

FREQUENTLY ASKED QUESTIONS (FAQ) FOR MANAGERS

Regarding changes to Iowa Code Chapter 20

May 24, 2017

GENERAL INFORMATION

Q: Why are you posting these FAQs?

A: Since the announcement that HF 291 was signed by the Governor, there have been questions regarding conditions of state employment, and this is our attempt to answer as many as we can. Please know these FAQs are not an exhaustive discussion of state employment rules.

Where possible, we have included links to other helpful resources for you. As changes are made through this transition period, the included links may change. If the link you attempt to access is no longer active, please contact your Human Resources Associate or your DAS Personnel Officer for more information. We will be refreshing this FAQ with permanent sites and links as soon as they are available.

Q: How do I figure out who my DAS Personnel Officer is?

A: Personnel Officer assignments can be found here:

https://das.iowa.gov/HRE_Assignments_Phone_Listings.

Q: What does a DAS Personnel Officer do?

A: Each agency is assigned a Personnel Officer, who is your first point of contact for human resource management information and problem resolution. In addition to the Personnel Officer, please also consult our online resources, including the Managers and Supervisor Manual. Services provided by your assigned Personnel Officer include issues relating to State labor relations, performance, rules and policies, job classification, employment, and special pay actions.

For more information, go here:

https://das.iowa.gov/sites/default/files/hr/documents/managers%26supervisors_service-guide.pdf.

Q: What statutes, rules and policies apply to executive branch state employees?

A: Several sources govern executive branch employees:

- Iowa Code sections 1C.2, 8.36A, 8.43, 8A.110, 8A.401, 8A.402, 8A.411-8A.418, 8A.431-8A.439, 8A.451-8A.459, 8A.512A, and Iowa Code chapters 19B, 20, 28D, 68B, 70A, and 509A, as well as any specific code language applicable to the appointing authority's code chapter;
- An applicable collective bargaining agreement;
- Iowa Administrative Code chapters 11—43, 46, 50-68, and 71;
- The State of Iowa Employee Handbook; and
- An agency's handbook and/or agency work unit's policies and procedures.

Provisions in statute, rule, or policy may apply to all employees or may only apply to a sub-set of employees (e.g., only contract-covered employees, only merit-covered, etc.). In order to determine if a rule relates to all employees or a subset thereof, please read the provision.

To find a current copy of the Iowa Code, go here: <https://www.legis.iowa.gov/law/statutory>.

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To find current copies of the applicable Collective Bargaining Agreements, go here:
<https://das.iowa.gov/human-resources/collective-bargaining>

To find a current copy of DAS" administrative rules, go here:
<https://www.legis.iowa.gov/law/administrativeRules/agencies>

To find a current copy of the State of Iowa Employee Handbook go here:
https://das.iowa.gov/sites/default/files/hr/documents/SOI_EE_Handbook.pdf

To find a current copy of your appointing authority's handbook or your work unit's individual policies and procedures, please ask your supervisor or your agency Human Resources Associate (HRA).

Q: Which topics are covered in the DAS administrative rules?

A: DAS rules are found in Iowa Administrative Code chapters 11—43, 46, 50-66 and 68. The topics by chapter are listed below.

Chapter 43 - Employee Payroll Deductions for Charitable Organizations
Chapter 46 – Payroll Deductions for Additional Insurance Coverage
Chapter 50 – Human Resource Definitions
Chapter 51 – Merit System Coverage and Exclusion
Chapter 52 – Job Classification
Chapter 53 – Pay
Chapter 54 – Recruitment, Application, and Examinations
Chapter 55 – Eligible Lists
Chapter 56 – Filling Vacancies
Chapter 57 – Appointments
Chapter 58 – Probationary Periods
Chapter 59 – Promotion/Transfer/Temp. Assignment, Reassignment and Voluntary Demotion
Chapter 60 – Separations, Discipline, and Reduction in Force
Chapter 61 – Grievance and Appeals
Chapter 62 – Performance Review
Chapter 63 – Leave
Chapter 64 – Benefits
Chapter 65 – Political Activity
Chapter 66 – Conduct of Employee
Chapter 68 – Equal Employment Opportunity and Affirmative Action

Q: What rules have changed?

In order to comply with the chapter 20 changes, and to clarify certain state and federal employee rights, the DAS administrative rules have been reviewed and revised; the State of Iowa Employee Handbook is also being revised and will be re-issued on or about July 1.

Agencies and appointing authorities are also being encouraged to review their policies and practices to comply with the DAS administrative rule changes and the State of Iowa Employee Handbook.

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Q: *When will the new rules be announced?*

A: There is a formal process which DAS, or any agency, must follow under Iowa Code chapter 17A in order to change its administrative rules. The process requires certain standard procedures and timelines be followed for filing and adopting administrative rules.

DAS-HRE filed proposed rule changes on May 5, 2017, implementing some of the chapter 20 changes. These proposed rules became public on May 24, 2017. Proposed rule changes can be found at the Iowa Administrative Bulletin (IAB) and Iowa Administrative Code (IAC) Supplement website at:

<https://www.legis.iowa.gov/law/administrativeRules/bulletinSupplementListings>.

DAS anticipates that on or about July 1, 2017, and following adoption of the amended DAS administrative rules, DAS will release a new State of Iowa Employee Handbook and Managers and Supervisors Manual, both of which will be available online.

On or about May 24, 2017, DAS will post web-based training modules, each of which will be five to seven minutes in length and cover separate administrative rules.

POSITION TYPES

Q: *How many different kinds of permanent employees work in the executive branch?*

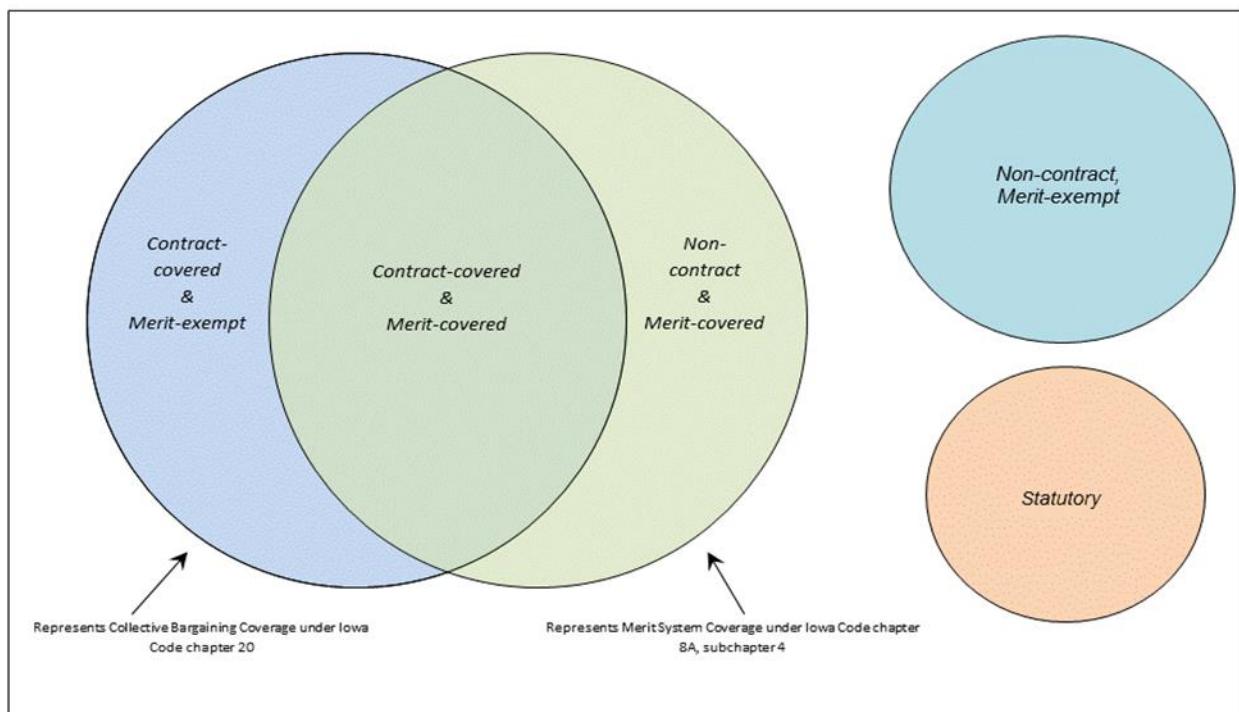
There are five different types of permanent employees in the executive branch:

- contract-covered, merit-covered;
- non-contract, merit-covered;
- contract covered, merit-exempt;
- non-contract, merit-exempt; and
- statutory.

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Q: How can I tell if I, or any of my employees, are “contract-covered”?

A: The State of Iowa's [Classification and Pay Plans](#) include information on each job class' bargaining unit and status. A given job class may have more than one set of codes, so it's important to refer to the correct class code. In addition to the job class' bargaining unit and status, the codes from these documents describe each job class' overtime eligibility pay plan, pay grade, and class code. Further explanation of these codes may be found at: https://das.iowa.gov/sites/default/files/hr/documents/class_and_pay/PayPlans/class_explanation.pdf.

Q. What does “contract covered” provide?

A: A position that is “contract-covered” receives negotiated benefits as set forth in the contract under which that position is covered. The changes to chapter 20 altered the scope of subjects that employee organizations (unions) and public employers negotiate.

A bargaining unit that does not have a majority of members who are public safety employees, must negotiate with respect to base wages and may negotiate with respect to other matters mutually agreed upon between employee organizations (unions) and public employer, unless prohibited by law.

A bargaining unit with a majority of members who are public safety employees, has an expanded list of mandatory bargaining topics, including wages, hours, vacations, insurance, holidays, leaves of absence, shift differentials, overtime compensation, supplemental pay,

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seniority, transfer procedures, job classifications, health and safety matters, evaluation procedures, procedures for staff reduction, in-service training, grievance procedures for resolving any questions arising under the agreement, and may negotiate with respect to other matters mutually agreed upon.

Q: How can I tell if I, or any of my employees, are “merit-covered”?

A: Merit coverage within the state employment system is found in Iowa Code chapter 8A, subchapter IV and Iowa Administrative Code chapter 11—51. This authority provides a system of human resource administration based on merit principles to govern the appointment, compensation, promotion, welfare, development, transfer, layoff, removal, and discipline of its civil employees, and other incidents of state employment.

All employees are merit-covered unless specifically exempted by section 8A.412 or by specific appointing authority code provision.

If not specifically exempted by statutory authority, in order for an agency to seek merit-exemption for a position, the job position must be reviewed by the DAS Labor Relations Team. This form is called a Merit Exemption Questionnaire (MEQ). A copy of the form can be found here: https://das.iowa.gov/sites/default/files/hr/documents/MS_manual/Chapters/SM-03-51.pdf.

If you have questions as to whether a position is merit-exempt, please contact your Human Resources Associate.

Q. What does “merit coverage” provide?

A: Iowa Code chapter 8A, subchapter IV, along with Iowa Administrative Code chapter 11—51 governs the appointment, compensation, promotion, welfare, development, transfer, layoff, removal, and discipline of its civil employees and other instances of state employment by agency appointing authorities. Pursuant to 8A.413, new hires must serve a six-month probationary period to gain permanent employment.

Once a merit-covered employee gains permanent status, discipline or termination may only occur under a “just cause” standard. The grievance process for non-contract merit-covered employees is provided in Iowa Code section 8A.415 and Iowa Administrative Code chapter 11—61. Grievances filed by contract-covered, merit-covered employees as of July 1 may also be governed by these authorities. This grievance procedure is a three-step process, with the Public Employee Relations Board (PERB) hearing the dispute if it proceeds beyond the third step.

OVERTIME / COMP TIME / STANDBY / CALL BACK

Q: Who will be eligible for overtime pay as of July 1?

A: Only those employees in classes designated by DAS to be “overtime-eligible” pursuant to Iowa Administrative Code chapter 11—53.11(2) will be eligible for overtime pay for hours worked over 40 in any given workweek. Currently, DAS categorizes overtime-eligible employees pursuant to the Fair Labor Standards Act (FLSA). Iowa Administrative Code 1153 allows for other job classifications to be designated as overtime eligible; however, there are no job classes currently designated except for those classes that are federally mandated to receive

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overtime under the FLSA.

Q: *How do I determine if a classification is “overtime-eligible”?*

A: To tell if a classification is overtime eligible, go to:

<https://eservices.iowa.gov/icpp/index.faces>. Look at the “overtime” status column. If there is a “0” in the column, the job class is not eligible for overtime. If there is a “2” in the column, the class is eligible for premium (time and a half) overtime. If there is a “1” in the column, that job class is eligible for overtime until June 30, 2017. On July 1, 2017, these “1” codes will change to a “0” code and will no longer be eligible for overtime.

For overtime-eligible classes, overtime earned as of July 1, 2017, will be based on the actual hours worked in that workweek, not the hours the employee is in pay status (sick leave, vacation, etc.). Overtime entitlement cannot be waived by the employee.

The State of Iowa's [Classification and Pay Plans](#) include information on each job class' overtime eligibility. A given job class may have more than one classification number, and thus more than one set of codes, so it is important to refer to the correct class code. In addition to the overtime eligibility, the codes from these documents describe each job class' bargaining unit and status, pay plan, pay grade, and class code. More explanation of these codes may be found at: https://das.iowa.gov/sites/default/files/hr/documents/class_and_pay/PayPlans/class_explanation.pdf.

Q: *Will supervisors still have to equalize overtime or distribute it in a particular manner as of July 1?*

A: There is no Iowa Administrative Code rule requiring overtime equalization, nor do the rules require overtime be distributed in a particular manner. Agencies are encouraged to develop policies to set forth the manner in which overtime will be offered or mandated.

Note: The SPOC collective bargaining agreement continues to contain provisions regarding overtime and its distribution.

Q: *Can employees still receive compensatory time for hours worked over 40 in any given workweek as of July 1?*

A: Only classes that are designated “overtime-eligible” under Iowa Administrative Code 11—53.11(2) will receive compensatory time as of July 1. Iowa Administrative Code 11—53.11(5) allows “overtime eligible” classes to accrue up to 80 hours of compensatory time before it must be paid out.

Compensatory time can be paid out at any time, but it must be paid out if the employee separates, transfers to a different agency, or moves to a class with a different overtime eligibility code. Like overtime paid as cash, compensatory time will be earned at the premium (time-and-a-half) rate.

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An agency may require the compensatory time be paid in cash and at the agency's discretion, compensatory time payouts may be paid to employees at any time. Up to 80 hours may be carried over to the next fiscal year.

Q: Will employees receive standby and/or callback pay as of July 1?

A: Overtime-eligible employees will continue to receive standby and/or callback pay under Iowa Administrative Code 11—53.9. The rule also allows for other job classifications to be designated as “standby and/or callback eligible.”

In order for an FLSA-exempt position to be designated “standby and/or callback eligible,” the appointing authority must submit a business case to the Department of Administrative Services Director for consideration.

The request must be signed by the Department Director of the Agency. If granted, DAS sets the amount of extra pay that may be provided.

SHIFT DIFFERENTIAL / MEDICATION PASSER PAY

Q: Will employees receive shift differential as of July 1?

A: Shift differential applies to shifts in which the employee is in an overtime-eligible position; is scheduled to work four or more hours of the shift between the hours of 6:00 p.m. and 6:00 a.m. for two or more consecutive workweeks; or is regularly assigned to rotate shifts.

The differential amount is set by DAS. There will be one rate for employees who have a majority of their hours fall between 6:00 p.m. and midnight, and a higher rate for employees who have a majority of their hours fall between midnight and 6:00 a.m.

Q: Will employees who receive medication passer pay receive that pay differential as of July 1?

A: All agencies who choose to offer this benefit to an executive branch employee must request a “pay differential” under Iowa Administrative Code 11—53.8 for that individual employee or class of employees. The form can be found here

https://das.iowa.gov/sites/default/files/hr/documents/MS_manual/552-0125_Special_Pay_Appointment_Action_M40.docx

The form must be signed by the Department Director of the Agency. If granted, DAS sets the amount of extra pay that may be provided as a differential.

PERFORMANCE EVALUATIONS / WITHIN-GRADE INCREASES

Q: How will within-grade pay increases be handled as of July 1?

A: Executive branch state employees are subject to Iowa Administrative Code 11—62 which requires that within-grade pay increases be based upon an employee's performance.

Agencies have the discretion to determine how much of an increase certain levels of performance will receive. Agencies are encouraged to develop guidelines regarding within-grade pay increases. Following is an example of how to set up guidelines:

[Agency Name] Within Grade Pay Increase Guidelines
for Fiscal Year _____

____% Exceeds Expectations

____% Exceeds Expectations on majority of strategies/goals

____% Exceeds Expectations on one strategy/goal which must be primary job duty

____% Meets Expectations

____% Meets Expectations; however requires prompting/counseling to complete assigned job duties

____% - ____% Has one or more strategies/goals that Does Not Meet Expectations

0% Does Not Meet Expectations

Exceeds Expectations: Consistently performs well beyond expectations on all strategies/goals, actions steps, performance criteria, and timetables; does consistent outstanding work; must be demonstrable/visible work for each strategy/goal.

Meets Expectations: Performance consistently fulfills the job requirements and expectations on all strategies/goals, action steps, performance criteria, and timetables; is doing job expected for classification.

Does Not Meet Expectations: Performance does not consistently meet expectations on all strategies/goals, actions steps, performance criteria, and timetables; reevaluation must be conducted within 6 months.

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Iowa Administrative Code chapter 11—62 requires a performance evaluation for each employee at least every 12 months. Evaluations may be given more often. The failure to provide such review every 12 months may be grieved under Iowa Administrative Code chapter 11—61.

Note: The SPOC collective bargaining agreement has within-grade pay increase provisions in it.

Q: Does a performance evaluation need to be completed for an employee to receive an increase?

A: Yes. An eligible employee must have a performance evaluation that is dated within the last 12 months on file to receive a within-grade pay increase. The evaluation must indicate the employee achieved an overall rating of “meets expectations” or “exceeds expectations” to receive an increase.

Q: How will work schedules be set and/or changed as of July 1?

A: Managers and supervisors may set and change schedules as deemed appropriate in order to meet the agency’s operational needs. Agency managers and supervisors are not prohibited from temporarily changing employee schedules to avoid incurring overtime costs. DAS administrative rules do not contain requirements regarding how schedules are set and changed.

Note: The SPOC collective bargaining agreement has schedule change provisions in it.

VACATION / HOLIDAYS / SICK LEAVE / SLIP

Q: Will leave types still be the same as of July 1?

A: Executive branch state employees will still be eligible for authorized leave, including vacation, sick, and holiday leave, as well as the Family Medical Leave Act (FMLA) and any other types of authorized leave outlined in Iowa Code, the Iowa Administrative Code chapter 11—63, and the State of Iowa Employee Handbook.

Vacation leave accrual is granted pursuant to Iowa Code chapter 70A and Iowa Administrative Code chapter 11—63.2. Holidays are granted to employees who are eligible to accrue vacation and sick leave pursuant to Iowa Code chapter 1C and the Iowa Administrative Code section 11—63.8.

Sick leave is administered in accordance with Iowa Code chapter 70A and Iowa Administrative Code section 11—63.3. With the exception of SPOC-covered employees (whose CBA has specific provisions), sick leave may be used for personal illness and medical and dental appointments. Employees may also use sick leave, not to exceed a total of 40 hours, for death in the immediate family and temporary care or necessary attention to members of the immediate family.

FMLA continues to be administered as required by federal law. See the FMLA fact sheet and

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FAQs at <https://das.iowa.gov/human-resources/fmla> for additional information.

Note: The SPOC collective bargaining agreement contains specific provisions regarding leave.

Q: *How will vacation be approved as of July 1?*

A: Granting vacation under Iowa Administrative Code 11— 63.2(2) is subject to the approval of the employee's appointing authority. Appointing authorities must approve vacation so as to maintain the efficient operation of the agency; take into consideration the vacation preferences and needs of the employee; and make every reasonable effort to provide vacation to prevent any loss of vacation accrual. Agencies are encouraged to develop policies or guidelines for granting vacation.

Note: The SPOC collective bargaining agreement continues to contain provisions regarding vacation.

Q: *Do any of the changes affect SLIP?*

A: The SLIP program is covered in Iowa Code chapter 70A and is not affected by changes to chapter 20. Employees who retire during the 2017 calendar year will be able to choose from applicable collectively bargained plans. However, SLIP retirees must choose from the same insurance plans of existing employees. The benefits enrollment and change period will take place again this fall and, as in previous years, any plan changes or updates will be included in that process.

Watch for more information to come.

MEDICAL LEAVE WITHOUT PAY

Q: *What happens to the 90-day medical leave without pay under previous collective bargaining agreements as of July 1?*

A: AFSCME and IUP covered employees will no longer be eligible for this type of leave; however, all executive branch state employees are entitled to receive 12 weeks of FMLA qualified leave and an eight-week leave of absence with the appropriate medical documentation under Iowa Administrative Code section 11—63.5(4). This leave will run concurrent with FMLA leave.

For further information regarding this type of leave, please consult with your Personnel Officer.

JUST CAUSE / GRIEVANCE PROCEDURE

Q: *Will “just cause” still be required to take disciplinary action?*

A: The “just cause” requirement will continue to apply to merit-covered employees. Unless some other statutory requirement dictates, there is no “just cause” requirement for merit-exempt

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employees.

Q: *What will happen with grievances filed under the 2015-2017 collective bargaining agreements?*

A: Grievances arising under the 2015-2017 collective bargaining agreements will be processed in accordance with the dispute resolution processes (*i.e.*, grievance procedures) outlined in those collective bargaining agreements.

Q: *What types of grievances are employees able to file as of July 1?*

A: An employee, regardless of bargaining status, may file a grievance utilizing the grievance procedure set forth in Iowa Code section 8A.415 and Iowa Administrative Code chapter 11—61. Merit covered employees may file grievances with respect to disciplinary action challenging whether just cause existed for the discipline. In addition to individual grievances, employees are permitted to file “group” grievances under Iowa Code section 8A.415 and Iowa Administrative Code chapter 11—61.

Note: SPOC-covered employees must use their own grievance process under their CBA, if available. Grievances regarding issues not covered by the SPOC CBA are allowed to follow the Iowa Administrative Code chapter 11—61 grievance process.

Q: *How are grievances filed under DAS administrative rules?*

A: Employees utilize a DAS-authored [grievance form](#) to file grievances. Employees may not utilize any other form(s) to file a grievance.

Q: *What are the steps of the grievance procedure outlined in DAS administrative rules?*

A: **Step 1** - An employee must file grievance with his/her supervisor within 14 days from the date the employee knew or should have known of the existence of a grievable issue. The supervisor has 14 days from the date of filing to issue an answer to the grievance. The supervisor must provide a written copy of the answer to the employee and must also submit a copy of the answer to the hre-lrt.coordinator@iowa.gov inbox.

Step 2 - If not satisfied with the step 1 answer, the employee may appeal to step 2 within seven days from the date the step 1 answer was, or should have been, issued. The appointing authority designates a party it deems appropriate to answer the 2nd step grievance. The designee must issue an answer within 14 days from the date the grievance is received. The designee must provide a written copy the answer to the employee and must also submit a copy of the answer to the hre-lrt.coordinator@iowa.gov inbox.

Step 3 - If not satisfied with the step 2 answer, the employee may appeal to step 3 within 7 days from the date the step 2 answer was, or should have been, issued. DAS Labor Relations is the designated party that considers grievances at step 3. For grievances involving suspensions (with- or without pay), reductions in pay, demotions and discharges for merit-covered employees, grievances must be submitted directly to step 3 of the grievance procedure within seven days from the issuance of the disciplinary notice. DAS must issue a decision within 30 days from the date the grievance is received.

If not satisfied with the step 3 answer, an employee may submit an appeal to the Public

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Employment Relations Board (PERB) within 30 days from the date the grievance was, or should have been, answered.

Q: Are supervisors and designees required to hold grievance meetings?

A: No. Pursuant to Iowa Administrative Code chapter 11—61, all that is required is that the management representative (*i.e.*, the supervisor or designee) provide an answer to the submitted grievance within the designated timeframes. However, the management representative may choose to hold a meeting. When it is determined that a grievance meeting will be held, all reasonable attempts must be made to hold the grievance meeting during the employee's regularly scheduled work hours.

Note: As a matter of best practices, it is highly encouraged that the management representative discuss the matter with the employee prior to issuing an answer.

Q: If a grievance meeting is held, who is allowed to attend?

A: In addition to anyone management deems necessary to attend, an employee may be assisted at grievance meetings by a peer who is of the same bargaining status as the employee provided the peer's attendance would not constitute a conflict of interest or unreasonably interfere with the operations of the employing agency.

LAYOFF / BUMPING / RECALL / TRANSFERS

Q: What will change with respect to layoff procedures?

A: Iowa Administrative Code chapter 11— 60 will continue to govern the State's process for retention points for merit-covered positions. Effective July 1, contract-covered, merit-covered employees will also be governed by DAS rules. Layoff procedures have a few significant changes under these rules. First, an appointing authority determines the layoff unit. Layoffs will be by class within the layoff unit and the order will be determined by retention points as set forth in Iowa Administrative Code section 11—60.3. Retention points are the total number of points based on length of service and performance record. Credit for length of service shall be given at one point for each month of service of continuous employment with the executive branch. Credit for performance is given at the rate of one point for each month of service with an overall performance rating of "meets" or "exceeds" expectations. Any length of service without a performance evaluation will be counted as meets expectations. The order of the layoff will be based on the total retention points.

Employees subject to layoff will be eligible to bump to a lower class within the same series or to a lower formerly held class within the layoff unit.

Employee's recall rights are for one year to the same class within the layoff unit at the time of the layoff.

Q: Will employees who are currently on recall lists remain on recall as of July 1?

A: Iowa Administrative Code chapter 11— 60 will govern employee recall rights as of July 1. Please consult with your personnel officer regarding specific questions relating to employee recall rights.

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Q: How will vacancies be filled as of July 1?

A: Iowa Administrative Code chapter 11—56 sets forth how vacancies must be filled, which is the same process that managers and supervisors currently use to fill non-contract positions.

Q: How will transfers be handled as of July 1?

A: Transfers may be granted at the discretion of the agency. As noted above, all positions must be filled in accordance with Iowa Administrative Code chapter 11—56.

OTHER ITEMS

Q: Will the attendance policy of my organization change?

A: This is up to your agency. There is no Iowa Administrative Code chapter which governs the implementation of an attendance policy.

Q: Will employees still be eligible for reimbursement of protective equipment (including safety shoes and glasses); cold weather gear; or uniforms as of July 1?

A: DAS-SAE is promulgating policies regarding the reimbursement of the following items: protective equipment (including safety shoes and glasses); cold weather gear; uniforms. Unless required by law, agencies have discretion regarding reimbursement of these items. If an agency elects to reimburse employees it must be consistent with DAS-SAE policy. To find DAS SAE policies go here: <https://das.iowa.gov/state-accounting/sae-policies-procedures-manual>.

Q: Will the Managers and Supervisors Manual be updated?

A: Yes. An updated Managers and Supervisor's Manual is currently in development. DAS-HRE will send an email to agencies when the manual becomes available, which is anticipated to be on or about July 1, 2017.