Littler | Employer Library

STATE

Littler on

Iowa Employment Law

COVERAGE

Scope of Discussion. This publication is designed to help employers operating in a state to identify and apply various state employment law requirements. It follows the chronology of employment—tracking requirements from pre-hire, time of hire, during employment, and the end of employment. Because employers are subject to both federal and state employment laws, each section provides a brief overview of federal law and then summarizes applicable state law.

Although the major developments in Iowa employment law are generally covered, this publication is not all-inclusive and the current status of any decision or principle of law should be verified by counsel. In addition:

- This publication focuses on requirements for private-sector employers; requirements applicable solely to public employers are not covered. Similarly, while some provisions applicable to government contractors may be covered, this publication is not designed to address requirements applicable only to government contractors.
- Local ordinances are generally excluded from this publication. Notwithstanding, local rules may be included to the extent they deal with ban-the-box or criminal history restrictions, local minimum wage, paid sick leave, or antidiscrimination provisions. A detailed discussion of these requirements, however, is outside the scope of this publication. Further, the focus of local ordinances is primarily on jurisdictions with populations of 100,000 or more residents, but laws in locations with populations below that threshold may also be included.
- State law may create special rules or provide exceptions to existing rules for certain industries—for example, the health care industry. This publication does not offer an exhaustive look at these industry-specific exceptions and should not be interpreted to cover all industry-specific requirements.
- Civil and criminal penalties for failure to follow any particular state employment law requirement may be covered to the extent the penalty is specifically included and discussed in the statute. Any penalty discussion that is included, however, is nonexhaustive and may only highlight some of the possible penalties under the statute. In many instances, an individual statute will not include its own penalty provision; rather, a general or catchall penalty provision will apply, and these are not covered here.

To adhere to publication deadlines, developments, and decisions subsequent to **October 11, 2024** are not covered.

DISCLAIMER

This publication is not intended to, and does not, provide legal advice or a legal opinion. It does not establish an attorney-client relationship between Littler Mendelson, P.C. and the user. It also is not a do-it-yourself guide to resolving employment issues or handling employment litigation. Nonetheless, employers involved in ongoing disputes and litigation may find the information useful in understanding the issues raised and their legal context. This publication is not a substitute for experienced legal counsel and does not provide legal advice regarding any particular situation or employer, or attempt to address the numerous factual issues that arise in any employment-related dispute.

ACKNOWLEDGEMENTS

Erin M. Reid-Eriksen, Susie Papreck Wine, and Deanne Meyer would like to gratefully acknowledge the contributions of the attorneys who make this publication possible:

- Geetika Antani;
- Vincent Bates;
- Sebastian Chilco;
- Brittney Gibson;
- Maureen H. Lavery;
- Christine McDaniel Novak;
- Lilanthi Ravishankar;
- Rachel Simek;
- Mike Skidgel;
- Hannah Stilley; and
- Christine Sellers Sullivan.

Additional research and editing assistance was also rendered by Barb Olson.

TABLE OF CONTENTS

1. PRE-HIRE

1.1 Classifying Workers: Employees v. Independent Contractors

1.1(a) *Federal Guidelines on Classifying Workers*

A person providing services to another for payment generally can be classified either as an employee or an independent contractor. An independent contractor is considered self-employed, whereas an employee, as the term suggests, works for an employer. The choice between classifying a worker as an independent contractor or an employee is more than a question of terminology and can have many and far-reaching consequences for a company. A company's legal obligation to its workers under various employment and labor laws depends primarily on whether workers are employees. For example, a company using an independent contractor is not required to:

- withhold income taxes from payments for service;
- pay minimum wages mandated by state or federal law;
- provide workers' compensation coverage or unemployment insurance;
- provide protections for various leaves of absences required by law; or
- provide a wide range of employee benefits, such as paid time off or a 401(k) retirement plan, that are offered voluntarily to the employer's employees as part of the terms or conditions of their employment.

As independent contractor use increased, government officials began to scrutinize asserted independent contractor relationships with increasing skepticism. Courts have also proven willing to overturn alleged independent contractor relationships that fail to satisfy the increasingly rigorous standards applied by federal and state agencies for classifying workers as independent contractors.

For companies, misclassification of a worker as an independent contractor can carry significant tax, wage, and benefit liabilities, as well as unanticipated and perhaps under-insured tort liability to third parties for injuries caused by the worker.

There are four principal tests used to determine whether a worker is an employee or an independent contractor:

1. the common-law rules or common-law control test;[1]
2. the economic realities test (with several variations);[2]

[1] The common-law rules or common-law control test, informed in part by the Internal Revenue Service's 20 factors, focus on whether the engaging entity has the right to control the means by which the worker performs their services as well as the end results. *See generally* Treas. Reg. § 31.3121(d)-(1)(c); I.R.S., Internal Revenue Manual, *Technical Guidelines for Employment Tax Issues*, 4.23.5.4, *et seq*. (Nov. 22, 2017), *available at* https://www.irs.gov/irm/part4/irm_04-023-005r.html#d0e183.

[2] In addition to an evaluation of the right to control how the work is to be performed, the economic realities test also requires an examination of the underlying "economic realities" of the work relationship—namely, do the workers "depend upon someone else's business for the opportunity to render service or are [they] in business for themselves." *Brock v. Superior Care, Inc.*, 840 F.2d 1054, 1059 (2d Cir. 1988); *see also Rutherford Food Corp. v. McComb*, 331 U.S. 722 (1947).

3. the hybrid test, combining the common law and economic realities test;[3] and
4. the ABC test (or variations of this test).[4]

For a detailed evaluation of the tests and how they apply to the various federal laws, see LITTLER ON CLASSIFYING WORKERS.

1.1(b) *State Guidelines on Classifying Workers*

In Iowa, as elsewhere, an individual who provides services to another for payment generally is considered either an independent contractor or an employee. For the most part, the distinction between an independent contractor and an employee is dependent on the applicable state law (see Table 1).

While there is no statewide statute on independent contractor status, the Iowa Workforce Development Department (IWD) serves as a central enforcement agency for worker misclassification under many of the state's laws, including workers' compensation, unemployment insurance, income taxes, and wage and hour. The IWD provides the following guidance as to worker classification:

> When determining whether the person providing service is an employee or an independent contractor, all information that provides evidence of the degree of control and independence must be considered.
>
> - The right to control the work to be done and how it will be done is one of the main factors considered.
> - The right to discharge a worker at will and without cause is also strong evidence of the right of direction and control.[5]

Moreover, the IWD suggests that employers consult Internal Revenue Service (IRS) resources for additional classification guidance.[6]

Table 1. State Tests for Classifying Workers

Purpose of Determining Employee Status	State Agency	Test to Apply
Fair Employment Practices Laws	Iowa Civil Rights Commission	"Right to control" test, with additional consideration of factors in the federal

[3] Under the hybrid test, a court evaluates the entity's right to control the individual's work process, but also looks at additional factors related to the worker's economic situation—such as how the work relationship may be terminated, whether the worker receives yearly leave or accrues retirement benefits, and whether the entity pays social security taxes on the worker's behalf. *Wilde v. County of Kandiyohi*, 15 F.3d 103, 105 (8th Cir. 1994). Because the hybrid test focuses on traditional agency notions of control, as a general rule, it results in a narrower definition of employee than under a pure economic realities test. *Hopkins v. Cornerstone Am.*, 545 F.3d 338, 347 (5th Cir. 2008).

[4] Under a typical formulation of the ABC test, a worker is an independent contractor if: (A) there is an ABSENCE of control; (B) the BUSINESS is performed outside the usual course of business or performed away from the place of business; and (C) the work is CUSTOMARILY performed by independent contractors.

[5] Iowa Workforce Dev. Dep't, *Employer Audits and Misclassification of Workers in Iowa*, *available at* https://workforce.iowa.gov/employers/unemployment-insurance/misclassification-and-audit.

[6] Iowa Workforce Dev. Dep't, *Misclassification of Workers in Iowa*.

Table 1. State Tests for Classifying Workers		
Purpose of Determining Employee Status	**State Agency**	**Test to Apply**
		common-law agency test and the "economic realities" test.[7]
Income Taxes	Iowa Department of Revenue	Agency guidance suggests the IRS 20-factor test is applicable.[8] Under Iowa's income tax law, *employer* is defined as "those who have a right to exercise control as to how, when, and where services are to be performed."[9] With respect to the withholding of income tax, Iowa's law references the definitions of *employer* both under the state income tax law and as "further defined in the Internal Revenue Code."[10] There are no relevant court decisions regarding independent contractor status in this context.

[7] The Eighth Circuit Court of Appeals has held that the common-law agency test for determining independent contractor versus employee status, as set forth by the U.S. Supreme Court in *Nationwide Mutual Ins. Co. v. Darden*, 503 U.S. 318 (1992), was appropriately applied in a case alleging age discrimination under both the Age Discrimination in Employment Act and the Iowa Civil Rights Act. *Ernster v. Luxco, Inc*., 596 F.3d 1000, 1003-05 (8th Cir. 2010). Under *Darden*, in determining whether a hired party is an employee under the common law of agency, courts consider "the hiring party's right to control the manner and means by which the product is accomplished." 503 U.S. at 323. Relevant factors include:

> the skill required; the source of the instrumentalities and tools; the location of the work; the duration of the relationship between the parties; whether the hiring party has the right to assign additional projects to the hired party; the extent of the hired party's discretion over when and how long to work; the method of payment; the hired party's role in hiring and paying assistants; whether the work is part of the regular business of the hiring party; whether the hiring party is in business; the provision of employee benefits; and the tax treatment of the hired party.

Darden, 503 U.S. at 323-24. Moreover, in a case involving claims under Title VII of the Civil Rights Act of 1964 and the Iowa Civil Rights Act, the Eighth Circuit "primarily consider[ed] whether the hiring party was able to control the manner and means by which a task is accomplished," also applied the *Darden* common-law agency test, and "look[ed] to the economic realities of the relationship" and "the terms of the agreement" in deciding whether an individual was an independent contractor versus an employee. *Glascock v. Linn Cty. Emergency Med., P.C.*, 698 F.3d 695, 698-99 (8th Cir. 2012) (quotations omitted).

[8] Iowa Dep't of Revenue, *Employers: Do you have employees or independent contractors?*, *available at* https://tax.iowa.gov/employers-do-you-have-employees-or-independent-contractors.

[9] IOWA CODE § 422.4(3).

[10] IOWA CODE § 422.16(1).

Table 1. State Tests for Classifying Workers		
Purpose of Determining Employee Status	**State Agency**	**Test to Apply**
Unemployment Insurance	IWD	Common-law "right to control test."[11] The statutory definition of *employment* is "service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, expressed or implied" and includes, "[a]ny individual who, under the usual *common law rules* applicable in determining the employer-employee relationship, has the status of an employee."[12] According to the interpreting regulations, "[t]he relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished."[13]
Wage & Hour Laws	Iowa Division of Labor	Common-law "right to control" test.[14] In applying this test, relevant factors courts may consider include: "(1) who had the right to control the physical conduct of the work;

[11] *Gaffney v. Department of Emp't Servs.*, 540 N.W.2d 430, 434 (Iowa 1995) (noting that "[i]n the unemployment compensation context, it is well settled that the right to control the manner and means of performance is the principal test in determining whether a worker is an employee or independent contractor") (citations omitted).

[12] IOWA CODE § 96.19(18) (emphasis added).

[13] IOWA ADMIN. CODE r. 871-23.19(96). Referencing the Iowa regulation, the *Gaffney* court held:

> The factors tending to show an employer-employee relationship include: "(1) the employer's right to control and direct the performance of the service; (2) the right to terminate the relationship without penalty; (3) that the tools, equipment, and place to work are furnished by the employer; and (4) proof of fixed wages computed on a weekly or hourly basis. . . . By contrast, factors tending to show independent contractor status include: (1) proof that an individual is subject to the control or direction of another merely as to the result of the work and not as to the means and methods for accomplishing the result; (2) discharge or termination will constitute a breach of contract with potential damages; (3) the work involves performance of a specific job or piecework at a fixed price; (4) proof of a distinct trade, occupation, business, or professional service offered to the public who seeks the benefit of that training or experience; and (5) the right to employ assistants with the exclusive right to supervise their activity and completely delegate their work.540 N.W.2d at 433 (citing IOWA ADMIN. CODE r. 871-23.19(96)).

[14] *Miller v. Component Homes, Inc.*, 356 N.W.2d 213, 217 (Iowa 1984) (noting that "the primary consideration is the right of control, not the intention of the parties").

Table 1. State Tests for Classifying Workers		
Purpose of Determining Employee Status	**State Agency**	**Test to Apply**
		(2) whether the purported employee was on the employer's payroll; (3) the method of payment, whether by time or by job; (4) who provided the equipment to accomplish the work; (5) the individual's obligation to furnish necessary tools, supplies, and materials; (6) the existence of a contract for the performance of a certain kind of work at a fixed price; (7) the independent nature of the individual's business; (8) the individual's employment of assistants, with the right to supervise their activities; (9) the time for which the individual is employed; (10) whether the work is part of the regular business of the employer; (11) the intent of the parties; and (12) the right to control the progress of the work, except as to final results."[15] A statutory test may apply, depending on the issue. Iowa's minimum wage law adopts the FLSA definitions of *employee* and *employer*.[16]
Workers' Compensation	Iowa Division of Workers' Compensation	Common-law "right to control" test. In applying this test, relevant factors courts may consider include: "(1) is the responsible authority in charge of the work or for whose benefit the work is performed, (2) has the right to select, or to employ at will, (3) has a responsibility for payment of wages, (4) has the right to discharge or terminate the relationship, and (5) has the right to control the work."[17] Other factors that may be

[15] *Mujkic v. Lynx, Inc.*, 863 N.W.2d 37 (Iowa Ct. App. 2015) (quotations omitted).

[16] IOWA CODE § 91D.1(1)(b).

[17] *Renda v. Iowa Civil Rights Comm'n*, 784 N.W.2d 8, 21 (Iowa 2010) (quotations omitted); *see also Stark Constr. v. Lauterwasser*, 2014 WL 1495479 (Iowa Ct. App. Apr. 16, 2014). In *Stark*, the Iowa Court of Appeals defined *independent contractor* as "one who carries on an independent business and contracts to do a piece of work according to his own methods, subject to the employer's control only as to results" and reiterated the eight factors to be considered in determining independent contractor status: "(1) the existence of a contract for the performance by a person of a certain piece or kind of work at a fixed price; (2) independent nature of his business or of his distinct calling; (3) his employment of assistants, with the right to supervise their activities; (4) his

Table 1. State Tests for Classifying Workers		
Purpose of Determining Employee Status	**State Agency**	**Test to Apply**
		relevant include the intent of the parties and community custom.[18]
Workplace Safety	Iowa Division of Labor, Occupational Safety and Health Administration	Neither the Iowa Occupational Safety and Health Act, nor case law, sets forth a test for independent contractor status in this context.

1.2 Employment Eligibility & Verification Requirements

1.2(a) *Federal Guidelines on Employment Eligibility & Verification Requirements*

The federal Immigration Reform and Control Act of 1986 (IRCA) prohibits knowingly employing workers who are not authorized to work in the United States. Under IRCA, an employer must verify each new hire's identity and employment eligibility. Employers and employees must complete the U.S. Citizenship and Immigration Service's Employment Eligibility Verification form (Form I-9) to fulfill this requirement. The employer must ensure that: (1) the I-9 is complete; (2) the employee provides required documentation; and (3) the documentation appears on its face to be genuine and to relate to the employee. If an employee cannot present the required documents within three business days of hire, the employee cannot continue employment.

Although IRCA requires employers to review specified documents establishing an individual's eligibility to work, it provides no way for employers to verify the documentation's legitimacy. Accordingly, the federal government established the "E-Verify" program to allow employers to verify work authorization using a computerized registry. Employers that choose to participate in the program must enter into a Memorandum of Understanding with the Department of Homeland Security (DHS) which, among other things, specifically prohibits employers from using the program as a screening device. Participation in E-Verify is generally voluntary, except for federal contractors with prime federal contracts valued above the simplified acquisition threshold for work in the United States, and for subcontractors under those prime contracts where the subcontract value exceeds $3,500.[19]

Federal legislative attempts to address illegal immigration have been largely unsuccessful, leading some states to enact their own immigration initiatives. Whether states have the constitutional power to enact immigration-related laws or burden interstate commerce with requirements in addition to those imposed

obligation to furnish necessary tools, supplies, and materials; (5) his right to control the progress of the work, except as to final results; (6) the time for which the workman is employed; (7) the method of payment, whether by time or by job; (8) whether the work is part of the regular business of the employer." 2014 WL 1495479, at **4-5 (citation omitted).

[18] However, in *Stark*, the court emphasized that "[o]nly if that control is debatable, does the trier of fact need to consider the parties' intention or community customs." 2014 WL 1495479, at *6 (citation omitted).

[19] 48 C.F.R. §§ 22.1803, 52.212-5, and 52.222-54 (contracts for commercially available off-the-shelf items and contracts with a period of performance of less than 120 days are excluded from the E-Verify requirement). For additional information, see LITTLER ON GOVERNMENT CONTRACTORS & EQUAL EMPLOYMENT OPPORTUNITY OBLIGATIONS.

by IRCA largely depends on how a state law intends to use an individual's immigration status. Accordingly, state and local immigration laws have faced legal challenges.[20] An increasing number of states have enacted immigration-related laws, many of which mandate E-Verify usage. These state law E-Verify provisions, most of which include enforcement provisions that penalize employers through license suspension or revocation for knowingly or intentionally employing undocumented workers, have survived constitutional challenges.[21]

For more information on these topics, see LITTLER ON I-9 COMPLIANCE & WORK AUTHORIZATION VISAS.

1.2(b) *State Guidelines on Employment Eligibility & Verification Requirements*

Iowa does not have a generally applicable employment eligibility or verification statute. Therefore, private-sector employers in Iowa should follow federal law requirements regarding employment eligibility and verification.

1.3 Restrictions on Background Screening & Privacy Rights in Hiring

1.3(a) *Restrictions on Employer Inquiries About & Use of Criminal History*

1.3(a)(i) *Federal Guidelines on Employer Inquiries About & Use of Criminal History*

There is no applicable federal law restricting employer inquiries into an applicant's criminal history. However, the federal Equal Employment Opportunity Commission (EEOC) has issued enforcement guidance pursuant to its authority under Title VII of the Civil Rights Act of 1964 ("Title VII").[22] While there is uncertainty about the level of deference courts will afford the EEOC's guidance, employers should consider the EEOC's guidance related to arrest and conviction records when designing screening policies and practices. The EEOC provides employers with its view of "best practices" for implementing arrest or conviction screening policies in its guidance. In general, the EEOC's positions are:

1. **Arrest Records.** An exclusion from employment based on an arrest itself is not job related and consistent with business necessity as required under Title VII. While, from the EEOC's perspective, an employer cannot rely on arrest records alone to deny employment, an employer can consider the underlying conduct related to the arrest if that conduct makes the person unfit for the particular position.
2. **Conviction Records.** An employer with a policy that excludes persons from employment based on criminal convictions must show that the policy effectively links specific criminal conduct with risks related to the particular job's duties. The EEOC typically will consider three factors when analyzing an employer's policy: (1) the nature and gravity of the offense or conduct; (2) the time that has passed since the offense, conduct, and/or completion of the sentence; and (3) the nature of the job held or sought.

---

[20] *See, e.g.*, *Lozano v. Hazelton*, 496 F. Supp. 2d 477 (E.D. Pa. 2007), *aff'd*, 724 F.3d 297 (3d Cir. 2013) (striking down a municipal ordinance requiring proof of immigration status for lease and employment relationship purposes).

[21] *See Chamber of Commerce of the U.S. v. Whiting*, 563 U.S. 582 (2011).

[22] EEOC, *Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. § 2000e et seq.* (Apr. 25, 2012), *available at* https://www.eeoc.gov/laws/guidance/arrest_conviction.cfm.

Employers should also familiarize themselves with the federal Fair Credit Reporting Act (FCRA), discussed in **1.3(b)(i)**. The FCRA does not restrict conviction-reporting *per se*, but impacts the reporting and consideration of criminal history information in other important ways.

For additional information on these topics, see **LITTLER ON BACKGROUND SCREENING & PRIVACY RIGHTS IN HIRING**.

1.3(a)(ii) *State Guidelines on Employer's Use of Arrest Records*

While Iowa places no statutory restrictions on a private employer's use of arrest records, the Iowa Civil Rights Commission takes the position that an employer should not inquire into arrest records, and emphasizes that "[e]xclusion [from employment] is justified only if it appears the applicant or employee engaged in the conduct for which he was arrested and the conduct is job-related and relatively recent."[23]

Ban-the-Box Law. Iowa has not implemented a "ban-the-box" law covering private employers.

1.3(a)(iii) *State Guidelines on Employer's Use of Conviction Records*

Iowa places no statutory restrictions on a private employer's use of conviction records. Further, the Iowa Civil Rights Commission takes the position that any inquiry into an applicant's conviction records *is* acceptable if the inquiry is job-related. That being said, the Commission, citing to the EEOC, cautions that exclusion from employment based on an applicant's conviction records is only appropriate if "justified by business necessity." Accordingly, per the Commission, employment applications should include a disclaimer stating that convictions will not automatically be a bar to employment, and that the nature of the job, the nature and seriousness of the offense, and the time since the conviction will be considered by the employer.[24]

1.3(a)(iv) *State Guidelines on Employer's Use of Sealed or Expunged Criminal Records*

There are no statutory restrictions on an employer's use of sealed or expunged criminal records in Iowa. However, the Iowa Civil Rights Commission's guidance regarding an employer's use of conviction records, discussed in **1.3(a)(iii)** remains applicable.

1.3(a)(v) *Local Guidelines on Employer Inquiries About & Use of Criminal History*

Des Moines. The Des Moines fair employment practices ordinance prohibits an employer of four or more employees from: (1) including a criminal record inquiry on any application for employment; and (2) making any inquiry regarding or requiring any person to disclose or reveal any convictions, arrests, or pending criminal charges during the application process, including but not limited to any interview. However, if the applicant voluntarily discloses any information regarding the applicant's criminal record at the interview. The employer may discuss the criminal record disclosed by the applicant. The application process begins when the applicant inquires about the employment being sought and ends when an employer has extended a conditional offer of employment to the applicant.[25]

---

[23] Iowa Civil Rights Comm'n, *Successful Interviewing Guide* (rev. Oct. 2011) at **8, 23, *available at* https://www.iowaworkforcedevelopment.gov/sites/search.iowaworkforcedevelopment.gov/files/Successful%20Interviewing%20Guide_70-0006.pdf.

[24] Iowa Civil Rights Comm'n, *Successful Interviewing Guide* (rev. Oct. 2011) at **8, 23.

[25] DES MOINES, IA MUNI. CODE §§ 62-1, 62-71.1.

Criminal record means information regarding a conviction, arrest, or pending criminal charge. *Inquiry* means any direct or indirect conduct intended to gather information, using any mode of communication, including but not limited to a box or blank that seeks to elicit information about an applicant's criminal record on an employment application form. *Interview* means any direct contact by the employer with the applicant, whether in person or by telephone, to discuss the employment being sought or the applicant's qualifications.[26]

The restrictions on criminal background checks do not apply to:

- the United States or any agency thereof;
- the state or any of its political subdivisions other than the City of Des Moines; or
- any employer inquiry on an application or in an interview that is required by federal or state law or regulation.[27]

Employers must comply with any obligations arising under federal or state law relating to authorization for background checks, notifying applicants about adverse hiring decisions based on an applicant's criminal history, and any other matters involving use of criminal record information.[28]

Waterloo. Waterloo, Iowa amended its fair employment practices ordinance to restrict an employer's access to and use of an applicant's criminal history records in making hiring decisions.

Under the ordinance, employers of *four or more employees* are prohibited from including a criminal record inquiry on any application. Employers of *15 or more employees* are prohibited from making any inquiry regarding, or requiring any person to disclose or reveal, any convictions, arrests, or pending criminal charges during the application process, including but not limited to any interview. [29]

The application process begins when the applicant inquires about the employment being sought and ends when an employer has extended a conditional offer of employment to the applicant. If the applicant voluntarily discloses any information regarding their criminal record at the interview, the employer may discuss the criminal record disclosed by the applicant.

The ordinance defines *inquiry* as any direct or indirect conduct intended to gather information, using any mode of communication, including but not limited to a box or blank that seeks to elicit information about an applicant's criminal record on an employment application form. *Interview* means any direct contact by the employer with the applicant, whether in person or by telephone, to discuss the employment being sought or the applicant's qualifications.[30]

[26] DES MOINES, IA MUNI. CODE § 62-1.

[27] DES MOINES, IA MUNI. CODE § 62-72.

[28] DES MOINES, IA MUNI. CODE § 62-71.1.

[29] WATERLOO, IA CODE OF ORDINANCES § 5-3-15.

[30] WATERLOO, IA CODE OF ORDINANCES § 5-3-15.

Employers must also comply with any obligations arising under federal or state law relating to authorization for background checks, notifying applicants about adverse hiring decisions based on an applicant's criminal record, and any other matters involving the use of criminal record information.[31]

The ordinance includes some exemptions from the ban-the-box provisions. *Employer* does not include (1) the federal or state government, (2) employers required by federal or state law or regulation to make an inquiry on an application or in an interview, or (3) private schools providing a regular course of instruction for any part of kindergarten through high school education.[32]

An individual alleging a violation of the ordinance may file a complaint with the Waterloo Human Rights Commission within 300 days after the alleged discriminatory practice occurs. An employer found to be in violation will be subject to a fine of up to $750 for the first offense and up to $1,000 for subsequent offenses within a three-year period. Fines are payable to the complainant. The ordinance does not create a private right of action to seek damages or other relief of any kind.[33]

1.3(b) *Restrictions on Credit Checks*

1.3(b)(i) *Federal Guidelines on Employer's Use of Credit Information & History*

The Fair Credit Reporting Act (FCRA). The FCRA[34] governs an employer's acquisition and use of virtually any type of information gathered by a "consumer reporting agency"[35] regarding job applicants for use in hiring decisions or regarding employees for use in decisions concerning retention, promotion, or termination. Preemployment reports created by a consumer reporting agency (such as credit reports, criminal record reports, and department of motor vehicle reports) are subject to the FCRA, along with any other consumer report used for employment purposes.

The FCRA establishes procedures that an employer must strictly follow when using a consumer report for employment purposes. For example, before requesting a consumer report from a consumer reporting agency, the employer must notify the applicant or employee in writing that a consumer report will be requested and obtain the applicant's or employee's written authorization before obtaining the report. An employer that intends to take an adverse employment action, such as refusing to hire the applicant, based wholly or partly on information contained in a consumer report must also follow certain notification requirements. For additional information on the FCRA, see **LITTLER ON BACKGROUND SCREENING & PRIVACY RIGHTS IN HIRING**.

---

[31] WATERLOO, IA CODE OF ORDINANCES § 5-3-15. Previously, employers could base an adverse hiring decision on an applicant's criminal record if they had a legitimate business reason, as defined by the ordinance. In 2021, the Iowa Supreme Court struck down this provision of the ordinance. *Iowa Ass'n of Bus. & Indus. v. City of Waterloo*, 961 N.W.2d 465 (Iowa 2021). Thus, while ordinance continues to include the definition of and factors for a legitimate business reason, but employers are not obligated by the ordinance to apply the factors when making an adverse hiring decision.

[32] WATERLOO, IA CODE OF ORDINANCES § 5-3-15.

[33] WATERLOO, IA CODE OF ORDINANCES §§ 5-3-10, 5-3-15.

[34] 15 U.S.C. §§ 1681 *et seq*.

[35] A *consumer reporting agency* is any person or entity that regularly collects credit or other information about consumers to provide "consumer reports" for third persons. 15 U.S.C. § 1681a(f). A *consumer report* is any communication by a consumer reporting agency bearing on an individual's "creditworthiness, credit standing, character, general reputation, personal characteristics or mode of living" that is used for employment purposes. 15 U.S.C. § 1681a(d).

Many states have enacted their own version of the FCRA, referred to as "mini-FCRAs." While these laws often mirror the FCRA's requirements, there may be important distinctions between federal and state requirements.

Discrimination Concerns. While federal law does not prevent employers from asking about financial information provided they follow the FCRA, as noted above, federal antidiscrimination law prohibits employers from applying a financial requirement differently based on an individual's protected status—*e.g.*, race, national origin, religion, sex, disability, age, or genetic information. The EEOC also cautions that an employer must not have a financial requirement "if it *does not help the employer to accurately identify* responsible and reliable employees, and if, at the same time, the requirement significantly disadvantages people of a particular [protected category]."[36]

1.3(b)(ii) *State Guidelines on Employer's Use of Credit Information & History*

Iowa does not have a mini-FCRA law, and there are no additional state provisions specifically restricting a private employer's use of credit information and history.

1.3(c) *Restrictions on Access to Applicants' Social Media Accounts*

1.3(c)(i) *Federal Guidelines on Access to Applicants' Social Media Accounts*

There is no federal law governing an employer's ability to request access to applicants' or employees' social media accounts. However, various federal laws, or federal agencies' interpretations and enforcement of these laws, may impact employer actions. For example:

- Preemployment action taken against an applicant, or post-employment action taken against an employee, based on information discovered via social media may run afoul of federal civil rights law (*e.g.*, Title VII, the Americans with Disabilities Act, and the Age Discrimination in Employment Act).
- The National Labor Relations Board, which is charged with enforcing federal labor laws, has taken an active interest in employers' social media policies and practices, and has concluded in many instances that, regardless of whether the workplace is unionized, the existence of such a policy or an adverse employment action taken against an employee based on the employee's violation of the policy can violate the National Labor Relations Act.
- Accessing an individual's social media account without permission may potentially violate the federal Computer Fraud and Abuse Act or the Stored Communications Act.

For additional information on federal law related to background screening, see LITTLER ON BACKGROUND SCREENING & PRIVACY RIGHTS IN HIRING.

1.3(c)(ii) *State Guidelines on Access to Applicants' Social Media Accounts*

Iowa law contains no express provisions regulating employer access to applicants' or employees' social media accounts.

[36] EEOC, *Pre-Employment Inquiries and Financial Information*, *available at* https://www.eeoc.gov/laws/practices/financial_information.cfm (emphasis in original).

1.3(d) *Polygraph / Lie Detector Testing Restrictions*

1.3(d)(i) *Federal Guidelines on Polygraph Examinations*

The federal Employee Polygraph Protection Act (EPPA) imposes severe restrictions on using lie detector tests.[37] The law bars most private-sector employers from requiring, requesting, or suggesting that an employee or job applicant submit to a polygraph test, and from using or accepting the results of such a test.

The EPPA further prohibits employers from disciplining, discharging, or discriminating against any employee or applicant:

- for refusing to take a lie detector test;
- based on the results of such a test; and
- for taking any actions to preserve employee rights under the law.

There are some limited exceptions to the general ban. The exception applicable to most private employers allows a covered employer to test current employees reasonably suspected of involvement in a workplace incident that resulted in economic loss or injury to the employer's business. There is also a narrow exemption for prospective employees of security guard firms and companies that manufacture, distribute, or dispense controlled substances.

Notably, the EPPA prohibits only mechanical or electrical devices, not paper-and-pencil tests, chemical tests, or other nonmechanical or nonelectrical means that purport to measure an individual's honesty. For more information on federal restrictions on polygraph tests, including specific procedural and notice requirements and disclosure prohibitions, see LITTLER ON EMPLOYMENT TESTING.

Most states have laws that mirror the federal law. Some of these state laws place greater restrictions on testing by prohibiting lie detector "or similar" tests, such as pencil-and-paper honesty tests.

1.3(d)(ii) *State Guidelines on Polygraph Examinations*

Iowa prohibits polygraph examination use by private employers. An employer or prospective employer cannot, 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:

- request or require that an employee or applicant take or submit to a polygraph examination;
- administer, cause to be administered, threaten to administer, or attempt to administer a polygraph examination to an employee or applicant; and
- request or require that an employee or applicant give an express or implied waiver of a prohibited polygraph practice.[38]

[37] 29 U.S.C. §§ 2001 to 2009; *see also* U.S. Dep't of Labor, *Other Workplace Standards: Lie Detector Tests*, *available at* https://webapps.dol.gov/elaws/elg/eppa.htm.

[38] IOWA CODE § 730.4.

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."[39]

There are no exceptions to these provisions that are applicable to private employers.

Antiretaliation Provisions. No employee who acted in good faith may be fired, disciplined, or discriminated against in any manner for filing a complaint or testifying in any proceeding or action involving a violation of the polygraph provisions.[40]

1.3(d)(iii) *State Enforcement, Remedies & Penalties*

A violation of the prohibition on polygraphs is a misdemeanor punishable by a fine. In addition, an aggrieved employee or applicant can file a civil lawsuit against the employer, and may be awarded affirmative relief, back pay, and other equitable relief if successful. Finally, an action for injunctive relief for violation of the polygraph provisions may be brought by an aggrieved employee or applicant, the county attorney, or the attorney general.[41]

An employer that discharges, disciplines, or otherwise discriminates against an employee in violation of the antidiscrimination provisions of the polygraph law must compensate the employee for any lost wages and benefits and restore the employee to his or previous position.[42]

1.3(e) *Drug & Alcohol Testing of Applicants*

1.3(e)(i) *Federal Guidelines on Drug & Alcohol Testing of Applicants*

Whether an employer must implement a drug testing program for its employees under federal law is often determined by the industry in which it operates. For example, the Omnibus Transportation Employee Testing Act requires testing certain applicants and employees in the transportation industries.[43] The Drug-Free Workplace Act of 1988 also requires some federal contractors and all federal grantees (but not subcontractors or subgrantees) to certify to the appropriate federal agency that they are providing a drug-free workplace.[44] Employers not legally mandated to implement workplace substance use disorder and drug and alcohol testing policies may still do so to promote workplace safety, deter illegal drug use, and diminish absenteeism and turnover. For more information on drug testing requirements under federal law, see LITTLER ON EMPLOYMENT TESTING.

For the most part, workplace drug and alcohol testing is governed by state law, and state laws differ dramatically in this area and continue to evolve.

---

[39] IOWA CODE § 730.4(1).

[40] IOWA CODE § 730.4(4).

[41] IOWA CODE § 730.4(5)-(6).

[42] IOWA CODE § 730.4(4).

[43] These industries are covered by the Federal Aviation Administration (FAA); the Federal Motor Carrier Safety Administration (FMSCA); the Federal Railroad Administration (FRA); the Federal Transit Administration (FTA); and the Pipeline and Hazardous Materials Safety Administration (PHMSA). In addition, the U.S. Department of Defense, the Coast Guard, and the Nuclear Regulatory Commission, as well as other government agencies, have adopted regulations requiring mariners, employers, and contractors to maintain a drug-free workplace.

[44] 41 U.S.C. §§ 8101 *et seq.*; *see also* 48 C.F.R. §§ 23.500 *et seq*.

1.3(e)(ii) *State Guidelines on Drug & Alcohol Testing of Applicants*

Drug testing is a complicated area of state law and it is therefore recommended that an employer seek legal counsel before implementing a drug testing program. In Iowa, private employers that voluntarily choose to have drug and alcohol free workplaces must follow specific drug and alcohol testing, policy, and training guidelines.[45] Employers may test both prospective employees and employees for drugs and alcohol, and may condition employment and continued employment on the results of the testing, if the testing is conducted in accordance with Iowa's law and a written policy distributed to every employee subject to testing and available for review by employees and prospective employees.[46] The written policy must:

- contain uniform requirements for discipline and rehabilitative actions to be taken against any employee or prospective employee with a positive confirmed drug and alcohol test result or who refuses to provide a testing sample;
- require that any action against an employee or prospective employee be based only upon the results of a drug or alcohol test;
- inform employees that if rehabilitation is required under Iowa's drug testing law, the employer will not take adverse employment action against an employee complying with and successfully completing rehabilitation requirements; and
- if the employer will conduct alcohol testing, specify in writing a standard of alcohol concentration that violates the policy.[47]

Additionally, employers with drug-free workplaces must establish an awareness program to inform employees of the dangers of drug and alcohol use in the workplace. Employers must also conduct trainings for supervisory personnel who are involved with drug or alcohol testing. The initial required training session must be two hours, and annually thereafter, at least one hour, and at minimum must include information about: how to recognize evidence of employee alcohol and drug use disorder; how to document and corroborate employee alcohol and other drug use disorder; and how to refer employees who abuse alcohol and drugs to an employee assistance or other type of program.[48]

If a prospective employee has a confirmed positive test result for drugs or alcohol, as reported to the employer by a medical review officer, the employer must notify the candidate in writing of the results and of the individual's right to request records, as well as, provide the name and address of the medical review officer who issued the report.[49] The notice must further advise the prospective employee that the individual has a right to request access to all testing records in writing, within 15 calendar days of the date on which the employer's notice of test results is received.[50]

---

[45] IOWA CODE § 730.5(3).

[46] IOWA CODE § 730.5(4), (9)-(10).

[47] IOWA CODE § 730.5(9).

[48] IOWA CODE § 730.5(9)(h).

[49] IOWA CODE § 730.5.

[50] IOWA CODE § 730.5(13).

2. TIME OF HIRE

2.1 Documentation to Provide at Hire

2.1(a) *Federal Guidelines on Hire Documentation*

Table 2 lists the documents that must be provided at the time of hire under federal law.

Table 2. Federal Documents to Provide at Hire

Category	Notes
Benefits & Leave Documents: Affordable Care Act (ACA)	Currently, employers covered under the Fair Labor Standards Act (FLSA) must provide to each employee, at the time of hire, written notice: • informing the employee of the existence of an insurance exchange, including a description of the services provided by such exchange, and the manner in which the employee may contact the exchange to request assistance; • that if the employer-plan's share of the total allowed costs of benefits provided under the plan is less than 60% of such costs, the employee may be eligible for a premium tax credit under section 36B of the Internal Revenue Code of 1986[51] and a cost-sharing reduction under section 1402 of the Patient Protection and Affordable Care Act[52] if the employee purchases a qualified health plan through the exchange; and • that if the employee purchases a qualified health plan through the exchange, the employee may lose the employer contribution (if any) to any health benefits plan offered by the employer and that all or a portion of such contribution may be excludable from income for federal income tax purposes.[53] The U.S. Department of Labor's Employee Benefits Security Administration provides a model notice for employers that offer a health plan to some or all employees and a separate notice for employers that do not offer a health plan.[54]
Benefits & Leave Documents: Consolidated Omnibus Budget Reconciliation Act (COBRA)	Employers or group health plan administrators must provide written notice to employees and their spouses outlining their COBRA rights no later than 90 days after employees and spouses become covered under group health plans. Employers or plan administrators can develop their own COBRA rights notice or use the COBRA Model General Notice.[55]

[51] 26 U.S.C. § 36B.

[52] 42 U.S.C. § 18071.

[53] 29 U.S.C. § 218b.

[54] Model notices are available in English and Spanish at https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers/coverage-options-notice.

[55] The model notice is available in English and Spanish at https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/cobra.

Table 2. Federal Documents to Provide at Hire	
Category	**Notes**
	Employers or plan administrators can send COBRA rights notices through first-class mail, electronic distribution, or other means that ensure receipt. If employees and their spouses live at the same address, employers or plan administrators can mail one COBRA rights notice addressed to both individuals; alternatively, if employees and their spouses do not live at the same address, employers or plan administrators must send separate COBRA rights notices to each address.[56]
Benefits & Leave Documents: Family and Medical Leave Act (FMLA)	In addition to posting requirements, if an FMLA-covered employer has any eligible employees, it must provide a general notice to each employee by including the notice in employee handbooks or other written guidance to employees concerning employee benefits or leave rights, if such written materials exist, or by distributing a copy of the general notice to each new employee upon hiring.[57] In either case, distribution may be accomplished electronically. Employers may use a format other than the FMLA poster as a model notice, if the information provided includes, at a minimum, all of the information contained in that poster.[58] Where an employer's workforce is comprised of a significant portion of workers who are not literate in English, the employer must provide the general notice in a language in which the employees are literate. Employers furnishing FMLA notices to sensory-impaired individuals must also comply with all applicable requirements under federal or state law.[59]
Immigration Documents: Form I-9	Employers must ensure that individuals properly complete Form I-9 section 1 ("Employee Information and Verification") at the time of hire and sign the attestation with a handwritten or electronic signature. Also, individuals must present employers documentation establishing their identity and employment authorization. Within three business days of the first day of employment, employers must physically examine the documentation presented in the employee's presence, ensure that it appears to be genuine and relates to the individual, and complete Form I-9, section 2 ("Employer Review and Verification"). Employers must also, within three business days of hiring, sign the

[56] 29 C.F.R. § 2590.606-1.

[57] 29 C.F.R. § 825.300(a).

[58] The U.S. Department of Labor's Wage & Hour Division's model FMLA poster, which satisfies the notice requirement, is available at https://www.dol.gov/WHD/fmla/index.htm.

[59] 29 C.F.R. § 825.300(a).

Table 2. Federal Documents to Provide at Hire	
Category	**Notes**
	attestation with a handwritten or electronic signature. Employers that hire individuals for a period of less than three business days must comply with these requirements at the time of hire.[60] For additional information on these requirements, see LITTLER ON I-9 COMPLIANCE & WORK AUTHORIZATION VISAS.
Tax Documents	On or before the date employment begins, employees must furnish employers with a signed withholding exemption certificate (Form W-4) relating to their marital status and the number of withholding exemptions they claim.[61]
Uniformed Services Employment and Reemployment Rights Act (USERRA) Documents	Employers must provide to persons covered under USERRA a notice of employee and employer rights, benefits, and obligations. Employers may meet the notice requirement by posting notice where employers customarily place notices for employees.[62]
Wage & Hour Documents	To qualify for the federal tip credit, employers must notify tipped employees: (1) of the minimum cash wage that will be paid; (2) of the tip credit amount, which cannot exceed the value of the tips actually received by the employee; (3) that all tips received by the tipped employee must be retained by the employee except for a valid tip pooling arrangement limited to employees who customarily and regularly receive tips; and (4) that the tip credit will not apply to any employee who has not been informed of these requirements.[63]

2.1(b) *State Guidelines on Hire Documentation*

Table 3 lists the documents that must be provided at the time of hire under state law.

Table 3. State Documents to Provide at Hire	
Category	**Notes**
Benefits & Leave Documents	No general notice requirement located. However, if an employer has paid a claim for unpaid wages or nonreimbursed authorized expenses and liquidated damages, or if the employer has been assessed a civil money penalty, the state labor

[60] *See generally* 8 C.F.R. § 274a.2. The form is available at https://www.uscis.gov/i-9.

[61] 26 C.F.R. § 31.3402(f)(2)-1. The IRS provides this form at https://www.irs.gov/pub/irs-pdf/fw4.pdf.

[62] 38 U.S.C. § 4334. This notice is available at https://www.dol.gov/sites/dolgov/files/VETS/legacy/files/USERRA_Private.pdf.

[63] 29 C.F.R. § 531.59.

Table 3. State Documents to Provide at Hire	
Category	**Notes**
	department can order the employer, at the time of hiring, to notify its employees in writing about their wages. As relevant here, *wages* is defined to include, among other things: • vacation, holiday, sick leave, and severance payments, which are due an employee by contract or an employer's policy under an agreement with the employer or under a policy of the employer; • payments to the employee or to a fund for the benefit of the employee, including payments for medical, health, hospital, welfare, pension, or profit-sharing, which are due an employee under an agreement with the employer or under a policy of the employer; or • expenses incurred and recoverable under a health benefit plan.[64] See **3.8(a)(ii)** for details.
Drug-Testing Policy Documents	As described in **1.3(e)(ii)**, private employers in Iowa are free to adopt drug and alcohol testing policies and may test both applicants and current employees. Employers implementing such a program must comply with certain requirements, including distributing a written policy to every employee subject to testing and making that policy available for review by employees and prospective employees.[65] The written policy must: • contain uniform requirements for discipline and rehabilitative actions to be taken against any applicant or employee with a positive confirmed drug and alcohol test result or who refuses to provide a testing sample; • require that any action against an employee or prospective employee be based only upon the results of a drug or alcohol test; • inform employees that if rehabilitation is required, the employer will not take adverse employment action against an employee complying with and successfully completing rehabilitation requirements; and • if the employer will conduct alcohol testing, specify in writing a standard of alcohol concentration that violates the policy.[66]
Fair Employment Practices Documents	No notice requirement located.
Notice to Non-English-Speaking Hourly Employees	Certain employers with 103 or more hourly employees are required to give notice to non-English-speaking staff under certain circumstances. An employer, or its representative, that actively recruits non-English speaking residents of other states more than 500 miles from the place

[64] IOWA CODE §§ 91A.6, 91A.2 (definition of *wages*).

[65] IOWA CODE § 730.5(4), (9)-(10).

[66] IOWA CODE § 730.5(9).

Table 3. State Documents to Provide at Hire	
Category	**Notes**
	of employment, for employment as hourly employees in Iowa, must provide written notice—to be signed by both parties—describing the position. The notice must include, at a minimum, the following information: • minimum number of hours the employee can expect to work on a weekly basis; • hourly wages of the position of employment including the starting hourly wage; • description of the responsibilities and tasks of the position of employment; • health risks, known to the employer, to the employee involved in the position of employment; and • possession of forged documentation authorizing the person to stay or be employed in the United States is a Class "D" felony. Employers must give a copy of the notice to each employee and must also retain on file the written statement signed by the employer and the employee.[67]
Tax Documents	Employees must declare to the employer or withholding agent the number of the employee's personal allowances to be used for state income tax purposes.[68]
Wage & Hour Documents: General	No general notice requirement located. However, if an employer has paid a claim for unpaid wages or nonreimbursed authorized expenses and liquidated damages, or if the employer has been assessed a civil money penalty, the state labor department can order the employer, at the time of hiring, to notify its employees in writing about their: (1) regular payday; and (2) wages. As relevant here, *wages* is defined to include, among other things: • compensation owed by an employer for labor or services rendered by an employee, whether determined on a time, task, piece, commission, or other basis of calculation; • various benefits (*i.e.*, vacation, holiday, sick leave, and severance payments), as noted above; and • payments to the employee or to a fund for the benefit of the employee, including but not limited to payments for medical, health, hospital, welfare, pension, or profit-sharing, as noted above.[69]

[67] IOWA CODE § 91E.3.

[68] IOWA CODE § 422.16. Iowa withholding forms, including Form IA W-4, are available at https://tax.iowa.gov/forms. Additional withholding resources are available at https://tax.iowa.gov/iowa-withholding-tax-information.

[69] IOWA CODE §§ 91A.6, 91A.2 (definition of *wages*).

Table 3. State Documents to Provide at Hire	
Category	**Notes**
	See **3.8(a)(ii)** for details.
Wage & Hour Documents: Tipped Employees	An employer cannot claim a tip credit unless certain conditions are met, including that the employer informed the employee about the tip credit provisions.[70]

2.2 New Hire Reporting Requirements

2.2(a) *Federal Guidelines on New Hire Reporting*

The federal New Hire Reporting Program requires all states to establish new hire reporting laws that comply with federal requirements.[71] State new hire reporting laws must include these minimum requirements:

1. employers must report to the appropriate state agency the employee's name, address, and Social Security number, as well as the employer's name, address, and federal tax identification number provided by the Internal Revenue Service;
2. employers may file the report by first-class mail, electronically, or magnetically;
3. if the report is transmitted by first-class mail, the report must be made not later than 20 days after the date of hire;
4. if the report is transmitted electronically or magnetically, the employer may report no later than 20 days following the date of hire or through two monthly transmissions not less than 12 days nor more than 16 days apart;
5. the format of the report must be a Form W-4 or, at the option of the employer, an equivalent form; and
6. the maximum penalty a state may set for failure to comply with the state new hire law is $25 (which increases to $500 if the failure to comply is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report).[72]

These are only the minimum requirements that state new hire reporting laws must satisfy. States may enact new hire reporting laws that, for example, require additional information to be submitted or require a shorter reporting timeframe. Many states have also developed their own reporting form; however, its use is optional.

Multistate Employers. The New Hire Reporting Program includes a simplified reporting method for multistate employers. The statute defines *multistate employers* as employers with employees in two or more states and that file new hire reports either electronically or magnetically. The federal statute permits multistate employers to designate one state to which they will transmit all of their reports twice per

[70] IOWA ADMIN. CODE r. 875-215.3(23).

[71] The New Hire Reporting Program is part of the Personal Responsibility and Work Opportunity Act of 1996. 42 U.S.C. §§ 651 to 669.

[72] 42 U.S.C. § 653a.

month, rather than filing new hire reports in each state. An employer that designates one state must notify the Secretary of the U.S. Department of Health and Human Services (HHS) in writing. When notifying the HHS, the multistate employer must include the following information:

- Federal Employer Identification Number (FEIN);
- employer's name, address, and telephone number related to the FEIN;
- state selected for reporting purposes;
- other states in which the company has employees;
- the corporate contact information (name, title, phone, email, and fax number); and
- the signature of person providing the information.

If the company is reporting new hires on behalf of subsidiaries operating under different names and FEINs, it must list the names and FEINs, and the states where those subsidiaries have employees working.

Multistate employers can notify the HHS by mail, fax, or online as follows:

Table 4. Multistate Employer New Hire Information

Contact By Mail or Fax	Contact Online
Department of Health and Human Services Administration for Children and Families Office of Child Support Enforcement Multi-State Employer Registration Box 509 Randallstown, MD 21133 Fax: (410) 277-9325	Register online by submitting a multistate employer notification form over the internet.[73] Multistate employers can receive assistance with registration as a multistate employer from the Multistate Help Desk by calling (410) 277-9470, 9:00 A.M. to 5:00 P.M., Eastern Time.

2.2(b) *State Guidelines on New Hire Reporting*

The following is a summary of the key elements of Iowa's new hire reporting law.

Who Must Be Reported. An employer must report any individual hired or rehired after termination of employment lasting a minimum of six consecutive weeks. Unpaid medical leaves, unpaid leave of absences, and temporary layoffs do not count as termination of employment.[74]

Report Timeframe. Reporting should be made within 15 days of hiring or rehiring. If the employer is transmitting reports magnetically or electronically, the employer may submit reports twice per month, not less than 12 nor more than 16 days apart.[75]

Information Required. The employee's name, address, date of birth, and Social Security number are required. Information regarding whether the employer has employee dependent health care coverage

[73] HHS offers the form online at http://www.acf.hhs.gov/programs/css/resource/multistate-employer-registration-form-instructions.

[74] IOWA CODE §§ 252G.1 *et seq*.

[75] IOWA CODE § 252G.3(1).

available and the appropriate date on which the employee may qualify for the coverage is also required. Further, the employer's name, address, federal tax identification number, and the address to which income withholding orders or the notices of orders and garnishments should be sent must be included.[76]

Form & Submission of Report. The report should include the federal Form W-4 together with other required information, including Iowa employee's withholding allowance certificate, Central Employee Registry forms, and computer printouts with all required information. Reports may be submitted by mail, fax, magnetically, or electronically (including online).[77]

Location to Send Information.

Centralized Employee Registry
P.O. Box 10322
Des Moines, IA
50306-0322
(877) 274-2580
(800) 759-5881 (fax)
(515) 281-3749 (fax)

Multistate Employers. An employer with employees in two or more states that transmits reports electronically or magnetically may designate which state to report to so long as the employer notifies the secretary of HHS, in writing, of the state designated by the employer for the purpose of transmitting reports.[78]

2.3 Restrictive Covenants, Trade Secrets & Protection of Business Information

2.3(a) *Federal Guidelines on Restrictive Covenants & Trade Secrets*

Restrictive covenants are limitations placed on an employee's conduct that remain in force after the individual's employment has ended. Post-employment restrictions are designed to protect the employer and typically prevent an individual from disclosing the employer's confidential information or soliciting the employer's employees or customers. These restrictions may also prohibit individuals from engaging in competitive employment, including competitive self-employment, for a specific time period after the employment relationship ends. There is no federal law governing these types of restrictive covenants. Therefore, a restrictive covenant's ability to protect an employer's interests is dependent upon applicable state law and the type of relationship or covenant involved.

As a general rule, a covenant restraining competition (referred to as a "noncompete") is more likely to be viewed critically because restraints of trade are generally disfavored. The typical exception to this general rule is a reasonable restraint that has a legitimate business purpose, such as the protection of trade secrets, confidential information, customer relationships, business goodwill, training, or the sale of a business. Notwithstanding, state laws vary widely regarding which of these interests can be protected through a restrictive covenant. Even where states agree on the interest that can be protected, they may vary on what is seen as a reasonable and enforceable provision for such protection.

[76] IOWA CODE § 252G.3(2).

[77] IOWA CODE § 252G.3(3).

[78] IOWA CODE § 252G.3(4).

Protections against trade secret misappropriation are also available to employers. Until 2016, trade secrets were the only form of intellectual property (*i.e.*, copyrights, patents, trademarks) not predominately governed by federal law. However, the Defend Trade Secrets Act of 2016 (DTSA) now provides a federal court civil remedy and original (but not exclusive) jurisdiction in federal court for claims of trade secret misappropriation.[79] As such, the DTSA provides trade secret owners a uniform federal law under which to pursue such claims. The DTSA operates alongside more limited existing protections under the federal Economic Espionage Act of 1996 and the Computer Fraud and Abuse Act, as well as through state laws adopting the Uniform Trade Secrets Act (UTSA).

For more information on these topics, see LITTLER ON PROTECTION OF BUSINESS INFORMATION & RESTRICTIVE COVENANTS.

2.3(b) *State Guidelines on Restrictive Covenants & Trade Secrets*

2.3(b)(i) *State Restrictive Covenant Law*

In Iowa, there is no statute of general applicability regarding restrictive covenants. Noncompete agreements are generally disfavored in Iowa because they are viewed as a restraint on trade that limits an employee's freedom for future employment opportunities.[80] When determining whether to enforce a restrictive covenant Iowa courts will apply a three-prong test:

1. Is the restriction reasonably necessary for the protection of the employer's business?
2. Is it unreasonably restrictive of the employee's rights?
3. Is it prejudicial to the public interest?[81]

Generally noncompetition agreements incident to a contract of employment will be enforced if they are no wider than are necessary for the protection of employer's business interest and do not impose an undue hardship on the employee.[82]

Determinations regarding the validity of noncompetes are fact specific. However, Iowa courts have held that customer limitations are permitted as a substitute for geographic limits.[83]

Enforceability Following Employee Discharge. An employer's termination of the employment relationship will be considered a factor in whether the noncompete is enforceable.[84]

2.3(b)(ii) *Consideration for a Noncompete*

Restrictive covenants require an employee to promise not to do something the employee would otherwise have been able to do. For example, by signing a noncompete agreement, an employee is giving up the right to open a competing business or work for an employer in a competing business. Therefore,

---

[79] 18 U.S.C. §§ 1832 *et seq.*

[80] *Board of Regents v. Warren*, 2008 WL 5003750 (Iowa Ct. App. Nov. 26, 2008).

[81] *Lamp v. American Prosthetics, Inc.*, 379 N.W.2d 909, 910 (Iowa 1986); *see also Curtis 1000, Inc. v. Youngblade*, 878 F. Supp. 1224 (N.D. Iowa 1995).

[82] *See, e.g.*, *American Prosthetics*, 379 N.W.2d at 910.

[83] *See Moore Bus. Forms, Inc. v. Wilson*, 953 F. Supp. 1056, 1068 (N.D. Iowa 1996).

[84] *Ma & Pa, Inc. v. Kelly*, 342 N.W.2d 500, 502 (Iowa 1984); *ISU Veterinary Servs. Corp. v. Reimer*, 779 F. Supp.2d 970, 981 (S.D. Iowa 2011).

employers need to provide an employee with "consideration" in return for the agreement to be binding. Providing *consideration* means giving something of value—*i.e.*, a promise to do something that the employer was not otherwise obligated to do—such as extending an offer of employment to a new employee or providing a bonus for an existing employee.

Iowa courts have determined that noncompete covenants signed both at inception of employment and later signed agreements leading to continued employment constitute sufficient consideration.[85]

2.3(b)(iii) *Ability to Modify or Blue Pencil a Noncompete*

When a restrictive covenant is found to be unreasonable in scope, some states refuse to enforce its terms entirely (sometimes referred to as the "all-or-nothing" rule), while others may permit the court to "blue pencil" or modify an agreement that is unenforceable as written. *Blue penciling* refers to the practice whereby a court strikes portions of a restrictive covenant it deems unenforceable. *Reformation*, on the other hand, refers to a court modifying a restrictive covenant to make it enforceable, which may include introducing new terms into the agreement (sometimes referred to as the "reasonableness" rule). By rewriting an overly broad restrictive covenant rather than simply deeming it unenforceable, courts attempt to effectuate the parties' intentions as demonstrated by their agreement to enter into a restrictive covenant in the first place.

Upon finding a covenant unduly restrictive, a court is authorized to modify the covenant.[86] Iowa courts follow the reasonable alteration approach—whereby it will reform the restriction so that is no greater than necessary to protect the employer.[87]

2.3(b)(iv) *State Trade Secret Law*

Iowa, like most states, have adopted a version of the Uniform Trade Secrets Act. The Iowa Trade Secrets Act protects employers from misappropriation of trade secrets.[88] Under Iowa's law a trade secrets may include a formula, pattern, compilation, program, device, method, technique, or process that derives value from being unknown and is subject to reasonable means to protect its secrecy.[89] One can be liable for misappropriation by doing any of the following:

- acquisition, disclosure, or use of a trade secret by a person who knows that the trade secret is acquired by improper means;
- disclosure or use of a trade secret by a person who at the time of disclosure or use, knows that the trade secret is derived from or through a person who had utilized improper means to acquire the trade secret or had a duty to maintain its secrecy; or

---

[85] *See Iowa Glass Depot, Inc. v. Jindrich*, 338 N.W.2d 376, 381 (Iowa 1983); *Farm Bureau Serv. Co. of Maynard v. Kohls*, 203 N.W.2d 209, 212 (Iowa 1972) (generally holding that continued employment for an indefinite period is sufficient consideration for a noncompete in Iowa; however, in this case, the noncompete was not entered into until two months after employment began); *Orkin Exterminating Co. v. Burnett*, 146 N.W.2d 320, 324 (Iowa 1966); *Curtis 1000, Inc. v. Youngblade*, 878 F. Supp. 1224, 1259-60 (N.D. Iowa 1995).

[86] *American Express Fin. Advisors v. Yantis*, 358 F. Supp. 2d 818, 829 (N.D. Iowa 2005).

[87] *Ehlers v. Iowa Warehouse Co.*, 188 N.W.2d 368, 371-74 (Iowa 1971), *modified,* 190 N.W.2d 413 (Iowa 1971) (overruling line of cases that required "all-or-nothing" approach).

[88] IOWA CODE §§ 550 *et seq*.

[89] IOWA CODE § 550.2(4).

- disclosure or use of a trade secret by a person who, before a material change in the person's position, knows that the information is a trade secret and that the trade secret has been acquired by accident or mistake.[90]

If a court determines that a trade secret has been misappropriated, the court may issue an injunction to prevent further use.[91] Damages, including the actual loss and the unjust enrichment caused by the misappropriation, may also be part of the remedy.[92]

2.3(b)(v) *State Guidelines on Employee Inventions & Ideas*

Iowa has no statutory guidelines addressing ownership of employee inventions and ideas.

3. DURING EMPLOYMENT

3.1 Posting, Notice & Record-Keeping Requirements

3.1(a) *Posting & Notification Requirements*

3.1(a)(i) *Federal Guidelines on Posting & Notification Requirements*

Several federal employment laws require that specific information be posted in the workplace. Posting requirements vary depending upon the law at issue. For example, employers with fewer than 55 employees are not covered by the Family and Medical Leave Act and, therefore, would not be subject to the law's posting requirements. Table 5 details the federal workplace posting and notice requirements.

Table 5. Federal Posting & Notice Requirements

Poster or Notice	Notes
Employee Polygraph Protection Act (EPPA)	Employers must post and keep posted on their premises a notice explaining the EPPA.[93]
Equal Employment Opportunity (EEO) Act ("EEO is the Law" Poster)	Employers must post and keep posted in conspicuous places upon their premises, in an accessible format, a notice that describes the federal laws prohibiting discrimination in employment.[94]
Fair Labor Standards Act (FLSA)	Employers must post and keep posted a notice, summarizing employee rights under the FLSA, in conspicuous places in every establishment where employees subject to the FLSA are employed.[95]

[90] IOWA CODE § 550.2(3).

[91] IOWA CODE § 550.3.

[92] IOWA CODE § 550.4.

[93] 29 C.F.R. § 801.6. This poster is available in English and Spanish at http://www.dol.gov/whd/regs/compliance/posters/eppa.htm.

[94] 29 C.F.R. §§ 1601.30 (Title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act), 1627.10 (Age Discrimination in Employment Act). This poster is available in English, Spanish, Arabic, and Chinese at https://www1.eeoc.gov/employers/poster.cfm.

[95] 29 C.F.R. § 516.4. This poster is available in English, Spanish, Chinese, Russian, Thai, Hmong, Vietnamese, Korean, Polish, and Haitian Creole at http://www.dol.gov/whd/regs/compliance/posters/flsa.htm.

Table 5. Federal Posting & Notice Requirements	
Poster or Notice	**Notes**
Family & Medical Leave Act (FMLA)	Employers must conspicuously post, where employees are employed, a notice explaining the FMLA's provisions and providing information on filing complaints of violations.[96]
Migrant and Seasonal Agricultural Worker Protection Act (MSPA)	Farm labor contractors, agricultural employers, and agricultural associations that employ or house any migrant or seasonal agricultural worker must conspicuously post at the place of employment a poster setting forth the MSPA's rights and protections, including the right to request a written statement of the information described in 29 U.S.C. § 1821(a). The poster must be provided in Spanish or other language common to migrant or seasonal agricultural workers who are not fluent or literate in English.[97]
Notice to Workers with Disabilities/Special Minimum Wage Poster	Employers of workers with disabilities under special minimum wage certificates must at all times display and make available to employees a poster explaining the conditions under which the special wage rate applies. Where an employer finds it inappropriate to post notice, directly providing the poster to its employees is sufficient.[98]
Occupational Safety and Health Act ("the Fed-OSH Act")	Employers must post a notice or notices informing employees of the Fed-OSH Act's protections and obligations, and that for assistance and information employees should contact the employer or nearest U.S. Department of Labor office.[99]
Uniformed Service Employment and Reemployment Rights Act (USERRA)	Employers must provide notice about USERRA's rights, benefits, and obligations to all individuals entitled to such rights and benefits. Employers may provide notice by posting or by other means, such as by distributing or mailing the notice.[100]
In addition to the federal posters required for all employers, government contractors may be required to post the following posters.	
"EEO is the Law" Poster with the EEO is the Law Supplement	Employers subject to Executive Order No. 11246 must prominently post notice, where it can be readily seen by employees and applicants, explaining that discrimination in employment is prohibited on

[96] 29 C.F.R. § 825.300. This poster is available in English and Spanish at http://www.dol.gov/whd/regs/compliance/posters/fmla.htm.

[97] 29 C.F.R. §§ 500.75, 500.76. This poster is available in English, Spanish, Haitian Creole, Vietnamese, and Hmong at http://www.dol.gov/whd/regs/compliance/posters/mspaensp.htm.

[98] 29 C.F.R. § 525.14. This poster is available in English and Spanish at http://www.dol.gov/whd/regs/compliance/posters/disab.htm.

[99] 29 C.F.R § 1903.2. This poster is available in English, Spanish, Arabic, Chinese, Russian, Nepali, Thai, Hmong, Vietnamese, Korean, Polish, Portuguese, and Haitian Creole at https://www.osha.gov/Publications/poster.html.

[100] 20 C.F.R. app. § 1002. This poster is available at http://www.dol.gov/vets/programs/userra/poster.htm.

Table 5. Federal Posting & Notice Requirements	
Poster or Notice	**Notes**
	numerous grounds.[101] The second page includes reference to government contractors.
Annual EEO, Affirmative Action Statement	Government contractors covered by the Affirmative Action Program (AAP) requirements are required to post a separate EEO/AA Policy Statement (in addition to the required "EEO is the Law" Poster), which indicates the support of the employer's top U.S. official. This statement should be reaffirmed annually with the employer's AAP.[102]
Employee Rights Under the Davis-Bacon Act Poster	Employers performing work covered by the labor standards of the Davis-Bacon and Related Acts must prominently post notice, where accessible to employees, summarizing the protections of the law.[103]
Employee Rights Under the Service Contract or Walsh-Healey Public Contracts Acts Poster	Employers performing work covered by the McNamara-O'Hara Service Contract Act ("Service Contract Act") or the Walsh-Healey Public Contracts Act ("Walsh-Healey Act") must prominently post notice, where accessible to employees, summarizing all required compensation and other entitlements. To comply, employers may notify employees by attaching a notice to the contract, or may post the notice at the worksite.[104]
E-Verify Participation & Right to Work Posters	The Department of Homeland Security requires certain government contractors, under Executive Order Nos. 12989, 13286, and 13465, to post notice informing current and prospective employees of their rights and protections. Notices must be posted in a prominent place that is visible to prospective employees and all employees who are verified through the system.[105]
Notice to Workers with Disabilities/Special Minimum Wage Poster	Employers of workers with disabilities under special minimum wage certificates authorized by the Service Contract Act or the Walsh-Healey Public Contracts Act must post notice, explaining the conditions under which the special minimum wages may be paid. Where an employer

[101] 41 C.F.R. § 60-1.42; *see also* 41 C.F.R. § 60-741.5(a) (requiring all agencies and contractors to include an equal opportunity clause in contracts, in which the contractor agrees to post this notice). This poster is available at https://www.dol.gov/ofccp/regs/compliance/posters/ofccpost.htm.

[102] 41 C.F.R. §§ 60-300.44, 60-741.44.

[103] 29 C.F.R. § 5.5(a)(l)(i). This poster is available at https://www.dol.gov/whd/regs/compliance/posters/davis.htm.

[104] 29 C.F.R. § 4.6(e); 29 C.F.R. § 4.184. This poster is available at https://www.dol.gov/whd/regs/compliance/posters/sca.htm.

[105] U.S. Citizenship and Immigration Servs., Dep't of Homeland Sec., *E-Verify Memorandum of Understanding for Employers*, *available at* https://www.e-verify.gov/sites/default/files/everify/memos/MOUforEVerifyEmployer.pdf. The poster is available at https://preview.e-verify.gov/sites/default/files/everify/posters/IER_RightToWorkPoster%20Eng_Es.pdf. According to the U.S. Citizenship and Immigration Services, this poster must be displayed in English and Spanish.

Table 5. Federal Posting & Notice Requirements	
Poster or Notice	**Notes**
	finds it inappropriate to post this notice, directly providing the poster to its employees is sufficient.[106]
Notification of Employee Rights Under Federal Labor Laws	Government contractors are required under Executive Order No. 13496 to post this notice in conspicuous locations and, if the employer posts notices to employees electronically, it must also make this poster available where it customarily places other electronic notices to employees about their jobs. Electronic posting cannot be used as a substitute for physical posting. Where a significant portion of the workforce is not proficient in English, the notice must be provided in the languages spoken by employees.[107]
Office of the Inspector General's Fraud Hotline Poster	Certain government contractors must prominently post notice, where accessible to employees, addressing fraud and how to report such misconduct.[108]
Paid Sick Leave Under Executive Order No. 13706	Certain government contractors must prominently post notice, where accessible to employees at the worksite, informing employees of their right to earn and use paid sick leave. Notice may be provided electronically if customary to the employer.[109] **Pay Period or Monthly Notice.** A contractor must inform an employee in writing of the amount of accrued paid sick leave no less than once each pay period or each month, whichever is shorter. Additionally, this information must be provided when employment ends and when an employee's accrued but unused paid sick leave is reinstated. Providing these notifications via a pay stub meets the compliance requirements of the executive order. **Pay Stub / Electronic.** A contractor's existing procedure for informing employees of available leave, such as notification accompanying each paycheck or an online system an employee can check at any time, may be used to satisfy or partially satisfy these requirements if it is written (including electronically, if the contractor customarily corresponds with or makes information available to its employees by electronic means).[110]

[106] 29 C.F.R. § 525.14. This poster is available at https://www.dol.gov/whd/regs/compliance/posters/disab.htm.

[107] 29 C.F.R. § 471.2. This poster is available at https://www.dol.gov/olms/regs/compliance/EO13496.htm.

[108] 48 C.F.R. §§ 3.1000 *et seq*. This poster is available at https://oig.hhs.gov/documents/root/243/OIG_Hotline_Ops_Poster_-_Grant__Contract_Fraud.pdf.

[109] 29 C.F.R. § 13.26. This poster is available at https://www.dol.gov/whd/govcontracts/eo13706/index.htm. Additional resources on the sick leave requirement are available at https://www.dol.gov/whd/govcontracts/eo13706/index.htm.

[110] 29 C.F.R. § 13.5.

Table 5. Federal Posting & Notice Requirements	
Poster or Notice	**Notes**
Pay Transparency Nondiscrimination Provision	Employers covered by Executive Order No. 11246 must either post a copy of this nondiscrimination provision in conspicuous places available to employees and applicants for employment, or post the provision electronically. Additionally, employers must distribute the nondiscrimination provision to their employees by incorporating it into their existing handbooks or manuals.[111]
Worker Rights Under Executive Order Nos. 13658 (contracts entered into on or after January 1, 2015), 14026 (contracts entered into on or after January 30, 2022)	Employers that contract with the federal government under Executive Order Nos. 13658 or 14026 must prominently post notice, where accessible to employees, summarizing the applicable minimum wage rate and other required information.[112]

3.1(a)(ii) *State Guidelines on Posting & Notification Requirements*

Table 6 details the state workplace posting and notice requirements. While local ordinances are generally excluded from this publication, some local ordinances may have posting requirements, especially in the minimum wage or paid leave areas. Local posting requirements may be discussed in the table below or in later sections, but the local ordinance coverage is not comprehensive.

Table 6. State Posting & Notice Requirements	
Poster or Notice	**Notes**
Drug-Testing Policy: General	As described in **1.3(e)(ii)**, private employers in Iowa are free to adopt drug and alcohol testing. Employers implementing such a program must comply with certain requirements, including distributing a written policy to every employee subject to testing and making that policy available for review by employees and prospective employees.[113] The written policy must: • contain uniform requirements for discipline and rehabilitative actions to be taken against any applicant or employee with a positive confirmed drug and alcohol test result or who refuses to provide a testing sample; • require that any action against an employee or prospective employee be based only upon the results of a drug or alcohol test;

[111] 41 C.F.R. § 60-1.35(c). This poster is available at https://www.dol.gov/agencies/ofccp/posters.

[112] 29 C.F.R. §§ 10.29, 23.290. The poster, referencing both Executive Orders, is available at https://www.dol.gov/whd/regs/compliance/posters/mw-contractors.htm.

[113] IOWA CODE § 730.5(4), (9)-(10).

Table 6. State Posting & Notice Requirements	
Poster or Notice	**Notes**
	• inform employees that if rehabilitation is required, the employer will not take adverse employment action against an employee complying with and successfully completing rehabilitation requirements; and • if the employer will conduct alcohol testing, specify in writing a standard of alcohol concentration that violates the policy.[114]
Drug-Testing Policy: Employer With Employee Assistance Program	Employers that implement a testing policy and that sponsor an employee assistance program (EAP) must post conspicuous notice about the benefits and services of the EAP. Employers must also explore options to publicize the EAP and provide notice concerning access and use of the EAP.[115]
Drug-Testing Policy: Employer Without Employee Assistance Program	Employers that implement a testing policy and that do *not* sponsor an EAP, must maintain a resource file of assistance providers, including substance use disorder programs certified by the Iowa department of health, mental health providers, and other individuals or organizations available to assist with personal or behavioral problems. Employers must inform employees about the resource file and provide a summary of its contents. The summary should contain information necessary for employees to access the services listed in the resource file.[116]
Fair Employment Practices	According to the Iowa Workforce Development, all employers must post notice concerning the prohibition against discrimination in employment and informing employees how to file a complaint.[117]
Unemployment Compensation	All employers must post and maintain conspicuous notice, where it can be readily observed by employees, describing unemployment insurance coverage and instructing employees how to file claims for benefits.[118]
Wages, Hours & Payroll	All employers must post and maintain conspicuous notice, where it can be readily observed by employees, explaining the state minimum wage law.[119]
Workplace Safety: Safety & Health Protection on the Job	All employers must post and maintain conspicuous notice informing employees of the protections and obligations under the Iowa

[114] IOWA CODE § 730.5(9).

[115] IOWA CODE § 730.5(9)(c)(1).

[116] IOWA CODE § 730.5(9)(c)(2).

[117] This poster is available at https://workforce.iowa.gov/media/229/download?inline=.

[118] IOWA CODE § 96.11. This poster is available at https://workforce.iowa.gov/media/233/download?inline.

[119] IOWA CODE § 91D.1; IOWA ADMIN. CODE r. 875-216.4 (91D). This poster is available at https://workforce.iowa.gov/media/229/download?inline=.

Table 6. State Posting & Notice Requirements	
Poster or Notice	**Notes**
	Occupational Safety and Health Act. The poster must be at least 81/2 x 14 inches.[120]
Workplace Safety: No Smoking Signs	Smoking is prohibited in enclosed places of employment in Iowa, including company-owned vehicles.[121]All employees and prospective employees must be notified of the prohibitions on smoking in the workplace. In addition, "No Smoking" signs or the international no-smoking symbols must be posted at entrances to workplaces and in company vehicles. Signs must include the phone number and website to report complaints. Signs must be 24 inches square.[122]
Workplace Safety: Summary of Work-Related Injuries & Illnesses	According to the Iowa Workforce Development, all employers in high rate industries, with more than 10 workers, must complete and post the federal Occupational Safety and Health Administration's summary of workplace injuries and illnesses (Form 300A). The summary must be posted from February 1 through April 30 annually.[123]

3.1(b) *Record-Keeping Requirements*

3.1(b)(i) *Federal Guidelines on Record Keeping*

Table 7 summarizes the federal record-keeping requirements.

Table 7. Federal Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
Age Discrimination in Employment Act (ADEA): Payroll Records	*Covered employers must maintain the following payroll or other records for each employee:* • employee's name, address, and date of birth; • occupation; • rate of pay; and • compensation earned each week.[124]	At least 3 years from the date of entry.
Age Discrimination in Employment Act	*Employers that maintain the following personnel records in the course of business are required by the ADEA to keep them for the specified period of time:*	At least 1 year from the date of the personnel

[120] IOWA CODE § 88.6; IOWA ADMIN. CODE r. 875-3.1(1). This poster is available at https://workforce.iowa.gov/media/232/download?inline=.

[121] IOWA CODE §§ 142D.1 *et seq*.; IOWA ADMIN. CODE r. 641-153.1 *et seq*.

[122] IOWA CODE § 142D.6. An approved poster and other information are available at https://smokefreeair.iowa.gov/Resources/Order-Signage.

[123] This poster is available at https://workforce.iowa.gov/media/229/download?inline=.

[124] 29 U.S.C. § 626; 29 C.F.R. § 1627.3(a).

Table 7. Federal Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
(ADEA): Personnel Records	• job applications, resumes, or other forms of employment inquiry, including records pertaining to the refusal to hire any individual; • promotion, demotion, transfer, selection for training, recall, or discharge of any employee; • job orders submitted by the employer to an employment agency or labor organization for recruitment of personnel for job openings; • test papers completed by applicants which disclose the results of any employment test considered by the employer; • results of any physical examination considered by the employer in connection with a personnel action; and • any advertisements or notices relating to job openings, promotions, training programs, or opportunities to work overtime.[125]	action to which any records relate.
Age Discrimination in Employment (ADEA): Benefit Plan Documents	*Employer must keep on file any:* • employee benefit plans, such as pension and insurance plans; and • copies of any seniority systems and merit systems in writing.[126]	For the full period the plan or system is in effect, and for at least 1 year after its termination.
Title VII & the Americans with Disabilities Act (ADA): Personnel Records	*Employers must preserve any personnel or employment record made, including:* • requests for reasonable accommodation; • application forms submitted by applicants; • other records having to do with hiring, promotion, demotion, transfer, lay-off, or termination; • rates of pay or other terms of compensation; and • selection for training or apprenticeship.[127]	At least 1 year from the date the records were made, or from the date of the personnel action involved, whichever is later.
Title VII & the Americans with Disabilities Act (ADA):	*When a charge of discrimination has been filed or an action brought against the employer, it must:* • make and keep such records relevant to the determination of whether unlawful employment practices have been or are being committed, including	Until final disposition of the charge or action (*i.e.*, until the statutory

[125] 29 C.F.R. § 1627.3(b).

[126] 29 C.F.R. § 1627.3(b).

[127] 42 U.S.C. § 2000e-8c; 29 C.F.R. § 1602.14.

Table 7. Federal Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
Complaints of Discrimination	personnel or employment records relating to the aggrieved person and to all other employees holding positions similar to that held or sought by the aggrieved person; and • retain application forms or test papers completed by unsuccessful applicants or candidates for the position.[128]	period for bringing an action has expired or, if an action has been brought, the date the litigation is terminated).
Title VII & the Americans with Disabilities Act (ADA): Other	An employer must keep and maintain its Employer Information Report (EEO-1).[129]	Most recent form must be retained for 1 year.
Employee Polygraph Protection Act (EPPA)	*Records pertaining to a polygraph test must be maintained for the specified time period including, but not limited to, the following:* • a copy of the statement given to the examinee regarding the time and place of the examination and the examinee's right to consult with an attorney; • the notice to the examiner identifying the person to be examined; • copies of opinions, reports, or other records given to the employer by the examiner; • where the test is conducted in connection with an ongoing investigation involving economic loss or injury, a statement setting forth the specific incident or activity under investigation and the basis for testing the particular employee; and • where the test is conducted in connection with an ongoing investigation of criminal or other misconduct involving loss or injury to the manufacture, distribution, or dispensing of a controlled substance, records specifically identifying the loss or injury in question and the nature of the employee's access to the person or property that is the subject of the investigation.[130]	At least 3 years following the date on which the polygraph examination was conducted.
Employee Retirement	Employers that sponsor an ERISA-qualified plan must maintain records that provide in sufficient detail the	At least 6 years after documents

[128] 42 U.S.C. § 2000e-8c; 29 C.F.R. § 1602.14.

[129] 29 C.F.R. § 1602.7.

[130] 29 U.S.C. §§ 2001 *et seq.*; 29 C.F.R. § 801.30.

Table 7. Federal Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
Income Security Act (ERISA)	information from which any plan description, report, or certified information filed under ERISA can be verified, explained, or checked for accuracy and completeness. This includes vouchers, worksheets, receipts, and applicable resolutions.[131]	are filed or would have been filed but for an exemption.
Equal Pay Act	Covered employers must maintain the records required to be kept by employers under the Fair Labor Standards Act (29 C.F.R. part 516).[132]	3 years.
Equal Pay Act: Other	*Covered employers must maintain any additional records made in the regular course of business relating to:* • payment of wages; • wage rates; • job evaluations; • job descriptions; • merit and seniority systems; • collective bargaining agreements; and • other matters which describe any pay differentials between the sexes.[133]	At least 2 years.
Fair Labor Standards Act (FLSA): Payroll Records	*Employers must maintain the following records with respect to each employee subject to the minimum wage and/or overtime provisions of the FLSA:* • full name and any identifying symbol used in place of name on time or payroll records; • home address with zip code; • date of birth, if under 19; • sex and occupation in which employed; • time of day and day of week on which the employee's workweek begins; • regular hourly rate of pay for any workweek in which overtime compensation is due; • basis on which wages are paid (pay interval); • amount and nature of each payment excluded from the employee's regular rate; • hours worked each workday and total hours worked each workweek;	3 years from the last day of entry.

[131] 29 U.S.C. § 1027.

[132] 29 C.F.R. § 1620.32(a).

[133] 29 C.F.R. § 1620.32(b).

Table 7. Federal Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
	• total daily or weekly straight-time earnings or wages due for hours worked during the workday or workweek, exclusive of premium overtime compensation; • total premium pay for overtime hours; • total additions to or deductions from wages paid each pay period, including employee purchase orders or wage assignments; • total wages paid each pay period; • date of payment and the pay period covered by the payment; • records of retroactive payment of wages, including the amount of such payment to each employee, the period covered by the payment, and the date of the payment; and • for employees working on a fixed schedule, the schedule of daily and weekly hours the employee normally works (instead of hours worked each day and each workweek).[134] The record should also indicate for each week whether the employee adhered to the schedule and, if not, show the exact number of hours worked each day each week.	
Fair Labor Standards Act (FLSA): Tipped Employees	*Employers must maintain and preserve all Payroll Records noted above as well as:* • a symbol, letter, or other notation on the pay records identifying each employee whose wage is determined in part by tips; • weekly or monthly amounts reported by the employee to the employer of tips received (*e.g.*, information reported on Internal Revenue Service Form 4070); • amount by which the wages of each tipped employee have been deemed to be increased by tips as determined by the employer (not in excess of the difference between $2.13 and the applicable federal minimum wage); • hours worked each workday in which an employee does not receive tips, and total daily or weekly straight-time payment made by the employer for such hours; and	

[134] 29 C.F.R. §§ 516.2, 516.5.

Table 7. Federal Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
	• hours worked each workday in occupations in which the employee receives tips, and total daily or weekly straight-time earnings for such hours.[135]	
Fair Labor Standards Act (FLSA): White Collar Exemptions	*For bona fide executive, administrative, and professional employees and outside sales employees (e.g., white collar employees) the following information must be maintained:* • full name and any identifying symbol used in place of name on time or payroll records; • home address with zip code; • date of birth if under 19; • sex and occupation in which employed; • time of day and day of week on which the employee's workweek begins; • total wages paid each pay period; • date of payment and the pay period covered by the payment; and • basis on which wages are paid in sufficient detail to permit calculation for each pay period of the employee's total remuneration for employment including fringe benefits and prerequisites.[136]	3 years from the last day of entry.
Fair Labor Standards Act (FLSA): Agreements & Other Records	*In addition to payroll information, employers must preserve agreements and other records, including:* • collective bargaining agreements and any amendments or additions; • individual employment contracts or, if not in writing, written memorandum summarizing the terms; • written agreements or memoranda summarizing special compensation arrangements under FLSA sections 7(f) or 7(j); • certain plans and trusts under FLSA section 7(e); • certificates and notices listed or named in the FLSA; and • sales and purchase records.[137]	At least 3 years from the last effective date.
Fair Labor Standards Act	*In addition to other FLSA requirements, employers must preserve supplemental records, including:* • basic time and earning cards or sheets;	At least 2 years from the date of last entry.

[135] 29 C.F.R. § 516.28.

[136] 29 C.F.R. §§ 516.2, 516.3. Presumably the regulation's reference to "prerequisites" is an error and should refer to "perquisites."

[137] 29 C.F.R. § 516.5.

Table 7. Federal Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
(FLSA): Other Records	• wage rate tables; • order, shipping, and billing records; and • records of additions to or deductions from wages.[138]	
Family and Medical Leave Act (FMLA)	*Covered employers must make, keep, and maintain records pertaining to their compliance with the FMLA, including:* • basic payroll and identifying employee data, including name, address, and occupation; • rate or basis of pay and terms of compensation; • daily and weekly hours per pay period; • additions to or deductions from wages and total compensation paid; • dates FMLA leave is taken by FMLA-eligible employees (leave must be designated in records as FMLA leave, and leave so designated may not include leave required under state law or an employer plan not covered by FMLA); • if FMLA leave is taken in increments of less than one full day, the hours of the leave; • copies of employee notices of leave furnished to the employer under the FMLA, if in writing; • copies of all general and specific notices given to employees in accordance with the FMLA; • any documents that describe employee benefits or employer policies and practices regarding the taking of paid and unpaid leave; • premium payments of employee benefits; and • records of any dispute between the employer and an employee regarding designation of leave as FMLA leave, including any written statement from the employer or employee of the reasons for the designation and the disagreement. *Covered employers with no eligible employees must only maintain the following records:* • basic payroll and identifying employee data, including name, address, and occupation; • rate or basis of pay and terms of compensation; • daily and weekly hours worked per pay period; • additions to or deductions from wages; and	At least 3 years.

[138] 29 C.F.R. § 516.6.

Table 7. Federal Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
	• total compensation paid. *Covered employers in a joint employment situation must keep all the records required in the first series with respect to any primary employees, and must keep the records required by the second series with respect to any secondary employees.* *Also, if an FMLA-eligible employee is not subject to the FLSA record-keeping requirements for minimum wage and overtime purposes (i.e., not covered by, or exempt from FLSA) an employer does not need to keep a record of actual hours worked, provided that:* • FMLA eligibility is presumed for any employee employed at least 12 months; and • with respect to employees who take FMLA leave intermittently or on a reduced leave schedule, the employer and employee agree on the employee's normal schedule or average hours worked each week and reduce their agreement to a written, maintained record. *Medical records also must be retained.* Specifically, records and documents relating to certifications, re-certifications, or medical histories of employees or employees' family members, created for purposes of FMLA, must be maintained as confidential medical records in separate files/records from the usual personnel files. If the ADA is also applicable, such records must be maintained in conformance with ADA-confidentially requirements (subject to exceptions). If the Genetic Information Nondiscrimination Act of 2008 (GINA) is applicable, records and documents created for purposes of FMLA containing family medical history or genetic information as defined in GINA must be maintained in accordance with the confidentiality requirements of Title II of GINA.[139]	
Federal Insurance Contributions Act (FICA)	*Employers must keep FICA records, including:* • copies of any return, schedule, or other document relating to the tax;	At least 4 years after the date the tax is due or

[139] 29 U.S.C. § 2616; 29 C.F.R. § 825.500.

Table 7. Federal Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
	• records of all remuneration (cash or otherwise) paid to employees for employment services. The records must show with respect to each employee receiving such remuneration: ▪ name, address, and account number of the employee and additional information when the employee does not provide a Social Security card; ▪ total amount and date of each payment of remuneration (including any sum withheld as tax or for any other reason) and the period of services covered by such payment; ▪ amount of each such remuneration payment that constitutes wages subject to tax; ▪ amount of employee tax, or any amount equivalent to employee tax, collected with respect to such payment, and, if collected at a time other than the time such payment was made, the date collected; and ▪ if the total remuneration payment and the amount thereof which is taxable are not equal, the reason for this; • the details of each adjustment or settlement of taxes under FICA; and • records of all remuneration in the form of tips received by employees, employee statements of tips under section 6053(a) (unless otherwise maintained), and copies of employer statements furnished to employees under section 6053(b).[140]	paid, whichever is later.
Immigration	Employers must retain all completed Form I-9s.[141]	3 years after the date of hire or 1 year following the termination of employment, whichever is later.
Income Tax: Accounting Records	*Any taxpayer required to file an income tax return must maintain accounting records that will enable the filing of tax*	Required to be maintained for "so long as the

[140] 26 C.F.R. §§ 31.6001-1, 31.6001-2.

[141] 8 C.F.R. § 274a.2.

Table 7. Federal Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
	returns correctly stating taxable income each year, including: • regular books of account or records, including inventories, sufficient to establish the amount of gross income, deductions, credits, or other matters required to be shown by such person in any return of such tax or information.[142]	contents [of the records] may become material in the administration of any internal revenue law;" this could be as long as 15 years in some cases.
Income Tax: Employee Payment Records	*Employers are required to maintain records reflecting all remuneration paid to each employee, including:* • employee's name, address, and account number; • total amount and date of each payment; • the period of services covered by the payment; • the amount of remuneration that constitutes wages subject to withholding; • the amount of tax collected and, if collected at a time other than the time the payment was made, the date collected; • an explanation for any discrepancy between total remuneration and taxable income; • the fair market value and date of each payment of noncash remuneration for services performed as a retail commissioned salesperson; and • other supporting documents relating to each employee's individual tax status.[143]	4 years after the return is due or the tax is paid, whichever is later.
Income Tax: W-4 Forms	Employers must retain all completed Form W-4s.[144]	As long as it is in effect and at least 4 years thereafter.
Unemployment Insurance	*Employers are required to maintain all relevant records under the Federal Unemployment Tax Act, including:* • total amount of remuneration paid to employees during the calendar year for services performed;	At least 4 years after the later of the date the tax is due or paid for the period

[142] 26 U.S.C. § 3402; 26 C.F.R. § 1.6001-1.

[143] 26 C.F.R. §§ 31.6001-1, 31.6001-5.

[144] 26 C.F.R. §§ 31.6001-1, 31.6001-5.

Table 7. Federal Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
	• amount of such remuneration which constitutes wages subject to taxation; • amount of contributions paid into state unemployment funds, showing separately the payments made and not deducted from the remuneration of its employees, and payments made and deducted or to be deducted from employee remuneration; • information required to be shown on the tax return and the extent to which the employer is liable for the tax; • an explanation for any discrepancy between total remuneration paid and the amount subject to tax; and • the dates in each calendar quarter on which each employee performed services not in the course of the employer's trade or business, and the amount of the cash remuneration paid for those services.[145]	covered by the return.
Workplace Safety / the Fed-OSH Act: Exposure Records	*Employers must preserve and retain employee exposure records, including:* • environmental monitoring or measuring of a toxic substance or harmful physical agent, including personal, area, grab, wipe, or other form of sampling, as well as related collection and analytical methodologies, calculations, and other background data relevant to an interpretation of the results obtained; • biological monitoring results which directly assess the absorption of a toxic substances or harmful physical agent by body specimens; and • Material Safety Data Sheets (MSDSs), or in the absence of these documents, a chemical inventory or other record reveling the identity of a toxic substances or harmful physical agent and where and when the substance or agent was used. *Exceptions to this requirement include:* • background data to workplace monitoring need only be retained for 1 year provided that the sampling results, collection methodology, analytic methods used, and a summary of other background data is maintained for 30 years;	At least 30 years.

[145] 26 C.F.R. § 31.6001-4.

Table 7. Federal Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
	• MSDSs need not be retained for any specified time so long as some record of the identity of the substance, where it was used and when it was used is retained for at least 30 years; and • biological monitoring results designated as exposure records by a specific Fed-OSH Act standard should be retained as required by the specific standard.[146]	
Workplace Safety / the Fed-OSH Act: Medical Records	*Employers must preserve and retain "employee medical records," including:* • medical and employment questionnaires or histories; • results of medical examinations and laboratory tests; • medical opinions, diagnoses, progress notes, and recommendations; • first aid records; • descriptions of treatments and prescriptions; and • employee medical complaints. *"Employee medical record" does not include:* • physical specimens; • records of health insurance claims maintained separately from employer's medical program; • records created solely in preparation for litigation that are privileged from discovery; • records concerning voluntary employee assistance programs, if maintained separately from the employer's medical program and its records; and • first aid records of one-time treatment which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job, if made on-site by a nonphysician and maintained separately from the employer's medical program and its records.[147]	Duration of employment plus 30 years.
Workplace Safety: Analyses Using Medical and Exposure Records	*Employers must preserve and retain analyses using medical and exposure records*, including any compilation of data, or other study based on information collected from individual employee exposure or medical records, or information collected from health insurance claim records, provided	At least 30 years.

[146] 29 C.F.R. § 1910.1020(d).

[147] 29 C.F.R. § 1910.1020(d).

Table 7. Federal Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
	that the analysis has been provided to the employer or no further work is being done on the analysis.[148]	
Workplace Safety: Injuries and Illnesses	*Employers must preserve and retain records of employee injuries and illnesses, including:* • OSHA 300 Log; • the privacy case list (if one exists); • the Annual Summary; • OSHA 301 Incident Report; and • old 200 and 101 Forms.[149]	5 years following the end of the calendar year that the record covers.
Additional record-keeping requirements apply to government contractors. The list below, while nonexhaustive, highlights some of these obligations.		
Affirmative Action Programs (AAP)	*Contractors required to develop written affirmative action programs must maintain:* • current AAP and documentation of good faith effort; and • AAP for the immediately preceding AAP year and documentation of good faith effort.[150]	Immediately preceding AAP year.
Equal Employment Opportunity: Personnel & Employment Records	*Government contractors covered by Executive Order No. 11246 and those required to provide affirmative action to persons with disabilities and/or disabled veterans and veterans of the Vietnam Era must retain the following records:* • records pertaining to hiring, assignment, promotion, demotion, transfer, lay off or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship; • other records having to do with requests for reasonable accommodation, the results of any physical examination, job advertisements and postings, applications, resumes; and • any and all expressions of interest through the internet or related electronic data technologies as to which the contractor considered the individual for a particular position, such as on-line resumes or internal resume databases, records identifying job seekers contacted regarding their interest in a particular position,	3 years recommended; regulations state "not less than two years from the date of the making of the record or the personnel action involved, whichever occurs later." If the contractor has fewer than 150 employees or does not have a contract of at least

[148] 29 C.F.R. § 1910.1020(d).

[149] 29 C.F.R. §§ 1904.33, 1904.44.

[150] 41 C.F.R. § 60-1.12(b).

Table 7. Federal Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
	regardless of whether the individual qualifies as an internet applicant under 41 C.F.R. § 60–1.3, tests and test results, and interview notes; ▪ for purposes of record keeping with respect to internal resume databases, the contractor must maintain a record of each resume added to the database, a record of the date each resume was added, the position for which each search of the database was made, and corresponding to each search, the substantive search criteria used and the date of the search; ▪ for purposes of record keeping with respect to external resume databases, the contractor must maintain a record of the position for which each search of the database was made, and corresponding to each search, the substantive search criteria used, the date of the search, and the resumes of job seekers who met the basic qualifications for the particular position who are considered by the contractor). *Additionally, for any record the contractor maintains pursuant to 41 C.F.R. § 60-1.12, it must be able to identify:* • gender, race, and ethnicity of each employee; and • where possible, the gender, race, and ethnicity of each applicant or internet applicant.[151]	$150,000, the minimum retention period is one year from the date of making the record or the personnel action, whichever occurs later.
Equal Employment Opportunity: Complaints of Discrimination	*Where a complaint of discrimination has been filed, an enforcement action commenced, or a compliance review initiated, employers must maintain:* • personnel or employment records relating to the aggrieved person and to all other employees holding positions similar to that held or sought by the aggrieved person; and • application forms or test papers completed by unsuccessful applicants and candidates for the same position as the aggrieved person applied and was rejected.[152]	Until final disposition of the complaint, compliance review or action.

[151] 41 C.F.R. §§ 60-1.12, 60-300.80, and 60-741.80.

[152] 41 C.F.R. §§ 60-1.12, 60-741.80.

Table 7. Federal Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
Minimum Wage Under Executive Orders Nos. 13658 (contracts entered into on or after January 1, 2015), 14026 (contracts entered into on or after January 30, 2022)	*Covered contractors and subcontractors performing work must maintain for each worker:* • name, address, and Social Security number; • occupation(s) or classification(s); • rate or rates of wages paid; • number of daily and weekly hours worked; • any deductions made; and • total wages paid. These records must be available for inspection and transcription by authorized representatives of the Wage and Hour Division (WHD) of the U.S. Department of Labor. The contractor must also permit authorized representatives of the WHD to conduct interviews with workers at the worksite during normal working hours.[153]	3 years.
Paid Sick Leave Under Executive Order No. 13706	*Contractors and subcontractors performing work subject to Executive Order No. 13706 must keep the following records:* • employee's name, address, and Social Security number; • employee's occupation(s) or classification(s); • rate(s) of wages paid (including all pay and benefits provided); • number of daily and weekly hours worked; • any deductions made; • total wages paid (including all pay and benefits provided) each pay period; • a copy of notifications to employees of the amount of accrued paid sick leave; • a copy of employees' requests to use paid sick leave (if in writing) or (if not in writing) any other records reflecting such employee requests; • dates and amounts of paid sick leave used by employees (unless a contractor's paid time off policy satisfies the EO's requirements, leave must be designated in records as paid sick leave pursuant to the EO); • a copy of any written responses to employees' requests to use paid sick leave, including explanations for any denials of such requests; • any records relating to the certification and documentation a contractor may require an employee	During the course of the covered contract as well as after the end of the contract.

[153] 29 C.F.R. § 23.260.

Table 7. Federal Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
	to provide, including copies of any certification or documentation provided by an employee; • any other records showing any tracking of or calculations related to an employee's accrual and/or use of paid sick leave; • the relevant covered contract; • the regular pay and benefits provided to an employee for each use of paid sick leave; and • any financial payment made for unused paid sick leave upon a separation from employment intended to relieve a contractor from its reinstatement obligation.[154]	
Davis-Bacon Act	*Davis-Bacon Act contractors or subcontractors must maintain the following records with respect to each employee:* • name, address, and Social Security number; • work classification; • hourly rates of wages paid (including rates of contributions or costs anticipated for *bona fide* fringe benefits or cash equivalents); • daily and weekly number of hours worked; and • deductions made and actual wages paid. *Contractors employing apprentices or trainees under approved programs must maintain written evidence of:* • registration of the apprenticeship programs; • certification of trainee programs; • the registration of the apprentices and trainees; • the ratios and wage rates prescribed in the program; and • worker or employee employed in conjunction with the project.[155]	At least 3 years after the work.
Service Contract Act	*Service Contract Act contractors or subcontractors must maintain the following records with respect to each employee:* • name, address, and Social Security number; • work classification; • rates of wage;	At least 3 years from the completion of the work records

[154] 29 C.F.R. § 13.25.

[155] 29 C.F.R. § 5.5.

Table 7. Federal Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
	• fringe benefits; • total daily and weekly compensation; • the number of daily and weekly hours worked; • any deductions, rebates, or refunds from daily or weekly compensation; • list of wages and benefits for employees not included in the wage determination for the contract; • any list of the predecessor contractor's employees which was furnished to the contractor by regulation; and • a copy of the contract.[156]	containing the information.
Walsh-Healey Act	*Walsh-Healey Act supply contractors must keep the following records:* • wage and hour records for covered employees showing wage rate, amount paid in each pay period, hours worked each day and week; • the period in which each employee was engaged on a government contract and the contract number; • name, address, sex, and occupation; • date of birth of each employee under 19 years of age; and • a certificate of age for employees under 19 years of age.[157]	At least 3 years from the last date of entry.

3.1(b)(ii) *State Guidelines on Record Keeping*

Table 8 summarizes the state record-keeping requirements.

Table 8. State Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
Fair Employment Practices: Complaint of Discrimination	*When a complaint or notice of investigation has been served, the employer must preserve:* • all records relevant to the investigation, including personnel, employment, or membership records relating to the complainant and to all other employees or	Until complaint or investigation is finally adjudicated.

[156] 29 C.F.R. § 4.6.

[157] 41 C.F.R. § 50-201.501.

Table 8. State Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
	applicants seeking positions similar to that held or sought by the complainant; • application forms or test papers completed by unsuccessful applicants and by other applicants or candidates for the same position as the complainant applied and was not accepted; and • any relevant books, papers, documents, or records as defined in the notice of complaint.[158]	
Income Tax	*Employers must retain tax records, including:* • Iowa income tax returns and all supporting documentation; • federal returns; and • all relevant schedules.[159]	At least 10 years after filing.
Unemployment Compensation	*Each employing unit must maintain records, for each employee, including:* • name and Social Security number; • place of employment within state; • date hired, rehired, or returned to work after temporary layoff; • date separated from work and reason therefore; • scheduled hours except for workers without a fixed schedule; • total wages paid for employment in each period and the date of payment. For all pay periods ending each quarter show separately cash wages, cash value of other remuneration and the nature of the payments (*e.g.*, reimbursement for business expenses and the amount of such expenditures actually incurred by the employee); • state or states in which the services were performed; • when the pay period covers services performed both in covered and excluded work, the hours and wages for covered employment and excluded work; and • physical worksite at which each employee worked during each pay period which includes the 12th of each month.[160]	5 years after the calendar year in which the remuneration to which the records relate was paid or, if not paid, due.

[158] IOWA ADMIN. CODE r. 161-3.7.

[159] Iowa Dep't of Revenue, *IA 1040 Expanded Instructions*, *available at* https://tax.iowa.gov/expanded-instructions (noting also that the statute of limitations is unlimited if a taxpayer has unreported income or fraudulent filings).

[160] IOWA CODE § 96.11; IOWA ADMIN. CODE r. 871-11.1, 871-22.1.

Table 8. State Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
Wages, Hours & Payroll: Exempt Employees	*All employers must maintain and preserve payroll records containing the following data for bona fide executive, administrative, and professional employees, as well as outside sales employees:* • name in full, as used for Social Security purposes, and any identifying number or symbol used on records in place of name; • home address including zip code; • date of birth if under 19; • time of day and day of week when workweek begins; • basis on which wages are paid in sufficient detail to permit calculation of employee's total remuneration for employment including fringe benefits and perquisites; • total daily or weekly straight-time earnings; • total additions and deductions from wages each pay period; • total wages paid each pay period; • date of payment and pay period covered by payment; and • any employment agreements entered into between the employer and an employee.[161]	3 calendar years.
Wages, Hours & Payroll: Nonexempt Employees	*All employers must maintain and preserve payroll records containing the following data for nonexempt employees:* • name in full, as used for Social Security purposes, and any identifying number or symbol used on records in place of name; • home address including zip code; • date of birth if under 19; • time of day and day of week when workweek begins; • basis of pay by indicating monetary amount per hour, per day, etc.; • hours worked each day and total worked each work week; • total daily or weekly straight-time earnings; • total additions and deductions from wages each pay period; • total wages paid each pay period; • date of payment and pay period covered by payment;	3 calendar years.

[161] IOWA ADMIN. CODE r. 875-216.3.

Table 8. State Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
	• records of retroactive wage payments (amount, pay period covered, date of payment); and • any employment agreements entered into between an employee and the employer.[162] Special rules apply when an employer makes deductions from wages for "board, lodging or other facilities."[163] Special rules also apply concerning learners, apprentices, messengers, students, or persons with a disability who are employed under special certificates provided in the FLSA.[164] With respect to each tipped employee for whom a tip credit is used, employers must maintain and preserve payroll or other records containing:[165] • A symbol, letter or other notation placed on the pay records identifying each employee whose wage is determined in part by tips; • Weekly or monthly amount reported by the employee to the employer of tips received (this may consist of reports made by the employees to the employer on IRS Form 4070); • Amount by which the employee's wages has been increased by tips as determined by the employer (not in excess of 40 percent of the applicable statutory minimum wage). The amount per hour which the employer takes as a tip credit must be reported to the employee in writing each time it is changed from the amount per hour taken in the preceding week; • Hours worked each workday in any occupation in which the employee does not receive tips, and total daily or weekly straight-time payment made by the employer for such hours; and • Hours worked each workday in occupations in which the employee receives tips, and total daily or weekly straight-time earnings for such hours.	
Wages, Hours & Payroll:	*Employers must also maintain the following supplemental basic payroll records:*	At least 2 years.

[162] IOWA CODE § 91A.6; IOWA ADMIN. CODE r. 875-216.2, 216.5.

[163] IOWA ADMIN. CODE r. 875-216.27.

[164] IOWA ADMIN. CODE r. 875-216.30.

[165] IOWA ADMIN. CODE r 875-216.28.

Table 8. State Record-Keeping Requirements		
Records	**Notes**	**Retention Requirement**
Supplemental Basic Payroll Records	• all basic time and earning cards or sheets on which starting and stopping time are recorded, or the amounts of work accomplished by employees when those amounts determine, in whole or in part, the employees' earnings; • all wage tables or schedules which provide the piece rates or other rates used in computing earnings; • originals or true copies of all customer orders or invoices received, incoming or outgoing shipping or delivery records, bills of lading, and billings to customers retained or made in the usual course of business; and • records of additions to or deductions from wages relating to individual employees, and records used to determine the original cost, operating and maintenance cost, and depreciation and interest charges, if such costs and charges are involved in the additions or deductions from wages paid.[166]	
Wages, Hours & Payroll: Supplemental Records	*In addition to the payroll records, employers must preserve:* • collective bargaining agreements relied upon for the exclusion of certain costs from wages; • total dollar volume of sales or business; and • total volume of goods purchased or received.[167]	3 years.
Workers' Compensation	Every employer must keep records of all injuries, fatal or otherwise, alleged to have been sustained in the course of employment and resulting in incapacity for more than one day.[168]	None specified.
Workplace Safety	Iowa has adopted Fed-OSHA's recordkeeping requirement, except that the reporting of fatalities and multiple hospitalization incidents required by 34 C.F.R. § 1904.39 must be made to the IOSH Administrator.[169]	See federal requirements.

[166] IOWA ADMIN. CODE r. 875-216.6.

[167] IOWA ADMIN. CODE r. 875-216.5.

[168] IOWA CODE § 86.11.

[169] IOWA CODE § 88.6; IOWA ADMIN. CODE r. 875-4.3.

3.1(c) *Personnel Files*

3.1(c)(i) *Federal Guidelines on Personnel Files*

Federal law does not address access to personnel files for private-sector employees.

3.1(c)(ii) *State Guidelines on Personnel Files*

Under Iowa law, employees may have access to and be permitted to obtain a copy of that employee's personnel file, including, but not limited to, performance evaluations, disciplinary records, and other information concerning the employer-employee relationship.[170] An employer, however, is not required to provide access to employment references written for the employee.[171]

The employer and employee must agree on the time for accessing the personnel file, and a representative of the employer may be present. An employee must be permitted to obtain copies, and the employer may charge a fee equivalent to the amount charged per page by a commercial copying business.[172]

3.2 Privacy Issues for Employees

3.2(a) *Background Screening of Current Employees*

3.2(a)(i) *Federal Guidelines on Background Screening of Current Employees*

For information on federal law related to background screening of current employees, see **1.3**.

3.2(a)(ii) *State Guidelines on Background Screening of Current Employees*

For information on state law related to background screening of current employees, see **1.3**.

3.2(b) *Drug & Alcohol Testing of Current Employees*

3.2(b)(i) *Federal Guidelines on Drug & Alcohol Testing of Current Employees*

For information on federal laws requiring drug testing of current employees, see **1.3(e)(i)**.

3.2(b)(ii) *State Guidelines on Drug & Alcohol Testing of Current Employees*

As noted in **1.3(e)(ii)**, drug testing is a complicated area of state law and it is therefore recommended that an employer seek legal counsel before implementing a drug testing program. As a general rule, employers may test current employees for drugs and alcohol, and may condition continued employment on the results of the testing, if the testing is conducted in accordance with Iowa's law and a written policy is distributed to every employee subject to testing.[173] For more information on drug and alcohol testing, see **1.3(e)(ii)**.

Private employers that voluntarily choose to have drug and alcohol free workplaces must follow specific drug and alcohol testing, policy, and training guidelines.[174] The guidelines set forth in section 730.5 were

[170] IOWA CODE § 91B.1.

[171] IOWA CODE § 91B.1.

[172] IOWA CODE § 91B.1.

[173] IOWA CODE § 730.5(4), (9)-(10).

[174] IOWA CODE § 730.5(3).

further interpreted by an Iowa state court in *Stackhouse v. Casey's Gen. Stores, Inc*.[175] There, the court determined that "unannounced drug or alcohol testing" of employees must not be done at arbitrary times, but must occur or recur at regular intervals. Likewise, employers must provide notice to employees of each drug that will be tested on the date of the test, not simply in the employer's drug-testing policy. Further, the court determined that employees must be allowed to provide medical information that may be relevant to their drug test results before a drug test has been confirmed as positive.

3.2(c) *Marijuana Laws*

3.2(c)(i) *Federal Guidelines on Marijuana*

Under federal law, it is illegal to possess or use marijuana.[176]

3.2(c)(ii) *State Guidelines on Marijuana*

The Medical Cannabidiol Act allows a person to possess or use cannabidiol for a debilitating medical condition.[177] Employers can establish and enforce a zero-tolerance drug policy or a drug-free workplace by using a drug testing policy that complies with state law or any other procedures provided by federal statutes, regulations, or orders.[178] Moreover, an employer that has established a policy and initiated a drug testing program in accordance with statutory testing and policy safeguards (see **1.3(e)(ii)**) has immunity for any employee claims regarding testing or taking action against an individual with a confirmed positive test result due to the individual's use of medical cannabidiol.[179]

Employers are not required to permit or accommodate the use, consumption, possession, transfer, display, transportation, distribution, sale, or growing of marijuana in the workplace. They can implement policies restricting marijuana use by employees to promote workplace health and safety, and can include in a contract with an employee a provision prohibiting marijuana use.[180]

A private health insurer, workers' compensation carrier, or self-insured employer providing workers' compensation benefits is not required to reimburse a person for costs associated with medical marijuana use.[181]

The law does not create a claim, cause of action, sanction, or penalty, for discrimination or under any other theory of liability, under the state's fair employment practices law (chapter 216) or any other provisions of law, based on an act, omission, policy or contractual provisions permissible under the medical marijuana law, including, but not limited to, refusing to hire, discharging, disciplining, discriminating, retaliating, or otherwise taking any adverse employment action against a person with respect to hiring, tenure, or any terms, conditions, or privileges of employment.[182]

---

[175] No. LACL137251, 20-28 (Iowa Dist. Ct. Polk Cty. Mar. 20, 2018).

[176] 21 U.S.C. §§ 811-12, 841 *et seq*.

[177] *See* IOWA CODE §§ 124E.1 *et seq.*

[178] IOWA CODE § 124E.21(4).

[179] IOWA CODE § 730.5(11)(f).

[180] IOWA CODE § 124E.21(1)-(3).

[181] IOWA CODE § 124E.22.

[182] IOWA CODE § 124E.24.

3.2(d) *Data Security Breach*

3.2(d)(i) *Federal Data Security Breach Guidelines*

Federal law does not contain a data security breach notification statute. However, of interest to employers that provide identity theft protection services to individuals affected by a data security breach, whether voluntarily or as required by state law:

- An employer providing identity protection services to an employee whose personal information may have been compromised due to a data security breach is not required to include the value of the identity protection services in the employee's gross income and wages.
- An individual whose personal information may have been compromised in a data breach is not required to include in their gross income the value of the identity protection services.
- The value of the provided identity theft protection services is not required to be reported on an information return (such as Form W-2 or Form 1099-MISC) filed with respect to affected employees.[183]

The tax relief provisions above do not apply to:

- cash provided in lieu of identity protection services;
- identity protection services provided for reasons other than as a result of a data breach, such as identity protection services received in connection with an employee's compensation benefit package; or
- proceeds received under an identity theft insurance policy.[184]

3.2(d)(ii) *State Data Security Breach Guidelines*

When a covered entity becomes aware of a security breach and conducts in good faith a reasonable and prompt investigation, and determines that personal information has been or will be misused, notice must be sent to the affected individuals. Such an investigation must be documented in writing and kept for five years.[185] A *security breach* is the unauthorized access and acquisition of personal information maintained in computerized form that compromises the security, confidentiality or integrity of personal information of a resident of Iowa.

Covered Entities & Information. Any person that conducts business in Iowa that owns or licenses computerized data that includes personal information is a covered entity. Exceptions include:

- any person that complies with the notification requirements or security breach procedures of their primary or functional federal regulator;
- a person who complies with notification requirements or breach of security procedures that provide greater protection for personal information and at least as thorough disclosure

[183] I.R.S. Announcement 2015-22, *Federal Tax Treatment of Identity Protection Services Provided to Data Breach Victims* (Aug. 14, 2015), *available at* https://www.irs.gov/pub/irs-drop/a-15-22.pdf.

[184] I.R.S. Announcement 2015-22, *Federal Tax Treatment of Identity Protection Services Provided to Data Breach Victims* (Aug. 14, 2015).

[185] IOWA CODE §§ 715C.1 *et seq*.

requirements than that provided by the data security breach provisions or the guidelines established by the person's primary or functional federal regulator;

- a person who complies with a state or federal law that provides greater protection to personal information and at least as thorough disclosure requirements for breach of security or personal information than that provided by the data security breach statute; or
- a person who is subject to and complies with regulations promulgated pursuant to Title V of the Gramm-Leach-Bliley Act of 1999.[186]

An individual's first name or first initial and last name in combination with any one or more of the following is considered *personal information*:

- Social Security number;
- motor vehicle operator's license number or state identification number;
- financial account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to a resident's financial account;
- unique electronic identification number or routing code, in combination with any required security code, access code, or password; or
- unique biometric data, such as a fingerprint, voice print, or retina or iris image, or other unique physical representation.[187]

Information that is lawfully available publicly through federal, local or state government records is not considered "personal information." An exception also exists for data that is encrypted, redacted (*i.e.*, data altered or truncated so that no more than five digits of a Social Security number of four digits of the other items listed above are accessible), or otherwise altered by any method or technology in such a manner that the name or data elements are unreadable, unless the keys to unencrypt, unredact, or otherwise read the data elements have been obtained through the breach of security.

Content & Form of Notice. Notification must include:

- a description of the breach;
- the approximate date of the breach;
- the type of personal information obtained as a result of the breach;
- contact information for consumer reporting agencies; and
- advice on how to report suspected incidents of identity theft to law enforcement.[188]

Notice may be in one of the following formats:

- written notice;

[186] IOWA CODE § 715C.2.

[187] IOWA CODE § 715C.1(11)(a).

[188] IOWA CODE § 715C.2(5).

- electronic notice, if it is the customary method of communication with the individual or if it is compliant with the federal e-sign act; or
- substitute notice if the covered entity demonstrates that:
  - the cost of providing notice would exceed $250,000;
  - the affected class of persons to be notified exceeds 350,000; or
  - the covered entity does not have sufficient contact information.

Substitute notice must consist of all of electronic mail notice when the covered entity has an electronic mail address for the subject persons; conspicuous posting of the notice on the website of the covered entity if the covered entity maintains a website; and notification by major statewide media.[189]

Notification is not required if, after an appropriate investigation or after consultation with the relevant federal, state, or local agencies responsible for law enforcement, the person determines that no reasonable likelihood of financial harm to the consumers whose personal information has been acquired has resulted or will result from the breach. As noted above, such a determination must be documented in writing and the documentation must be maintained for five years.

Timing of Notice. Notice must be given in the most expedient time possible and without unreasonable delay. However, notification may be delayed if:

- A law enforcement agency indicates that notification will impede a criminal investigation (however, notification must be made after the law enforcement agency determines that the notification will not compromise the investigation and notifies the covered entity in writing).
- A covered entity needs time to determine the scope of the breach.
- A covered entity needs time to restore the reasonable integrity of the data system.[190]

Additional Provisions. A covered entity must give written notice of the breach of security following discovery of such breach of security to the director of the Consumer Protection Division of the Office of the Attorney General within five business days after giving notice of the breach of security to any consumer pursuant to the statute.

3.3 Minimum Wage & Overtime

3.3(a) *Federal Guidelines on Minimum Wage & Overtime*

The primary source of federal wage and hour regulation is the Fair Labor Standards Act (FLSA). The FLSA establishes minimum wage, overtime, and child labor standards for covered employers. The FLSA applies to businesses that have: (1) annual gross revenue exceeding $500,000; and (2) employees engaged in commerce or in the production of goods for commerce, or employees that handle, sell, or otherwise work on goods or material that have been moved in or produced for commerce. For more information on this topic, see LITTLER ON FEDERAL WAGE & HOUR OBLIGATIONS.

[189] IOWA CODE § 715C.2(4).

[190] IOWA CODE § 715C.2.

As a general rule, federal wage and hour laws do not preempt state laws.[191] Thus, an employer must determine whether the FLSA or state law imposes a more stringent minimum wage, overtime, or child labor obligation and, if so, apply the more stringent of the two standards. If an employee is exempt from either federal or state law, but not both, then the employee must be paid for work in accordance with whichever law applies.

3.3(a)(i) *Federal Minimum Wage Obligations*

The current federal minimum wage is $7.25 per hour for most nonexempt employees.[192]

Tipped employees are paid differently. If an employee earns sufficient tips, an employer may take a maximum tip credit of up to $5.12 per hour. Therefore, the minimum cash wage that a tipped employee must be paid is $2.13 per hour. Note that if an employee does not make $5.12 in tips per hour, an employer must make up the difference between the wage actually made and the federal minimum wage of $7.25 per hour. An employer bears the burden of proving that it is not taking a tip credit larger than the amount of tips actually received by the employee.[193]

An employer cannot keep tips received by employees for any purpose, including allowing managers or supervisors to keep a portion of employees' tips, regardless of whether the employer takes a tip credit.[194]

3.3(a)(ii) *Federal Overtime Obligations*

Nonexempt employees must be paid one-and-a-half times their regular rate of pay for all hours worked over 45 in a workweek.[195] For more information on exemptions to the federal minimum wage and/or overtime obligations, see LITTLER ON FEDERAL WAGE & HOUR OBLIGATIONS.

3.3(b) *State Guidelines on Minimum Wage Obligations*

3.3(b)(i) *State Minimum Wage*

State law requires payment of the state hourly minimum wage, or the current federal minimum wage, whichever is greater, after an employee has completed 90 calendar days of employment.[196] Currently, both the federal minimum wage and Iowa state minimum wage are $7.25 per hour for most nonexempt employees.[197]

3.3(b)(ii) *Tipped Employees*

Tipped employees are paid differently. If an employee earns tips, an employer may take a maximum tip credit of up to $2.90 per hour. Therefore, the minimum cash wage that a tipped employee needs to be paid is $4.35 per hour. If an employee does not make $2.90 in tips per hour, the employer must make up the difference between the wage actually made, and the minimum wage, which is currently $7.25 per

---

191 29 U.S.C. § 218(a).

192 29 U.S.C. § 206.

193 29 U.S.C. §§ 203, 206.

194 29 U.S.C. § 3(m)(2)(B).

195 29 U.S.C. § 207.

196 IOWA CODE § 91D.1.

197 IOWA CODE § 91D.1; IOWA ADMIN. CODE r. 875-215.1.

hour. An employer bears the burden of proving that it is not taking a tip credit larger than the amount of tips actually received by the employee.[198]

3.3(b)(iii) *Minimum Wage Exceptions & Rates Applicable to Specific Groups*

For the first 90 days of employment, an employer may pay a new employee an initial employment wage of $6.35 per hour.[199]

Further, Iowa's minimum wage provisions do not apply to the following categories of employees:

- an employee employed in a *bona fide* executive, administrative, or professional capacity or in the capacity of outside salesperson. There are both salary and duty requirements under state law for an employee to be covered under one of these exemptions from the minimum wage. The salary requirements, in particular, deviate from the FLSA white-collar salary requirements. For example, under the so-called "short test" to determine whether one of these state exemptions applies, the individual must be compensated on a salary (or fee basis for administrative or professional exemptions) at a rate of not less than $500 per week, exclusive of board, lodging, or other facilities;
- certain retail and service establishment employees, if more than 50% of the establishment's annual dollar volume of sales of goods or services is made within the state in which the establishment is located and the establishment is not an enterprise engaged in commerce or in the production of goods for commerce;
- an employee employed by an amusement or recreational establishment, organized camp, or religious or nonprofit education conference center, if the establishment does not operate for more than seven months in any calendar year, or during the preceding calendar year, its average receipts for any six months of such year were not more than 38 ⅓% of its average receipts for the other six months of the year;
- employees of exempt retail establishments;
- an employee employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacean, sponges, seaweeds, or other aquatic forms of animal and vegetable life, or the first processing, canning, or packing such marine products at sea as an incident to, or in conjunction with, such fishing operations, including the going to and returning from work and loading and unloading;
- certain agricultural employees;
- an employee employed in connection with the publication of any weekly, semi-weekly, or daily newspaper with a circulation of less than 4,000, having the major part of its circulation within the county where published or counties contiguous thereto;
- switchboard operators employed by an independently owned public telephone company with no more than 750 stations;
- an employee employed on a casual basis in domestic service employment to provide babysitting services or any employee employed in domestic service employment to provide

[198] IOWA ADMIN. CODE r. 875-215.3.

[199] IOWA CODE § 91D.1(1)(d); IOWA ADMIN. CODE r. 875-215.2.

companionship services for individuals who, because of age or infirmity, are unable to care for themselves; and

- an enterprise whose annual gross volume of sales made or business done (exclusive of excise taxes at the retail level which are separately stated) falls below $250,000.[200]

Also, the exemptions from the federal minimum wage requirements as set forth in the FLSA apply to the Iowa minimum wage requirements.[201]

3.3(b)(iv) *Local Minimum Wage Laws*

Some cities and counties within the state of Iowa had previously set their own local minimum wage rates. However, in March 2017, the state passed a law preempting local ordinances that regulate various areas of employment law, including the minimum wage. Any local ordinance in effect on the law's effective date of March 30, 2017, was preempted.[202]

3.3(c) *State Guidelines on Overtime Obligations*

Iowa law does not have a separate overtime provision. Therefore, the payment of overtime in Iowa is regulated by the FLSA, which establishes a 40-hour overtime standard for covered employees.

3.4 Meal & Rest Period Requirements

3.4(a) *Federal Meal & Rest Period Guidelines*

3.4(a)(i) *Federal Meal & Rest Periods for Adults*

Federal law contains no generally applicable meal period requirements for adults. Under the FLSA, *bona fide* meal periods (which do not include coffee breaks or time for snacks and which ordinarily last 30 minutes or more) are not considered "hours worked" and can be unpaid.[203] Employees must be completely relieved from duty for the purpose of eating regular meals. Employees are *not* relieved if they are required to perform any duties—active or inactive—while eating. It is not necessary that employees be permitted to leave the premises if they are otherwise completely freed from duties during meal periods.

Federal law contains no generally applicable rest period requirements for adults. Under the FLSA, rest periods of short duration, running from five to 20 minutes, must be counted as "hours worked" and must be paid.[204]

3.4(a)(ii) *Federal Meal & Rest Periods for Minors*

The FLSA does not include any generally applicable meal and rest period requirements for minors. The principles described above as to what constitutes "hours worked" for meal and rest periods applies to minors as well as to adults.

---

[200] IOWA ADMIN. CODE r. 875-215.4.

[201] IOWA CODE § 91D.1(2).

[202] IOWA CODE §§ 331.304, 364.3.

[203] 29 C.F.R. § 785.19.

[204] 29 C.F.R. § 785.18.

3.4(a)(iii) *Lactation Accommodation Under Federal Law*

The Providing Urgent Maternal Protections for Nursing Mothers Act ("PUMP Act"), which expands the FLSA's lactation accommodation provisions, applies to most employers.[205] Under the FLSA, an employer must provide a reasonable break time for an employee to express breast milk for the employee's nursing child for one year after the child's birth, each time the employee needs to express milk. The employer is not required to compensate an employee receiving reasonable break time for any time spent during the workday for the purpose of expressing milk unless otherwise required by federal, state, or local law. Under the PUMP Act, break time for expressing milk is considered hours worked if the employee is not completely relieved from duty during the entirety of the break.[206] An employer must also 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.[207] Exemptions apply for smaller employers and air carriers.[208]

The Pregnant Workers Fairness Act (PWFA), enacted in 2022, also impacts an employer's lactation accommodation obligations. The PWFA requires employers of 15 or more employees to make reasonable accommodations for a qualified employee's known limitations related to pregnancy, childbirth, or related medical conditions.[209] Lactation is considered a related medical condition.[210] Reasonable accommodation related to lactation includes, but is not limited to breaks, space for lactation, and accommodations related to pumping and nursing during work hours.[211] For more information on these topics, see **LITTLER ON LEAVES OF ABSENCE: FAMILY, MEDICAL & PREGNANCY LEAVES**.

3.4(b) *State Meal & Rest Period Guidelines*

3.4(b)(i) *State Meal & Rest Periods for Adults*

There are no generally applicable meal or rest period requirements for adults in Iowa. According to the state labor department, an employer does not have to employees for breaks during which they are completely relieved of their job duties.[212] In addition, an employer can require an employee to stay on the business premises during a break.[213] The labor department guidance also provides that "[a]ll employees must be allowed toilet breaks when needed."[214]

3.4(b)(ii) *State Meal & Rest Periods for Minors*

If an employee under age 16 is employed for a period of five or more hours each day, an "intermission" of not less than 30 minutes must be provided.[215]

---

[205] 29 U.S.C. § 218d.

[206] 29 U.S.C. § 218d(b)(2).

[207] 29 U.S.C. § 218d(a).

[208] 29 U.S.C. § 218d(c), (d).

[209] 42 U.S.C. § 2000gg–1.

[210] 29 C.F.R. § 1636.3.

[211] 29 C.F.R. § 1636.3.

[212] Iowa Div. of Labor, *Wage FAQs*, *available at* https://www.iowadivisionoflabor.gov/idol/wage-hour/faq.

[213] Iowa Div. of Labor, *Wage FAQs.*

[214] Iowa Div. of Labor, *Wage FAQs.*

[215] IOWA CODE § 92.7.

3.4(b)(iii) *State Enforcement, Remedies & Penalties*

Employers that violate the child labor laws can be subject to a civil penalty up to $10,000 for each violation.[216] However, although the statute provides that a penalty of up to $10,000 can be imposed, a civil penalty calculation regulation suggests a meal period violation would not subject an employer to such a high penalty.[217]

3.4(b)(iv) *Lactation Accommodation Under State Law*

An individual may breast feed their child in any public place where they are otherwise authorized.[218] Although the law does not specifically mention employers, it can be construed to include places of employment.[219]

3.5 Working Hours & Compensable Activities

3.5(a) *Federal Guidelines on Working Hours & Compensable Activities*

In contrast to some state laws that provide for mandatory days of rest, the FLSA does not limit the hours or days an employee can work and requires only that an employee be compensated for "all hours" worked in a workweek. Ironically, the FLSA does not define what constitutes hours of work.[220] Therefore, courts and agency regulations have developed a body of law looking at whether an activity—such as on-call, training, or travel time—is or is not "work." In addition, the Portal-to-Portal Act of 1947 excluded certain preliminary and postliminary activities from "work time."[221]

As a general rule, employee work time is compensable if expended for the employer's benefit, if controlled by the employer, or if allowed by the employer. All time spent in an employee's principal duties and all time spent in essential ancillary activities must be counted as work time. An employee's *principal duties* include an employee's productive tasks. However, the phrase is expansive enough to encompass not only those tasks an employee is employed to perform, but also tasks that are an "integral and indispensable" part of the principal activities. For more information on this topic, including information on whether time spent traveling, changing clothes, undergoing security screenings, training, waiting or on-call time, and sleep time will constitute hours worked under the FLSA, see LITTLER ON FEDERAL WAGE & HOUR OBLIGATIONS.

3.5(b) *State Guidelines on Working Hours & Compensable Activities*

State law does not include extensive coverage of compensable time. FLSA-covered employers should consult federal law for guidelines on reporting time, on-call time, and travel time. The state labor department has also provided guidance on on-call time and travel time.

On-Call Time. According to the Iowa Division of Labor, the most important consideration concerning whether on-call time is compensable is how restricted an employee's personal activities are; the more

---

[216] IOWA CODE § 92.22.

[217] *See* IOWA ADMIN. CODE r. 875-32.11.

[218] IOWA CODE § 135.30A.

[219] *See* Iowa Code § 135.30A.

[220] The FLSA states only that to employ someone is to "suffer or permit" the individual to work. 29 U.S.C. § 203(g).

[221] *See, e.g.*, *Integrity Staffing Solutions, Inc. v. Busk*, 135 S. Ct. 513, 519 (2014) (in determining whether certain preliminary and postliminary activities are compensable work hours, the question is not whether an employer requires an activity (or whether the activity benefits the employer), but rather whether the activity "is tied to the productive work that the employee is employed to perform").

restricted, the more likely the time is compensable. For example, the agency contends that employees who have to wear a beeper, stay sober, and work only occasionally doing this period probably are not entitled to pay.[222]

Travel Time. Travel time between worksites is compensable if the travel is done during working hours. Unless a collective bargaining agreement provides otherwise, travel time to and from the worksite on transportation provided by the employer is not compensable when:

- the employee performs no work during that time;
- the employer provides the transportation as a convenience for the employee; and
- the employer does not require the employee to use that means of transportation to the worksite.[223]

3.6 Child Labor

3.6(a) *Federal Guidelines on Child Labor*

The FLSA limits the tasks minors, defined as persons under 18 years of age, can perform and the hours they can work. Occupational limits placed on minors vary depending on the age of the minor and whether the work is in an agricultural or nonagricultural occupation. There are exceptions to the list of prohibited activities for apprentices and student-learners, or if an individual is enrolled in and employed pursuant to approved school-supervised and school-administered work experience and career exploration programs.[224] Additional latitude is also granted where minors are employed by their parents.

Considerable penalties can be imposed for violation of the child labor requirements, and goods made in violation of the child labor provisions may be seized without compensation to the employer. Employers may protect themselves from unintentional violations of child labor provisions by maintaining an employment or age certificate indicating an acceptable age for the occupation and hours worked.[225] For more information on the FLSA's child labor restrictions, see LITTLER ON FEDERAL WAGE & HOUR OBLIGATIONS.

3.6(b) *State Guidelines on Child Labor*

Iowa limits the hours and types of jobs minors may perform. The general purpose of these statutes is to ensure that minors are not employed in an occupation or manner detrimental to their health, safety or well-being.

3.6(b)(i) *State Restrictions on Type of Employment for Minors*

General Restrictions. Table 9 summarizes the state restrictions on type of employment by age.

[222] Iowa Div. of Labor, *Wage FAQs*, *available at* https://www.iowadivisionoflabor.gov/idol/wage-hour/faq.

[223] IOWA CODE § 91A.13; Iowa Div. of Labor, *Wage FAQs*.

[224] 29 C.F.R. §§ 570.36, 570.50.

[225] 29 C.F.R. § 570.6.

Table 9. State Restrictions on Type of Employment by Age	
Age Range	**Restrictions**
Under Age 18	No person under the age of 18 shall be employed or permitted to work with or without compensation at any of the following work activities or business establishments: • work activities in or about plants or establishments manufacturing or storing explosives or articles containing explosive components except for the following: ▪ performing light assembly work as long as the assembly is not performed on machines or in an area with machines; and ▪ selling or assisting in the sale of consumer fireworks in accordance with section 100.19. • logging and the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill; • operation power-driven woodworking machines; • work activities involving exposure to radioactive substances or ionizing radiations; • operation of elevators and other power-driven hoisting apparatus; • operation of power-driven metal forming, punching and shearing machines; • mining; • work activities in or about slaughtering and meat packing establishments and rendering plants; • operation of certain power-driven bakery machines (exceptions apply to certain pizza dough rollers but this subsection does apply to the setting up, adjusting, repairing, oiling, or cleaning of pizza dough rollers); • operation of certain power-driven paper products machines, except loading balers if the machine is powered off and the key is stored in a separate area from the machine; • manufacturing of brick, tile and related products; • operation of circular and band saws or guillotine shears; • wrecking, demolition and shipbreaking operations; • roofing operations; • excavation; • work activities in or about foundries provided that office, shipping and assembly area employment shall not be prohibited by this chapter; • operation of dry-cleaning or dyeing machinery; • work activities involving exposure to lead fumes or its compounds, dangerous or to dangerous or poisonous dyes or chemicals; • transmission, distribution, or delivery of goods or messenger services between 10 P.M. and 5 A.M.; • work activities in establishments where nude or topless dancing is performed; or

Table 9. State Restrictions on Type of Employment by Age	
Age Range	**Restrictions**
	• work activities prohibited by rules adopted pursuant to chapter 17A by the director.[226]
Under Age 18	Minors 14 and 15 years of age may not be employed in: • any manufacturing work activity; • any mining work activity; • processing work activities, except in a retail, food service, or gasoline service establishment in those specific work activities expressly permitted under the provisions of section 92.5 or 92.6A; • work activities requiring the performance of any duties in workrooms or work places where goods are manufactured, mined, or otherwise processed, except to the extent expressly permitted in retail, food service, or gasoline service establishments under the provisions of section 92.5 or 92.6A; • public messenger service; • operations or tending of hoisting apparatus or of any power-driven machinery, other than office machines and machines in retail, food service, and gasoline service establishments which are specified in section 92.5 as machines that such minors may operated in such establishments; • work activities prohibited by rules adopted pursuant to chapter 17A by the director; • work activities in connection with the following, except office or sales work in connection with these work activities, not performed on transportation media or at the actual construction site: ▪ transportation of persons or property by rail, highway, air, water, pipeline, or other means; ▪ warehousing and storage; ▪ communications and public utilities; or ▪ construction, including repair. • any of the following work activities in a retail, food service, or gasoline service establishment: ▪ work in or about boiler or engine rooms; ▪ work in connection with the maintenance or repair of the establishment, machines, or equipment; ▪ outside window washing that involves working from windowsills, and all work requiring the use of ladders, scaffolds, or their substitutes; ▪ cooking except at soda fountains lunch counters, snack bars, or cafeteria serving counters, and baking; ▪ work activities that involve operating, setting up, adjusting, oiling, cleaning and repairing power-driven food slicers and grinders, food choppers and cutters, and bakery-type mixers;

[226] IOWA CODE § 92.8.

Table 9. State Restrictions on Type of Employment by Age	
Age Range	**Restrictions**
	▪ loading and unloading goods to and from trucks, railroad cars, or conveyors except as permitted by section 92.5, subsection 11; or ▪ all work activities in warehouses except office and clerical work. Nothing in this section shall be construed as prohibiting office, errand, or packaging work when done away from moving machinery.[227] No person under 16 years of age shall be employed or permitted to work with or without compensation in any work activity during regular school hours, except the following work activities: • Those persons legally out of school, where such status is verified by the submission of written proof to the director. • Those persons working in a supervised school-work program. • Those persons between the ages of 14 and 16 enrolled in school on a part-time basis and are required to work as a part of their school training. Persons 15 years of age may be permitted to work in any of the work activities provided in § 92.5 in addition to the following work activities: • loading and unloading non-power-driven equipment weighing up to 30 pounds into motor vehicles; • loading and unloading groceries and other retail items weighing up to 30 pounds into motor vehicles; • stocking shelves with items weighing up to 30 pounds; or • if properly licensed, work as a lifeguard or swim instructor at a traditional pool or amusement park. The director may issue a waiver of any weight limitations provided in subsection 1 of up to 50 pounds depending on the strength and ability if the 15 year old. The director may issue a waiver for a 15 year old to be able to load and unload light power-driven lawn machines based on the ability of the minor if the minor is supervised, the machine is powered off, and the safety key is stored away from the machine. The director may issue a waiver for a 15 year old to perform light assembly work as long as the assembly is not performed on machines or in an area with machines.[228] Persons 14 years of age may be permitted to work in the following work activities: • retail, food service, and gasoline service establishments; • office and clerical work, including operation of office machines; • cashiering, selling, modeling, art work, work in advertising departments, window trimming and comparative shopping;

[227] IOWA CODE § 92.6.

[228] IOWA CODE § 92.6A.

Table 9. State Restrictions on Type of Employment by Age	
Age Range	**Restrictions**
	• price marking and tagging by hand or by machine, assembling orders, packing and shelving; • bagging and carrying out customers' orders; • errand and delivery work by foot, bicycle, and public transportation; • clean-up work, including the use of vacuum cleaners and floor waxers, and maintenance of grounds; • kitchen work and other work involved in preparing and serving food and beverages, including cleaning using kitchen cleaning products with required personal protective equipment, operation of machines and devices used in the performance of such work, including but not limited to, microwaves, dishwashers, toasters, dumb-waiters, popcorn poppers, milk shake blenders, and coffee grinders; • work in connection with motor vehicles and trucks if confined to: dispensing gas and oil; courtesy service; cleaning, washing and polishing (but it cannot involve the use of pits, racks, lifting apparatus, or involve the inflation of tires mounted on a rim equipped with a removable retaining rim); • cleaning vegetables and fruits, and wrapping, sealing, labeling, weighing, pricing and stocking goods when performed in areas physically separate from areas where meat is prepared, including momentary work in freezers and meat coolers; • loading onto motor vehicles and unloading from motor vehicles of the light, non-power-driven hand tools and personal protective equipment that the minor will use as part of their employment at the work site. Such light tools include but are not limited to rakes, hand held clippers, shovels, and brooms. Such light tools do not include items such as trash, sales kits, promotion items or items for sale, lawn mowers, or other power-driven lawn maintenance equipment; • laundering; • work in the production of seed, limited to removal of off-type plants and corn tassels and hand-pollinating from June 1 through Labor Day; or • other work approved by the rules adopted pursuant to chapter 17A by the director.[229]
Under Age 14	No person under 14 years of age shall be employed or permitted to work with or without compensation in any work activity, with the exception of migratory laborers.[230]

Restrictions on Selling or Serving Alcohol. In Iowa, minors aged 16 or 17 may sell or serve alcoholic beverages for consumption on the premises if at least two employees 18 years or older are present in the area. The employer must have written permission from a parent, guardian or legal custodian on file until

[229] IOWA CODE §§ 92.5.

[230] IOWA CODE § 92.3.

the minor is 18 or no longer engaged in the sale of alcohol. However, the individual may not work in a bar as defined by Iowa law.[231]

3.6(b)(ii) *State Limits on Hours of Work for Minors*

In Iowa, persons under 16 years of age may not be employed in any work activity:

- during regular school hours except under the following conditions:
  - those persons legally out of school, if such status is verified by the submission of written proof to the director;
  - those persons working in a supervised school-work program; or
  - those persons between the ages of 14 and 16 enrolled in school on a part-time basis and who are required to work as a part of their school training.
- before 7 A.M. or after 9 P.M. except during the period from June 1 through Labor Day when the hours may extend to 11 P.M.;
- more than eight hours in one day exclusive of intermission (of not less than 30 minutes). Note: if employed for a period of five hours or more, minors must be provided an intermission of not less than 30 minutes; or
- more than 40 hours in one week.

Persons under 16 employed outside school hours may not exceed six hours in one day and 28 hours in one week while school is in session.[232] A person who is 16 or 17 years of age may work the same hours as a person who is 18 years of age.[233] Persons under the age of age of 14 may not be employed or permitted to work with or without compensation in any work occupation with the exception of migratory laborers.[234]

Additionally, special rules apply to minors between the ages of 10 and 16 who have permits to engage in migratory labor and street occupations, and to minors under the age of 18 in connection with occupations involving the transmission, distribution, or delivery of goods or messages between certain hours.[235]

3.6(b)(iii) *State Child Labor Exceptions*

Iowa's child labor laws do not prohibit minors from working in any occupation or business operated by their parents or licensed foster parents; part-time, occasional, or volunteer work for a charitable, religious, or nonprofit organization; or modeling.[236]

3.6(b)(iv) *State Work Permit or Waiver Requirements*

While the state previously required work permits for minors, the requirement was repealed effective July 1, 2023.

---

[231] IOWA CODE § 123.49.

[232] IOWA CODE §§ 92.4, 92.7.

[233] IOWA CODE §§ 92.7A.

[234] IOWA CODE § 92.3.

[235] IOWA CODE § 92.17.

[236] IOWA CODE § 92.17.

3.6(b)(v) *State Enforcement, Remedies & Penalties*

Violations of Iowa's child labor statute may carry both civil and criminal penalties. The state labor director is charged with enforcing the statute.[237] An employer that violates the child labor laws is subject to a civil penalty of not more than $10,000 for each violation.[238] After the director serves an employer with notice of a proposed civil penalty, the employer has 15 working days to respond to the notice. If, within the 15-day period, the employer fails to file a notice contesting the penalty, the proposed penalty will be deemed final agency action for purposes of judicial review.[239]

Any other violation of the statute for which a penalty is not specifically provided constitutes a serious misdemeanor.[240] Every day during which any violation continues constitutes a separate and distinct offense, and the employment of any person in violation of the child labor laws, with respect to each person so employed, constitutes a separate and distinct offense.[241]

3.7 Wage Payment Issues

3.7(a) *Federal Guidelines on Wage Payment*

There is no federal wage payment law. The FLSA covers minimum wage and overtime requirements, but would not generally be considered a "wage payment" law as the term is used in state law to define when and how wages must be paid.

3.7(a)(i) *Form of Payment Under Federal Law*

Authorized Instruments. Wages may be paid by cash, check, or facilities (*e.g.*, board or lodging).[242]

Direct Deposit. Neither the FLSA, nor its implementing regulations, address direct deposit of employee wages. The U.S. Department of Labor (DOL) has briefly considered the permissibility of direct deposit by stating:

> The payment of wages through direct deposit into an employee's bank account is an acceptable method of payment, provided employees have the option of receiving payment by cash or check directly from the employer. As an alternative, the employer may make arrangements for employees to cash a check drawn against the employer's payroll deposit account, if it is at a place convenient to their employment and without charge to them.[243]

According to the Consumer Financial Protection Bureau (CFPB), an employer may require direct deposit of wages by electronic means if the employee is allowed to choose the institution that will receive the direct deposit. Alternatively, an employer may give employees the choice of having their wages deposited

---

[237] IOWA CODE § 92.22.

[238] IOWA CODE § 92.22.

[239] IOWA CODE § 92.22.

[240] IOWA CODE § 92.20.

[241] IOWA CODE § 92.20.

[242] U.S. Dep't of Labor, Wage & Hour Div., FIELD OPERATIONS HANDBOOK, § 30c, *available at* https://www.dol.gov/whd/FOH/FOH_Ch30.pdf; *see also* 29 C.F.R. § 531.32 (description of "other facilities").

[243] U.S. Dep't of Labor, Wage & Hour Div., FIELD OPERATIONS HANDBOOK, § 30c00.

at a particular institution (designated by the employer) or receiving their wages by another means, such as by check or cash.[244]

Payroll Debit Card. Employers may pay employees using payroll card accounts, so long as employees have the choice of receiving their wages by at least one other means.[245] The "prepaid rule" regulation defines a *payroll card account* as an account that is directly or indirectly established through an employer and to which electronic fund transfers of the consumer's wages, salary, or other employee compensation such as commissions are made on a recurring basis, whether the account is operated or managed by the employer, a third-party payroll processor, a depository institution, or any other person.[246]

Employers that use payroll card accounts must comply with several requirements set forth in the prepaid rule. Employers must give employees certain disclosures before the employees choose to be paid via a payroll card account, including a short-form disclosure, a long-form disclosure, and other information that must be disclosed in close proximity to the short-form disclosure. Employees must receive the short-form disclosure and either receive or have access to the long-form disclosure before the account is activated. All disclosures must be provided in writing. Importantly, within the short-form disclosure, employers must inform employees in writing and before the card is activated that they need not receive wages by payroll card. This disclosure must be very specific. It must provide a clear fee disclosure and include the following statement or an equivalent: "You do not have to accept this payroll card. Ask your employer about other ways to receive your wages." Alternatively, a financial institution or employer may provide a statement that the consumer has several options to receive wages or salary, followed by a list of the options available to the consumer, and directing the consumer to tell the employer which option the customer chooses using the following language or similar: "You have several options to receive your wages: [list of options]; or this payroll card. Tell your employer which option you choose." This statement must be located above the information about fees. A short-form disclosure covering a payroll card account also must contain a statement regarding state-required information or other fee discounts or waivers.[247] As part of the disclosures, employees must: (1) receive a statement of pay card fees; (2) have ready access to a statement of all fees and related information; and (3) receive periodic statements of recent account activity or free and easy access to this information online. Under the prepaid rule, employees have limited responsibility for unauthorized charges or other unauthorized access, provided they have registered their payroll card accounts.[248]

---

[244] Consumer Fin. Prot. Bureau, *CFPB Bulletin 2013-10: Payroll Card Accounts (Regulation E)* (Sept. 12, 2013), *available at* http://files.consumerfinance.gov/f/201309_cfpb_payroll-card-bulletin.pdf.

[245] 12 C.F.R. § 1005.18; *see also* Consumer Fin. Prot. Bureau, *CFPB Bulletin 2013-10: Payroll Card Accounts (Regulation E)* (Sept. 12, 2013) and Consumer Fin. Prot. Bureau, *Ask CFPB: Prepaid Cards, If my employer offers me a payroll card, do I have to accept it?* (Sept. 4, 2020), *available at* https://www.consumerfinance.gov/ask-cfpb/if-my-employer-offers-me-a-payroll-card-do-i-have-to-accept-it-en-407/.

[246] 12 C.F.R. § 1005.2(b)(3)(i)(A).

[247] 12 C.F.R. § 1005.18; *see also* Consumer Fin. Prot. Bureau, *Guide to the Short Form Disclosure* (Mar. 2018), *available at* https://files.consumerfinance.gov/f/documents/cfpb_prepaid_guide-to-short-form-disclosure.pdf; *Prepaid Disclosures* (Apr. 1, 2019), *available at* https://files.consumerfinance.gov/f/documents/102016_cfpb_PrepaidDisclosures.pdf.

[248] 12 C.F.R. § 1005.18.

The CFPB provides numerous online resources regarding prepaid cards, including Frequently Asked Questions. Employers that use or plan to use payroll card accounts should consult these resources, in addition to the prepaid card regulation, and seek knowledgeable counsel.[249]

3.7(a)(ii) *Frequency of Payment Under Federal Law*

Federal law does not specify the timing of wage payment and does not prohibit payment on a semi-monthly or monthly basis. However, all wages that are required by the FLSA are generally considered to be due on the payday for the pay period in which the wages were earned. FLSA regulations state that if an employer cannot calculate how much it owes an employee in overtime by payday, it must pay that employee overtime as soon as possible and no later than the next payday.[250]

3.7(a)(iii) *Final Payment Under Federal Law*

Federal law does not address when final wages must be paid to discharged employees or to employees who voluntarily quit. However, as noted in **3.7(a)(ii)**, wages that are required by the FLSA are generally considered to be due on the payday for the pay period in which the wages were earned.

3.7(a)(iv) *Notification of Wage Payments & Wage Records Under Federal Law*

Federal law does not generally require employers to provide employees wage statements when wages are paid. However, federal law does require employers to furnish pay stubs to certain unique classifications of employees, including migrant farm workers.

Federal law does not address whether electronic delivery of earnings statements is permissible.

3.7(a)(v) *Changing Regular Paydays or Pay Rate Under Federal Law*

There are no general notice requirements under federal law should an employer wish to change an employee's payday or wage rate. However, it is recommended that employees receive advance written notice before a change in regular paydays or pay rate occurs.

3.7(a)(vi) *Paying for Expenses Under Federal Law*

The FLSA does not have a general expense reimbursement obligation. Nonetheless, it prohibits employers from circumventing minimum wage and overtime laws by passing onto employees the cost of items that are primarily for the benefit or convenience of the employer, if doing so reduces an employee's wages below the highest applicable minimum wage rate or cuts into overtime premium pay.[251] Because the FLSA requires an employer to pay minimum wage and overtime premiums "free and clear," the employer must reimburse employees for expenses that are primarily for the benefit of the employer if those expenses would reduce the applicable required minimum wage or overtime compensation.[252] Accordingly, among other items, an employer may be required to reimburse an employee for expenses related to work

---

[249] *See* Consumer Fin. Prot. Bureau, *Prepaid Cards*, *available at* https://www.consumerfinance.gov/ask-cfpb/category-prepaid-cards/ and *Prepaid Rule Small Entity Compliance Guide* (Apr. 2019), *available at* https://files.consumerfinance.gov/f/documents/cfpb_prepaid_small-entity-compliance-guide.pdf.

[250] 29 C.F.R. § 778.106; *see also* U.S. Dep't of Labor, Wage & Hour Div., FIELD OPERATIONS HANDBOOK, § 30b04, *available at* https://www.dol.gov/whd/FOH/FOH_Ch30.pdf.

[251] *See* 29 U.S.C. §§ 203(m), 206; 29 C.F.R. §§ 531.2, 531.32(a), and 531.36(a); U.S. Dep't of Labor, Wage & Hour Div., *Fact Sheet #16: Deductions From Wages for Uniforms and Other Facilities Under the Fair Labor Standards Act (FLSA)* (rev. July 2009).

[252] 29 C.F.R. §§ 531.35, 531.36, and 531.37.

uniforms,[253] tools and equipment,[254] and business transportation and travel.[255] Additionally, if an employee is reimbursed for expenses normally incurred by an employee that primarily benefit the employer, the reimbursement cannot be included in the employee's regular rate.[256]

3.7(a)(vii) *Wage Deductions Under Federal Law*

Permissible Deductions. Under the FLSA, an employer can deduct:

- state and federal taxes, levies, and assessments (*e.g.*, income, Social Security, unemployment) from wages;[257]
- amounts ordered by a court to pay an employee's creditor, trustee, or other third party, under garnishment, wage attachment, trustee process, or bankruptcy proceedings (the employer or anyone acting on its behalf cannot profit from the transaction);[258]
- amounts as directed by an employee's voluntary assignment or order to pay an employee's creditor, donee, or other third party (the employer or agent cannot directly or indirectly profit or benefit from the transaction);[259]
- with an employee's authorization for:
  - the purchase of U.S. savings stamps or U.S. savings bonds;
  - union dues paid pursuant to a valid and lawful collective bargaining agreement;
  - payments to the employee's store accounts with merchants wholly independent of the employer;
  - insurance premiums, if paid to independent insurance companies where the employer is under no obligation to supply the insurance and derives, directly or indirectly, no benefit or profit from it; or
  - voluntary contributions to churches and charitable, fraternal, athletic, and social organizations, or societies from which the employer receives no profit or benefit, directly or indirectly;[260]
- the reasonable cost of providing employees board, lodging, or other facilities by including this cost as wages, if the employer customarily furnishes these facilities to employees;[261] or

---

[253] 29 U.S.C. § 203(m); 29 C.F.R. §§ 531.3, 531.32; U.S. Dep't of Labor, Wage & Hour Div., FIELD OPERATIONS HANDBOOK, § 30c12.

[254] 29 U.S.C. § 203(m); 29 C.F.R. §§ 531.3, 531.35; U.S. Dep't of Labor, Wage & Hour Div., Op. Ltr. FLSA 2001-7 (Feb. 16, 2001).

[255] 29 C.F.R. § 531.32; U.S. Dep't of Labor, Wage & Hour Div., FIELD OPERATIONS HANDBOOK, § 30c04.

[256] 29 C.F.R. § 778.217.

[257] 29 C.F.R. § 531.38.

[258] 29 C.F.R. § 531.39. The amount subject to withholding is governed by the federal Consumer Credit Protection Act. 15 U.S.C. §§ 1671 *et seq*.

[259] 29 C.F.R. § 531.40.

[260] 29 C.F.R. § 531.40.

[261] 29 U.S.C. § 203. However, the cost cannot be treated as wages if prohibited under a collective bargaining agreement.

- amounts for premiums the employer paid while maintaining benefits coverage for an employee during a leave of absence under the Family and Medical Leave Act if the employee fails to return from leave after leave is exhausted or expires, if the deductions do not otherwise violate applicable federal or state wage payment or other laws.[262]

Additionally, while the FLSA contains no express provisions concerning deductions relating to overpayments made to an employee, loans and advances, or negative vacation balance, informal guidance from the DOL suggests such deductions may nonetheless be permissible. While this informal guidance may be interpreted to permit a deduction for loans to employees, employers should consult with counsel before deducting from an employee's wages. An employer can deduct the principal of a loan or wage advance, even if the deduction cuts into the minimum wage or overtime owed. However, deductions for interest or administrative costs on the loan or advance are illegal to the extent that they cut into the minimum wage or overtime pay. Loans or advances must be verified.[263]

An employer may also be able to deduct for wage overpayments even if the deduction cuts into the employee's FLSA minimum wage or overtime pay. The deduction can be made in the next pay period or several pay periods later. An employer cannot, however, charge an administrative fee or charge interest that brings the payment below the minimum wage.[264] Finally, if an employee is granted vacation pay before it accrues, with the understanding it constitutes an advance of pay, and the employee quits or is fired before the vacation is accrued, an employer can recoup the advanced vacation pay, even if this cuts into the minimum wage or overtime owed an employee.[265]

Deductions During Non-Overtime v. Overtime Workweeks. Whether an employee receives overtime during a given workweek affects an employer's ability to take deductions from the employee's wages. During non-overtime workweeks, an employer may make qualifying deductions (*i.e.*, the cost is reasonable and there is no employer profit) for "board, lodging, or other facilities" even if the deductions would reduce an employee's pay below the federal minimum wage. Deductions for articles that do not qualify as "board, lodging, or other facilities" (*e.g.*, tools, equipment, cash register shortages) can be made in non-overtime workweeks if, after the deduction, the employee is paid at least the federal minimum wage.[266]

During overtime workweeks, deductions can be made on the same basis in overtime weeks as in non-overtime weeks if the amount deducted does not exceed the amount which could be deducted if the employee had not worked overtime during the workweek. Deductions that exceed this amount for articles that are not "facilities" are prohibited. There is no limit on the amount that can be deducted for qualifying deductions for "board, lodging, or other facilities." However, deductions made only in overtime weeks, or

---

[262] 29 C.F.R. § 825.213.

[263] U.S. Dep't of Labor, Wage & Hour Div., FIELD OPERATIONS HANDBOOK, § 30c10, *available at* https://www.dol.gov/whd/FOH/FOH_Ch30.pdf.

[264] U.S. Dep't of Labor, Wage & Hour Div., Op. Ltr. FLSA2004-19NA (Oct. 8, 2004); *see also* U.S. Dep't of Labor, Wage & Hour Div., FIELD OPERATIONS HANDBOOK, § 30c10.

[265] U.S. Dep't of Labor, Wage & Hour Div., Op. Ltr. FLSA2004-17NA (Oct. 6, 2004); *see also* U.S. Dep't of Labor, Wage & Hour Div., FIELD OPERATIONS HANDBOOK, § 30c10.

[266] 29 C.F.R. § 531.36.

increases in prices charged for articles or services during overtime workweeks will be scrutinized to determine whether they are manipulations to evade FLSA overtime requirements.[267]

Prohibited Deductions. The FLSA prohibits an employer from making deductions for administrative or bookkeeping expenses incurred by an employer to the extent they cut into the minimum wage and overtime owed an employee.[268]

3.7(b) *State Guidelines on Wage Payment*

In Iowa, *wages* mean compensation an employer owes an employee for:

- labor or services rendered by an employee, whether determined on a time, task, piece, commission, or other basis of calculation;
- vacation, holiday, sick leave, and severance payments which are due an employee under an agreement with the employer or under an employer's policy;
- any payments to the employee or to a fund for the employee's benefit, including but not limited to payments for medical, health, hospital, welfare, pension, or profit-sharing, which are due an employee under an agreement with the employer or under an employer's policy (however, an employee's assets in a fund for the employee's benefit are not wages); or
- expenses incurred and recoverable under a health benefit plan.[269]

3.7(b)(i) *Form of Payment Under State Law*

Authorized Instruments. Wages must be paid in cash or by written instrument negotiable upon demand at full face value, unless the employee agrees in writing to receive wages in another form.[270]

Direct Deposit. Mandatory direct deposit is permitted in Iowa for employees hired on or after July 1, 2005. For employees hired before July 1, 2005, wages may be directly deposited into a financial institution designated by the employee if an employee elects to do so.

An employee hired on or after July 1, 2005 may be required, as a condition of employment, to participate in direct deposit of the employee's wages in a financial institution of the employee's choice unless any of the following conditions exit:

- the costs to the employee of establishing and maintaining the account would effectively reduce the employee's wages below the statutory minimum wage;
- the employee would incur fees charged to the employee's account as a result of the direct deposit; or
- the provisions of a collective bargaining agreement prohibit the employer from requiring an employee to sign up for direct deposit as a condition of hire.[271]

---

[267] 29 C.F.R. § 531.37.

[268] U.S. Dep't of Labor, Wage & Hour Div., FIELD OPERATIONS HANDBOOK, § 30c10.

[269] IOWA CODE § 91A.2.

[270] IOWA CODE § 91A.3.

[271] IOWA CODE § 91A.3.

If an employer fails to send an employee's wages for direct deposit on or before the regular payday, the employer is liable for the amount of any overdraft charge if the overdraft is created on the employee's account because of the employer's failure to send wages on or by the regular payday.[272]

Payroll Debit Card. Wages can be paid in a form other than cash or written instrument if payable at full face value and the employee has agreed in writing to receive wages in the other form. Moreover, the state labor department contends payment by debit card is permitted if:

- the employee agrees in writing to accept wages by pay card;
- the funds are available to the employee on or before each pay day; and
- the employee is allowed access to all wages due without a fee or charge. The number of free transactions required per pay period will vary depending on the amount of pay owed and the card's transaction limit. For example, if the card's transaction limit is greater than the amount of pay owed, only one free transaction per pay period is required; if the card's transaction limit is one-half of the wages owed, two free transactions per pay period are required.[273]

3.7(b)(ii) *Frequency of Payment Under State Law*

An Iowa employer must pay its employees on regular paydays that are at consistent intervals and designated in advance by the employer. A regular payday must not occur more than 12 days, excluding Sundays and legal holidays, after the end of the pay period. If an employee is absent on the regular payday, the employer must pay wages upon demand within the first seven days following the payday. After that, the employer must pay the employee within seven days of the demand.

If any wages are paid on a commission basis, the employer may, upon agreement with the employee, pay only a credit against such wages. If such credit is paid, the employer must at regular intervals pay any difference between the credit and the amount of commissions actually earned.[274]

An employer may pay its employees on a biweekly, semi-monthly, or monthly basis, but not more than 12 days, excluding Sundays and legal holidays, following the close of a pay period.[275]

3.7(b)(iii) *Final Payment Under State Law*

Employees who leave employment for any reason, including discharge or resignation, must be paid on the next regularly scheduled payday for the wages earned. Special rules apply to commissions.[276]

3.7(b)(iv) *Notification of Wage Payments & Wage Records Under State Law*

Iowa law requires that on each regular payday, an employer must provide each employee a statement showing:

- the hours the employee worked;

---

[272] IOWA CODE § 91A.3.

[273] IOWA CODE § 91A.3; Iowa Div. of Labor, *Wage FAQs*, *available at* https://www.iowadivisionoflabor.gov/idol/wage-hour/faq.

[274] IOWA CODE § 91A.3.

[275] IOWA CODE § 91A.3.

[276] IOWA CODE § 91A.4; Iowa Div. of Labor, *Wage FAQs*.

- wages earned; and
- any deductions made.

An employer need not provide information on hours worked for employees who are exempt from overtime under the FLSA, unless the employer has established a policy or practice of paying exempt employees overtime, a bonus, or a payment based on hours worked. If an employer has such a practice, it must send or otherwise provide a statement to the exempt employees showing:

- hours the employee worked; or
- payments made to the employee by the employer, as applicable.

Within 10 working days of a request by an employee, an employer must furnish to the employee a written, itemized statement or access to a written, itemized statement listing:

- earnings for each pay period;
- deductions made from wages for each pay period deductions were made; and
- an explanation of how the wages and deductions were computed.[277]

The employer may provide the wage statement by: (1) mail; (2) secure electronic means (provided that, if an employee is unable to receive the statement electronically, the employee must notify the employer in writing at least one pay period in advance, and the employer must subsequently provide the statement by one of the other methods); (3) providing the statement at the employee's normal place of employment during normal employment hours; or (4) providing each employee access to view a statement electronically, and providing the employee free and unrestricted access to a printer to print the statement.[278]

3.7(b)(v) *Wage Transparency*

Iowa law does not address whether an employer may prohibit employees from disclosing their wages or from discussing and inquiring about the wages of other employees.

3.7(b)(vi) *Changing Regular Paydays or Pay Rate Under State Law*

Changing Regular Paydays. There are no general payday notice requirements in Iowa. However, it is recommended that employees receive advance written notice before a change occurs.

However, if an employer has paid a claim for unpaid wages or nonreimbursed authorized expenses and liquidated damages under state wage payment laws, or if the employer has been assessed a civil money penalty under state wage payment laws, the state labor department can order an employer to perform various acts, including but not limited to, notifying employees, in writing or by displaying a notice at a place where employee notices are routinely posted, about altering regular paydays at least one pay period before a change occurs. However, a court may, when rendering a judgment, order that an employer will not be required to comply with this requirement or that an employer will be required to comply for a particular period of time.[279]

---

[277] IOWA CODE § 91A.6.

[278] IOWA CODE § 91A.6.

[279] IOWA CODE § 91A.6.

Changing Pay Rate. There are no general notice requirements. However, it is recommended that employees receive advance written notice before a change occurs.

As with a change in payday and under the same conditions (*i.e.*, employer has had to pay claims, liquidated damages, or been assessed a civil money penalty), the state labor department can order an employer to notify employees, in writing or by displaying a notice at a place where employee notices are routinely posted, about a wage reduction at least one pay period before a change occurs. However, a court may limit order.[280]

3.7(b)(vii) *Paying for Expenses Under State Law*

In Iowa, employee expenses an employer authorizes must either be reimbursed in advance or reimbursed not later than 30 days after the employee submits an expense claim. If an employer refuses to pay all or part of each claim, it must provide the employee written justification for its refusal within the same time period in which expense claims must be paid under the law.[281]

If an employer has paid a claim for unpaid wages or nonreimbursed authorized expenses and liquidated damages, or if the employer has been assessed a civil money penalty, the state labor director can order the employer to make available to employees, upon a written request, a written statement enumerating agreements and policies concerning expense reimbursement. Notice must be provided in writing or by a notice posted at a place where employee notices are routinely posted.[282]

Transportation. The reasonable value of transportation furnished to employees between their homes and work, where the time is not compensable work time and travel is not an incident of and necessary to employment, can be counted as "wages." However, transportation charges, where transportation is an incident of and necessary to employment (*e.g.*, maintenance of way employees of a railroad), cannot be counted as "wages." The "reasonable cost" cannot exceed the employer's actual cost to provide transportation. A deduction for qualifying transportation can reduce an employee's wage below the minimum wage, if the price charged does not exceed its "reasonable cost."[283]

Uniforms. An employer cannot deduct from wages the cost of personal protective equipment, other than items of clothing or footwear which may be used by during nonworking hours, needed to protect an employee from employment-related hazards, unless provided otherwise in a collective bargaining agreement. Also, in the mining industry, safety caps, explosives, and miners' lamps cannot be credited.[284]

The cost of uniforms and their laundering, where the nature of the business requires the employee to wear a uniform, is considered to primarily benefit an employer, so this cost cannot be included when computing wages. Charges for rental of uniforms, where the nature of the business requires the employee to wear a uniform, cannot be counted as "wages."[285]

---

[280] IOWA CODE § 91A.6.

[281] IOWA CODE § 91A.3.

[282] IOWA CODE § 91A.6.

[283] IOWA ADMIN. CODE r. 875-217.3, 875-217.32, and 875-217.36.

[284] IOWA CODE § 91A.5; IOWA ADMIN. CODE r. 875-217.3, 875-217.32.

[285] IOWA ADMIN. CODE r. 875-217.3(91D).

According to the state labor department, an employer may require employees to buy uniforms. However, an employer cannot deduct the uniform cost from wages if the uniform identifies the business through a logo or company colors. An employer can deduct if the uniform is generic clothing (*e.g.*, a white blouse or black pants).[286]

Tools & Equipment. Deductions for tools, miners' lamps, dynamite caps, and other items which do not constitute "board, lodging, or other facilities" may be made if the employee still receives the minimum wage free and clear. However, if the deductions would reduce payment to below the minimum wage, the deduction is not permitted.[287]

3.7(b)(viii) *Wage Deductions Under State Law*

Requirements for Deductions. An employer can make deductions from an employee's wages only if:

- required or permitted by state or federal law, or by a court order; or
- the employee provides written authorization to deduct for a lawful purpose accruing to the employee's benefit.[288]

Permissible Deductions. The state labor department provides the following examples of lawful deductions for an employee's benefit:

- insurance;
- 401(k);
- pension; or
- bonds and savings program.[289]

In addition, deductions for board, lodging, or other facilities are permitted, even if the deductions cause the employee's pay to fall below the minimum wage, if the price charged does not exceed the reasonable cost of providing the item. If the employer makes a profit on the items, and takes a deduction, the deduction is illegal to the extent the profit reduces an employee's pay below the minimum wage. Deductions must comply with the requirements listed above in the general deductions statute. For detailed information about applying the cost of board and lodging toward employee wages (*e.g.*, amount, full requirements), employers should consult the regulation.[290]

Under certain circumstances, deductions for charitable contributions are deemed to accrue to an employee's benefit.[291]

---

[286] Iowa Div. of Labor, *Wage FAQs*, *available at* https://www.iowadivisionoflabor.gov/idol/wage-hour/faq.

[287] IOWA ADMIN. CODE r. 875-217.36.

[288] IOWA CODE § 91A.5.

[289] Iowa Div. of Labor, *Wage FAQs*.

[290] IOWA ADMIN. CODE r. 875-217.36; *see also* IOWA ADMIN. CODE r. 875-215.3 (unless excluded by a collective bargaining agreement, the term *wage* includes the reasonable cost to an employer of furnishing an employee with board, lodging, or other facilities if customarily furnished by the employer to employees).

[291] *Ferezy v. Wells Fargo Bank, N.A.*, 755 F. Supp. 2d 1010 (S.D. Iowa 2010); Iowa Div. of Labor, *Wage FAQs*, *available at* https://www.iowadivisionoflabor.gov/idol/wage-hour/faq.

If an employer is directed by an employee's voluntary assignment or ordered to pay a sum for the employee's benefit to a creditor or other third party, the deduction is permitted if neither the employer nor its agent directly or indirectly derives any profit or benefit from the transaction. The employee's written authorization is required for a payment to the employee's assignee. Payments to a third party that are part of a plan or arrangement to evade or circumvent minimum wage requirements are prohibited.[292]

Prohibited Deductions. An employer cannot deduct for:

- cash shortages in common money till, cash box, or register operated by two or more employees, or by the employer and employee;
  - However, the employer and a full-time employee who is a manager may agree that the employee will be responsible for cash shortages occurring within 45 days prior to the most recent regular pay, if both parties enter into a signed, written agreement.
- losses due to dishonored checks, if an employee had discretion to accept or reject checks and the employee did not abuse this discretion;
- losses due to breakage, damage to property, customer credit default, or nonpayment for goods or services, if losses are not attributable to an employee's willful or international disregard of the employer's interest;
- lost or stolen property, unless equipment was specifically assigned to the employee, and the employee acknowledged receipt in writing;
- gratuities received by employee from customers;
- costs of personal protective equipment (other than clothing or footwear which may be used during nonworking hours) needed to protect employee from employment-related hazards, unless otherwise provided in a collective bargaining agreement; or
- relocation costs of more than $20 (this only applies to employers of more thanc103 individuals, under Iowa Code section 91E.1).[293]

An employer is also prohibited from using any portion of current or future earnings to offset past minimum wage obligations or payments.[294]

3.7(b)(ix) *Wage Assignments & Wage Garnishments*

Debt Collection. If an employer is obligated by court order to pay a sum for the employee's benefit or credit to an employee's creditor, trustee, or other third party, due to a wage garnishment, wage attachment, trustee process, or bankruptcy proceeding, a deduction for that amount is permitted if neither the employer nor its agent derives any profit or benefit from the transaction. The amount deducted cannot exceed the limit imposed by the state or federal garnishment laws.[295]

[292] IOWA ADMIN. CODE r. 875-217.40.

[293] IOWA CODE § 91A.5.

[294] IOWA ADMIN. CODE r. 875-217.37.

[295] IOWA ADMIN. CODE r. 875-217.39.

The Iowa garnishment statute provides that an employee's disposable earnings are exempt from garnishment to the extent provided by the federal Consumer Credit Protection Act.[296] *Disposable earnings* means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld.[297] The maximum amount of an employee's earnings that may be garnished during any one calendar year is $250 for each judgment creditor, unless those earnings are reasonably expected to be in excess of $12,000 for that calendar year, in which case the limits are as follows:

- earnings of $12,000 - $15,999: up to $400;
- earnings of $16,000 - $23,999: up to $800;
- earnings of $24,000 - $34,999: up to $1,500;
- earnings of $35,000 - $49,999: up to $2,000;
- earnings of $50,000 or more: no more than 10% of the employee's expected earnings.[298]

An employer is prohibited from taking these actions in connection with garnishment of an employee's earnings:

- withholding from the employee's earnings an amount greater than that provided by law;
- disposing of garnished wages in any manner other than ordered by a court of law; or
- discharging an individual by reason of the individual's earnings having been subject to garnishment for indebtedness.[299]

Orders of Support. Within 10 days of receiving an income withholding order from a state district court, an employer must begin to comply with the withholding order for the employee who is the subject of the order.[300] *Income* includes wages, salaries, commissions, bonuses, workers' compensation, disability payments, payments pursuant to a pension or retirement program, and interest.[301] Payment to the clerk of the district court is due within seven business days of each payday on which the employee receives wages.[302] The employer is permitted to deduct an additional processing fee of no more than $2 with each paycheck and payment to the district court.[303]

An income withholding order child support and/or spousal support takes priority over a garnishment or wage assignment for any other purpose.[304] An employer that discharges, refuses to employ, or takes

[296] 15 U.S.C. §§ 1671 to 1677.

[297] IOWA CODE § 642.21(3).

[298] IOWA CODE § 642.21(1).

[299] IOWA CODE § 642.21(2).

[300] IOWA CODE § 252D.17(1).

[301] IOWA CODE § 252D.16(1).

[302] IOWA CODE § 252D.17(1).

[303] IOWA CODE § 252D.17(1).

[304] IOWA CODE § 252D.17(1).

disciplinary action against an employee based upon income withholding is guilty of a simple misdemeanor.[305]

3.7(b)(x) *State Enforcement, Remedies & Penalties*

If there is a dispute between an employer and employee concerning the amount of wages or expense reimbursement due, the employer must, without condition, pay all wages or reimburse all expenses conceded to be due, less any lawful deductions.[306] However, this payment of wages or reimbursement of expenses does not relieve the employer of any liability for the balance of wages or expenses claimed by the employee.[307]

The Iowa Division of Labor Services enforces the Iowa Wage Payment Collection and the Iowa Minimum Wage Laws. The Division of Labor Services has the authority to hold hearings and investigate charges of violations of these statutes where the claim involves an amount in dispute of up to $5,000.[308] An employee must file a wage claim within one year of the alleged violation.[309] Upon an employee's written complaint, the Division may determine whether wages have not been paid and whether the employee's complaint constitutes an enforceable claim.[310] If it is determined that there is an enforceable claim, the Division may, with the complainant's consent, take assignment of the wage claim. The Division may then commence a civil action in any court of competent jurisdiction on the complainant's behalf to recover any wages, expenses, and liquidated damages.[311]

An employee may also forego assignment of their wage claim to the Division and bring an action for damages.[312]

An employer found to have intentionally failed to pay an employee wages or reimburse expenses, whether as the result of a wage dispute or otherwise, is liable to the employee for any wages or expenses that were not paid or reimbursed, plus liquidated damages, court costs and any attorneys' fees incurred in recovering the unpaid wages and determined to have been usual and necessary. In other instances the employer shall be liable only for unpaid wages or expenses, court costs and usual and necessary attorneys' fees incurred in recovering the unpaid wages or expenses.[313]

Violations of the Iowa Wage Payment Collection and the Iowa Minimum Wage Laws may also subject an employer to a civil penalty of not more than $500 per pay period for each violation.[314]

Antiretaliation Provisions. An employer is prohibited from discharging or in any other manner discriminating against an employee because the employee has filed a complaint, assigned a claim, or brought a wage claim action or cooperated in bringing any action against the employer. An employee's

---

[305] IOWA CODE § 252D.17(1).

[306] IOWA CODE § 91A.7.

[307] IOWA CODE § 91A.7.

[308] IOWA CODE § 91A.9.

[309] IOWA ADMIN. CODE r. 875-1.67(17A).

[310] IOWA CODE § 91A.10.

[311] IOWA CODE § 91A.10.

[312] IOWA CODE § 91A.10.

[313] IOWA CODE § 91A.8.

[314] IOWA CODE § 91A.12.

remedies for an employer's violation of the retaliation provisions include rehiring or reinstatement of the employee to the former position with back pay.[315]

3.8 Other Benefits

3.8(a) *Vacation Pay & Similar Paid Time Off*

3.8(a)(i) *Federal Guidelines on Vacation Pay & Similar Paid Time Off*

To the extent an "employee welfare benefit plan" is established or maintained for the purpose of providing vacation benefits for participants or their beneficiaries, it may be governed under the federal Employee Retirement Income Security Act (ERISA).[316] However, an employer program of compensating employees for vacation benefits out of the employer's general assets is not considered a covered welfare benefit plan.[317] Further, the U.S. Supreme Court, in *Massachusetts v. Morash*, noted that extensive state regulation of vesting, funding, and participation rights of vacation benefits may provide greater protections for employees than ERISA and, as a result, the court was reluctant to have ERISA preempt state law in situations where it was not clearly indicated.[318]

3.8(a)(ii) *State Guidelines on Vacation Pay & Similar Paid Time Off*

Generally. Iowa's definition of *wages* includes vacation, holiday, and sick leave payments that are due an employee under an agreement with the employer or under an employer's policy.[319] Nonetheless, there is no requirement under Iowa law that an employer must offer employees other benefit compensation such as vacation pay, holiday pay, personal time off, bonuses, severance pay, or pensions. Vacation pay is not governed by statute and is a matter of an employer's internal policies or a contract between the employer and its employees. However, once an employer does establish a policy and promise vacation pay and other types of additional compensation, the employer may not arbitrarily withhold or withdraw these fringe benefits retroactively. It is important to draft clear, precise, and complete policies and procedures regarding these benefits, as they can become contractual obligations and subject the employer to liability if withheld or reduced without notice.

Thus, there is no statutory or regulatory provision prohibiting an Iowa employer from implementing caps on accrual, a "use-it-or-lose-it" policy, or a policy requiring forfeiture of unused vacation time upon termination.[320] If vacation pay is in fact due upon termination under an agreement with the employer or

---

[315] IOWA CODE § 91A.10.

[316] 29 U.S.C. § 1002.

[317] 29 C.F.R. § 2510.3-1; *see also* U.S. Dep't of Labor, *Advisory Opinion 2004-10A* (Dec. 30, 2004), *available at* https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/advisory-opinions/2004-10a; U.S. Dep't of Labor, *Advisory Opinion 2004-08A* (July 2, 2004), *available at* https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/advisory-opinions/2004-08a; U.S. Dep't of Labor, *Advisory Opinion 2004-03A* (Apr. 30, 2004), *available at* https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/advisory-opinions/2004-03a.

[318] 490 U.S. 107, 119 (1989).

[319] IOWA CODE § 91A.2.

[320] Iowa Div. of Labor, *Wage Frequently Asked Questions*, *available at* https://www.iowadivisionoflabor.gov/idol/wage-hour/faq; *see also Peniska v. Davita, Inc.*, 2009 WL 3064639 (Iowa Ct. App. Sept. 17, 2009) (because the employer did not have an agreement or policy providing it would pay-out unused personal time off upon involuntary termination, the former employee had no right to compensation);

an employer policy establishing pro rata vacation accrued, the increment paid must be in proportion to the fraction of the year which the employee was actually employed.[321]

Notice Requirements. Under most circumstances, Iowa law does not mandate notification to employees of an employer's vacation policy. However, if an employer has paid a claim for unpaid wages or nonreimbursed authorized expenses and liquidated damages, or if the employer has been assessed a civil money penalty, the state labor department can order the employer, at the time of hiring, to notify its employees in writing of, among other items, vacation, holiday, and sick leave payments which are due an employee under an agreement with the employer or under a policy of the employer. Additionally, an employer can be ordered, upon an employee's written request, to provide a written statement enumerating employment agreements and policies concerning vacation and other wage and benefits matters. Notice must be given to each employee in writing or by a notice posted at a place where employee notices are routinely posted.[322]

3.8(b) *Holidays & Days of Rest*

3.8(b)(i) *Federal Guidelines on Holidays & Days of Rest*

There is no federal law requiring that employees be provided a day of rest each week, or be compensated at a premium rate for work performed on the seventh consecutive day of work or on holidays.

3.8(b)(ii) *State Guidelines on Holidays & Days of Rest*

In Iowa, employers are not required to provide employees with a day of rest or worship. With respect to specific holidays, an employer must provide time off to qualifying veterans on Veterans Day if the employee:

- is scheduled to work that day;
- provides at least one month's written notice of intent to take the day off; and
- provides certification that the individual was released or discharged from active duty, or a similar federal document.

An employer may decide whether the time off will be paid or unpaid.[323] For additional information on time off for Veterans Day, see **3.9(l)(ii).**

3.8(c) *Recognition of Domestic Partnerships & Civil Unions*

3.8(c)(i) *Federal Guidelines on Domestic Partnerships & Civil Unions*

Federal law does not regulate or define domestic partnerships and civil unions. States and municipalities are free to provide for domestic partnership and civil unions within their jurisdictions. Thus, whether a couple may register as domestic partners or enter into a civil union depends on their place of residence.

Jackson v. Ottumwa, 396 N.W.2d 794 (Iowa Ct. App. 1986) (employee not entitled to payout upon termination because he did not meet the prerequisites for payout under the employer's policy).

[321] IOWA CODE § 91A.4.

[322] IOWA CODE §§ 91A.6, 91A.2 (definition of *wages*).

[323] IOWA CODE § 91A.5A.

States may also pass laws to regulate whether employee benefit plans must provide coverage for an employee's domestic partner or civil union partner.

Whether such state laws apply to an employer's benefit plans depends on whether the benefits are subject to ERISA. Most state and local laws that relate to an employer's provision of health benefit plans for employees are preempted by ERISA. Self-insured plans, for example, are preempted by ERISA. If the plan is preempted by ERISA, employers may not be required to comply with the states' directives on requiring coverage for domestic partners or parties to a civil union.[324] ERISA does not preempt state laws that regulate insurance, so employer health benefit plans that provide benefits pursuant to an insurance contract are subject to state laws requiring coverage for domestic partners or civil union partners.

The federal Comprehensive Omnibus Budget Reconciliation Act (COBRA) requires group health plans to provide continuation coverage under the plan for a specified period of time to each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event (*e.g.*, the employee's death or termination from employment).[325] However, under COBRA, only an employee and the employee's spouse and dependent children are considered "qualified beneficiaries."[326] Here again, states may choose to extend continuation coverage requirements to domestic partners and civil union partners under state mini-COBRA statutes.

3.8(c)(ii) *State Guidelines on Domestic Partnerships & Civil Unions*

Couples may register as domestic partners in the City of Iowa City. However, state law does not address whether an employee's domestic partner is required to be considered an eligible beneficiary or dependent for purposes of employee benefit plans.

3.9 Leaves of Absence

3.9(a) *Family & Medical Leave*

3.9(a)(i) *Federal Guidelines on Family & Medical Leave*

The federal Family and Medical Leave Act (FMLA) requires covered employers to provide eligible employees up to 12 weeks of unpaid leave in any 12-month period:

- for the birth or placement of a child for adoption or foster care;[327]
- to care for an immediate family member (spouse, child, or parent) with a serious health condition;[328]

---

[324] 29 U.S.C. § 1144.

[325] 29 U.S.C. § 1161.

[326] 29 U.S.C. § 1167(3).

[327] 29 C.F.R. §§ 825.102, 825.112, 825.113, 825.120, and 826.121.

[328] 29 C.F.R. §§ 825.102, 825.112, and 825.113; *see also* U.S. Dep't of Labor, Wage & Hour Div., *Administrator's Interpretation No. 2010-3* (June 22, 2010), *available at* https://www.dol.gov/whd/opinion/adminIntrprtn/FMLA/2010/FMLAAI2010_3.pdf (guidance on who may take time off to care for a sick, newly-born, or adopted child when the employee has no legal or biological attachment to the child).

- to take medical leave when the employee is unable to work because of a serious health condition;[329]
- for a qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on covered active duty or called to covered active duty status as a member of the National Guard, armed forces, or armed forces reserves (see **3.9(k)(i)** for information on "qualifying exigency leave" under the FMLA); and
- to care for a next of kin service member with a serious injury or illness (see **3.9(k)(i)** for information on the 26 weeks available for "military caregiver leave" under the FMLA).

A *covered employer* is engaged in commerce or in any industry or activity affecting commerce and has at least 55 employees in 20 or more workweeks in the current or preceding calendar year.[330] A *covered employee* has completed at least 12 months of employment and has worked at least 1,250 hours in the last 12 months at a location where 55 or more employees work within 75 miles of each other.[331] For information on the FMLA, see LITTLER ON LEAVES OF ABSENCE: FAMILY, MEDICAL & PREGNANCY LEAVES.

3.9(a)(ii) *State Guidelines on Family & Medical Leave*

Iowa law does not address family and medical leave for private-sector employees.

3.9(b) *Paid Sick Leave*

3.9(b)(i) *Federal Guidelines on Paid Sick Leave*

Federal law does not require private employers (that are not government contractors) to provide employees paid sick leave. Executive Order No. 13706 requires certain federal contractors and subcontractors to provide employees with a minimum of 56 hours of paid sick leave annually, to be accrued at a rate of at least one hour of paid sick leave for every 30 hours worked.[332] The paid sick leave requirement applies to certain contracts solicited—or renewed, extended, or amended—on or after January 1, 2017, including all contracts and subcontracts of any tier thereunder. For more information on this topic, see LITTLER ON GOVERNMENT CONTRACTORS & EQUAL EMPLOYMENT OPPORTUNITY OBLIGATIONS.

3.9(b)(ii) *State Guidelines on Paid Sick Leave*

Iowa law does not address paid sick leave for private-sector employees.

3.9(c) *Pregnancy Leave*

3.9(c)(i) *Federal Guidelines on Pregnancy Leave*

Three federal statutes are generally implicated when handling leave related to pregnancy: the Pregnancy Discrimination Act, which amended Title VII of the Civil Rights Act of 1964 ("Title VII") in 1978; the Family and Medical Leave Act; and the Americans with Disabilities Act. For additional information, see LITTLER ON LEAVES OF ABSENCE: FAMILY, MEDICAL & PREGNANCY LEAVES.

Pregnancy Discrimination Act (PDA). Under the PDA, which as part of Title VII applies to employers with 15 or more employees, disabilities caused or contributed to by pregnancy, childbirth, or related medical

[329] 29 C.F.R. §§ 825.112, 825.113.

[330] 29 U.S.C. § 2611(4); 29 C.F.R. §§ 825.104 to 825.109.

[331] 29 U.S.C. § 2611(2); 29 C.F.R. §§ 825.110 to 825.111.

[332] 80 Fed. Reg. 54,697-54,700 (Sept. 10, 2015).

conditions must be treated the same as disabilities caused or contributed to by other medical conditions under an employer's health or disability insurance or sick leave plan.[333] Policies and practices involving such matters as the commencement and duration of leave, the availability of extensions, reinstatement, and payment under any health or disability insurance or sick leave plan must be applied to disability due to pregnancy, childbirth, or related medical conditions on the same terms as they are applied to other disabilities.

An employer must allow individuals with physical limitations resulting from pregnancy to take leave on the same terms and conditions as others who are similar in their ability or inability to work. However, an employer may not compel an employee to take leave because the employee is pregnant, as long as the employee is able to perform their job. Moreover, an employer may not prohibit employees from returning to work for a set length of time after childbirth. Thus, employers must hold open a job for a pregnancy-related absence for the same length of time as jobs are held open for employees on sick or disability leave.

Family and Medical Leave Act (FMLA). A pregnant employee may take FMLA leave intermittently for prenatal examinations or for her own serious health condition, such as severe morning sickness.[334] FMLA leave may also be used for the birth or placement of a child; however, the use of intermittent leave (as opposed to leave taken on an intermittent or reduced schedule) is subject to the employer's approval.

Americans with Disabilities Act (ADA). Pregnancy-related impairments may constitute disabilities for purposes of the ADA. The federal Equal Employment Opportunity Commission (EEOC) takes the position that leave is a reasonable accommodation for pregnancy-related impairments, and may be granted in addition to what an employer would normally provide under a sick leave policy for reasons related to the impairment.[335] An employee may also be allowed to take leave beyond the maximum FMLA leave if the additional leave would be considered a reasonable accommodation.

Several states provide greater protections for employees with respect to pregnancy. For example, states may have specific laws prohibiting discrimination based on pregnancy or providing separate protections for pregnant individuals, including the requirement that employers provide reasonable accommodations to pregnant employees to enable them to continue working during their pregnancies, provided that no undue hardship on the employer's business operations would result. These protections are discussed in **3.11(c)**. To the extent that a state law focuses primarily on providing job-protected leave for employees with disabling pregnancy-related health conditions, that state law is discussed below.

3.9(c)(ii) *State Guidelines on Pregnancy Leave*

In Iowa, policies and practices regarding leaves of absence must be applied to disabilities due to pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities.

If temporary disability leave is not available or is insufficient, an employer with four or more employees must grant a leave of absence to an employee disabled by pregnancy, childbirth, or related medical conditions for the period of disability, or for eight weeks, whichever is less. The employee must provide

---

[333] 42 U.S.C. § 2000e(k); *see also* 29 C.F.R. § 1604.10.

[334] 29 C.F.R. § 825.202.

[335] EEOC, Notice 915.003, *EEOC Enforcement Guidance on Pregnancy Discrimination and Related Issues* (June 25, 2015), *available at* https://www.eeoc.gov/laws/guidance/pregnancy_guidance.cfm; *see also* EEOC, *Facts About Pregnancy Discrimination* (Sept. 8, 2008), *available at* https://www.eeoc.gov//facts/fs-preg.html.

timely notice of the leave requested and the employer may require medical certification stating that the employee is not able to reasonably perform her duties.[336]

3.9(d) *Adoptive Parents Leave*

3.9(d)(i) *Federal Guidelines on Adoptive Parents Leave*

An eligible employee may take time off to care for a newly-adopted child as part of the employee's leave entitlement under the FMLA. For information on the FMLA, see LITTLER ON LEAVES OF ABSENCE: FAMILY, MEDICAL & PREGNANCY LEAVES.

3.9(d)(ii) *State Guidelines on Adoptive Parents Leave*

Iowa law does not address adoptive parents leave for private-sector employees.

3.9(e) *School Activities Leave*

3.9(e)(i) *Federal Guidelines on School Activities Leave*

Federal law does not address school activities leave for private-sector employees.

3.9(e)(ii) *State Guidelines on School Activities Leave*

Iowa law does not address school activities leave for private-sector employees.

3.9(f) *Blood, Organ, or Bone Marrow Donation Leave*

3.9(f)(i) *Federal Guidelines on Blood, Organ, or Bone Marrow Donation*

Federal law does not address blood, organ, or bone marrow donation leave for private-sector employees.

3.9(f)(ii) *State Guidelines on Blood, Organ, or Bone Marrow Donation*

Iowa law does not address blood, organ, or bone marrow donation leave for private-sector employees.

3.9(g) *Voting Time*

3.9(g)(i) *Federal Voting Time Guidelines*

There is no federal law concerning time off to vote.

3.9(g)(ii) *State Voting Time Guidelines*

In Iowa, an employer must provide up to three consecutive hours off work to employees eligible to vote on election day. However, if an employee has at least three consecutive hours of nonworking time between the opening and closing of the polls, time off to vote need not be provided. To meet the three-hour requirement, an employer can add working and nonworking time. For example, if the polls open two hours before an employee's shift begins, and close two hours after the shift ends, an employer can satisfy its obligation by providing one hour of leave during working hours at the shift's beginning or end.

An employee must apply for leave, in writing, prior to election day. Moreover, an employer designates when leave may be taken. An employer cannot deduct an employee's regular salary or wages, or penalize

[336] IOWA CODE § 216.6; IOWA ADMIN. CODE r. 161-8.55(216).

employees, when the employee takes time off to vote. Accordingly, an employee must be paid for voting time if it occurs during the employee's work hours.[337]

3.9(h) *Leave to Participate in Political Activities*

3.9(h)(i) *Federal Guidelines on Leave to Participate in Political Activities*

Federal law does not address leave for private-sector employees to participate in political activities.

3.9(h)(ii) *State Guidelines on Leave to Participate in Political Activities*

Elected Office Leave. An employer with 20 or more employees must allow an employee a leave of absence to serve as an elected official upon the submission of a written application requesting the leave. The leave may be unpaid, and salaried employees pay may be reduced by the ration of the number of days of leave taken to the total number of days in the pay period. Employees may not lose any seniority or other benefits due to taking such a leave.[338]

3.9(i) *Leave to Participate in Judicial Proceedings*

3.9(i)(i) *Federal Guidelines on Leave to Participate in Judicial Proceedings*

The Jury System Improvements Act prohibits employers from terminating or disciplining "permanent" employees due to their jury service in federal court.[339] Employers are under no federal statutory obligation to pay employees while serving on a jury.

Employers may verify that an employee's request for civic duty is legally obligated by requiring the employee to produce a copy of the summons, subpoena, or other documentation. Also, an employer can set reasonable advance notice requirements for jury duty leave. Upon completion of jury duty, an employee is entitled to reinstatement.

An employer also may be required to grant leave to employees who are summoned to testify, to assist, or to participate in hearings conducted by federal administrative agencies, as required by a variety of additional federal statutes.[340] For more information, see LITTLER ON LEAVES OF ABSENCE: MILITARY & CIVIC DUTY LEAVES.

3.9(i)(ii) *State Guidelines on Leave to Participate in Judicial Proceedings*

Leave to Serve on a Jury. An employer may not discharge, threaten, or coerce an employee with respect to their employment, because the employee receives a notice to report for jury service, reports for jury service, attends court for prospective jury service, or serves as a juror.[341]

---

[337] IOWA CODE § 49.109.

[338] IOWA CODE § 55.1.

[339] 28 U.S.C. § 1875.

[340] *See, e.g.*, 29 U.S.C. § 660(c) (Occupational Safety and Health Act); 29 U.S.C. § 215(a)(3) (Fair Labor Standards Act); 42 U.S.C. § 2000e 3(a) (Title VII); 29 U.S.C. § 623(d) (Age Discrimination in Employment Act).

[341] IOWA CODE § 607A.45.

3.9(j) *Leave for Victims of Domestic Violence, Sexual Assault, Stalking, or Victims of Crime*

3.9(j)(i) *Federal Guidelines on Leaves for Victims of Domestic Violence, Sexual Assault, Stalking, or Victims of Crime*

Federal law does not address leave for private-sector employees who are victims of crime or domestic violence.

3.9(j)(ii) *State Guidelines on Leaves for Victims of Domestic Violence, Sexual Assault, Stalking, or Victims of Crime*

Iowa law does not address leave for private-sector employees who are victims of crime or domestic violence.

3.9(k) *Military-Related Leave*

3.9(k)(i) *Federal Guidelines on Military-Related Leave*

Two federal statutes primarily govern military-related leave: the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Family and Medical Leave Act (FMLA). For more detailed information on these statutes, including notice and other requirements, see LITTLER ON LEAVES OF ABSENCE: MILITARY & CIVIC DUTY LEAVES.

USERRA. USERRA imposes obligations on all public and private employers to provide employees with leave to "serve" in the "uniformed services." USERRA also requires employers to reinstate employees returning from military leave who meet certain defined qualifications. An employer also may have an obligation to train or otherwise qualify those employees returning from military leave. USERRA guarantees employees a continuation of health benefits for the 24 months of military leave (at the employee's expense) and protects an employee's pension benefits upon return from leave. Finally, USERRA requires that employers not discriminate against an employee because of past, present, or future military obligations, among other things.

Some states provide greater protections for employees with respect to military leave. USERRA, however, establishes a "floor" with respect to the rights and benefits an employer is required to provide to an employee to take leave, return from leave, and be free from discrimination. Any state law that seeks to supersede, nullify, or diminish these rights is void under USERRA.[342]

FMLA. Under the FMLA, eligible employees may take leave for: (1) any "qualifying exigency" arising from the foreign deployment of the employee's spouse, son, daughter, or parent with the armed forces; or (2) to care for a next of kin servicemember with a serious injury or illness (referred to as "military caregiver leave").

1. **Qualifying Exigency Leave.** An eligible employee may take up to 12 weeks of unpaid leave in a single 12-month period if the employee's spouse, child, or parent is an active duty member of one of the U.S. armed forces' reserve components or National Guard, or is a reservist or

[342] USERRA provides that: (1) nothing within USERRA is intended to supersede, nullify, or diminish a right or benefit provided to an employee that is greater than the rights USERRA provides (38 U.S.C. § 4302(a)); and (2) USERRA supersedes any state law that would reduce, limit, or eliminate any right or benefit USERRA provides (38 U.S.C. § 4302(b)).

member of the National Guard who faces recall to active duty if a qualifying exigency exists.[343] An eligible employee may also take leave for a qualifying exigency if a covered family member is a member of the regular armed forces and is on duty, or called to active duty, in a foreign country.[344] Notably, leave is only available for covered relatives of military members called to active *federal* service by the president and is not available for those in the armed forces recalled to state service by the governor of the member's respective state.

2. **Military Caregiver Leave.** An eligible employee may take up to 26 weeks of unpaid leave in a single 12-month period to care for a "covered servicemember" with a serious injury or illness if the employee is the servicemember's spouse, child, parent, or next of kin.

3.9(k)(ii) *State Guidelines on Military-Related Leave*

Iowa provides protection against discrimination for any officer or enlisted person of the national guard or organized reserves of the armed forces of any state or the United States, or any member of the civil air patrol unit in another state that is employed in Iowa, or any regular, reserve, or auxiliary member of the U.S. Coast Guard. Employers must not discharge a person from employment because of being an officer or enlisted person of the military forces of the state or member of the civil air patrol, or hinder or prevent the officer or enlisted person or member of the civil air patrol from performing any military service or civil air patrol duty the person is called upon to perform by proper authority.[345]

Military Leave. Employees who are members of the National Guard, civil air patrol, or organized reserves of the United States armed forces are entitled to a leave of absence when ordered to temporary duty or service. [346] An employee returning from duty must be reinstated to the same position, or a position of like seniority, status, and pay. To be entitled to reinstatement, the employee must provide evidence of satisfactory completion of the duty or service and the employee must still be qualified to perform the duties of the position.[347]

Leave may be with or without pay, at the employer's discretion. However, the period of absence must not affect the employee's rights to vacation, sick leave, bonus, or other employment benefits.[348]

Other Military-Related Protections: Spousal Unemployment. Unemployment benefits are available if the individual's departure was caused by the relocation of the individual's spouse by the military. The employer's account must not be charged for any benefits paid to an individual who leaves due to the relocation of a military spouse.[349]

---

[343] 29 C.F.R. § 825.126(a).

[344] Deployment of the member with the armed forces to a foreign country means deployment to areas outside of the United States, the District of Columbia, or any Territory or possession of the United States, including international waters. 29 C.F.R. § 825.126(a)(3).

[345] IOWA CODE § 29A.43.

[346] IOWA CODE § 29A.43.

[347] IOWA CODE § 29A.43.

[348] IOWA CODE § 29A.43.

[349] IOWA CODE § 96.5(1)(b).

3.9(l) *Other Leaves*

3.9(l)(i) *Federal Guidelines on Other Leaves*

There are no federal statutory requirements for other categories of leave for private-sector employees.

3.9(l)(ii) *State Guidelines on Other Leaves*

Volunteer Emergency Responder Leave. An employer is prohibited from terminating an employee for joining a volunteer emergency service or for being absent from or late to work as a result of responding to an emergency. An employee need not be paid for time off under the law; however, the employee must provide their employer with a written statement indicating that the employee is a member of a volunteer emergency services unit. *Volunteer emergency responder* is defined to include a person who serves as a volunteer fire fighter, reserve police officer, emergency medical care provider, or other personnel having voluntary emergency service duties.

An employee who is late or absent from work in order to perform emergency services duties must notify the employer as soon as possible. The employer may determine if an employee may leave work in order to respond to an emergency. Additionally, an employer may request that a volunteer emergency responder supply a statement from the individual in charge of the volunteer department indicating that the employee responded to an emergency call.

An employee who is wrongfully terminated in violation of these provisions must be immediately reinstated to the employee's former position, and must receive any wages or other benefits lost while the termination or discipline was in effect. If a civil suit is brought, the employee may claim court costs, attorneys' fees, as well as damages.[350]

Veterans Day. Employers must provide qualifying veterans with time off on Veterans Day if the employee would otherwise have been scheduled to work, unless time off would impact public health or safety or would cause the employer to experience significant economic or operational disruption. The employee must provide written notice at least one month in advance of the employee's intent to take Veterans Day off. The employee must also provide the employer with a federal certificate of release or discharge from active duty, or a similar federal document, in order to establish the employee's eligibility for the time off.

If the employer determines that it is unable to provide time off for all employees who request it, the employer must deny time off to the minimum number of employees needed to protect public health and safety or to maintain operational capacity. The time off can be paid or unpaid, at the employer's discretion. At least 10 days prior to Veteran's Day, the employer must inform the employee if the time off will be paid or unpaid.[351]

3.10 Workplace Safety

3.10(a) *Occupational Safety and Health*

3.10(a)(i) *Fed-OSH Act Guidelines*

The federal Occupational Safety and Health Act ("Fed-OSH Act") requires every employer to keep their places of employment safe and free from recognized hazards likely to cause death or serious harm to

[350] IOWA CODE § 100B.14.

[351] IOWA CODE § 91A.5A.

employees.[352] Employers are also required to comply with all applicable occupational safety and health standards.[353] To enforce these standards, the federal Occupational Safety and Health Administration ("Fed-OSHA") is authorized to carry out workplace inspections and investigations and to issue citations and assess penalties. The Fed-OSH Act also requires employers to adopt reporting and record-keeping requirements related to workplace accidents. For more information on this topic, see **LITTLER ON WORKPLACE SAFETY**.

Note that the Fed-OSH Act encourages states to enact their own state safety and health plans. Among the criteria for state plan approval is the requirement that the state plan provide for the development and enforcement of state standards that are at least as effective in providing workplace protection as are comparable standards under the federal law.[354] Some state plans, however, are more comprehensive than the federal program or otherwise differ from the Fed-OSH Act.

3.10(a)(ii) *State-OSH Act Guidelines*

Iowa, under agreement with Fed-OSHA, operates its own state occupational safety and health program in accordance with section 18 of the Fed-OSH Act.[355] Thus, Iowa is a so-called "state plan" jurisdiction, with its own detailed rules for occupational safety and health that parallel, but are separate from, Fed-OSHA standards.[356] The Iowa Occupational Safety and Health Enforcement, under the Iowa Division of Labor, is the state government agency that regulates workplace safety and health in Iowa.[357] Iowa's plan covers both private and public employers.[358]

3.10(b) *Cell Phone & Texting While Driving Prohibitions*

3.10(b)(i) *Federal Guidelines on Cell Phone & Texting While Driving*

Federal law does not address cell phone use or texting while driving.

3.10(b)(ii) *State Guidelines on Cell Phone & Texting While Driving*

In Iowa, drivers may not write, send, or view an electronic messages while driving. A person must not use a hand-held electronic communication device to write, send, or view an electronic message while driving a motor vehicle unless the motor vehicle is at a complete stop off of the roadway. An *electronic message* includes an image visible on the screen of a hand-held electronic communication device, including a text-based message, an instant message, a portion of an electronic mail, an internet site, a social media application, or a game.

This prohibition applies to employees driving for work purposes and could expose an employer to liability. Employers therefore should be cognizant of, and encourage compliance with, the state restriction and its

---

[352] 29 U.S.C. § 654(a)(1). An *employer* is defined as "a person engaged in a business affecting commerce that has employees." 29 U.S.C. § 652(5). The definition of employer does not include federal or state agencies (except for the U.S. House of Representatives and Senate). Under some state plans, however, state agencies may be subject to the state safety and health plan.

[353] 29 U.S.C. § 654(a)(2).

[354] 29 U.S.C. § 667(c)(2).

[355] 29 U.S.C. § 667.

[356] IOWA CODE § 88.1.

[357] IOWA CODE § 88.1; IOWA ADMIN. CODE r. 875-4.2.

[358] IOWA ADMIN. CODE r. 875-4.1.

exceptions. Notably, a person does not violate the law by using a global positioning system or navigation system or when, for the purpose of engaging in a call, the person selects or enters a telephone number or name in a hand-held mobile telephone or activates, deactivates, or initiates a function of a hand-held mobile telephone. *Engage in a call* means talking or listening on a mobile telephone or other portable electronic communication device. Use of a voice-operated or hands-free device which allows the user to write, send, or read a text message without the use of either hand except to activate or deactivate a feature or function does not violate the statute.[359]

3.10(c) *Firearms in the Workplace*

3.10(c)(i) *Federal Guidelines on Firearms on Employer Property*

Federal law does not address firearms in the workplace.

3.10(c)(ii) *State Guidelines on Firearms on Employer Property*

Iowa does not have a statute specifically addressing the possession or storage of firearms in the workplace or in company parking lots.

3.10(d) *Smoking in the Workplace*

3.10(d)(i) *Federal Guidelines on Smoking in the Workplace*

Federal law does not address smoking in the workplace.

3.10(d)(ii) *State Guidelines on Smoking in the Workplace*

Smoking is prohibited in enclosed places of employment in Iowa, including company-owned vehicles.[360] All employees and prospective employees must be notified of the prohibitions on smoking in the workplace. In addition, "No smoking" signs or the international no-smoking symbols must be posted at entrances to workplaces and in company vehicles. Signs must include the phone number and website to report complaints. The draft administrative rules indicated that the signs must be 24 inches square.

Antiretaliation Provisions. Employers may not discharge or retaliate against an employee due to the employee reporting a violation or otherwise exercising their rights under this law.

3.10(e) *Suitable Seating for Employees*

3.10(e)(i) *Federal Guidelines on Suitable Seating for Employees*

Federal law does not address suitable seating requirements for employees.

3.10(e)(ii) *State Guidelines on Suitable Seating for Employees*

Iowa law does not address suitable seating requirements for employees.

3.10(f) *Workplace Violence Protection Orders*

3.10(f)(i) *Federal Guidelines on Workplace Violence Protection Orders*

Federal law does not address employer workplace violence protection orders. That is, there is no federal statute addressing whether or how employers might obtain a legal order (such as a temporary restraining

[359] IOWA CODE § 321.276.

[360] IOWA CODE §§ 142D.1 *et seq*.; IOWA ADMIN. CODE r. 641-153.1 *et seq*.

order) on their own behalf, or on behalf of their employees or visitors, to protect against workplace violence, threats, or harassment.

3.10(f)(ii) *State Guidelines on Workplace Violence Protection Orders*

Iowa law does not address employer workplace violence protection orders.

3.11 Discrimination, Retaliation & Harassment

3.11(a) *Protected Classes & Other Fair Employment Practices Protections*

3.11(a)(i) *Federal FEP Protections*

The federal equal employment opportunity laws that apply to most employers include: (1) Title VII of the Civil Rights Act of 1964 ("Title VII");[361] (2) the Americans with Disabilities Act (ADA);[362] (3) the Age Discrimination in Employment Act (ADEA);[363] (4) the Equal Pay Act;[364] (5) the Genetic Information Nondiscrimination Act of 2009 (GINA);[365] (6) the Civil Rights Acts of 1866 and 1871;[366] and (7) the Civil Rights Act of 1991. As a result of these laws, federal law prohibits discrimination in employment on the basis of:

- race;
- color;
- national origin (includes ancestry);
- religion;
- sex (includes pregnancy, childbirth, or related medical conditions, and pursuant to the U.S. Supreme Court's decision in *Bostock v. Clayton County, Georgia*, includes sexual orientation and gender identity);[367]
- disability (includes having a "record of" an impairment or being "regarded as" having an impairment);
- age (40); or
- genetic information.

The Equal Employment Opportunity Commission (EEOC) is the agency charged with handling claims under the antidiscrimination statutes.[368] Employees must first exhaust their administrative remedies by filing a

---

[361] 42 U.S.C. §§ 2000e *et seq.* Title VII applies to employers with 15 or more employees. 42 U.S.C. § 2000e(b).

[362] 42 U.S.C. §§ 12101 *et seq.* The ADA applies to employers with 15 or more employees. 42 U.S.C. § 12111(5).

[363] 29 U.S.C. §§ 621 *et seq*. The ADEA applies to employers with 20 or more employees. 29 U.S.C. § 630.

[364] 29 U.S.C. § 206(d). Since the Equal Pay Act is part of the FLSA, the Equal Pay Act applies to employers covered by the FLSA. *See* 29 U.S.C. § 203.

[365] 42 U.S.C. §§ 2000ff *et seq*. GINA applies to employers with 15 or more employees. 42 U.S.C. § 2000ff (refers to 42 U.S.C. § 2000e(f)).

[366] 42 U.S.C. §§ 1981, 1983.

[367] 140 S. Ct. 1731 (2020). For a discussion of this case, see LITTLER ON DISCRIMINATION IN THE WORKPLACE: RACE, NATIONAL ORIGIN, SEX, AGE & GENETIC INFORMATION.

[368] The EEOC's website is available at http://www.eeoc.gov/.

complaint within 180 days—unless a charge is covered by state or local antidiscrimination law, in which case the time is extended to 300 days.[369]

3.11(a)(ii) *State FEP Protections*

Iowa's fair employment laws prohibit employment discrimination based on an individual's membership in a wide range of protected classes:

- age (18 and older);
- race;
- creed;
- color;
- sex;
- sexual orientation (actual or perceived);
- gender identity;
- national origin;
- religion;
- disability;[370]
- HIV testing;
- pregnancy and childbirth;
- wage discrimination based on primary FEP class;[371]
- National Guard, U.S. military reserves, Civil Air Patrol status; and
- genetic testing / information.[372]

Although many aspects of Iowa's employment discrimination law mirror federal law on the subject, there are important substantive and procedural difference. For example, Iowa's law protects workers aged 18 and over from discrimination based on age, while the federal Age Discrimination in Employment Act (ADEA) protects employees aged 45 and over. Iowa also protects many additional groups from employment discrimination that are not covered by federal law, for example, the state prohibits discrimination on the basis of sexual orientation and gender identity.

Employers with four or more employees are subject to Iowa's fair employment practices law. Some types of employers are exempt. *Bona fide* religious institutions, associations, corporations, or societies are

[369] 29 C.F.R. § 1601.13. Note that for ADEA charges, only state laws extend the filing limit to 300 days. 29 C.F.R. § 1626.7.

[370] IOWA CODE §§ 216.2, 216.6; IOWA ADMIN. CODE r. 161-8.15 *et seq.* (age), 161-8.26 *et seq.* (disability), and 161-8.46 *et seq*. (sex); *see also* IOWA CODE § 729.4 (race, religion, color, sex, national origin, or ancestry discrimination a crime).

[371] IOWA CODE §§ 216.6, 216.6A.

[372] IOWA CODE §§ 29A.43 (National Guard), 729.6 (genetic testing).

excepted from the law's provisions concerning religion, sexual orientation, and gender identity discrimination, when such qualifications are related to *bona fide* religious purposes.[373]

3.11(a)(iii) *State Enforcement Agency & Civil Enforcement Procedures*

An individual who wishes to assert a violation of the state fair employment practices laws may file a claim with the Iowa Civil Rights Commission within 300 days of the alleged violation.[374]

After receiving a complaint, the agency will investigate the allegations and make a recommendation to an administrative law judge who will issue a determination of probable cause or no probable cause. If after 30 days of engaging in conciliation efforts, the respondent indicates that it will not participate in further conciliation discussion, or the agency determines that conciliation should be bypassed, a hearing will be held before the agency, a commissioner, or a person designated by the agency to conduct the hearing. If the agency determines that the respondent has engaged in discriminatory or unfair practices, the agency will issue an order and findings of fact and conclusions of law.[375]

After 60 days, and upon the request of a complainant, the agency will issue a release stating that the complainant has a right to commence an action in district court. Such a release will not be issued if an administrative law judge makes a finding of no probable cause.[376]

Actions of the agency or commission can be reviewed through a petition for judicial review filed in the relevant district court. The commission can also obtain an order of court for the enforcement of commission orders.[377]

3.11(a)(iv) *Local FEP Protections*

In addition to the federal and state laws, employers with operations in Cedar Rapids, Des Moines, Davenport, and Johnson County are subject to local fair employment practices ordinances.

- **Cedar Rapids.** Employers regularly employing four or more employees must extend antidiscrimination protections on the basis of: age (18 years or older); color; creed; disability; familial status; gender identity; marital status; national origin; race; religion; sex (including pregnancy, childbirth, and related medical conditions); and sexual orientation.[378] Any aggrieved person may file a verified, written complaint with the Cedar Rapids Civil Rights Commission within 300 days after the alleged discriminatory or unfair practice occurred.[379]
- **Des Moines.** Employers regularly employing four or more individuals (not including members of the employer's family) are subject to the following antidiscrimination protections: age; race; religion; creed; color; sex (including sexual harassment, pregnancy, childbirth, and related medical conditions); sexual orientation; gender identity; national origin; ancestry;

---

[373] IOWA CODE § 216.6.

[374] IOWA ADMIN. CODE r. 161-3.3; Iowa Civil Rights Comm'n, *available at* https://icrc.iowa.gov/.

[375] IOWA CODE § 216.15.

[376] IOWA CODE § 216.16.

[377] IOWA CODE § 216.17.

[378] CEDAR RAPIDS, IOWA, CODE OF ORDINANCES §§ 69.06 (includes exceptions, and members of the employer's family are not counted as employees), 69-12 (sex or age provisions not applicable to retirement plans).

[379] CEDAR RAPIDS, IOWA, CODE OF ORDINANCES § 69.13.

disability; and criminal record.[380] Any person claiming to be aggrieved by an illegal discriminatory practice may file a sworn complaint with the Des Moines Human Rights Commission within 300 days after the complainant knew or should have known of the most recent act constituting the alleged illegal discriminatory practice.[381]

- **Davenport.** Protected classifications include race; color; creed; religion; sex; national origin or ancestry; age; familial status; marital status; disability; gender identity; and sexual orientation. The antidiscrimination protections apply to employers employing four or more employees in the city of Davenport, excluding family members.[382] An individual alleging a violation of the employment provisions of the ordinance may file a complaint with the Davenport Civil Rights Commission within 300 days after the alleged discriminatory practice occurred.[383]
- **Johnson County.** Employers employing one or more employees within Johnson County and any person who solicits individuals to apply for employment in the county or elsewhere are subject to the following antidiscrimination protections: age (chronological age); color; creed; disability; gender identity; marital status; national origin; race; religion; sex (including sexual harassment); and sexual orientation.[384] Individuals claiming to be aggrieved by a discriminatory or unfair practice within Johnson County may file a verified, written complaint with the Johnson County Attorney's Office within 180 days after the alleged discriminatory or unfair practice occurred.[385]
- **Waterloo.** Employers employing four or more employees within Waterloo, not including members of the employer's family are subject to the following antidiscrimination protections: age (18 years or older); race; creed; color; sex; sexual orientation; gender identity; national origin; religion; and disability.[386] Individuals claiming to be aggrieved an illegal discriminatory practice may file a written complaint with the Waterloo Human Rights Commission within 300 days after the alleged discriminatory practice occurred.[387]

3.11(b) *Equal Pay Protections*

3.11(b)(i) *Federal Guidelines on Equal Pay Protections*

The Equal Pay Act requires employers to pay male and female employees equal wages for substantially equal jobs. Specifically, the law prohibits employers covered under the federal Fair Labor Standards Act (FLSA) from discriminating between employees within the same establishment on the basis of sex by paying wages to employees at a rate less than the rate at which the employer pays wages to employees of the opposite sex for equal work on jobs—"the performance of which requires equal skill, effort, and

---

[380] DES MOINES, IOWA, MUN. CODE §§ 62-1, 62-72 (exemptions, including *bona fide* religious institutions with respect to religion, sexual orientation, and gender identity when related to a *bona fide* religious purpose).

[381] DES MOINES, IOWA, MUN. CODE § 62-2.

[382] DAVENPORT, IOWA, MUN. CODE §§ 2.58.030 (definitions), 2.58.100 (exclusions include *bona fide* occupational qualification and certain religious institutions and practices).

[383] DAVENPORT, IOWA, MUN. CODE § 2.58.150.

[384] JOHNSON CTY., IOWA, ORDINANCE § 12-28-06-01(III), (IV) (exemptions include religion, employment for the elderly or disabled, and *bona fide* occupational qualifications).

[385] JOHNSON CTY., IOWA, ORDINANCE § 12-28-06-01(X).

[386] WATERLOO, IA CODE 5-3-3.

[387] WATERLOO, IA CODE 5-3-10.

responsibility, and which are performed under similar working conditions."[388] The prohibition does not apply to payments made under: (1) a seniority system; (2) a merit system; (3) a system that measures earnings by quantity or quality of production; or (4) a differential based on a factor other than sex.

An employee alleging a violation of the Equal Pay Act must first exhaust administrative remedies by filing a complaint with the EEOC within 180 days of the alleged unlawful employment practice. Under the federal Lilly Ledbetter Fair Pay Act of 2009, for purposes of the statute of limitations for a claim arising under the Equal Pay Act, an unlawful employment practice occurs with respect to discrimination in compensation when: (1) a discriminatory compensation decision or other practice is adopted; (2) an individual becomes subject to such a decision or practice; or (3) an individual is affected by application of such decision or practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from such a decision or other practice.[389]

3.11(b)(ii) *State Guidelines on Equal Pay Protections*

Iowa's fair employment law makes it an unfair or discriminatory practice for a covered employer to discriminate against an employee based on any protected characteristic by paying the employee at a rate less than the rate paid to other employees employed within the same establishment for equal work on jobs, the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.[390] A pay differential may be permissible if: (1) made pursuant to a seniority system; (2) made pursuant to a merit system; (3) made pursuant to a system that measures earnings by quantity or quality of production; or (4) based on any other factor other than the employee's age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability. An employer paying wages to an employee at a rate less than the rate paid to other employees in violation of the statute cannot remedy the violation by reducing the wage rate of any employee.

An employee alleging a violation of the state fair employment law may file an administrative complaint with the Iowa Civil Rights Commission within 300 days of the alleged violation.[391]

3.11(c) *Pregnancy Accommodation*

3.11(c)(i) *Federal Guidelines on Pregnancy Accommodation*

As discussed in **3.9(c)(i)**, the federal Pregnancy Discrimination Act (PDA), which amended Title VII, the Family and Medical Leave Act (FMLA), and the Americans with Disabilities Act (ADA) may be implicated in determining the extent to which an employer is required to accommodate an employee's pregnancy, childbirth, or related medical conditions.

Additionally, the Pregnant Workers Fairness Act (PWFA) makes it an unlawful employment practice for an employer of 15 or more employees to:

- fail or refuse to make reasonable accommodations for the known limitations related to the pregnancy, childbirth, or related medical conditions of a qualified employee, unless the

[388] 29 U.S.C. § 206(d)(1).

[389] 42 U.S.C. § 2000e-5.

[390] IOWA CODE § 216.6A.

[391] IOWA CODE § 216.15.

employer can demonstrate that the accommodation would impose an undue hardship on its business operations;

- require a qualified employee affected by pregnancy, childbirth, or related medical conditions to accept an accommodation other than any reasonable accommodation arrived at through the interactive process;
- deny employment opportunities to a qualified employee, if the denial is based on the employer's need to make reasonable accommodations for the qualified employee;
- require a qualified employee to take leave, whether paid or unpaid, if another reasonable accommodation can be provided; or
- take adverse action related to the terms, conditions, or privileges of employment against a qualified employee because the employee requested or used a reasonable accommodation.[392]

A *reasonable accommodation* is any change or adjustment to a job, work environment, or the way things are usually done that would allow an individual with a disability to apply for a job, perform job functions, or enjoy equal access to benefits available to other employees. Reasonable accommodation includes:

- modifications to the job application process that allow a qualified applicant with a known limitation under the PWFA to be considered for the position;
- modifications to the work environment, or to the circumstances under which the position is customarily performed;
- modifications that enable an employee to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without known limitations; or
- temporary suspension of an employee's essential job function(s).[393]

The PWFA also provides for reasonable accommodations related to lactation, as described in **3.4(a)(iii)**.

An employee seeking a reasonable accommodation must request an accommodation.[394] To request a reasonable accommodation, the employee or the employee's representative need only communicate to the employer that the employee needs an adjustment or change at work due to their limitation resulting from a physical or mental condition related to pregnancy, childbirth, or related medical conditions. The employee must also participate in a timely, good faith interactive process with the employer to determine an effective reasonable accommodation.[395] An employee is not required to accept an accommodation. However, if the employee rejects a reasonable accommodation, and, as a result of that rejection, cannot perform (or apply to perform) an essential function of the position, the employee will not be considered "qualified."[396]

---

[392] 42 U.S.C. § 2000gg-1. The regulations provide definitions of *pregnancy*, *childbirth*, and *related medical conditions*. 29 C.F.R. § 1636.3.

[393] 29 C.F.R. § 1636.3.

[394] 42 U.S.C. § 2000gg-1; 29 C.F.R. § 1636.3.

[395] 29 C.F.R. § 1636.3.

[396] 29 C.F.R. § 1636.4.

An employer is not required to seek documentation from an employee to support the employee's request for accommodation but may do so when it is reasonable under the circumstances for the employer to determine whether the employee has a limitation within the meaning of the PWFA and needs an adjustment or change at work due to the limitation.

Reasonable accommodation is not required if providing the accommodation would impose an undue hardship on the employer's business operations. An *undue hardship* is an action that fundamentally alters the nature or operation of the business or is unduly costly, extensive, substantial, or disruptive. When determining whether an accommodation would impose an undue hardship, the following factors are considered:

- the nature and net cost of the accommodation;
- the overall financial resources of the employer;
- the number of employees employed by the employer;
- the number, type, and location of the employer's facilities; and
- the employer's operations, including:
  - the composition, structure, and functions of the workforce; and
  - the geographic separateness and administrative or fiscal relationship of the facility where the accommodation will be provided.[397]

The following modifications do not impose an undue hardship under the PWFA when they are requested as workplace accommodations by a pregnant employee:

- allowing an employee to carry or keep water near and drink, as needed;
- allowing an employee to take additional restroom breaks, as needed;
- allowing an employee whose work requires standing to sit and whose work requires sitting to stand, as needed; and
- allowing an employee to take breaks to eat and drink, as needed.[398]

The PWFA expressly states that it does not limit or preempt the effectiveness of state-level pregnancy accommodation laws. State pregnancy accommodation laws are often specific in terms of outlining an employer's obligations and listing reasonable accommodations that an employer should consider if they do not cause an undue hardship on the employer's business.

Where a state law focuses primarily on providing job-protected leave for pregnancy or childbirth—as opposed to a pregnancy accommodation—it is discussed in **3.9(c)(ii)**. For more information on these topics, see **LITTLER ON LEAVES OF ABSENCE: FAMILY, MEDICAL & PREGNANCY LEAVES**.

3.11(c)(ii) *State Guidelines on Pregnancy Accommodation*

Protections for pregnancy, miscarriage, childbirth, and recovery therefrom in Iowa primarily focus on leave accommodations; therefore, the law is discussed in **3.9(c)(ii)**.

[397] 42 U.S.C. § 2000gg-1; 29 C.F.R. § 1630.2(p).

[398] 29 C.F.R. § 1636.3.

3.11(d) *Harassment Prevention Training & Education Requirements*

3.11(d)(i) *Federal Guidelines on Antiharassment Training*

While not expressly mandated by federal statute or regulation, training on equal employment opportunity topics—*i.e.*, discrimination, harassment, and retaliation—has become *de facto* mandatory for employers.[399] Multiple decisions of the U.S. Supreme Court[400] and subsequent lower court decisions have made clear that an employer that does not conduct effective training: (1) will be unable to assert the affirmative defense that it exercised reasonable care to prevent and correct harassment; and (2) will subject itself to the risk of punitive damages. EEOC guidance on employer liability reinforces the important role that training plays in establishing a legal defense to harassment and discrimination claims.[401] Training for all employees, not just managerial and supervisory employees, also demonstrates an employer's "good faith efforts" to prevent harassment. For more information on harassment claims and employee training, see LITTLER ON HARASSMENT IN THE WORKPLACE and LITTLER ON EMPLOYEE TRAINING.

3.11(d)(ii) *State Guidelines on Antiharassment Training*

There are no antiharassment training and education requirements mandated for private employers in Iowa. However, the Iowa Civil Rights Commission recommends including harassment awareness as part of orientation and training of new employees, particularly supervisory and management staff.[402]

3.12 Miscellaneous Provisions

3.12(a) *Whistleblower Claims*

3.12(a)(i) *Federal Guidelines on Whistleblowing*

Protections for whistleblowers can be found in dozens of federal statutes. The federal Occupational Safety and Health Administration ("Fed-OSHA") administers over 20 whistleblower laws, many of which have little or nothing to do with safety or health. Although the framework for many of the Fed-OSHA-administered statutes is similar (*e.g.*, several of them follow the regulations promulgated under the Wendell H. Ford Aviation Investment and Reform Act (AIR21)), each statute has its own idiosyncrasies, including who is covered, timeliness of the complaint, standard of proof regarding nexus of protected activity, appeal or objection rights, and remedies available. For more information on whistleblowing protections, see LITTLER ON WHISTLEBLOWING & RETALIATION.

3.12(a)(ii) *State Guidelines on Whistleblowing*

Iowa's False Claims law prohibits employers from discharging, demoting, suspending, threatening, harassing, or otherwise discriminating against an employee, contractor, or agent in the terms and conditions of employment because lawful acts performed in furtherance of efforts to stop a violation of

---

[399] Note that the Notification and Federal Employee Anti-Discrimination and Retaliation ("No FEAR") Act mandates training of federal agency employees.

[400] *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998); *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998); *see also Kolstad v. American Dental Assoc.*, 527 U.S. 526 (1999).

[401] EEOC, *Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors*, June 18, 1999, *available at* http://www.eeoc.gov/policy/docs/harassment.html; *see also* EEOC, *Select Task Force on the Study of Harassment in the Workplace: Report of Co-Chairs Chai R. Feldblum & Victoria A. Lipnic* (June 2016), *available at* https://www.eeoc.gov/eeoc/task_force/harassment/report.cfm.

[402] Iowa Civil Rights Comm'n, *Harassment in the Workplace Fact Sheet*, *available at* http://publications.iowa.gov/1640/1/sexualharassmentworkfs.html.

the statute.[403] The Iowa False Claims law gives private individuals the right to file lawsuits in the appropriate district court of the state on their own behalf, or on behalf of the state against individuals or legal entities that:

1. knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;
2. knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;
3. conspires to commit a violation of [the Iowa False Claims law];
4. has possession, custody, or control of property or money used, or to be used, by the state and knowingly delivers, or causes to be delivered, less than all of that money or property;
5. is authorized to make or deliver a document certifying receipt of property used, or to be used, by the state and, intending to defraud the state, makes or delivers the receipt without completely knowing that the information on that receipt is true;
6. knowingly buys, or receives as a pledge of an obligation or debt, public property from an office or employee of the state, or a member of the Iowa national guard, who lawfully may not sell or pledge property; or
7. knowingly makes, uses, or causes to made or used, a false record or statement material to an obligation to pay or transmit money or property to the state, or knowingly conceals and improperly avoids or decreases an obligation to pay or transmit money or property to the state.[404]

Iowa also has a whistleblowing law that covers public employees.[405]

3.12(b) *Labor Law*

3.12(b)(i) *Federal Labor Laws*

Labor law refers to the body of law governing employer relations with unions. The National Labor Relations Act (NLRA)[406] and the Railway Labor Act (RLA)[407] are the two main federal laws governing employer relations with unions in the private sector. The NLRA regulates labor relations for virtually all private-sector employers and employees, other than rail and air carriers and certain enterprises owned or controlled by such carriers, which are covered by the RLA. The NLRA's main purpose is to: (1) protect employees' right to engage in or refrain from *concerted activity* (*i.e.*, group activities attempting to improve working conditions) through representation by labor unions; and (2) regulate the collective bargaining process by which employers and unions negotiate the terms and conditions of union members' employment. The National Labor Relations Board (NLRB or "Board") enforces the NLRA and is responsible for conducting union elections and enforcing the NLRA's prohibitions against "unfair" conduct by employers and unions (referred to as *unfair labor practices*). For more information on union organizing

[403] IOWA CODE § 70A.29.

[404] IOWA CODE § 685.2.

[405] IOWA CODE § 70A.29.

[406] 29 U.S.C. §§ 151 to 169.

[407] 45 U.S.C. §§ 151 *et seq*.

and collective bargaining rights under the NLRA, see LITTLER ON UNION ORGANIZING and LITTLER ON COLLECTIVE BARGAINING.

Labor policy in the United States is determined, to a large degree, at the federal level because the NLRA preempts many state laws. Yet, significant state-level initiatives remain. For example, *right-to-work laws* are state laws that grant workers the freedom to join or refrain from joining labor unions and prohibit mandatory union dues and fees as a condition of employment.

3.12(b)(ii) *Notable State Labor Laws*

Right-to-Work Law. Iowa is a right-to-work state.[408] Under Iowa's Right-to-Work Law, employers are prohibited from entering into a contract to exclude individuals from employment who are members of a labor union, or individuals who refuse to join a labor union.[409] The law prohibits any requirement that a person pay dues, charges, fees, contributions, fines, or assessments to any labor union as a prerequisite to employment.[410] Employers also cannot deduct labor organization dues from an employee's earnings, wages, or compensation, unless the employer has been presented with a written order signed by the employee.[411]

Employers that violate Iowa's Right-to-Work Law are guilty of a serious misdemeanor.[412]

4. END OF EMPLOYMENT

4.1 Plant Closings & Mass Layoffs

4.1(a) *Federal WARN Act*

The federal Worker Adjustment and Retraining Notification (WARN) Act requires a covered employer to give 60 days' notice prior to: (1) a *plant closing* involving the termination of 55 or more employees at a single site of employment due to the closure of the site or one or more operating units within the site; or (2) a *mass layoff* involving either 55 or more employees, provided those affected constitute 33% of those working at the single site of employment, or at least 500 employees (regardless of the percentage of the workforce they constitute).[413] The notice must be provided to affected nonunion employees, the representatives of affected unionized employees, the state's dislocated worker unit, and the local government where the closing or layoff is to occur.[414] There are exceptions that either reduce or eliminate notice requirements. For more information on the WARN Act, see LITTLER ON REDUCTIONS IN FORCE.

4.1(b) *State Mini-WARN Act*

Iowa's mini-WARN law covers employers that employ 30 or more employees, excluding part-time employees. Iowa's mini-WARN complements the federal WARN Act, with some notable differences. For

---

408 IOWA CODE § 731.1.

409 IOWA CODE § 731.3.

410 IOWA CODE § 731.4.

411 IOWA CODE § 731.5.

412 IOWA CODE § 731.6.

413 29 U.S.C. § 2101(1)-(3). Business enterprises employing: (1) 100 or more full-time employees; or (2) 100 or more employees, including part-time employees, who in aggregate work at least 4,000 hours per week (exclusive of overtime) are covered by the WARN Act. 20 C.F.R. § 639.3.

414 20 C.F.R. §§ 639.4, 639.6.

example, the threshold number of employees for certain triggering events is lower. Under Iowa's mini-WARN law the employment loss of 30 or more employees, versus 55 or more employees under the federal WARN Act, will trigger the need to provide notice for a mass lay-off or plant closing (assuming the other requirement are meant).[415]

4.1(c) *State Mass Layoff Notification Requirements*

Under Iowa law, employers separating all or a "large number" of workers from the employer or from an employing unit, for the "same common reason," must notify the local office of the Iowa Workforce Development Department as soon as they know a mass separation will take place.[416]

4.2 Documentation to Provide When Employment Ends

4.2(a) *Federal Guidelines on Documentation at End of Employment*

Table 10 lists the documents that must be provided when employment ends under federal law.

Table 10. Federal Documents to Provide at End of Employment

Category	Notes
Health Benefits: Consolidated Omnibus Budget Reconciliation Act (COBRA)	Under COBRA, the administrator of a covered group health plan must provide written notice to each covered employee and spouse of the covered employee (if any) of the right to continuation coverage provided under the plan.[417] The notice must be provided not later than the earlier of: • the date that is 90 days after the date on which the individual's coverage under the plan commences or, if later, the date that is 90 days after the date on which the plan first becomes subject to the continuation coverage requirements; or • the first date on which the administrator is required to furnish the covered employee, spouse, or dependent child of such employee notice of a qualified beneficiary's right to elect continuation coverage.
Retirement Benefits	The Internal Revenue Service requires the administrator of a retirement plan to provide notice to terminating employees within certain time frames that describe their retirement benefits and the procedures necessary to obtain them.[418]

[415] IOWA CODE §§ 84C.1 *et seq.*

[416] IOWA ADMIN. CODE r. 871-24.1 *et seq.*, 871-24.5(1).

[417] 29 C.F.R. § 2590.606-1. Model notices and general information about COBRA is available from the U.S. Department of Labor's Employee Benefits Security Administration at https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/cobra.

[418] See the section "Notice given to participants when they leave a company" at https://www.irs.gov/retirement-plans/plan-participant-employee/retirement-topics-notices.

4.2(b) *State Guidelines on Documentation at End of Employment*

Table 11 lists the documents that must be provided when employment ends under state law.

Table 11. State Documents to Provide at End of Employment	
Category	**Notes**
Health Benefits, Mini-COBRA, etc.	Employers or group policyholders must notify all employees or members of their continuation rights within 10 days of termination of employment or membership. The notice must be in writing and delivered in person or mailed to the person's last known address.[419]
Unemployment Notice	**Generally.** Iowa employers must post in places readily accessible to employees—and must provide to an employee when the individual becomes unemployed—a printed statement describing unemployment insurance coverage and instructing employees how to file claims for benefits.[420] **Multistate Workers.** Whenever an individual covered by an election is separated from employment, an employer must again notify the individual forthwith, as to the jurisdiction under whose unemployment compensation law the individual's services have been covered. If at the time of termination the individual is not located in the elected jurisdiction, an employer must notify the individual as to the procedure for filing interstate benefit claims. In addition to the above notice requirement, employers must comply with the covered jurisdiction's general notice requirement, if applicable.[421]

4.3 Providing References for Former Employees

4.3(a) *Federal Guidelines on References*

Federal law does not specifically address providing former employees with references.

4.3(b) *State Guidelines on References*

References. An Iowa employer that provides work-related information about a current or former employee to a prospective employer is immune from civil liability unless the employer acted unreasonably in doing so.[422]

---

[419] IOWA CODE § 509B.5(1); IOWA ADMIN. CODE r. 191-29.2(1).

[420] IOWA CODE § 96.11. This notice is available in English at https://workforce.iowa.gov/employers/unemployment-insurance/employer-handbook/unemployment-insurance-benefits#:~:text=EMPLOYER%20NOTIFICATION%20TO%20EMPLOYEES%20OF,experience%20a%20reduction%20in%20hours.. Additional information is available, including documents in other languages, at https://www.iowaworkforcedevelopment.gov/. The Iowa Workforce Development also provides the "Employer Notification to Employees of the Availability of Unemployment Compensation" at https://workforce.iowa.gov/media/228/download?inline.

[421] IOWA ADMIN. CODE r. 871-23.13.

[422] IOWA CODE § 91B.2.

Blacklisting. Blacklisting is the intentional prevention of the future employment of an employee by the former employer. Blacklisting usually occurs when the former employer makes representations to prospective employers that an individual should not be hired. It should be distinguished from a reference, which is essentially a request for information about job performance. Blacklisting is prohibited in Iowa. Specifically, an employer may not prevent or attempt to prevent a discharged employee from obtaining employment with another employer, except by furnishing on request a truthful statement in writing as to the cause of the person's discharge.[423]

[423] IOWA CODE § 730.1.