

ITEM 1. Adopt the following **new** 486—Chapter 16:

CHAPTER 16

STATE EMPLOYEE APPEALS OF GRIEVANCE DECISIONS AND DISCIPLINARY ACTIONS

486—16.1(8A,20) Notice of appeal rights. When the director of the department of administrative services (hereinafter referred to as the director) issues a response to an employee pursuant to Iowa Code section 8A.415 and the response does not grant the relief sought by the employee, the response shall include notice to the affected employee that the employee may appeal the response by filing an appeal with the appeal board within 30 days of the date of the director's response.

486—16.2(8A,20) Filing of appeal.

16.2(1) *Grievances.* An employee, except an employee covered by a collective bargaining agreement that provides otherwise, who has filed a grievance and is not satisfied with the director's response may file an appeal with the appeal board. Such appeal must be filed within 30 calendar days following the date the director's response was issued. However, if no response was issued by the director within 30 calendar days following the filing of the third-step grievance with the director, the employee may consider the grievance denied.

16.2(2) *Disciplinary appeals.* A nonprobationary merit system employee as described in Iowa Code section 8A.412, except an employee covered by a collective bargaining agreement that provides otherwise, who is discharged, suspended, demoted, or otherwise receives a reduction in pay and who appeals the action to the director and is not satisfied with the director's response may file an appeal with the appeal board. Such appeal must be filed within 30 calendar days following the date the director's response was issued.

However, if the director fails to issue a response within 30 calendar days following the filing of the appeal with the director, then the employee may consider the appeal denied and file an appeal with the appeal board.

16.2(3) *Method of filing.* Appeals and all other pleadings must be electronically filed pursuant to ~~486—~~Chapter 18.

486—16.3(8A,20) Service of appeal. The appeal board will serve a copy of the appeal on the director by electronic means when possible and, where service by electronic means is not possible, by personal service as provided in the Iowa Rules of Civil Procedure; by certified mail, return receipt requested; by first-class mail; or by publication as provided in the Iowa Rules of Civil Procedure.

486—16.4(8A,20) Content of appeal.

16.4(1) The appeal shall contain the following:

- a.* Name, address, telephone number, and email address of the appealing employee;
- b.* Name of agency/department by which the appealing employee is/was employed;
- c.* A brief statement of the reasons for the appealing employee's dissatisfaction with the director's response;
- d.* A statement of the requested remedy;
- e.* The name, address, telephone number, and email address of the appealing employee's representative, if any;
- f.* Signature of the appealing employee or employee's representative; and
- g.* In the case of a disciplinary action appeal filed pursuant to Iowa Code section 8A.415(2), a statement of whether the employee requests a hearing open to the public.

16.4(2) Completion of the State Employee Grievance and Disciplinary Action Appeal Form complies with all the requirements in subrule 16.4(1).

486—16.5(8A,20) Content of director’s response to the appeal.

16.5(1) The director should file a motion or answer within 15 days from the date of service of the employee’s appeal.

16.5(2) The motion or answer must contain the following:

- a. The names of the appealing employee and the employing agency/department;
- b. The name, address, telephone number, and email address of the employing agency’s/department’s representative;
- c. A copy of the original grievance and first-, second-, and third-step responses issued; and
- d. Signature of the employing agency’s/department’s representative.

486—16.6(8A,20) Right to a hearing.

16.6(1) An employee appealing a grievance pursuant to Iowa Code section 8A.415(1) has a right to a hearing. The hearing must be open to the public. An employee appealing disciplinary action pursuant to Iowa Code section 8A.415(2) has a right to a hearing that is closed to the public unless the employee requests a hearing open to the public.

16.6(2) The board will file a transmittal form with a copy of the appeal attached. After the matter is transmitted, future filings must be made in the administrative hearings division’s Administrative Electronic Document Management System.

16.6(3) After the case is transmitted to the administrative hearings division, it will be assigned a case number. The administrative hearings division will assign the proceeding to an administrative law judge to serve as a presiding officer. The administrative law judge will issue a notice for a prehearing conference or a notice of hearing.

16.6(4) The contested case proceeding will be conducted pursuant to 481—Chapter 10 and any other administrative rule applicable to the specific type of proceeding.

16.6(5) The proposed decision of the presiding officer may be reviewed by the appeal board in accordance with rules 7—2506.27(17A) and 7—2506.28(17A). Appeals and appeal briefs must be filed in the appeal board’s electronic document management system under the original case number.

486—16.7(8A,20) Costs of certified shorthand reporters and transcripts.

16.7(1) *Initial payment.* The appeal board will arrange for a certified shorthand reporter to report the contested case hearing and request that an original transcript of the hearing be prepared by the reporter for the appeal board’s use. The appeal board initially shall pay the reporter’s reasonable compensation for reporting the hearing and producing the transcript.

16.7(2) *Taxation as costs.* The nonprevailing party or parties will be taxed the full cost of reporting and transcription unless the final order apportions these costs in another manner.

16.7(3) *Payment of taxed costs.* Following final action of the appeal board in a case, the appeal board will prepare and serve a bill of costs upon the party or parties against whom the costs have been taxed. Those parties shall, within 30 days of such service, remit to the appeal board the amount specified in the bill of costs. Sums remitted to the agency shall be considered appropriated receipts as defined in Iowa Code section 8.2.

These rules are intended to implement Iowa Code chapters 8A and 20.