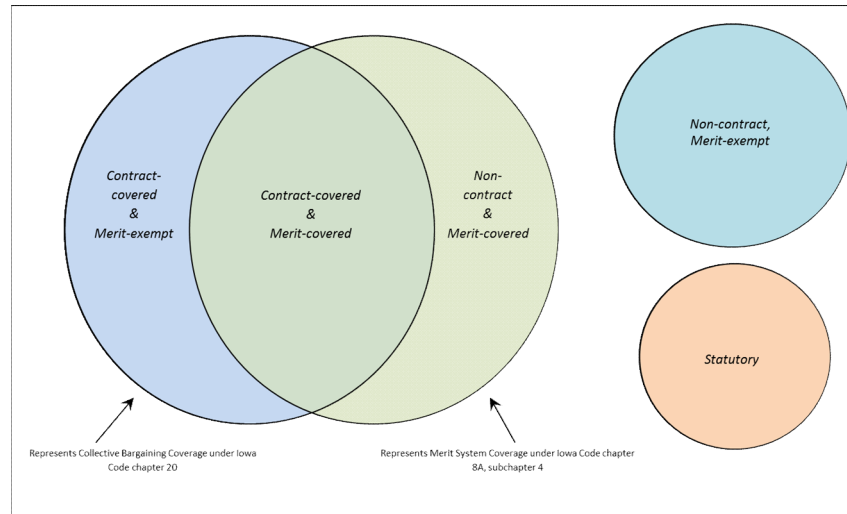




THE MERIT SYSTEM – WHAT IT IS AND WHY DOES IT MATTER?



Merit System & Collective Bargaining



What Is The Merit System?

Merit System Established -

- Iowa Code 8A subchapter IV, part 2 - Merit system
- Administrative Rules, 11—51.2 (8A) Merit system



What Is The Merit System?

- Exclusions to Merit System
 - 8A.412 Merit system — applicability — exceptions
 - 51.2(1) Exclusion of division administrators and policy-making positions.
 - 51.2(2) Exclusion of confidential employees.



Management Rights

20.7 Public employer rights.

- 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.

Pay

Covered by Collective Bargaining

- Base wages – remain a mandatory subject of bargaining

Provided for in Administrative Rules

- Chapter 53 Pay
 - Overtime
 - Compensatory Time
 - Shift Differential
 - Call Back
 - Standby
 - Increases

Leave

Not Covered under the 2017-2019 CBA

- 90 day medical leave without pay

Provided for in Administrative Rules

- Chapter 63 Leave
 - Vacation Leave
 - Sick Leave
 - Leave without Pay
 - Holidays
 - FMLA – Federal Law

Performance Evaluations

No Longer Covered by Collective Bargaining

- AFSCME - Entitled to a fair and impartial performance evaluation
- IUP – Fair and Reasonable, only rating below the meets expectation level may be grieved

Provided for in Administrative Rules

- Chapter 62 Performance Evaluations
- Chapter 53 Pay

Discipline and Grievances

Not Covered Under the 2017-2019 CBA

Grievance Procedure

- Representation
- Processing Grievances
- GRIP

Provided for in Administrative Rules

- Chapter 60 Separations, Disciplinary Actions and Reduction in Force
 - Just Cause Standard
- Chapter 61 Grievances and Appeals
 - Grievance Process
 - Peer

Employee Status - Discipline

- Merit covered, Contract covered
 - Disciplinary grievances can be filed
- Merit covered, Non-Contract
 - Disciplinary grievances can be filed
- Merit Exempt, Contract covered
 - Disciplinary grievances cannot be filed
- Merit Exempt, Non-Contract (At-will)
 - Disciplinary grievances cannot be filed

Reduction in Force

No Longer Covered by Collective Bargaining

- Lay-off Procedures
- Seniority
- Bumping
- Recall – Pick 15

Provided for in Administrative Rules

- Chapter 60 Separations, Disciplinary Actions and Reduction in Force
- Retention Points
- Bumping
- Recall

Employee Status – Reduction in Force

- Merit covered, Contract covered
 - Covered under Admin Rules for a Reduction in Force
- Merit covered, Non-Contract
 - Covered under Admin Rules for a Reduction in Force
- Merit Exempt, Contract covered
 - Not covered by Admin Rules for a Reduction in Force
- Merit Exempt, Non-Contract (At-will)
 - Not covered by Admin Rules for a Reduction in Force

Vacancies and Hiring Process

Not Covered Under the 2017-2019 CBA

- Definition of a Permanent Vacancy
- AFSCME – 12 Step Hiring Process
- IUP – 4 Step Hiring Process

Provided for in Administrative Rules

- Chapter 59 Separations, Disciplinary Action, and Reduction in Force
 - Transfer - Vacant Position

Thank You for Attending

Resources –
Assigned Personnel Officer or
Labor Relations Team Member

DAS Administrative Rules



Overtime Application and Pay Administration



Overtime

- Fair Labor Standards Act (FLSA) – federal law
- Either Covered or Exempt
 - DAS-HRE designates by class
- FLSA-Covered employees:
 - OT based on *hours worked* in excess of 40
 - Premium overtime of 1.5 times the regular rate
 - Compensatory time off may be earned in lieu of cash
- FLSA-Exempt employees: no OT required

Overtime Application (Current State)

- Current overtime for FLSA-exempt employees
 - “Straight,” or hour-for-hour overtime
 - *Examples: Accountants, Info Tech Specialists, Program Planners, Public Defenders, Revenue Examiners*
 - “Premium,” or time-and-a-half overtime
 - *Examples: Registered Nurses, Activities Specialists, Physician Assistants*
 - No overtime
 - *Examples: Education Program Consultants, Librarians, Educators*

Overtime Application (Current State)

- CBAs: OT calculations for most classes based on hours worked in excess of 40 hours in *pay status*
 - includes vacation, comp time, sick leave, etc.

OVERTIME

Overtime Application (Future State)

- Defaulting to what is required by the FLSA
 - FLSA-covered positions will continue to earn premium overtime (no change from current state)
 - FLSA-exempt positions will no longer earn overtime
- Handled the same way as non-contract employees

Compensatory Time Changes

- Comp Time Bank Maximums (current)
 - Some up to 240 hours
- Comp Time Bank Maximums (future)
 - Will be capped at 80 hours
 - Same as non-contract employees



HRIS Changes

- Compensatory time bank maximum hours (set to 80)
- Overtime codes
 - Determined by FLSA status
- Time types
 - Fewer time types to choose from
 - Similar to non-contract staff

Within-Grade (Merit) Increases

- Within-grade increases in the CBAs are currently automatic “step” increases (4.5%)
- Future State: Same process as non-contract employees
 - Not automatic
 - Still in accordance with the employee’s pay increase eligibility date
 - Based on performance; evaluation must be on file

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Within-Grade (Merit) Increases

- Best practices
 - Structure applied consistently and fairly among employees
 - Performance



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Within-Grade (Merit) Increases

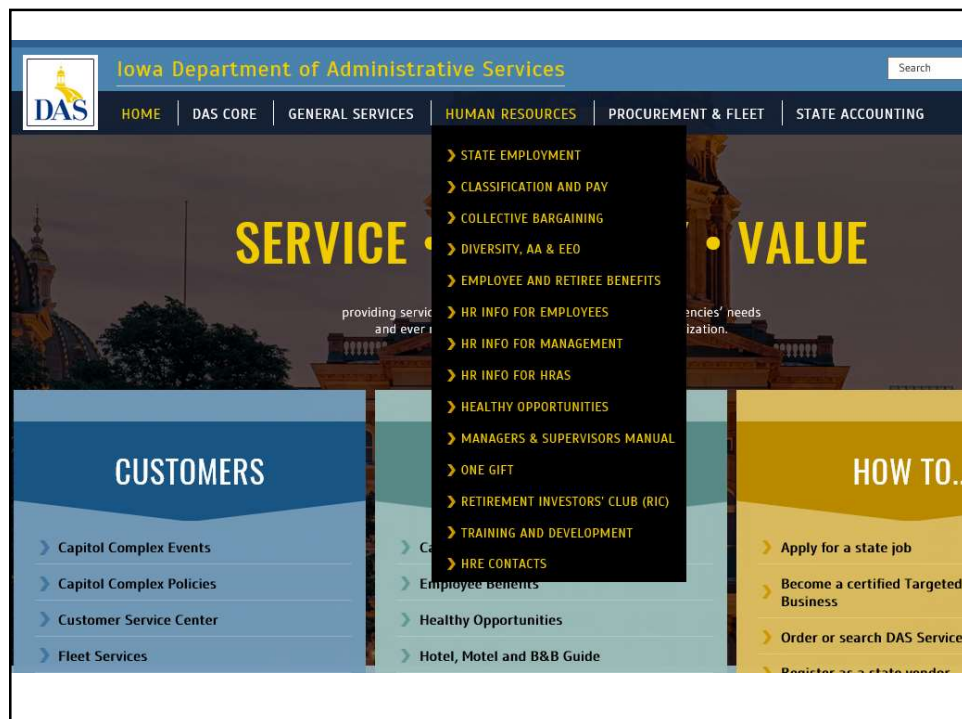
Sample structure:

% Increase	Rating Guidelines
____ %	Overall rating of Exceeds Expectations
____ %	Exceeds Expectations on one primary goal
____ %	Overall rating of Meets Expectations
____ %	Overall rating of Meets Expectations; however, requires prompting/counseling to complete assigned job duties
____ %	Overall rating of Meets Expectations; however, has one or more strategies/goals that Does Not Meet Expectations
____ %	Overall rating of Does Not Meet Expectations

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Class and Pay Plans

- The State's Class and Pay Plan has codes for the following fields:
 - OT Eligibility
 - FLSA Status
 - Bargaining Unit and Status
 - Pay Plan
 - Pay Grade
 - 5-Digit Job Class Code



Classification and Pay

The Human Resources Enterprise Classification and Compensation section administers many programs related to employee pay and job classification. Some of the other responsibilities of the Human Resources Classification and Compensation section include: overtime policies, salary and benefit surveys, processing and post-auditing payroll documents, job evaluation, and rules.

The Job Classification System is designed to provide an orderly and equitable process to group job duties and responsibilities. Job classes provide the basis upon which recruitment and screening, pay grades, and other human resource management decisions are made.

Classification and Compensation Resources

Job Class Descriptions	Job classification descriptions provide more detailed information on the job classifications in state government. Information includes examples of work duties, competencies (knowledge, abilities, and skills) required for successful performance, and minimum education and experience qualification requirements.
Classification Series Guidelines	Classification series guidelines provide more detailed information on the different levels of job classifications within a series.
Class and Pay Plans	Classification and pay plans which are suitable for printing are available at this link.
Interactive Class and Pay Plan	The interactive class and pay plan shows rates of pay and the job class descriptions for any job class. Locate job classes by partial or complete job class title or code.
Selective List	<p>The list of additional qualification requirements (known as selectives) is available in PDF format, and is organized two different ways:</p> <ol style="list-style-type: none"> 1. A categorical list sorts all selectives into categories based on type of required technical competency. The various categories are listed in the table of contents. Some selectives appear in more than one category. 2. A numerical list arranges all selectives numerically by three-digit code. <p>Each selective has a definition explaining its requirements. Both the categorical and numerical lists are searchable for specific words by using the <i>Edit > Find</i> function in Adobe Reader.</p>

Interactive Class and Pay Plan

Class Plan

[Class Plan](#)

Enter Full/Partial Job Title or Class Code

[View all Classes](#)

first previous 1 2 3 4 5 6 7 8 9 10 next last

Click Class Titles Below to see Class and Pay Information

[Click Here to See Codes Defined](#)

Class Title	Class Code	Pay Plan	Pay Grade	Over Time	FLSA	Bargain Unit	EEQ	OCC
ACCOUNT CONSULTANT	04796	014	32	1	N	004N	6	4850
ACCOUNTANT 2	00311	014	26	1	N	004N	2	0800
ACCOUNTANT 2	90311	000	26(-04)	0	N	004E	2	0800
ACCOUNTANT 3	00312	014	30	1	N	004N	2	0800
ACCOUNTANT 3	90312	000	30	0	N	004E	2	0800
ACCOUNTANT 3 (SUPERVISOR)	00314	000	30	0	N	004S	2	0800
ACCOUNTANT 4	00315	000	34	0	N	004S	2	0800
ACCOUNTANT/AUDITOR 1	00309	014	22	1	N	004N	2	0800
ACCOUNTING CLERK 1	00305	014	14	2	Y	001N	6	5120
ACCOUNTING CLERK 2	00306	014	17	2	Y	001N	6	5120
ACCOUNTING CLERK 3	00307	014	19	2	Y	001N	6	5120
ACCOUNTING CLERK 3	90307	000	19	2	Y	001E	6	5120
ACCOUNTING TECHNICIAN 1	00290	014	17	2	Y	002N	6	5120
ACCOUNTING TECHNICIAN 2	00292	014	20	2	Y	002N	6	5120
ACCOUNTING TECHNICIAN 2	90292	000	20	2	Y	002E	6	5120
ACCOUNTING TECHNICIAN 3	00294	014	23	2	Y	002N	6	5120
ACCOUNTING TECHNICIAN 3	90294	000	23	2	Y	002E	6	5120

Interactive Class and Pay Plan

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Search

View all Classes

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ACCOUNTANT 3	00312	014	30	1	N	004N	2	0800
ACCOUNTANT 3	90312	000	30	0	N	004E	2	0800
ACCOUNTANT 3 (SUPERVISOR)	00314	000	30	0	N	004S	2	0800
ACCOUNTANT 4	00315	000	34	0	N	004S	2	0800
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ACCOUNTING CLERK 1	00305	014	14	2	Y	001N	6	5120
ACCOUNTING CLERK 2	00306	014	17	2	Y	001N	6	5120
ACCOUNTING CLERK 3	00307	014	19	2	Y	001N	6	5120
ACCOUNTING CLERK 3	90307	000	19	2	Y	001E	6	5120
ACCOUNTING TECHNICIAN 1	00290	014	17	2	Y	002N	6	5120
ACCOUNTING TECHNICIAN 2	00292	014	20	2	Y	002N	6	5120
ACCOUNTING TECHNICIAN 2	90292	000	20	2	Y	002E	6	5120
ACCOUNTING TECHNICIAN 3	00294	014	23	2	Y	002N	6	5120
ACCOUNTING TECHNICIAN 3	90294	000	23	2	Y	002E	6	5120

Interactive Class and Pay Plan		
Pay Plan		
Return to Class Plan > Pay Plan		
Enter Full/Partial Job Title or Class Code <input type="text"/>		<input type="button" value="Search"/>
View all Classes		
<div>Class Title: ACCOUNTING CLERK 2 (00306)</div> <div>Pay Plan: 014 Pay Grade: 17</div> <div>Effective Date: 12/30/2016</div>		
----	MIN	MAX
Hourly	\$14.70	\$21.40
Biweekly	\$1,176.00	\$1,712.00
Yearly	\$30,576.00	\$44,512.00
View Job Class Description and Minimum Qualifications		

Resources

- Interactive Class and Pay Plan
- DAS-HRE Managers & Supervisors Manual
- Your Human Resources Associate (HRA)
- Your DAS-HRE Personnel Officer



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Work Schedules and Leave Types



Shift Differential

- ***AFSCME Article VIII, Section 6***
- ***IUP Social Services Unit Article VIII, Section 8***
- ***IUP Science Unit - No provision***

Shift Differential

- ***DAS administrative rule – 11.50.1, 11-53.9(1)***
 - Shift differential will be determined by **the Director and paid in cents per hour.**
 - One rate for the 6:00 pm to midnight time period.
 - One rate for the midnight to 6:00 am time period.
 - Anticipate Shift Differential to remain or similar to the same rate - when determined, info will be shared by management.

Call Back

- ***AFSCME Article VIII, Section 8***
- ***IUP Social Services Unit Article VIII, Section 7***
- ***IUP Science Unit Article VIII, Section 7***

- ***DAS administrative rule – 11.50.1, 11-53.9(2)***
 - Guaranteed minimum of 3 hours.
 - FLSA exempt do not get overtime.

Standby

- ***AFSCME Article VIII, Section 7***
- ***IUP Social Services Unit Article VIII, Section 4***
- ***IUP Science Unit Article VIII, Section 4***

Standby

- ***DAS administrative rule – 11.50.1, 11-53.9(3)***
 - 10% hourly rate no premium for holidays.
 - Standby does not count as time worked for overtime purpose.
 - FLSA exempt do not get overtime.

Holiday & Holiday Premium Pay

- ***AFSCME Article IX, Section 12***
- ***IUP Social Services Unit Article IX, Section 9-10***
- ***IUP Science Unit Article IX, Section 9-10***

Holiday & Holiday Premium Pay

- ***Iowa Code - 1C.2***
- ***Administrative Rule – 11.63.8***
 - 9 scheduled holidays plus 2 unscheduled holidays or leave days are accrued as vacation.
 - If a holiday falls on a regularly scheduled workday, employees will receive 8 hours or the number of hours scheduled to work, which ever is greater.
 - Compensation either in cash or compensatory time.

Meal Periods

- ***AFSCME Article VIII, Section 3***
- ***IUP Social Services Unit Article VIII, Section 5***
- ***IUP Science Unit Article VIII, Section 5***

Meal Periods

- ***No DAS administrative rule***
- ***The State of Iowa Employee Handbook***
 - 30 minute unpaid meal period to be arranged through the employee's supervisor.

Rest Periods

- ***AFSCME Article VIII, Section 4***
- ***IUP Social Services Unit Article VIII, Section 6***
- ***IUP Science Unit Article VIII, Section 6***

Rest Periods

- ***No DAS administrative rule.***
- ***The State of Iowa Employee Handbook***
 - 15 minute rest period in each half of the work day.

Sick Leave

- ***AFSCME Article IX, Section 10***
- ***IUP Social Services Unit Article IX, Section 7***
- ***IUP Science Unit Article X, Section 7***

Sick Leave

- ***Iowa Code 70A***
- ***DAS administrative rule 11-63.3***
 - Accrual rate:
 - *0 - 750 hours* *12 hours*
 - *750 hours - 1,500 hours* *8 hours*
 - *Over 1,500 hours* *4 hours*
 - Sick leave can be used for personal illness and medical and dental appointments.
 - Absences exceeding 3 working days shall be verified by medical verification if required by agency.

Sick Leave

- ***DAS administrative rule 11-63.3(11)***
 - Employees use accrued sick leave, not exceed a total of 40 hours per fiscal year for:
 - Death occurs in the immediate family.
 - Temporary care or necessary attention to, members of the immediate family.
 - No carry over.

Personal Leave

- ***IUP Social Services Unit Article X, Section 6***
 - Members employed at the beginning of the fiscal year will be permitted to use up to 40 hours of paid personal leave each FY.
 - Allowed to carry over up to 40 hours of unused leave to the next FY.
 - Can be used for any matter of personal importance.
- ***IUP Science Unit - No provision***
- ***No DAS administrative rule***

Personal Leave

Only IUP Social Unit – this issues is currently in litigation. Information will be disseminated as it is available.

FMLA

- ***Federal law*** - No change to the way we currently administer FMLA.
- ***DAS Administrative rule 11-64.4(14)***
 - Employees who qualify for FMLA retain up to 2 weeks of accrued vacation leave each FY.

Unpaid Medical Leave of Absence

- ***AFSCME Article X, Section 3(D)***
- ***IUP Social Services Unit and Article X, Section 3(D)***
- ***IUP Science Unit Article X, Section 3(D)***

Leave without Pay

- ***DAS administrative rule 11-63.5 and 11-63.5(1)***
- **11-63.5 (8A)**
 - Written request and written approval by the appointing authority may be granted leave without pay for any reason deemed satisfactory to the appointing authority.

Leave without Pay

- **11-63.5(1)**
 - Leave without pay shall not originally be granted for more than 12 consecutive months.
 - Accrued leave need not be exhausted before leave without pay is granted.
 - **Except** - Accrued sick leave must be exhausted if the reason for leave without pay is due to a medically related disability.

The granting of leave without pay is an agency decision unless required by law.

Other Leaves Provided Under the DAS Administrative Rules

- 11-63.9 - Military Leave
- 11-63.10 - Education Leave
- 11-63.11 - Election Leave
- 11-63.12 - Court Appearance and Jury Duty
- 11-63.13 - Voting Leave
- 11-63.14 - Disaster Service Volunteer leave

Other Leaves Provided Under the DAS Administrative Rules

- 11-63.15 - Absences Due to Emergency Conditions
- 11-63.17 - Examination and Interviewing Leave
- 11-63.18 - Service on Committees, Boards and Commissions
- 11-63.19 - Donated Leave for Catastrophic Illnesses
- 11-63.20 - Bone Marrow and Organ Donation Leave

Vacation

- *AFSCME Article IX, Section 11*
- *IUP Social Services Unit Article IX, Section 8*
- *IUP Science Unit Article IX, Section 8*

Vacation

- *Iowa Code 70A*
- *DAS administrative rule 11-63.2(1), 11-63.2(2)*
 - Permanent and probationary full-time employees accrue:

• 1 - 4 years	80 hours per year
• 5 - 11 years	120 hours per year
• 12 - 19 years	160 hours per year
• 20 - 24 years	176 hours per year
• 25 plus years	200 hours per year

Vacation

- ***Iowa Code 70A***
- ***DAS administrative rule 11-63.2(1), 11-63.2(2)***
 - Vacation approval by appointing authority takes into consideration operational efficiency, employee preferences and requires reasonable effort to provide vacation to prevent any loss of vacation accrual.

Agencies can develop or revise vacation policies to incorporate criteria other than seniority in making scheduling decisions.

Overtime

- ***AFSCME Article VIII, Section 2***
- ***IUP Social Services Article VIII, Section 2***
- ***IUP Science Unit Article VIII, Section 2***

Overtime

- ***DAS Administrative rule 11-53.11***
 - State pays overtime per FLSA – Unless otherwise designated by the DAS Director.
 - Overtime exempt employees do not get paid for hours worked or in pay status over 40 hours in a workweek.
 - ***The DAS administrative rules place no restrictions on the scheduling of overtime.***

Agencies can develop or revise policies on scheduling overtime using criteria other than seniority.

Flexible Schedules

- ***AFSCME Article VIII, Section 1(D)***
- ***IUP Social Services Unit Article VIII, Section I***
- ***IUP Science Unit Article VIII, Section I***
- ***No DAS administrative rule.***

Agencies can develop or revise policies to only permit such scheduling if it benefits the agency.

Schedule Changes

- *AFSCME Article VIII, Section 1*
- *IUP Social Services Unit Article VIII, Section 1*
- *IUP Science Unit Article VIII, Section 1*

Schedule Changes

- *No DAS administrative rule*

Agencies can develop or revise policies on making scheduling decisions if it benefits the agency.

**Contact your Personnel Officer if you have
any questions or further assistance**

Resources

- **Iowa Code**
- **DAS Administrative Rules**
- **State of Iowa Employee Handbook**

Investigations and Discipline



Principles Of An Investigation

Why we need to investigate

- Must be fair, thorough and comprehensive
- Needs to stand on its own if challenged
- Still a process, not an abbreviated method to get to discipline

Tenets Of An Investigation

- What triggers an investigation?
- Things to consider in preparing
- Managing the investigation meeting
- Conducting the investigation
- Concluding the investigation

Observing The Just Cause Analysis

- What is just cause?
- When does it apply?
- How is just cause weighed?



Just Cause

- Notice
- Reasonable Rule
- Investigation
- Fair Investigation
- Proof
- Equal Treatment
- Penalty

Issuing Discipline

- Discipline process
- Changes to discipline letters
- Loudermill Meeting

What should be in the discipline letter

- Effective date of suspension.
- Length of suspension in workdays.
- Return to work date.
- Written notice of infraction, citing specific rule(s) and policy(s) violated.
- Specific information (dates, times, what occurred) regarding the unacceptable behavior or performance.
- Information regarding what is expected of the employees to correct the problem or performance.
- Appeal rights (otherwise know as non-contract grievance rights)
- Notice pursuant to Iowa Code Section 22.7(11)(a)(5) and 22.15 that the disciplinary action may become a public record.

Appeal Rights for Merit Covered Employees

- ***DAS-HRE administrative rules require discipline notices for suspension, reduction of pay within the same pay grade, disciplinary demotion or discharge, cite the following language from 11-subrule 61.2(6) be included verbatim in the notice:***
- **61.2(6) Appeal of disciplinary actions.** Any non-temporary, non-contract employee covered by merit system provisions who is suspended, reduced in pay within the same pay grade, disciplinarily demoted, or discharged, except during the employee's period of probationary status, may bypass steps one and two of the grievance procedure provided for in rule 11-61(8A) and may file an appeal in writing to the director for a review of the action within 7 calendar days after the effective date of the action. The appeal shall be on the forms prescribed by the director. The director shall affirm, modify or reverse the action and shall give a written decision to the employee within 30 calendar days after the receipt of the appeal. The time may be extended by mutual agreement of the parties. If not satisfied with the decision of the director, the employee may request an appeal hearing before the public employment relations board as provided in subrule 61.2(5).

Resources



- DAS-HRE Managers & Supervisors Manual Chapter 11: Discipline, Grievances & Appeals
- DAS-HRE Personnel Officer and Labor Relations Representative
- PDS Courses
 - Investigating Employee Misconduct
 - Discipline, Grievances and the Contracts

GRIEVANCE PROCEDURES



Agenda

- Resources
- Types of Grievances
- Forms
- Procedure
- Public Employment Relations Board

Resources

- Chapters 60 and 61 of DAS' Administrative Rules
- DAS-HRE Managers & Supervisors Manual
- DAS-HRE Personnel Officer and Labor Relations Representative
- PDS Courses



Types of Grievances

- Discussion:
 - Refresher - CBA grievances
 - Grievances under DAS Admin. Rules
 - Merit employee discipline
 - Substantial Compliance with Iowa Code Chapter 8A, Subchapter IV, or DAS administrative rules

Types of Grievances

- Quick Transition Note:
 - Grievances arising under 2015-2017 agreements will follow the grievance procedures outlined in those agreements.

Types of Grievances – CBA Refresher

- Collective Bargaining Agreements:
 - Language Disputes
 - Union alleges Management violated some provision of the CBA

Types of Grievances – CBA Refresher

- Discipline (just cause)
 - Union alleges Management lacked “just cause” to discipline an employee

Type of Grievances - Admin. Rules

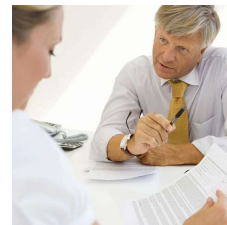
- Generally, grievances filed under DAS’ administrative rules fall into one of two categories:
 - Merit-covered employee discipline
 - Substantial compliance with Iowa Code Chapter 8A, Subchapter IV, and DAS’ administrative rules

Merit-Covered Employee Discipline

- Iowa Code sections 8A.411(4), 415(2)(b) and DAS rule 11-60.2 require just cause for the following types of disciplinary actions taken with respect to merit-covered employees:
 - Suspension
 - Reduction in pay within the same paygrade
 - Demotion
 - Discharge

Merit-Covered Employee Discipline

- Written reprimands, or other similar types of disciplinary action not previously listed, are considered "substantial compliance" grievances.



Merit-Covered Employee Discipline

- Grievant must show Management did not substantially comply with just cause requirement for Merit covered employees



Substantial Compliance Grievances

- Grievant must establish that Management failed to substantially comply with a provision of:
 - Iowa Code Chapter 8A (DAS' Code), Subchapter IV (Merit System);
 - DAS' Administrative Rules

What Is “Substantial Compliance”

- Substantial compliance means actual compliance in respect to the substance essential to every reasonable objective of the statute/rule.
- In other words, a substantial compliance determination evaluates whether the statute/rule has been followed sufficiently so as to carry out the intent for which it was adopted.

What Is “Substantial Compliance”

- What constitutes substantial compliance with a statute/rule depends upon the facts of each particular case
- Literal compliance is not required
- Again, the Grievant bears the burden (preponderance) to establish State's failure to substantially comply with a provision of Iowa Code chapter 8A, subchapter IV, or DAS rule

Grievance Forms

- As of July 1, 2017, there will be no contract grievance forms as the CBAs will not contain a grievance procedure (will discuss this in a moment)
- Only grievances discussed previously on DAS-authored forms are valid

Grievance Forms

https://das.iowa.gov/sites/default/files/hr/documents/MS_manual/552-0248_noncontract_grievance_form.pdf

Grievance Procedure

- These are the steps followed by the employee and management once a grievance has been filed.
- As previously noted, with the exception of the SPOC CBA, no CBA will contain a grievance procedure
- Similar to the steps set forth in the current collective bargaining agreements

Grievance Procedure

- Set forth in DAS Administrative rule 11-61.1
- Brief summary:
 - 4 steps
 - Employee meets with appointing authority for step 1 and 2
 - Step 3 is with DAS (labor relations)
 - Employee may appeal to PERB, which is essentially "step 4" (will be discussed in more detail momentarily)

Grievance Procedure

Written Reprimands	Suspension, Reduction in Pay, Demotion and Discharge	Non-Disciplinary Issue
1). Supervisor	1). Bypass Steps 1 and 2	1). Supervisor
2). Management Representative	2). Bypass Steps 1 and 2	2). Management Representative
3). DAS-Labor Relations	3). DAS-Labor Relations	3). DAS-Labor Relations
4). PERB	4). PERB	4). PERB



Grievance Procedure

- Grievant submits form to immediate supervisor, or to a supervisor designated by the appointing authority
 - Note - designees are up to the agency
- Must be submitted within 14 calendar days following the day the grievant first became aware of, or should have through the exercise of reasonable diligence become aware of, the grievance issue

Grievance Procedure

- Step 1(cont'd):
 - Supervisor/designee:
 - Has 7 days after receipt to issue a decision
 - May resolve the grievance without going through the settlement approval process set forth in the recently amended Iowa Code section 22.13A (will be discussed in detail momentarily)

Grievance Procedure



- Step 1(cont'd):
 - Supervisor/designee:
 - **RULES REQUIRE STEP 1 DECISION BE PROVIDED TO GRIEVANT AND DAS**
 - Send to: hre-lrt.coordinator@iowa.gov



Grievance Procedure

- Grievant may appeal the step 1 decision to the appointing authority
- Must be submitted within 7 calendar days from the date the grievance was or should have been issued at step 1

Grievance Procedure

- Step 2 (cont'd):
 - Appointing Authority:
 - Has 7 days after receipt to issue a decision
 - May resolve the grievance **BUT MUST** through the settlement approval process set forth in the recently amended Iowa Code section 22.13A (will be discussed in detail momentarily)

Grievance Procedure



- Step 2 (cont'd):
 - Appointing Authority:
 - **RULES REQUIRE STEP 2 DECISION BE PROVIDED TO GRIEVANT AND DAS**
 - Send to: hre-lrt.coordinator@iowa.gov



Grievance Procedure

- Grievant may appeal the step 2 decision to DAS (*i.e.*, these are submitted to DAS-LRT)
- Must be submitted within 7 calendar days from the date the grievance was or should have been issued at step 2

Grievance Procedure

- Step 3 - Bypass Steps 1 and 2:
 - An employee may bypass steps 1 and 2 and file a grievance directly with DAS if the grievance involves:
 - A suspension, reduction in pay within the same pay grade, disciplinarily demotion, or discharge
 - An allegation of discrimination and the responding party is the person against whom the grievance is being filed

Grievance Procedure

- Resolving Grievances at Steps 1 and 2
 - Iowa Code section 22.13A places certain requirements on "personnel settlement agreements"
 - "Personnel settlement agreement" means a binding legal agreement . . . to resolve a personnel dispute including but not limited to a grievance.
 - "Personnel settlement agreement" **does not** include an **initial decision** by a state employee's employer concerning a personnel dispute or grievance.

Grievance Procedure

- "Initial decision" for grievance purposes means the step 1 decision
- Step 2 decisions issued by the appointing authority must go through the approval process set forth in Iowa Code section 22.13A

Grievance Procedures



Grievance Procedure

- Under section 22.13A, a personnel settlement agreement must be approved by:
 - Appointing authority Director, DAS and DOM Directors; must also be reviewed by AG's office
- In summary, you have the authority to resolve a grievance at Step 1. Any resolution after that decision is issued by following section 22.13A.
- Contact your LRT representative for settlements

Grievance Procedure

- Grievance meetings:
 - A formal meeting is not required; however, a discussion with the employee prior to issuing a decision is encouraged
 - “All reasonable attempts” must be made to hold the meeting (if one is held) during the employee’s regularly scheduled shift

Grievance Procedure

- Grievance meetings (cont’d):
 - A Grievant may have the assistance of a peer at the grievance meeting
 - The Grievant and peer shall be in paid status for time spent traveling to, attending and returning from a grievance meeting (no mileage reimbursement required)
 - For group grievances, only one Grievant in paid status

Grievance Procedure

- Grievance meetings (cont'd):
- At step 3 meetings with DAS:
 - Some grievances may be heard via document submission
 - The LRT assigned to hear the grievance will advise of how the matter will be considered (*i.e.*, pursuant to document submission only, meeting and document submission, telephonic argument, etc.)

Grievance Appeals



- If a Grievant is not satisfied with DAS' decision, they must submit an appeal to the Public Employment Relations Board ("PERB") within 30 calendar days
- Form:<https://iowaperb.iowa.gov/sites/default/files/Merit%20Appeal-FORM-fillable2.pdf>

PERB

- PERB's structure
- PERB's Authority
 - Iowa Code 8A.415
- Jurisdiction:
 - Merit-covered disciplinary action
 - Substantial compliance grievances



PERB

- Process:
 - Case processor - voluntary mediation
 - Assignment to a hearing officer (administrative law judge)
 - Proposed decision issued by hearing officer
 - Proposed decision becomes final in 20 days unless appealed by either party or unilaterally reconsidered by the Board.

PERB

- Process (cont'd):
 - Decision becomes final after expiration of 20 days with no appeal or final action on the matter by the Board (*i.e.*, this is considered final agency action)
 - Remedial jurisdiction
 - Final agency action may be appealed to district court

PERB

- What to expect in PERB decisions
 - PERB uses the just cause standard for merit employee discipline that considers the “totality of the circumstances” (*i.e.*, not a rigid application of just cause tenets). *See discipline grievance answers authored by LRT*
 - PERB uses the substantial compliance standard previously discussed for non-discipline grievances

PERB

- What to expect in PERB decisions (cont'd)
 - More legalistic application than grievance arbitrators
 - Hearings are more formal than grievance arbitration



Reminder - Resources

- Chapters 60 and 61 of DAS' Administrative Rules
- DAS-HRE Managers & Supervisors Manual
- DAS-HRE Personnel Officer and Labor Relations Representative
- PDS Courses



Individual Performance Plan Evaluation



IAC Chap. 62: Performance Review

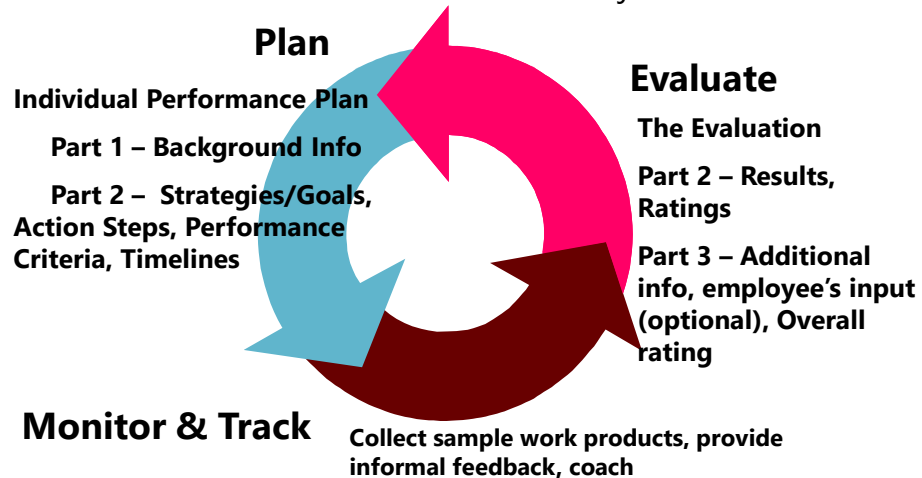
- The performance review was developed in accordance with the **Accountable Government Act 8E.207**
- **62.2(8A) Minimum requirements.**
 - 62.2(1) *Performance plan.*
 - 62.2(2) *Performance evaluation.* A performance evaluation shall be prepared for each employee **at least every 12 months.**

Additional Importance of Performance Evaluations

- Required for Wage Increases
 - 11 IAC 53.7(2)a
 - Timely Completion
 - Probation to Permanent
- Retention points for a reduction in force
 - 11 IAC 60.3(3)
- Performance of duty
 - 11 IAC 66.4

Performance Evaluation Process

Performance Evaluation is a *Process*, not just an *Event*.



Definitions for Ratings

- **Exceeds Expectations** – the employee consistently performs well beyond expectations (strategies, action steps, performance criteria, and timeframes) and does outstanding work.
- **Meets Expectations** – performance consistently fulfills the job requirements and expectations; the employee is doing the job expected for employees in this classifications.
- **Does Not Meet Expectations** – performance does not consistently meet expectations.

Purpose of Performance Evaluations

- Opportunity for the supervisor and employee to meet and communicate
- Provides meaningful performance feedback.
- Serving as formal documentation for personnel actions ranging from requiring trainings to discipline.
- Improving the agency's overall performance

Available Resources

Managers and Supervisors Manual (Chapter 8)

DAS Administrative Rule 11-62

Iowa Code 8A.413, subsection 15

Performance & Development
Solutions



Reduction in Force per Administrative Rules Chapter 60.3(8A)



Training Objective

Clarify changes to the layoff procedures from the CBA language to the Administrative Rules.

- Layoff Unit
- Retention Points
- Bumping
- Recall

What Remains the Same

CBA

- 20 day written notice
- Identified layoff unit
- By job class

Admin Rules

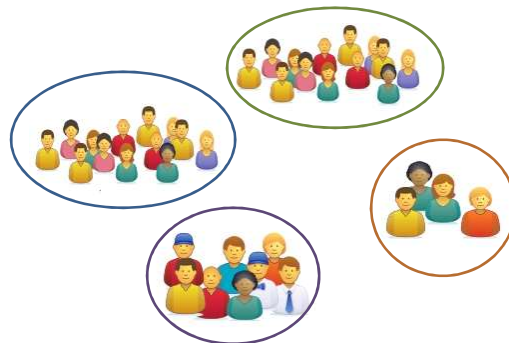
- 20 day written notice
- Identified layoff unit
- By job class

Layoff Plan

- What is it?
 - Determines the layoff unit
 - Reason for the layoff
 - Identifies affected job classes and number of positions to be eliminated
 - Amount of savings
 - Effective date

Layoff Unit

- CBA defined layoff unit
- Administrative Rules allow appointing authority to designate layoff unit



Retention Points

- Determines layoff order
- Combination of two factors
 - Employee's length of service
 - Performance



Length of Service Credit

- One point for each month of service
- Service credit will not include
 - Temporary or seasonal employment
 - Suspension without pay
 - Leaves of absence
 - Period of layoff
 - Long-term disability



Credit for Performance

- Credit for performance
 - Satisfactory performance evaluations
 - No credit for performance rated “does not meet expectations”
- Service not covered by a performance evaluation will receive performance credit

Calculating Retention Points

- Complete Retention Point Worksheet
- One point for each month of service
- One point for each month with acceptable performance
- Add the points for total retention points

Example of Retention Points

Monty Mistakes – hired May 2010



Service Credit

7 years (12 points per year) = 84

Performance Credit – 2011 & 2012 PE “does not meet”

5 years of acceptable PEs = 60

Total Retention Points = 144

Example of Retention Points

Edith Efficient – hired May 2011



Service Credit

6 years (12 points per year) = 72

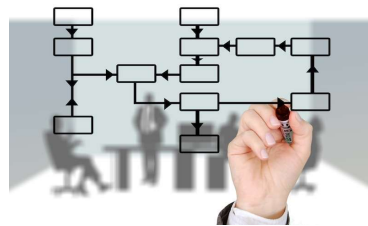
Performance Credit

6 years of acceptable PEs = 72

Total Retention Points = 144

Bumping

- Bumping limited to merit-covered positions
- Must be in same layoff unit
 - Lower class with same series, or
 - Lower formerly held class



Recall

- One year
- Eligibility
 - Employees laid off
 - Employees who bumped in lieu of layoff
- Limited to class and layoff unit



Resources

- Chapter 60.3 (8A)
- Managers and Supervisors Manual
- Personnel Officer

