



THE RULES DIGEST

July 2012

Scheduled for Committee review
Tuesday July 10th, 2012
Room #116

Reference
XXXIV IAB No. 25(06/13/12)
XXXIV IAB No. 26(06/27/12)

HIGHLIGHTS IN THIS ISSUE:

<i>GENERAL UPDATE, Fair Board</i>	1
<i>GENERAL UPDATE, Administrative Services</i>	2
<i>FAMILY ASSISTANCE, Human Services Department</i>	2

FAIR BOARD

9:45

General update, 06/13/12 IAB, ARC 0163C, ADOPTED.

These rules were initially reviewed by the Committee in April. The revisions relate to general practices and year-round activities related to the state fair. The revisions update the rules and contain three significant substantive changes: the appeal procedures, policy related to employment of former fair board members, and the addition of new buildings subject to the rules.

A simple appeal process is provided; with the appeal initially heard by the competition committee, with an appeal to the fair board. An exhibitor appealing a disqualification or recommended disciplinary action may request contested case hearing conducted pursuant to Iowa Code chapter 17A. If the exhibitor requests that the appeal be heard as an evidentiary hearing, the fair board shall retain an administrative law judge from the department of inspections and appeals to conduct the evidentiary hearing and to render a proposed decision. The fair board may affirm, reverse or modify the proposed decision.

One issue with this filing is an objection placed by the Committee in 1981. Rule 4.8 provides:

371—4.8(173) Liens. The Iowa state fair shall have a lien upon all property being kept, used or situated upon the fairgrounds whether the property be exempt or not, for the rent or privilege money to be paid under a space license agreement and for any damages sustained for any breach thereof. The Iowa state fair board shall have the right to attach the same without process of law, and appropriate such property to the use of the Iowa state fair to satisfy its claims against the licensee as per licensee agreement.

In 1981 the Committee objected to this rule, stating:

This provision is unconscionable because it is a completely one-sided remedy which puts the state in a completely superior position to the renter; and the only reason it can be imposed is because the state fair is a unique event, and those who wish to participate must comply with the conditions imposed on a take-it-or-leave-it basis. An agency of the state, itself a creation of law, must not use its superior bargaining position to impose contractual conditions that deliberately avoid process of law for their enforcement.

The Objection was renewed in 1996. During the intervening period, the statute itself has been revised. A new statutory provision was enacted in 1987, Iowa Code §173.23 provides: “The board has a prior lien upon the property of any concessionaire, exhibitor, or person, immediately upon the property being brought onto the grounds, to secure existing or future indebtedness.” The statute now appears to grant an automatic lien on property brought onto the fair grounds.

ADMINISTRATIVE SERVICES DEPARTMENT

10:00

Information technology enterprise; human resources enterprise, 06/27/12 IAB, ARC 0180C, NOTICE.

This rulemaking is part of the Department’s ongoing comprehensive review of its existing rules. This portion of the review relates to the Information Technology Enterprise and the Human Resources Enterprise within DAS. Changes made in these amendments include amending certain definitions to reflect existing statutes, eliminating unnecessary terms, and making various technical and grammatical changes; and conforming the Information Technology Enterprise rules with current statutory law by deleting obsolete terminology, replacing the Technology Governance Board with the Technology Advisory Council, and providing for the state Chief Information Officer.

This rulemaking largely repeats a rulemaking which was noticed in September of 2011 but not ultimately adopted. An item from that rulemaking which would have changed the definition of “confidential employee” for the purposes of human resources employees has now been omitted. Some employees asserted the definition change would have removed them from the merit system.

HUMAN SERVICES DEPARTMENT

11:30

Family investment and food assistance programs—determination of self-employment income, 06/13/12 IAB, ARC 0148C, ADOPTED.

These amendments change the procedures for determining self-employment income for the Family Investment Program and for Food Assistance. The amendments will allow applicant and participant households with self-employment income the choice between receiving a standard deduction of 40 percent from their gross self-employment income or having their actual allowable self-employment expenses deducted from their gross self-employment income.

Those who select the new standard deduction for self-employment expenses will not incur additional costs which could arise from gathering and preparing documentation of the actual costs of producing the income. Also, the alignment of self-employment income policies across these assistance programs will result in a more efficient process for Department staff who determine eligibility and benefits.

MEDICINE BOARD

11:10

Mandatory reporting--hospital action, 06/27/12 IAB, ARC 0176C, NOTICE; grounds for discipline--failure to report hospital action, 06/27/12 IAB, ARC 0177C, NOTICE .

These rulemakings require licensees to report to the Board any action taken which results in a limitation, restriction, suspension or revocation of their hospital privileges or any voluntary limitation, restriction, suspension or revocation of hospital privileges to avoid a hospital investigation or hospital action; and add failure to make such a report to the grounds for which the board may take disciplinary action.