State of Iowa

Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

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
    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.
        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.

TERRY E. BRANSTAD
GOVERNOR

ATTEST:

MATT SCHULTZ
SECRETARY OF STATE