

Item 1. Adopt the following new chapter under agency number 486:

CHAPTER 13
NEGOTIATIONS AND NEGOTIABILITY DISPUTES

486—13.1(20) Background.

13.1(1) Definitions. For purposes of this chapter, the following definitions apply:

“Mandatory subject of collective bargaining” means the mandatory subjects of collective bargaining described in Iowa Code subsection 20.9(1).

“Permissive subject of collective bargaining” means all other subjects of bargaining except those prohibited by Iowa Code subsection 20.9(3).

“Negotiability Dispute” means a dispute arising in good faith during the course of collective bargaining as to whether a proposal made during bargaining is a mandatory, permissive, or prohibited subject of collective bargaining. Questions of negotiability which do not arise during the course of bargaining are not negotiability disputes.

“Public Safety Employee” means a public safety employee is defined in Iowa Code section 20.3.

“Public Safety Unit” means a public safety unit is a bargaining unit in which at least 30 percent of the employees are public safety employees.

13.1(2) Scope of negotiations. The scope of negotiations must include the mandatory subjects of collective bargaining. Either party may introduce permissive subjects for negotiation, and negotiation on these matters may continue until resolved by mutual agreement of the parties or until negotiations reach the arbitration stage of impasse; however, no party is required to negotiate on permissive subjects of bargaining. Unresolved permissive subjects of collective bargaining may be included in arbitration only upon mutual agreement. The agreement is not binding on the parties in future negotiations.

486—13.2(20) Consolidated negotiations. Nothing in these rules prohibits, by agreement of the parties, more than one certified bargaining representative from bargaining jointly with a common public employer, or more than one public employer from bargaining jointly with a common certified bargaining representative.

486—13.3(20) Negotiability disputes.

13.3(1) Petitions for expedited resolution.

a. A public employer or certified employee organization may petition the appeal board for expedited resolution of a negotiability dispute. The petition must set forth the following:

(1) The name and address of the petitioner and the name, address, telephone number, and email address of the petitioner’s representative;

(2) The name and address of the respondent and the name, address, telephone number, and email address of the respondent’s representative;

(3) The material facts of the dispute; and

(4) The verbatim text of the proposal at issue.

b. The petition must be filed in the applicable bargaining unit case number in the electronic document management system described in 486—Chapter 18.

13.3(2) Preliminary ruling. The appeal board will give priority to a petition that involves a negotiability dispute. Parties may file informal position statements in support of their positions

within the time specified by the appeal board, and the appeal board may set the matter for oral argument. The appeal board or appointed administrative law judge may issue a preliminary ruling, without analysis, that the proposal is mandatory, permissive, or prohibited.

13.3(3) *Final ruling.* Within 20 days following the issuance of a preliminary ruling, either party may request the appeal board to issue a final ruling, which will set forth the appeal board's analysis and conclusions.

13.3(4) *Arbitration.* Unless the dispute is resolved prior to the arbitration hearing, the parties shall present evidence on all items to the arbitrator, including the item which is the subject of the negotiability dispute. A negotiability dispute raised at the arbitration hearing must be upon written objection to the submission of the proposal to the arbitrator. The objection must state that the objecting party will file a petition for resolution of the dispute with the appeal board, which petition must be filed within five days of the making of the objection. Arbitrators shall rule on all items submitted to them including the item which is the subject of the negotiability dispute, unless explicitly stayed by the appeal board. Arbitration awards issued prior to the final determination of the negotiability dispute are contingent upon the appeal board's determination.

486—13.4(20) Public safety unit determination.

13.4(1) *Applicability.* This rule applies only to bargaining units which include at least one public safety employee.

13.4(2) *Determination of public safety unit status.* A bargaining unit will constitute a public safety unit if at least 30 percent of the employees in the unit were public safety employees at any one time in the six months preceding the applicable date identified in subrule 13.4(6).

13.4(3) *Identification of public safety or non-public safety unit.* Parties engaging in negotiations for a collective bargaining agreement shall endeavor to agree upon and stipulate to the public safety or non-public safety status of the unit at issue.

13.4(4) *Agreement and stipulation.* If the parties agree on the public safety status of the unit, the parties may complete a stipulation form prescribed by the appeal board. The stipulation must be signed by the authorized representatives of the parties, and either party may submit it to the appeal board by filing the stipulation under the applicable bargaining unit case number in the electronic document management system described in 486—Chapter 18.

13.4(5) *Petition, response and hearing for determination of public safety or non-public safety unit status.*

a. If the parties fail to agree, the party asserting public safety unit status may file a petition for determination of the unit status on or before the applicable date identified in subrule 13.4(6). The petition must be electronically filed in accordance with 486—Chapter 18. The appeal board will promptly serve the other party by electronic means when possible, and where service by electronic means is not possible, either by personal service as provided in the Iowa Rules of Civil Procedure; or by certified mail, return receipt requested; or by first-class mail; or by publication as provided in the Iowa Rules of Civil Procedure.

b. The non-petitioning party shall, within ten days following the filing of the petition with the appeal board, file a response asserting its basis for identifying the unit as a non-public safety unit.

c. The appeal board will vote on whether to transmit the matter to the division of administrative hearings created by Iowa Code section 10A.801 for a hearing.

13.4(6) *Deadlines.* The stipulation must be submitted or a petition filed on or before the

dates indicated:

- a. August 1 for contracts that expire January 1 to March 31 of the subsequent year.
- b. November 1 for contracts that expire April 1 to June 30 of the subsequent year.
- c. February 1 for contracts that expire July 1 to September 30 of the same year.
- d. May 1 for contracts that expire October 1 to December 31 of the same year.

486—13.5(20) Voluntary settlement procedures.

13.5(1) *Terms made public.* Where the parties have reached a proposed (or “tentative”) collective bargaining agreement, the public employer shall make the terms of the agreement public.

13.5(2) *Ratification or rejection by employee organization.* Within seven days of the date of the tentative agreement, the employee organization shall conduct a ratification election on the tentative agreement. The employee organization shall give reasonable notice of the date, time and place of the election to the public employees; however, such notice shall be at least 24 hours prior to the election. The vote shall be by secret ballot, and the majority of votes cast will determine acceptance or rejection of the tentative agreement. Only members of the employee organization will be entitled to vote; however, the employee organization may, pursuant to its internal procedures, extend voting rights to nonmember bargaining unit employees. The employee organization shall, within 24 hours of the conclusion of the election, serve notice on the public employer as to whether the proposed agreement has been ratified.

13.5(3) *Acceptance or rejection by public employer.* The public employer shall, within ten days of the tentative agreement, likewise accept or reject the agreement, and shall within 24 hours of the acceptance or rejection serve notice on the employee organization of its acceptance or rejection of the proposed agreement; however, the public employer shall not be required to either accept or reject the tentative agreement if it has been rejected by the employee organization.

13.5(4) *Time limits.*

a. The above time limits may be modified by a written mutual agreement between the public employer and the employee organization.

b. The above time limits shall not apply to proposed agreements between the state and any bargaining unit of state employees.

486—13.6(20) Filing of agreement. A public employer shall file a copy of the collective bargaining agreement entered into between the public employer and a certified employee organization and made final under Iowa Code chapter 20. Filing must be completed by uploading the collective bargaining agreement into Superb. The certified employee organization will be notified of the filing of the collective bargaining agreement through Superb. The public employer shall file the copy within ten days of the date on which the agreement is entered into.

These rules are intended to implement Iowa Code chapter 20.