

## CHAPTER 16

### HUMAN RESOURCE MANAGEMENT

#### Employee Status

##### Employee versus Contracted Service

Anyone who performs services is an employee if the employer can control what will be done and how it will be done. This is so even when the employee has considerable freedom of action. It only matters that the employer has the legal right to control the method, result, or other key elements of the services. The employer will be liable for income tax and employee social security and Medicare taxes if these taxes are not deducted and withheld because the employer considered an employee to be a nonemployee (**IRS Publication 15**). Athletic Officials are employees (**Revenue Ruling 57-119, CB 1957-1,331**). Even though athletic officials are not controlled as to their officiating, the employer determines which games, the pay per game, the scheduling of the games, and even the pairing of officials if they want, etc.

When some services performed by an employee would be employment while other services would not, use the guidance of the following regulation:

- a. If a portion of the services performed by an employee for the employer during a pay period constitutes employment, and the remainder does not constitute employment, all the services of the employee during the period shall for purposes of the tax be treated alike, that is, either all as included or all as excluded. The time during which the employee performs services which constitute employment, and the time during which the employee performs services which do not constitute employment, within the pay period, determine whether all the services during the pay period shall be deemed to be included or excluded.
- b. If one-half or more of the employee's time in the employ of a particular entity in a pay period is spent in performing services which constitute employment, then all the services of that employee for that entity in that pay period shall be deemed to be employment (**IRS Regulation section 31.3306(d)**). This regulation has been used by the IRS to allow districts to treat athletic officials who are not otherwise school employees as if they were contracted services, even though technically they are not.

#### STAFF

##### Administrators

*“Administrator”* means a person who is licensed to coordinate, supervise, or direct an educational program or the activities of other practitioners (**272.1(1)**).

The board of directors of a school district may employ a superintendent of schools for a term of not to exceed 3 years. However, the board's initial contract with a superintendent shall not exceed one year if the board is obligated to pay a former superintendent under an unexpired contract. The superintendent shall be the executive officer of the board and have such powers and duties as may be prescribed by rules adopted by the board or by law. Boards of directors may jointly exercise the powers conferred by this section (**279.20(1)**).

*“Superintendent”* means an administrator who promotes, demotes, transfers, assigns, or evaluates practitioners or other personnel, and carries out the policies of a governing board in a manner consistent with professional practice and ethics (**272.1(15)**).

The board of directors of a school district may employ principals, under the provisions of section 279.23. A principal shall hold a current valid principal's certificate. Notwithstanding the provisions of section 279.23, after serving at least 9 months, a principal may be employed for a term of not to exceed 2 years. The principal, under the supervision of the superintendent of the school district and pursuant to rules and policies of the board of directors of the school district, shall be responsible for administration and operation of the attendance center to which the principal is assigned. The principal shall, pursuant to the policies adopted by the board of directors of the school district, be responsible for the planning, management, operation, and evaluation of the educational program offered at the attendance center to which the principal is assigned and shall submit recommendations to the superintendent regarding the appointment, assignment, promotion, transfer and dismissal of all personnel assigned to the attendance center. The principal shall perform such other duties as may be assigned by the superintendent. For purposes of this section and sections 279.23,

279.23A, 279.24, and 279.25, the term “*principal*” includes school principals, associate principals, and assistant principals (279.21).

“*Principal*” means a licensed member of a school’s instructional staff who serves as an instructional leader, coordinates the process and substance of educational and instructional programs, coordinates the budget of the school, provides formative evaluation for all practitioners and other persons in the school, recommends or has effective authority to appoint, assign, promote, or transfer personnel in a school building, implements the local school board’s policy in a manner consistent with professional practice and ethics, and assists in the development and supervision of a school’s student activities program (272.1(9)).

Each board that operates both an elementary school and a secondary school shall employ as its executive officer and chief administrator a person who holds a license/certificate endorsed for service as a superintendent. The board of a school district may meet this requirement by contracting with its area education agency for “superintendency services” as provided by Iowa Code section 273.7A. The individual employed or contracted for as superintendent may serve as an elementary principal or as a high school principal in that school or school district provided that the superintendent holds the proper licensure/certification. For purposes of this subrule, high school means a school which commences with either grade 9 or grade 10, as determined by the board of directors of the school district, or by the governing authority of the nonpublic school in the case of nonpublic schools. Boards of school districts may jointly employ a superintendent, provided such arrangements comply with the provisions of Iowa Code subsection 279.23(4) (IAC 281—12.4(4)).

The board operating an elementary school shall develop and adopt staffing policies designed to attract, retain, and effectively utilize competent personnel. Each board operating an elementary school shall employ at least one elementary principal. This position may be combined with that of secondary principal or with a teaching assignment at the elementary or secondary level, provided the individual holds the proper licenses/certificates and endorsements. When grades seven and eight are part of an organized and administered junior high school, the staffing policies adopted by the board for secondary schools shall apply. When grades seven and eight are part of an organized and administered middle school, the staffing policies adopted by the board for elementary schools shall apply (IAC 281—12.4(5)).

The board operating a secondary school shall develop and adopt staffing policies designed to attract, retain, and effectively utilize competent personnel. Each board operating a secondary school shall employ at least one secondary principal. This position may be combined with that of elementary principal or with a teaching assignment at the elementary or secondary level, provided the individual holds the proper licenses/certificates and endorsements. This position cannot be combined with that of superintendent (IAC 281—12.4(6)).

“Principal” means a licensed/certificated member of a school’s instructional staff who serves as an instructional leader, coordinates the process and substance of educational and instructional programs, coordinates the budget of the school, provides formative evaluation for all practitioners and other persons in the school, recommends or has effective authority to appoint, assign, promote, or transfer personnel in a school building, implements the local school board’s policy in a manner consistent with professional practice and ethics, and assists in the development and supervision of a school’s student activities program (IAC 281—12.4(7)).

### **Teacher**

“*Teacher*” means a licensed member of a school’s instructional staff who diagnoses, prescribes, evaluates, and directs student learning in a manner which is consistent with professional practice and school objectives, shares responsibility for the development of an instructional program and any coordinating activities, evaluates or assesses student progress before and after instruction, and who uses the student evaluation or assessment information to promote additional student learning (272.1(16)).

A teacher shall be defined as a member of the instructional professional staff who holds a license/certificate endorsed for the type of position in which employed. A teacher diagnoses, prescribes, evaluates, and directs student learnings in terms of the school’s objectives, either singly or in concert with other professional staff members; shares responsibility with the total professional staff for developing educational procedures and student activities to be used in achieving the school’s objectives; supervises educational aides who assist in serving students for whom the teacher is responsible; and evaluates or assesses student progress during and following instruction in terms of the objectives sought, and uses this information to develop further educational procedures (IAC 281—12.4(8)).

### **Educational Assistant / Paraeducator**

An educational assistant shall be defined as an employee who, in the presence or absence of an instructional professional staff member but under the direction, supervision, and control of the instructional professional staff,

supervises students or assists in providing instructional and other direct educational services to students and their families. An educational assistant shall not substitute for or replace the functions and duties of a teacher as established in subrule 12.4(8). During the initial year of employment, an educational assistant shall complete staff development approved by the board as provided in subrule 12.7(1) (**IAC 281—12.4(9)**).

*“Para-educator”* means a person who is certified to assist a teacher in the performance of instructional tasks to support and assist classroom instruction and related school activities (**272.1(6)**).

A person holding a para-educator certificate shall not perform the duties of a licensed practitioner. A certificate issued pursuant to this chapter shall not be considered a teacher or administrator license for any purpose specified by law, including the purposes specified under this chapter or chapter 279 (**272.12**).

### **Probationary Teachers**

The first 3 consecutive years of employment of a teacher in the same school district are a probationary period. However, if the teacher has successfully completed a probationary period of employment for another school district located in Iowa, the probationary period in the current district of employment shall not exceed one year. A board of directors may waive the probationary period for any teacher who previously has served a probationary period in another school district and the board may extend the probationary period for an additional year with the consent of the teacher (**279.19**).

### **Uncertificated Teachers**

An employee licensed by the board of educational examiners and holding a contract as described in section 279.13 shall disclose any occurrence of a teaching assignment for which that employee is not properly licensed to the school official responsible for determining teaching assignments. Failure of the employee to disclose this occurrence or failure of the school official responsible for determining teaching assignments to make appropriate adjustments to the employee’s teaching assignment once the employee discloses the occurrence shall constitute an incident of misconduct as provided in section 272.2, subsection 14, and is actionable by the board. If the school official fails to make appropriate adjustments to the teaching assignment once disclosure by the employee is made, the employee shall report this occurrence to the department or to the board for further action (**279.43**).

No person shall be employed as a teacher in a common school without having a certificate issued by some officer duly authorized by law. No compensation shall be recovered by a teacher for services rendered while without such certificate (**294.1**). School officials shall not employ an uncertificated person for teaching (**OAG #44-6-2**). A teacher without a certificate cannot be paid out of public funds (**OAG #50-8-23**).

### **Student Teachers**

If the rules adopted by the board of educational examiners for issuance of any type or class of license require an applicant to complete work in student teaching, pre-student teaching experiences, field experiences, practicums, clinicals, or internships, an institution with a practitioner preparation program approved by the state board of education under section 256.7, subsection 3, shall enter into a written contract with any school district, accredited nonpublic school, preschool registered or licensed by the department of human services, or AEA in Iowa under terms and conditions as agreed upon by the contracting parties. The terms and conditions of a written contract entered into with a preschool pursuant to this section shall provide that a student teacher be under the direct supervision of an appropriately licensed cooperating teacher who is employed to teach at the preschool. Students actually teaching or engaged in preservice licensure activities in a school district under the terms of such a contract are entitled to the same protection, under section 670.8, as is afforded by that section to officers and employees of the school district, during the time they are so assigned (**272.27**).

### **Health Professionals**

The AEA board or the school board of any school district may employ public health nurses at periods each year and in numbers as deemed advisable. The council of any city, or the school board of any school district, or any of them acting in cooperation, may contract with any nonprofit nurses’ association for public health nursing service. The compensation and expenses shall be paid out of the general fund of the political subdivision employing nurses (**143.1**).

Boards of directors in all public school districts may establish and maintain dental clinics for children and offer courses of instruction on mouth hygiene. The boards may employ such legally qualified dentists and dental hygienists as may be necessary to accomplish the purpose of this section. The cost of the dental clinic shall be paid from the general fund (**280.7**).

The board of each school district shall employ a school nurse and shall require a current license to be filed with the superintendent or other designated administrator as specified in subrule 12.4(10) (**IAC 281—12.4(12)**).

Beginning July 1, 2007, each school district shall have a school nurse to provide health services to its students. Each school district shall work toward the goal of having one school nurse for every 750 students enrolled in the school district. For purposes of this subsection, “*school nurse*” means a person who holds an endorsement or a statement of professional recognition for school nurses issued by the board of educational examiners under chapter 272 (**256.11(9)“b”**).

### **Teacher Librarians**

Beginning July 1, 2006, each school district shall have a qualified teacher librarian who shall be licensed by the board of educational examiners under chapter 272. The state board shall establish in rule a definition of and standards for an articulated sequential kindergarten through grade twelve media program. A school district that entered into a contract with an individual for employment as a media specialist or librarian prior to June 1, 2006, shall be considered to be in compliance with this subsection until June 30, 2011, if the individual is making annual progress toward meeting the requirements for a teacher librarian endorsement issued by the board of educational examiners under chapter 272. A school district that entered into a contract with an individual for employment as a media specialist or librarian who holds at least a master’s degree in library and information studies shall be considered to be in compliance with this subsection until the individual leaves the employ of the school district (**256.11(9)**).

“*Library program*” means an articulated sequential kindergarten through grade 12 library or media program that enhances student achievement and is integral to the school district’s curricula and instructional program. The library program is planned and implemented by a qualified teacher librarian working collaboratively with the district’s administration and instructional staff. The library program services provided to students and staff shall include the following:

1. Support of the overall school curricula;
2. Collaborative planning and teaching;
3. Promotion of reading and literacy;
4. Information literacy instruction;
5. Access to a diverse and appropriate school library collection; and
6. Learning enhancement through technologies (**IAC 281—12.2**).

The board of directors of each school district shall establish a K-12 library program to support the student achievement goals of the total school curriculum.

- a. A qualified teacher librarian, licensed by the board of educational examiners, who works with students, teachers, support staff and administrators shall direct the library program and provide services and instruction in support of the curricular goals of each attendance center. The teacher librarian shall be a member of the attendance center instructional team with special expertise in identifying resources and technologies to support teaching and learning. The teacher librarian and classroom teachers shall collaborate to develop, teach, and evaluate attendance center curricular goals with emphasis on promoting inquiry and critical thinking; providing information literacy learning experiences to help students access, evaluate, use, create, and communicate information; enhancing learning and teaching through technology; and promoting literacy through reader guidance and activities that develop capable and independent readers.
- b. The library program shall be regularly reviewed and revised and shall be designed to meet the following goals:
  - 1) To provide for methods to improve library collections to meet student and staff needs;
  - 2) To make connections with parents and the community;
  - 3) To support the district’s school improvement plan;
  - 4) To provide access to or support for professional development for the teacher librarian;
  - 5) To provide current technology and electronic resources to ensure that students become skillful and discriminating users of information;
  - 6) To include a current and diverse collection of fiction and nonfiction materials in a variety of formats to support student and curricular needs; and
  - 7) To include a plan for annually updating and replacing library materials, supports, and equipment.
- c. The board of directors of each school district shall adopt policies to address selection and reconsideration of school library materials; confidentiality of student library records; and legal and ethical use of information resources, including plagiarism and intellectual property rights (**IAC 281—12.3(12)**).

### **Guidance Counselor**

Beginning July 1, 2007, each school district shall have a qualified guidance counselor who shall be licensed by the board of educational examiners under chapter 272. Each school district shall work toward the goal of having one qualified guidance counselor for every 350 students enrolled in the school district. The state board shall establish in rule a definition of and standards for an articulated sequential kindergarten through grade twelve guidance and counseling program **(256.11(9)"b")**.

*"School counseling program"* means an articulated sequential kindergarten through grade 12 program that is comprehensive in scope, preventive in design, developmental in nature, driven by data, and integral to the school district's curricula and instructional program. The program is implemented by at least one school counselor, appropriately licensed by the board of educational examiners, who works collaboratively with the district's administration and instructional staff. The program standards are described in subrule 12.3(11). The program's delivery system components shall include the following:

1. School guidance curriculum;
2. Support of the overall school curriculum;
3. Individual student planning;
4. Responsive services; and
5. System support **(IAC 281-12.2)**.

The board of directors of each school district shall establish a K-12 comprehensive school counseling program, driven by student data and based on standards in academic, career, personal, and social areas, which supports the student achievement goals of the total school curriculum and to which all students have equitable access.

- a. A qualified school counselor, licensed by the board of educational examiners, who works collaboratively with students, teachers, support staff and administrators shall direct the program and provide services and instruction in support of the curricular goals of each attendance center. The school counselor shall be the member of the attendance center instructional team with special expertise in identifying resources and technologies to support teaching and learning. The school counselor and classroom teachers shall collaborate to develop, teach, and evaluate attendance center curricular goals with emphasis on the following:
  - 1) Sequentially presented curriculum, programs, and responsive services that address growth and development of all students; and
  - 2) Attainment of student competencies in academic, career, personal, and social areas.
- b. The program shall be regularly reviewed and revised and shall be designed to provide all of the following:
  - 1) Curriculum that is embedded throughout the district's overall curriculum and systemically delivered by the school counselor in collaboration with instructional staff through classroom and group activities and that consists of structured lessons to help students achieve desired competencies and to provide all students with the knowledge and skills appropriate for their developmental levels;
  - 2) Individual student planning through ongoing systemic activities designed to help students establish educational and career goals to develop future plans;
  - 3) Responsive services through intervention and curriculum that meet students' immediate and future needs as occasioned by events and conditions in students' lives and that may require any of the following: individual or group counseling; consultation with parents, teachers, and other educators; referrals to other school support services or community resources; peer helping; and information; and
  - 4) Systemic support through management activities that establish, maintain, and enhance the total school counseling program, including professional development, consultation, collaboration, program management, and operations **(IAC 281—12.2(11))**.

### **Coaching Personnel**

School districts employing individuals to coach interscholastic athletic sports shall issue a separate extracurricular contract for each of these sports. An extracurricular contract offered under section 279.19A shall be separate from the contract issued under section 279.13. Wages for employees who coach these sports shall be paid pursuant to established or negotiated supplemental pay schedules. An extracurricular contract shall be in writing, and shall state the number of contract days for that sport, the annual compensation to be paid, and any other matters as may be mutually agreed upon. The contract shall be for a single school year **(279.19A(1))**.

1. a. The board of directors of a school district may employ for head coach of any interscholastic athletic activities or for assistant coach of any interscholastic athletic activity, an individual who possesses a coaching authorization issued by the board of educational examiners or possesses a teaching license with a coaching endorsement issued pursuant to chapter 272. However, a board of directors of a school district shall consider applicants with qualifications described below, in the following order of priority:
  - (1) A qualified individual who possesses a valid teaching license with a proper coaching endorsement.
  - (2) A qualified individual who possesses a coaching authorization issued by the board of educational examiners.

- b. Qualifications are to be determined by the board of directors or their designee on a case-by-case basis.
2. An individual who has been issued a coaching authorization or who possesses a teaching license with a coaching endorsement but is not issued a teaching contract under section 279.13 and who is employed by the board of directors of a school district serves at the pleasure of the board of directors and is not subject to sections 279.13 through 279.19, and 279.27. Subsection 1 of section 279.19A applies to coaching authorizations **(279.19B)**.

“Coach” means an individual, with coaching endorsement or authorization as required by Iowa law, employed by a school district under the provisions of an extracurricular athletic contract or employed by a nonpublic school in a position responsible for an extracurricular athletic activity. “Coach” also includes an individual who instructs, diagnoses, prescribes, evaluates, assists, or directs student learning of an interscholastic athletic endeavor on a voluntary basis on behalf of a school or school district **(IAC 281—36.1)**.

The minimum requirements for the board to award a coaching authorization to an applicant are:

- a. Successful completion of one semester credit hour or ten contact hours in a course relating to knowledge and understanding of the structure and function of the human body in relation to physical activity.
- b. Successful completion of one semester credit hour or ten contact hours in a course relating to knowledge and understanding of human growth and development of children and youth in relation to physical activity.
- c. Successful completion of two semester credit hours or twenty contact hours in a course relating to knowledge and understanding of the prevention and care of athletic injuries and medical and safety problems relating to physical activity.
- d. Successful completion of one semester credit hour or ten contact hours relating to knowledge and understanding of the techniques and theory of coaching interscholastic athletics.
- e. Attainment of at least eighteen years of age **(272.31(1))**.

#### **School Business Officials**

- a. The board shall issue a school business official authorization to an individual who successfully completes a training program that meets the standards set by the state board of education pursuant to section 256.7, subsection 30, and who complies with rules adopted by the board.
- b. A person hired on or after July 1, 2012, as a school business official responsible for the financial operations of a school district who is without prior experience as a school business official in Iowa shall either hold the school business official authorization issued pursuant to paragraph “a” of this subsection or obtain the authorization within two years of the start date of employment as a school business official.
- c. An individual employed as a school business official prior to July 1, 2012, who meets the requirements of the board, other than the training program requirements of paragraph “a”, shall be issued, with no fee for issuance, an initial authorization by the board, but shall meet renewal requirements for an authorization within the time period specified by the board **(272.31(2))**.

School business official candidates shall demonstrate the content knowledge and professional knowledge and skills in accordance with the following provisions. Each school business official candidate shall demonstrate through coursework the knowledge, skills, and other attributes necessary to meet the following standards at a level appropriate for a novice school business official. Each school business official candidate shall acquire the content knowledge and demonstrate competencies in the following areas:

- a. Accounting (GAAP) concepts: fund accounting, account codes, Uniform Financial Accounting.
- b. Accounting cycles: budgets, payroll-benefits, purchasing/inventory, cash, receipts, disbursements, financial reporting, investments.
- c. Technology: manage accounting systems, proficient in understanding and use of systems technology and related programs.
- d. Regulatory: Uniform Administrative Procedures Manual, school policies and procedures, administrative procedures, public records law, records management, school law, employment law, construction and bidding law.
- e. Personal skills: effective communication, interpersonal skills, ethical conduct, information management, ability to analyze and evaluate, ability to recognize and safeguard confidential information and accurate and timely performance.
- f. Board of educational examiners ethics program.
- g. Mentor program.
- h. Promotion of the value of the school business official’s fiduciary responsibility to the taxpayer **(IAC 281—81.7(1))**.

For purposes of these requirements, the Uniform Financial Accounting manual is available on the website. The Uniform Administrative Procedures manual is available on the website .

### **School Administration Manager**

“*School administration manager*” means a person who is authorized to assist a school principal in performing noninstructional administrative duties (272.1(12)).

### **Trainees**

Job Corps is a free education and training program that helps young people learn a career, earn a high school diploma or GED, and find and keep a good job. For eligible young people at least 16 years of age that qualify as low income, Job Corps provides the all-around skills needed to succeed in a career and in life. Job Corps program operators, or other certifying agencies, will screen and refer eligible workers and can arrange for participant classroom training, counseling orientation, and other supportive services. These services are provided without cost to the employer. Employers retain the right to make the final selection from among those referred (**Workforce Investment Act of 1998, Title I-C, P.L. 105-220**).

### **Volunteers**

A volunteer shall be defined as an individual who, without compensation or remuneration, provides a supportive role and performs tasks under the direction, supervision, and control of the school or school district staff. A volunteer shall not work as a substitute for or replace the functions and duties of a teacher as established in subrule 12.4(8) (**IAC 281—12.4(16)**).

### **Attorneys**

A school corporation may employ an attorney to represent the school corporation as necessary for the proper conduct of the legal affairs of the school corporation (279.37).

## **Employment Issues**

### **Living Wage**

It is the goal of this state that every employee of a public school corporation be provided with a competitive living wage (279.67).

Every employer, as defined in the federal Fair Labor Standards Act of 1938, as amended to January 1, 2007, shall pay to each of the employer’s employees, as defined in the federal Fair Labor Standards Act of 1938, as amended to January 1, 2007, the state hourly wage stated in paragraph “a”, or the current federal minimum wage, pursuant to 29 U.S.C. § 206, as amended, whichever is greater (**91D.1”b”**).

### **Immigration and Nationality Act (8 U.S.C.)**

Employers may hire only persons who may legally work in the United States (i.e., citizens and nationals of the U.S.) and aliens authorized to work in the U.S. The employer must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (I-9). Employers must keep each I-9 on file for at least 3 years, or one year after employment ends, whichever is longer.

Employers are prohibited from hiring illegal entrants or from hiring aliens who legally entered the United States with a visa, such as tourist visas, who are not authorized to work while they are in the United States.

U.S. citizens and aliens authorized to accept employment in the U.S. are protected from discrimination in hiring or discharge on the basis of national origin and citizenship status.

For more information, contact the U.S Government Department of Labor, Wage and Hour Division.

### **Nepotism**

It shall be unlawful for any person elected or appointed to any public office or position under the laws of the state to appoint as deputy, clerk, or helper in said office or position to be paid from the public funds, any person related by consanguinity or affinity, within the third degree, to the person elected, appointed, or making said appointment, unless such appointment shall first be approved by the officer, board, council, or commission whose duty it is to approve the

bond of the principal; provided this provision shall not apply in causes where such person appointed receives compensation at the rate of \$600 per year or less, nor shall it apply to persons teaching in public schools **(71.1)**.

The spouse of a member of the board of directors of a school district may be employed by or contracted with that school district. A board member whose spouse is so employed or contracted with should abstain from voting on issues where actual or potential conflicts of interest exist **(OAG #89-9-2(L))**.

### **Conflict of Interest**

Any person who serves or is employed by the state or a political subdivision of the state shall not engage in any of the following conduct:

*a.* Outside employment or an activity that involves the use of the state's or the political subdivision's time, facilities, equipment, and supplies or the use of the state or political subdivision badge, uniform, business card, or other evidences of office or employment to give the person or member of the person's immediate family an advantage or pecuniary benefit that is not available to other similarly situated members or classes of members of the general public. For purposes of this paragraph, a person is not "*similarly situated*" merely by being or being related to a person who serves or is employed by the state or a political subdivision of the state.

*b.* Outside employment or an activity that involves the receipt of, promise of, or acceptance of money or other consideration by the person, or a member of the person's immediate family, from anyone other than the state or the political subdivision for the performance of any act that the person would be required or expected to perform as a part of the person's regular duties or during the hours during which the person performs service or work for the state or political subdivision of the state.

*c.* Outside employment or an activity that is subject to the official control, inspection, review, audit, or enforcement authority of the person, during the performance of the person's duties of office or employment **(68B.2A(1))**.

If the outside employment or activity is employment or activity described in subsection 1, paragraph "*a*" or "*b*", the person shall immediately cease the employment or activity. If the outside employment or activity is employment or activity described in subsection 1, paragraph "*c*", or constitutes outside employment or an activity prohibited under rules adopted pursuant to subsection 4 or under the senate or house codes of ethics, unless otherwise provided by law, the person shall take one of the following courses of action:

*a.* Cease the outside employment or activity.

*b.* Publicly disclose the existence of the conflict and refrain from taking any official action or performing any official duty that would detrimentally affect or create a benefit for the outside employment or activity. For purposes of this paragraph, "*official action*" or "*official duty*" includes but is not limited to participating in any vote, taking affirmative action to influence any vote, granting any license or permit, determining the facts or law in a contested case or rulemaking proceeding, conducting any inspection, or providing any other official service or thing that is not available generally to members of the public in order to further the interests of the outside employment or activity **(68B.2A(2))**.

Unless otherwise specifically provided the requirements of this section shall be in addition to, and shall not supersede, any other rights or remedies provided by law **(68B.2A(3))**.

The board shall adopt rules pursuant to chapter 17A further delineating particular situations where outside employment or activity of officials and state employees of the executive branch will be deemed to create an unacceptable conflict of interest **(68B.2A(4))**.

Any officer or employee of the state or of any subdivision thereof who is directly or indirectly interested in any contract to furnish anything of value to the state or any subdivision thereof where such interest is prohibited by statute commits a serious misdemeanor. This section shall not apply to any contract awarded as a result of open, public and competitive bidding **(721.11)**.

A school district director, officer, or teacher shall not act as agent for school textbooks or school supplies, including sports apparel or equipment, in any transaction with a director, officer, or other staff member of the school district during such term of office or employment. An AEA director, officer, or teacher shall not act as an agent for school textbooks or school supplies, including sports apparel or equipment, in any transaction with a director, officer, or other staff member of the AEA or any school district located within the AEA during such time of office or employment. A school district or AEA director, officer, or teacher who acts as agent or dealer in school textbooks or school supplies during the person's term of office or employment in violation of this section shall be deemed guilty of a serious misdemeanor **(301.28)**.

While Iowa Code section 279.7A does not preclude an agent for school textbooks or supplies from serving as a member of a school board of directors, Code section 301.28 does create such a prohibition. Pursuant to Code section 301.28, a school textbook or school supply salesperson is prohibited from serving as a school board member regardless of whether the salesperson sells books or supplies to the district upon whose board he or she serves (**OAG #92-2-4(L)**).

Advertising specialty and novelty items which are not used for instructional purposes are not school supplies to which section 301.28 is applicable (**OAG #90-7-2(L)**).

Commercial salespersons of musical instruments may, in the discretion of the local school board, be permitted access to school facilities for the purpose of displaying and disseminating information regarding sale or rental of musical instruments. The local school board may not, however, select a certain store or salesperson and deny access to others. A public school music instructor may recommend a particular instrument to a student, so long as the recommendation is based on a personal or professional preference and the instructor is not acting as an agent for the seller of the instrument (**OAG #80-2-2**).

### **Hazardous Materials Risk**

An employee in this state has the right to be informed about the hazardous chemicals to which the employee may be exposed in the workplace, the potential health hazards of the hazardous chemicals, and the proper handling techniques for the hazardous chemicals. An employer shall provide or make available to an employee information as required by this chapter. Except as explicitly exempted, this chapter applies to all employers in the state (**89B.8**).

An employer shall not discharge or in any other manner discriminate against an employee because the employee has filed a complaint or brought an action under this section [right to know] or has cooperated in bringing an action against an employer. An employee may file a complaint with the labor commissioner alleging discharge or discrimination within thirty days after an alleged violation occurs. Upon receipt of the complaint, the commissioner shall cause an investigation to be made to the extent the commissioner deems appropriate. If the commissioner determines from the investigation that this section has been violated, the commissioner shall bring an action in the appropriate district court against the person. The district court has jurisdiction, for cause shown, to restrain violations of this section and order appropriate relief including rehiring or reinstatement of the employee to the former position with back pay. This section applies to an employee of a person otherwise exempt from chapter 89B (**89B.9**).

### **Drug Testing**

#### Pre-employment Testing

(a) Prior to the first time a driver performs safety-sensitive functions for an employer, the driver shall undergo testing for controlled substances as a condition prior to being used, unless the employer uses the exception in paragraph (b) of this section. No employer shall allow a driver, who the employer intends to hire or use, to perform safety-sensitive functions unless the employer has received a controlled substances test result from the MRO or C/TPA indicating a verified negative test result for that driver.

(b) An employer is not required to administer a controlled substances test required by paragraph (a) of this section if:

- (1) The driver has participated in a controlled substances testing program that meets the requirements of this part within the previous 30 days; and
- (2) While participating in that program, either:
  - (i) Was tested for controlled substances within the past 6 months (from the date of application with the employer), or
  - (ii) Participated in the random controlled substances testing program for the previous 12 months (from the date of application with the employer); and
- (3) The employer ensures that no prior employer of the driver of whom the employer has knowledge has records of a violation of this part or the controlled substances use rule of another DOT agency within the previous six months (**49 CFR 382.301**).

#### Reasonable Suspicion Testing

(a) An employer shall require a driver to submit to an alcohol test when the employer has reasonable suspicion to believe that the driver has violated the prohibitions of [subpart B](#) of this part concerning alcohol. The employer's determination that reasonable suspicion exists to require the driver to undergo an alcohol test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver (**49 CFR 382.307(a)**).

(b) An employer shall require a driver to submit to a controlled substances test when the employer has reasonable suspicion to believe that the driver has violated the prohibitions of [subpart B](#) of this part concerning controlled

substances. The employer's determination that reasonable suspicion exists to require the driver to undergo a controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances (**49 CFR 382.307(b)**).

See **49 CFR 382** and **Iowa Code section 730.5** for more detailed information on testing required or permitted for drivers.

Employers may conduct drug or alcohol testing as provided in this subsection:

- a. Employers may conduct unannounced drug or alcohol testing of employees who are selected from any of the following pools of employees:
  - 1) The entire employee population at a particular work site of the employer except for employees not subject to testing pursuant to a collective bargaining agreement, or employees who are not scheduled to be at work at the time the testing is conducted because of the status of the employees or who have been excused from work pursuant to the employer's work policy prior to the time the testing is announced to employees.
  - 2) The entire full-time active employee population at a particular work site except for employees not subject to testing pursuant to a collective bargaining agreement, or employees who are not scheduled to be at work at the time the testing is to be conducted because of the status of the employee or who have been excused from work pursuant to the employer's working policy.
  - 3) All employees at a particular work site who are in a pool of employees in a safety-sensitive position and who are scheduled to be at work at the time testing is conducted, other than employees not subject to testing pursuant to a collective bargaining agreement, or employees who are not scheduled to be at work at the time the testing is to be conducted or who have been excused from work pursuant to the employer's work policy prior to the time the testing is announced to employees.
- b. Employers may conduct drug or alcohol testing of employees during, and after completion of, drug or alcohol rehabilitation.
- c. Employers may conduct reasonable suspicion drug or alcohol testing.
- d. Employers may conduct drug or alcohol testing of prospective employees.
- e. Employers may conduct drug or alcohol testing as required by federal law or regulation or by law enforcement.
- f. Employers may conduct drug or alcohol testing in investigating accidents in the workplace in which the accident resulted in an injury to a person for which injury, if suffered by an employee, a record or report could be required under chapter 88, or resulted in damage to property, including to equipment, in an amount reasonably estimated at the time of the accident to exceed one thousand dollars (**730.5(8)**).

### **Equal Opportunity and Affirmative Action and Non-discriminatory**

It is the policy of this state to provide equal opportunity in school district, AEA, and community college employment to all persons. An individual shall not be denied equal access to school district, AEA, or community college employment opportunities because of race, creed, color, religion, national origin, sex, age, or physical or mental disability. It also is the policy of this state to apply affirmative action measures to correct deficiencies in school district, AEA, and community college employment systems where those remedies are appropriate. This policy shall be construed broadly to effectuate its purposes (**19B.11(1)**).

Each school district, AEA, and community college shall be required to develop affirmative action standards which are based on the population of the community in which it functions, the student population served, or the persons who can be reasonably recruited (**19B.11(2)**).

Each school district, AEA, and community college in the state shall submit to the director of the department of education an annual report of the accomplishments and programs of the district, AEA, or community college carrying out the duties under section 19B.11. The report shall be submitted between December 15 and December 31 of each year. The director shall prescribe the form and content of the report (**19B.11(3)**).

It is an unfair or discriminatory practice for any educational institution to discriminate on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability in any program or activity. Such discriminatory practices shall include but not be limited to the following practices:

- a. Exclusion of a person or persons from participation in, denial of the benefits of, or subjection to discrimination in any academic, extracurricular, research, occupational training, or other program or activity except athletic programs;
- b. Denial of comparable opportunity in intramural and interscholastic athletic programs;

- c. Discrimination among person in employment and the conditions of employment;
- d. On the basis of sex, the application of any rule concerning the actual or potential parental, family or marital status of a person, or the exclusion of any person from any program or activity or employment because of pregnancy or related conditions dependent upon the physician's diagnosis and certification.

"*Educational institution*" includes any preschool, elementary or secondary school, community college, area education agency, or postsecondary college or university and their governing boards. This section does not prohibit an educational institution from maintaining separate toilet facilities, locker rooms, or living facilities for the different sexes so long as comparable facilities are provided. **(216.9)**.

The federal Age Discrimination in Employment Act (ADEA) likely precludes a school district from establishing an early retirement program for its employees that diminishes benefits with advancing age. The ADEA likely permits a school district to take into account years of service in providing early retirement benefits to its employees. The ADEA does not necessarily preclude a school district from limiting participation in an early retirement program to employees younger than age sixty-five **(OAG #96-10-7)**.

The Department of Management may impose appropriate sanctions on an AEA or school district in order to ensure compliance with state programs emphasizing equal opportunity through affirmative action, contract compliance policies, and requirements for procurement goals for targeted small businesses **(19B.8)**.

Every person in this state is entitled to the opportunity for employment on equal terms with every other person. A person or employer shall not discriminate in the employment of individuals because of race, religion, color, sex, national origin, or ancestry. However, as to employment an individual must be qualified to perform the services or work required **(729.4(1))**.

An employer, employment agency, labor organization, licensing agency, or its employees, agents, or members shall not directly or indirectly do any of the following:

- a. Solicit, require, or administer a genetic test to a person as a condition of employment, preemployment application, labor organization membership, or licensure.
- b. Affect the terms, conditions, or privileges of employment, preemployment application, labor organization membership, or licensure, or terminate the employment, labor organization membership, or licensure of any person who obtains a genetic test **(729.6(2))**.

It shall be an unlawful employment practice for an employer—

- 1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or
- 2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin **(Civil Rights Act, 29 USC 2000E-2)**.

No covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment **(Americans with Disabilities Act, 42 USC 12112(a))**.

No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to

- i. a seniority system;
- ii. a merit system;
- iii. a system which measures earnings by quantity or quality of production; or
- iv. a differential based on any other factor other than sex: Provided, That an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee **(Equal Pay Act, 29 USC 206D(1))**.

It shall be unlawful for an employer—

- 1) to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age;

- 2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's age; or
- 3) to reduce the wage rate of any employee in order to comply with this chapter (**Age Discrimination Act, 29 USC 623(a)**).

### **Fair Labor Standards Act (FLSA)**

The Fair Labor Standards Act establishes minimum wages, overtime pay, equal pay, recordkeeping and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments.

Every employer shall maintain and preserve payroll or other accurate records containing the following information and data with respect to each covered, nonexempt worker/employee to whom FLSA provisions apply:

- Employee's full name, as used for social security purposes, and on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records;
- Address, including zip code;
- Birth date, if younger than 19;
- Sex and occupation;
- Time and day of week when employee's workweek begins. Hours worked each day and total hours worked each workweek;
- Basis on which employee's wages are paid;
- Regular hourly pay rate;
- Total daily or weekly straight-time earnings;
- Total overtime earnings for the workweek;
- All additions to or deductions from the employee's wages;
- Total wages paid each pay period;
- Date of payment and the pay period covered by the payment.

However, Section 13(a)(1) of the FLSA (**29 CFR Part 541**) provides an exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, professional (including academic administrative personnel and teachers in elementary or secondary schools) and outside sales employees. Section 13(a)(1) and Section 13(a)(17) also exempt certain computer employees. To qualify for exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$455 per week. Job titles do not determine exempt status. In order for an exemption to apply, an employee's specific job duties and salary must meet all the requirements of the Department's regulations. Records required for exempt employees differ from those for nonexempt workers.

#### **Nursing Mothers**

The Patient Protection and Affordable Care Act ("PPACA"), signed into law on March 23, 2010 (**P.L. 111-148**), amended Section 7 of the FLSA, to provide a break time requirement for nursing mothers. Employers are required to provide reasonable break time for an employee to express breast milk for her nursing child for one year after the child's birth each time such employee has need to express the milk. Employers are also required to provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk. Only employees who are not exempt from the FLSA's overtime pay requirements are entitled to breaks to express milk. While employers are not required under the FLSA to provide breaks to nursing mothers who are exempt from the overtime pay requirements of Section 7, they may be obligated to provide such breaks under State laws.

#### **Equal Pay Provisions**

The equal pay provisions of the FLSA prohibit sex-based wage differentials between men and women employed in the same establishment who perform jobs that require equal skill, effort, and responsibility and which are performed under similar working conditions. These provisions, as well as other statutes prohibiting discrimination in employment, are enforced by the Equal Employment Opportunity Commission. More detailed information is available by calling 1-800-669-4000 or visiting [www.eeoc.gov](http://www.eeoc.gov).

### **Veterans Preference**

In every public department and upon all public works in the state, and of the counties, cities, and school corporations of the state, veterans who are citizens and resident of the United States are entitled to preference in appointment and

employment over other applicants of no greater qualifications. For purposes of this section, “*veteran*” means as defined in section 35.1 except that the requirement that the person be a resident of this state shall not apply **(35C.1(1))**.

In all jobs of political subdivisions of the state which are to be filled by competitive examination or by appointment, public notice of the application deadline to fill a job shall be posted at least 10 days before the deadline in the same manner as notices of meetings are posted under section 21.4 **(35C.1(3))**.

The provisions of the Iowa Veteran's Preference Law apply to both permanent part-time and temporary or seasonal positions of a public employer **(OAG #87-11-6(L))**.

The persons thus preferred shall not be disqualified from holding any position hereinbefore mentioned on account of age or by reason of any physical disability, provided such age or disability does not render such person incompetent to perform properly the duties of the position applied for **(35C.2)**.

When any preferred person applies for appointment or employment under chapter 35C, the officer, board, or person whose duty it is or may be to appoint or employ a person to fill the position or place shall, before appointing or employing a person to fill the position or place, make an investigation as to the qualifications of the applicant for the place or position, and if the applicant is of good moral character and can perform the duties of the position applied for, the officer, board, or person shall appoint the applicant to the position, place, or employment. The appointing officer, board, or person shall set forth in writing and file for public inspection the specific grounds upon which it appointed or refused to appoint the person. At the time of application or at an interview for the position, an applicant may request notification of refusal only or notification of refusal and the specific grounds for refusal. The notification shall be sent within 10 days after the successful applicant is selected **(35C.3)**.

“*Veteran*” means any of the following:

- a. A resident of this state who served in the armed forces of the United States at any time during the following dates and who was discharged under honorable conditions:
  - 1) World War I from April 6, 1917, through November 11, 1918.
  - 2) Occupation of Germany from November 12, 1918, through July 11, 1923.
  - 3) American expeditionary forces in Siberia from November 12, 1918, through April 30, 1920.
  - 4) Second Haitian suppression of insurrections from 1919 through 1920.
  - 5) Second Nicaragua campaign with marines or navy in Nicaragua or on combatant ships from 1926 through 1933.
  - 6) Yangtze service with navy and marines in Shanghai or in the Yangtze valley from 1926 through 1927 and 1930 through 1932.
  - 7) China service with navy and marines from 1937 through 1939.
  - 8) World War II from December 7, 1941, through December 31, 1946.
  - 9) Korean Conflict from June 25, 1950, through January 31, 1955.
  - 10) Vietnam Conflict from February 28, 1961, through May 7, 1975.
  - 11) Lebanon or Grenada service from August 24, 1982, through July 31, 1984.
  - 12) Panama service from December 20, 1989, through January 31, 1990.
  - 13) Persian Gulf Conflict from August 2, 1990, through the date the president or the Congress of the United States declares a cessation of hostilities. However, if the United States Congress enacts a date different from August 2, 1990, as the beginning of the Persian Gulf Conflict for purposes of determining whether a veteran is entitled to receive military benefits as a veteran of the Persian Gulf Conflict, that date shall be substituted for August 2, 1990.
- b.
  - 1) Former members of the reserve forces of the United States who served at least twenty years in the reserve forces and who were discharged under honorable conditions. However, a member of the reserve forces of the United States who completed a minimum aggregate of ninety days of active federal service, other than training, and was discharged under honorable conditions, or was retired under Tit. 10 of the United States Code shall be included as a veteran.
  - 2) Former members of the Iowa national guard who served at least twenty years in the Iowa national guard and who were discharged under honorable conditions. However, a member of the Iowa national guard who was activated for federal duty, other than training, for a minimum aggregate of ninety days, and was discharged under honorable conditions or was retired under Tit. 10 of the United States Code shall be included as a veteran.
  - 3) Former members of the active, oceangoing merchant marines who served during World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive, who were discharged under honorable conditions.

- 4) Former members of the women's air force service pilots and other persons who have been conferred veterans status based on their civilian duties during World War II in accordance with federal Pub. L. No. 95-202, 38 U.S.C. § 106.
  - 5) Former members of the armed forces of the United States if any portion of their term of enlistment would have occurred during the time period of the Korean Conflict from June 25, 1950, through January 31, 1955, but who instead opted to serve five years in the reserve forces of the United States, as allowed by federal law, and who were discharged under honorable conditions.
  - 6) Members of the reserve forces of the United States who have served at least twenty years in the reserve forces and who continue to serve in the reserve forces.
  - 7) Members of the Iowa national guard who have served at least twenty years in the Iowa national guard and who continue to serve in the Iowa national guard.
- c. A resident of this state who served on active federal duty, other than training, in the armed forces of the United States and who was discharged under honorable conditions **(35.1(2))**.

## **Polygraph Examination**

The Employee Polygraph Protection Act (EPPA) is administered by the Wage and Hour Division (WHD). The EPPA applies to most private employers. The law does not cover federal, state, and local government agencies. The EPPA prohibits most private employers from using lie detector tests, either for pre-employment screening or during the course of employment. Employers generally may not require or request any employee or job applicant to take a lie detector test, or discharge, discipline, or discriminate against an employee or job applicant for refusing to take a test or for exercising other rights under the Act. Employers may not use or inquire about the results of a lie detector test or discharge or discriminate against an employee or job applicant on the basis of the results of a test, or for filing a complaint or for participating in a proceeding under the Act **(29 USC §2001 et seq.; 29 CFR Part 801)**.

As used in this section, "*polygraph examination*" means any procedure which involves the use of instrumentation or a mechanical or electrical device to enable or assist the detection of deception, the verification of truthfulness, or the rendering of a diagnostic opinion regarding either of these, and includes a lie detector or similar test **(730.4(1))**.

An employer shall not as a condition of employment, promotion, or change in status of employment, or as an express or implied condition of a benefit or privilege of employment, knowingly do any of the following:

- a. Request or require that an employee or applicant for employment take or submit to a polygraph examination.
- b. Administer, cause to be administered, threaten to administer, or attempt to administer a polygraph examination to an employee or applicant for employment.
- c. Request or require that an employee or applicant for employment give an express or implied waiver of a practice prohibited by section 730.4 **(730.4(2))**.

## **Leaves of Absence**

### **Military Leave**

Employees are entitled to take either military leave or compensatory time on days when military duty interferes with scheduled work time. The employee should not return to work after earning a full day's pay from federal sources. Employers may attempt to schedule work days so as to avoid conflicts with military duty **(OAG #89-2-5(L))**.

### **Veteran's Day**

An employer shall provide each employee who is a veteran, as defined in section 35.1, with holiday time off for Veterans Day, November 11, if the employee would otherwise be required to work on that day, as provided in this section. An employer, in complying with this section, shall have the discretion of providing paid or unpaid time off on Veterans Day, unless providing time off would impact public health or safety or would cause the employer to experience significant economic or operational disruption.

- a. An employee shall provide the employer with at least one month's prior written notice of the employee's intent to take time off for Veterans Day and shall also provide the employer with a federal certificate of release or discharge from active duty, or such similar federal document, for purposes of determining the employee's eligibility for the benefit provided in this section.
- b. The employer shall, at least ten days prior to Veterans Day, notify the employee if the employee shall be provided paid or unpaid time off on Veterans Day. If the employer determines that the employer is unable to provide time off for Veterans Day for all employees who request time off, the employer shall deny time off to the minimum number of employees needed by the employer to protect public health and safety or to maintain minimum operational capacity, as applicable **(91A.5A)**.

### **Elective Office**

A person who is elected to a municipal, county, state, or federal office shall, upon written application to the employer of that person, be granted a leave of absence from regular employment to serve in that office except where prohibited by the federal law. The leave of absence may be granted without pay, except that if a salaried employee takes leave without pay from regular employment for a portion of a pay period, the employee's salaried compensation for that pay period shall be reduced by the ratio of the number of days of leave taken to the total number of days in the pay period. The leave of absence shall be granted without loss of net credited service and benefits earned. This section shall not be construed to require an employer to pay pension, health, or other benefits during the leave of absence to an employee taking a leave of absence under this section. An employee shall not be prohibited from returning to regular employment before the period expires for which the leave of absence was granted. This section applies only to employers which employ twenty or more full-time persons. The leave of absence granted by this section does not apply to an elective office held by the employee prior to the election. Temporary substitute teachers and teachers hired on a temporary basis to replace teachers who have been granted leaves of absence pursuant to this section are not subject to the provisions of chapter 279 relating to the termination of continuing contracts **(55.1)**.

A person who is appointed to serve on a state board, upon written application to the person's employer, shall be granted leaves of absence from regular employment to attend the meetings of the state board, except if leaves of absence are prohibited by federal law. The leaves of absence may be granted without pay and shall be granted without loss of net credited service and benefits earned. This section does not apply if the employer employs less than twenty full-time employees. For the purpose of this section, "state board" includes any board, commission, committee, council, or task force of the state government created by the Constitution of the State of Iowa, or by statute, resolution of the general assembly, motion of the legislative council, executive order of the governor, or supreme court order, but does not include any such state board, commission, committee, council, or task force for which an annual salary is provided for its members **(55.3)**.

Any public employee who becomes a candidate for any elective public office shall, upon request of the employee and commencing any time within thirty days prior to a contested primary, special, or general election and continuing until after the day following that election, automatically be given a period of leave. An employee who is a candidate for any elective public office shall not campaign while on duty as an employee. This section does not apply to employees of the federal government or to a public employee whose position is financed by federal funds if the application of this section would be contrary to federal law or result in the loss of the federal fund **(55.4)**.

Any person violating chapter 55 is guilty of a simple misdemeanor. Each day in which the violation continues is a separate offense **(55.5)**.

### **Educational Leave**

The board may approve a policy for educational leave for licensed school employees and for reimbursement for tuition paid by licensed school employees for courses approved by the board. Educational leave means a leave granted to an employee for the purpose of study including study in areas outside of a teacher's area of specialization, travel, or other reasons deemed by the board to be of value to the school system **(279.12)**.

### **Sick Leave**

Public school employees are granted leave of absence for medically related disability with full pay in the following minimum amounts:

- |   |          |
|---|----------|
| 1) The first year of employment                 | 10 days. |
| 2) The second year of employment                | 11 days. |
| 3) The third year of employment                 | 12 days. |
| 4) The fourth year of employment                | 13 days. |
| 5) The fifth year of employment                 | 14 days. |
| 6) The sixth and subsequent years of employment | 15 days. |

The above amounts shall apply only to consecutive years of employment in the same school district and unused portions shall be cumulative to at least a total of 90 days. The school board shall, in each instance, require such reasonable evidence as it may desire confirming the necessity for such leave of absence. The school board may grant more time than the days herein specified. Cumulation of sick leave under this section shall not be affected or terminated due to the organization or dissolution of a community school district or districts which include all or the portion of the district which employed the particular public school employee for the school year previous to the organization or dissolution, if the employee is employed by one of the community school districts for the first school

year following its organization or dissolution. Any amounts due an employee under this section shall be reduced by benefits payable under sections 85.33 [temporary disability] and 85.34 [permanent disability], subsection 1 **(279.40)**.

### **Family and Medical Leave Act**

The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Eligible employees are entitled to:

- Twelve workweeks of leave in a 12-month period for:
  - the birth of a child and to care for the newborn child within one year of birth;
  - the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
  - to care for the employee's spouse, child, or parent who has a serious health condition;
  - a serious health condition that makes the employee unable to perform the essential functions of his or her job;
  - any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty;" or
- Twenty-six workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness who is the spouse, son, daughter, parent, or next of kin to the employee (military caregiver leave) **(29 UCS 2601)**.

The Wage and Hour Division issued an Administrator Interpretation clarifying the definition of "son and daughter" under the Family and Medical Leave Act to ensure that an employee who assumes the role of caring for a child receives parental rights to family leave regardless of the legal or biological relationship **(FMLA AI 2010-3)**.

### **Opportunity to Vote**

Any person entitled to vote at an election in this state who does not have three consecutive hours in the period between the time of the opening and the time of the closing of the polls during which the person is not required to be present at work for an employer, is entitled to such time off from work time to vote as will in addition to the person's nonworking time total three consecutive hours during the time the polls are open. Application by any employee for such absence shall be made individually and in writing prior to the date of the election, and the employer shall designate the period of time to be taken. The employee is not liable to any penalty nor shall any deduction be made from the person's regular salary or wages on account of such absence **(49.109)**. A person commits the crime of election misconduct in the first degree if the person willfully intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce, a person to do or to refrain from registering to vote, voting, or attempting to register to vote. **(39A.2(1)"c"(1))**. A person commits the crime of election misconduct in the fourth degree if, as an employer, the person, on election day, willfully denies an employee the privilege conferred by section 49.109, or subjects an employee to a penalty or reduction of wages because of the exercise of that privilege **(39A.5(1)"a"(1))**.

## **Deductions and Withholding from Wages**

### **Garnishment**

Title III of the Consumer Credit Protection Act (CCPA) is administered by the Wage and Hour Division (WHD). The CCPA protects employees from discharge by their employers because their wages have been garnished for any one debt, and it limits the amount of an employee's earnings that may be garnished in any one week. Title III applies to all employers and individuals who receive earnings for personal services (including wages, salaries, commissions, bonuses, and periodic payments from a pension or retirement program, but ordinarily does not include tips) **(15 USC §1671 et seq. (PDF); 29 CFR Part 870)**.

The right of any person to any future payment under a pension and annuity retirement system established in chapter 294 shall not be transferable or assignable, at law or in equity, and shall not be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law, except for the purposes of enforcing child, spousal, or medical support obligations, or marital property orders. For the purposes of enforcing child, spousal, or medical support obligations, the garnishment or attachment of or the execution against benefits due a person under such a retirement system shall not exceed the amount specified in 15 U.S.C. § 1673(b) **(294.10B)**.

### **Charitable Giving**

An applicable public employer may authorize deductions from the salaries or wages of its employees of an amount specified by an employee for payment to an eligible charitable organization. The authorization by an employee for deductions from the employee's salary or wages shall be evidenced by a written request signed by the employee directed to and filed with the treasurer, or official in charge of the payroll system, of the applicable public employer and the treasurer or responsible official shall deduct from the salary or wages of the employee the amount specified for payment to the eligible charitable organization. The request for the deduction may be withdrawn by the employee at any time by filing a written notification of withdrawal with the applicable treasurer or responsible official in charge of the payroll system. If an applicable public employer authorizes deductions from the salaries or wages of its employees for payment to any eligible charitable organization, the applicable public employer shall ensure that an employee shall be permitted to authorize a deduction to any eligible charitable organization. "*Applicable public employer*" means a board of directors of a school district, a community college, a county board of supervisors, or a governing body of a city. "*Eligible charitable organization*" means a not-for-profit federation of health and human services, social welfare, or environmental agencies or associations that meets all of the following conditions:

- (1) The federation is tax exempt under section 501(c)(3) of the Internal Revenue Code and contributions to the federation are deductible under section 170 of the Internal Revenue Code.
- (2) The federation has had an office in this state for the last five years.
- (3) The federation represents at least ten health and human services, social welfare, or environmental agencies or associations that are located in this state.
- (4) The federation is governed by an active, voluntary board, which exercises administrative control over the federation.
- (5) The federation is not a charitable foundation.
- (6) The federation is registered with the secretary of state's office. **(70A.15A)**.

### **Payroll Deductions**

An agency may not assess a service charge for processing employee payroll deductions for items such as health insurance and deferred compensation plans **(OAG #81-5-7(L))**.

## **IPERS Paid on Behalf**

Notwithstanding section 97B.11 or other provisions of this chapter, beginning January 1, 1995, for federal income tax purposes, and beginning January 1, 1999, for state income tax purposes, member contributions required under section 97B.11 which are picked up by the employer shall be considered employer contributions for federal and state income tax purposes, and each employer shall pick up the member contributions to be made under section 97B.11 by its employees. Each employer shall pick up these contributions by reducing the salary of each of its employees covered by this chapter by the amount which each employee is required to contribute under section 97B.11 and shall pay the amount picked up in lieu of the member contributions as provided in section 97B.14. Member contributions picked up by each employer under subsection 1 shall be treated as employer contributions for federal and state income tax purposes only and for all other purposes of this chapter shall be treated as employee contributions and deemed part of the employee's wages or salary **(97B.11A)**.

## **Employee Benefits**

### **Annuities**

The school district may establish a plan, in accordance with section 403(b) of the Internal Revenue Code, as defined in section 422.3, for employees, which plan shall consist of one or more investment contracts, on a group or individual basis, acquired from a company, or a salesperson for that company, that is authorized to do business in this state. The selection of investment contracts to be included within the plan established by the school district shall be made either pursuant to a competitive bidding process conducted by the school district, in coordination with employee organizations representing employees eligible to participate in the plan, or pursuant to an agreement with the department of administrative services to make available investment contracts included in a deferred compensation or similar plan established by the department pursuant to section 8A.438, which plan meets the requirements of this section. The determination of whether to select investment contracts for the plan pursuant to a competitive bidding process or by agreement with the department of administrative services shall be made by agreement between the school district and the employee organizations representing employees eligible to participate in the plan. The school district may make elective deferrals in accordance with the plan as authorized by an eligible employee for the purpose of making contributions to the investment contract on behalf of the employee. The deferrals shall be made in the manner which will qualify contributions to the investment contract for the benefits under section 403(b) of the Internal Revenue Code, as defined in section 422.3. In addition, the school district may make nonelective employer contributions to the plan. As used in this section, unless the context otherwise requires, "*investment contract*" shall mean a custodial

account utilizing mutual funds or an annuity contract which meets the requirements of section 403(b) of the Internal Revenue Code, as defined in section 422.3. **(294.16)**.

An employee of a school district has a statutory right to select the provider of an annuity contract made available by the school district for his/her benefit [if more than one choice is available pursuant to 294.16] even if the annuity is funded solely with school district money **(OAG #90-1-5)**.

A school district may purchase an annuity for its employees which is invested in mutual funds so long as the annuity is purchased from an authorized insurance company and an Iowa-licensed agent **(OAG #87-6-2(L))**.

The governing body may not encourage or discourage employee participation in annuity programs. Lists of employees—but not list of employees participating in annuity programs—must be made available to the public **(OAG #91-6-7(L))**.

### **Medical Insurance Programs**

The AEA board is authorized to establish and pay all or any part of the cost of group health insurance plans, nonprofit group medical service plans and group life insurance plans adopted by the board for the benefit of employees of the AEA, from funds available to the board **(273.3(15))**.

Teachers and administrators are free to contract for provision of a self-funded medical insurance program. The ability of a board to establish group insurance plans does not prohibit contracting for a self-funded plan **(OAG #80-10-11)**.

If a retired employee of a publicly funded governing body had family coverage prior to retirement before age 65, continuation of coverage must be offered on that basis, i.e., for the employee's dependents, after retirement, at the employee's expense **(OAG #91-6-5(L))**.

### **Food and Entertainment**

The Code does not allow school districts to provide school lunches without charge to staff members, except where staff members are on lunch room supervisory duty or pursuant to contract **(OAG #82-2-6(L))**.

### **Travel and Transportation**

Meal reimbursements paid are subject to income tax withholding if they are not paid under an accountable plan which requires the meal expenses be substantiated as deductible under I.R.C. section 162(a), either as business expenses incurred while away from home overnight, or as the rare type of meal expenses which qualifies as an ordinary and necessary business expense **(OAG #98-5-2(L))**.

When a public officer or employee, other than a state officer or employee, is entitled to be paid for expenses in performing a public duty, a charge shall be made, allowed, and paid for the use of an automobile, as determined by the local governing body, in an amount which may be the maximum allowable under federal internal revenue service rules per mile, notwithstanding established mileage requirements or depreciation allowances. A statutory provision stipulating necessary mileage, travel, or actual reimbursement to a local public officer or employee falls within the mileage reimbursement limitation specified in this section unless specifically provided otherwise. A political subdivision may authorize the use of private vehicles for the conduct of official business of the political subdivision at an annual amount in lieu of actual and necessary travel expense reimbursement provided in this section **(70A.9)**.

No law shall be construed to give to a public officer or employee both mileage and expenses for the same transaction **(70A.10)**. No public officer or employee shall be allowed either mileage or transportation expense when gratuitously transported by another, nor when transported by another public officer or employee who is entitled to mileage or transportation expense **(70A.11)**.

### **Service Club Dues**

Public funds may be used to pay for public employees' dues for service clubs only if directly related to an employee's duties. The governing body must determine that a public purpose is met and that the public purpose is not merely incidental to the private benefit to the employee. This test would not likely be met except in an unusual case **(OAG #90-7-3(L))**.

### **Worker Compensation**

Where the school corporation or AEA is the employer, the provisions of chapter 85 on workers' compensation for the payment of compensation and amount thereof for an injury sustained by an employee of such employer shall be exclusive, compulsory, and obligatory upon both employer and employee, except as otherwise provided in section 85.1. For the purposes of chapter 85 elected and appointed officials shall be employees **(85.2)**.

No compensation under this chapter shall be allowed for an injury caused:

1. By the employee's willful intent to injure the employee's self or to willfully injure another.
2. By the employee's intoxication, which did not arise out of and in the course of employment but which was due to the effects of alcohol or another narcotic, depressant, stimulant, hallucinogenic, or hypnotic drug not prescribed by an authorized medical practitioner, if the intoxication was a substantial factor in causing the injury.
3. By the willful act of a third party directed against the employee for reasons personal to such employee **(85.16)**.

No contract, rule, or device whatsoever shall operate to relieve the employer, in whole or in part, from any liability created by chapter 85 except as herein provided **(85.18)**.

A school employee who, in the course of employment, suffers a personal injury causing temporary total disability, or a permanent partial or total disability, resulting from an episode of violence toward that employee, for which workers' compensation under chapter 85 is payable, shall be entitled to receive workers' compensation, which the district shall supplement in order for the employee to receive full salary and benefits for the shortest of the following periods:

- 1) One year from the date of the disability.
- 2) The period during which the employee is disabled and incapable of employment.

During this period, the school employee shall not be required to use accumulated sick leave or vacation. For purposes of this section, "*school employee*" means a person employed by a nonpublic school or school district, or any area education agency staff member who provides services to a school or school district **(280.21A)**.

### **Violence and Altercations**

An employee of an accredited public school district, accredited nonpublic school, or AEA shall not inflict, or cause to be inflicted, corporal punishment upon a student. For purposes of this section, "*corporal punishment*" means the intentional physical punishment of a student. An employee's physical contact with the body of a student shall not be considered corporal punishment if it is reasonable and necessary under the circumstances and is not designed or intended to cause pain or if the employee uses reasonable force, as defined under section 704.1, for the protection of the employee, the student, or other students; to obtain the possession of a weapon or other dangerous object within a student's control; or for the protection of property **(280.21(1))**.

A school employee who, in the reasonable course of the employee's employment responsibilities, comes into physical contact with a student shall be granted immunity from any civil or criminal liability which might otherwise be incurred or imposed as a result of such physical contact, if the physical contact is reasonable under the circumstances and involves the following:

- a. Encouraging, supporting, or disciplining the student.
- b. Protecting the employee, the student, or other students.
- c. Obtaining possession of a weapon or other dangerous object within a student's control.
- d. Protecting employee, student, or school property.
- e. Quelling a disturbance or preventing an act threatening physical harm to any person.
- f. Removing a disruptive student from class or any area of the school premises, or from school-sponsored activities off school premises.
- g. Preventing a student from the self-infliction of harm.
- h. Self-defense.
- i. Any other legitimate educational activity **(280.21(2))**.

To prevail in a civil action alleging a violation of this section the party bringing the action shall prove the violation by clear and convincing evidence. Any school employee determined in a civil action to have been wrongfully accused under this section shall be awarded reasonable monetary damages, in light of the circumstances involved, against the party bringing the action **(280.21(3))**.

An employee of an accredited public school district or AEA may intervene in a fight or physical struggle occurring among students or between students and nonstudents that takes place in the presence of the school employee in a school building, on school premises, or at any school function or school-sponsored activity regardless of its location. The degree and force of the intervention may be as reasonably necessary, in the opinion of the school employee, to restore

order and protect the safety of the individuals involved in the altercation and others in the vicinity of the altercation **(280.26(1))**.

An employee of an accredited public school district, accredited nonpublic school, or AEA who intervenes in a fight or physical struggle pursuant to subsection 1 shall be awarded reasonable monetary damages against a party bringing a civil action alleging a violation of this section, if it is determined in the action that the employee has been wrongfully accused **(280.26(3))**.

An employee of a school district or an AEA who participates in good faith and acts reasonably in the making of a report to, or investigation by, an appropriate person or agency regarding violence, threats of violence, physical or sexual abuse of a student, or other inappropriate activity against a school employee or student in a school building, on school grounds, or at a school-sponsored function shall be immune from civil or criminal liability relating to such action as well as for participating in any administrative or judicial proceeding resulting from or relating to the report or investigation **(280.27)**.

An assault as defined in this section is a general intent crime. A person commits an assault when, without justification, the person does any of the following:

1. Any act which is intended to cause pain or injury to, or which is intended to result in physical contact which will be insulting or offensive to another, coupled with the apparent ability to execute the act.
2. Any act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.
3. Intentionally points any firearm toward another, or displays in a threatening manner any dangerous weapon toward another **(708.1)**.

An act described in subsection 2 shall not be an assault under the following circumstances:

- a. If the person doing any of the enumerated acts, and such other person, are voluntary participants in a sport, social or other activity, not in itself criminal, and such act is a reasonably foreseeable incident of such sport or activity, and does not create an unreasonable risk of serious injury or breach of the peace.
- b. If the person doing any of the enumerated acts is employed by a school district or accredited nonpublic school, or is an area education agency staff member who provides services to a school or school district, and intervenes in a fight or physical struggle, or other disruptive situation, that takes place in the presence of the employee or staff member performing employment duties in a school building, on school grounds, or at an official school function regardless of the location, whether the fight or physical struggle or other disruptive situation is between students or other individuals, if the degree and the force of the intervention is reasonably necessary to restore order and to protect the safety of those assembled. **(708.1)**.

A person, who acts alone, or who conspires with another person or persons, to injure, oppress, threaten, or intimidate or interfere with any citizen in the free exercise or enjoyment of any right or privilege secured to that person by the constitution or laws of the state of Iowa or by the constitution or laws of the United States, and assembles with one or more persons for the purpose of teaching or being instructed in any technique or means capable of causing property damage, bodily injury or death when the person or persons intend to employ those techniques or means in furtherance of the conspiracy, is on conviction, guilty of a class "D" felony. A person intimidates or interferes with another person if the act of the person results in any of the following:

- a. Physical injury to the other person.
- b. Physical damage to or destruction of the other person's property.
- c. Communication in a manner, or action in a manner, intended to result in either of the following:
  - 1) To place the other person in fear of physical contact which will be injurious, insulting, or offensive, coupled with the apparent ability to execute the act.
  - 2) To place the other person in fear of harm to the other person's property, or harm to the person or property of a third person **(729.5(1))**.

## **Performance Evaluations**

The board shall establish evaluation criteria and shall implement evaluation procedures. If an exclusive bargaining representative has been certified, the board shall negotiate in good faith with respect to evaluation procedures pursuant to chapter 20. The determination of standards of performance expected of school district personnel shall be reserved as an exclusive management right of the school board and shall not be subject to mandatory negotiations under chapter 20. Notwithstanding chapter 20, objections to the procedures, use, or content of an evaluation in a teacher termination proceeding brought before the school board in a hearing held in accordance with section 279.16 or 279.27 shall not be subject to the grievance procedures negotiated in accordance with chapter 20. A school district shall not be obligated to process any evaluation grievance after service of a notice and recommendation to terminate an individual's continuing teaching contract in accordance with this chapter **(279.14)**.

The board shall establish written evaluation criteria and shall establish and annually implement evaluation procedures. The board shall also establish written job descriptions for all supervisory positions **(279.23A)**.

Each board shall adopt evaluation criteria and procedures for all contracted staff. The evaluation processes shall conform to Iowa Code sections 272.33, 279.14, and 279.23A **(IAC 281--12.3(3))**.

### **Reductions in Force and Terminations**

If any person, agent, company, corporation, after having discharged any employee from service, shall prevent or attempt to prevent, by word or writing of any kind, such discharged employee from obtaining employment with any other person, company or corporation, except by furnishing in writing on request a truthful statement as to the cause of the person's discharge, such person, agent, company, or corporation shall be guilty of a serious misdemeanor and shall be liable for all damages sustained by any such person **(730.1)**.

An employee, as defined in section 91A.2, shall have access to and shall be permitted to obtain a copy of the employee's personnel file maintained by the employee's employer, as defined in section 91A.2, including but not limited to performance evaluations, disciplinary records, and other information concerning employer-employee relations. However, an employee's access to a personnel file is subject to all of the following:

- a. The employer and employee shall agree on the time the employee may have access to the employee's personnel file, and a representative of the employer may be present.
- b. An employee shall not have access to employment references written for the employee.
- c. An employer may charge a reasonable fee for each page of a copy made by the employer for an employee of an item in the employee's personnel file. For purposes of this paragraph, "*reasonable fee*" means an amount equivalent to an amount charged per page for copies made by a commercial copying business **(91B.1)**.

An employer or an employer's representative who, upon request by or authorization of a current or former employee or upon request made by a person who in good faith is believed to be a representative of a prospective employer of a current or former employee, provides work-related information about a current or former employee, is immune from civil liability unless the employer or the employer's representative acted unreasonably in providing the work-related information **(91B.2(1))**.

An employer acts unreasonably if any of the following are present:

- a. The work-related information violates a civil right of the current or former employee.
- b. The work-related information knowingly is provided to a person who has no legitimate and common interest in receiving the work-related information.
- c. The work-related information is not relevant to the inquiry being made, is provided with malice, or is provided with no good faith belief that it is true **(91B.2(2))**.

A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in employment by a political subdivision of this state as a reprisal for a disclosure of any information by that employee to a member or employee of the general assembly, or an official of that political subdivision or a state official or for a disclosure of information to any other public official or law enforcement agency if the employee reasonably believes the information evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety. This section does not apply if the disclosure of the information is prohibited by statute. A person who violates this commits a simple misdemeanor **(70A.29)**.

### **Reporting Misconduct**

1. *a.* (1) The board of directors of a school district or AEA, the superintendent of a school district, the chief administrator of an AEA, and the authorities in charge of an accredited nonpublic school shall report to the board any instance of disciplinary action taken against a licensed school employee by the board of directors of the school district or AEA, the superintendent of the school district, the chief administrator of the area education agency, or the authorities in charge of the accredited nonpublic school for conduct constituting any of the following:

- (a) Soliciting, encouraging, or consummating a romantic or otherwise inappropriate relationship with a student.
- (b) Falsifying student grades, test scores, or other official information or material.
- (c) Converting public property or funds to the personal use of the school employee.

(2) The board of directors of a school district or AEA, the superintendent of a school district, the chief administrator of an AEA, and the authorities in charge of an accredited nonpublic school shall report to the board the nonrenewal or termination, for reasons of alleged or actual misconduct, of a person's contract executed under sections 279.12, 279.13,

279.15 through 279.21, 279.23, and 279.24, and the resignation of a person who holds a license, certificate, or authorization issued by the board as a result of or following an incident or allegation of misconduct that, if proven, would constitute a violation of the rules adopted by the board to implement section 272.2, subsection 14, paragraph “b”, subparagraph (1); soliciting, encouraging, or consummating a romantic or otherwise inappropriate relationship with a student; falsifying student grades, test scores, or other official information or material; or converting public property or funds to the personal use of the school employee, when the board or reporting official has a good faith belief that the incident occurred or the allegation is true. The board may deny a license or revoke the license of an administrator if the board finds by a preponderance of the evidence that the administrator failed to report the termination or resignation of a school employee holding a license, certificate, statement of professional recognition, or coaching authorization, for reasons of alleged or actual misconduct, as defined by this section.

b. Information reported to the board in accordance with this section is privileged and confidential, and except as provided in section 272.13, is not subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than the respondent and the board and its employees and agents involved in licensee discipline, and is not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. The board shall review the information reported to determine whether a complaint should be initiated. In making that determination, the board shall consider the factors enumerated in section 272.2, subsection 14, paragraph “a”.

c. For purposes of this section, unless the context otherwise requires, “*misconduct*” means an action disqualifying an applicant for a license or causing the license of a person to be revoked or suspended in accordance with the rules adopted by the board to implement section 272.2, subsection 14, paragraph “b”, subparagraph (1).

2. If, in the course of performing official duties, an employee of the department becomes aware of any alleged misconduct by an individual licensed under this chapter, the employee shall report the alleged misconduct to the board of educational examiners under rules adopted pursuant to subsection 1.

3. If the executive director of the board verifies through a review of official records that a teacher who holds a practitioner’s license under this chapter is assigned instructional duties for which the teacher does not hold the appropriate license or endorsement, either by grade level or subject area, by a school district or accredited nonpublic school, the executive director may initiate a complaint against the teacher and the administrator responsible for the inappropriate assignment of instructional duties **(272.15)**.

## Safe and Healthy Workplace

It is the policy of this state to assure so far as possible every working person in the state safe and healthful working conditions and to preserve human resources by:

1. Encouraging employers and employees in their efforts to reduce the number of occupational safety and health hazards at their places of employment, and to stimulate employers and employees to institute new and perfect existing programs for providing safe and healthful working conditions.
2. Providing that employers and employees have separate but dependent responsibilities and rights with respect to achieving safe and healthful working conditions.
3. Authorizing the labor commissioner to set mandatory occupational safety and health standards applicable to businesses, and by creating an employment appeal board within the department of inspections and appeals for carrying out adjudicatory functions under the chapter.
4. Building upon advances already made through employer and employee initiative for providing safe and healthful working conditions.
5. Providing for research in the field of occupational safety and health, including the psychological factors involved, and by developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems.
6. Exploring ways to discover latent diseases, establishing causal connections between diseases and work in environmental conditions, and conducting other research relating to health problems, in recognition of the fact that occupational health standards present problems often different from those involved in occupational safety.
7. Providing medical criteria which will assure insofar as practicable that no employee will suffer diminished health, functional capacity or life expectancy as a result of the employee’s work experience.
8. Providing for training programs to increase the number and competence of personnel engaged in the field of occupational safety and health.
9. Providing for the development and promulgation of occupational safety and health standards.
10. Providing an effective enforcement program which shall include a prohibition against giving advance notice of any inspection and sanctions for an individual violating this prohibition.
11. Providing for appropriate reporting procedures with respect to occupational safety and health which procedures will help achieve the objectives of this chapter and accurately describe the nature of the occupational safety and health problem.
12. Encouraging joint labor-management efforts to reduce injuries and disease arising out of employment.

13. Devoting adequate funds to the administration and enforcement of occupational safety and health standards and rules promulgated by the labor commissioner **(88.1)**.

Each employer shall furnish to each of the employer's employees employment and a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to the employer's employees and comply with occupational safety and health standards promulgated under this chapter. Each employee shall comply with occupational safety and health standards and all rules and orders issued pursuant to this chapter which are applicable to the employee's own actions and conduct **(88.4)**.

Iowa Code does not require health care facilities to request record checks for nursing and health care students who will perform tasks in health care facilities as part of academically required clinical training requirements. Sections 235A.15(2)"f" and 692.2 limit disclosure to a health care facility or a community college of information relating to crimes and, under some circumstances, child abuse. Section 135C.33(3) does not preclude a health care facility from refusing to employ persons who have "non-abuse criminal convictions"; subject to its arrangement with a community college, a health care facility may refuse to permit students with such convictions from participating in academically required clinical training requirements **(OAG #02-2-1)**.

### **Dress Codes and Personal Conduct Standards**

The general assembly finds and declares that the students and the administrative and instructional staffs of Iowa's public schools have the right to be safe and secure at school. Gang-related apparel worn at school draws attention away from the school's learning environment and directs it toward thoughts or expressions of violence, bigotry, hate, and abuse. The board of directors of a school district may adopt, for the district or for an individual school within the district, a dress code policy that prohibits students from wearing gang-related or other specific apparel if the board determines that the policy is necessary for the health, safety, or positive educational environment of students and staff in the school environment or for the appropriate discipline and operation of the school. Adoption and enforcement of a dress code policy is not a violation of section 280.22 [free expression] **(279.58)**.

The board of directors of a school district shall review and modify existing policies related to student discipline and student conduct that are designed to promote responsible behavior on school property and at school functions in order that the policy shall govern the conduct of students, teachers and other school personnel, and visitors; provide opportunities for students to exercise self-discipline and practice cooperative classroom behavior; and encourage students and practitioners to model fairness, equity, and respect. The policy shall specify the responsibilities of students, parents and guardians, and practitioners in creating an atmosphere where all individuals feel a sense of respect, safety, and belonging, and shall set forth the consequences for unacceptable behavior. The policy shall be published in the student handbook **(279.66)**.

### **Collective Bargaining**

The general assembly declares that it is the public policy of the state to promote harmonious and cooperative relationships between government and its employees by permitting public employees to organize and bargain collectively; to protect the citizens of this state by assuring effective and orderly operations of government in providing for their health, safety, and welfare; to prohibit and prevent all strikes by public employees; and to protect the rights of public employees to join or refuse to join, and to participate in or refuse to participate in, employee organizations **(20.1(1))**.

If any provision of chapter 20 jeopardizes the receipt by the state or any of its political subdivisions of any federal grant-in-aid funds or other federal allotment of money, the provisions of chapter 20 shall, insofar as the fund is jeopardized, be deemed to be inoperative **(20.27)**.

A provision of the Code which is inconsistent with any term or condition of a collective bargaining agreement which is made final under chapter 20 shall supersede the term or condition of the collective bargaining agreement unless otherwise provided by the general assembly. A provision of a proposed collective bargaining agreement negotiated according to chapter 20 which conflicts with the Code shall not become a provision of the final collective bargaining agreement until the general assembly has amended the Code to remove the conflict **(20.28)**.

#### **Employee Election**

Upon the filing of a petition for certification of an employee organization, the board shall submit a question to the public employees at an election in an appropriate bargaining unit found appropriate by the board. The question on the ballot shall permit the public employees to vote for no bargaining representation or for any employee organization

which has petitioned for certification or which has presented proof satisfactory to the board of support of ten percent [10%] or more of the public employees in the appropriate unit **(20.15(1))**.

### **Public Employer Rights and Responsibilities**

Public employers shall have, in addition to all powers, duties, and rights established by constitutional provision, statute, ordinance, charter, or special act, the exclusive power, duty, and the right to:

1. Direct the work of its public employees.
2. Hire, promote, demote, transfer, assign and retain public employees in positions within the public agency.
3. Suspend or discharge public employees for proper cause.
4. Maintain the efficiency of governmental operations.
5. Relieve public employees from duties because of lack of work or for other legitimate reasons.
6. Determine and implement methods, means, assignments and personnel by which the public employer's operations are to be conducted.
7. Take such actions as may be necessary to carry out the mission of the public employer.
8. Initiate, prepare, certify and administer its budget.
9. Exercise all powers and duties granted to the public employer by law **(20.7)**.

Upon the receipt by a public employer of a request from an employee organization to bargain on behalf of public employees, the duty to engage in collective bargaining shall arise if the employee organization has been certified by the board as the exclusive bargaining representative for the public employees in that bargaining unit **(20.16)**.

It shall be unlawful for any public employer to authorize, consent to, or condone a strike; or to pay or agree to pay any public employee for any day in which the employee participates in a strike; or to pay or agree to pay any increase in compensation or benefits to any public employee in response to or as a result of any strike or any act which violates this subsection. It shall be unlawful for any official, director, or representative of any public employer to authorize, ratify or participate in any violation of this subsection **(20.12(2))**.

### **Public Employee Rights and Responsibilities**

Public employees shall have the right to:

1. Organize, or form, join, or assist any employee organization.
2. Negotiate collectively through representatives of their own choosing.
3. Engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection insofar as any such activity is not prohibited by chapter 20 or any other law of the state.
4. Refuse to join or participate in the activities of employee organizations, including the payment of any dues, fees or assessments or service fees of any type **(20.8)**.

It shall be unlawful for any public employee or any employee organization, directly or indirectly, to induce, instigate, encourage, authorize, ratify or participate in a strike against any public employer **(20.12(1))**.

### **Scope of Negotiations**

The public employer and the employee organization shall meet at reasonable times, including meetings reasonably in advance of the public employer's budget-making process, to negotiate in good faith with respect to wages, hours, vacations, insurance, holidays, leaves of absence, shift differentials, overtime compensation, supplemental pay, seniority, transfer procedures, job classifications, health and safety matters, evaluation procedures, procedures for staff reduction, in-service training and other matters mutually agreed upon. Negotiations shall also include terms authorizing dues checkoff for members of the employee organization and grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the parties. If an agreement provides for dues checkoff, a member's dues may be checked off only upon the member's written request and the member may terminate the dues checkoff at any time by giving 30 days' written notice. Such obligation to negotiate in good faith does not compel either party to agree to a proposal or make a concession. All retirement systems shall be excluded from the scope of negotiations **(20.9)**.

### **Prohibited Practices**

It shall be a prohibited practice for any public employer, public employee, or employee organization to willfully refuse to negotiate in good faith with respect to the scope of negotiations as defined in section 20.9 **(20.10(1))**.

It shall be a prohibited practice for a public employer or the employer's designated representative to:

- a. Interfere with, restrain or coerce public employees in the exercise of rights granted by chapter 20.

- b. Dominate or interfere in the administration of any employee organization.
- c. Encourage or discourage membership in any employee organization, committee, or association by discrimination in hiring, tenure, or other terms or conditions of employment.
- d. Discharge or discriminate against a public employee because the employee has filed an affidavit, petition or complaint or given any information or testimony under chapter 20, or because the employee has formed, joined or chosen to be represented by any employee organization.
- e. Refuse to negotiate collectively with representatives of certified employee organizations as required in chapter 20.
- f. Deny the rights accompanying certification granted in chapter 20.
- g. Refuse to participate in good faith in any agreed upon impasse procedures or those set forth in chapter 20.
- h. Engage in a lockout **(20.10(2))**.

It shall be a prohibited practice for public employees or an employee organization or for any person, union or organization, or their agents to:

- a. Interfere with, restrain, coerce or harass any public employee with respect to any of the employee's rights under chapter 20 or in order to prevent or discourage the employee's exercise of any such right, including, without limitation, all rights under section 20.8.
- b. Interfere, restrain, or coerce a public employer with respect to rights granted in chapter 20 or with respect to selecting a representative for the purposes of negotiating collectively on the adjustment of grievances.
- c. Refuse to bargain collectively with a public employer as required in chapter 20
- d. Refuse to participate in good faith in any agreed upon impasse procedures or those set forth in chapter 20.
- e. Violate section 20.12 [prohibition of strikes].
- f. Violate the provisions of sections 732.1 to 732.3, which are hereby made applicable to public employers, public employees, and employee organizations.
- g. Picket in a manner which interferes with ingress and egress to the facilities of the public employer.
- h. Engage in, initiate, sponsor or support any picketing that is performed in support of a strike, work stoppage, boycott or slowdown against a public employer.
- i. Picket for any unlawful purpose **(20.10(3))**.

It shall be unlawful for any labor union, association or organization, or the officers, representatives, agents or members thereof, to enter into any contract, agreement, arrangement, combination or conspiracy for the purpose of, by strikes or threats of strikes, by violence or threats of violence, by coercion, or by concerted refusal to make, manufacture, assemble, or use, handle, transport, deliver or otherwise deal with any articles, products, or materials:

- 1. To force or require any person, firm or corporation to cease using, selling, handling, transporting or dealing in the goods or products of any other person, firm or corporation, or
- 2. To force or require any person, firm or corporation to cease selling, transporting, delivering good or products to any other person, firm or corporation, or
- 3. To force or require any employer other than their own employer to recognize, deal with, comply with the demands of, or employ members of any labor union, association, or organization, or
- 4. To force or require any employer to break an existing collective bargaining agreement which such employer may have with any labor union, association or organization **(732.1)**.

It shall be unlawful for any labor union, association or organization, or the officers, representatives, agents, or a member or members thereof to carry out or attempt to carry out in this state any contract, agreement, arrangement, combination or conspiracy declared unlawful in section 732.1 **(732.2)**.

It shall be unlawful for any labor union, group, association or organization, or the officers, representatives, agents or members thereof, to cause a stoppage or slowdown of the work or a part of the work of an employer because of a dispute between labor unions, groups, associations or organizations, or the officers, representatives, agents or members thereof, with respect to jurisdiction over, or the right to do the work or a part of the work of such employer **(732.3)**.

The expressing of any views, argument or opinion, or the dissemination thereof, whether orally or in written, printed, graphic, or visual form, shall not constitute or be evidence of any prohibited practice under any of the provisions of chapter 20, if such expression contains no threat of reprisal or force or promise of benefit **(20.10(4))**.

#### **Access to Mailboxes**

The board of directors of a school district shall provide not-for-profit, professional education associations that offer membership to teachers or administrators equal access to teacher or administrator mailboxes for distribution of professional literature **(279.59)**.

## Personnel Files and Privacy

### Personnel Files

An employee shall have access to and shall be permitted to obtain a copy of the employee's personnel file maintained by the employee's employer including but not limited to performance evaluations, disciplinary records, and other information concerning employer-employee relations. However, an employee's access to a personnel file is subject to all of the following:

- a. The employer and employee shall agree on the time the employee may have access to the employee's personnel file, and a representative of the employer may be present.
- b. An employee shall not have access to employment references written for the employee.
- c. An employer may charge a reasonable fee for each page of a copy made by the employer for an employee of an item in the employee's personnel file. Reasonable fee means an amount equivalent to an amount charged per page for copies made by a commercial copying business **(91B.1)**.

### Privacy

In *O'Connor v. Ortega* (**55 U.S.L.W. 4405**) the U.S. Supreme Court established that the privacy rights of public employees extend to their offices but that employers can search desks and files without warrants under certain circumstances.

## Iowa Gift Law

It is the goal of the general assembly that public officials and public employees of the state be extremely cautious and circumspect about accepting a gratuity or favor, especially from persons that have a substantial interest in the legislative, administrative, or political actions of the official or employee. Even where there is a genuine personal friendship, the acceptance of personal benefits from those who could gain advantage by influencing official actions raises suspicions that tend to undermine the public trust. It is therefore the intent of the general assembly that the provisions of chapter 68B, subchapter III, be construed to discourage all gratuities, but to prohibit only those that create unacceptable conflicts of interest or appearances of impropriety **(68B.21)**.

A gift means a rendering of anything of value in return for which legal consideration of equal or greater value is not given and received **(68B.2(9))**.

Except as otherwise provided in section 68B.22, a public official, public employee, or candidate, or that person's immediate family member shall not, directly or indirectly, accept or receive any gift or series of gifts from a restricted donor. A public official, public employee, candidate, or the person's immediate family member shall not solicit any gift or series of gifts from a restricted donor at any time **(68B.22(1))**.

Except as otherwise provided in section 68B.22, a restricted donor shall not, directly or indirectly, offer or make a gift or a series of gifts to a public official, public employee, or candidate. Except as otherwise provided in this section, a restricted donor shall not, directly or indirectly, join with one or more other restricted donors to offer or make a gift or a series of gifts to a public official, public employee, or candidate **(68B.22(2))**.

A restricted donor may give, and a public official, public employee, or candidate, or the person's immediate family member, may accept an otherwise prohibited nonmonetary gift or a series of otherwise prohibited nonmonetary gifts and not be in violation of this section if the nonmonetary gift or series of nonmonetary gifts is donated within thirty days to a public body, the department of administrative services, or a bona fide educational or charitable organization, if no part of the net earnings of the educational or charitable organization inures to the benefit of any private stockholder or other individual. All such items donated to the department of administrative services shall be disposed of by assignment to state agencies for official use or by public sale. A person subject to section 8.7 that receives a gift pursuant to this subsection shall file a report pursuant to section 8.7 **(68B.22(3))**.

Notwithstanding subsections 1 and 2, the following gifts may be received by public officials, public employees, candidates, or members of the immediate family of public officials, public employees, or candidates:

- a. Contributions to a candidate or a candidate's committee.
- b. Informational material relevant to a public official's or public employee's official functions, such as books, pamphlets, reports, documents, periodicals, or other information that is recorded in a written, audio, or visual format.
- c. Anything received from anyone related within the fourth degree by kinship or marriage, unless the donor is acting as an agent or intermediary for another person not so related.

- d. An inheritance.
- e. Anything available or distributed free of charge to members of the general public without regard to the official status of the recipient. This paragraph shall not apply to functions described under paragraph “s”.
- f. Items received from a bona fide charitable, professional, educational, or business organization to which the donee belongs as a dues-paying member, if the items are given to all members of the organization without regard to individual members’ status or positions held outside of the organization and if the dues paid are not inconsequential when compared to the items received.
- g. Actual expenses of a donee for food, beverages, registration, travel, and lodging for a meeting, which is given in return for participation in a panel or speaking engagement at the meeting when the expenses relate directly to the day or days on which the donee has participation or presentation responsibilities.
- h. Plaques or items of negligible resale value which are given as recognition for the public services of the recipient.
- i. Food and beverages provided at a meal that is part of a bona fide event or program at which the recipient is being honored for public service.
- j. Nonmonetary items with a value of three dollars or less that are received from any one donor during one calendar day.
- k. Items or services solicited by or given to a state, national, or regional government organization in which the state of Iowa or a political subdivision of the state is a member for purposes of a business or educational conference, seminar, or other meeting; or solicited by or given to state, national, or regional government organizations, whose memberships and officers are primarily composed of state or local government officials or employees, for purposes of a business or educational conference, seminar, or other meeting.
- l. Items or services received by members or representatives of members at a regularly scheduled event that is part of a business or educational conference, seminar, or other meeting that is sponsored and directed by any state, national, or regional government organization in which the state of Iowa or a political subdivision of the state is a member, or received at such an event by members or representatives of members of state, national, or regional government organizations whose memberships and officers are primarily composed of state or local government officials or employees.
- m. Funeral flowers or memorials to a church or nonprofit organization.
- n. Gifts which are given to a public official or public employee for the public official’s or public employee’s wedding or twenty-fifth or fiftieth wedding anniversary.
- o. Payment of salary or expenses by a person’s employer or the firm in which the person is a member for the cost of attending a meeting of a subunit of an agency when the person whose expenses are being paid serves on a board, commission, committee, council, or other subunit of the agency and the person is not entitled to receive compensation or reimbursement of expenses from the state or a political subdivision of the state for attending the meeting.
- p. Gifts of food, beverages, travel, or lodging received by a public official or public employee if all of the following apply:
  - 1) The public official or public employee is officially representing an agency in a delegation whose sole purpose is to attract a specific new business to locate in the state, encourage expansion or retention of an existing business already established in the state, or to develop markets for Iowa businesses or products.
  - 2) The donor of the gift is not the business or businesses being contacted. However, food or beverages provided by the business or businesses being contacted which are consumed during the meeting are not a gift under section 68B.2, subsection 9, or this section.
  - 3) The public official or public employee plays a significant role in the presentation to the business or businesses on behalf of the public official’s or public employee’s agency.
- q. Gifts other than food, beverages, travel, and lodging received by a public official or public employee which are received from a person who is a citizen of a country other than the United States and are given during a ceremonial presentation or as a result of a custom of the other country and are of personal value only to the donee.
- r. Actual registration costs for informational meetings or sessions which assist a public official or public employee in the performance of the person’s official functions. The costs of food, drink, lodging, and travel are not “registration costs” under this paragraph. Meetings or sessions which a public official or public employee attends for personal or professional licensing purposes are not “informational meetings or sessions which assist a public official or public employee in the performance of the person’s official functions” under this paragraph.
- s. Gifts of food, beverage, and entertainment received at a function where every member of the general assembly has been invited to attend, when the function takes place during a regular session of the general assembly. A sponsor of a function under this paragraph shall file a registration prior to the function taking place identifying the sponsor and the date, time, and location of the function. The registration shall be filed with the person or persons designated by the secretary of the senate and the chief clerk of the house and with the board. After a function takes place, the sponsor of the function shall file a report disclosing the total

amount expended, including in-kind expenditures, on food, beverage, and entertainment for the function. The report shall be filed with the person or persons designated by the secretary of the senate and the chief clerk of the house and with the board within 28 calendar days following the date of the function **(68B.22(4))**.

An honorarium means anything of value that is accepted or given as consideration for an appearance, speech, or article **(68B.2(10))**.

A public official or public employee shall not seek or accept an honorarium from a restricted donor **(68B.23(1))**.

A public official or public employee may accept an honorarium from any person under the following circumstances:

- a. The honorarium consists of payment of actual expenses of a donee for registration, food, beverages, travel, and lodging paid in return for participation in a panel or speaking engagement at a meeting when the expenses relate directly to the day or days on which the recipient has participation or presentation responsibilities.
- b. The honorarium consists of a nonmonetary item or series of nonmonetary items that the public official or public employee donates within thirty days to a public body, a bona fide educational or charitable organization, or the department of administrative services as provided in section 68B.22, subsection 3.
- c. The honorarium consists of a payment made to a public official or public employee for services rendered as part of a bona fide private business, trade, or profession in which the public official or public employee is engaged if the payment is commensurate with the actual services rendered and is not being made because of the person's status as a public official or public employee, but, rather, because of some special expertise or other qualification **(68B.23(2))**.

An official shall not, directly or indirectly, seek or accept a loan or series of loans from a person who is a lobbyist. A lobbyist shall not, directly or indirectly, offer or make a loan or series of loans to an official. A lobbyist shall also not, directly or indirectly, join with one or more persons to offer or make a loan or series of loans to an official. This section shall not apply to loans made in the ordinary course of business. For purposes of this section, a loan is "*made in the ordinary course of business*" when it is made by a person who is regularly engaged in a business that makes loans to members of the general public and the finance charges and other terms of the loan are the same or substantially similar to the finance charges and loan terms that are available to members of the general public **(68B.24)**.

The term expenditure, not otherwise defined, should be given its ordinary meaning as a disbursement for the purpose of lobbying **(OAG #92-9-3)**.

A gift is merely something transferred by one person to another without compensation regardless of the form and would include food and drink **(OAG #87-1-13)**.

A discount on a computer purchase is not a gift prohibited by the gift law if the purchase price constitutes legal consideration of equal or greater value than the computer products and the discount reflects a list price available to a particular segment of the public. Ultimately, determination of the market value of the computer products is an issue of fact. If the computer retailer is not a "restricted donor" within the scope of the statute, the gift law does not apply and a discount could not violate the gift law **(OAG #93-7-7(L))**.

## **Employee Exchange Programs and Sharing**

Any department, agency, or instrumentality of the state, county, city, municipality, land-grant college, or college or university operated by the state or any local government is authorized to participate in a program of interchange of employees with departments, agencies, or instrumentalities of the federal government, another state or locality, or other agencies, municipalities, or instrumentalities of this state as a sending or receiving agency. The period of individual assignment or detail under an interchange program shall not exceed 24 months, except that an employee may be assigned for an additional 24-month period upon the agreement of the employee and both the sending and receiving agencies. No employee shall be assigned or detailed without the employee's expressed consent or by using undue coercion to obtain said consent. Details relating to any matter covered in chapter 28D may be the subject of an agreement between the sending and receiving agencies. Elected officials shall not be assigned from a sending agency nor detailed to a receiving agency. The period of individual assignment or detail may be terminated if the receiving agency offers a permanent appointment to the employee and both the sending and receiving agencies agree. Persons employed by the department of natural resources, department of administrative services, and the Iowa communications network under chapter 28D are not subject to the 24-month time limitation **(28D.3)**.

Two or more public school districts may jointly employ and share the services of any school personnel **(280.15(1))**.

If funds are appropriated by the general assembly, an Iowa teacher exchange program is established to permit school districts to exchange licensed instructional personnel with other districts in order to promote the exchange and enhancement of instructional methods and materials and encourage the educational development of Iowa's teachers. Community colleges may exchange their instructional personnel only with other community colleges under this program (279.55). Teachers may be exchanged for one quarter, one semester, or one school year under the program (279.57).

AEAs may cooperate and contract between themselves and with other public agencies to provide special education programs and services, media services, and educational services to schools and children residing within their respective areas (273.3(6)).

The school budget review committee (SBRC) may recommend that two [2] or more school districts jointly employ and share the services of any school personnel, or acquire and share the use of classrooms, laboratories, equipment, and facilities as specified in section 280.15 (257.31(13), 280.15(1)).

The board of an AEA shall not establish programs and services which duplicate programs and services which are or may be provided by the community colleges under the provisions of chapter 260C. An AEA shall contract, whenever practicable, with other school corporations for the use of personnel, buildings, facilities, supplies, equipment, programs and services (273.2(6)).

AEA boards are authorized, subject to the approval of the director of the Department of Education, to enter into agreements for the joint use of personnel, buildings, facilities, supplies, and equipment with school corporations as deemed necessary to provide authorized programs and services (273.3(8)).

The board of any school district or AEA may employ public health nurses at periods each year and in numbers as deemed advisable. The council of any city, or the board of any school district, [or the board of any AEA], or any of them acting in cooperation, may contract with any nonprofit nurses' association for public health nursing service. The compensation and expenses shall be paid out of the general fund of the political subdivision employing nurses (143.1).

The board of directors of a school district may employ a superintendent of schools for a term of not to exceed three years. Boards of directors may jointly exercise the powers conferred (279.20).

The board of an AEA or a consortium of two or more AEAs shall contract with one or more licensed dietitians for the support of nutritional provisions in individual education plans (IEPs) developed in accordance with chapter 256B and to provide information to support school nutrition coordinators (273.2(7)).

Public funds may not be spent to support voluntary programs provided by nonprofit private agencies. However, the services provided by such agencies may be obtained under Chapter 28E agreements where joint exercise of governmental power is warranted (OAG #76-9-2).

The AEA board is authorized, subject to rules of the state board of education, to provide directly or by contractual arrangement with public or private agencies for special education programs and services, media services, and educational programs and services requested by the local boards of education as provided in chapter 273, including but not limited to contracts for the AEA to provide programs or services to the local school districts and contracts for local school districts, other educational agencies, and public and private agencies to provide programs and services to the local school districts in the AEA in lieu of the AEA providing the services. Contracts may be made with public or private agencies located outside the state if the programs and service comply with the rules of the state board. (273.3(5)).

AEAs may cooperate and contract between themselves and with other public agencies to provide special education programs and services, media services, and educational services to schools and children residing within their respective areas. The AEA may provide print and nonprint materials to public and private colleges and universities that have teacher education programs approved by the state board of education (273.3(6)).

The boards of local school districts may approve cooperation and pooling of funds with other school districts to establish and provide for the general supervision of a community education program to the extent that residents of the districts have provided funding pursuant to the levy in chapter 300 (276.10(7)).

## **Staff Development**

The state board shall adopt rules establishing standards for school district and AEA professional development programs and for individual teacher professional development plans in accordance with section 284.6 (256.7(25)).

### Teacher Staff Development

1. The department shall coordinate a statewide network of professional development for Iowa teachers. A school district or professional development provider that offers a professional development program in accordance with section 256.9, subsection 46, shall demonstrate that the program contains the following:
  - a. Support that meets the professional development needs of individual teachers and is aligned with the Iowa teaching standards.
  - b. Research-based instructional strategies aligned with the school district's student achievement needs and the long-range improvement goals established by the district.
  - c. Instructional improvement components including student achievement data, analysis, theory, classroom demonstration and practice, technology integration, observation, reflection, and peer coaching.
  - d. An evaluation component that documents the improvement in instructional practice and the effect on student learning.
2. The department shall identify models of professional development practices that produce evidence of the link between teacher training and improved student learning.
3. A school district shall incorporate a district professional development plan into the district's comprehensive school improvement plan submitted to the department in accordance with section 256.7, subsection 21. The district professional development plan shall include a description of the means by which the school district will provide access to all teachers in the district to professional development programs or offerings that meet the requirements of subsection 1. The plan shall align all professional development with the school district's long-range student learning goals and the Iowa teaching standards. The plan shall indicate the school district's approved professional development provider or providers.
4. In cooperation with the teacher's evaluator, the career teacher employed by a school district shall develop an individual teacher professional development plan. The evaluator shall consult with the teacher's supervisor on the development of the individual teacher professional development plan. The purpose of the plan is to promote individual and group professional development. The individual plan shall be based, at minimum, on the needs of the teacher, the Iowa teaching standards, and the student achievement goals of the attendance center and the school district as outlined in the comprehensive school improvement plan. The individual plan shall include goals for the individual which are beyond those required under the attendance center professional development plan developed pursuant to subsection 7.
5. The teacher's evaluator shall annually meet with the teacher to review progress in meeting the goals in the teacher's individual plan. The teacher shall present to the evaluator evidence of progress. The purpose of the meeting shall be to review the teacher's progress in meeting professional development goals in the plan and to review collaborative work with other staff on student achievement goals and to modify as necessary the teacher's individual plan to reflect the individual teacher's and the school district's needs and the individual's progress in meeting the goals in the plan. The teacher's supervisor and the evaluator shall review, modify, or accept modifications made to the teacher's individual plan.
6. School districts, a consortium of school districts, area education agencies, higher education institutions, and other public or private entities including professional associations may be approved by the state board to provide teacher professional development. The professional development program or offering shall, at minimum, meet the requirements of subsection 1. The state board shall adopt rules for the approval of professional development providers and standards for the district development plan.
7. Each attendance center shall develop an attendance center professional development plan. The purpose of the plan is to promote group professional development. The attendance center plan shall be based, at a minimum, on the needs of the teachers, the Iowa teaching standards, district professional development plans, and the student achievement goals of the attendance center and the school district as set forth in the comprehensive school improvement plan.
8. For each year in which a school district receives funds calculated and paid to school districts for professional development pursuant to section 257.10, subsection 10, or section 257.37A, subsection 2, the school district shall create quality professional development opportunities. The goal for the use of the funds is to provide one additional contract day or the equivalent thereof for professional development and use of the funds is limited to providing professional development to teachers, including additional salaries for time beyond the normal negotiated agreement; pay for substitute teachers, professional development materials, speakers, and professional development content; and costs associated with implementing the individual professional development plans. The use of the funds shall be balanced between school district, attendance center, and individual professional development plans, making every reasonable effort to provide equal access to all teachers.
9. Moneys received pursuant to section 257.10, subsection 10, or section 257.37A, subsection 2, shall be maintained as a separate listing within a school district's or AEA's budget for funds received and expenditures made pursuant to this subsection. A school district shall certify to the department of education how the school district allocated the funds and that moneys received under this subsection were used to

supplement, not supplant, the professional development opportunities the school district would otherwise make available.

10. If funds are allocated for purposes of professional development pursuant to section 284.13, subsection 1, paragraph “d”, the department shall, in collaboration with the AEAs, establish teacher development academies for school-based teams of teachers and instructional leaders. Each academy shall include an institute and shall provide follow-up training and coaching **(284.6)**.

Each school district shall incorporate into its comprehensive school improvement plan provisions for the professional development of all staff, including the district professional development plan required in 281—paragraph 83.6(2) “a.” To meet the professional needs of all staff, professional development activities shall align with district goals; shall be based on student and staff information; shall prepare all employees to work effectively with diverse learners and to implement multicultural, gender fair approaches to the educational program; and shall adhere to the professional development standards in 281—paragraph 83.6(2) “b” to realize increased student achievement, learning, and performance as set forth in the comprehensive school improvement plan **(IAC 281—12.7(1)“a”)**.

Each school district shall ensure that every attendance center has an attendance center professional development plan that addresses, at a minimum, the needs of the teachers in that center; the Iowa teaching standards; the district professional development plan; and the student achievement goals of the attendance center and the school district as set forth in the comprehensive school improvement plan **(IAC 281—12.7(1)“b”)**.

Each school district shall ensure that every teacher as defined in rule 281—83.2(284,284A) has an individual teacher professional development plan that meets the expectations in 281—subrule 83.6(1) **(IAC 281—12.7(1)“c”)**.

The board shall annually budget specified funds to implement the plan required in paragraph 12.7(1) “a” **(IAC 281—12.7(1)“d”)**.

Each school district and AEA shall support the development and implementation of the individual teacher professional development plan for teachers other than beginning teachers. The purpose of the individual plan is to promote individual and collective professional development. At a minimum, the goals for an individual teacher professional development plan must be based on the relevant Iowa teaching standards that support the student achievement goals of the teacher’s classroom or classrooms, attendance center and school district or area education agency, as appropriate, as outlined in the comprehensive school improvement plan, and the needs of the teacher. The goals shall go beyond those required under the attendance center professional development plan described in subrule 83.6(2), paragraph “c.” The learning opportunities provided to meet the goals of the individual teacher plan include individual study and collaborative study of district-determined or AEA-determined content to the extent possible. The individual plan shall be developed by the teacher in collaboration with the teacher’s evaluator. An annual meeting shall be held between the teacher’s evaluator and the teacher to review the goals and refine the plan **(IAC 281—83.6(1))**.

The following requirements shall apply to professional development for school districts and AEAs.

- a. *District or AEA professional development plan.* Each school district shall incorporate the district professional development plan into its comprehensive school improvement plan pursuant to Iowa Code subsection 284.6(3). Each AEA shall develop a professional development plan for the agency as a whole and shall incorporate the same into its comprehensive improvement plan pursuant to rule 281—72.9(273). The district or AEA professional development plan shall be a long-term plan designed and implemented to increase student achievement and shall include all site and district or AEA personnel responsible for instruction. The district or AEA professional development plan shall contain, but not be limited to, the following:
  - 1) Documentation that the professional development is based on student data and other needs assessment; aligned with district student achievement goals; and focused on instruction, curriculum, and assessment.
  - 2) Documentation that professional development learning opportunities are research-based and aligned with the Iowa teaching standards and criteria.
  - 3) Identification of the approved professional development provider(s).
  - 4) A description of a process that includes theory, demonstration, practice, observation, collaboration, and the study of implementation.
  - 5) A description of a program evaluation design for formative and summative evaluation processes.
- b. *Professional development standards.* Implementation of a school district’s or AEA’s professional development plan shall meet the following standards:
  - 1) Align with the Iowa teaching standards and criteria;
  - 2) Deliver research-based instructional strategies aligned with the student achievement goals established by the district;
  - 3) Deliver professional development training and learning opportunities that are targeted at instructional improvement and designed with the following components:

1. Student achievement data and analysis;
  2. Theory;
  3. Classroom demonstration and practice;
  4. Observation and reflection;
  5. Teacher collaboration and study of implementation; and
  6. Integration of instructional technology, if applicable;
- 4) Include an evaluation component of professional development that documents the improvement in instructional practice and the effect on student learning; and
  - 5) Support the professional development needs of district licensed staff responsible for instruction.
- c. *Attendance center professional development plans.* Each attendance center within a school district shall develop an attendance center professional development plan as a means of promoting group professional development. An attendance center professional development plan shall further the needs of the teachers in the attendance center and shall enhance the student achievement goals of the attendance center and the goals of the district.
  - d. *Individual professional development plans.* The school district and AEA shall support the development and implementation of the individual teacher professional development plan for each teacher as outlined in subrule 83.6(1). Each individual teacher professional development plan shall align to the fullest extent possible with the district professional development plan.
  - e. *Beginning teacher mentoring and induction.* The school district shall support the development and implementation of a beginning teacher mentoring and induction plan as outlined in subrule 83.3(3).
  - f. The district beginning teacher mentoring and induction plan shall be included in the comprehensive school improvement plan submitted pursuant to Iowa Code section 256.7(21), paragraph “a,” and shall align with the district professional development plan described in subrule 83.6(2), paragraph “a.”
  - g. *Organizational support for professional development.* The school district shall provide resources and support for the district professional development plan, including professional development provider(s), time for collaborative work of staff, budget, policies, and procedures (**IAC 281—83.6(2)**).

*Professional development provider requirements.*

- a. A provider may be a school district, an AEA, a higher education institution, a public or private entity including a professional organization that provides long-term, ongoing support of the district’s or area education agency’s professional development plan, or a consortium of any of the foregoing. An educational organization or program with specific professional development accreditation or approval from the department is an approved provider.
- b. Provider approval procedures must be followed to approve providers identified in the district’s or AEA’s professional development plan that are not currently accredited or approved through state accreditation procedures. The potential provider must submit to the school district a written application that provides the following documentation:
  - 1) How the provider will deliver technical assistance that meets the Iowa professional development standards provided in subrule 83.6(2), paragraph “b.”
  - 2) How the provider intends to assist the local district in designing, implementing, and evaluating professional development that meets the requirements established in subrule 83.6(2), paragraph “a.”
  - 3) A description of the qualifications of the provider.
  - 4) Evidence of the provider’s expertise in professional development.
  - 5) A budget.
  - 6) Procedures for evaluating the effectiveness of the technical assistance delivered by the provider (**IAC 281—83.6(3)**).

**School Business Official Training and Staff Development**

Institutions of public and private higher education, AEAs, and professional organizations engaged in the preparation of school business officials shall meet the standards contained in this chapter in order to obtain and maintain state board approval of their programs. Each institution that seeks state board approval of its programs for school business official preparation shall file evidence of the extent to which each program meets the standards contained in this chapter. Such evidence shall be demonstrated by means of a written self-evaluation report and an evaluation conducted by the department and shall be prepared using a template developed by the department. Only approved programs may recommend candidates for school business official authorization (**IAC 281—81.2**).

Approval by the state board of an institution’s school business official preparation program shall be based on the recommendation of the director after study of the factual and evaluative evidence on record about each program in terms of the standards contained in this chapter.

**81.3(1)** Approval, if granted, shall be for a term of seven years; however, approval for a lesser term may be granted by the state board if it determines conditions so warrant.

**81.3(2)** If approval is not granted, the applicant institution will be advised concerning the areas in which improvement or changes appear to be essential for approval. In this case, the institution shall be given the opportunity to present factual information concerning its programs at a regularly scheduled meeting of the state board, no later than three months following the board's initial decision.

**81.3(3)** Programs may be granted conditional approval upon review of appropriate documentation. In such an instance, the program shall receive a full review after one year or, in the case of a new program, at the point at which candidates demonstrate mastery of standards for authorization.

**81.3(4)** The standards herein apply regardless of delivery mode of instruction (**IAC 281—81.3**).

Instructor qualifications and performance shall facilitate the professional development of school business official candidates in accordance with the following provisions.

**81.5(1)** Instructors are adequately prepared for assigned responsibilities and have had experiences relative to the curricula the instructors are teaching and in situations similar to those for which the school business official candidates are being prepared. Instructors have experience and adequate preparation in effective methods for any mode of program delivery in which the instructors are assigned responsibilities.

**81.5(2)** Instructors instruct and model best practices in teaching, including the assessment of the instructors' own effectiveness as it relates to candidate performance.

**81.5(3)** Instructors are engaged in professional development that relates to school business official preparation.

**81.5(4)** Instructors collaborate regularly and in significant ways with colleagues in the institution and other institutions, schools, the department, and professional associations as well as with community representatives.

**81.5(5)** Part-time instructors and graduate assistants are identified as instructors and meet the background and experience requirements appropriate for the instructors' and assistants' assigned responsibilities (**IAC 281—81.5**).

Upon request by the department, programs shall make periodic reports which shall include, but not be limited to, basic information necessary to maintain up-to-date records of each school business official preparation program and to carry out research studies relating to school business official preparation (**IAC 281—81.9**).

Every seven [7] years or at any time deemed necessary by the director, an institution shall file a written self-evaluation of its school business official preparation program. Any action for continued approval or rescission of approval shall be approved by the state board (**IAC 281—81.10**).

Upon application by an institution, the director is authorized to approve minor additions to or changes within the curriculum of an institution's approved school business official preparation program. When an institution proposes a revision that exceeds the primary scope of its programs, the revision shall become operative only after approval by the state board (**IAC 281—81.11**).

Required or recommended staff development includes, but is not limited to, the following:

1. Investigating Incidents of Alleged Abuse of Student by School Employees (**IAC 281--102.5(4)**).
2. Equal Employment Opportunity and Affirmative Action (**IAC 281--95.4(5)**).
3. School Bus Driver's Course (**321.376(2)**).
4. Identification and Reporting of Child Abuse Training (**232.69(3)**).
5. Educational Assistants (**IAC 281--12.4(9)**).
6. All Staff on diverse learners (**IAC 281—12.7(1)"a"**).
7. Gifted and Talented (**IAC 281--59.5(8)**).
8. Human Growth and Development (**279.50(7)**).
9. Parenting Skills and Human growth and Development for Parents (**279.50(6)**).
10. Career Pathways Grant for Implementation of High-standard Curriculum (**256.39(2)"c"**).
11. Confidentiality of Personally Identifiable Information (**IAC 281—41.623**).
12. Special Education Paraprofessionals (**IAC 281—41.403(1)"a"**).
13. Medication Administrative Course (**IAC 281—41.404(3)"d"**, **IAC 657—8.32(1)**).
14. Hazardous Chemicals/Materials (**IAC 347—120.6(2)**, **29 CFR 1910.1200**).
15. Bloodborne Pathogens (**29 CFR 1910.1030**).
16. Asbestos (**40 CFR 763.92**).

## Mentoring

### Beginning Teachers

*"Beginning teacher"* means an individual serving under an initial or intern license, issued by the board of educational examiners under chapter 272, who is assuming a position as a teacher. For purposes of the beginning teacher mentoring

and induction program created pursuant to section 284.5, “*beginning teacher*” also includes preschool teachers who are licensed by the board of educational examiners under chapter 272 and are employed by a school district or AEA. “*Beginning teacher*” does not include a teacher whose employment with a school district or AEA is probationary unless the teacher is serving under an initial or teacher intern license issued by the board of educational examiners under chapter 272 **(284.2(1))**.

Each school district and AEA shall provide a beginning teacher mentoring and induction program for all teachers who are beginning teachers, and notwithstanding section 284.4, subsection 1, a school district and an AEA shall be eligible to receive moneys under section 284.13, subsection 1, paragraph “b”, for purposes of implementing a beginning teacher mentoring and induction program in accordance with this section **(284.5(2))**.

Each school district and AEA shall develop an initial beginning teacher mentoring and induction plan. A school district shall include its plan in the school district’s comprehensive school improvement plan submitted pursuant to section 256.7, subsection 21. The beginning teacher mentoring and induction plan shall, at a minimum, provide for a two-year sequence of induction program content and activities to support the Iowa teaching standards and beginning teacher professional and personal needs; mentor training that includes, at a minimum, skills of classroom demonstration and coaching, and district expectations for beginning teacher competence on Iowa teaching standards; placement of mentors and beginning teachers; the process for dissolving mentor and beginning teacher partnerships; district organizational support for release time for mentors and beginning teachers to plan, provide demonstration of classroom practices, observe teaching, and provide feedback; structure for mentor selection and assignment of mentors to beginning teachers; a district facilitator; and program evaluation **(284.5(3))**.

### **Beginning Administrator**

“*Beginning administrator*” means an individual serving under an administrator license, issued by the board of educational examiners under chapter 272, who is assuming a position as a school district principal or superintendent for the first time **(284A.2(2))**. “*Administrator*” means an individual holding a professional administrator license issued under chapter 272 who is employed in a school district administrative position by a school district or AEA pursuant to a contract issued by a board of directors under section 279.23 and is engaged in instructional leadership. An administrator may be employed in both an administrative and a nonadministrative position by a board of directors and shall be considered a part-time administrator for the portion of time that the individual is employed in an administrative position. “*Administrator*” does not include assistant principals or assistant superintendents **(284A.2(1))**.

Each school board shall establish an administrator mentoring program for all beginning administrators. The school board may adopt the model program developed by the department pursuant to subsection 2. Each school board’s beginning administrator mentoring and induction program shall, at a minimum, provide for one year of programming to support the Iowa standards for school administrators adopted pursuant to section 256.7, subsection 27, and beginning administrators’ professional and personal needs. Each school board shall develop and implement a beginning administrator mentoring and induction plan. The plan shall describe the mentor selection process, describe supports for beginning administrators, describe program organizational and collaborative structures, provide a budget, provide for sustainability of the program, and provide for program evaluation. The school board employing an administrator shall determine the conditions and requirements of an administrator participating in a program established pursuant to this section. A school board shall include its plan in the school district’s comprehensive school improvement plan submitted pursuant to section 256.7, subsection 21 **(284A.5(3))**.

### **School Business Official**

The one-year mentoring program and its partners shall assist candidates in becoming successful school business officials in accordance with the following provisions. The candidate must be employed as a school business official to be eligible to participate in the mentoring program.

- 1) Candidates admitted to a school business official preparation program shall participate in the mentoring program. All hours spent in the mentoring program are outside of the nine semester hours required in the program.
- 2) Each school business official preparation program shall inform all candidates of the following minimum expectations of the candidates as mentees:
  - a. Participation in weekly conversations with the mentee’s mentor, including a review of work assignments.
  - b. Maintenance of a record of contacts with the mentor and submission of the record to the program. A template will be provided by the program.
  - c. Completion of surveys to assist with program evaluation.
  - d. Communication with the program if the relationship with the mentee’s mentor is not meeting the needs or expectations of the mentee.

- e. Full participation in the mentoring program throughout the one-year period.
- 3) Each school business official preparation program shall inform all program candidate mentors of the following minimum expectations:
  - a. Contacting the mentee on a weekly basis.
  - b. Completing surveys to assist with program evaluation.
  - c. Informing the program if the relationship with the mentee is not meeting expectations.
  - d. Maintaining confidentiality of the interactions between mentor and mentee.
  - e. Supporting the mentee throughout the one-year period.
- 4) The institution shall offer one or more workshops annually for all cooperating mentors to define the objectives of the mentoring program, review the responsibilities of the cooperating mentors, and provide the cooperating mentors other information and assistance the institution deems necessary. The workshops shall utilize delivery strategies identified as appropriate for staff development and reflect information gathered through feedback from workshop participants (**IAC 281—81.8**).

### **Committees and Advisory Councils**

All appointive boards, commissions, committees, and councils of a political subdivision of the state that are established by the Code, if not otherwise provided by law, shall be gender balanced as provided by subsection 1 unless the political subdivision has made a good faith effort to appoint a qualified person to fill a vacancy on a board, commission, committee, or council in compliance with subsection 1 for a period of three months but has been unable to make a compliant appointment. In complying with the requirements of this subsection, political subdivisions shall utilize a fair and unbiased method of selecting the best qualified applicants (**69.16A(2)**).

Required or recommended committees and advisory councils include, but are not limited to, the following:

1. Family Support Program Advisory Committee (**256A.5**).
2. Child Development Coordinating Council (**256A.2, 279.51**).
3. School Improvement Advisory Committee (**280.12(2), IAC 281--12.2**).
4. Advisory Council for Vocational Education (**258.9**).
5. Gifted and Talented Children Advisory Council (**257.42**).
6. Teacher Quality Committee (**284.4"e"**).
7. Persons with Disabilities Parking Review Committee (**321L.5**).
8. Education Telecommunications Council (**8D.5**).

### **Required Posters**

Required or recommended posters include, but are not limited to, the following:

1. Employee rights and responsibilities under the Family and Medical Leave Act (FMLA).
2. Your Rights Under Iowa's Minimum Wage.
3. Federal Minimum Wage (Fair Labor Standards Act (FLSA)).
4. Equal Employment Opportunity.
5. Safety & Health Protection on the Job.
6. Unemployment Insurance.
7. Summary of Work-Related Injuries and Illnesses.
8. No Smoking Iowa Smoke-free Air Act.
9. The Uniformed Services Employment and Reemployment Act (USERRA).

For more information on Workplace Poster Requirements for Employers, see the poster page of the United States Department of Labor at <http://www.dol.gov/oasam/programs/osdbu/sbrefa/poster/matrix.htm>.