were poorly matched to their job.

One factor that has commonly been reported in cases of employee initiated workplace violence is the strong sense of identity the employee has with his or her job. Often, the employee's sense of life and self-esteem is the employee's job, and the employee equates loss of job with loss of life and value.

F. Grievances

It is important for employees to be able to vent their frustrations. The grievance procedure provides such a mechanism. Employees must be informed of the process, and supervisors must ensure that the grievance procedure is a non-biased forum for employees to air their concerns. The presence of a procedure perceived to be biased in management's favor, leads to an increase in stress rather than the opportunity to discuss concerns in a beneficial and controlled setting.

G. Iowa Employee Assistance Program (EAP)

Providing self-referral and management referral services to employees has been shown to help decrease the incidence of workplace violence.

Well-trained supervisors who gain the trust of their employees can help prevent violence. While people are hesitant to let other persons know about their personal lives, it is important that we get to know the people who work with us so that we can help to keep them safe and help them receive the proper assistance.

A supervisor should encourage use of the EAP when an employee is experiencing difficulty coping with work or personal concerns. Referrals to the EAP cannot be mandatory. Rather, the employee is encouraged to utilize the program.

Sections 9.10 through 9.40 Personnel Management for Managers and Supervisors discusses the EAP program in detail.

H. Psychological or Psychiatric Referrals

A mandatory referral for psychiatric or psychological assessment should be made when an employee's behavior is disruptive or inappropriate to the extent that it threatens the safety and well-being of the employee or others. The appointing authority, in consultation with the DAS-HRE personnel officer, may direct the employee to be assessed by a qualified mental health professional of the appointing authority's choice. The agency employing the referred employee will be responsible for the cost of the mandated referral assessment. The employee is responsible for subsequent recommended treatment costs.

An employee who has been referred for such an evaluation will not be permitted to return to work without the completion of the assessment and without a release from the employee's psychologist or psychiatrist. The release must indicate that the employee does not pose a threat to him or herself or others. If the psychologist or psychiatrist recommends continued treatment following the employee's return to work, the appointing authority should work with the personnel officer to develop a return to work agreement.

I. Adverse Actions

1. Downsizing

The most important factor in reducing stress during a reorganization or downsizing is honest and timely communication from management. Employees need to understand the reason for staffing changes and be allowed to ask questions to facilitate understanding. Employees should be given early access to outplacement services and have resources available to explain how outplacement works. Employees will need to know how their benefits, such as insurance, will be affected. They should be provided with materials from community assistance agencies that may help them prepare for a layoff or a reduction in salary.

Supervisors and managers need to understand that employees are very likely to be angry. Supervisors should not dismiss or ignore that anger. If an employee is not coping well with the situation, the employer should refer the employee to the EAP.

2. Safe Discipline

There is a potential for uncontrolled violent acts by employees when they are reprimanded, suspended, or terminated. It is important that supervisors are aware of the disciplinary process and should appropriately deal with poor performance and misconduct while treating the employee with dignity and respect. Disciplinary action should always stress as its objective the goal of returning the employee to expected levels of performance and behavior, not punishment.

Even an employee who is disciplined, but not terminated, may experience substantial loss, such as loss of status, income, future opportunities, and self-esteem. This type of loss can be as devastating to the employee as termination, and for some, may trigger a violent episode.

A supervisor who is dealing with a disturbed or disgruntled employee who the supervisor feels may engage in violence should refer the employee for psychological or psychiatric intervention and delay the discipline session. A discipline session at the time may trigger a violent response.

S. Anthony Baron, PhD., in Violence in the Workplace: A Prevention and Management Guide for Businesses, recommends "carefronting" as opposed to "confronting" a difficult employee. Regardless of the ultimate outcome, even in cases of termination, a difficult employee needs help and must be treated in a respectful, honest manner. Discipline sessions in which a supervisor tells an employee all the "wrongs" tend to invoke anger and aggression.

According to Baron, when approaching discipline from a "carefronting" standpoint, supervisors need to:

- a. Focus on behaviors, not on the person or personalities. A person's behavior can be observed and documented. If a supervisor identifies a problem as something a person is doing or saying, then there is an assumption that changes can be made.
- b. Look for areas of agreement and disagreement. If a supervisor can help an employee identify good behavior, an employee may be able to distinguish poor performance from good performance.
- c. Talk with, not at, an employee. The employee must be involved in finding appropriate solutions. Ask the employee what should be done about the unacceptable behavior or performance. Authoritarian supervisors often tell an employee what is wrong and what the employee should do to change, then wonder why the employee does not change. If an employee actively helps in identifying the solutions, the employee has a stake in changing the inappropriate behavior.
- d. Establish future commitments. Let the employee know that you are sincerely interested in helping him or her. Ask the employee how you can help. Schedule a subsequent meeting within two weeks to follow up. Reinforce changed or improved behavior.

- e. Conduct conferences focusing on an employee's performance or behavior in private. Confidentiality to the fullest extent possible must be maintained.
- f. Remain calm and professional. It is never appropriate for a supervisor to use profanity, resort to name calling, or treat the employee in a demeaning fashion. If an employee becomes loud during the meeting, the supervisor should talk slower and softer.
- g. Take action as soon as possible. Never put off a disciplinary conference with an employee by stating that you will meet with him or her the next day or the next week. Both parties become stressed over the delay. The increased anxiety may push a troubled employee over the edge.
- h. Remain unbiased. If there is a history of resentment or confrontation between the supervisor and the employee, an unbiased supervisor should take the lead in dealing with an employee.
- i. End the disciplinary meeting if the employee becomes highly disturbed or violent. The supervisor should tell the employee that they will meet again when the employee is calmer and should suggest that the employee meet with EAP to cope with the anger or direct the employee to a psychologist or psychiatrist as appropriate.
- j. Be specific. Discipline usually falls into one of three categories: 1) attendance, 2) performance, or 3) misconduct. If an employee has been late for work, do not tell the employee that he or she is unreliable or undependable. Tell the employee that he or she was late, what impact the tardiness has on the team or the employee's work, and tell the employee the consequences of future instances. Tell the employee what you expect.
- k. When another employee reports inappropriate conduct, do not blame or ignore the employee. Do not tell the employee that he or she is overreacting or that you'll look into the situation. Blaming the victim or the employee who reports misconduct is equal to accepting the inappropriate conduct.
- l. Ask the employee if there is anything that you should be aware that may be causing the absenteeism, performance, or conduct problems. Let the employee know that you are sincerely concerned about him or her as a person, and that you are willing to listen to the employee and will try to assist him or her.
- m. Walk the talk. Employees watch supervisors to make sure they are following the same standards of conduct expected of employees. Employees should be able to look to the supervisor as a role model of appropriate workplace conduct.
- n. Be consistent and fair. Dislike of a particular employee may draw focus to his or her attendance, performance, or conduct, even though it may be no different than that of other employees who are in favor with the supervisor.

3. Safe Terminations

Terminations generally occur for one of two reasons: 1) lack of work, or 2) inappropriate attendance, performance, or conduct. Guidelines for safe terminations include:

- a. Treat all employees with respect and dignity. Treat others as you would like to be treated.
- b. If at all possible, adverse actions should be avoided when the employee is undergoing severe personal stress, such as a separation or divorce, a critical personal or family illness, or a recent death of someone close to the employee. Intervention from a professional would probably be more in line with the needs of the employee and the safety of the workplace.
- c. Have more than one supervisor present. A supervisor the employee respects the most may help neutralize a potentially volatile situation.
- d. Do not expect employees who are laid off or terminated to act rationally. There may be anger and tears.
- e. Stick to factual, specific reasons for the termination.
- f. Be confidential. Do not discuss the termination with other employees.
- g. Be honest.
- h. Direct the person not to return to the workplace. If there is a specific need for the former employee to return, the employee must arrange the return accompanied by a supervisor.
- i. Do not apologize for the action or waffle in the decision. Do not state that you do not agree with the decision or that you were "ordered" or directed to impose it.
- j. Do not offer unnecessary sympathy or tell the employee it is not his or her fault.
- k. Arrange for security personnel to be present or nearby if the employee has been identified as potentially violent.
- l. Have all outplacement and benefit forms prepared in advance. Make arrangements to mail the terminated employee's final check to his or her home or location away from the worksite. Collect all state property before the employee leaves the worksite. Make sure there is no reason the employee will need to return to the worksite.
- m. Immediately change security codes, passwords, and access codes used by the terminated employee.

J. Rewards

In the State of Iowa, as in most public sector work forces, "merit" is the stated criterion for appointment, promotion, retention, performance-based pay increases and other rewards. Managers have a responsibility to ensure that other factors, such as favoritism and political pressure, are eliminated in the allocation of rewards. Pay equity within an organization is often an emotionally charged issue. While it is impossible to convince every employee that there is equity in pay, efforts should be made to evaluate and adjust trouble spots in this arena.

IV. **EMPLOYEE INITIATED WORKPLACE VIOLENCE**

A. Levels of Employee Initiated Workplace Violence

There are three levels of employee initiated workplace violence. Often employees who are prone to violence will progress from one level to another.

1. Verbal harassment. This type of behavior may include an employee spreading gossip or rumors about another employee. The employee may be uncooperative or confrontational with his or her supervisor, and often is argumentative with co-workers. The employee may act in a belligerent manner towards customers, yet the employee will attempt to rationalize his or her behavior. Other symptoms of this level may include the use of profanity or the making of unwanted sexual comments.
2. Insubordinate behavior. At the second level, the employee will continually challenge authority, to the point of refusing to obey policies and directives. Employees may sabotage equipment or steal property to get revenge. The employee may express a desire to hurt his or her co-workers. The employee will feel victimized by management.
3. Violent behavior. At the third stage, the employee may make serious threats against another employee(s) or supervisor(s). The employee is likely to engage in fights or other forms of physical aggression. The employee may begin to discuss, carry, or display weapons in the workplace. The employee may be suicidal or homicidal.

B. Motivations for Aggressive or Violent Behavior

Aggression and violence offer ways to control people and can help the perpetrator release anger by blaming someone else around him or her. A verbal threat can be the equivalent of physical aggression due to the environment of fear and anxiety that a threat can create. Experts are divided on what serves as motivation for violent behavior, but a few of the possible motives include:

1. To harass
2. To embarrass
3. To get revenge
4. To show power
5. To gain money or position
6. To intimidate
7. To reduce boredom
8. To entertain others
9. To cause fear
10. To cause frustration

C. Variables Contributing to the Potential for Violence

1. Environmental

- a. Heat
- b. Noise
- c. Exposure to noxious fumes

2. Task Related

- a. Continuous time pressures
- b. Tedious or menial tasks
- c. Frequent unwanted overtime
- d. Shift work

3. Organizational

- a. An environment that tolerates horseplay or aggressive interaction
- b. Toxic work environment. Managers and supervisors need to look at the culture of the workplace. Do employees feel controlled, threatened or manipulated by problem employees or supervisors? Are employees a priority and do they play a part in the decision making? Do employees and supervisors treat each other with respect? Even an emotionally mature employee in a toxic environment can feel stifled, threatened, and apathetic, which can result in making the once excellent employee marginal.
- c. Downsizing or layoffs
- d. Uncertainty, feeling aggrieved, ignored, or victimized
- e. Disgruntled employees, customers, or families
- f. Promotions denied for reasons that seem not to be based on merit.
- g. Inadequate security

D. Warning Signs of the Potentially Violent Employee

1. Substance Abuse Related to Violence

Alcohol and substance abuse can play a critical role in violent behavior. The effect of alcohol and other chemicals can lessen inhibitions and serve as a catalyst for violent behavior. Supervisors need to familiarize themselves with the symptoms of substance abuse and intervene at the earliest possible stage. The signs of impairment are usually evident even to the untrained eye. Alcohol and drug abuse are not an excuse for misconduct. While it is the State's intent to offer assistance leading to recovery, misconduct must still be dealt with as appropriate.

2. Disorders

Some individuals have disorders which may make them more prone to violence. The following are examples of such disorders:

- a. Schizophrenia
- b. Delusional (paranoid) disorders
- c. Mania
- d. Mental retardation
- e. Personality disorders, including organic personality syndrome, borderline personality, antisocial personality, narcissistic personality
- f. Disruptive behavior disorders including conduct disorders and attention-deficit hyperactivity disorder
- g. Depression. Signs of depression include:
 - 1) Expressions of despair
 - 2) Slowed work pace
 - 3) Constant sad or blank expression
 - 4) Self-destructive behavior
 - 5) Easily distracted
 - 6) Increased apathy or lack of motivation
 - 7) Socially withdrawn
 - 8) Excessive self-condemnation
 - 9) Unkempt physical appearance
 - 10) Sudden drastic changes in conduct or behavior

3. Inappropriate Behaviors Requiring Intervention by the Employer

- a. Making threats. The employee, supervisor, manager, vendor, or customer may make veiled or conditional threats or may make references to other violent events.
 - 1) Veiled threats are indirect threats aimed at a person or organization. Statements such as "something bad may happen to you" or "watch your back" are examples of veiled threats.
 - 2) A conditional threat is a threat of consequences to follow an identified event. For example, during an investigatory process, an employee may state that if he or she is fired, others will "pay." A customer who is threatened with the loss of some type of benefit may threaten an employee or an entire organization.
 - 3) Some violence-prone individuals will send out advance signals of their intentions by making statements such as, "if you think what happened at the post office was bad, wait until you see what happens here."
 - 4) Employees may engage in verbal abuse, demeaning or belittling statements, ridicule, or excessive verbal altercations with other employees, supervisors, managers, vendors, or customers.

- b. Excessive interest in police, military, or survivalist activities. Some individuals become obsessed with vigilante or survivalist activities and advocate violence to achieve their goals. An employee may make threatening comments about weapons and brag about his or her expertise with exotic weapons. Employees are expected to immediately report to their supervisor any weapon observed in the workplace or any threat made by another person to bring a weapon to the workplace.
- c. Inappropriate comments. Employees may make suicidal comments to co-workers or supervisors that are often either ignored or not recognized. An employee may state "I'm losing it" or wonder aloud about reasons to live. Persons who commit violent acts in the workplace often turn their weapon on themselves. If individuals reach a point where they place no value on their own life, they may also place no value on the lives of others.
- d. Excessive documentation. Employees may refuse to be held accountable for their own behavior and start documenting other people who they believe are the cause of their problems. Employees may start to keep notes and lists, and may go as far as conducting surveillance on co-workers or supervisors.
- e. Paranoia. An employee may perceive and complain that everyone is against him or her, or may believe that everyone is in a conspiracy to plot against him or her. A paranoid employee may misinterpret acts of kindness or concern as a threat to the employee's job or family. Often, the employee externalizes blame which increases the likelihood of violence because the employee no longer sees himself or herself as personally responsible for his or her own problems.
- f. Advocating extreme religious or political beliefs. Other employees will tend to shy away from these persons, which may increase the loner or paranoid tendencies.
- g. Anger. A common description of persons who have engaged in workplace violence is that the individual was very angry. The anger is often described as non-specific. The individuals are described as moody or irritable, and as harboring a lot of resentment.
- h. Continual complainer. A sign of an employee who is in trouble may be a continual complainer who, following the airing of complaints becomes introverted. The employee may have a tendency to file numerous lawsuits or grievances in an attempt to correct the perceived wrongs against them. The individual will often allege discrimination or disparate treatment. In addition to on-the-job problems, the employee may complain of financial problems or marital problems.
- i. Loner. A person who has engaged in acts of workplace violence is often described as a loner who intimidates those around him or her. He or she may have been described as guarded. The employee's only social outlet is the job, and this person equates loss of job with loss of life and value.

- j. Decrease in productivity. A sudden decrease in productivity, struggling to keep up, or an increased number of mistakes may signal severe stress or substance abuse.
- k. Stalking or lurking. Persons who are likely to engage in violence often surveil their victim(s) to establish patterns of behavior and habits.
- l. Sabotage. The employee may either threaten to sabotage or actually sabotage equipment or work products.
- m. Destructive behavior. Throwing objects, kicking furniture or equipment, exaggerated gestures, and damaging property are a few examples of destructive behavior.
- n. Any physically assaultive act. This would include any physical contact which is injurious, insulting, or offensive.
- o. Sexual or discriminatory harassment.
- p. Unusual or changed behavior. This may include emotional outbursts, secretive behavior, unusual comments, hearing non-existent voices, or anything uncharacteristic of the employee.
- q. Stress in personal life. This may take the form of crying or excessive personal phone calls. Creditors may start to call or garnishments may be ordered on the person's pay. Stress may increase following separation, divorce, or the death of someone close. The employee may talk of an unhappy family life or, at the other extreme, may never mention home life.
- r. Other employee concerns. Employees that work near others may be the first to notice unusual behaviors or causes of concern in co-workers. Concerns about another person brought forth by a co-worker should not be categorically dismissed without investigation. The earlier that intervention with a troubled employee begins, the earlier the problems can be resolved and the potential for violence diminished.

4. Other Factors Associated With Workplace Violence

According to experts in the field of workplace violence, acts of violence in the workplace do not occur in a vacuum. National and local events contribute to the increase in the incidents of violence. Supervisors and managers must understand some of the factors commonly cited which are associated with workplace violence.

a. The Economic Climate

The condition of the economic climate has been cited as the primary cause for the dramatic increase in workplace violence. Fluctuations in the economy have contributed to stressors such as layoffs, high unemployment, and increased competition for available jobs. Employees face tougher competition for limited promotions. Economic conditions have forced employers to restrict salaries, as well as limit benefits available to employees.

b. Diversity in the Work Force

Today's work force is diverse along racial, ethnic, and gender lines, and diversity is expected to increase as we move toward the next century. Cultural, gender, and racial differences can result in tension in the workplace. When diversity is not properly addressed, it can lead to potentially explosive situations.

c. Substance Abuse

Abuse of drugs and alcohol has an adverse effect on all employees in the workplace, not just those who misuse the substances. Drugs and alcohol have been found to decrease inhibitions and prompt a person with a violence-prone personality to act out. Even though many steps have been taken to prevent alcohol and drugs from having an effect on the workplace, these substances remain a constant threat to a violence-free workplace.

V. NON-EMPLOYEE INITIATED VIOLENCE

Incidents of workplace violence can originate from outside the workplace, making every work location vulnerable. Some of the types of persons who bring violence to the workplace include:

- A. Ex-spouses or significant others attempting to find or harm their former partner
- B. Disgruntled former employees
- C. Angry customers or clients
- D. Stalkers
- E. Terrorists
- F. Intruders with criminal intentions, such as robbery
- G. Vendors
- H. Contractors

Some of the factors that may increase the risk of non-employee initiated violence include:

- A. Working alone
- B. Working late at night or early in the morning
- C. Working in high-crime areas
- D. Working with high-risk clients or customers
- E. Exchanging money or valuables with customer or clients
- F. Imposition of sanctions for non-compliance with laws or regulations
- G. Lack of awareness or being inattentive to one's environment

VI. REPORTING WORKPLACE VIOLENCE

In accordance with the Violence-Free Workplace Policy, all threats must be reported immediately.

A. Failure to Report

Following are some of the reasons why employees don't report violent behavior or threats.

1. Aberrant behavior is taken for granted. After a period of time, employees assume that inappropriate or threatening behavior on the part of a customer, client, manager, supervisor, vendor or co-worker is normal or acceptable.

2. Lack of confidence. Employees stop reporting incidents and inappropriate behaviors when the supervisor fails to take action. If an employee reports threats or violent behavior by another employee and the supervisor dismisses or ignores the report, employees will stop reporting incidents and management loses its early warning system. Following acts of workplace violence by current or former employees, it is evident that in many cases there were clear indications of the employee's aggressive or violent nature that had gone unheeded.
3. Unaware of the value of reporting. Employees often are hesitant to report unusual behavior because they are concerned that others may not share their perceptions. They may feel the employee who is acting out is just having a bad day or making a joke. Employees must be trained to report incidents, threats, or uncomfortable behaviors immediately, and supervisors need to follow up on the reports immediately.
4. Unaware of behaviors that are indicative of potential violence. Employees must be trained on the indicators of potential violence and how to recognize individuals or situations that need to be reported. Employees need to feel comfortable reporting a person acting in a strange manner before such a person enters the workplace.
5. Fear of retaliation or confrontation. Often, employees are afraid to report threats or incidents out of fear for personal safety or retaliation. Supervisors need to create an environment in which employees feel safe and are comfortable reporting inappropriate behavior. While complete anonymity cannot be guaranteed, supervisors can offer reassurance that retaliatory behavior for the reporting of threatening behavior will not be tolerated.

B. Filing a Report

Filing a report can be accomplished in any of the following ways:

1. With an employee's direct supervisor.
2. Through the chain of command within the employee's agency if the employee's direct supervisor is involved in the inappropriate behavior or refuses to take action on a report of inappropriate behavior.
3. The Iowa Department of Administrative Services – Human Resources Enterprise.

C. Supervisor Responsibilities

Following are some of the responsibilities of the supervisor who receives a report:

1. Assure the employee that the threat will be investigated and that the team or individual assigned to handle the threat will do so promptly.
2. Notify the appropriate law enforcement agency if the situation requires immediate intervention by a law enforcement officer.
3. Reports of threats may be received by supervisors in writing or in person. Supervisors should then complete the Workplace Violence Report form and submit that form to the Iowa Department of Administrative Services – Human Resources Enterprise.
4. Injuries, illnesses or fatalities resulting from workplace violence are required to be reported on the OSHA 200 log if injuries result in one of the following:

- a. Loss of consciousness
- b. Restriction of work or motion
- c. Transfer to another job or termination of employment
- d. Medical treatment beyond first aid

In addition, the First Report of Injury must be completed for incidents involving workplace violence. OSHA reporting guidelines require the employer to verbally report all incidents, including workplace violence incidents, that result in the death of an employee or the hospitalization (in-patient admission) of three or more employees within eight (8) hours after the employer learns of the incident.

VII. RESPONDING TO THREATS OF WORKPLACE VIOLENCE

It is the policy of the State of Iowa to treat every threat seriously. Often, what is said in anger or exaggerated conversation may not be what the person really means or intends, however, sometimes it is EXACTLY what the person means and intends.

All threats must be responded to immediately, as it is impossible to determine if or when a person will execute a threat. Supervisors should err on the side of safety and always respond immediately. If the threat or behavior threatens the life or well being of others, immediately contact the appropriate law enforcement agency. Whether or not law enforcement is contacted, notify the DAS-HRE personnel officer as soon as reasonably possible depending on the circumstances.

There are many options for responding to a threat of violence. Each incident will need to be evaluated on its own merits. Supervisors should consult their personnel officer, who will assist in formulating a response to the threat. Some of the responses to threats may include:

- A. Suspension with pay pending completion of an administrative investigation
- B. Impose disciplinary action after a thorough and impartial investigation
- C. Voluntary referral to EAP
- D. Mandatory referral to a qualified mental health professional of the employer's choice, with managed follow-up and treatment
- E. Require a formal fitness for duty evaluation
- F. Place employee on medical leave until released for duty
- G. Cooperate with law enforcement officials to initiate criminal prosecution if warranted
- H. Obtain appropriate restraining orders
- I. Alert threatened parties
- J. Provide security for threatened parties and for the workplace in general

VIII. THREAT ASSESSMENT

The DAS-HRE personnel officers are available to assist managers and supervisors in managing workplace violence incidents. The personnel officer will monitor all reports of threats or violence and provide consultation services to agencies. The personnel officer will aid agency personnel in properly assessing, evaluating, and managing workplace violence incidents.

The personnel officer will work with affected agency staff to determine the nature of the threat, who is making the threat, who or what is being threatened, and how best to investigate and proceed with management of the threat. Agency staff, in consultation with the personnel officer, will look at issues such as:

1. If the threat was made by an staff person, should that person be suspended with pay pending investigation?
2. How realistic is the threat? Who is the threat directed at and why? What factors indicate the potential to execute the threat?
3. If it is suspected that the threat may be executed, what are the options for preventing it? What are the short term and long term measures that should be considered?
4. If it is suspected that the threat may be executed, what are the options for managing the incident?
5. Is there a psychological evaluation that needs to be conducted? If so, how will it be done and who will do it? If it is determined that an individual has a mental disability, how will you balance the threat and the disability?
6. How will you balance the needs of the organization with the rights of individuals, including the potential perpetrator?

Agencies

Online Services

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SECTION 9.70 VIOLENCE-FREE WORKPLACE POLICY

Last Update: 11/03

State of Iowa

VIOLENCE-FREE WORKPLACE POLICY

for

Executive Branch Employees

Definitions

Violence is any act which is intended to intimidate, annoy, or alarm another person; or any act which is intended to cause pain or injury to, or which is intended to result in physical or personal contact which will be insulting or offensive to another, coupled with the apparent ability to execute the act. (Iowa Code sections 708.1 and 708.7)

A dangerous weapon is any instrument or device designed primarily for use in inflicting death or injury upon a human being or animal, and which is capable of inflicting death or injury upon a human being when used in the manner for which it was designed. Additionally, any instrument or device of any sort whatsoever which is actually used in such a manner as to indicate that the individual intends to inflict death or injury upon the other, and which, when so used, is capable of inflicting death upon a human being, is a dangerous weapon. Dangerous weapons include, but are not limited to, any offensive weapon, pistol, revolver, or other firearm, dagger, razor, stiletto, switchblade knife, or knife having a blade exceeding five inches in length. (Iowa Code section 702.7)

Personal contact means an encounter in which two or more persons are in visual or physical proximity to each other. Personal contact does not require a physical touching or oral communication, although it may include these types of contacts. (Iowa Code section 708.7)

Policy Statement

The State of Iowa recognizes that violence at work can seriously affect employee work performance and morale. Threats, intimidation, harassment, or acts of violence will not be tolerated. The State of Iowa further establishes, as its vision, that all of its officials, managers, supervisors and employees will treat each other with courtesy, dignity and respect. The State of Iowa is committed to a violence-free workplace, and its goal is to prevent violence in the workplace.

Accordingly, the State of Iowa is committed to:

1. Preventing the potential for violence in the work environment,

Reducing the negative consequences for employees who experience or encounter violence, and

Maintaining a work environment of respect and positive conflict resolution.

Prohibitions

Employees are prohibited from the possession, sale, transfer or use of any dangerous weapon while engaged in state business, or on state property or the Employer's premises.

This prohibition shall not include peace officers and other state employees who have been issued professional weapons permits by the Commissioner of the Department of Public Safety for use by these employees when acting under the authority of their department. Further, this policy is not intended to restrict employees who live in state owned housing from the legal possession of weapons in their homes, if allowed by the appointing authority. This policy is not intended to restrict state employees from engaging in legal hunting and recreational activities on state owned property during off-duty hours.

Employees are prohibited from engaging in harassment of another employee, supervisor, manager, vendor, customer or client in accordance with the State of Iowa's Equal Opportunity, Affirmative Action and Anti-Discrimination Policy.

Employees are prohibited from making threatening or intimidating statements or engaging in threatening or intimidating behavior directed to another employee, supervisor, manager, vendor, customer or client.

Employees are prohibited from communicating with another employee, supervisor, manager, vendor, customer or client by telephone, electronic means, or in writing without legitimate purpose or in any manner likely to cause the other person annoyance or harm. (Iowa Code section 708.7)

Employees are prohibited from purposefully and without legitimate purpose having personal contact with another employee, supervisor, manager, vendor, customer or client with the intent to threaten, intimidate or alarm the other person.

Affirmative Duties

An employee who is the victim of workplace violence shall report the incident immediately in accordance with the procedures established by this policy.

An employee witnessing workplace violence or the potential for such violence directed at another person or property of the state, shall report such incidents in accordance with the procedures established by this policy.

When applicable, state officials and employees shall cooperate fully with all appropriate individuals in the investigation and prosecution of criminal acts, this policy, and the pursuit of any civil remedies in order to create and maintain a violence-free workplace.

Reporting Procedures

Any employee who has been the victim of workplace violence, or who has a concern about potential workplace violence within the context of this policy, is directed to bring the matter to the attention of his or her supervisor, or the appointing authority or his or her designee, in accordance with the department's established complaint procedure. If the concern or complaint involves the employee's direct supervisor, the employee may go to the next higher supervisor with the concern or complaint or, in the alternative, to the Iowa Department of Administrative Services – Human Resources Enterprise. All complaints will be promptly investigated by the appointing authority or the Iowa Department of Administrative Services – Human Resources Enterprise.

In the event of a situation requiring immediate intervention by law enforcement personnel, the appropriate law enforcement agency should be contacted immediately.

Remedies for Policy Violations

Corrective action will be taken to remedy violations of this policy when warranted, up to and including the discharge of parties whose conduct violates this policy.

Any manager or supervisor who fails to properly act upon employee complaints or on personal knowledge of conduct in violation of this policy shall be subject to disciplinary action up to and including discharge.

A copy of all complaints received and their resolution shall be forwarded to the Chief Operating Officer of the Iowa Department of Administrative Services – Human Resources Enterprise within ten (10) working days after receipt of the complaint and ten (10) working days after resolution of the complaint. Interim reports shall be provided to the Director as requested.

August 1, 1996