

ITEM 1. Adopt the following **new** 486—Chapter 14:

CHAPTER 14

IMPASSE PROCEDURES

486—14.1(20) Definitions. For purposes of this chapter, the following definitions apply:

“Arbitration” means the same as defined in Iowa Code section 20.3(1).

“Grievance arbitration” means proceedings on an alleged contract violation as provided in a collective bargaining agreement entered into pursuant to Iowa Code chapter 20.

“Impasse” means the same as defined in Iowa Code section 20.3(6).

“Interest arbitration” means the binding arbitration contemplated by Iowa Code section 20.22 or by an impasse agreement entered into pursuant to Iowa Code section 20.19.

“Mediation” means the same as defined in Iowa Code section 20.3(7).

486—14.2(20) General. Nothing in this chapter prohibits the parties from entering into their own impasse agreement or from proceeding directly to binding arbitration at any time after an impasse.

486—14.3(20) Mediation.

14.3(1) Request for mediation. Either party to an impasse may request that the appeal board assign a mediator by requesting mediation services. Forms to request mediation are available on the appeal board’s website. Parties requesting mediation must email the completed form to the appeal board. The requesting party must also email or mail a copy of the request to the other parties involved in negotiations.

14.3(2) Appointment of mediator. Upon receipt of a request for mediation, the appeal board may appoint an impartial and disinterested person as mediator of the dispute and notify all parties of the appointment of the mediator. The appeal board will determine the

effective date of this appointment. The appeal board has the sole discretion to make and modify mediation assignments except those that are created by private agreement of the parties.

14.3(3) *Confidential nature of mediation.* Any information obtained by the mediator in the performance of mediation duties is subject to the privilege described in Iowa Code section 20.31.

14.3(4) *Mediation proceedings.* The mediator may hold separate or joint meetings with the parties or their representatives, and those meetings shall not be public. Mediation meetings will be conducted at a time and place designated by the mediator.

14.3(5) *Board mediator.* When the mediator is an employee of the state of Iowa, that mediator will not participate in any contested case arising out of any transaction or occurrence relating to those mediation activities.

14.3(6) *Costs of mediation.* When the appeal board appoints a state of Iowa or federal government employee as a mediator, the parties will not incur the costs of mediation. The appeal board has the right to limit the scope of the mediation and the amount of time the mediator is available to the parties. The parties may waive mediation or hire a private mediator at their own cost.

486—14.4(20) List and status of mediators.

14.4(1) *List.* The appeal board will maintain a list of mediators who meet the appeal board's qualifications. Placement on the list shall be at the sole discretion of the board.

14.4(2) *Adherence to standards and requirements.* Mediators must comply with the appeal board's administrative rules pertaining to mediation. Mediators must conform to generally accepted professional ethical standards and procedures.

14.4(3) *Minimum qualifications for mediators.* Mediators must establish requisite knowledge and abilities as follows:

- a.* Good verbal and written communication skills;
- b.* The ability and willingness to use technology that allows the mediator to participate remotely;
- c.* Knowledge of Iowa Code chapter 20, the appeal board's administrative rules, and principles and practices of contracts, public finance, and labor relations; and
- d.* The ability and willingness to conduct a mediation in a fair and impartial manner.

14.4(4) *Complaints.* Any affected person may submit a complaint to the appeal board regarding a mediator who was appointed by the board. The board will consider the complaint and other relevant information and take such action it deems appropriate.

486—14.5(20) Binding arbitration.

14.5(1) *Request for arbitration.* Either party may request arbitration subject to the conditions in Iowa Code section 20.22(1). The parties may also request grievance arbitration pursuant to the terms of a collective bargaining agreement.

14.5(2) *Form and contents of request.* Forms to request arbitration are available on the appeal board's website. The request for arbitration must be emailed to the appeal board and include the name, address, email address, and signature of the requesting party and the capacity in which the requesting party is acting.

14.5(3) *Service of request.* The requesting party must mail or email a copy of the request for arbitration to the opposing party.

14.5(4) *Exchange of final offers.* Within four days of the appeal board's receipt of the request for arbitration, each party shall mail or email its final offer on each of the impasse items to the other party to the impasse. Final offers cannot be amended. A party cannot

submit a final offer for arbitration that has not been offered to the other party in the course of negotiations.

14.5(5) *Selection of arbitrator.* Upon the filing of a timely request for arbitration, the appeal board will email a list of five arbitrators to the parties. Within five days from when that email is sent, the parties must select their arbitrator from the list in the manner specified in Iowa Code section 20.22(4).

14.5(6) *Date and conduct of hearings.*

a. Impasse items are deemed submitted to binding arbitration on the date of the commencement of the arbitration hearing, regardless of its duration. In disputes where the public employer is a community college or any portion of the public employees in the bargaining unit are teachers licensed under Iowa Code chapter 256 and the public employer is a school district or area education agency, the submission of impasse items to binding arbitration shall occur not later than May 13 of the year when the resulting collective bargaining agreement is to become effective.

b. Arbitration hearings must be open to the public and recorded either by mechanized means or by a certified shorthand reporter.

c. The arbitration hearing will be limited to those factors listed in Iowa Code section 20.22 and such other relevant factors as may enable the arbitrator to select the most reasonable offer, in the arbitrator's judgment, of the final offers submitted by the parties on each impasse item. Arbitrators appointed pursuant to impasse procedures agreed upon by the parties shall likewise consider these same factors.

14.5(7) *Arbitration involving a bargaining unit that has at least 30 percent of members who are public safety employees.* The arbitrator must consider and address factors in compliance with Iowa Code section 20.22(7).

14.5(8) *Arbitration involving a bargaining unit that does not have at least 30 percent of members who are public safety employees.*

a. The arbitrator must consider and address factors in compliance with Iowa Code section 20.22(8) and 20.22(9).

b. The arbitrator's award on the impasse item of base wages is limited as set forth in Iowa Code section 20.22(10) "b"(1).

14.5(9) *Continued bargaining.* The parties may continue to bargain on the impasse items the arbitrator may consider until the arbitrator's selections are made. Should the parties reach agreement on an impasse item following its submission to arbitration, the parties shall immediately report their agreement to the arbitrator. The agreed upon term will be incorporated into the parties' collective bargaining agreement, and the arbitrator may no longer consider the final offers of the parties on that impasse item.

14.5(10) *Report of the arbitrator.* With respect to each impasse item, the arbitrator's award shall be restricted to the final offers on each impasse item submitted by the parties to the arbitrator except as provided in paragraph 14.5(8) "b." Within 15 days after the arbitration hearing, the arbitrator shall:

a. Issue a written award specifying and explaining the arbitrator's selection, and

b. Send by email or by ordinary mail a copy of the award to each party and to the appeal board.

14.5(11) *Dismissal of arbitrator.* In the event of a failure of the arbitrator to issue an award within 15 days after the arbitration hearing, the arbitrator shall notify the appeal board and the parties of this failure. Either party may thereafter request a new arbitrator. Unless the parties agree otherwise, the procedures in this rule shall apply provided,

however, that the parties may submit new final offers. An arbitrator may not issue a partial award except by mutual consent of the parties.

14.5(12) *Costs of arbitration.* The arbitrator shall submit to the parties a written statement of fees and expenses with a copy sent to the appeal board. The parties shall share the costs of arbitration equally. Qualified arbitrators selected from the roster may be compensated by a sum not to exceed \$1,800 per day of service, plus their necessary expenses incurred.

486—14.6(20) List and status of arbitrators.

14.6(1) *List.* The appeal board will maintain a list of arbitrators who meet the appeal board's qualifications. A person may be placed on the list only if the person first files an application. Placement on the list is at the sole discretion of the appeal board.

14.6(2) *Initial application procedures.* Persons seeking to be on the arbitrator list must submit an application to the appeal board. Applicants must submit at least one reference from management, one reference from labor, and applicable writing samples. The appeal board will review the application under the criteria, as set forth in subrules 14.6(3) and 14.6(4), and will make a final decision concerning whether an applicant will be included on the list. Each applicant shall be notified in writing of the appeal board's decision. The applicant should identify whether the applicant is available to conduct interest arbitrations, grievance arbitrations, or both.

14.6(3) *Knowledge and abilities.* Applicants must establish requisite knowledge and abilities as follows:

- a.* Good verbal and written communication skills;
- b.* The ability and willingness to travel throughout Iowa or use technology that allows for remote hearings;

c. Knowledge of Iowa Code chapter 20, the appeal board's administrative rules, and principles and practices of contracts, public finance, and labor relations; and

d. The ability to conduct evidentiary hearings in a fair and impartial manner, develop an accurate record, and prepare and issue clear, reasoned and timely awards.

14.6(4) *Experience.* Applicants must demonstrate requisite experience in labor relations or arbitration in one of the following ways:

a. Issuance of at least four arbitration decisions;

b. At least three years' experience as a mediator in collective bargaining interest disputes, with training and experience in conducting hearings and issuing reasoned awards; or

c. At least five years' experience in labor relations or labor law, with training and experience in conducting hearings and issuing reasoned awards.

14.6(5) *Adherence to standards and requirements.* Arbitrators on the list must comply with the appeal board's administrative rules pertaining to arbitrators. Arbitrators shall conform to generally accepted professional ethical standards and procedures.

14.6(6) *Status of arbitrators.* Persons who are listed on the roster are not employees of the state of Iowa. A selected arbitrator's contractual relationship is solely with the parties to the dispute.

14.6(7) *Application fee.* The appeal board charges an application fee of \$50 for each applicant. This fee shall be considered an appropriated receipt as defined in Iowa Code section 8.2.

14.6(8) *Biography.* Each arbitrator shall maintain a biography on the appeal board's website. The arbitrator is responsible for ensuring that the biography is accurate and current. The appeal board bears no responsibility for inaccurate, incomplete, or outdated information in biographies. The arbitrator's biography should contain the following:

- a. Name, address, telephone number, and email address;
- b. Current and past employment, including the arbitrator's representative client base if not readily identifiable;
- c. Education history;
- d. Per diem rate and other applicable charges or fees;
- e. Relevant experience, including but not limited to listing on other arbitrator rosters or memberships/associations; and
- f. Potential or actual conflicts of interest.

14.6(9) Complaints. Any affected person may submit a complaint to the appeal board regarding an arbitrator who is on the list. The appeal board will consider the complaint and other relevant information and take such action it deems appropriate.

486—14.7(20) Impasse procedures after completion deadline.

14.7(1) Objections. Any objection by a party to mediation or the conduct of arbitration proceedings that will not be completed by the applicable deadline for completion of impasse procedures must be electronically filed with the appeal board in accordance with 486—Chapter 18. The objection must be filed in the bargaining unit case number no later than ten days after service of the request to mediation or arbitration with the appeal board. The appeal board will follow the expedited procedure outlined in rule 486—13.3(20) in ruling on objections. **The nonobjecting party shall proceed first and shall have the burden to show that impasse procedures should not be terminated. The board will then issue a final order that further impasse procedures should be completed or should continue for a specified period of time or should be terminated.** Filing of an objection before the applicable deadline for completion of impasse procedures does not affect the obligation of each party to continue the impasse procedures.

14.7(2) *Deferred board action.* Further, the appeal board may postpone ruling on the objection if it determines that mediation may take place or that an arbitration award may be rendered by the applicable deadline. In making that determination, the appeal board will attempt to expedite any remaining impasse proceedings. In no event will a party be required to comply with a mandatory statutory deadline sooner than the date set by the statute.

486—14.8(20) Impasse procedures for state employees.

14.8(1) *Procedures.* Impasse procedures must provide that the impasse be submitted to binding arbitration and the arbitration hearing concluded no later than February 28 and that any arbitrator's award be issued on or before March 15. This rule does not preclude the parties from mutually agreeing to a date other than February 28, but the agreement must result in an arbitration award on or before March 15.

14.8(2) *Procedures for state agreements effective in a year following an Iowa Code section 39.9 gubernatorial election.*

a. A ratification election referred to in Iowa Code section 20.17(4) may not be held and the parties may not request arbitration pursuant to Iowa Code section 20.22(1) until at least two weeks after the beginning date of the governor's term of office.

b. Within five days from the beginning date of the governor's term of office, the governor shall accept or reject a proposed statewide collective bargaining agreement if one exists. If the proposed agreement is rejected, the parties shall commence bargaining anew in accordance with Iowa Code section 20.17 and exchange initial proposals within the same five-day period.

c. Negotiations must be complete not later than March 15 of that year unless the parties mutually agree to a different deadline.

d. The parties shall mutually agree to alternative deadlines for the completion of bargaining procedures set forth in Iowa Code sections 20.19, 20.20, and 20.22 to ensure the completion of negotiations not later than March 15 or other mutually agreeable deadline.

14.8(3) *Independent procedures.* Independent impasse procedures negotiated by the parties must provide that the impasse will be submitted to binding arbitration, and any hearing thereon concluded no later than February 28, and that any arbitrator's award will be issued on or before March 15.

14.8(4) *Statutory procedures.* In the absence of independent procedures, the procedures in Iowa Code sections 20.20 and 20.22 and this chapter apply except that a single-party request for mediation must be filed no later than December 14, a request for binding arbitration must be filed by February 1, and an arbitration hearing must be concluded no later than February 28.

14.8(5) *New certifications.* Statutory impasse procedures under these rules are not available if the employee organization is certified later than December 1. This rule does not preclude the parties from negotiating independent impasse procedures if an employee organization is certified later than December 1 so long as procedures will result in an arbitration award on or before March 15.

14.8(6) *Negotiability disputes.* Disputes concerning the negotiability of any subject of bargaining shall be submitted to the board for determination pursuant to rule 486—13.3(20) no later than March 1. An arbitration award rendered prior to final determination of the negotiability dispute will be made conditional upon such determination. The appeal board will not grant a stay of impasse procedures during the pendency of any negotiability dispute, petition for declaratory order, or prohibited practice complaint.

These rules are intended to implement Iowa Code chapter 20.