

Gov. Branstad takes action to increase accountability, openness and transparency in employee settlements

Written by Office of the Governor of the State of Iowa
Wednesday, 26 March 2014 08:27

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Administration releases all employee settlements since January 14, 2011; Ensures openness by making all settlements public moving forward; Ends troubling use of confidentiality agreements in personnel settlements; Increases accountability by requiring additional review

(DES MOINES) – Gov. Terry E. Branstad today announced the signing of Executive Order 85 to increase accountability, openness and transparency of employee settlements.

Speaking from the administration's weekly press conference, Branstad said, "After a thorough review, the facts show employees were not terminated based on political affiliation. I am troubled and disappointed by the use of confidentiality agreements. This practice of keeping information from the taxpayers is unacceptable and wrong."

Branstad continued, "I've signed Executive Order 85 today to ensure the executive branch operates in a transparent manner, ending the use of these confidentiality agreements, increasing accountability, and making employee settlements readily available for taxpayer viewing online."

Executive Order 85 does the following:

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- **ACCOUNTABILITY:** No state agency may enter into a settlement agreement on behalf of the state unless the personnel settlement agreement is reviewed by the Attorney General's Office; and

- o For an agency not governed by the Board of Regents, the Director of the Department of Management; Director of the Department of Administrative Services and the head of the agency involved with the matter at issue each approve the settlement agreement in writing; or

- o For an institution governed by the Board of Regents, the executive director of the Board of Regents and the head of the institution involved with the matter at issue each approve the settlement agreement in writing.

- **OPENNESS:** No personnel settlement agreements shall contain any confidentiality provisions.

- **TRANSPARENCY:** Every final personnel settlement agreement shall be posted to the Department of Administrative Services or Board of Regents website in a location easily accessible to the public.

Executive Order 85 is not intended to supersede any law or collective bargaining agreement. The settlement agreements can be found on the [Iowa Department of Administrative Services website](#) under the "News & Information" heading titled "Settlement Agreements."

"Governor Branstad and I are steadfastly committed to transparent government," said Reynolds. "Executive Order 85 ends the misguided practice of using confidentiality agreements, and gives the Iowa taxpayers an opportunity to view settlements while being guaranteed the agreements are facing increased scrutiny and oversight."

Gov. Branstad and Lt. Gov. Reynolds asked staff to gather and review the facts after learning of the use of the confidentiality agreements. After a review of the facts of the agreements, Governor's Office chief of staff Matt Hinch, legal counsel Brenna Findley and Iowa Department of Management director David Roederer found the following:

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- 321 employee settlements occurred since January 14, 2011.
- 24 of the 321 settlements contained confidentiality agreements.
- [A report from the staff reviewing the facts can be found here](#) .

The text of Executive Order 85 is as follows:

Executive Order Number Eighty-Five

WHEREAS, Transparency provides Iowans the necessary access to information to hold our government accountable; and

WHEREAS, Our Open Records Act is essential to ensuring openness, including settlement agreements (Iowa Code section 22.13); and

WHEREAS, Our administration has maintained a steadfast commitment to transparent government, and the use of confidentiality agreements within employee settlements is troubling and runs contrary to our priority of operating state government in an open manner.

NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, declare that accountability, openness and transparency are essential to the efficient operation of state government and in the best interest of taxpayers. I hereby order and direct that:

1. **Accountability:** No state agency may enter into a personnel settlement agreement on behalf of the state unless the personnel settlement agreement is reviewed by the Attorney General, or his or her designee; and

a. For an agency not governed by the Board of Regents: the director of the Department of Management, director of the Department of Administrative Services and the head of the agency involved with the matter at issue each approve the personnel settlement agreement in writing; or

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b. For an institution governed by the Board of Regents: the executive director of the Board of Regents and the head of the institution involved with the matter at issue each approve the personnel settlement agreement in writing.

c. In the event that subsection 1(a) or (b) is not consistent with a collective bargaining agreement, the relevant head of agency or institution, director, executive director and attorney general designee will be provided with regular reports of personnel settlement agreements.

2. Openness: No personnel settlement agreement shall contain any confidentiality provision that attempts to prevent disclosure of the agreement itself.

3. Transparency: Every personnel settlement agreement shall be posted to the Department of Administrative Services or Board of Regents website in a location easily accessible to the public.

4. For purpose of this Order, the following definitions shall apply:

a. "Agency" means a unit of state government, which is an authority, board, commission, committee, council, department, or independent agency as defined in section 7E.4, including but not limited to each principal central department enumerated in section 7E.5 and the office of the governor. However, "agency" does not mean any of the following:

i. The office of an elective constitutional or statutory officer, other than the office of the governor.

ii. The general assembly, or any office or unit under its administrative authority.

iii. The judicial branch, as provided in section 602.1102.

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iv. A political subdivision of the state or its offices or units, including but not limited to a county, city, or community college.

b. "Personnel Settlement Agreement" means an agreement with the State of Iowa, subject to Iowa Code section 22.13, to resolve a personnel dispute including but not limited to settlement of grievances (excluding those resolved at step one).

5. This Order shall apply prospectively as of the date of the signing of this Order. This Order shall be interpreted in accordance with all applicable laws. It is not intended to supersede any law or collective bargaining agreement.

6. If any provision of this Order, or the application of such provision to any person or circumstance, is held to be invalid, the remaining provisions, as applied to any person or circumstance, shall not be affected thereby.

7. This Order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the State of Iowa, its Departments, Agencies, or Political Subdivisions, or its officers, employees, or agents, or any other person.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 24th day of March, in the year of our Lord two thousand fourteen.