

PROVIDING QUALITY LEGAL SERVICES TO CITIES ACROSS IOWA

HR Legal Issues: Ask the Attorney

Lynch Dallas, P.C.

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- Labor Relations, Collective Bargaining and Arbitration
- 28E and Other Sharing Agreements
- Alternative Dispute Resolution
- Building and Construction Contracts
- Building Codes
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- Civil Service Matters
- Compliance with State and Federal Laws and Regulations
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CITY WAGE SETTLEMENTS & TRENDS FOR FY 15



A Brief Look Back: How Arbitrators Ruled in FY 14

- 7 Awards Involving Cities & Counties
- Average Wage Award: 2.62%

CITY WAGE SETTLEMENTS & TRENDS FOR FY 15



Employer	Bargaining Unit	Employer Wage Offer	Union Wage Offer	Award	Arbitrator
Cedar Rapids Airport	Safety Officers	N/A Hours Only	N/A	N/A	Hugh Perry
City of Newton	Police/PPME	2.00%	2.50%	Employer	Fredric Dichter
City of North Liberty	Police/PPME	1.50%	2.00%/1.00%	Union	Sharon Gallagher
Cherokee County	Deputies/IUOE 234	\$0.40 (2.36%)	\$0.85 (3.18%)	Union	Ron Hoh
Cherokee County	Roads/IOU70E 234	\$0.40 (2.04%)	\$1.00 (5.10%)	Employer	Lisa Kohn
Delaware County	Roads/AFSCME	\$0.59 (3.00%)	\$0.83 (4.00%)	Union	Ruth Weatherly
Emmett County	Roads/IUOE 234	2.00%	3.00%	Employer	Peter Obermeyer

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CITY WAGE SETTLEMENTS & TRENDS FOR FY 15



Average Wage Rate Increases

Counties: 2.81%

Cities: 2.25%

CITY WAGE SETTLEMENTS & TRENDS FOR FY 15



Factors Relied on by FY 14 Arbitrators: **COMPARABILTY**

- Gallagher, Hoh, Obermeyer used different forms of external comparability
- Obermeyer used internal comparability when there were twelve years of identical settlement for three different units

CITY WAGE SETTLEMENTS & TRENDS FOR FY 15



Factors Relied on by FY 14 Arbitrators: QUID PRO QUO

- Weatherly determined increased health insurance payments justified higher wages
- State of Iowa/AFSME Decision

CITY WAGE SETTLEMENTS & TRENDS FOR FY 15



**For questions on
Collective Bargaining Issues contact:
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FAMILY MEDICAL LEAVE ACT AND OTHER LEAVES



Family Medical Leave Act (“FMLA”)

The FMLA is designed to provide “employees with a way to balance their work and family responsibilities, to promote stability and economic security for families and the nation’s interest in preserving the integrity of families.”

FAMILY MEDICAL LEAVE ACT AND OTHER LEAVES



"I normally grant employees a leave of absence if there's a valid reason. However, appearing on MTV's Real World isn't what I'd call valid."

FAMILY MEDICAL LEAVE ACT AND OTHER LEAVES



FMLA

- Do you have an FMLA Coordinator?
- Are you doing enough to keep confidentiality?
- Do you follow the three day rule?
- What about intermittent leave?

FAMILY MEDICAL LEAVE ACT AND OTHER LEAVES



Disability

- Do you have an applicable short-term policy?
- Or an applicable long-term insurance policy?

FAMILY MEDICAL LEAVE ACT AND OTHER LEAVES



Disability

- Does the ADAAA apply?
 - A leave of absence can be a reasonable accommodation.
 - Employer must engage in the undue hardship analysis to determine if leave is appropriate.

FAMILY MEDICAL LEAVE ACT AND OTHER LEAVES



What About Workers' Compensation?

The ADAAA, FMLA and Workers' Compensation may all be operating at the same time if your policy allows it. Be sure to check all three when analyzing an employee's leave issue.

FAMILY MEDICAL LEAVE ACT AND OTHER LEAVES



For questions on
FMLA or Other Leave Issues contact:
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DISCIPLINE AND DISCHARGE OF PUBLIC EMPLOYEES



Documentation is your Friend

What is in the personnel file?

- Reprimands
- Performance reviews
- PIP's

DISCIPLINE AND DISCHARGE OF PUBLIC EMPLOYEES



'Whatever happened to the good old principle
of "Hire 'em and Fire 'em" ?'

DISCIPLINE AND DISCHARGE OF PUBLIC EMPLOYEES



DISCIPLINE AND DISCHARGE OF PUBLIC EMPLOYEES



Due Process Requirements for Public Employees

- Trigger is loss of *property right*
- Formal Notice at Each Stage
- Representation
- Forms Should *Always* be Used

DISCIPLINE AND DISCHARGE OF PUBLIC EMPLOYEES



Techniques for Administering Due Process to Public Employees

- Investigation
- Recording and Witnessing Interviews
- Administrative Interview v. Due Process Hearing
- Deliberation
- Twenty-four Hours' Notice Prior to Hearing
- Must lay groundwork for Civil Service Hearing

DISCIPLINE AND DISCHARGE OF PUBLIC EMPLOYEES



Due Process Requirements for Civil Service Employees

- Iowa Code Chapter 400
- Timelines are Critical – 400.20-400.23
- Timelines are critical
- Drafting of charges

DISCIPLINE AND DISCHARGE OF PUBLIC EMPLOYEES



For questions on
Discipline & Discharge Issues contact:
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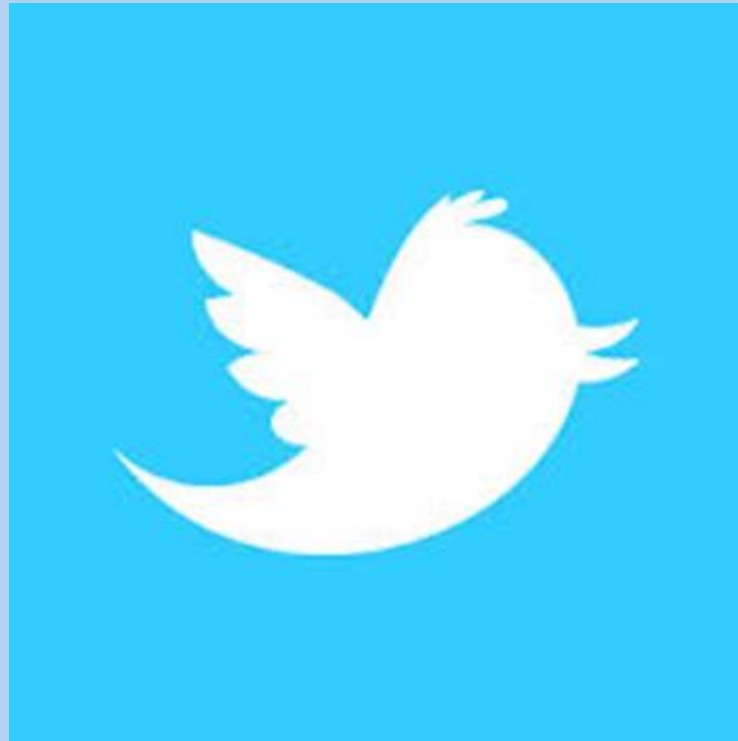
PRIVACY AND SOCIAL MEDIA

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PRIVACY AND SOCIAL MEDIA



Why is Social Media Important to you?

- **Your employees are likely using it:**
 - They may be using it during working hours?
 - They may be interacting with each other on it?
 - They may be mentioning/representing your city on it?

- **Your city is likely/should be using it:**
 - 85% of businesses with a social media platform reported an increase in market exposure
 - 23% of companies use social media to collect and analyze data about their products and consumers

Balancing an Employer's Right to Know v. Employees' Privacy

- Does anyone screen employees' and/or applicants' social media?
- Do you have policies/procedures?
- Has anyone ever been screened as an applicant or employee?

Balancing an Employer's Right to Know v. Employees' Privacy

- **Statistics**
- **State Legislation Trends**
- **Invasion of privacy claim?**

PRIVACY AND SOCIAL MEDIA



Wireless Devices & Employees' and Employer's Privacy Violations Distracted Driver Policy



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PRIVACY AND SOCIAL MEDIA

Wireless Devices & Employees' and Employer's Privacy Violations Who is liable for equipment?



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Use of Social Networking Sites in the Employment Context Hiring Polices

- What do you think employers cite as the biggest negatives when searing applicants employment files?
 - Examples
 - Discrimination Danger

Post-Employment Practices

- **Fraudulent Misrepresentation Issues?**
- **Special Considerations for Public Employees**

Off-the-Job Behavior

- Impersonation Accounts
- Textual Harassment
- Lifestyle Laws/Off-Duty Conduct

Privacy Issues in Formal Complaint Procedures

- What should a social media privacy policy include?
- Should the policy include a formal complaint procedure?

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