

## SECTION 3.51 BARGAINING AND MERIT STATUS EXEMPTIONS

Last Update: 11/16

In general, all state positions are covered under the merit system and are eligible for collective bargaining coverage, unless specifically exempted or excluded by law.

### Bargaining Exemptions

The basis for many collective bargaining exclusions are found in [Iowa Code section 20.4](#). This statute includes specific exemptions from collective bargaining coverage for the following:

- Supervisory employees
- Representatives of a public employer, including the administrative officer, director, or chief executive officer of a public employer or major division thereof, as well as the officer's or director's deputy or first assistant
- Confidential employees, which are defined as:
  - A representative of the employer who, as a major function of the job, determines and effectuates employment relations policy for the appointing authority, exercises independent discretion in establishing such policies, or is so closely related to or aligned with management as to potentially place the employee in a position of conflict of interest between the employer and coworkers
  - Any employee who works for the department, who has access to information subject to use in collective bargaining negotiations, or who works in a close continuing relationship with representatives associated with negotiating collective bargaining agreements on behalf of the state
  - The personal secretary of:
    - An elected official of the executive branch or a person appointed to fill a vacancy in an elective office
    - The chair of a full-time board or commission
    - The director, deputy director, or division administrator of a state agency
- Persons employed by the Department of Justice (except nonsupervisory employees of the Consumer Advocate Division who are employed primarily for the purpose of performing technical analysis of non-legal issues)
- Persons employed by either the Credit Union Division or Banking Division of the Department of Commerce

Other collective bargaining exclusions exist in cases where the agency has specific statutory authority for an exemption. These include, but are not limited to:

- Professional employees of the Economic Development Authority [Iowa Code § 15.106C(4)]

### Merit Exemptions

The basis for many merit exemptions are found in [Iowa Code section 8A.412](#). This statute includes specific exemptions from the merit system for the following:

- Board members and commissioners
- Staff of the Governor and appointments which are by law made by the Governor
- Professional employees working under the supervision of the:
  - Attorney General (except for the Consumer Advocate Division)
  - State Public Defender
  - Secretary of State
  - Auditor of State
  - Treasurer of State
  - Public Employment Relations Board

- Employees working in production or engineering at Iowa Public Television
- Peace officers at the Department of Public Safety
- Professional employees of the Arts Division of the Department of Cultural Affairs
- The chief deputy administrative officer and each division administrator or each agency
- Physicians
- Confidential employees, which are defined as:
  - The personal secretary of:
    - An elected official of the executive branch or a person appointed to fill a vacancy in an elective office
    - The chair of a full-time board or commission,
    - The director of a state agency
  - The non-professional staff in the office of the Auditor of State
  - The non-professional staff in the Department of Justice, except those reporting to the administrator of the Consumer Advocate Division
  - An employee who is in a confidential relationship with a director, chief deputy administrative officer, a division administrator, or a similar position, and at the same time is a part of the management team, legal team, or both of said director, chief deputy administrative officer, a division administrator, or similar position (For this purpose, a confidential relationship means a relationship in which one person has a duty to the other not to disclose information.)
- All employees of the Credit Union Division of the Department of Commerce
- All employees of the Banking Division of the Department of Commerce, except for employees of the Professional Licensing and Regulation Bureau
- Chief deputy industrial commissioners
- Up to six (6) non-professional employees designated at the discretion of each statewide elected official
- Positions in statewide elected officials' offices which were exempt from the merit system as of June 30, 1994

Other merit system exclusions exist in cases where the agency has specific statutory authority for an exemption. These include, but are not limited to:

- Professional employees of the Economic Development Authority [Iowa Code § 15.106C(4)]
- Professional employees of the Department for the Blind [Iowa Code § 8A.412]
- Executive Director and Legal Counsel for the Ethics and Campaign Disclosure Board [Iowa Code § 68B.32]
- Insurance Commissioner, Deputy Insurance Commissioner for Supervision and Insurance Examiners within the Department of Commerce [Iowa Code § 507.4(2)]
- Legal Counsel for the Iowa Utilities Board within the Department of Commerce [Iowa Code § 474.10]
- All employees of the Iowa Finance Authority [Iowa Code § 16.6(2)]
- Professional staff of the Department of Education [Iowa Code § 256.9]
- The State Equine Veterinarian, Canine Veterinarian, and Equine Steward for the Iowa Racing and Gaming Commission [Iowa Code § 99D.6]