

875—9.6(88) Unprotected activities distinguished.

9.6(1) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The proscriptions of Iowa Code section 88.9(3) apply when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in activities protected by the Act does not automatically render the employee immune from discharge or discipline for legitimate reasons, or from adverse action dictated by nonprohibited considerations.

9.6(2) At the same time, to establish a violation of Iowa Code section 88.9(3), the employee's engagement in protected activity need not be the sole consideration behind discharge or other adverse action. If protected activity was a substantial reason for the action, or if the discharge or other adverse action would not have taken place "but for" engagement in protected activity, Iowa Code section 88.9(3) has been violated. Ultimately, the issue as to whether a discharge was because of protected activity will have to be determined on the basis of the facts in the particular case.

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