# IOWA
# COURT RULES

## FIFTH EDITION


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# PREFACE

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**Citation.** The rules shall be cited as follows:

| | |
|---|---|
| Chapter 1 | Iowa R. Civ. P. |
| Chapter 2 | Iowa R. Crim. P. |
| Chapter 5 | Iowa R. Evid. |
| Chapter 6 | Iowa R. App. P. |
| Chapter 16 | Iowa R. Elec. P. |
| Chapter 32 | Iowa R. of Prof'l Conduct |
| Chapter 51 | Iowa Code of Judicial Conduct |

All other rules shall be cited as "Iowa Ct. R."

**Supplements.** Supplements to the Fifth Edition of the Iowa Court Rules have been issued as follows:

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# CHAPTER 1
# RULES OF CIVIL PROCEDURE

## DIVISION I
OPERATION OF RULES

**Rule 1.101 Applicability; statutes affected.** The rules in this chapter shall govern the practice and procedure in all courts of the state, except where they expressly provide otherwise or statutes not affected hereby provide different procedure in particular courts or cases.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rules 1.102** to **1.200** Reserved.

## DIVISION II
ACTIONS, JOINDER OF ACTIONS AND PARTIES

A. PARTIES GENERALLY; CAPACITY

**Rule 1.201 Real party in interest.** Every action must be prosecuted in the name of the real party in interest. But an executor, administrator, conservator, guardian, trustee of an express trust, or a party with whom or in whose name a contract is made for another's benefit, or a party specially authorized by statute may sue in that person's own name without joining the party for whose benefit the action is prosecuted. No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder, or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.202 Public bond.** When a bond or other instrument given to the state, county, school or other municipal corporation, or to any officer or person, is intended for the security of the public generally, or of particular individuals, action may be brought thereon, in the name of any person intended to be thus secured, who has sustained an injury in consequence of a breach thereof, except when otherwise provided.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.203 Partnerships.** Actions may be brought by or against partnerships as such; or, where permitted by law, against any or all partners with or without joining the firm. Judgment against a partnership may be enforced against partnership property and that of any partner served or appearing in the suit. A new action will lie on the original cause against any partner not so served or appearing. The court may order absent partners brought in.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.204 Foreign corporations.** Foreign corporations may sue and be sued in their corporate name, except as prohibited by statute.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.205 Assignees; exception.** In cases not governed by the uniform commercial code the assignment of a thing in action shall be without prejudice to any defense, counterclaim or claim matured or not, if matured when pleaded, existing against the assignor in favor of the party pleading it.
[Report 1943; amendment 1967; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.206 Injury or death of a minor.** A parent, or the parents, may sue for the expense and actual loss of services, companionship and society resulting from injury to or death of a minor child.
[Report 1943; amendment 1973; November 9, 2001, effective February 15, 2002]

**Rule 1.207 Actions by and against state.** The state may sue in the same way as an individual. No security shall be required of it.
[Report 1943; amendment 1974; November 9, 2001, effective February 15, 2002]

**Rule 1.208 Married persons.** A married person may sue or be sued without joining the person's spouse. If both are sued, each may defend; and if one fails to defend, the other may defend for both.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.209 Desertion of family.** When a husband or wife deserts the family, the other may prosecute or defend any action which either might have prosecuted or defended, and shall have the same powers and rights therein as either might have had.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.210 Minors; incompetents.** An action of a minor or any person adjudged incompetent shall be brought by the person's conservator if there is one or, if not, by the person's guardian if there is one; otherwise the minor may sue by a next friend, and the incompetent by a conservator or guardian appointed by the court for that purpose. If it is in the person's best interest, the court may dismiss such action or substitute another conservator, guardian or next friend.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.211 Defense by incompetent, prisoner, etc.** No judgment without a defense shall be entered against a party then a minor, or confined in a penitentiary, reformatory or any state hospital for the mentally ill, or one adjudged incompetent, or whose physician certifies to the court that the party appears to be mentally incapable of conducting a defense. Such defense shall be by guardian ad litem; but the conservator (and if there is no conservator, the guardian) of a ward or the attorney appearing for a competent party may defend unless the proceeding was brought by or on behalf of such fiduciary or unless the court supersedes such fiduciary by a guardian ad litem appointed in the ward's interest.
[Report 1943; amended by 58GA, ch 152, §199; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.212 Guardian ad litem.** If a party served with original notice appears to be subject to rule 1.211, the court may appoint a guardian ad litem for the party, or substitute another, in the ward's interest. Application for such appointment or substitution may be by the ward, if competent, or a minor over 14 years old; otherwise by the party's conservator or guardian or, if none, by any friend or any party to the action.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rules 1.213** to **1.220** Reserved.

B. SUBSTITUTION OF PARTIES

**Rule 1.221 Substitution at death; limitation.** Any substitution of legal representatives or successors in interest of a deceased party, permitted by statute, must be ordered within two years after the death of the original party. If the decedent's right survives entirely to those already parties, the action shall continue among the surviving parties without substitution.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.222 Transfer of interest.** Transfer of an interest in a pending action shall not abate it, but may be the occasion for bringing in new parties.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.223 Incapacity pending action.** If, during pendency of an action, a party is adjudged incompetent or confined in any state hospital for the mentally ill or if the party's physician certifies to the court that the party appears to be mentally incapable of acting in the party's own behalf, the conservator or guardian shall be joined or if there is none, the court shall appoint a guardian ad litem for the party.
[Report 1943; amended by 58GA, ch 152, §200; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.224 Nonabatement in case of guardianship.** When a conservatorship or guardianship ceases for any reason, any action or proceeding then pending shall not abate. The conservator's or guardian's successor, the former ward, or the personal representative of the ward's estate shall be substituted or joined as a party. If no application is made for substitution, the court on its own motion may appoint a personal representative to represent the deceased party in the action.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.225 Majority of minor.** A minor party who attains legal majority shall continue as a party in that person's own right.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.226 Officers; representatives.** When any public official or other person in a representative capacity ceases to be such while a party to a suit, the court may order that party's successor brought in and substituted.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.227 Notice to substituted party.** The order for substitution shall fix the time for the substituted party to appear, and the notice to be given. In case of substitution of a legal representative of a deceased party, notice shall be given in the same manner as an original notice.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rules 1.228** to **1.230** Reserved.

C. JOINDER; MISJOINDER AND NONJOINDER

**Rule 1.231 Actions joined.** A single plaintiff may join in the same petition as many causes of action, legal or equitable, independent or alternative, as there are against a single defendant.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.232 Multiple plaintiffs.** Any number of persons who claim any relief, jointly, severally or alternatively, arising out of or respecting the same transaction, occurrence or series of transactions or occurrences, may join as plaintiffs in a single action, when it presents or involves any question of law or fact common to all of them. They may join any causes of action, legal or equitable, independent or alternative, held by any one or more of them which arise out of such transaction, occurrence or series, and which present or involve any common question of law or fact.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.233 Permissive joinder of defendants.** Any number of defendants may be joined in one action which asserts against them, jointly, severally or in the alternative, any right to relief in respect of, or arising out of the same transaction, occurrence, or series of transactions or occurrences, when any question of law or fact common to all of them is presented or involved.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.234 Necessary parties; joinder.**

**1.234(1)** *Remedy for nonjoinder as plaintiff.* Except as provided in this rule, all persons having a joint interest in any action shall be joined on the same side, but such persons failing to join as plaintiffs may be made defendants. This rule does not apply to class actions under rules 1.261 to 1.279, nor affect the options permitted by Iowa Code sections 613.1 and 613.2.

**1.234(2)** *Definition of indispensable party.* A party is indispensable if the party's interest is not severable, and the party's absence will prevent the court from rendering any judgment between the parties before it; or if notwithstanding the party's absence the party's interest would necessarily be inequitably affected by a judgment rendered between those before the court.

**1.234(3)** *Indispensable party not before court.* If an indispensable party is not before the court, it shall order the party brought in. When persons are not before the court who, although not indispensable, ought to be parties if complete relief is to be accorded between those already parties, and when necessary jurisdiction can be obtained by service of original notice in any manner provided by the rules in this chapter or by statute, the court shall order their names added as parties and original notice served upon them. If such jurisdiction cannot be had except by their consent or

voluntary appearance, the court may proceed with the hearing and determination of the cause, but the judgment rendered therein shall not affect their rights or liabilities.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.235 Parties partly interested.** A party need not be interested in obtaining or defending against all the relief demanded. Judgment may be given respecting one or more parties according to their respective rights or liabilities.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.236 Remedy for misjoinder.**

**1.236(1)** *Parties.* Misjoinder of parties is no ground for dismissal of the action, but parties may be dropped, or aligned according to their true interests in the action, by order of the court on its own motion or that of any party at any stage of the action, on such terms as are just; or any claim against a party improperly joined may be severed and proceeded with separately.

**COMMENT:** Rule 1.236(1) is very similar to Fed. R. Civ. P. 21. While neither rule provides expressly for realignment of parties, and no case law exists in Iowa on the authority of a court to realign parties, federal courts have interpreted Fed. R. Civ. P. 21 to allow realignment of parties according to their true interests. *See First National Bank of Shawnee Mission v. Roland Park State Bank,* 357 F. Supp. 708, 711 (D. Kan. 1973); Wright, Miller & Kain, *Federal Practice and Procedure,* Civil 2d, § 1683, at 448 (1986); 3A *Moore's Federal Practice,* ¶ 21.02, at 21-23 (1993).

**1.236(2)** *Actions.* The only remedy for improper joinder of actions shall be by motion. On such motion the court shall either order the causes docketed separately or strike those causes which should be stricken, always retaining at least one cause docketed in the original case. Before ruling on such motion, the party whose pleading is attacked may withdraw any of the causes claimed to be misjoined.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.237 Dependent remedies joined.** An action heretofore cognizable only after another has been prosecuted to conclusion may be joined with the latter; and the court shall grant relief according to the substantive rights of the parties. But there shall be no joinder of an action against an indemnitor or insurer with one against the indemnified party, unless a statute so provides.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rules 1.238** to **1.240** Reserved.

D. COUNTERCLAIMS AND CROSS-CLAIMS

**Rule 1.241 Compulsory counterclaims.** A pleading must contain a counterclaim for every claim then matured, and not the subject of a pending action, held by the pleader against any opposing party and arising out of the transaction or occurrence that is the basis of such opposing party's claim, unless its adjudication would require the presence of indispensable parties of whom jurisdiction cannot be acquired. A final judgment on the merits shall bar such a counterclaim, although not pleaded.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.242 Permissive counterclaims.** Unless prohibited by rule or statute, a party may counterclaim against an opposing party on any claim held by the party when the action was originally commenced and matured when pleaded.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.243 Joinder of counterclaims.** A party pleading a counterclaim shall have the same right to join more than one claim as a plaintiff is granted under rules 1.231 and 1.232.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.244 Counterclaim not limited.** A counterclaim may, but need not, diminish or defeat recovery sought by the opposing party. It may claim relief in excess of, or different from, that sought in the opponent's pleadings.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.245 Cross-claim against coparty.** A pleading may state as a cross-claim any claim by one party against a coparty arising out of the transaction or occurrence that is the subject matter either of the original action or a counterclaim therein or relating to any property that is the subject matter of the original action. Such cross-claim may include a claim that the party against whom it is asserted

is or may be liable to the cross-claimant for all or part of a claim asserted in the action against the cross-claimant.
[Report 1943; amendment 1973; amendment 1976; November 9, 2001, effective February 15, 2002]

**Rule 1.246 Third-party practice.**

**1.246(1)** *When defendant may bring in third party.* At any time after commencement of the action a defending party, as a third-party plaintiff, may file a cross-petition and cause an original notice to be served upon a person not a party to the action who is or may be liable for all or part of the plaintiff's claim. The third-party plaintiff need not obtain leave to file the cross-petition if it is filed not later than ten days after the filing of the original answer. Otherwise leave may be obtained by motion upon notice to all parties to the action.

The third-party defendant shall assert defenses to the third-party plaintiff's claim as provided in rule 1.441 and counterclaims against the third-party plaintiff as provided in rule 1.241 and cross-claims against other third-party defendants as provided in rule 1.245.

The third-party defendant may assert against the plaintiff any defenses which the third-party plaintiff has to the plaintiff's claim. The third-party defendant may also assert any claim against the plaintiff arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff, and the plaintiff shall assert defenses as provided in rule 1.441 and counterclaims under rule 1.241.

The plaintiff may assert any claim against the third-party defendant arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff, and the third-party defendant thereupon shall assert defenses as provided in rule 1.441, counterclaims as provided in rule 1.241, and cross-claims as provided in rule 1.245. Any party may move to strike the third-party claim or for its severance or for separate trial. A third-party defendant may proceed under this rule against any person not a party to the action who is or may be liable for all or part of the claim made in the action against the third-party defendant.

**1.246(2)** *When plaintiff may bring in third party.* When a counterclaim is asserted against a plaintiff, that plaintiff may cause a third party to be brought in under circumstances which under this rule would entitle a defendant to do so.
[Report 1943; amendment 1973; amended by 65GA, ch 315, §1; May 27, 1987, effective August 3, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rules 1.247** to **1.250** Reserved.

E. INTERPLEADER

**Rule 1.251 Right of interpleader.** A person who is or may be exposed to multiple liability or vexatious litigation because of several claims against the person for the same thing, may bring an equitable action of interpleader against all such claimants. Their claims or titles need not have a common origin, nor be identical, and may be adverse to, or independent of each other. Such person may dispute liability, wholly or in part.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.252 By defendants.** A defendant to an action exposed to similar liability or litigation may obtain interpleader by counterclaim or cross-petition. Any claimant not already before the court may be brought in to maintain or relinquish that claim to the subject of the action, and on default after due service, the court may decree such claim barred.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.253 Deposit; discharge.** If a party initiating interpleader admits liability for, or nonownership of, any property or amount involved, the court may order it deposited in court or otherwise preserved or secured by bond. After such deposit the court, on hearing all parties, may absolve the depositor from obligation to such parties as to the property or amount deposited, before determining the rights of the adverse claimants.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.254 Substitution of claimant.** If a defendant seeks an interpleader involving a third person, the latter may appear and be substituted for the original defendant, who may then be discharged upon complying with rule 1.253.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.255 Injunction.** After petition and returns of the original notices are filed in an interpleader, the court may enjoin all parties before it from beginning or prosecuting any other suit as to the subject of the interpleader until its further order.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.256 Costs.** Costs may be taxed against the unsuccessful claimant in favor of the successful claimant and the party initiating the interpleader.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.257 Sheriff or officer; creditor.** When a sheriff or other officer is sued for taking personal property under a writ, or for the property so taken, such writ may be filed with the court, with an attached affidavit from the sheriff or other officer that the property involved was taken under the writ. The plaintiff shall then join the attaching or execution creditor as a defendant, or such creditor may join on application. Any judgment against the officer and creditor shall provide that the creditor's property be first exhausted to satisfy the judgment.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rules 1.258** to **1.260** Reserved.

F. CLASS ACTIONS

**Rule 1.261 Commencement of a class action.** One or more members of a class may sue or be sued as representative parties on behalf of all in a class action if both of the following occur:

**1.261(1)** The class is so numerous or so constituted that joinder of all members, whether or not otherwise required or permitted, is impracticable.

**1.261(2)** There is a question of law or fact common to the class.
[Report 1980; November 9, 2001, effective February 15, 2002]

**Rule 1.262 Certification of class action.**

**1.262(1)** Unless deferred by the court, as soon as practicable after the commencement of a class action the court shall hold a hearing and determine whether or not the action is to be maintained as a class action and by order certify or refuse to certify it as a class action.

**1.262(2)** The court may certify an action as a class action if it finds all of the following:

*a.* The requirements of rule 1.261 have been satisfied.

*b.* A class action should be permitted for the fair and efficient adjudication of the controversy.

*c.* The representative parties fairly and adequately will protect the interests of the class.

**1.262(3)** If appropriate, the court may do any of the following:

*a.* Certify an action as a class action with respect to a particular claim or issue.

*b.* Certify an action as a class action to obtain one or more forms of relief, equitable, declaratory, or monetary.

*c.* Divide a class into subclasses and treat each subclass as a class.
[Report 1980; November 9, 2001, effective February 15, 2002]

**Rule 1.263 Criteria considered.**

**1.263(1)** In determining whether the class action should be permitted for the fair and efficient adjudication of the controversy, as appropriately limited under rule 1.262(3), the court shall consider and give appropriate weight to the following and other relevant factors:

*a.* Whether a joint or common interest exists among members of the class.

*b.* Whether the prosecution of separate actions by or against individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class that would establish incompatible standards of conduct for a party opposing the class.

*c.* Whether adjudications with respect to individual members of the class as a practical matter would be dispositive of the interests of other members not parties to the adjudication or substantially impair or impede their ability to protect their interests.

*d.* Whether a party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making final injunctive relief or corresponding declaratory relief appropriate with respect to the class as a whole.

*e.* Whether common questions of law or fact predominate over any questions affecting only individual members.

*f.* Whether other means of adjudicating the claims and defenses are impracticable or inefficient.

*g.* Whether a class action offers the most appropriate means of adjudicating the claims and defenses.

*h.* Whether members who are not representative parties have a substantial interest in individually controlling the prosecution or defense of separate actions.

*i.* Whether the class action involves a claim that is or has been the subject of a class action, a government action, or other proceeding.

*j.* Whether it is desirable to bring the class action in another forum.

*k.* Whether management of the class action poses unusual difficulties.

*l.* Whether any conflict of laws issues involved pose unusual difficulties.

*m.* Whether the claims of individual class members are insufficient in the amounts or interests involved, in view of the complexities of the issues and the expenses of the litigation, to afford significant relief to the members of the class.

**1.263(2)** In determining under rule 1.262(2) that the representative parties fairly and adequately will protect the interests of the class, the court must find all of the following:

*a.* The attorney for the representative parties will adequately represent the interests of the class.

*b.* The representative parties do not have a conflict of interest in the maintenance of the class action.

*c.* The representative parties have or can acquire adequate financial resources, considering rule 1.276, to ensure that the interests of the class will not be harmed.

[Report 1980; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.264 Order on certification.**

**1.264(1)** The order of certification shall describe the class and state the following:

*a.* The relief sought.

*b.* Whether the action is maintained with respect to particular claims or issues.

*c.* Whether subclasses have been created.

**1.264(2)** The order certifying or refusing to certify a class action shall state the reasons for the court's ruling and its findings on the facts listed in rule 1.263(1).

**1.264(3)** An order certifying or refusing to certify an action as a class action is appealable.

**1.264(4)** Refusal of certification does not terminate the action, but does preclude it from being maintained as a class action.

[Report 1980; November 9, 2001, effective February 15, 2002]

**Rule 1.265 Amendment of certification order.**

**1.265(1)** The court may amend the certification order at any time before entry of judgment on the merits. The amendment may do the following:

*a.* Establish subclasses.

*b.* Eliminate from the class any member who was included in the class as certified.

*c.* Provide for an adjudication limited to certain claims or issues.

*d.* Change the relief sought.

*e.* Make any other appropriate change in the order.

**1.265(2)** If notice of certification has been given pursuant to rule 1.266, the court may order notice of the amendment of the certification order to be given in terms and to any members of the class the court directs.

**1.265(3)** The reasons for the court's ruling shall be set forth in the amendment of the certification order.

**1.265(4)** An order amending the certification order is appealable. An order denying the motion of a member of a defendant class, not a representative party, to amend the certification order is appealable if the court certifies it for immediate appeal.
[Report 1980; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.266 Notice of action.**

**1.266(1)** Following certification the court, by order after hearing, shall direct the giving of notice to the class.

**1.266(2)** The notice, based on the certification order and any amendment of the order, shall include all of the following:

*a.* A general description of the action, including the relief sought, and the names and addresses of the representative parties.

*b.* A statement of the right of a member of the class under rule 1.267 to be excluded from the action by filing an election to be excluded, in the manner specified, by a certain date.

*c.* A description of possible financial consequences on the class.

*d.* A general description of any counterclaim being asserted by or against the class, including the relief sought.

*e.* A statement that the judgment, whether favorable or not, will bind all members of the class who are not excluded from the action.

*f.* A statement that any member of the class may enter an appearance either personally or through counsel.

*g.* An address to which inquiries may be directed.

*h.* Other information the court deems appropriate.

**1.266(3)** The order shall prescribe the manner of notification to be used and specify the members of the class to be notified. In determining the manner and form of the notice to be given, the court shall consider the interests of the class, the relief requested, the cost of notifying the members of the class, and the possible prejudice to members who do not receive notice.

**1.266(4)** Each member of the class, not a representative party, whose potential monetary recovery or liability is estimated to exceed $100 shall be given personal or mailed notice if that member's identity and whereabouts can be ascertained by the exercise of reasonable diligence.

**1.266(5)** For members of the class not given personal or mailed notice under rule 1.266(4), the court shall provide, as a minimum, a means of notice reasonably calculated to apprise the members of the class of the pendency of the action. Techniques calculated to ensure effective communication of information concerning commencement of the action shall be used. The techniques may include personal or mailed notice, notification by means of newspaper, television, radio, posting in public or other places, and distribution through trade, union, public interest, or other appropriate groups.

**1.266(6)** The plaintiff shall advance the expense of notice under this rule if there is no counterclaim asserted. If a counterclaim is asserted the expense of notice shall be allocated as the court orders in the interest of justice.

**1.266(7)** The court may order that steps be taken to minimize the expense of notice.
[Report 1980; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.267 Exclusion.**

**1.267(1)** A member of a plaintiff class may elect to be excluded from the action unless any of the following occur:

*a.* The member is a representative party.

*b.* The certification order contains an affirmative finding under rule 1.263(1)(*a*), (*b*), or (*c*).

*c.* A counterclaim under rule 1.270 is pending against the member or that member's class or subclass.

**1.267(2)** Any member of a plaintiff class entitled to be excluded under rule 1.267(1) who files an election to be excluded, in the manner and in the time specified in the notice, is excluded from and not bound by the judgment in the class action.

**1.267(3)** The elections shall be made a part of the record in the action.

**1.267(4)** A member of a defendant class may not elect to be excluded.
[Report 1980; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.268 Conduct of action.**

**1.268(1)** The court on motion of a party or its own motion may make or amend any appropriate order dealing with the conduct of the action including, but not limited to, any of the following:

*a.* Determining the course of proceedings or prescribing measures to prevent undue repetition or complication in the presentation of evidence or argument.

*b.* Requiring, for the protection of the members of the class or otherwise for the fair conduct of the action, that notice be given as the court directs, of the following:

(1) Any step in the action.

(2) The proposed extent of the judgment.

(3) The opportunity of members to signify whether they consider the representation fair and adequate, to enter an appearance and present claims or defenses, or otherwise participate in the action.

*c.* Imposing conditions on the representative parties or on intervenors.

*d.* Inviting the attorney general to participate with respect to the question of adequacy of class representation.

*e.* Making any other order to ensure that the class action proceeds only with adequate class representation.

*f.* Making any order to ensure that the class action proceeds only with competent representation by the attorney for the class.

**1.268(2)** A class member who is not a representative party may appear and be represented by separate counsel.

[Report 1980; November 9, 2001, effective February 15, 2002]

**Rule 1.269 Discovery by or against class members.**

**1.269(1)** Discovery may be used only on order of the court against a member of the class who is not a representative party or who has not appeared. In deciding whether discovery should be allowed the court shall consider, among other relevant factors, the timing of the request, the subject matter to be covered, whether representatives of the class are seeking discovery on the subject to be covered, and whether the discovery will result in annoyance, oppression, or undue burden or expense for the member of the class.

**1.269(2)** Discovery by or against representative parties or those appearing is governed by the rules dealing with discovery by or against a party to a civil action.

[Report 1980; November 9, 2001, effective February 15, 2002]

**Rule 1.270 Counterclaims.**

**1.270(1)** A defendant in an action brought by a class may plead as a counterclaim any claim the court certifies as a class action against the plaintiff class. On leave of court, the defendant may plead as a counterclaim a claim against a member of the class or a claim the court certifies as a class action against a subclass.

**1.270(2)** Any counterclaim in an action brought by a plaintiff class must be asserted before notice is given under rule 1.266.

**1.270(3)** If a judgment for money is recovered against a party on behalf of a class, the court rendering judgment may stay distribution of any award or execution of any portion of a judgment allocated to a member of the class against whom the losing party has pending an action in or out of state for a judgment for money, and continue the stay so long as the losing party in the class action pursues the pending action with reasonable diligence.

**1.270(4)** A defendant class may plead as a counterclaim any claim on behalf of the class that the court certifies as a class action against the plaintiff. The court may certify as a class action a counterclaim against the plaintiff on behalf of a subclass or permit a counterclaim by a member of the class. The court shall order that notice of the counterclaim by the class, subclass, or member of the class be given to the members of the class as the court directs, in the interest of justice.

**1.270(5)** A member of a class or subclass asserting a counterclaim shall be treated as a member of a plaintiff class for the purpose of exclusion under rule 1.267.

**1.270(6)** The court's refusal to allow, or the defendant's failure to plead, a claim as a counterclaim in a class action does not bar the defendant from asserting the claim in a subsequent action.

[Report 1980; November 9, 2001, effective February 15, 2002]

**Rule 1.271 Dismissal or compromise.**

**1.271(1)** Unless certification has been refused under rule 1.262, a class action, without the approval of the court after hearing, may not be:

*a.* Dismissed voluntarily.

*b.* Dismissed involuntarily without an adjudication on the merits.

*c.* Compromised.

**1.271(2)** If the court has certified the action under rule 1.262, notice of hearing on the proposed dismissal or compromise shall be given to all members of the class in a manner the court directs. If the court has not ruled on certification, notice of hearing on the proposed dismissal or compromise may be ordered by the court which shall specify the persons to be notified and the manner in which notice is to be given.

**1.271(3)** Notice given under rule 1.271(2) shall include a description of the procedure available for modification of the dismissal or compromise and a full disclosure of the reasons for the dismissal or compromise including, but not limited to, the following:

*a.* Any payments made or to be made in connection with the dismissal or compromise.

*b.* The anticipated effect of the dismissal or compromise on the class members.

*c.* Any agreement made in connection with the dismissal or compromise.

*d.* A description and evaluation of alternatives considered by the representative parties.

*e.* An explanation of any other circumstances giving rise to the proposal.

**1.271(4)** On the hearing of the dismissal or compromise, the court may do any of the following:

*a.* As to the representative parties or a class certified under rule 1.262, permit dismissal with or without prejudice or approve the compromise.

*b.* As to a class not certified, permit dismissal without prejudice.

*c.* Deny the dismissal.

*d.* Disapprove the compromise.

*e.* Take other appropriate action for the protection of the class and in the interest of justice.

**1.271(5)** The cost of notice given under rule 1.271(2) shall be paid by the party seeking dismissal, or as agreed in case of a compromise, unless the court after a hearing orders otherwise.

[Report 1980; November 9, 2001, effective February 15, 2002]

**Rule 1.272 Effect of judgment on class.** In a class action certified under rule 1.262 in which notice has been given under rule 1.266 or 1.271, a judgment as to the claim or particular claim or issue certified is binding, according to its terms, on any member of the class who has not filed an election of exclusion under rule 1.267. The judgment shall name or describe the members of the class who are bound by its terms.

[Report 1980; November 9, 2001, effective February 15, 2002]

**Rule 1.273 Costs.**

**1.273(1)** Only the representative parties and those members of the class who have appeared individually are liable for costs assessed against a plaintiff class.

**1.273(2)** The court shall apportion the liability for costs assessed against a defendant class.

**1.273(3)** Expenses of notice advanced under rule 1.266 are taxable as costs in favor of the prevailing party.

[Report 1980; November 9, 2001, effective February 15, 2002]

**Rule 1.274 Relief afforded.**

**1.274(1)** The court may award any form of relief consistent with the certification order to which the party in whose favor it is rendered is entitled including equitable, declaratory, monetary, or other relief to individual members of the class or the class in a lump sum or installments.

**1.274(2)** Damages fixed by a minimum measure of recovery provided by any statute may not be recovered in a class action.

**1.274(3)** If a class is awarded a judgment for money, the distribution shall be determined as follows:

*a.* The parties shall list as expeditiously as possible all members of the class whose identity can be determined without expending a disproportionate share of the recovery.

*b.* The reasonable expense of identification and distribution shall be paid, with the court's approval, from the funds to be distributed.

*c.* The court may order steps taken to minimize the expense of identification.

*d.* The court shall supervise, and may grant or stay the whole or any portion of, the execution of the judgment and the collection and distribution of funds to the members of the class as their interests warrant.

*e.* The court shall determine what amount of the funds available for the payment of the judgment cannot be distributed to members of the class individually because they could not be identified or located or because they did not claim or prove the right to money apportioned to them. The court after a hearing shall distribute that amount, in whole or in part, to one or more states as unclaimed property or to the defendant or to the Iowa Supreme Court Lawyer Trust Account Commission.

*f.* In determining the amount, if any, to be distributed to a state or to the defendant, the court shall consider the following criteria:

(1) Any unjust enrichment of the defendant.

(2) The willfulness or lack of willfulness on the part of the defendant.

(3) The impact on the defendant of the relief granted.

(4) The pendency of other claims against the defendant.

(5) Any criminal sanction imposed on the defendant.

(6) The loss suffered by the plaintiff class.

*g.* The court, in order to remedy or alleviate any harm done, may impose conditions respecting the use of the money distributed to the defendant.

*h.* Any amount to be distributed to a state shall be distributed as unclaimed property to any state in which are located the last-known addresses of the members of the class to whom distribution could not be made. If the last-known addresses cannot be ascertained with reasonable diligence, the court may determine by other means what portion of the unidentified or unlocated members of the class were residents of a state. A state shall receive that portion of the distribution that its residents would have received had they been identified and located. Before entering an order distributing any part of the amount to a state, the court shall give written notice of its intention to make distribution to the attorney general of the state of the residence of any person given notice under rule 1.266 or 1.271 and shall afford the attorney general an opportunity to move for an order requiring payment to the state.
[Report 1980; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; Court Order September 14, 2017, temporarily effective September 14, 2017, permanently effective November 14, 2017]

**Rule 1.275 Attorney's fees.**

**1.275(1)** Attorney's fees for representing a class are subject to control of the court.

**1.275(2)** If under an applicable provision of law a defendant or defendant class is entitled to attorney's fees from a plaintiff class, only representative parties and those members of the class who have appeared individually are liable for those fees. If a plaintiff is entitled to attorney's fees from a defendant class, the court may apportion the fees among the members of the class.

**1.275(3)** If a prevailing class recovers a judgment for money or other award that can be divided for the purpose, the court may order reasonable attorney's fees and litigation expenses of the class to be paid from the recovery.

**1.275(4)** If the prevailing class is entitled to declaratory or equitable relief, the court may order the adverse party to pay to the class its reasonable attorney's fees and litigation expenses, if permitted by law in similar cases not involving a class, or the court finds that the judgment has vindicated an important public interest. However, if any monetary award is also recovered, the court may allow reasonable attorney's fees and litigation expenses only to the extent that a reasonable proportion of that award is insufficient to defray the fees and expenses.

**1.275(5)** In determining the amount of attorney's fees for a prevailing class the court shall consider all of the following factors:

*a.* The time and effort expended by the attorney in the litigation, including the nature, extent, and quality of the services rendered.

*b.* Results achieved and benefits conferred upon the class.

*c.* The magnitude, complexity, and uniqueness of the litigation.

*d.* The contingent nature of success.

*e.* In cases awarding attorney's fees and litigation expenses under rule 1.275(4) because of the vindication of an important public interest, the economic impact on the party against whom the award is made.

*f.* Appropriate criteria in the Iowa Rules of Professional Conduct.
[Report 1980; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005]

**Rule 1.276 Arrangements for attorney's fees and expenses.**

**1.276(1)** Before a hearing under rule 1.262(1) or at any other time the court directs, the representative parties and the attorney for the representative parties shall file with the court, jointly or separately, all of the following:

*a.* A statement showing any amount paid or promised them by any person for the services rendered or to be rendered in connection with the action or for the costs and expenses of the litigation and the source of all of the amounts.

*b.* A copy of any written agreement, or a summary of any oral agreement, between the representative parties and their attorney concerning financial arrangements or fees.

*c.* A copy of any written agreement, or a summary of any oral agreement, by the representative parties or the attorney to share these amounts with any person other than a member, regular associate, or an attorney regularly of counsel with that law firm.

This statement shall be supplemented promptly if additional arrangements are made.

**1.276(2)** Upon a determination that the costs and litigation expenses of the action cannot reasonably and fairly be defrayed by the representative parties or by other available sources, the court by order may authorize and control the solicitation and expenditure of voluntary contributions for this purpose from members of the class, advances by the attorneys or others, or both, subject to reimbursement from any recovery obtained for the class. The court may order any available funds so contributed or advanced to be applied to the payment of any costs taxed in favor of a party opposing the class.

[Report 1980; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.277 Statute of limitations.** The statute of limitations is tolled for all class members upon the commencement of an action asserting a class action. The statute of limitations resumes running against a member of a class:

**1.277(1)** Upon filing an election of exclusion by that member.

**1.277(2)** Upon entry of an order of certification, or of an amendment thereof, eliminating that member from the class.

**1.277(3)** Except as to representative parties, upon entry of an order under rule 1.262 refusing to certify an action as a class action.

**1.277(4)** Upon dismissal of the action without an adjudication on the merits.

[Report 1980; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**COMMENT:** Former Iowa R. Civ. P. 42.6 was stricken in order to eliminate its restriction on personal jurisdiction over nonresident class members, and to permit exercise of jurisdiction over nonresident class members to the extent permitted by the U.S. and state constitutions as interpreted by the courts. Former Iowa Rs. Civ. P. 42.19 and 42.20 were stricken because the Model Act has been adopted in only two states.

**Rule 1.278 Virtual representation.** Where persons composing a class which may be increased by others later born, do or may make a claim affecting specific property involved in an action to which all living members of the class are parties, any others later born shall also be deemed to have been parties to the action and bound by any decree rendered therein.

[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.279 Shareholder's actions.** Shareholders in an incorporated or unincorporated association, who sue to enforce its rights because of its failure to do so, shall support their petition by affidavit, and allege their efforts to have the directors, trustees or other shareholders bring the action or enforce the right, or a sufficient reason for not making such effort.

[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.280** Reserved.

G. EXPEDITED CIVIL ACTIONS

**Rule 1.281 Expedited civil actions.**

**1.281(1)** *General provisions.*

*a. Eligible actions.* Rule 1.281 governs "expedited civil actions" in which the sole relief sought is a money judgment and in which all claims (other than compulsory counterclaims) for all damages by or against any one party total $75,000 or less, including damages of any kind, penalties, prefiling interest,

and attorney fees, but excluding prejudgment interest accrued after the filing date, postjudgment interest, and costs.

*b. Excluded actions.* Rule 1.281 does not apply to small claims or domestic relations cases.

*c. Electing expedited procedures.* Eligible plaintiffs can elect to proceed as an expedited civil action by certifying that the sole relief sought is a money judgment and that all claims (other than compulsory counterclaims) for all damages by or against any one party total $75,000 or less, including damages of any kind, penalties, prefiling interest, and attorney fees, but excluding prejudgment interest accrued after the filing date, postjudgment interest, and costs. The certification must be on a form approved by the supreme court and signed by all plaintiffs and their attorneys if represented. Eligible plaintiffs must file the certification before the discovery conference deadline under rule 1.507(1). The certification is not admissible to prove a plaintiff's damages in the expedited civil action or in any other proceeding.

*d. Iowa Rules of Civil Procedure otherwise apply.* Except as otherwise specifically provided by this rule, the Iowa Rules of Civil Procedure are applicable to expedited civil actions. Iowa Court Rule 23.5—Form 3: Trial Scheduling and Discovery Plan for Expedited Civil Action must be used for expedited civil actions in lieu of Form 2 of rule 23.5.

*e. Limitation on damages.* Except as provided in rule 1.281(1)(*f*), a party proceeding under rule 1.281 may not recover a judgment in excess of $75,000, nor may a judgment be entered against a party in excess of $75,000, excluding prejudgment interest that accrues after the filing date, postjudgment interest, and costs. The jury, if any, must not be informed of the $75,000 limitation. If the jury returns a verdict for damages in excess of $75,000 for or against a party, the court may not enter judgment on that verdict in excess of $75,000, exclusive of prejudgment interest that accrues after the filing date, postjudgment interest, and costs.

*f. Stipulated expedited civil action.* In a civil action not eligible under rule 1.281(1)(*a*) and not excluded by rule 1.281(1)(*b*), the parties may request to proceed as an expedited civil action upon the parties' filing of a Joint Motion to Proceed as an Expedited Civil Action. If the court grants the parties' motion, and unless the parties have otherwise agreed, the parties will not be bound by the $75,000 limitation on judgments in rule 1.281(1)(*e*). The parties may enter into additional stipulations regarding damages and attorney fees. Unless otherwise ordered, the joint motion and any stipulations must not be disclosed to the jury.

*g. Termination of expedited civil action.* Upon timely application of any party, the court may terminate application of this rule and enter such orders as are appropriate under the circumstances if:

(1) The moving party makes a specific showing of substantially changed circumstances sufficient to render the application of this rule unfair; or

(2) A party has in good faith filed a compulsory counterclaim that seeks relief other than that allowed under rule 1.281(1)(*a*).

*h. Permissive counterclaims.* Permissive counterclaims are subject to the $75,000 limitation on damages under rule 1.281(1)(*e*), unless the court severs the permissive counterclaim.

*i. Side.* As used throughout rule 1.281, the term "side" refers to all the litigants with generally common interests in the litigation.

**COMMENT:**

**Rule 1.281(1)(*a*).** The rule provides that absent stipulation, a single party in an expedited civil action cannot recover more than $75,000 or be liable for more than $75,000. A single party could obtain a damage verdict in excess of $75,000, so long as the final judgment in the proceeding in favor of that party (after apportionment of fault and offsets for any settlements and exclusive of prejudgment interest, postjudgment interest, and costs) does not exceed $75,000.
[Court Order August 28, 2014, effective January 1, 2015]

**Rule 1.281(1)(*c*).** Rule 1.1901 provides the Expedited Civil Action Certificate for eligible plaintiffs to complete.
[Court Order August 28, 2014, effective January 1, 2015]

**Rule 1.281(1)(*g*).** If the judgment in an expedited civil action is reversed and remanded on appeal, the case remains subject to rule 1.281 on remand, unless the trial court, upon motion, terminates the expedited civil action pursuant to this provision.
[Court Order August 28, 2014, effective January 1, 2015]

**1.281(2)** *Discovery in expedited civil actions.*

*a. Discovery period.* Except upon agreement of the parties or leave of court granted upon a showing of good cause, all discovery must be completed no later than 60 days before trial.

*b. Initial disclosures.* Expedited civil actions are subject to the initial disclosure requirements of rule 1.500(1).

*c. Limited and simplified discovery procedures.* Except upon agreement of the parties or leave of court granted upon a showing of good cause, discovery in expedited civil actions is subject to the following additional limitations:

(1) *Interrogatories to parties.* Subject to rule 1.509(4), each side may serve no more than ten interrogatories on any other side.

(2) *Production of documents.* In addition to document disclosures required under rule 1.500(1)(*a*), each side may serve no more than ten requests for production on any other side under rule 1.512.

(3) *Requests for admission.* Each side may serve no more than ten requests for admission on any other side under rule 1.510. This limit does not apply to requests for admission of the genuineness of documents that the party intends to offer into evidence at trial.

(4) *Depositions upon oral examination.*

1. *Parties.* One deposition of each party may be taken. With regard to corporations, partnerships, voluntary associations, or any other groups or entities named as a party, one representative deponent may be deposed.

2. *Other deponents.* Each side may take the deposition of up to two nonparties.

*d. Number of expert witnesses.* Each side is entitled to one retained expert, except upon agreement of the parties or leave of court granted upon a showing of good cause.

*e. Motion for leave of court.* A motion for leave of court to modify the limitations provided in rule 1.281(2) must be in writing and must set forth the proposed additional discovery and the reasons establishing good cause for its use.

**1.281(3)** *Motions.*

*a. Motions to dismiss.* Any party may file any motion permitted by rule 1.421. Unless the court orders a stay, the filing of a motion to dismiss will not eliminate or postpone otherwise applicable pleading or disclosure requirements.

*b. Motions for summary judgment.*

(1) *Limited grounds.* Motions for summary judgment under rule 1.981 may be made in an expedited civil action only upon the following grounds:

1. To collect on an open account or other liquidated debt.
2. To establish an obligation to indemnify.
3. To assert an immunity defense.
4. Failure to comply with Iowa Code section 668.11 or other deadline for disclosure.
5. Failure to provide notice or exhaust remedies as required by law.
6. To raise any other matter constituting an avoidance or affirmative defense.

(2) *Limited number.* Each party may file no more than one motion for summary judgment under rule 1.981. The motion may include more than one ground authorized under rule 1.281(3)(*b*)(1).

(3) *Deadline.* Motions for summary judgment under rule 1.981 must be filed no later than 90 days before trial.

**COMMENT:**

**Rule 1.281(3)(*b*)(1)(4).** If a case requires expert testimony, failure to timely designate an expert or to make a timely expert disclosure could be a permissible ground for summary judgment under this rule.

[Court Order August 28, 2014, effective January 1, 2015]

**1.281(4)** *Procedure for expedited trials.*

*a. Demand for jury trial.* Any party who desires a jury trial of any issue triable of right by a jury must file and serve upon the other parties a demand for jury trial pursuant to rule 1.902. Otherwise, expedited civil actions will be tried to the court.

*b. Trial setting.* The court shall set the expedited civil action for trial on a date certain, which will be a firm date except that the court may later reschedule the trial for another date during the same week. Unless the court otherwise orders for good cause shown, expedited civil actions must be tried within one year of filing of the petition.

*c. Pretrial submissions.* In addition to the pretrial submissions required by rules 1.500(3) and 23.5—Form 3(8), the parties must file one jointly proposed set of jury instructions and verdict forms. If a jury instruction or verdict form is controverted, each side must include its specific objections, supporting authority, and, if desired, a proposed alternative instruction or verdict form for the court's approval, denial, or modification. Both stipulated and alternative proposed jury instructions and verdict forms must be set forth in one document that is filed electronically in word processing format with the court.

*d. Expedited civil jury trial.* Unless otherwise ordered, the jury in an expedited civil jury trial will consist of six persons selected from a panel of twelve prospective jurors. Each side must strike three prospective jurors. If the expedited civil jury is unable to reach a unanimous verdict after deliberating for a period of not less than three hours, the verdict can be rendered by a five-juror majority. Where

there are more than two sides, the court in its discretion may authorize and fix an additional number of jurors to be impaneled and strikes to be exercised.

*e. Expedited nonjury trial.* The court trying an expedited civil action without a jury may, in its discretion, dispense with findings of fact and conclusions of law and instead render judgment on a general verdict, special verdicts, or answers to interrogatories that are accompanied by relevant legal instructions that would be used if the action were being tried to a jury. In such cases, the parties must comply with the pretrial submission requirements of rule 1.281(4)(*c*). When the court follows this procedure, parties must make their record with respect to objections to or requests for instructions, special verdicts, and answers to interrogatories as in a jury trial. Posttrial motions will be permitted as in a jury trial except that the court may, in lieu of ordering a new trial, enter new verdicts or answers to interrogatories on the existing trial record.

*f. Time limit for trial.* Expedited civil actions should ordinarily be submitted to the jury or the court within two business days from the commencement of trial. Unless the court allows additional time for good cause shown, each side is allowed no more than six hours to complete jury selection, opening statements, presentation of evidence, examination and cross-examination of witnesses, and closing arguments. Time spent on objections, bench conferences, and challenges for cause to a juror is not included in the time limit.

*g. Evidence.*

(1) *Stipulations.* Parties should stipulate to factual and evidentiary matters to the greatest extent possible.

(2) *Documentary evidence admissible without custodian certification or testimony.* The court may overrule objections based on authenticity and hearsay to the admission of a document, notwithstanding the absence of testimony or certification from a custodian or other qualified witness, if:

1. The party offering the document gives notice to all other parties of the party's intention to offer the document into evidence at least 90 days in advance of trial. The notice must be given to all parties together with a copy of any document intended to be offered.

2. The document on its face appears to be what the proponent claims it is.

3. The document on its face appears not to be hearsay or appears to fall within a hearsay exception set forth in Iowa Rule of Evidence 5.803(3), 5.803(4), 5.803(6), 5.803(7), 5.803(8), 5.803(9), 5.803(10), 5.803(11), 5.803(12), 5.803(13), 5.803(14), 5.803(15), 5.803(16), 5.803(17), or 5.803(22).

4. The objecting party has not raised a substantial question as to the authenticity or trustworthiness of the document.

5. Nothing in rule 1.281(4)(*g*)(2) affects the operation of other Iowa Rules of Evidence such as rules 5.402, 5.403, and 5.404.

6. Nothing in rule 1.281(4)(*g*)(2) authorizes admission of a document that contains hearsay within hearsay, unless the court determines from the face of the document that each part of the combined statements conforms with an exception to the hearsay rule set forth in rule 1.281(4)(*g*)(2)(3).

7. Any authenticity or hearsay objections to a document as to which notice has been provided under rule 1.281(4)(*g*)(2)(1) must be made within 30 days after receipt of the notice.

(3) *Health Care Provider Statement in Lieu of Testimony.*

1. The report of any treating health care provider concerning the claimant may be used in lieu of deposition or in-court testimony of the health care provider, provided that the report offered into evidence is on the Health Care Provider Statement in Lieu of Testimony form adopted by the supreme court, and is signed by the health care provider making the report.

2. A Health Care Provider Statement in Lieu of Testimony must be accompanied by a certification from counsel for claimant listing all communications between counsel and the health care provider.

3. Unless otherwise stipulated or ordered by the court, a copy of the completed health care provider statement must be served on all parties at least 150 days in advance of trial. Any objections to the health care provider statement, including an objection that the statement is incomplete or does not otherwise comply with rule 1.281(4)(*g*)(3), must be made within 30 days after receipt of the statement. For good cause shown, the court may issue such orders regarding the health care provider statement as justice may require, including an order permitting a health care provider to supplement the statement.

4. Any party against whom a health care provider statement may be used has the right, at the party's own initial expense, to cross-examine by deposition the health care provider signing the report, and the deposition may be used at trial.

**COMMENT:**

**Rule 1.281(4)(*b*).** The parties may stipulate to a reasonable time beyond the one-year time limit in order to accommodate scheduling conflicts. The court, however, may set the expedited civil action for trial within the one-year period absent party consent.

[Court Order August 28, 2014, effective January 1, 2015]

**Rule 1.281(4)(*e*).** The rule is intended to conserve judicial time and resources by giving the court discretion to dispense with findings of fact and conclusions of law and instead render a verdict as if the court were sitting as a "jury of one." The use of jury instructions and a verdict form in lieu of findings of fact and conclusions of law permits appellate review of the court's ruling. The cross-reference to rule 1.281(4)(*c*) clarifies that the parties must submit jointly one proposed set of jury instructions and a verdict form to the court trying the case without a jury. And, as also required by rule 1.281(4)(*c*), the parties must timely note objections to the final form of jury instructions and verdict form used by the court. Rule 1.904(2), governing motions to enlarge or amend findings and conclusions, does not apply in expedited nonjury trials in which the court dispenses with findings and conclusions.

[Court Order August 28, 2014, effective January 1, 2015]

**Rule 1.281(4)(*g*)(2).** The rule streamlines the presentation of records at trial, such as medical and business records, by allowing admission without a sponsoring witness to establish authenticity and the elements of a hearsay exception. This rule authorizes the court to review and admit the record on its face subject to other objections, such as relevance, upon a determination that the record appears to be genuine and appears not to be hearsay or to fall within one of several enumerated hearsay exceptions, such as statements for purpose of medical diagnosis or treatment, records of regularly conducted activity, or public records and reports (rules 5.803(4), 5.803(6), and 5.803(8)). If the record appears genuine and appears to qualify for one of the enumerated hearsay exceptions, the burden shifts to the other side to raise a substantial question as to its authenticity or trustworthiness. Rule 1.281(4)(*g*)(2) may only be used if the proponent of the record has given notice to other parties sufficiently in advance of trial of its intent to rely on this rule, while serving a copy of the record. See rule 1.281(4)(*g*)(2)(1).

[Court Order August 28, 2014, effective January 1, 2015]

**Rule 1.281(4)(*g*)(3)(1).** The rule permits a party to admit the out-of-court declaration of a health care provider in lieu of the health care provider's in-court testimony. It prohibits hearsay objections based solely on the fact that the health care provider has not testified at trial or in a deposition subject to cross-examination.

[Court Order August 28, 2014, effective January 1, 2015]

**Rule 1.281(4)(*g*)(3)(3).** Any party may object to all or part of the Health Care Provider Statement in Lieu of Testimony, including the proponent of the statement. The rule provides that the court must rule on any objection to the health care provider statement sufficiently in advance of trial so as to give the proponent an opportunity to rectify any deficiencies in the statement. In ruling on such objections, the court has discretion to determine matters such as whether the health care provider has provided actual medical treatment for the patient, whether the health care provider has substantially answered the questions on the statement, or whether to redact any portion of the statement.

[Court Order August 28, 2014, effective January 1, 2015]

**1.281(5)** *Settlement conference; alternative dispute resolution.* Unless the parties have agreed to engage in alternative dispute resolution or are required to do so by contract or statute, the court may not, by order or local rule, require the parties to engage in a settlement conference or in any other form of alternative dispute resolution.

**1.281(6)** *Claim preclusion; issue preclusion.* Judgments or orders in an expedited civil action may not be relied upon to establish claim preclusion or issue preclusion unless the party seeking to rely on a judgment or order for preclusive effect was either a party or in privity with a party in the expedited civil action.

[Court Order August 28, 2014, October 30, 2014, effective January 1, 2015; March 7, 2018, effective January 1, 2019]

**Rules 1.282** to **1.300** Reserved.

## DIVISION III
## COMMENCEMENT OF ACTIONS

### Rule 1.301 Commencement of actions; tolling; cover sheet.

**1.301(1)** For all purposes, a civil action is commenced by filing a petition with the court. The date of filing shall determine whether an action has been commenced within the time allowed by statutes for limitation of actions, even though the limitation may inhere in the statute creating the remedy.

**1.301(2)** A cover sheet available from the clerk of court or from the judicial branch web site (www.iowacourts.gov) must be completed and accompany every civil petition except in small claims, probate, and mental health commitment actions. This requirement is solely for administrative purposes, and matters appearing on the civil cover sheet have no legal effect in the action. The clerk may assist pro se litigants in completing the cover sheet. The cover sheet may be modified from time to time as deemed necessary by the supreme court.

[Report 1943; amendment 1975; October 31, 1997, effective January 24, 1998; December 21, 1999, effective February 1, 2000; October 18, 2000, effective January 2, 2001; November 9, 2001, effective February 15, 2002]

**Rule 1.302 Original notice; form, issuance and service.** A notice to the defendant, respondent, or other party against whom an action has been filed shall be served in the form and manner provided by this rule. This notice shall be called the original notice.

**1.302(1)** The original notice shall contain the following information:

*a.* The name of the court and the names of the parties.

*b.* The name, address, telephone number, and if available, the facsimile transmission number of the plaintiff's or petitioner's attorney, if any, otherwise the plaintiff's or petitioner's address.

*c.* The date of the filing of the petition.

*d.* The time within which these rules or statutes require the defendant, respondent, or other party to serve, and within a reasonable time thereafter file, a motion or answer.

The original notice shall also state that if the defendant, respondent or other party fails to move or answer, judgment by default may be rendered for the relief demanded in the petition. The original notice shall also include the compliance notice required by the Americans with Disabilities Act (ADA). A copy of the petition shall be attached to the original notice except when service is by publication. If service is by publication, the original notice alone shall be published and shall also contain a general statement of the claim or claims and, subject to the limitation in rule 1.403(1), the relief demanded.

**1.302(2)** The original notice shall be signed by the clerk and be under the seal of the court.

**1.302(3)** An original notice shall be served with a copy of the petition. The plaintiff is responsible for service of an original notice and petition within the time allowed under rule 1.302(5) and shall furnish the person effecting service with the necessary copies of the original notice and petition. This rule does not apply to small claims actions.

**1.302(4)** Original notices may be served by any person who is neither a party nor the attorney for a party to the action. A party or party's agent or attorney may take an acknowledgment of service and deliver a copy of the original notice in connection therewith and may mail a copy of the original notice when mailing is required or permitted under any rule or statute.

**1.302(5)** If service of the original notice is not made upon the defendant, respondent, or other party to be served within 90 days after filing the petition, the court, upon motion or its own initiative after notice to the party filing the petition, shall dismiss the action without prejudice as to that defendant, respondent, or other party to be served or direct an alternate time or manner of service. If the party filing the papers shows good cause for the failure of service, the court shall extend the time for service for an appropriate period.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; November 22, 2002, effective February 1, 2003]

**COMMENT:** Rule 1.302 is a combination of former Iowa Rs. Civ. P. 49, 50 and 52 reorganized to present the information in a more logical sequence. This rule was changed to reflect the present practice. Original notices should now include the telephone number and facsimile transmission number of the party's attorney requesting the issuance of an original notice. It also requires the original notice to have the proper ADA notice. The language is changed stating a default "may be rendered" rather than "will be rendered." This change reflects the actual practice and the 10-day notice before a default judgment can be entered. The rule also has a 90-day requirement for service. Ninety days was chosen in order that service would be perfected prior to the issuance of scheduling orders by most courts. The forms of the original notices contained in the appendix are changed accordingly.

**Rule 1.303 Time for motion or answer to petition.**

**1.303(1)** Unless otherwise provided, the defendant, respondent, or other party shall serve, and within a reasonable time thereafter file, a motion or answer within 20 days after the service of the original notice and petition upon such party.

**1.303(2)** Any statute of Iowa which specifically requires response by a particular party, or in a particular action, within a specified time, shall govern the time for serving, and within a reasonable time thereafter filing, a motion or answer in such cases.

**1.303(3)** A defendant, respondent, or other party served in a manner prescribed by an order of court shall serve, and within a reasonable time thereafter file, a motion or answer on or before the date fixed.

**1.303(4)** A defendant, respondent, or other party served by publication or by publication and mailing shall serve, and within a reasonable time thereafter file, a motion or answer on or before the date fixed in the notice as published, which date shall not be less than 20 days after the date of last publication.

**1.303(5)** A defendant, respondent, or other party served by mail under rule 1.306 shall serve, and within a reasonable time thereafter file, a motion or answer on or before the date fixed in the notice as mailed, which date shall be not less than 60 days following the date of mailing.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.304 Response of garnishee.** The officer serving a writ of attachment or execution shall garnish such persons as the plaintiff may direct who are supposed debtors, or who possess property of the principal defendant. Garnishment shall be effected by a notice served in the manner and as an original notice in civil actions. The notice shall forbid the garnishee from paying any debt owing such defendant, due or to become due, and require the garnishee to retain possession of all property of the defendant in the garnishee's hands or under the garnishee's control, to the end that the same may be dealt with according to law. Unless answers are required to be taken as provided by statute, the notice shall cite the garnishee to appear before the court at a time specified not less than ten days after service and answer such interrogatories as may be propounded, or the garnishee will be liable to pay any judgment which the plaintiff may obtain against the defendant.
[Report 1943; amendment 1945; Report 1978, effective July 1, 1979; April 30, 1987, effective July 1, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.305 Personal service.** Original notices are "served" by delivering a copy to the proper person. Personal service may be made as follows:

**1.305(1)** Upon any individual who has attained majority and who has not been adjudged incompetent, either by taking the individual's signed, dated acknowledgment of service endorsed on the notice, or by serving the individual personally; or by serving, at the individual's dwelling house or usual place of abode, any person residing therein who is at least 18 years old, but if such place is a rooming house, hotel, club or apartment building, a copy may be delivered to such person who resides with the individual or is either a member of the individual's family or the manager or proprietor of such place; or upon the individual's spouse at a place other than the individual's dwelling house or usual place of abode if probable cause exists to believe that the spouse lives at the individual's dwelling house or usual place of abode.

**1.305(2)** Upon a minor by serving the minor's conservator or guardian, unless the notice is served on behalf of such conservator or guardian, or the minor's parent, or some person aged 18 years or more who has the minor's care and custody, or with whom the minor resides, or in whose service the minor is employed. Where the notice is served on behalf of one who is the conservator or guardian and the conservator or guardian is the only person who would be available upon whom service could be made, the court shall appoint, without prior notice to the ward, a guardian ad litem who shall be served and defend for the minor.

**1.305(3)** Upon any person adjudged incompetent but not confined in a state hospital for the mentally ill, by serving the conservator or guardian, unless the notice is served on behalf of such conservator or guardian, or that person's spouse, or some person aged 18 years or more who has that person's care and custody, or with whom that person resides. When the notice is served on behalf of one who is the conservator or guardian and the conservator or guardian is the only person who would be available upon whom service could be made, the court shall appoint without prior notice to the ward a guardian ad litem who shall be served and defend for the incompetent person.

**1.305(4)** Any person confined in a county care facility, or in any state hospital for the mentally ill, or any patient in the State University of Iowa hospital or its psychopathic ward, or any patient or inmate of any institution in the control of a director of a division of the department of health and human services or department of corrections or of the United States, may be served by the official in charge of such institution or that official's assistant. Proof of such service may be made by the certificate of such official, if the institution is in Iowa, or that official's affidavit if it is out of Iowa.

**1.305(5)** If any defendant, respondent, or other party is a patient in any state or federal hospital for the mentally ill, in or out of Iowa, or has been adjudged incompetent and is confined to a county care facility, the official in charge of such institution or the official's assistant shall accept service on the party's behalf, if in the official's or assistant's opinion direct service on the party would cause injury, which shall be stated in the acceptance.

**1.305(6)** Upon a partnership, or an association suable under a common name, or a corporation, by serving any present or acting or last known officer thereof, or any general or managing agent, or any agent or person now authorized by appointment or by law to receive service of original notice, or on the general partner of a partnership.

**1.305(7)** If the action, whether against an individual, corporation, partnership or other association suable under a common name, arises out of or is connected with the business of any office or agency maintained by the defendant in a county other than where the principal resides, by serving any agent or clerk employed in such office or agency.

**1.305(8)** Upon any city by serving its mayor or clerk.

**1.305(9)** Upon any county by serving its auditor or the chair of its board of supervisors.

**1.305(10)** Upon any school district, school township or school corporation by serving its president or secretary.

**1.305(11)** Upon the state, where made a party pursuant to statutory consent or authorization for suit in the manner provided by any applicable statute.

**1.305(12)** Upon any individual, corporation, partnership or association suable under a common name, either as provided in these rules, as provided by any consent to service or in accordance with any applicable statute.

**1.305(13)** Upon a governmental board, commission or agency, by serving its presiding officer, clerk or secretary.

**1.305(14)** If service cannot be made by any of the methods provided by this rule, any defendant may be served as provided by court order, consistent with due process of law.

[Report 1943; amendment 1945; amended by 58GA, ch152, §201; amended by 62GA, ch 209, §443; amendment 1974; amendment 1975; 1986 Iowa Acts, H.F. 721, §1; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; November 22, 2002, effective February 1, 2003; June 30, 2023, temporarily effective July 1, 2023, permanently effective August 30, 2023]

**Rule 1.306 Alternate method of service.** Every corporation, individual, personal representative, partnership or association that shall have the necessary minimum contact with the state of Iowa shall be subject to the jurisdiction of the courts of this state, and the courts of this state shall hold such corporation, individual, personal representative, partnership or association amenable to suit in Iowa in every case not contrary to the provisions of the Constitution of the United States.

Service may be made on any such corporation, individual, personal representative, partnership or association as provided in rule 1.305 within or without the state or, if such service cannot be so made, in any manner consistent with due process of law prescribed by order of the court in which the action is brought.

Nothing herein shall limit or affect the right to serve an original notice upon any corporation, individual, personal representative, partnership or association within or without this state in any manner now or hereafter permitted by statute or rule.

[Report 1975; November 9, 2001, effective February 15, 2002]

**Rule 1.307 Member of general assembly.** No member of the general assembly shall be held to move or answer in any civil action in any court in this state while such general assembly is in session.

[Report 1943; Report 1978, effective July 1, 1979; April 30, 1987, effective July 1, 1987; November 9, 2001, effective February 15, 2002]

**Rule 1.308 Returns of service.**

**1.308(1)** *Signature; fees.* Iowa officers may make unsworn returns of original notices served by them, as follows: Any sheriff or deputy sheriff, as to service in that officer's own or a contiguous county; any other peace officer, bailiff, or marshal, as to service in that officer's own territorial jurisdiction. The court shall take judicial notice of such signatures. All other returns, except those specified in rules 1.305(4) and 1.305(5), shall be proved by the affidavit of the person making the service. If served in the state of Iowa by a person other than such peace officer acting within the territories above defined or in another state by a person other than a sheriff or other peace officer, reasonable fees or mileage, not to exceed those allowed to a sheriff under Iowa Code section 331.655, shall be taxed as costs.

**1.308(2)** *Contents.* A return of personal service shall state the time, manner, and place thereof and name the person to whom copy was delivered; and if delivered under rule 1.305(1) to a person other than defendant, respondent, or other party, it must also state the facts showing compliance with said rule.

**1.308(3)** *Endorsement and filing.* If a sheriff receives the notice for service, the sheriff shall note thereon the date when received, and serve it without delay in the sheriff's own or a contiguous county,

and upon receiving the appropriate fees, the sheriff shall either file it and the return with the clerk, or deliver it by mail or otherwise to the person from whom the sheriff received it.

**1.308(4)** *Proof of service.* The person serving the process shall make proof of service thereof to the court promptly and in any event within the time during which the person served must respond to the process. Failure to make proof of service does not affect the validity of the service.

**1.308(5)** *By mail.* Where service includes notice by mail, proof of such mailing shall be by affidavit. The affidavit, with a duplicate copy of the papers referred to in the affidavit attached thereto, shall be forthwith filed with the court.

[Report 1943; amendment 1975; February 13, 1986, effective July 1, 1986; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.309 Amendment of process or proof of service.** The court may allow any process or proof of service thereof to be amended at any time in its discretion and upon such terms as it deems just, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

[Report 1975; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.310 Service by publication; what cases.** After filing an affidavit that personal service cannot be had on an adverse party in Iowa, the original notice may be served by publication, in any action brought for the following:

**1.310(1)** For recovery of real property or any estate or interest therein.

**1.310(2)** For the partition of real or personal property in Iowa.

**1.310(3)** To foreclose a mortgage, lien, encumbrance or charge on real or personal property.

**1.310(4)** For specific performance of a contract for sale of real estate.

**1.310(5)** To establish, set aside or construe a will, if defendant, respondent, or other party resides out of Iowa, or if the residence is unknown.

**1.310(6)** Against a nonresident of Iowa or a foreign corporation which has property, or debts owing to it in Iowa, sought to be taken by any provisional remedy, or appropriated in any way.

**1.310(7)** Against any defendant, respondent, or other party who, being a nonresident of Iowa, or a foreign corporation, has or claims any actual or contingent interest in or lien on real or personal property in Iowa which is the subject of such action, or to which it relates; or where the action seeks to exclude such defendant, respondent, or other party from any lien, interest or claim therein.

**1.310(8)** Against any resident of the state who has departed therefrom, or from the county of defendant's, respondent's or other party's residence, with intent to delay or defraud creditors, or to avoid service, or a defendant, respondent or other party who keeps concealed with like intent.

**1.310(9)** For dissolution of marriage or separate maintenance or to modify a decree in such action, or to annul an illegal marriage, against a party who is a nonresident of Iowa or whose residence is unknown.

**1.310(10)** To quiet title to real estate, against a party who is a nonresident of Iowa, or whose residence is unknown.

**1.310(11)** Against a partnership, corporation or association suable under a common name, when no person can be found on whom personal service can be made.

**1.310(12)** To vacate or modify a judgment or for a new trial under rules 1.1012 and 1.1013.

[Report 1943; amendment 1945; Report 1978, effective July 1, 1979; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.311 Known defendants.**

**1.311(1)** In every case where service of original notice is made upon a known defendant, respondent, or other party by publication, copy of the notice shall also be sent by ordinary mail addressed to such party at the party's last-known mailing address, unless an affidavit of a party or that party's attorney is filed stating that no mailing address is known and that diligent inquiry has been made to ascertain it.

**1.311(2)** Such copy of notice shall be mailed by the party, the party's agent or attorney not less than 20 days before the date for motion or answer.

**1.311(3)** Proof of such mailing shall be by affidavit, and such affidavit or the affidavit referred to in rule 1.311(1) shall be filed before the entry of judgment or decree. The court, in its judgment or

decree, or prior thereto, shall make a finding that the address to which such copy was directed is the last-known mailing address, or that no such address is known, after diligent inquiry.
[Report 1951; Report 1978, effective July 1, 1979; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.312 Unknown defendants, respondents, or other parties.** The original notice against unknown parties shall be directed to the unknown claimants of the property involved, describing it. It shall otherwise comply with rule 1.302.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.313 How published.** After the filing of a petition, publication of the original notice shall be made once each week for three consecutive weeks in a newspaper of general circulation published in the county where the petition is filed. The newspaper shall be selected by the plaintiff.
[Report 1943; amendment 1951; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.314 Proof of publication.** Before default is taken, proof of such publication shall be filed, sworn to by the publisher or an employee of the newspaper.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.315 Actual service.** Service of original notice in or out of Iowa according to rule 1.305 supersedes the need of its publication.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rules 1.316** to **1.400** Reserved.

## DIVISION IV
## PLEADINGS AND MOTIONS

### A. PLEADINGS GENERALLY

**Rule 1.401 Allowable pleadings.** There shall be a petition and an answer; a reply to a counterclaim denominated as such; an answer to a cross-claim, if the answer contains a cross-claim; a cross-petition, if a person who was not an original party is summoned under the provisions of rule 1.246; and an answer to cross-petition, if a cross-petition is served.
[Report 1943; amendment 1974; Report 1978, effective July 1, 1979; November 9, 2001, effective February 15, 2002]

**Rule 1.402 General rules of pleading.**

**1.402(1)** *Form and sufficiency.* The form and sufficiency of all pleadings shall be determined by these rules, construed and enforced to secure a just, speedy and inexpensive determination of all controversies on their merits.

**1.402(2)** *Pleading to be concise and direct; consistency.*

*a.* Each averment of a pleading shall be simple, concise, and direct. No technical forms of pleadings are required.

*b.* A party may set forth two or more statements of a claim or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as the party has regardless of consistency and whether based on legal or equitable grounds. "Pleadings" as used in these rules do not include motions.

**1.402(3)** *Correcting or recasting pleadings.* On its own motion or that of any party, the court may order any prolix, confused or multiple pleading to be recast in a concise single document within such time as the order may fix. In like manner, it may order any pleading not complying with these rules to be corrected on such terms as it may impose.

**1.402(4)** *Amendments.* A party may amend a pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is required and the action has not been placed upon the trial calendar, the party may so amend it at any time within 20 days after it is served. Otherwise, a party may amend a pleading only by leave of court

or by written consent of the adverse party. Leave to amend, including leave to amend to conform to the proof, shall be freely given when justice so requires.

**1.402(5)** *Making and construing amendments.* All amendments must be on a separate paper, duly filed, without interlining or expunging prior pleadings. Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading. An amendment changing the party against whom a claim is asserted relates back if the foregoing provision is satisfied and, within the period provided by law for commencing the action against the party, the party to be brought in by amendment has received such notice of the institution of the action that the party will not be prejudiced in maintaining a defense on the merits, and knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against the party.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.403 Claims for relief.**

**1.403(1)** *Generally.* A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or cross-petition, shall contain a short and plain statement of the claim showing that the pleader is entitled to relief and a demand for judgment for the type of relief sought. Relief in the alternative or of several different types may be demanded. Except in small claims and cases involving only liquidated damages, a pleading shall not state the specific amount of money damages sought but shall state whether the amount of damages meets applicable jurisdictional requirements for the amount in controversy. The specific amount and elements of monetary damages sought may be obtained through discovery.

**1.403(2)** *Petition.* The petition shall state whether it is at law or in equity.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.404 Appearances.**

**1.404(1)** *By attorney.* An attorney making an appearance shall, either by filing written appearance or by signature to the first pleading or motion filed by the attorney, clearly indicate the attorney or attorneys in charge of the case and shall not sign in the name of the firm only. Such appearance shall entitle the attorney to service as provided in rule 1.442.

**1.404(2)** *Appearance alone.* The court shall have no power to treat an appearance as sufficient to delay or prevent a default or any other order which would be made in absence thereof, or of timely pleading. Notice and opportunity to respond to any motion for judgment under rule 1.973(2) shall be given to any party who has appeared.

**1.404(3)** *Limited appearance.* Pursuant to Iowa R. Prof'l Conduct 32:1.2(c), an attorney's role may be limited to one or more individual proceedings in the action, if specifically stated in a notice of limited appearance filed and served prior to or simultaneously with the proceeding. If the attorney appears at a hearing on behalf of a client pursuant to a limited representation agreement, the attorney shall notify the court of that limitation at the beginning of that hearing.

**1.404(4)** *Termination of limited appearance.* At the conclusion of a proceeding in which an attorney has appeared pursuant to a limited representation agreement, the attorney's role terminates without the necessity of leave of court upon the attorney's filing a notice of completion of limited appearance. The notice of completion of limited appearance shall state that the attorney was retained to perform a limited service; shall describe the limited service; shall state that the service has been completed; and shall include the personal identification number, address, telephone number and, if available, facsimile transmission number of the client. The attorney shall serve a copy of the notice on the client and all other parties to the action or their attorneys.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; March 12, 2007, effective May 15, 2007]

**Rule 1.405 Answer.**

**1.405(1)** *Generally.* The answer shall show on whose behalf it is filed, and specifically admit or deny each allegation or paragraph of the pleading to which it responds, which denial may be for lack of information. It must state any additional facts deemed to show a defense. It may raise points of law appearing on the face of the pleading to which it responds. It may contain a counterclaim which must be in a separate division.

**1.405(2)** *Answers for ward.* All answers by conservators, guardians or guardians ad litem, or filed under rule 1.212, shall state whether proper service has been had on the ward; and they shall deny all material allegations prejudicial to the ward.

**1.405(3)** *What admitted.* Every fact pleaded and not denied in a subsequent pleading as permitted by these rules shall be deemed admitted except for any of the following:

*a.* Allegations of value or amount of damage.

*b.* Averments in a pleading to which no responsive pleading is required or permitted.

*c.* Facts not previously pleaded that are set forth in pleadings filed subsequent to the seventh day preceding the trial, all of which shall be deemed denied by operation of law.

**1.405(4)** *Denying signature.*

*a. By party.* If a pleading copies a writing purporting to be signed by an adverse party, such signature shall be deemed genuine for all purposes in the case, unless such party denies it and supports the denial by the party's affidavit that it is not a genuine or authorized signature. The party may, on application made during the time to plead, procure an inspection of the original writing.

*b. By nonparty.* If a pleading copies a nonnegotiable writing purporting to be signed by a nonparty to the action, such signature shall be deemed genuine, unless a party denies it, and supports the denial by affidavit, which denial may be for lack of information.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.406 Reply.** The court may order a reply to an answer or to an answer to a cross-petition.

[Report 1943; amendment 1974; Report 1978, effective July 1, 1979; November 9, 2001, effective February 15, 2002]

**Rule 1.407 Interventions.**

**1.407(1)** *Intervention of right.* Upon timely application, anyone shall be permitted to intervene in an action under any of the following circumstances:

*a.* When a statute confers an unconditional right to intervene.

*b.* When the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

**1.407(2)** *Permissive intervention.* Upon timely application, anyone may be permitted to intervene in an action under any of the following circumstances:

*a.* When a statute confers a conditional right to intervene.

*b.* When an applicant's claim or defense and the main action have a question of law or fact in common.

*c.* When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement, or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action.

In exercising its discretion, the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

**1.407(3)** *Procedure.* A person desiring to intervene shall serve a motion to intervene upon the parties. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought.

**1.407(4)** *Disposition.* The court shall grant interventions of right unless the applicant's interest is adequately represented by existing parties. The court shall consider applications for permissive intervention and grant or deny the application as the circumstances require. The intervenor shall have no right to delay, and shall pay the costs of the intervention unless the intervenor prevails.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**COMMENT:** The amendments to former Iowa R. Civ. P. 75, now rule 1.407, adopted provisions substantially similar to Fed. R. Civ. P. 24 and allow the trial court more discretion in determining whether to allow intervention.

**Rules 1.408** to **1.410** Reserved.

B. PLEADINGS; FORMAT AND CONTENT

**Rule 1.411 Caption and signature.**

**1.411(1)** *Required information.* Each appearance, notice, motion, or pleading shall be captioned with the title of the case, naming the court, parties, and instrument, and shall bear the signature, personal identification number, address, telephone number, and, if available, facsimile transmission number and e-mail address of the party or attorney filing it. The caption of the first papers filed or served by or on behalf of any named party shall include the personal identification number of each named party if available or as soon as is available. The caption of a petition shall state whether the action is at law or equity. In all subsequent papers filed or served, the caption need name only the first of several coparties.

**1.411(2)** *Personal identification numbers.* In lieu of including social security numbers on pleadings, parties shall complete a confidential information form available from the clerk of court. The clerk shall separately file the confidential information forms, and the social security numbers contained therein shall be confidential and cannot be disclosed except as authorized by federal or state law.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; May 14, 2007, effective July 15, 2007]

**Rule 1.412 Paragraphs; separate statements.** All averments of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number in all succeeding pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth.

[Report 1943; amendment 1976; November 9, 2001, effective February 15, 2002]

**Rule 1.413 Verification abolished; affidavits; certification.**

**1.413(1)** Pleadings need not be verified unless special statutes so require and, where a pleading is verified, it is not necessary that subsequent pleadings be verified unless special statutes so require. Counsel's signature to every motion, pleading, or other paper shall be deemed a certificate that: counsel has read the motion, pleading, or other paper; that to the best of counsel's knowledge, information, and belief, formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed for any improper purpose, such as to harass or cause an unnecessary delay or needless increase in the cost of litigation. If a motion, pleading, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a motion, pleading, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay the other party or parties the amount of the reasonable expenses incurred because of the filing of the motion, pleading, or other paper, including a reasonable attorney fee. The signature of a party shall impose a similar obligation on such party. This rule does not apply to disclosures, discovery requests, responses, objections, and motions under rules 1.500 through 1.517, which are governed by rule 1.503(6).

**1.413(2)** If a party commencing an action has in the preceding five-year period unsuccessfully prosecuted three or more actions, the court may, if it deems the actions to have been frivolous, stay the proceedings until that party furnishes an undertaking secured by cash or approved sureties to pay all costs resulting to opposing parties to the action including a reasonable attorney fee.

**1.413(3)** Any motion asserting facts as the basis of the order it seeks, and any pleading seeking interlocutory relief, shall contain or be accompanied by an affidavit of the person or persons knowing the facts requisite to such relief. A similar affidavit shall be appended to all petitions which special statutes require to be verified.

**1.413(4)** Any pleading, motion, affidavit, or other document required to be verified under Iowa law may, alternatively, be certified pursuant to Iowa Code section 622.1, using substantially the following form:

"I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

_____ _____
Date Signature"
[Report 1943; amendment 1945; Report January 21, 1986, effective April 1, 1986; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; August 28, 2014, effective January 1, 2015]

**Rule 1.414 Supplemental pleadings.** By leave of court, upon reasonable notice and upon such terms as are just, or by written consent of the adverse party, a party may serve and file a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented. Leave may be granted even though the original pleading is defective in its statement of a claim for relief or defense. No responsive pleading to the supplemental pleading is required unless the court, upon its own motion or the motion of a party, so orders, specifying the time therefor.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.415 Judicial notice; statutes.** Matters of which judicial notice is taken, including statutes of Iowa, need not be stated in any pleading. A pleading asserting any statute of another state, territory or jurisdiction of the United States, or a right derived therefrom, shall refer to such statute by plain designation and if such reference is made the court shall judicially notice such statute.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.416 Negligence; mitigation.** In an action by an employee against an employer, or by a passenger against a common carrier to recover for negligence, plaintiff need not plead or prove freedom from contributory negligence, but defendant may plead and prove contributory negligence in mitigation of damages.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.417 Permissible conclusions; denials.** The following may be pleaded as legal conclusions without averring the facts comprising them: partnership, corporate or representative capacity; corporate authority to sue or do business in Iowa; performance of conditions precedent; or judgments of a court, board or officer of special jurisdiction. It shall not be sufficient to deny such averment in terms contradicting it, but the facts relied on must be stated.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.418 Contract.** Every pleading referring to a contract must state whether it is written or oral.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.419 Defenses to be specially pleaded.** Any defense that a contract or writing sued on is void or voidable, or was delivered in escrow, or which alleges any matter in justification, excuse, release or discharge, or which admits the facts of the adverse pleading but seeks to avoid their legal effect, must be specially pleaded.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.420 Account; bill of particulars; denial.** A pleading founded on an account shall contain a bill of particulars thereof, by consecutively numbered items, which shall define and limit the proof, and may be amended as other pleadings. A pleading controverting such account must specify the items denied, and any items not thus specified shall be deemed admitted.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.421 Defenses; how raised; consolidation; waiver.**

**1.421(1)** Every defense to a claim for relief in any pleading must be asserted in the pleading responsive thereto, or in an amendment to the answer made within 20 days after service of the answer, or if no responsive pleading is required, then at trial. The following defenses or matters may be raised by pre-answer motion:

*a.* Lack of jurisdiction of the subject matter.
*b.* Lack of jurisdiction over the person.
*c.* Insufficiency of the original notice or its service.
*d.* To recast or strike.

*e.* For more specific statement.

*f.* Failure to state a claim upon which any relief may be granted.

**1.421(2)** Improper venue under rule 1.808 must be raised by pre-answer motion filed prior to or in a single motion under rule 1.421(3).

**1.421(3)** If the grounds therefor exist at the time a pre-answer motion is made, motions under rule 1.421(1)(*b*) through 1.421(1)(*f*) shall be contained in a single motion and only one such motion assailing the same pleading shall be permitted, unless the pleading is amended thereafter.

**1.421(4)** If a pre-answer motion does not contain any matter specified in rule 1.421(1) or 1.421(2) that matter shall be deemed waived, except lack of jurisdiction of the subject matter or failure to state a claim upon which relief may be granted.

**1.421(5)** Sufficiency of any defense may be raised by a motion to strike it, filed before pleading to it.

**1.421(6)** Motions under this rule must specify how the pleading they attack is claimed to be insufficient.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; September 16, 2004, effective December 1, 2004]

**Rule 1.422 Protected information.** It is the responsibility of counsel and the parties to ensure that protected information is omitted or redacted from documents or exhibits filed with the court. The clerk of court will not review filings to determine whether the required omissions or redactions have been made.

**1.422(1)** *Omission or redaction required.* In all civil proceedings and special actions a party shall omit or redact protected information from documents and exhibits filed with the court unless the information is material to the proceedings or disclosure is otherwise required by law.

*a.* "Protected information" includes the following:

(1) Social security numbers.

(2) Financial account numbers.

(3) Personal identification numbers.

(4) Other unique identifiers.

*b.* If a social security number must be included in a document only the last four digits of that number should be used. If financial account numbers must be included only incomplete numbers should be recited in the document.

*c.* Parties are not required to omit or redact protected information from materials or cases deemed confidential by any statute or rule of the supreme court; however, omission or redaction is required for materials that are initially confidential but which later become public, such as records in dissolution proceedings.

**1.422(2)** *Omission or redaction allowed.* A party may omit or redact any of the following information from documents and exhibits filed with the court unless the information is material to the proceedings or disclosure is otherwise required by law:

*a.* Other personal identifying numbers, such as driver's license numbers.

*b.* Information concerning medical treatment or diagnosis.

*c.* Employment history.

*d.* Personal financial information.

*e.* Proprietary or trade secret information.

*f.* Information concerning a person's cooperation with the government.

*g.* Information concerning crime victims.

*h.* Sensitive security information.

*i.* Home addresses.

*j.* Dates of birth.

*k.* Names of minor children.

[Report May 31, 2006, effective September 1, 2006; August 28, 2006, effective November 1, 2006]

**Rule 1.423 Limited representation pleadings and papers.**

**1.423(1)** *Disclosure of limited representation.* Every pleading or paper filed by a pro se party that was prepared with the drafting assistance of an attorney who contracted with the client to limit the scope of representation pursuant to Iowa R. Prof'l Conduct 32:1.2(c) shall state that fact before the signature line at the end of the pleading or paper that was prepared with the attorney's assistance. The attorney shall advise the client that such pleading or other paper must contain this statement.

The pleading or paper shall also include the attorney's name, personal identification number, address, telephone number and, if available, facsimile transmission number, but shall not be signed by the attorney. If the drafting assistance was provided as part of services offered by a nonprofit legal services organization or a volunteer component of a nonprofit or court-annexed legal services program, the name, address, telephone number and, if available, facsimile transmission number of the program may be included in lieu of the business address, telephone number, and facsimile transmission number of the drafting attorney.

**1.423(2)** *Drafting attorney's duty.* In providing drafting assistance to the pro se party, the attorney shall determine, to the best of the attorney's knowledge, information, and belief, that the pleading or paper is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not filed for any improper purpose, such as to harass or to cause an unnecessary delay or needless increase in the cost of litigation. The attorney providing drafting assistance may rely on the pro se party's representation of facts, unless the attorney has reason to believe that such representation is false or materially insufficient, in which instance the attorney shall make an independent, reasonable inquiry into the facts.

**1.423(3)** *Not an appearance by attorney.* The identification of an attorney who has provided drafting assistance in the preparation of a pleading or paper shall not constitute an entry of appearance by the attorney for purposes of rule 1.404(1) and does not authorize service on the attorney or entitle the attorney to service as provided in rule 1.442.

[Report March 12, 2007, effective May 15, 2007]

**Rules 1.424** to **1.430** Reserved.

C. MOTIONS

**Rule 1.431 Motion practice; generally.**

**1.431(1)** A motion is an application made by any party or interested person for an order related to the action. It is not a "pleading" but is subject to the certification requirements of rule 1.413(1).

**1.431(2)** Each motion filed shall be captioned and signed in accordance with rule 1.411 and shall set out the specific points upon which it is based.

**1.431(3)** A concise memorandum brief citing supporting authorities may be served in accordance with rule 1.442(4).

**1.431(4)** Unless otherwise ordered by the court or provided by rule or statute, each party opposing the motion shall file within ten days after a copy of the motion has been served a written resistance to the motion. A concise brief citing supporting authorities may be served in accordance with rule 1.442(4).

**1.431(5)** Within seven days after service of the resistance or before any hearing on the motion, whichever is earlier, the movant may file a reply and serve a concise reply brief in accordance with rule 1.442(4) to assert newly decided authority or to respond to new and unanticipated matters. The reply brief should not reargue points made in the opening brief.

**1.431(6)** Evidence to sustain or resist a motion may be made by affidavit or in any other form to which the parties agree or the court directs. The court may require any affiant to appear for cross-examination.

**1.431(7)** The trial court shall rule on all motions within 30 days after their submission, unless it extends the time for reasons stated of record.

**1.431(8)** The clerk of each court shall maintain a motion calendar on which every motion filed shall be entered. It shall be arranged to show the following:

*a.* Docket, page and cause number of action in which filed.
*b.* Abbreviated title of the case with surname of the first-named party on each side.
*c.* Counsel of record for parties.
*d.* Denomination of the motion.
*e.* Date filed.
*f.* Party by whom filed.
*g.* Date entered on calendar.
*h.* Date of disposition by ruling, order or otherwise.

Separate motion calendars for law, equity or other divisions may be maintained.

**1.431(9)** The court may deem a motion under these rules submitted without hearing or may schedule a hearing, either in person or by telephone conference call, on the motion. The court shall,

upon agreement of the parties, direct that the hearing be held by telephone conference call unless a party notifies the court that oral testimony will be offered. If the hearing is held by telephone conference call, the call shall be arranged and paid for by the party making the motion, unless the parties agree otherwise.

**1.431(10)** Hearings on temporary orders pursuant to Iowa Code sections 598.10 and 600B.40A, whether testimony is taken or not, shall occur in the presence of the parties who have appeared for the hearing. If the court conducts the hearing by telephone or video conference, the parties are entitled to be present for the hearing by the same means the court uses to conduct the hearing.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; January 7, 2010, effective March 8, 2010; March 9, 2010, effective May 10, 2010; Court Order February 14, 2017, temporarily effective February 14, 2017, permanently effective April 17, 2017]

**COMMENT:** Rule 1.431 is a consolidation of former Iowa Rs. Civ. P. 109, 116, 117(c), 117(e), 117(f), and portions of 117(a), all of which pertained to motions, filing of motions, evidence to sustain or resist them, placing them on the motion calendar, and the time within which they should be ruled upon.

**Rule 1.432 Failure to move; effect of overruling motion.** No pleading shall be held sufficient for failure to move to strike or dismiss it. If such motion is filed and overruled, error in such ruling is not waived by pleading over or proceeding further; and the moving party may always question the sufficiency of the pleading during subsequent proceedings.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.433 Motion for more specific statement.** A party may move for a more specific statement of any matter not pleaded with sufficient definiteness to enable the party to plead to it and for no other purpose. It shall point out the insufficiency claimed and particulars desired.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.434 Motion to strike.** Improper or unnecessary matter in a pleading may be stricken out on motion of the adverse party.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.435 Motion days; submission of pretrial motions.**

**1.435(1)** The chief judge of each judicial district shall provide by order for motion days to be held each month in each county, when all pretrial motions on file 14 days or more shall be deemed submitted unless a hearing has been set or another time for submission is fixed by rule, statute, or order of court entered for good cause shown. A party who has been served with original notice or has appeared shall take notice of the regular motion day on which motions will be heard.

**1.435(2)** The court may hear and rule on any motion prior to motion day so as not to delay completing the issues or trial of the case.

**1.435(3)** The court may require counsel to be apprised, in any manner it directs, of the time and place at which it will hear or act on any motion, application or other matter other than at the regular motion day. This subrule shall be applied to expedite, but not delay, hearings and submissions.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rules 1.436** to **1.440** Reserved.

D. TIME, FILING, AND NOTICE REQUIREMENTS

**Rule 1.441 Time to move or plead.**

**1.441(1)** *Motions.* Motions attacking a pleading must be served before responding to the pleading or, if no responsive pleading is required by these rules, within 20 days after the service of the pleading on such party.

**1.441(2)** *Pleading.* Answer to a petition must be served on or before the date prescribed in accordance with rule 1.303. A party served with a pleading stating a cross-claim against the party shall serve an answer thereto within 20 days after the service of the pleading upon the party. The plaintiff shall serve a reply to a counterclaim in the answer within 20 days after service of the answer, or if a reply is ordered by the court, within 20 days after service of the order, unless the order otherwise directs.

**1.441(3)** *Time after filing motions.* The service of a motion permitted under the rules in this chapter alters these periods of time as follows, unless a different time is fixed by order of the court.

If the motion is so disposed of as to require further pleading, such pleading shall be served within ten days after notice of the court's action.

**1.441(4)** *Response to amendments.* A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within ten days after service of the amended pleading, whichever is longer, unless the court otherwise orders.

**1.441(5)** *Shortening time.* The court may order any motion or pleading to be filed within a shorter time than specified above.

**1.441(6)** *Extending time.* For good cause, but not ex parte, the court may extend the time to answer or reply for not more than 30 days beyond the times above specified. For good cause but not ex parte, and upon such terms as the court prescribes, the court may grant a party the right to file an answer or reply where the time to file same has expired.

**1.441(7)** *Notice of removal to federal court.* The filing of a notice of removal to the federal court shall suspend the jurisdiction of the state court until an order of the federal court, remanding the cause, or determining that the removal has not been perfected, is filed in the state court. Thereupon, the times fixed for motions or pleadings shall begin anew.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.442 Service and filing of pleadings and other papers.**

**1.442(1)** *When service is required.* Unless the court otherwise orders, everything required to be filed by the rules in this chapter; every order required by its terms to be served; every pleading subsequent to the original petition; every paper relating to discovery; every written motion including one which may be heard ex parte; and every written notice, appearance, demand, offer of judgment, and similar paper shall be served upon each of the parties. No service need be made on any party against whom a default has been entered except that pleadings asserting new or additional claims for relief against the party shall be served upon the party in the manner provided for service of original notice in rule 1.305. In an action begun by seizure of property, in which no person need be or is named as defendant, any service required to be made prior to the filing of an answer, claim, or appearance shall be made upon the person having custody or possession of the property at the time of its seizure.

**1.442(2)** *How service is made.* Service upon a party represented by an attorney shall be made upon the attorney unless service upon the party is ordered by the court. Service on an attorney who has made a limited appearance for a party shall constitute valid service on the represented party only in connection with the specific proceedings for which the attorney has appeared, including any hearing or trial at which the attorney appeared. Service shall be made by delivering, mailing, or transmitting by fax (facsimile) a copy to the attorney or to the party at the attorney's or party's last known address or, if no address is known, by leaving it with the clerk of court. Delivery within this rule means: handing it to the attorney or to the party; leaving it at the attorney's or party's office; or, if the office is closed or the person to be served has no office, leaving it at the attorney's or party's dwelling house or usual place of abode with some person of suitable age and discretion residing therein. Service by mail is complete upon mailing.

Service may also be made upon a party or attorney by electronic mail (e-mail) if the person consents in writing in that case to be served in that manner. The written consent shall specify the e-mail address for such service. The written consent may be withdrawn by written notice served on all other parties or attorneys. Service by electronic means is complete upon transmission, unless the party making service learns that the attempted service did not reach the person to be served.

**1.442(3)** *Same: numerous defendants.* In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross-claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

**1.442(4)** *Filing.* Except as provided in rule 1.502, all papers after the petition required to be served upon a party shall be filed with the court either before service or within a reasonable time thereafter; however, no party shall file legal briefs or memoranda, except in support of or resistance to a motion for summary judgment, unless expressly ordered by the court. Such briefs and memoranda shall be served upon the parties with an original copy delivered to the presiding judge. The party submitting the legal brief or memoranda shall file a statement certifying compliance with this rule. Whenever these rules or the rules of appellate procedure require a filing with the district court or its clerk within

a certain time, the time requirement shall be tolled when service is made, provided the actual filing is done within a reasonable time thereafter.

**1.442(5)** *Filing with the court defined.* The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that a judicial officer may permit them to be filed with the judicial officer, who shall note thereon the filing date and time and forthwith transmit them to the office of the clerk.

**1.442(6)** *Notice of orders or judgments.* Immediately upon the entry of an order or judgment the clerk shall serve a notice of the entry by mail in the manner provided for in this rule upon each party except a party against whom a default has been entered and shall make a note in the docket of the mailing. In the event a case involves an appeal or review relating to an administrative agency, officer, commissioner, board, administrator, or judge, the clerk shall mail without cost to the applicable administrative agency, officer, commissioner, board, administrator, or judge a copy of any remand order, final judgment or decision in the case and a copy of any procedendo from the supreme court.

Such mailing is sufficient notice for all purposes for which notice of the entry of an order is required by the rules in this chapter; but any party may in addition serve a notice of such entry in the manner provided in this rule for the service of papers. Lack of notice of the entry by the clerk does not affect the time to appeal or relieve or authorize the district court to relieve a party for failure to appeal within the time allowed.

**1.442(7)** *Certificate of service.* All papers required or permitted to be served or filed shall include a certificate of service. Action shall not be taken on any paper until a certificate of service is filed in the clerk's office. The certificate shall identify the document served and include the date, manner of service, names and addresses of the persons served. The certificate shall be signed by the person making service. Unless ordered by the court, no other proof of service shall be filed.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; November 22, 2002, effective February 1, 2003; March 12, 2007, effective May 15, 2007; November 12, 2009, effective January 11, 2010]

**COMMENT:** Rule 1.442(2) authorizes service by facsimile transmission and deletes archaic and unnecessary language regarding service by delivery to a clerk or person in charge of an office which is not closed. Rule 1.442(7) clarifies that all documents served or filed shall include a certificate of service, that proofs of service shall not be filed regarding documents that are not to be filed, and it sets forth the requirements of a certificate of service and prohibits the filing of other proofs of service unless ordered by the Court.

**Rule 1.443 Enlargement; additional time after service.**

**1.443(1)** *Enlargement.* When by the rules in this chapter or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion do the following:

*a.* With or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order.

*b.* Upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under rules 1.1001, 1.1003, and 1.1004, except to the extent and under the conditions stated in rule 1.1007.

**1.443(2)** *Additional time after service by mail, e-mail, or facsimile transmission.* When by the rules in this chapter a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served upon the party by mail, e-mail, or facsimile transmission, three days shall be added to the prescribed period. Such additional time shall not be applicable where a court has prescribed the method of service of notice and the number of days to be given or where the deadline runs from entry or filing of a judgment, order or decree.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; November 22, 2002, effective February 1, 2003]

**Rule 1.444 Pleading over; election to stand.** If a party is required or permitted to plead further by an order or ruling, the clerk shall forthwith mail or deliver notice of such order or ruling to the attorneys of record. Unless otherwise provided by order or ruling, such party shall file such further pleading within ten days after such mailing or delivery; and if such party fails to do so within such time, the party thereby elects to stand on the record theretofore made. On such election, the ruling shall be deemed a final adjudication in the trial court without further judgment or order; reserving only such issues, if any, which remain undisposed of by such ruling and election.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rules 1.445** to **1.450** Reserved.

E. COURT ACTION

**Rule 1.451 Specific rulings required.** A motion, or other matter involving separate grounds or parts, shall be disposed of by separate ruling on each and not sustained generally.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.452 Order defined.** Every direction of the court, made in writing and not included in the judgment or decree, is an order.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.453 When and how entered.** A judge may enter judgments, orders or decrees at any time after the matter has been submitted, effective when filed with the clerk, or as provided by rule 1.442(5). The clerk shall promptly mail or deliver notice of such entry, or copy thereof, to each party appearing, or to one of the party's attorneys. The clerk is authorized to deliver any judgments, orders, decrees or notices to the e-mail address provided by the attorney or party.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; June 29, 2009, effective August 28, 2009]

**Rule 1.454** Reserved.

**Rule 1.455 Preliminary determination.** On application of any party, the motion for judgment on the pleadings under rule 1.954, and the defenses of (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) improper venue, (4) insufficiency of process, (5) insufficiency of service of process, (6) failure to state a claim upon which relief can be granted, and (7) failure to join a party under rule 1.234, whether made in a pleading or by motion, shall be determined before trial, unless the court orders that determination thereof be deferred until the trial.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.456 Cross-petition, cross-claim, counterclaim; judgment.** Where judgment in the original case can be entered without prejudice to the rights in issue under a cross-petition, cross-claim or counterclaim, it shall not be delayed thereby.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.457 Amending to conform to the evidence.** When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be served thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice that party in maintaining the action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.458 Special action; proper remedy awarded.** In any case of mandamus, certiorari, appeal to the district court, or for specific equitable relief, where the facts pleaded and proved do not entitle the petitioner to the specific remedy asked, but do show the petitioner entitled to another remedy, the court shall permit the petitioner on such terms, if any, as it may prescribe, to amend by asking for such latter remedy, which may be awarded.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rules 1.459** to **1.499** Reserved.

## DIVISION V
DISCOVERY AND INSPECTION

### Rule 1.500 Duty to disclose; required disclosures.

**1.500(1)** *Initial disclosures.*

*a. In general.* Except as exempted by rule 1.500(1)(*e*) or as otherwise stipulated or ordered by the court, a party must, without awaiting a discovery request, provide to the other parties:

(1) The name and, if known, the address, telephone numbers, and electronic mail address of each individual likely to have discoverable information, along with the subjects of that information, that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.

(2) All documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

1. Unless good cause exists for not doing so, copies of the documents or electronically stored information listed must be served with the disclosure.

2. If copies of any document or electronically stored information are not produced, the disclosing party must state the good cause for not producing the items and provide a description by category, location, and the name and address of the custodian of the document or electronically stored information.

3. A party who provides documents in disclosure must produce them as they are kept in the usual course of business.

(3) A computation of each category of damages claimed by the disclosing party, who must also make available for inspection and copying as under rule 1.512 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered; provided, however, that this rule 1.500(1)(*a*)(3) does not require disclosure of the exact dollar amounts claimed for noneconomic damages.

(4) For inspection and copying as under rule 1.512, and notwithstanding rule 1.503(2), the declarations page of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment that may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment, and, in any action in which coverage is or may be contested, a copy of the agreement and all letters from the insurer to the insured regarding coverage.

*b. Claims for personal or emotional injury.* Except as exempted by rule 1.500(1)(*e*) or as otherwise stipulated or ordered by the court, and in addition to the initial disclosures required by rule 1.500(1)(*a*), any party asserting a claim for damages for personal or emotional injuries must, without awaiting a discovery request, provide to the other parties:

(1) The claimant's full name and date of birth.

(2) The claimant's Medicare health insurance claim number (HICN).

(3) The names and addresses of all doctors, hospitals, clinics, pharmacies, and other health care providers claimant consulted within five years prior to the date of injury up to the present date.

(4) Legally sufficient written waivers allowing the opposing party to obtain those records subject to appropriate protective provisions authorized by rule 1.504. The opposing party must give contemporaneous notice to the claimant when the opposing party uses the waivers to obtain records and must provide a copy of all records obtained by waiver to the claimant and all other parties. Any party who requests that the opposing party produce these records in nonelectronic form must bear the opposing party's costs of producing them in that form.

*c. Claims for lost time or earning capacity.* Except as exempted by rule 1.500(1)(*e*) or as otherwise stipulated or ordered by the court, and in addition to the initial disclosures required by rule 1.500(1)(*a*), any party asserting a claim for damages for lost time or lost earning capacity must, without awaiting a discovery request, provide to the other parties:

(1) The claimant's federal and state income tax returns for the five years prior to the date of disclosure.

(2) The names and addresses of all persons by whom the claimant has been employed for the five years prior to the date of disclosure.

(3) Legally sufficient written waivers allowing the opposing party to obtain the claimant's personnel files and payment histories from each employer subject to appropriate protective provisions authorized by rule 1.504.

1. The opposing party must give contemporaneous notice to the claimant when the opposing party uses the waiver to obtain records and must provide a copy of all records obtained by waiver to the claimant and all other parties.

2. Any party who requests that the opposing party produce these records in nonelectronic form must bear the opposing party's costs of producing them in that form.

*d. Domestic relations proceedings.*

(1) Except as otherwise stipulated or ordered by the court and in lieu of the initial disclosures required by rule 1.500(1)(*a*), in domestic relations actions involving any contested claim, including divorce, custody, modification, and paternity actions, each party must, without awaiting a discovery request, provide to the other party copies of the following:

1. Paystubs or other documentation showing the party's income from all sources, deductions for federal and state taxes, health insurance premiums, union dues, and mandatory pension withholdings for the past six months. If children are involved, the party providing health insurance must provide a breakdown of the cost of an individual health insurance plan and the cost of a family plan.

2. The party's federal and state income tax returns, including all schedules and W-2's, for the three most recent years if not in the possession of the other person.

3. A current financial affidavit, including a description of all assets and liabilities.

4. Statements of account or other documentation to support the assets or liabilities listed in the financial affidavit.

(2) If the action is a modification case or an unmarried custody case, the parties must provide only the information contained in rules 1.500(1)(*d*)(1)(1) and 1.500(1)(*d*)(1)(2).

*e. Proceedings exempt from initial disclosure.* Unless otherwise ordered by the court or agreed to by the parties, the requirements of rules 1.500(1)(*a*) through (*d*) do not apply to the following:

(1) Actions for certiorari or for judicial review of administrative agency actions under Iowa Code chapter 17A.

(2) Actions for forcible entry and detainer.

(3) Domestic relations proceedings in which there are no contested claims.

(4) Adoption proceedings, name change proceedings, actions under Iowa Code chapter 236, and actions initiated by Child Support Services.

(5) Foreclosure proceedings in which there are no contested claims.

(6) Actions for postconviction relief or any other proceeding to challenge a criminal conviction or sentence.

(7) Probate proceedings in which there are no contested claims.

(8) Juvenile proceedings.

(9) Mental health proceedings.

(10) Actions under Iowa Code chapters 225, 229, and 229A.

(11) Actions to enforce an arbitration award or an out-of-state judgment.

(12) Small claims proceedings under Iowa Code chapter 631.

*f. Time for initial disclosures in general.* Except in domestic relations proceedings, a party must make the initial disclosures at or within 14 days after the parties' rule 1.507 discovery conference unless a different time is set by stipulation or court order, or unless a party objects during the conference that initial disclosures are not appropriate in the action and states the objection in the proposed discovery plan. In ruling on the objection, the court must determine what disclosures, if any, are to be made and must set the time for disclosure. In domestic relations proceedings, a party must make the initial disclosures within 60 days of filing of the petition unless a different time is set by stipulation or court order or unless the court, upon motion, relieves the parties from the obligation to provide initial disclosures.

*g. Time for initial disclosures for parties served or joined later.* A party who is first served or otherwise joined after the rule 1.507 discovery conference must make the initial disclosures within 30 days after being served or joined, unless a different time is set by stipulation or court order.

*h. Basis for initial disclosure; unacceptable excuses.* A party must make the initial disclosures based on the information then reasonably available to the party. A party is not excused from making the disclosures because the party has not fully investigated the case, because the party challenges the

sufficiency of another party's disclosures, because another party has not made that party's disclosures, or because the information is in the possession, custody, or control of the party's insurance carrier.

**COMMENT:**

**Rule 1.500.** The entirety of rule 1.500 is added. With some modifications, the rule adopts the required disclosures currently used by the federal courts and by a number of states that have also recently engaged in civil justice reform. Like its federal counterpart, the rule seeks to accelerate the exchange of basic information and eliminate the delay and expense of serving formal discovery requests seeking routine information that will be produced as a matter of course in most cases.

The information disclosed under rule 1.500(1) is subject to a continuing duty to supplement. *See* rule 1.500(5).

[Court Order August 28, 2014, effective January 1, 2015]

**1.500(2)** *Disclosure of expert testimony.*

*a. In general.* In addition to the disclosures required by rule 1.500(1), a party must disclose to the other parties the identity of any witness the party may use at trial to present evidence under Iowa Rules of Evidence 5.702, 5.703, and 5.705.

*b. Witnesses who must provide a written report.* Unless otherwise stipulated or ordered by the court, this disclosure must be accompanied by a written report—prepared and signed by the witness—if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony. The report must contain the following:

(1) A complete statement of all opinions the witness will express and the basis and reasons for them.

(2) The facts or data considered by the witness in forming the opinions.

(3) Any exhibits that will be used to summarize or support the opinions.

(4) The witness's qualifications, including a list of all publications authored in the previous ten years.

(5) A list of all other cases in which, during the previous four years, the witness testified as an expert at trial or by deposition.

(6) A statement of the compensation to be paid for the study and testimony in the case.

*c. Witnesses who do not provide a written report.* Unless otherwise stipulated or ordered by the court, if the witness is not required to provide a written report, this disclosure must state:

(1) The subject matter on which the witness is expected to present evidence under Iowa Rules of Evidence 5.702, 5.703, or 5.705.

(2) A summary of the facts and opinions to which the witness is expected to testify.

*d. Time to disclose expert testimony.* A party must make these disclosures at the times and in the sequence set forth in the court's trial scheduling order. If not otherwise ordered, expert disclosures shall be due:

(1) No later than 90 days before the date set for trial; or

(2) Within 30 days after the other party's disclosures if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under rule 1.500(2)(*b*) or (*c*).

*e. Supplementing disclosures.* The parties must supplement these disclosures when required under rule 1.508(3).

**COMMENT:**

**Rule 1.500(2)(*d*).** The rule contemplates that in many, if not most, cases, scheduling of disclosure of expert testimony will be governed by a trial scheduling order. *See* Iowa R. Civ. P. 1.907; Iowa Ct. R. 23.5—Form 2: Trial Scheduling and Discovery Plan.

[Court Order August 28, 2014, October 30, 2014, effective January 1, 2015]

**1.500(3)** *Pretrial disclosures.*

*a. In general.* In addition to the disclosures required by rules 1.500(1) and 1.500(2), a party must provide to the other parties and promptly file the following information about the evidence the party may present at trial other than evidence to be used solely for impeachment:

(1) The name and, if not previously provided, the address, telephone numbers, and electronic mail address of each witness, separately identifying the witnesses the party expects to present and those the party may call if the need arises.

(2) The page and line designation of those witnesses whose testimony the party expects to present by deposition and, if not taken stenographically, a transcript of the pertinent parts of the deposition.

(3) An identification of each document or other exhibit, including summaries of other evidence, separately identifying those items the party expects to offer and those it may offer if the need arises.

*b. Time for pretrial disclosures; objections.* Pretrial disclosures must be made at least 14 days before trial. This deadline may be modified by order of the court or stipulation of the parties, provided, however, that the parties may not stipulate to a pretrial disclosure deadline of less than 7 days before trial. A party may serve and promptly file a list of the following objections: any objections to the

use under rule 1.704 of a deposition designated by another party under rule 1.500(3)(*a*)(2), and any objection, together with the grounds for it, that may be made to the admissibility of materials identified under rule 1.500(3)(*a*)(3). Objections must be served and filed within 7 days of the pretrial disclosures, or within 4 days if the pretrial disclosure deadline is less than 10 days before trial, unless the court directs otherwise. An objection not so made, except for one under Iowa Rule of Evidence 5.402 or 5.403, is waived unless excused by the court for good cause.

*c. Duty to supplement unaffected.* Rule 1.500(3) does not affect the obligation of a party to timely supplement disclosures and discovery responses as required by rule 1.503(4)(*a*)(2).

**COMMENT:**

**Rules 1.500(3)(*a*) and 1.500(3)(*b*).** Rules 1.500(3)(*a*) and (*b*) mirror Federal Rule of Civil Procedure 26(*a*)(3). The duty to disclose final trial witnesses, deposition testimony, and exhibits is governed by the Time Standards for Case Processing in rule 23.5 of the Iowa Court Rules. Rule 23.5 is mandatory and applies to all civil actions. This rule incorporates into the Iowa Rules of Civil Procedure the duty to make pretrial disclosures. Iowa Court Rule 23.5—Form 2: Trial Scheduling and Discovery Plan, implements these and other scheduling deadlines.

[Court Order August 28, 2014, October 30, 2014, effective January 1, 2015]

**Rule 1.500(3)(*b*).** The federal rules require that pretrial disclosures occur at least 30 days before trial and that objections occur within 14 days thereafter. Former rule 23.5—Form 2 of the Iowa Court Rules imposed a later deadline, requiring disclosure of all witness and exhibit lists at least 7 days before trial, with objections due within 5 days thereafter (2 days before trial). Requiring pretrial disclosures 30 days before trial could result in unnecessary time and effort. The former 7-day deadline, however, may have been in some circumstances too close to trial. Rule 1.500(3)(*b*) requires parties to make pretrial disclosures two weeks in advance of trial, unless they stipulate to a different deadline, which cannot be less than one week before trial. The rule also gives opposing parties one week thereafter to respond, unless the disclosure deadline was less than 10 days before trial. Iowa Court Rule 23.5—Form 2: Trial Scheduling and Discovery Plan reflects these changes.

[Court Order August 28, 2014, October 30, 2014, effective January 1, 2015]

**1.500(4)** *Form of disclosures.* Unless the court orders otherwise, all disclosures under rule 1.500 must be in writing, signed, and served.

**1.500(5)** *Supplementing the disclosures.* The parties must supplement these disclosures when required under rules 1.503(4) and 1.508(3).

**1.500(6)** *Effective date.* Rule 1.500 applies only to actions commenced on or after January 1, 2015, provided that the court may in any case direct the parties to comply with all or part of the rule as part of a pretrial order.

[Court Order August 28, 2014, October 30, 2014, effective January 1, 2015; Court Order April 1, 2015, temporarily effective April 1, 2015, permanently effective June 1, 2015; June 30, 2023, temporarily effective July 1, 2023, permanently effective August 30, 2023]

## Rule 1.501 Discovery methods.

**1.501(1)** In addition to the disclosures required by rule 1.500, and subject to the timing provisions of rule 1.505, parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and requests for admission.

**1.501(2)** The rules providing for discovery and inspection should be liberally construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding and to provide the parties with access to all relevant facts.

**1.501(3)** Discovery must be conducted in good faith, and responses to discovery requests, however made, must fairly address and meet the substance of the request. Any discovery motion presented to the court must include a certification that the movant has in good faith personally spoken with or attempted to speak with other affected parties in an effort to resolve the dispute without court action. The certification must identify the date and time of any conference or attempts to confer.

**COMMENT:**

**Rule 1.501(3).** The rule makes the certification of conference requirement apply to all discovery motions. A similar provision is contained in rule 1.504(3) governing motions for protective order and in rule 1.517(5) governing sanctions and motions to compel. Telephonic conferences satisfy the conference requirement of these rules.

[Court Order August 28, 2014, effective January 1, 2015]

**1.501(4)** A rule requiring a matter to be under oath may be satisfied by an unsworn written statement in substantially the following form: "I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

_____ _____
Date Signature”

[Report 1943; amendment 1957; amendment 1967; amendment 1973; February 13, 1986, effective July 1, 1986; May 28, 1987, effective August 3, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; August 28, 2014, effective January 1, 2015]

**Rule 1.502 Discovery materials not filed.** Unless otherwise ordered by the court, no deposition, notice of deposition, interrogatory, request for production of documents, request for admission, or response, document or thing produced, or objection thereto shall be filed with the clerk. Any motion under rule 1.517 attacking the sufficiency of a response to a discovery request must have a copy of the request and response attached or the motion may be denied. This rule does not apply to depositions to perpetuate testimony under rules 1.721 through 1.728.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.503 Scope of discovery.** Unless otherwise limited by order of the court in accordance with the rules in this chapter, the scope of discovery shall be as provided in this division.

**1.503(1)** *In general.* Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things, the identity and location of persons having knowledge of any discoverable matter, and the identity of witnesses the party expects to call to testify at the trial. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

*a.* Unless otherwise provided in a request for discovery, a request for the production of a “document” or “documents” shall encompass electronically stored information. Any reference in the rules in this division to a “document” or “documents” shall encompass electronically stored information.

*b.* All discovery is subject to the limitations of rule 1.503(8).

**1.503(2)** *Insurance agreements.* In addition to the initial disclosures required by rule 1.500(1)(*a*)(4), a party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial. For purposes of this rule, an application for insurance shall not be treated as part of an insurance agreement.

**COMMENT:**

**Rule 1.503(2).** Notwithstanding the initial disclosure obligation in rule 1.500(1)(*a*)(4), rule 1.503(2) clarifies that additional discovery regarding insurance is still allowed, but the fruits of that discovery will not necessarily be admissible.

[Court Order August 28, 2014, effective January 1, 2015]

**1.503(3)** *Trial-preparation materials.* Subject to the provisions of rule 1.508, a party may obtain discovery of documents and tangible things otherwise discoverable under rule 1.503(1) and prepared in anticipation of litigation or for trial by or for another party or by or for that other party’s representative (including the party’s attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of the case and that the party seeking discovery is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the court shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.

A party may obtain without the required showing a statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement concerning the action or its subject matter previously made by that person. If the request is refused, the person may move for a court order. The provisions of rule 1.517(1)(*d*) apply to the award of expenses incurred in relation to the motion. For purposes of this rule, a statement previously made is any of the following:

*a.* A written statement signed or otherwise adopted or approved by the person making it.

*b.* A stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

**1.503(4)** *Supplementing disclosures and responses.* A party who has made a disclosure under rule 1.500, or who has responded to a request for discovery, must timely supplement or correct the party's disclosure or response as follows:

*a.* A party must timely supplement or correct any disclosure or response that concerns any of the following:

(1) The identity and location of persons having knowledge of discoverable matters.

(2) The identity of each person expected to be called as a witness at trial.

(3) Any matter that bears materially upon a claim or defense asserted by any party to the action.

*b.* A party is under a duty seasonably to supplement or correct its disclosure or a prior response if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.

*c.* As provided in rule 1.508(3), a party must supplement discovery as to experts and the substance of their testimony.

*d.* An additional duty to supplement responses may be imposed by order of the court, agreement of the parties, or at any time prior to trial through new requests to supplement prior responses.

**COMMENT:**

**Rule 1.503(4)(*b*).** The amendment eliminates the "knowing concealment" requirement that had triggered the duty to supplement incorrect discovery responses. Rule 1.503(4)(*b*) now tracks the federal rule by requiring supplementation of any response that the answering party learns is materially incomplete or incorrect unless that information has already otherwise been disclosed in discovery. *See* Fed. R. Civ. P. 26(e)(1)(A).

[Court Order August 28, 2014, effective January 1, 2015]

**1.503(5)** *Claims of privilege or protection of trial-preparation materials.*

*a. Information withheld.* When a party withholds information otherwise discoverable under these rules by claiming that it is privileged or subject to protection as trial-preparation material, the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

*b. Information produced.* If information is produced in discovery that is subject to a claim of privilege or of protection as trial-preparation material, the party making the claim may notify any party that received that information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The producing party must preserve the information until the claim is resolved.

**1.503(6)** *Signing disclosures and discovery requests, responses, and objections.*

*a. Signature required; effect of signature.* Every disclosure under rule 1.500 and every discovery request, response, or objection must be signed by at least one attorney of record in the attorney's own name—or by the party personally, if unrepresented—and must state the signer's name, law firm, or name of partnership, association, corporation, or tribe on behalf of which the filing agent is signing, and mailing address, telephone number, and electronic mail address. By signing, an attorney or party certifies that to the best of the person's knowledge, information, and belief formed after a reasonable inquiry:

(1) The disclosure is complete and correct as of the time it is made.

(2) The discovery request, response, or objection is:

1. Consistent with these rules and warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law, or for establishing new law.

2. Not interposed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

3. Neither unreasonable or unduly burdensome or expensive, considering the needs of the case, prior discovery in the case, the amount in controversy, and the importance of the issues at stake in the action.

*b. Failure to sign.* Other parties have no duty to act on an unsigned disclosure, request, response, or objection until it is signed, and the court must strike it unless a signature is promptly supplied after the omission is called to the attorney's or party's attention.

*c. Sanction for improper certification.* If a certification violates this rule without substantial justification, the court, on motion or on its own, shall impose an appropriate sanction on the signer, the party on whose behalf the signer was acting, or both. The sanction may include an order to pay the reasonable expenses, including attorney fees, caused by the violation.

**COMMENT:**

**Rule 1.503(6).** The rule is patterned on Federal Rule of Civil Procedure 26(g). Having a separate certification requirement tailored specifically to discovery more effectively deters discovery abuse. *See* rule 1.413(1) (providing that its certification obligation does not apply to discovery).

[Court Order August 28, 2014, effective January 1, 2015]

**1.503(7)** *Reliance on disclosures and discovery responses of other parties.* Any party may rely on any other party's disclosures or discovery responses to the extent permitted by otherwise applicable evidentiary rules and regardless of when that party is joined. Unless requested to do so by a current party, the responding party has no duty to supplement its responses to discovery requests after the propounding party has been dismissed from the case.

**1.503(8)** *Limitations on frequency and extent.* On motion or on its own, the court shall limit the frequency or extent of discovery otherwise allowed by these rules if it determines that:

*a.* The discovery sought is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive;

*b.* The party seeking discovery has had ample opportunity to obtain the information by discovery in the action; or

*c.* The burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

[Report 1943; amendment 1973; amended by 65GA, ch 315, §3; amendment 1980; Report February 13, 1986, effective July 1, 1986; May 28, 1987, effective August 3, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; February 14, 2008, effective May 1, 2008; August 28, 2014, effective January 1, 2015]

**COMMENT:** Rule 1.503(4) states the duty to supplement in the affirmative and expands that duty to require supplementation as to material matters and as to experts.

## Rule 1.504 Protective orders.

**1.504(1)** Upon motion by a party or by the person from whom discovery is sought or by any person who may be affected thereby, and for good cause shown, the court in which the action is pending or alternatively, on matters relating to a deposition, the court in the district where the deposition is to be taken:

*a.* May make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) That the discovery not be had.

(2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place, or the allocation of expenses.

(3) That the discovery may be had only by a method of discovery other than that selected by the party seeking discovery.

(4) That certain matters not be inquired into, or that the scope of the discovery be limited to certain matters.

(5) That discovery be conducted with no one present except persons designated by the court.

(6) That a deposition after being sealed be opened only by order of the court.

(7) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way.

(8) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

*b.* On motion or on its own, shall limit the frequency and extent of use of the methods described in rule 1.501(1) in accordance with the limitations of rule 1.503(8).

**COMMENT:**

**Rule 1.504(1).** Rather than repeating the proportionality limitations contained in the scope of discovery, rule 1.504(1) cross-references proportionality. Additionally, in recognition of the court's independent obligation to ensure the proportionality of discovery, rule 1.504(2) expressly authorizes the court to limit sua sponte the frequency and extent of discovery.

[Court Order August 28, 2014, effective January 1, 2015]

**1.504(2)** A party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the party from whom discovery is sought must show

that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of rule 1.503(8). The court may specify conditions for the discovery.

**1.504(3)** A motion for protective order must include a certification that the movant has in good faith personally spoken with or attempted to speak with other affected parties in an effort to resolve the dispute without court action. The certification must identify the date and time of any conference or attempts to confer. If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or person provide or permit discovery. The provisions of rule 1.517(1)(*d*) apply to the award of expenses incurred in relation to the motion.
[Report 1943; amendment 1965; amendment 1970; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; February 14, 2008, effective May 1, 2008; August 28, 2014, effective January 1, 2015]

**Rule 1.505 Timing and sequence of discovery.**

**1.505(1)** *Timing.*

*a.* A party may not seek discovery from any source before the parties have conferred as required by rule 1.507, except in a proceeding exempt from initial disclosure under rule 1.500(1)(*e*), or when authorized by these rules, by stipulation, or by court order. In domestic relations proceedings, unless it has been stipulated or ordered that initial disclosures under rule l.500(1)(*d*) need not be made, a party may not seek discovery from any source before the initial disclosures under rule 1.500(1)(*d*) have occurred.

*b.* The discovery moratorium of rule 1.505(1) applies only to actions commenced on or after January 1, 2015, provided that the court may in any case direct the parties to comply with all or part of the rule as part of a pretrial order.

**1.505(2)** *Sequence.* Unless the court upon motion orders otherwise for the convenience of parties and witnesses and in the interests of justice, or the parties stipulate, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery.
[Report 1943; amendment 1957; amendment 1973; November 9, 2001, effective February 15, 2002; August 28, 2014, effective January 1, 2015; March 7, 2018, effective January 1, 2019]

**Rule 1.506 Stipulations regarding discovery procedure.** Unless the court orders otherwise, the parties may by written stipulation do the following:

**1.506(1)** Provide that depositions may be taken before any qualified person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions.

**1.506(2)** Modify the procedures provided by these rules for other methods of discovery.
[Report 1975; amended by 66GA, ch 259, §1; amendment 1976; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**COMMENT:** As parties rarely enter into formal stipulations extending the times to answer interrogatories or respond to production requests, the requirement for formal stipulations is removed. Formal stipulations remain required for extensions of time for responding to requests for admissions. The final phrase of the rule clarifies the time within which a response is required in the event the court supersedes a stipulation. Consistent with rule 1.502, the requirement that discovery stipulations be filed, including those regarding responses to requests for admissions, is deleted.

**Rule 1.507 Discovery conference of the parties.**

**1.507(1)** *Conference timing.* Except in a proceeding exempt from initial disclosure under rule 1.500(1)(*e*), a domestic relations proceeding, or when the court orders otherwise, the parties must confer as soon as practicable, but no later than 21 days after any defendant has answered or appeared. In cases transferred to the district court from the small claims court, the parties must confer as soon as practicable, but no later than 21 days after the date the case is docketed in the district court. The plaintiff must notify all parties of the discovery conference deadline. Except as otherwise stipulated or ordered by the court, the filing of a pre-answer motion under rule 1.421 does not affect the obligation to participate in the discovery conference or to make disclosures required by rule 1.500(1).

**1.507(2)** *Conference content; parties' responsibilities.* In conferring, parties must consider the nature and basis of their claims and defenses and the possibilities for promptly settling or resolving the case; make or arrange for the disclosures required by rule 1.500(1); discuss any issues about preserving discoverable information; and develop a proposed discovery plan. The attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for arranging the

conference, for attempting in good faith to agree on the proposed discovery plan, and for submitting to the court within seven days after the conference a written report outlining the plan. The court may order the parties or attorneys to attend the conference in person. The discovery plan must be submitted in all events prior to the trial-setting conference.

**1.507(3)** *Discovery plan.* The discovery plan will be included in Iowa Court Rule 23.5—Form 2: Trial Scheduling and Discovery Plan, and except as otherwise ordered by the court, a discovery plan must state the parties' views and proposals on the following:

*a.* Changes that should be made in the timing, form, or requirement for disclosures under rule 1.501(1), including a statement of when initial disclosures were made or will be made.

*b.* Subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused on particular issues.

*c.* Issues about disclosure, discovery, or preservation of electronically stored information, including the form or forms in which the information should be produced.

*d.* Issues about claims of privilege or of protection as trial preparation materials, including—if the parties agree on a procedure to assert these claims after production—whether to ask the court to include the parties' agreement in an order under Iowa Rule of Evidence 5.502.

*e.* Changes that should be made to the limitations on discovery imposed under these rules, and other limitations that should be imposed.

*f.* Any other orders that the court should issue under rule 1.504 or under rule 1.602.

**1.507(4)** *Pretrial conference.* Following the parties' discovery conference, any party may request the court to convene a pretrial conference under rule 1.602 to resolve any objection or disputed issue identified in the parties' discovery plan.

**COMMENT:**

**Rule 1.507.** The rule is substantially rewritten to provide that parties, including pro se litigants, have a duty to confer early in a case and cooperate in framing a discovery plan to submit to the court. The rule is patterned on the federal attorney conference rule, Federal Rule of Civil Procedure 26(f). Rule 1.507 envisions that the discovery conference will occur before the rule 1.906 trial-setting conference. The parties must submit the discovery plan within 7 days after the discovery conference, and initial disclosures are due within 14 days after the discovery conference.

[Court Order August 28 2014, October 30, 2014, effective January 1, 2015]

[Report May 28, 1987, effective August 3, 1987; November 9, 2001, effective February 15, 2002; February 14, 2008, effective May 1, 2008; August 28, 2014, October 30, 2014, effective January 1, 2015; Court Order April 1, 2015, temporarily effective April 1, 2015, permanently effective June 1, 2015; March 7, 2018, effective January 1, 2019]

## Rule 1.508 Discovery of experts.

**1.508(1)** *Expert who is expected to be called as a witness.* In addition to the disclosures and discovery provided pursuant to rules 1.500(2) and 1.516, discovery of facts known, mental impressions, and opinions held by an expert whom the other party expects to call as a witness at trial, otherwise discoverable under the provisions of rule 1.503(1) and acquired or developed in anticipation of litigation or for trial, may be obtained as follows:

*a. Deposition of an expert who may testify.* A party may depose any person who has been identified as an expert whose opinions may be presented at trial. If rule 1.500(2)(*b*) requires a report from the expert, the deposition may be conducted only after the report is provided.

*b. Discovery by other means.* Subject to rules 1.508(1)(*d*) and (*e*), a party may also obtain discovery of documents and tangible things including all tangible reports, physical models, compilations of data, and other material prepared by an expert or for an expert in anticipation of the expert's trial and deposition testimony. The disclosure of material prepared by an expert used for consultation is required even if it was prepared in anticipation of litigation or for trial when it forms a basis, either in whole or in part, of the opinions of an expert who is expected to be called as a witness.

*c. Tangible form.* Subject to rules 1.508(1)(*d*) and (*e*), if the discoverable factual observations, tests, supporting data, calculations, photographs, or opinions of an expert who will be called as a witness have not been recorded and reduced to tangible form, the court may order these matters be reduced to tangible form and produced within a reasonable time before the date of trial.

*d. Trial preparation protection for draft reports or interrogatory answers.* Rule 1.503(3) protects drafts of any report or disclosure required under rule 1.500(2), regardless of the form in which the draft is recorded.

*e. Trial preparation protection for communications between a party's attorney and expert witnesses.* Rule 1.503(3) protects communications between the party's attorney and any witness required to provide a report under rule 1.500(2)(*b*), regardless of the form of the communications, except to the extent that the communications:

(1) Relate to compensation for the expert's study or testimony.

(2) Identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed.

(3) Identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed.

**1.508(2)** *Expert who is not expected to be called as a witness.* The disclosure of the same information concerning an expert used for consultation and who is not expected to be called as a witness at trial is required if the expert's work product forms a basis, either in whole or in part, of the opinions of an expert who is expected to be called as a witness. Otherwise, a party may discover the identity of and facts known, or mental impressions and opinions held, by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial, only as provided in rule 1.516 or upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

**1.508(3)** *Duty to supplement discovery as to experts.* For an expert whose report must be disclosed under rule 1.500(2)(*b*), the party's duty to supplement extends both to information included in the report and to information given during the expert's deposition. Any additions or changes to this information must be disclosed no later than 30 days before trial. Failure to disclose or supplement the identity of an expert witness or the information described in rule 1.500(2) is subject to sanctions under rule 1.517(3)(*a*).

**1.508(4)** *Expert testimony at trial.* The expert's direct testimony at trial may not be inconsistent with or go beyond the fair scope of the expert's disclosures, report, deposition testimony, or supplement thereto.

**1.508(5)** *Expert fees during discovery.* Unless manifest injustice would result, the court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under rules 1.508(1) and 1.508(2). With respect to discovery obtained under rule 1.508(1), the court may require, and with respect to discovery obtained under rule 1.508(2), the court shall require the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert. Any fee which the court requires to be paid shall not exceed the expert's customary hourly or daily fee; and, in connection with a party's deposition of another party's expert, shall include the time reasonably and necessarily spent in connection with such deposition, including time spent in travel to and from the deposition, but excluding time spent in preparation.

**1.508(6)** *Effective date.* Rules 1.508(1)(*a*), 1.508(*d*), 1.508(1)(*e*), and 1.508(3) apply only to actions commenced on or after January 1, 2015, provided that the court may in any case direct the parties to comply with all or part of the rules as part of a pretrial order.

[Report 1943; amendment 1957; amendment 1973; Report May 28, 1987, effective August 3, 1987; June 23, 1988, effective September 1, 1988; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; August 28, 2014, effective January 1, 2015]

**Rule 1.509 Interrogatories to parties.**

**1.509(1)** *Availability; procedures for use.*

*a.* Except in small claims, any party may serve written interrogatories to be answered by another party or, if the other party is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party.

*b.* Each interrogatory, unless the court has ordered otherwise, must be provided in an electronic word processing format. An interrogatory that does not comply with this requirement shall be subject to objection.

*c.* Each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath. The grounds for objecting to an interrogatory must be stated with specificity. Any ground not stated in a timely objection is waived unless the court, for good cause, excuses the failure. A party may answer an interrogatory in whole or in part subject to an objection without waiving that objection. Any answer so provided is subject to the duty to supplement set forth in rule 1.503(4), but the party does not waive the objection by supplementing. Where an answer is provided subject to an objection, the answering party must specify the extent to which the requested information has not been provided.

*d.* A party answering interrogatories must set out each interrogatory immediately preceding the answer to it. A failure to comply with this rule shall be deemed a failure to answer and shall be subject to sanctions as provided in rule 1.517. Answers are to be signed by the person making them. Answers shall not be filed; however, they shall be served upon all adverse parties within 30 days after the interrogatories are served. Objections, if any, must be signed by the attorney who objects and must be served within 30 days after the interrogatories are served. The court may allow a shorter or longer time. The party submitting the interrogatories may move for an order under rule 1.517(1) with respect to any objection to or other failure to answer an interrogatory.

*e.* Except as provided in rule 1.509(4), or unless otherwise stipulated or ordered by the court for good cause shown, a party must not serve on any other party more than 30 interrogatories, including all discrete subparts. Any discrete subpart to a nonpattern interrogatory will be considered a separate interrogatory. A motion for leave of court to serve more than 30 interrogatories must be in writing and shall set forth the proposed interrogatories and the reasons establishing good cause for their use.

**COMMENT:**

**Rule 1.509(1)(*c*).** The rule mirrors Federal Rule of Civil Procedure 33(b)(3) and (4) in requiring that objections to interrogatories be specific and providing that any ground not raised in a timely objection is waived. The rule further allows a party to respond to an interrogatory subject to an objection without waiving that objection. In such cases, however, the responding party must clearly indicate whether any responsive information is being withheld subject to the objection.

[Court Order August 28, 2014, effective January 1, 2015]

**1.509(2)** *Scope; use at trial.*

*a.* Interrogatories may relate to any matters which can be inquired into under rule 1.503, including a statement of the specific dollar amount of money damages claimed, the amounts claimed for separate items of damage, and the names and addresses of witnesses the party expects to call to testify at the trial. Interrogatory answers may be used to the extent permitted by the rules of evidence.

*b.* An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the court may order that such an interrogatory need not be answered until after designated discovery has been completed or until a pretrial conference or other later time.

**1.509(3)** *Option to produce business records.* Where the answer to an interrogatory may be derived or ascertained from the business records, including electronically stored information, of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, or from a compilation, abstract or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries. A specification shall be in sufficient detail to permit the party serving the interrogatory to locate and identify as readily as can the party served, the records from which the answer may be ascertained.

**1.509(4)** *Pattern interrogatories.* The supreme court, by supervisory order or otherwise, may approve pattern interrogatories for different classes of cases. Any pattern interrogatory and its subparts are counted as one interrogatory.

**COMMENT:**

**Rule 1.509(4).** Parties are encouraged to use supreme court-approved pattern discovery when appropriate. A party may use one or more pattern interrogatories that are part of an approved set of pattern interrogatories. Any approved pattern interrogatory is counted as one interrogatory in determining the total number of permissible interrogatories, regardless of the number of subparts or multiple inquiries within the interrogatory. In contrast, each discrete subpart of a nonpattern interrogatory will count as a separate interrogatory. A party may combine pattern interrogatories with other interrogatories, subject to applicable limitations as to number. A party should not serve pattern interrogatories that have no application to the case.

[Court Order August 28, 2014, effective January 1, 2015]

[Report 1943; amendment 1957; amendment 1973; amendment 1975; amendment 1976; amendment 1980; amendment 1983; amendment 1984; Report April 30, 1987, effective July 1, 1987; November 30, 1993, effective March 1, 1994; September 23, 1994, effective January 3, 1995; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; February 17, 2006, effective May 1, 2006; February 14, 2008, effective May 1, 2008; August 28, 2014, effective January 1, 2015]

**COMMENT:** The requirement to file answers or objections, absent court order, is eliminated. Notices of serving interrogatories are abolished. Rule 1.509(2) adds to the permissible scope of interrogatories the amounts claimed for items of damages approved by the court in *Gordon v. Noel,* 356 N.W. 2d 559 (Iowa 1984), and the addresses of trial witnesses.

**Rule 1.510 Requests for admission.**

**1.510(1)** *Availability; procedures for requests.* A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of rule 1.503 set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying.

Each matter of which an admission is requested shall be separately set forth.

A party shall not serve more than 30 requests for admission on any other party except upon agreement of the parties or leave of court granted upon a showing of good cause. A motion for leave of court to serve more than 30 requests for admission must be in writing and shall set forth the proposed requests and the reasons establishing good cause for their use.

**1.510(2)** *Time for and content of responses.* The matter is admitted unless, within 30 days after service of the request, or within such shorter or longer time as the court may on motion allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by the party's attorney, but, unless the court shortens the time, a defendant shall not be required to serve answers or objections before the expiration of 60 days after service of the original notice upon defendant.

If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify the party's answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that the party has made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; the party may, subject to the provisions of rule 1.517(3) deny the matter or set forth reasons why the party cannot admit or deny it.

**1.510(3)** *Determining sufficiency of responses.* The party who has requested the admission may move to determine the sufficiency of the answers or objections. Unless the court determines that an objection is justified, it shall order that an answer be served. If the court determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be served. The court may, in lieu of these orders, determine that final disposition of the request be made at a pretrial conference or at a designated time prior to trial. The provisions of rule 1.517(1)(*d*) apply to the award of expenses incurred in relation to the motion.

[Report 1943; amendment 1957; amendment 1973; amendment 1984; February 13, 1986, effective July 1, 1986; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; March 7, 2018, effective January 1, 2019]

**Rule 1.511 Effect of admission.** Any matter admitted under rule 1.510 is conclusively established in the pending action unless the court on motion permits withdrawal or amendment of the admission. Subject to the provisions of rule 1.604 governing amendment of a pretrial order, the court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice that party in maintaining that party's action or defense on the merits. Any admission made by a party under rule 1.510 may be used only as an evidentiary admission in any other proceeding.

[Report 1943; amendment 1957; amendment 1973; February 13, 1986, effective July 1, 1986; November 9, 2001, effective February 15, 2002; July 11, 2002, effective October 1, 2002]

**Rule 1.512 Production of documents, electronically stored information, and things; entry upon land for inspection and other purposes.**

**1.512(1)** *Requests.* Any party may serve on any other party a request:

*a.* To produce and permit the party making the request, or someone acting on that party's behalf, to inspect, copy, test, or sample any designated documents or electronically stored information—including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations stored in any medium from which information can be obtained—translated, if necessary, by the respondent into a reasonably usable form.

*b.* To inspect, copy, test, or sample any designated tangible things which constitute or contain matters within the scope of rule 1.503 and which are in the possession, custody or control of the party upon whom the request is served.

*c.* To permit, except as otherwise provided by statute, entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of rule 1.503.

**1.512(2)** *Procedure.*

*a. Making requests.* The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts. The request may specify the form in which electronically stored information is to be produced.

*b. Responses and objections.*

(1) The party upon whom the request is served shall serve a written response within 30 days after the service of the request. The court may allow a shorter or longer time.

(2) For each item or category, the response must state that inspection and related activities will be permitted as requested or state the grounds for objecting to the request with specificity, including reasons. If the responding party states that the party will produce copies of documents or of electronically stored information instead of permitting inspection, the production must be completed no later than the time for inspection stated in the request or a later reasonable time stated in the response.

(3) Any ground not stated in a timely objection is waived unless the court, for good cause, excuses the failure. A party may respond to a request in whole or in part subject to an objection without waiving that objection. Any response so provided is subject to the duty to supplement set forth in rule 1.503(4), but the party does not waive the objection by supplementing.

(4) An objection must state whether any responsive materials are being withheld on the basis of the objection. An objection to part of a request must specify the part and permit inspection of the rest. When a response is provided subject to an objection, the responding party must specify the extent to which the requested information has not been provided.

(5) The response may state an objection to a requested form for producing electronically stored information. If the responding party objects to a requested form for producing electronically stored information, or if no form was specified in the request, the responding party must state the form or forms it intends to use.

*c. Motion to compel.* The party submitting the request may move for an order under rule 1.517 with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

*d. Production.* Unless the parties otherwise agree, or the court otherwise orders:

(1) A party who produces documents for inspection shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

(2) If a request does not specify the form for producing electronically stored information, the responding party must produce the information in a form in which it is ordinarily maintained or in a form that is reasonably usable.

(3) A party need not produce the same electronically stored information in more than one form.

**1.512(3)** *Pattern requests.* The supreme court, by supervisory order or otherwise, may approve pattern requests for production for different classes of cases.

[Report 1943; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; February 14, 2008, effective May 1, 2008; August 28, 2014, effective January 1, 2015]

**Rule 1.513** Reserved.

**Rule 1.514 Action for production or entry against persons not parties.** Rule 1.512 does not preclude an independent action against a person not a party for production of documents and things and permission to enter upon land.

[Report 1943; amendment 1957; amendment 1973; November 9, 2001, effective February 15, 2002; February 14, 2008, effective May 1, 2008]

**Rule 1.515 Physical and mental examination of persons.** When the mental or physical condition (including the blood group) of a party, or of a person in the custody or under the legal control of a party, is in controversy, the court in which the action is pending may order the party to submit to a physical or mental examination by a health care practitioner or to produce for examination the person in the party's custody or legal control. The order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.
[Report 1943; amendment 1957; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**COMMENT:** Rule 1.515 expands the category of those who can conduct a court-ordered physical or mental examination from only physicians to all health care practitioners.

**Rule 1.516 Report of health care practitioner.**

**1.516(1)** If requested by the party against whom an order is made under rule 1.515 or the person examined, the party causing the examination shall deliver a copy of the examiner's detailed written report setting out the findings, including results of all tests made, diagnosis and conclusions, together with like reports of all earlier examinations of the same condition. After delivery, if requested by the party causing the examination, the party against whom the order is made shall deliver a like report of any examination of the same condition, previously or thereafter made, unless the party shows an inability to obtain a report of examination of a nonparty. The court on motion may order a party to deliver a report on such terms as are just. If an examiner fails or refuses to make a report the court may exclude the examiner's testimony if offered at the trial.

**1.516(2)** By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the party examined waives any privilege the party may have in that action or any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine the party in respect of the same mental or physical condition.

**1.516(3)** This rule applies to examination made by agreement of the parties, unless the agreement expressly provides otherwise. This rule does not preclude discovery of a report of an examiner or the taking of a deposition of the examiner in accordance with the provisions of any other rule or statute.
[Report 1943; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.517 Consequences of failure to make disclosures or discovery.**

**1.517(1)** *Motion for order compelling disclosures or discovery.* A party, upon reasonable notice to other parties and all persons affected thereby, may move for an order compelling disclosure or discovery as follows:

*a. Appropriate court.* A motion for an order to a party may be made to the court in which the action is pending, or, on matters relating to a deposition, to the court in the district where the deposition is being taken. A motion for an order to a deponent who is not a party shall be made to the court in the district where the deposition is being taken.

*b. Specific motions.*

(1) *To compel disclosure.* If a party fails to make a disclosure required by rule 1.500, any other party may move to compel disclosure and for appropriate sanctions.

(2) *To compel a discovery response.* If a deponent fails to answer a question propounded or submitted under rule 1.701 or 1.710, or a corporation or other entity fails to make a designation under rule 1.707(5), or a party fails to answer an interrogatory submitted under rule 1.509, or if a party, in response to a request for inspection submitted under rule 1.512, fails to produce documents, or fails to respond that inspection will be permitted, or fails to permit inspection, the party seeking discovery may move for an order compelling an answer, a designation, or an inspection in accordance with the request.

(3) *Related to a deposition.* When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before moving for an order.

(4) *Default; notice; protective orders.* If a motion to compel is filed and the time for resistance of that motion has expired without a resistance having been filed, the court may grant the motion without a hearing.

(5) *Sanctions.* Any order granting a motion made under this rule shall include a statement that a failure to comply with the order may result in the imposition of sanctions pursuant to rule 1.517.

(6) *Protective order.* In ruling on such motion, the court may make such protective order as it would have been empowered to make on a motion pursuant to rule 1.504(1).

*c. Evasive or incomplete answer.* For purposes of this rule an evasive or incomplete answer is to be treated as a failure to answer.

*d. Award of expenses of motion.*

(1) If the motion is granted, or if the disclosure or requested discovery is provided after the motion was filed, the court shall, after opportunity for hearing, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney's fees, unless the court finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust.

(2) If the motion is denied, the court shall, after opportunity for hearing, require the moving party or the attorney advising the motion or both of them to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing the motion, including attorney's fees, unless the court finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.

(3) If the motion is granted in part and denied in part, the court may apportion the reasonable expenses incurred in relation to the motion among the parties and persons in a just manner.

*e. Notice to litigants.* If the motion is granted, the court shall direct the clerk to serve a copy of the order to counsel and to the party or parties whose conduct, individually or by counsel, necessitated the motion.

**1.517(2)** *Failure to comply with order.*

*a. Sanctions by court in district where deposition is taken.* If a deponent fails to be sworn or to answer a question after being directed to do so by the court in the district in which the deposition is being taken, the failure may be considered a contempt of that court.

*b. Sanctions by court in which action is pending.* If a party or an officer, director, or managing agent of a party or a person designated under rule 1.707(5) to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under rule 1.515 or rule 1.517(1), the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following:

(1) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order.

(2) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting such party from introducing designated matters in evidence.

(3) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party.

(4) In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey any orders except an order to submit to a physical or mental examination.

(5) In lieu of any of the foregoing orders or in addition thereto, the court shall require the disobedient party or the attorney advising such party or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

**1.517(3)** *Failure to disclose, to supplement an earlier response, or to admit.*

*a. Failure to disclose or supplement.* If a party fails to provide information or identify a witness as required by rule 1.500, 1.503(4), or 1.508(3), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless. In addition to or instead of this sanction, the court, on motion or after giving an opportunity to be heard:

(1) May order payment of the reasonable expenses, including attorney's fees, caused by the failure.

(2) May inform the jury of the party's failure.

(3) May impose other appropriate sanctions, including any of the orders listed in rule 1.517(2)(*b*).

*b. Expenses on failure to admit.* If a party fails to admit the genuineness of any document or the truth of any matter as requested under rule 1.510, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, the requesting party may move for an order requiring the other party to pay the reasonable expenses incurred in making that

proof, including reasonable attorney's fees. The court shall make the order unless it finds any of the following:

(1) The request was held objectionable pursuant to rule 1.510.

(2) The admission sought was of no substantial importance.

(3) The party failing to admit had reasonable grounds to believe that the party might prevail on the matter.

(4) There was other good reason for the failure to admit.

**1.517(4)** *Failure of party to attend at own deposition or serve answers to interrogatories or respond to request for inspection.* If a party or an officer, director, or managing agent of a party or a person designated under rule 1.707(5) to testify on behalf of a party fails:

*a.* To appear before the officer who is to take the person's deposition, after being served with a proper notice; or

*b.* To serve answers or objections to interrogatories submitted under rule 1.509, after proper service of the interrogatories; or

*c.* To serve a written response to a request for inspection submitted under rule 1.512, after proper service of the request, the court in which the action is pending on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized under rule 1.517(2)(*b*)(1), (2), (3), and (5).

*d.* The failure to act described in rule 1.517(4) may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order as provided by rule 1.504.

**1.517(5)** *Motions relating to discovery.* No motion relating to depositions, discovery, or discovery sanctions may be filed with the clerk or considered by the court unless the motion alleges that the movant has in good faith personally spoken with or attempted to speak with other affected parties in an effort to resolve the dispute without court action. The certification must identify the date and time of any conference or attempts to confer.

**1.517(6)** *Electronically stored information.* Absent exceptional circumstances, a court may not impose sanctions under these rules on a party for failing to provide electronically stored information lost as a result of the routine, good-faith operation of an electronic information system.

**1.517(7)** *Failure to participate in framing a discovery plan.* If a party or its attorney fails to participate in good faith in developing and submitting a proposed discovery plan as required by rule 1.507, the court may, after giving an opportunity to be heard, require that party or attorney to pay to any other party the reasonable expenses, including attorney fees, that the failure causes.

[Report 1943; amendment 1957; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; February 14, 2008, effective May 1, 2008; August 28, 2014, effective January 1, 2015]

**COMMENT:** Rule 1.517(1)(*b*) requires that any order granting a motion to compel discovery shall warn of the possibility of sanctions, and rule 1.517(1)(*e*) requires that such an order shall be mailed by the clerk to both the attorney and client.

**Rules 1.518** to **1.600** Reserved.

## DIVISION VI
## PRETRIAL PROCEDURE

**Rule 1.601 Pretrial calendar.** The court may provide for a pretrial calendar in any county, which may extend to all actions, or be limited either to jury or nonjury actions.

[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.602 Pretrial conferences; scheduling; management.**

**1.602(1)** *Pretrial conferences; objectives.* In any action, the court may in its discretion direct the attorneys for the parties and any unrepresented parties to appear before it for a conference or conferences before trial for such purposes as:

*a.* Expediting the disposition of the action.

*b.* Establishing early and continuing control so that the case will not be protracted because of lack of management.

*c.* Discouraging wasteful pretrial activities.

*d.* Improving the quality of the trial through more thorough preparation.

*e.* Facilitating the settlement of the case.

**1.602(2)** *Scheduling and planning.*

*a.* Upon application of any party or on the court's own motion, except in categories of cases exempted by supreme court rule as inappropriate, the court or its designee shall enter a scheduling order setting time limits for all of the following:

(1) Joining other parties.

(2) Designating experts.

(3) Completing discovery.

(4) Amending the pleadings.

(5) Filing and hearing motions.

*b.* After consulting with the attorneys for the parties and any unrepresented parties, the court may also order any of the following:

(1) Special procedures, including assignment to a single judge, for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems.

(2) Provisions for discovery of electronically stored information.

(3) Any agreements the parties reach for asserting claims of privilege or of protection as trial-preparation materials after production.

(4) The date or dates for conferences before trial, a final pretrial conference and trial.

(5) Any other matters appropriate in the circumstances of the case including extension of those deadlines which are then justified.

*c.* A schedule shall not be modified except by leave of the court upon a showing of good cause.

**1.602(3)** *Subjects to be discussed at pretrial conferences.* The court at any conference under this rule may consider and take action with respect to the following:

*a.* The formulation and simplification of the issues, including the elimination of frivolous claims or defenses.

*b.* The necessity or desirability of amendments to the pleadings.

*c.* The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof, stipulations regarding the authenticity of documents, and advance rulings from the court on the admissibility of evidence.

*d.* The avoidance of unnecessary proof including limitation of the number of expert witnesses and of cumulative evidence.

*e.* The identification of witnesses and documents, the need and schedule for filing and exchanging pretrial briefs, and the date or dates for further conferences and for trial.

*f.* The advisability of referring matters to a master.

*g.* The possibility of settlement and imposition of a settlement deadline or the use of extrajudicial procedures to resolve the dispute.

*h.* The substance of the pretrial order.

*i.* The disposition of pending motions.

*j.* Settling any facts of which the court is to be asked to take judicial notice.

*k.* Specifying all damage claims in detail as of the date of conference.

*l.* All proposed exhibits and mortality tables and proof thereof.

*m.* Consolidation, separation for trial, and determination of points of law.

*n.* Questions relating to voir dire examination of jurors.

*o.* Filing of advance briefs when required.

*p.* Such other matters as may aid in the disposition of the action.

At least one of the attorneys for each party participating in any conference before trial shall have authority to enter into stipulations and to make admissions regarding all matters that the participants may reasonably anticipate may be discussed.

**1.602(4)** *Final pretrial conference.* A final pretrial conference shall be held as close to the time of trial as reasonable under the circumstances. The participants at any such conference shall formulate a plan for trial, including a program for facilitating the admission of evidence. The conference shall be attended by at least one of the attorneys who will conduct the trial for each of the parties and by any unrepresented parties.

**1.602(5)** *Sanctions.* If a party or party's attorney fails to obey a scheduling or pretrial order, or if no appearance is made on behalf of a party at a scheduling or pretrial conference, or if a party or party's attorney is substantially unprepared to participate in the conference, or if a party or party's attorney fails to participate in good faith, the court, upon motion or the court's own initiative, may

make such orders with regard thereto as are just, and among others any of the orders provided in rule 1.517(2)(*b*)(2) - (4). In lieu of or in addition to any other sanction, the court shall require the party or the attorney representing that party or both to pay the reasonable expenses incurred because of any noncompliance with this rule, including attorney's fees, unless the court finds that the noncompliance was substantially justified or that other circumstances make an award of expenses unjust.
[Report 1943; amendment 1961; amendment 1979; amendment 1982; amendment 1983; Report June 16, 1987, effective September 1, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; February 14, 2008, effective May 1, 2008]

**Rule 1.603 Pretrial conference; record.** On the request of any interested counsel or the court, the reporter must record the entire conference, or any designated part thereof.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.604 Pretrial orders.** After any conference held pursuant to rule 1.602, an order shall be entered reciting the action taken. This order shall control the subsequent course of the action unless modified by a subsequent order. The order following a final pretrial conference shall be in accordance with the final pretrial order form found in rule 1.1901, form 6, and shall be modified only to prevent manifest injustice.
[Report 1943; amendment 1957; Report May 28, 1987, effective August 3, 1987; November 9, 2001, effective February 15, 2002]

**Rules 1.605** to **1.700** Reserved.

## DIVISION VII
## DEPOSITIONS AND PERPETUATING TESTIMONY

### A. DEPOSITIONS

**Rule 1.701 Depositions upon oral examination.**

**1.701(1)** *When depositions may be taken.*

*a. Without leave.* Any party may, by deposition upon oral examination, take the testimony of any person, including a party, without leave of court except as provided in rule 1.701(*b*). The attendance of witnesses may be compelled by subpoena as provided in rule 1.715.

*b. With leave.* Leave of court, granted with or without notice, must be obtained if:

(1) The parties have not stipulated to the deposition and the party seeks to take the deposition before the time specified in rule 1.505(1), unless special notice is given as provided in rule 1.701(2); or

(2) The parties have not stipulated to the deposition and the deponent has already been deposed in the case; or

(3) The deponent is confined in prison.

**1.701(2)** *Special notice for taking of deposition by plaintiff.* Leave of court is not required for the taking of a deposition by plaintiff if the notice, in addition to those things required by rule 1.707(1), does the following:

*a.* States that the person to be examined is about to go out of the state and will be unavailable for examination unless the person's deposition is taken before the expiration of ten days after the date for motion or answer for any defendant.

*b.* Sets forth facts to support the statement. The plaintiff's attorney shall sign the notice, and the attorney's signature constitutes a certification by the attorney that to the best of the attorney's knowledge, information, and belief the statement and supporting facts are true.

If a party shows that upon being served with notice under this rule, the party was unable through the exercise of diligence to obtain counsel to represent the party at the taking of the deposition, the deposition may not be used against that party.

**1.701(3)** *Enlarging and shortening time.* The court may for cause shown enlarge or shorten the time for taking the deposition.

**1.701(4)** *Recording.* The court may upon motion order that the testimony at a deposition be recorded by other than stenographic means, in which event the order shall designate the manner of recording, preserving, and filing the deposition, and may include other provisions to ensure that the recorded testimony will be accurate and trustworthy. If the order is made, a party may nevertheless arrange to have a stenographic transcription made at the party's own expense. Leave of court is

not required to record testimony by nonstenographic means if the deposition is also to be recorded stenographically.

**1.701(5)** *Place of deposition.*

*a.* Oral depositions may be taken only within this state or within 100 miles from the nearest Iowa point. But, upon motion of the party desiring the deposition, and after hearing on notice to the other parties, the court may order it orally taken at any other specified place, if the issue is sufficiently important and the testimony cannot reasonably be obtained by written interrogatories or by deposition by telephone.

*b.* If the deponent is a party or the officer, partner or managing agent of a party which is not a natural person, the deponent shall be required to submit to examination in the county where the action is pending, unless otherwise ordered by the court.

**1.701(6)** *Failure to attend or serve subpoena; expenses.*

*a.* If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by the other party and the other party's attorney in attending, including reasonable attorney's fees.

*b.* If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon the witness and the witness does not attend because of such failure, and if another party attends in person or by attorney because such other party expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by the other party and the other party's attorney in attending, including reasonable attorney's fees.

**1.701(7)** *Depositions by telephone.* Any deposition permitted by the rules in this chapter may be taken by telephonic means.

A party desiring to take the deposition of any person upon oral examination by telephonic means shall give reasonable notice thereof in writing to every other party to the action. Such notice shall contain all other information required by rule 1.707(1) and shall state that the telephone conference will be arranged and paid for by the initiating party. No part of the expense for telephone service shall be taxed as costs.

The person reporting the testimony shall be in the presence of the witness unless otherwise agreed by all parties.

If any examining party desires to present exhibits to the witness during the deposition, copies shall be sent to the deponent and the parties prior to the taking of the deposition.

Nothing in this rule shall prohibit a party or counsel from being in the presence of the deponent when the deposition is taken.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; August 28, 2014, effective January 1, 2015]

**Rule 1.702 Depositions in small claims.** In small claims, depositions may not be taken unless leave of court is first obtained on notice and showing of just cause therefor and upon such terms as justice may require.

[Report 1943; amendment 1957; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**COMMENT:** The revised rule requires leave of court before any depositions may be taken in a small claims case. The prior rule required leave of court for discovery depositions and did not address depositions for evidentiary purposes. The distinction between discovery and evidentiary depositions was previously abolished.

**Rule 1.703 Deposition notice to parties in default.** A party requiring proof to obtain a judgment against a defaulted party may take depositions after serving notice on the attorney of record for the defaulted party, or on any defaulted party having no attorney of record. Parties in default are not entitled to notice as to depositions taken under any other rule.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**COMMENT:** The rule eliminates the requirement that a copy of the deposition notice be served on the Clerk if the defaulted party has no attorney and adds a requirement that notice be given to any defaulted party who has no attorney of record.

**Rule 1.704 Use of depositions.** Any part of a deposition, so far as admissible under the rules of evidence, may be used upon the trial or at an interlocutory hearing or upon the hearing of a motion in the same action against any party who appeared when it was taken, or stipulated therefor, or had due notice thereof, to do any of the following:

**1.704(1)** To impeach or contradict deponent's testimony as a witness.

**1.704(2)** For any purpose if, when it was taken, deponent was a party adverse to the offeror, or was an officer, partner, or managing agent of any adverse party which is not a natural person.

**1.704(3)** For any purpose, if the court finds that the offeror was unable to procure deponent's presence at the trial by subpoena; or that deponent is out of the state and such absence was not procured by the offeror; or that deponent is dead, or unable to testify because of age, illness, infirmity, or imprisonment.

**1.704(4)** For any purpose, if it was taken of an expert witness specially retained for litigation; or the deponent was a health care practitioner offering opinions or facts concerning a party's physical or mental condition.

**1.704(5)** On application and notice, the court may also permit a deposition to be used for any purpose, under exceptional circumstances making it desirable in the interests of justice; having due regard for the importance of witnesses testifying in open court.

[Report 1943; amendment 1957; Report August 27, 1987, effective November 2, 1987; Report March 21, 1989, effective June 1, 1989; November 9, 2001, effective February 15, 2002]

**Rule 1.705 Effect of taking or using depositions.**

**1.705(1)** If a party offers only part of a deposition, any other party may require an offer of all of the deposition relevant to the portion offered, and any other party may offer other relevant parts.

**1.705(2)** A party does not make a deponent the party's own witness by taking a deposition or using it solely under rule 1.704(1) or 1.704(2). A party introducing a deposition for any other purpose makes the deponent that party's witness, but may contradict the witness' testimony by relevant evidence.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.706 Substituted parties; successive actions.** Substitution of parties does not prevent use of depositions previously taken in the action. If an action is dismissed, depositions legally taken therein may be used in any subsequent action involving the same subject matter, between the same parties, their representatives or successors in interest.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.707 Notice for oral deposition.**

**1.707(1)** A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs.

**1.707(2)** If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.

**1.707(3)** The notice to a party deponent may be accompanied by a request made in compliance with rule 1.512 for the production of documents and tangible things at the taking of the deposition. The procedure of rule 1.512(2) shall apply to the request.

**1.707(4)** No subpoena is necessary to require the appearance of a party for a deposition. Service on the party or the party's attorney of record of notice of the taking of the deposition of the party or of an officer, partner or managing agent of any party who is not a natural person, as provided in rule 1.707(1), is sufficient to require the appearance of a deponent for the deposition.

**1.707(5)** A notice or subpoena may name as the deponent a public or private corporation or a partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the witness will testify. A subpoena shall advise a nonparty organization of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the organization. This rule does not preclude taking a deposition by any other procedure authorized in the rules in this chapter.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; February 14, 2008, effective May 1, 2008]

**Rule 1.708 Conduct of oral deposition.**

**1.708(1)** *Examination; cross-examination; recording examination; administering the oath; objections; written questions.*

*a. Examination and cross-examination; recording examination; administering oath.* Examination and cross-examination of witnesses may proceed as permitted at the trial. The officer before whom the deposition is to be taken shall put the witness under oath and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other means ordered in accordance with rule 1.701(4). If requested by one of the parties, the testimony shall be transcribed.

*b. Objections.* All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. An objection must be stated concisely in a nonargumentative and nonsuggestive manner. A person may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation ordered by the court, or to present a motion under rule 1.708(2).

*c. Participating through written questions.* In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition who shall transmit them to the officer. The officer shall propound them to the witness and record the answers verbatim.

**1.708(2)** *Sanction; motion to terminate or limit examination.*

*a. Sanction.* The court may impose an appropriate sanction, including the reasonable expenses and attorney fees incurred by any party, on a person who impedes, delays, or frustrates the fair examination of the deponent.

*b. Motion to terminate or limit.* At any time during the taking of the deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the court in the district where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in rule 1.504. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. The provisions of rule 1.517(1)(*d*) apply to the award of expenses incurred in relation to the motion.

[Report 1943; amendment 1957; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; August 28, 2014, effective January 1, 2015]

**Rule 1.709 Reading and signing depositions.**

**1.709(1)** *Where reading or signing not required.* No oral deposition reported and transcribed by an official court reporter or certified shorthand reporter of Iowa need be submitted to, read or signed by the deponent.

**1.709(2)** *Submission to witness; changes; signing.* In other cases, when the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by the witness, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or dead or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission, the officer shall sign it and state on the record the fact of the waiver or of the illness, death, or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor. The deposition may then be used as fully as though signed unless on a motion to suppress under rule 1.717(6) the court holds that the reason given for the refusal to sign requires rejection of the deposition in whole or in part.

[Report 1943; amendment 1963; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.710 Depositions on written interrogatories.**

**1.710(1)** A party may take depositions on written interrogatories after first serving all other parties not in default for failure to appear with copies thereof and with a notice stating the name, title, and address of the officer to take them, and the name and address of the deponents.

**1.710(2)** Other parties may thereafter serve successive interrogatories on each other, but only as follows: Cross-interrogatories within ten days after the notice; redirect interrogatories within five days after the latter service; and recross interrogatories within three days thereafter. On application of any party, the court may, for good cause shown, shorten or enlarge the time for serving any such succeeding interrogatories.

**1.710(3)** Within the time required for cross-interrogatories, a party may elect instead to appear and orally cross-examine, by serving notice thereof on the party taking the deposition and all other parties. The party taking the deposition shall then within five days serve all parties with notice of the date, hour, and place where the deposition will be taken, which shall allow a reasonable time to enable the parties to attend. A party may waive the original written interrogatories and examine the deponent orally.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**COMMENT:** Rules 1.710(2) and 1.710(3) allow all parties, not just those who are adversaries to the party taking the deposition, to serve written interrogatories, elect to appear and orally cross-examine the witness, and receive notice.

**Rule 1.711 Answers to interrogatories.** The party taking a deposition on written interrogatories shall promptly transmit a copy of the notice and all interrogatories to the officer designated in the notice. The officer shall promptly take deponent's answers thereto and complete the deposition, all as provided in rules 1.708 and 1.709, except that answers need not be taken stenographically.

[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.712 Certification and return; copies.**

**1.712(1)** The officer shall certify on the deposition that the witness was duly sworn and that the deposition is a true record of the testimony given by the witness. Documents and things produced for inspection during the deposition shall, upon the request of a party, be marked for identification and annexed to the deposition, and may be inspected and copied by any party, except that:

*a.* The person producing the materials may substitute copies to be marked for identification, if all parties are provided fair opportunity to verify the copies by comparison with the originals.

*b.* If the person producing the materials requests their return, the officer shall mark them, give each party an opportunity to inspect and copy them, and return them to the person producing them, and the materials may then be used in the same manner as if annexed to the deposition. Any party may move for an order that the original materials be filed with the court, pending final disposition of the case.

**1.712(2)** Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

[Report 1943; amendment 1973; amendment 1980; Report October 15, 1993, effective January 3, 1994; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.713 Before whom taken.**

**1.713(1)** The officer taking the deposition shall not be a party, a person financially interested in the action, an attorney or employee of any party, an employee of any such attorney, or any person related within the fourth degree of consanguinity or affinity to a party, a party's attorney, or an employee of either of them.

**1.713(2)** The officer taking the deposition, or any other person with whom such officer has a principal and agency relationship, shall not enter into an agreement for reporting services which does any of the following:

*a.* Requires the court reporter reporting the deposition to relinquish control of an original deposition transcript and copies of the transcript before it is certified and delivered to the custodial attorney.

*b.* Requires the court reporter to provide special financial terms or other services that are not offered at the same time and on the same terms to all other parties in the litigation.

*c.* Gives an exclusive monetary or other advantage to any party.

**1.713(3)** Depositions within the United States or a territory or insular possession thereof may be taken before any person authorized to administer oaths by the laws of the United States, this state, or any other state, or of the place where the examination is held.

**1.713(4)** Depositions in a foreign land may be taken before a secretary of embassy or legation, or a consul, vice-consul, consul-general or consular agent of the United States, or under rule 1.714.

**1.713(5)** The deposition of a witness who is in the military or naval service of the United States may be taken before any commissioned officer under whose command the witness is serving, or any commissioned officer in the judge advocate general's department.

[Report 1943; amendment 1945; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; April 9, 2003, effective July 1, 2003]

**Rule 1.714 Letters rogatory.** A commission or letters rogatory to take depositions in a foreign land shall be issued only when convenient or necessary, on application and notice, and on such terms and with such directions as are just and appropriate. They shall specify the officer to take the deposition, by name or descriptive title, and may be addressed: "To the Appropriate Judicial Authority of (country)."

[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.715 Deposition subpoena.**

**1.715(1)** On application of any party, or proof of service of a notice to take depositions under rule 1.707 or rule 1.710, the clerk of court where the action is pending shall issue subpoenas for persons named in and described in said notice of application. Subpoenas may also be issued as provided by statute or by rule 1.1701.

**1.715(2)** No resident of Iowa shall be subpoenaed to attend more than 50 miles from where the deponent resides, or is employed, or transacts business in person.

[Report 1943; amendment 1957; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; August 10, 2009, effective October 9, 2009]

**Rule 1.716 Costs of taking deposition.** Costs of taking and proceeding to procure a deposition shall be paid by the party taking it who cannot use it in evidence until such costs are paid. The judgment shall award against the losing party only such portion of these costs as were necessarily incurred for testimony offered and admitted upon the trial.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.717 Irregularities and objections.**

**1.717(1)** *Notice.* All objections to any notice of taking any depositions are waived unless promptly served in writing upon the party giving the notice.

**1.717(2)** *Officer.* Objection to the officer's qualification to take a deposition is waived unless made before such taking begins, or as soon thereafter as objector knows it or could discover it with reasonable diligence.

**1.717(3)** *Interrogatories.* All objections to the form of any written interrogatory served under rule 1.710 are waived unless the objections are served on the interrogating party within the time allowed the objector for serving succeeding interrogatories and, as to the last interrogatories authorized, within three days after the service thereof.

**1.717(4)** *Taking depositions.* Errors or irregularities occurring during an oral deposition as to any conduct or manner of taking it, or the oath, or the form of any question or answer, and any other errors which might thereupon have been cured, obviated or removed, are waived unless seasonably objected to during the deposition.

**1.717(5)** *Testimony.* Except as above provided, testimony taken by deposition may be objected to at the trial on any ground which would require its exclusion if given by a witness in open court, and objections to testimony, or competency of a witness, need not be made prior to or during the deposition, unless the grounds thereof could then have been obviated or removed.

**1.717(6)** *Motion to suppress.* All objections to the manner of transcribing the testimony, or to preparing, signing, certifying, sealing, endorsing, or transmitting the deposition, or the officer's dealing with it, are waived unless made by motion to suppress the deposition or the part complained of. Such motion shall be filed with reasonable promptness after the objector knows of, or could with reasonable diligence discover, the defect. No such motion shall be sustained unless the defect is substantial and materially affects the right of some party.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rules 1.718** to **1.720** Reserved.

B. PERPETUATING TESTIMONY

**Rule 1.721 Common law preserved.** Rules 1.722 through 1.728 do not limit the court's common law powers to entertain actions to perpetuate testimony.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.722 Application before action.** An application to take depositions to perpetuate testimony for use in an action not yet pending shall be filed in the court where the prospective action might be brought. The application shall be captioned in the name of the applicant, be supported by affidavit, and show all of the following:

**1.722(1)** That the applicant expects to be a party to an action cognizable in some court of record of Iowa, but which cannot currently be brought.

**1.722(2)** The subject matter of such action, and the applicant's interest therein.

**1.722(3)** The facts to be shown by the proposed testimony, and reasons for desiring to perpetuate it.

**1.722(4)** The name or description of each expected adverse party, with address if known.

**1.722(5)** The name and address of each deponent and the substance of the deponent's testimony.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.723 Notice of application.** The applicant shall thereafter serve a notice upon each person named in the application as an expected adverse party, together with a copy of the application, stating that the application will come on for hearing at a time and place named therein. The notice shall be served as provided for the service of original notices other than by publication at least 20 days before the date of hearing. If service cannot with due diligence be so made upon any expected adverse party named in the application, the court may make such order as is just for service by publication or otherwise, or may, upon a showing of extraordinary circumstances, prescribe a hearing upon less than 20 days' notice.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.724 Guardian ad litem.** Before hearing the application, the court shall appoint an attorney to act as guardian ad litem for any person under legal disability or not personally served with notice, who shall cross-examine for the ward if any deposition is ordered, and unless an attorney has been so appointed the deposition shall not be admissible against such person in any subsequent action.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.725 Order allowing application.** If satisfied that the application is not for the purpose of discovery, and that its allowance may prevent future delay or failure of justice, and that the applicant is unable to bring the contemplated action or cause it to be brought, the court shall order the testimony perpetuated. In its order, the court shall designate the deponents, the subject matter of their examination, the time, location and officer before whom the depositions shall be taken, and whether orally or on written interrogatories.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.726 Taking and filing testimony.** Depositions shall be taken as directed in the court's order; and shall be otherwise governed by rules 1.708 to 1.713 and 1.717. For the purpose of applying these rules to depositions for perpetuating testimony, each reference therein to the court in which the petition was filed shall be deemed to refer to the court in which the application for such deposition was filed. Unless the court enlarges the time, all such depositions must be filed therein within 30 days after the date fixed for taking them, and if not so filed cannot be later received in evidence.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.727 Limitations on use.** Any party to any later action involving any expected adverse party who was named in the application and who was served with notice as required in rule 1.723 or the privies or successors in interest of such expected adverse party, may use such deposition, or a certified copy thereof, if the deponent is dead, mentally ill or if the deponent's attendance cannot be obtained.
[Report 1943; amended by 58GA, ch 152, §202; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.728 Perpetuating testimony pending appeal.** During the time allowed for taking an appeal from judgment of a court of record or during the pendency of such appeal, that court may, on motion, allow testimony to be perpetuated for use in the event of further proceedings before it. The motion shall state the name and address of each proposed deponent, the substance of the deponent's expected testimony, and the reason for perpetuating it. If the court finds such perpetuation is proper to avoid a failure or delay of justice, and the depositions are not sought for discovery, it may order them taken as in rules 1.725 and 1.726. When taken and filed as thus provided, they shall be used and treated as though they had been taken pending the trial of the action.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rules 1.729** to **1.800** Reserved.

## DIVISION VIII
CHANGE OF VENUE

**Rule 1.801 Grounds for change.** On motion, the place of trial may be changed in the following situations:

**1.801(1)** *County.* If the county where the case would be tried is a party, the motion is by an adverse party, the issue is triable by a jury, and a jury has been demanded.

**1.801(2)** *Interest of judge.* Where the trial judge is directly interested in the action, or related by consanguinity or affinity within the fourth degree to any party.

**1.801(3)** *Prejudice or influence.* If the trial judge or the inhabitants of the county are so prejudiced against the moving party, or if an adverse party has such undue influence over the county's inhabitants that the movant cannot obtain a fair trial. The motion in such case shall be supported by affidavit of the movant and three disinterested persons, none being the agent, servant, employee or attorney of the movant, nor related to the movant by consanguinity or affinity within the fourth degree. The other party shall have a reasonable time to file counter affidavits. Affiants may be examined pursuant to rule 1.431(6).

**1.801(4)** *Agreement.* Pursuant to written agreement of the parties.

**1.801(5)** *Fraud in contract.* A defendant, respondent, or other party, sued in a county where the party does not reside, on a written contract expressly performable in that county, who has filed a sworn answer claiming fraud in the inception of said contract as a complete defense, may have the case transferred to the county of that party's residence. Within ten days after the transfer is ordered, the defendant, respondent, or other party must file a bond in an amount fixed by the court, with sureties approved by the clerk, for payment of all costs; and any judgment rendered against such party shall include costs in a reasonable amount fixed by the court for expenses incurred by plaintiff and plaintiff's attorney by reason of the change.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.802 Limitations.** Change of venue shall not be allowed under any of the following circumstances:

**1.802(1)** In an appeal from a small claims case.

**1.802(2)** Under rule 1.801(3) where the issues are triable to the court alone, except for prejudice of the judge.

**1.802(3)** Until the issues are made up, unless the objection is to the judge.

**1.802(4)** After a continuance, except for a cause arising since such continuance or not known to movant prior thereto.

**1.802(5)** After one change, for any cause then existing, and known or ascertainable with reasonable diligence.

In no event shall more than two changes be allowed to any party.
[Report 1943; July 28, 1986, effective October 1, 1986; November 9, 2001, effective February 15, 2002]

**Rule 1.803 Subsequent change.** Where the case is tried after a change of place of trial, and the jury disagrees or a new trial is granted, the court may in its discretion allow a subsequent change, under rule 1.801(1), 1.801(2), 1.801(3), or 1.801(4), subject to rule 1.802.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.804 Of whole case.** A change may be granted on motion of one of several coparties; and the whole cause shall then be transferred, unless separate trials are granted under rule 1.914.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.805 Where tried.** Unless the change is under rule 1.801(5), the court granting it shall order the trial held in a convenient county in the judicial district, or if the ground applies to all such counties, then in another judicial district. If the ground applies only to a judge, the court in its discretion may refuse a change and procure another judge to try the case where it was brought, or the supreme court may designate another judge.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.806 Costs.** Unless the change is under rule 1.801(4) or 1.801(5), the order shall designate generally all costs occasioned by the change, which movant must pay before the change is perfected. Failure to make such payment within ten days from the order waives the change of venue.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.807 Transferring cause.** When a change is ordered and the required costs paid, the clerk shall forthwith transmit to the proper court a transcript of the proceedings with any original papers and shall retain an authenticated copy. The case shall be docketed in the second court without fee and shall proceed.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.808 Action brought in wrong county.**

**1.808(1)** An action brought in the wrong county may be prosecuted there until termination, unless a defendant, before answer, moves for change to the proper county. Thereupon the court shall order the change at plaintiff's costs, which may include reasonable compensation for defendant's trouble and expense, including attorney's fees, in attending in the wrong county.

**1.808(2)** If all such costs are not paid within 20 days of the transfer order, the action shall be dismissed. Upon payment of the costs, the clerk shall forthwith transmit to the proper court the transcript of the proceedings, with any original papers, an authenticated copy of which shall be retained. The case shall be docketed in the second court without fee and shall proceed.
[Report 1943; November 30, 1993, effective July 1, 1994; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rules 1.809** to **1.900** Reserved.

## DIVISION IX
## TRIAL AND JUDGMENT

### A. TRIALS

**Rule 1.901 Trials and issues.** A trial is a judicial examination of issues in an action, whether of law or fact. Issues arise where a pleading of one party maintains a claim controverted by an adverse party. Issues are either of law or fact. An issue of fact arises on a material allegation of fact in a pleading which is denied in an adversary's pleading or by operation of law. All other issues are issues of law which must be tried first.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.902 Demand for jury trial.**

**1.902(1)** Jury trial is waived if not demanded according to this rule; but a demand once filed may not be withdrawn without consent of all parties not in default.

**1.902(2)** A party desiring a jury trial of an issue must make written demand therefor not later than ten days after the last pleading directed to that issue. A jury demand may be made in the pleading of a party and shall be noted in the caption. If filed separately with the petition, the jury demand shall be served with the original notice and petition. If filed after the petition, the jury demand shall be served and filed in accordance with rule 1.442.

**1.902(3)** Unless limited to a specific issue, every demand shall be deemed to include all issues triable to a jury. If a limited demand is filed, any other party may, within ten days thereafter or such shorter time as the court may order, file a demand for a jury trial of some or all other issues.

**1.902(4)** Notwithstanding the failure of a party to demand a jury in an action in which a demand might have been made of right, the court, in its discretion on motion and for good cause shown, but not ex parte, and upon such terms as the court prescribes, may order a trial by jury of any or all issues. [Report 1943; amendment 1945; amendment 1961; amendment 1979; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.903 Trial of issues; reporting.**

**1.903(1)** *Trial of issues.* All issues shall be tried to the court except those for which a jury is demanded. Issues for which a jury is demanded shall be tried to a jury unless the court finds that there is no right thereto or all parties appearing at the trial waive a jury in writing or orally in open court.

**1.903(2)** *Reporting.* Unless waived by the parties, all trial proceedings shall be reported including:

*a.* All oral comments or statements of the court during the progress of the trial, any objections, and the court's rulings.

*b.* The proceedings impaneling the jury, any objections, and the court's rulings.

*c.* Opening statements, any objections, and the court's rulings.

*d.* The oral testimony, offers of proof, any objections, and the court's rulings.

*e.* The fact that the testimony was closed to the public.

*f.* The identification of exhibits, by letter or number or other appropriate mark, all written or other evidence offered, any objections, and the court's rulings.

*g.* All motions or other pleas made during the trial, any objections, and the court's rulings.

*h.* Closing arguments, any objections, and the court's rulings.

*i.* The return of the verdict.

*j.* Any other proceedings before the court or jury which might be preserved and made of record by a bill of exceptions.

**1.903(3)** *Court reporter memorandum.* Promptly after reporting a proceeding a court reporter shall file a memorandum that includes all of the following:

*a.* The type of proceeding that was reported.

*b.* The date(s) on which the proceeding occurred.

*c.* The name of the court reporter who reported the proceeding.

*d.* The name of the judge who presided over the proceeding.

*e.* The reporting fee for the proceeding.

The court reporter shall use the court reporter memorandum form found in rule 1.1901, form 12. The form shall be signed by the court reporter. The court reporter is not required to serve the memorandum on the parties. The district court clerk shall enter the memorandum on the docket. This memorandum shall constitute the certification required by Iowa Code section 624.10.

**1.903(4)** *Transcripts—rates for transcribing a court reporter's official notes.* Pursuant to Iowa Code section 602.3202, the maximum compensation of shorthand reporters for transcribing their official notes shall be as provided in Iowa Ct. R. 22.28.

[Report 1943; November 9, 2001, effective February 15, 2002; April 27, 2006, effective July 1, 2006; March 15, 2007, effective June 1, 2007; July 31, 2008, effective October 1, 2008; August 10, 2009, effective October 9, 2009]

**Rule 1.904 Findings by court.**

**1.904(1)** *Findings; conclusions; judgment.* The court trying an issue of fact without a jury, whether by equitable or ordinary proceedings, shall find the facts in writing, separately stating its conclusions of law, and direct an appropriate judgment. A party, on appeal, may challenge the sufficiency of the evidence to sustain any finding without having objected to it by motion or otherwise. No request for findings is necessary for purposes of review. Findings of a master shall be deemed those of the court to the extent it adopts them.

**1.904(2)** *Motion to reconsider, enlarge, or amend.* On motion joined with or filed within the time allowed for a motion for new trial, the findings and conclusions may be reconsidered, enlarged, or amended and the judgment or decree modified accordingly or a different judgment or decree substituted. Resistances to such motions and replies may be filed and supporting briefs may be served as provided in rules 1.431(4) and 1.431(5).

**1.904(3)** *Motions to reconsider, enlarge, or amend other court orders, rulings, judgments, or decrees; time for filing.* In addition to proceedings encompassed by rule 1.904(1), a rule 1.904(2) motion to reconsider, enlarge, or amend another court order, ruling, judgment, or decree will be

considered timely if filed within 15 days after the filing of the order, judgment, or decree to which it is directed.

**1.904(4)** *Successive rule 1.904(2) motions.* Successive rule 1.904(2) motions by a party are prohibited unless the court has modified its order, ruling, judgment, or decree and the subsequent rule 1.904(2) motion is directed only at the modification.

**COMMENT:**

**Rules 1.904(3) and 1.904(4).** Rules 1.904(3) and 1.904(4) supersede prior case law that held a timely rule 1.904(2) motion must also have been "proper" to extend the time for appeal. *See, e.g., Hedlund v. State*, 875 N.W.2d 720, 725 (Iowa 2016). To obviate controversies over whether a rule 1.904(2) motion tolls the time for appeal, the rule authorizes any timely rule 1.904(2) motion to extend the appeal deadline, subject to one exception in rule 1.904(4).

Under rule 1.904, the timely filing of a rule 1.904(2) motion extends the deadline for filing a notice of appeal or an application for interlocutory appeal. *See* Iowa R. App. P. 6.101(1)(*b*) and 6.104(1)(*b*)(2). However, the rule does not address whether a rule 1.904(2) motion preserves error for purposes of appeal as to evidence or arguments raised for the first time in that motion. *See, e.g., Tenney v. Atlantic Associates,* 594 N.W.2d 11, 14 (Iowa 1999). The rule also is not intended to affect prior case law concerning a court's inherent authority to reconsider. *See Iowa Elec. Light & Power Co. v. Lagle,* 430 N.W.2d 393, 395-96 (Iowa 1988). [Court Order November 18, 2016, effective March 1, 2017]

[Report 1943; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; November 18, 2016, effective March 1, 2017]

**Rule 1.905 Exceptions unnecessary.** Exceptions to rulings or orders of court are unnecessary whenever a matter has been called to the attention of the court, by objection, motion or otherwise and the court has ruled thereon.

[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.906 Civil trial-setting conference.** Except in domestic relations proceedings, no later than 21 days after any defendant has answered or appeared, the clerk shall provide a notice of civil trial-setting conference to all parties not in default. The clerk shall use Iowa Court Rule 23.5—Form 1: Notice of Civil Trial-Setting Conference, to provide the notice. The notice shall schedule a trial-setting conference no earlier than 35 days after and no later than 50 days after any defendant has answered or appeared. The parties are responsible for obtaining a timely trial-setting conference regardless of whether a party receives notice of the trial-setting conference. Failure to receive notice shall not be grounds to avoid dismissal under rule 1.944. A party may move for an earlier trial-setting conference upon giving notice to all parties. The court and the parties shall use Iowa Court Rule 23.5—Form 2: Trial Scheduling and Discovery Plan to set the trial date. If a trial is continued, the court shall set the trial to a date certain. Unless otherwise ordered, all previous deadlines will continue to apply to the case.

**COMMENT:**

**Rule 1.906.** Following receipt of the parties' Trial Scheduling and Discovery Plan and after the trial-setting conference, it is contemplated that the district court or its designee will enter an order scheduling trial. This order would also approve, supplement, or modify the terms of the Trial Scheduling and Discovery Plan as needed.

[Court Order October 30, 2014, effective January 1, 2015]

[Report 1943; amendment 1961; amendment 1977; Report 1978, effective July 1, 1979; amendment 1979; amendment 1984; Report May 28, 1987, effective August 3, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; June 27, 2008, effective September 1, 2008; August 28, 2014, October 30, 2014, effective January 1, 2015; Court Order April 1, 2015, temporarily effective April 1, 2015, permanently effective June 1, 2015]

**Rule 1.907 Trial assignments.**

**1.907(1)** *Civil cases.* The court, in the exercise of its discretion, may assign a case for trial by order upon any one of the following:

*a.* The conclusion of a scheduling or pretrial conference.

*b.* The conclusion of a trial-setting conference.

*c.* The agreement of all parties or their counsel.

*d.* The court's own motion after consultation with counsel for all parties. Trial of a dissolution of marriage or a small claim may be set without consulting counsel subject to rescheduling by the court administrator upon the request of counsel in the event of a scheduling conflict.

The court may delegate its power and duty to assign cases for trial to the court administrator or other suitable person.

**1.907(2)** *Small claims appeals.* At least twice each month, the clerk of court shall present to a judge authorized by statute to hear the appeal, the file and any transcript or exhibits in each small claims case in which appeal was taken more than 20 days previously. The appeal shall be decided upon the record without oral argument unless, within 20 days after the appeal was taken, a party filed

with the clerk of court a written request for oral argument specifying the issues to be argued, in which event the judge may schedule oral argument. Additional evidence shall not be received except as authorized by statute.
[Report 1961; amended by 62GA, ch 474, §1; amendment 1969; amendment 1979; amended by 1984 Iowa Acts, ch 1322, §8; Report December 3, 1985, effective February 3, 1986; May 28, 1987, effective August 3, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.908 Duty to notify court.**

**1.908(1)** *Of settlements.* Whenever a case assigned for trial has been settled, it shall be the duty of the attorneys or parties appearing in person to so notify the court immediately.

**1.908(2)** *Of conflicting engagements and termination thereof.* When a case assigned for trial is reached and an attorney of record therein is then actually engaged in a trial in another court, it shall be the attorney's duty to so inform the court who may hold the trial of such case in abeyance until the engagement is concluded. As soon as the attorney is free from such engagement, it shall be the attorney's duty to notify the court immediately and stand ready to proceed with trial of the case.
[Report 1961; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.909 Fee for late settlement of jury trial.** In the event a party waives a jury trial or gives notice of settlement later than two full working days before a civil action is scheduled to be tried to a jury or is reached for jury trial, whichever is later, or the case is settled during trial, a fee of $1000 shall be assessed as court costs. A late settlement fee shall not be waived by the court nor shall a continuance be granted for purposes of avoiding imposition of this fee. Fees so collected shall be remitted by the clerk to the treasurer of state to be deposited in the general fund of the state.
[Report 1984; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; January 7, 2010, effective March 8, 2010; November 30, 2010, effective January 28, 2011]

**Rule 1.910 Motions for continuance.**

**1.910(1)** Motions for continuance shall be filed without delay after the grounds therefor become known to the party or the party's counsel. Such motion may be amended only to correct a clerical error.

**1.910(2)** No case assigned for trial shall be continued ex parte. All motions for continuance in a case set for trial shall be signed by counsel, if any, and approved in writing by the party represented, unless such approval is waived by court order.
[Report 1943; February 13, 1986, effective July 1, 1986; November 9, 2001, effective February 15, 2002]

**Rule 1.911 Causes for continuance.**

**1.911(1)** A continuance may be allowed for any cause not growing out of the fault or negligence of the movant, which satisfies the court that substantial justice will be more nearly obtained. It shall be allowed if all parties so agree and the court approves.

**1.911(2)** All such motions based on absence of evidence must be supported by affidavit of the party, the party's agent or attorney, and must show the following:

*a.* The name and residence of the absent witness, or, if unknown, that affiant has used diligence to ascertain them.

*b.* What efforts, constituting due diligence, have been made to obtain the witness or the witness' testimony, and facts showing reasonable grounds to believe the testimony will be procured by a certain, specified date.

*c.* What particular facts, distinct from legal conclusions, affiant believes the witness will prove, affiant believes the facts to be true, and affiant knows of no other witness by whom the facts can be fully proved.

**1.911(3)** If the court finds such motion sufficient, the adverse party may avoid the continuance by admitting that the witness if present, would testify to the facts therein stated, as the evidence of such witness.
[Report 1943; amendment 1961; amendment 1980; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.912 Objections; ruling; costs.** The adverse party may at once, or within such reasonable time as the court allows, file specific written objections to the motion for continuance, which shall be part of the record. Where the defenses are distinct, the cause may be continued as to any one or

more defendants. Every continuance shall be at the cost of the movant unless otherwise ordered by the court.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.913 Consolidation.** Unless a party shows the party will be prejudiced thereby the court may consolidate separate actions which involve common questions of law or fact or order a single trial of any or all issues therein. In such cases it may make such orders concerning the proceedings as tend to avoid unnecessary cost or delay.
[Report 1943; amendment 1955; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.914 Separate trials.** In any action the court may, for convenience or to avoid prejudice, order a separate trial of any claim, counterclaim, cross-claim, cross-petition, or of any separate issue, or any number of any of them. Any claim against a party may be thus severed and proceeded with separately.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.915 Impaneling jury.**

**1.915(1)** *Selection.* At each jury trial a person designated by the court shall select 16 jurors by drawing their names from a box without seeing the names. All jurors so drawn shall be listed. Computer selection processes may be used instead of separate ballots to select jury panels. Before drawing begins, either party may require that the names of all jurors be called, and have an attachment for those absent who are not engaged in other trials; but the court may wait for its return or not, in its discretion.

**1.915(2)** *Oath or examination.* The prospective jurors shall be sworn. The parties shall have the right to examine those drawn. The court may conduct such examination as it deems proper. It may on its own motion exclude any juror.

**1.915(3)** *Challenges.* Challenges are objections to trial jurors for cause, and may be either to the panel or to an individual juror. The court shall determine the law and fact as to all challenges, and must either allow or deny them.

**1.915(4)** *To panel.* Before any juror is sworn, either party may challenge the panel, in writing, distinctly specifying the grounds, which can be founded only on a material departure from the statutory requirements for drawing or returning the jury. On trial thereof, any officer, judicial or ministerial, whose irregularity is complained of, and any other persons, may be examined concerning the facts specified. If the court sustains the challenge it shall discharge the jury, no member of which can serve at that trial.

**1.915(5)** *To juror.* Challenge to an individual juror must be made before the jury is sworn to try the case. On demand of either party to a challenge, the juror shall answer every question pertinent to the inquiry, and other evidence may be taken.

**1.915(6)** *For cause.* A juror may be challenged by a party for any of the following causes:

*a.* A previous conviction of the juror of a felony unless it can be established through the juror's testimony or otherwise that the juror's rights of citizenship have been restored.

*b.* Want of any statutory qualification required to make that person a competent juror.

*c.* Physical or mental defects rendering the person incapable of performing the duties of a juror.

*d.* Consanguinity or affinity within the ninth degree to the adverse party.

*e.* Being a conservator, guardian, ward, employer, employee, agent, landlord, tenant, family member, or member of the household of the adverse party.

*f.* Being a client of the firm of any attorney engaged in the cause.

*g.* Being a party adverse to the challenging party in any civil action; or having complained of or been accused by the challenging party in a criminal prosecution.

*h.* Having already sat upon a trial of the same issues.

*i.* Having served as a grand or trial juror in a criminal case based on the same transaction.

*j.* When it appears the juror has formed or expressed an unqualified opinion on the merits of the controversy, or shows a state of mind which will prevent the juror from rendering a just verdict.

*k.* Being interested in an issue like the one being tried.

*l.* Having requested, directly, or indirectly, that the person's name be returned as a juror.

Exemption from jury service is not a ground of challenge, but the privilege of the person exempt.

**1.915(7)** *Number; striking.* Each side must strike four jurors. Where there are two or more parties represented by different counsel, the court in its discretion may authorize and fix an additional number of jurors to be impaneled and strikes to be exercised. After all challenges are completed, plaintiff and defendant shall alternately exercise their strikes.

**1.915(8)** *Vacancies.* After a challenge is sustained, another juror shall be called and examined and shall be subject to being challenged or stricken as are other jurors.

**1.915(9)** *Jury sworn.* The names of the eight jurors who remain on the list after all others have been stricken shall be read. These shall constitute the jury and shall be sworn substantially as follows:

"You and each of you do solemnly swear (or affirm) that you will well and truly try the issues wherein _____ is plaintiff and _____ is defendant, and a true verdict render; and that you will do so solely on the evidence introduced and in accordance with the instructions of the court."

[Report 1943; amendment 1980; amendment 1982; 1986 Iowa Acts, ch 1108, §55; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; February 19, 2021, temporarily effective February 19, 2021, permanently effective April 21, 2021]

**Rule 1.916 Saturday a religious day.** Prior to final submission of the case, no juror whose faith requires observing Saturday as a religious day can be compelled to attend on that day.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.917 Juror incapacity; minimum number of jurors.**

**1.917(1)** *Juror incapacity.* In the event any juror becomes unable to act, or is disqualified, before the jury retires the remaining jurors shall continue to try the case.

**1.917(2)** *Minimum of six jurors required.* In the event more than two jurors become unable to act, or are disqualified, before the jury retires and renders a verdict, the court shall declare a mistrial.

[Report 1943; amendment 1980; November 9, 2001, effective February 15, 2002]

**Rule 1.918 Returning ballots to box.** When a jury is sworn, the ballots containing the names of those absent or excused from the trial shall be immediately returned to the box. Those containing the names of jurors sworn shall be set aside, and returned to the box immediately on the discharge of that jury.

[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.919 Procedure after jury sworn.** After the jury is sworn, the trial shall proceed in the following order:

**1.919(1)** The party having the burden of proof on the whole action may briefly state the party's claim, and by what evidence the party expects to prove it.

**1.919(2)** The other party may similarly state that party's defense and evidence.

**1.919(3)** The first above party must then produce that party's evidence; to be followed by that of the adverse party.

**1.919(4)** The parties will be confined to rebutting evidence, unless the court in furtherance of justice, permits them to offer evidence in their original case.

**1.919(5)** Only one counsel on each side shall examine the same witness, unless otherwise permitted by the court.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.920 Further testimony for mistake.** At any time before final submission, the court may allow any party to offer further testimony to correct an evident oversight or mistake, imposing such terms as it deems just.

[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.921 Adjournments.** After trial begins, the court may, in furtherance of justice, adjourn it for such time, and on such conditions as to costs or otherwise, as it deems just.

[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.922 View.** When the court deems proper, it may order an officer to conduct the jury in a body to view any real or personal property, or any place where a material fact occurred, and to show it to them. No other person shall speak to them during their absence on any subject connected with the trial.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.923 Arguments.** The parties may either submit the case or argue it. The party with the burden of the issue shall have the opening and closing arguments. In opening, the party shall disclose all points the party relies on, and if the party's closing argument refers to any new material point or fact not so disclosed, the adverse party may reply thereto, which shall close the argument. A party waiving opening argument is limited, in closing, to reply to the adverse argument; otherwise the adverse party shall have the closing argument. The court may limit the time for argument to itself, but not for arguments to the jury.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.924 Instructions.** The court shall instruct the jury as to the law applicable to all material issues in the case and such instructions shall be in writing, in consecutively numbered paragraphs, and shall be read to the jury without comment or explanation; provided, however, that in any action where the parties so agree, the instructions may be oral. At the close of the evidence, or such prior time as the court may reasonably fix, any party may file written requests that the jury be instructed as set forth in such requests. Before argument to the jury begins, the court shall furnish counsel with a preliminary draft of instructions which it expects to give on all controversial issues, which shall not be part of the record. Before jury arguments, the court shall give to each counsel a copy of its instructions in their final form, noting this fact of record and granting reasonable time for counsel to make objections, which shall be made and ruled on before arguments to the jury. Within such time, all objections to giving or failing to give any instruction must be made in writing or dictated into the record, out of the jury's presence, specifying the matter objected to and on what grounds. No other grounds or objections shall be asserted thereafter, or considered on appeal. But if the court thereafter revises or adds to the instructions, similar specific objection to the revision or addition may be made in the motion for new trial, and if not so made shall be deemed waived. All instructions and objections, except as above provided, shall be part of the record. Nothing in the rules in this chapter shall prohibit the court from reading to the jury one or more of the final instructions at any stage of the trial, provided that counsel for all parties has been given an opportunity to review the instructions being read and to make objections as provided in this rule. Any instructions read prior to conclusion of the evidence shall also be included in the instructions read to the jury following conclusion of the evidence.
[Report 1943; amendment 1961; amendment 1970; amendment 1973; amended by 65GA, ch 315, §2; amended September 5, 1984, effective November 5, 1984; amended February 21, 1985, effective July 1, 1985; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.925 Additional instructions.** While the jury is deliberating, the court may in its discretion further instruct the jury, in the presence of or after notice to counsel. Such instruction shall be in writing, be filed as other instructions in the case, and be a part of the record and any objections thereto shall be made in a motion for a new trial.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.926 Materials available to jurors.**

**1.926(1)** *Notes.* Jurors shall be permitted to take notes during the trial using materials to be provided by the court on the request of any juror. The court shall instruct the jury that the notes are not evidence and must be destroyed at the completion of the jury's deliberations.

**1.926(2)** *What jury may take to jury room.* When retiring to deliberate, jurors may take their notes with them and shall take with them all exhibits in evidence except as otherwise ordered. Depositions shall not be taken unless all of the evidence is in writing and none of it has been stricken.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.927 Separation and deliberation of jury.**

**1.927(1)** A jury once sworn shall not separate unless so ordered by the court, who must then advise them that it is the duty of each juror not to converse with any other juror or person, nor be addressed

on the subject of the trial; and that, during the trial it is the duty of each juror to avoid, as far as possible, forming any opinion thereon until the cause is finally submitted.

**1.927(2)** On final submission, the jury shall retire for deliberation, and be kept together in charge of an officer until the jurors agree on a verdict or are discharged by the court, unless the court permits the jurors to separate temporarily overnight, on weekends or holidays, or in emergencies. During their deliberations, the officer in charge must not allow any communication to be made to the jurors, nor may the officer make any, except to ask them if they have agreed on a verdict, unless by order of court; nor communicate to any person the state of their deliberations, or the verdict agreed upon before it is rendered.

[Report 1943; amendment 1967; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.928 Discharge; retrial.** The court may discharge a jury because of any accident or calamity requiring it, or by consent of all parties, or when on an amendment a continuance is ordered, or if they have deliberated until it satisfactorily appears that they cannot agree. The case shall be retried immediately or at a future time, as the court directs.

[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.929 Court open for verdict.** The court may adjourn as to other business while the jury is absent, but shall be open for every purpose connected with the cause submitted to the jury until it returns a verdict or is discharged.

[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.930 Food and lodging.** The court may order that food and lodging be provided at state expense for a jury being kept together to try or deliberate on a cause.

[Report 1943; 1983 Iowa Acts, ch 186, §10142; November 9, 2001, effective February 15, 2002]

**Rule 1.931 Rendering verdict and answering interrogatories.**

**1.931(1)** *Number.* Before a general verdict, special verdicts, or answers to interrogatories are returned, the parties may stipulate that the finding may be rendered by a stated majority of the jurors. In the absence of such stipulation, a general verdict, special verdicts, or answers to interrogatories must be rendered unanimously. However, a general verdict, special verdict, or answers to interrogatories may be rendered by all jurors excepting one of the jurors if the jurors have deliberated for a period of not less than six hours after the issues to be decided have been submitted to them.

**1.931(2)** *Return; poll.* The jury agreeing on a general verdict, special verdicts, or answers to interrogatories shall bring the finding into court where it shall be read to the jury and inquiry made if it is the jury's finding. A party may then require a poll, whereupon the court or clerk shall ask each juror if it is the juror's finding. If the required number of jurors does not express agreement, the jury shall be sent out for further deliberation; otherwise, the finding is complete and, unless otherwise provided by law, the jury shall be discharged.

**1.931(3)** *Sealed.* When, by consent of the parties and the court, the jury has been permitted to seal its finding and separates before it is rendered, such sealing is equivalent to a rendition and a recording thereof in open court, and such jury shall not be polled or permitted to disagree with respect thereto.

[Report 1943; amendment 1973; amended by 65GA, ch 315, §4; amendment 1980; amended February 21, 1985, effective July 1, 1985; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.932 Form and entry of verdicts.** General verdicts, special verdicts, and answers to interrogatories shall be in writing. When unanimous they shall be signed by the foreman or forewoman chosen by the jury, and when they are not unanimous, they shall be signed by all jurors concurring therein. They shall be sufficient in form if they express the intent of the jury. They shall be filed with the clerk and be entered of record after being put in form by the court if need be.

[Report 1943; amendment 1973; November 9, 2001, effective February 15, 2002]

**Rule 1.933 Special verdicts.** The court may require that the verdict consist wholly of special written findings on each issue of fact. It shall then submit in writing questions susceptible of categorical or brief answers, or forms of several special findings that the jury might properly make under the issues

and evidence, or submit the issues and require the findings in any other appropriate manner. It shall so instruct the jury as to enable it to find upon each issue submitted. If the submission omits any issue of fact, any party not demanding submission of such issue before the jury retires waives jury trial thereof, and the court may find upon it; failing which, it shall be deemed found in accord with the judgment on the special verdict. The court shall direct such judgment on the special verdict and answers as is appropriate thereto. Special interrogatories under Iowa Code chapter 668 shall be treated as special verdicts for purposes of the rules in this chapter.
[Report 1943; amended February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

**Rule 1.934 Interrogatories.** The jury in any case in which it renders a general verdict may be required by the court, and must be so required on the request of any party to the action, to find specially upon any particular questions of fact, to be stated to it in writing, which questions of fact shall be submitted to the attorneys of the adverse party before argument to the jury is commenced. The instructions shall be such as will enable the jury to answer the interrogatories and return the verdict. If both are harmonious, the court shall order the appropriate judgment. If the answers are consistent with each other, but any is inconsistent with the general verdict, the court may order judgment appropriate to the answers notwithstanding the verdict, or a new trial, or send the jury back for further deliberation. If the answers are inconsistent with each other, and any is inconsistent with the verdict, the court shall not order judgment, but either send the jury back or order a new trial.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.935 Reference to master.** A "master" includes a referee, auditor or examiner. On a showing of exceptional conditions requiring it, the court may appoint a master as to any issues not to be tried to a jury. The clerk shall furnish the master with a copy of the order of appointment.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.936 Compensation.** The court shall fix the master's compensation and order it paid or advanced by such parties, or from such fund or property, as it may deem just. Execution may issue on such order at the master's demand. The master shall not retain any reports as security for compensation.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.937 Powers.** The order may specify or limit the master's powers or duties, the issue on which a report is to be made, or the time within which a hearing shall be held or a report filed, or specify that the master merely take and report evidence. Except as so limited the master shall have and exercise power to regulate all proceedings before the master; to administer oaths and to do all acts and take all measures appropriate for the efficient performance of the master's duties; to compel production before the master of any witness or party whom the master may examine, or of any evidence on any matters embraced in the reference, and to rule on admissibility of evidence. The master shall, on request, make a record of evidence offered and excluded. The master may appoint a shorthand reporter whose fees shall be advanced by the requesting party.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.938 Speedy hearing.** Upon appointment the master shall notify the parties of the time and place of their first meeting, which shall be within 20 days or such other time as the court's order may fix. If a party so notified fails to appear, the master may proceed ex parte, or, in the master's discretion, adjourn to a future day, giving notice thereof to the absent party. It is the duty of the master to proceed with all reasonable diligence; and the court, after notice to the master and the parties, may order the master to expedite proceedings or make a report.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.939 Witnesses.** Any party may subpoena witnesses before a master as for trial in open court; and a witness failing to appear or testify without good cause shall be subject to the same punishment and consequences.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.940 Accounts.** The master may prescribe the form for submission of accounts which are in issue. In any proper case the master may require or receive in evidence the statement of a certified public accountant who testifies as a witness. If any item submitted or stated is objected to, or shown insufficient in form, the master may require that a different form be furnished, or that the accounts or any item thereof be proved by oral testimony or written interrogatories of the accounting parties, or in such other manner as the master directs.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.941 Filing report.** The master shall file with the clerk the original exhibits, and any transcript of the proceedings and evidence, otherwise a summary thereof, with a report on the matters submitted in the order of reference, including separate findings and conclusions if so ordered. The master may submit a draft of the report to counsel for their suggestions.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.942 Disposition.** The clerk shall mail notice of filing the report to all attorneys of record. Within ten days after mailing, unless the court enlarges the time, any party may file written objections to it. Application for action on said report, or objections, shall be heard on such notice as the court prescribes. The report shall have the same effect whether or not the reference was by consent; but where parties stipulate that the master's findings shall be final, only questions of law arising upon the report shall thereafter be considered. The court shall accept the master's findings of fact unless clearly erroneous; and may adopt, reject or modify the report wholly or in any part, or recommit it with instructions.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.943 Voluntary dismissal.** A party may, without order of court, dismiss that party's own petition, counterclaim, cross-claim, cross-petition or petition of intervention, at any time up until ten days before the trial is scheduled to begin. Thereafter a party may dismiss an action or that party's claim therein only by consent of the court which may impose such terms or conditions as it deems proper; and it shall require the consent of any other party asserting a counterclaim against the movant, unless that will still remain for an independent adjudication. A dismissal under this rule shall be without prejudice, unless otherwise stated; but if made by any party who has previously dismissed an action against the same defendant, in any court of any state or of the United States, including or based on the same cause, such dismissal shall operate as an adjudication against that party on the merits, unless otherwise ordered by the court, in the interests of justice.
[Report 1943; amendment 1982; amended October 9, 1984, effective December 8, 1984; December 28, 1989, effective July 2, 1990; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.944 Uniform rule for dismissal for want of prosecution.**

**1.944(1)** It is the declared policy that in the exercise of reasonable diligence every civil and special action, except under unusual circumstances, shall be brought to issue and tried within one year from the date it is filed and docketed and in most instances within a shorter time.

**1.944(2)** All cases at law or in equity where the petition has been filed more than one year prior to July 15 of any year shall be tried prior to January 1 of the next succeeding year. The clerk shall prior to August 15 of each year give notice to counsel of record as provided in rule 1.442 of the docket number, the names of parties, counsel appearing, and date of filing petition. The notice shall state that such case will be subject to dismissal if not tried prior to January 1 of the next succeeding year pursuant to this rule. All such cases shall be assigned and tried or dismissed without prejudice at plaintiff's costs unless satisfactory reasons for want of prosecution or grounds for continuance be shown by application and ruling thereon after notice and not ex parte.

**1.944(3)** This rule shall not apply to the following cases provided, however, that a finding as to *"a"* through *"e"* is made and entered of record:

*a.* Cases pending on appeal from a court of record to a higher court or under order of submission to the court.

*b.* Cases in which proceedings subsequent to judgment or decree are pending.

*c.* Cases which have been stayed pursuant to the Servicemembers Civil Relief Act [50 U.S.C. app. §501].

*d.* Cases where a party is paying a claim pursuant to written stipulation on file or court order.

*e.* Cases awaiting the action of a referee, master or other court-appointed officer.

**1.944(4)** The case shall not be dismissed if there is a timely showing that the original notice and petition have not been served and that the party resisting dismissal has used due diligence in attempting to cause process to be served.

**1.944(5)** No continuance under this rule shall be by stipulation of parties alone but must be by order of court. Where appropriate the order of continuance shall be to a date certain.

**1.944(6)** The trial court may, in its discretion, and shall upon a showing that such dismissal was the result of oversight, mistake or other reasonable cause, reinstate the action or actions so dismissed. Application for such reinstatement, setting forth the grounds therefor, shall be filed within six months from the date of dismissal.

[Report 1961; amended by 61GA, ch 487, §2; amendment 1969; amendment 1975; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; February 25, 2004, effective May 1, 2004]

**Rule 1.945 Involuntary dismissal.** A party may move for dismissal of any action or claim against the party or for any appropriate order of court, if the party asserting it fails to comply with the rules of this chapter or any order of court. After a party has rested, the adverse party may move for dismissal because no right to relief has been shown, under the law or facts, without waiving the right to offer evidence thereafter.

[Report 1943; amendment 1967; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.946 Effect of dismissal.** All dismissals not governed by rule 1.943 or not for want of jurisdiction or improper venue, shall operate as adjudications on the merits unless they specify otherwise.

[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.947 Costs of previously dismissed action.** Where a plaintiff sues on a claim that was previously dismissed against the same defendant in any court of any state or the United States, the court may stay such suit until the costs of the prior action are paid.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rules 1.948** to **1.950** Reserved.

B. JUDGMENTS GENERALLY

**Rule 1.951 Judgment defined.** Every final adjudication of any of the rights of the parties in an action is a judgment.

[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.952 Partial judgment.** A party who succeeds in part only may have judgment expressly for the successful part and against that party as to the rest.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.953 As to some parties only.** Where the action involves two or more parties, the court may, in its discretion, and though it has jurisdiction of them all, render judgment for or against some of them only, whenever the prevailing party would have been entitled thereto had the action involved the prevailing party alone, or whenever a several judgment is proper; leaving the action to proceed as to the other parties.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.954 Judgment on the pleadings.** After the pleadings a party may move for judgment on the pleadings.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; August 10, 2009, effective October 9, 2009]

**Rule 1.955 On verdict.** The clerk must forthwith enter judgment upon a verdict when filed, unless it is special, or the court has ordered the case reserved for future argument or consideration.

[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.956 Principal and surety; order of liability.** A judgment against principal and surety shall recite the order of their liability upon it. A "surety" includes all persons whose liability on the claim is secondary to that of another.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.957 On claim and counterclaim.** A claim and counterclaim shall not be set off against each other, except by agreement of both parties or unless required by statute. The court, on motion, may order that both parties make payment into court for distribution, if it finds that the obligation of either party is likely to be uncollectible. If there are multiple parties and separate set-off issues, each set-off issue should be determined independently of the others. The court shall distribute the funds received and declare obligations discharged as if the payment into court by either party had been a payment to the other party and any distribution of those funds back to the party making payment had been a payment to that party by the other party.
[Report 1943; amendment 1984; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.958** Reserved.

**Rule 1.959 Entry.** All judgments and orders must be entered on the record of the court and clearly specify the relief granted or the order made.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.960 Taxation of costs.** When the court fails to assess costs upon disposition of an action, the clerk shall notify the judicial officer of such failure. If the court does not, within ten days of such notification, make an assessment of costs, the clerk shall enter judgment for costs against the party initiating the action.
[Report 1961; November 9, 2001, effective February 15, 2002; June 16, 2003, effective September 1, 2003]

**Rule 1.961 Notes surrendered.** The clerk shall not, unless by special order of the court, enter or record any judgment based on a note or other written evidence of indebtedness until such note or writing is first filed with the clerk for cancellation.
[Report 1943; amendment 1945; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.962 Affidavit of identity.** The clerk shall not enter a personal judgment until the creditor, creditor's agent or attorney, files an affidavit stating the full name, occupation and residence of the judgment debtor, to affiant's information and belief. If such residence is in an incorporated place of more than 5,000 population, the affidavit shall include the street number of debtor's residence and business address, if any. But a judgment entered or recorded without such affidavit shall not be invalid.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rules 1.963** to **1.970** Reserved.

C. DEFAULTS AND JUDGMENTS THEREON

**Rule 1.971 Default defined.** A party shall be in default whenever that party does any of the following:

**1.971(1)** Fails to serve and, within a reasonable time thereafter, file a motion or answer as required in rule 1.303 or 1.304.

**1.971(2)** Withdraws a pleading without permission to replead.

**1.971(3)** Fails to be present for trial.

**1.971(4)** Fails to comply with any order of court.

**1.971(5)** Does any act which permits entry of default under any rule or statute.

[Report 1943; Report 1978, effective July 1, 1979; April 30, 1987, effective July 1, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.972 Procedure for entry of default.**

**1.972(1)** *Entry.* If a party not under legal disability or not a prisoner in a reformatory or penitentiary is in default under rule 1.971(1) or 1.971(2), the clerk shall enter that party's default in accordance with the procedures set forth in this rule without any order of court. All other defaults shall be entered by the court.

**1.972(2)** *Application.* Requests for entry of default under rule 1.972(1) shall be by written application to the clerk of the court in which the matter is pending. No default shall be entered unless the application contains a certification that written notice of intention to file the written application for default was given after the default occurred and at least ten days prior to the filing of the written application for default. A copy of the notice shall be attached to the written application for default. If the certification is filed, the clerk on request of the adverse party must enter the default of record without any order of court.

**1.972(3)** *Notice.*

*a. To the party.* A copy of the notice of intent to file written application for default shall be sent by ordinary mail to the last known address of the party claimed to be in default. No other notice to a party claimed to be in default is required.

*b. Represented party.* When a party claimed to be in default is known by the party requesting the entry of default to be represented by an attorney, whether or not that attorney has formally appeared, a copy of notice of intent to file written application for default shall be sent by ordinary mail to the attorney for the party claimed to be in default. This rule shall not be construed to create any obligation to undertake any affirmative effort to determine the existence or identity of counsel representing the party claimed to be in default.

*c. Computation of time.* The ten-day period specified in rule 1.972(2) shall begin from the date of mailing notice, not the receipt thereof.

*d. Form of notice.* The notice required by rule 1.972(2) shall be substantially as set forth in rule 1.1901, Form 10.

**1.972(4)** *Applicability.* The notice provisions of this rule shall not apply to a default sought and entered in the following cases:

*a.* Any case prosecuted under small claims procedure.

*b.* Any forcible entry and detainer case, whether or not placed on the small claims docket.

*c.* Any juvenile proceeding.

*d.* Against any party claimed to be in default when service of the original notice on that party was by publication.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.973 Judgment on default.** Judgment upon a default shall be rendered as follows:

**1.973(1)** Where the claim is for a sum certain, or which by computation, can be made certain, the clerk, upon request, shall make such computation as may be necessary, and upon affidavit that the amount is due shall enter judgment for that amount, and costs against the party in default.

**1.973(2)** In all cases the court on motion of the prevailing party, shall order the judgment to which the prevailing party is entitled, provided notice and opportunity to respond have been given to any party who has appeared, and the clerk shall enter the judgment so ordered. If no judge is holding court in the county, such order may be made by a judge anywhere in the judicial district as provided in rule 1.453. The court may, and on demand of any party not in default shall, either hear any evidence or accounting required to warrant the judgment or refer it to a master; or submit it to a jury if proper demand has been made therefor under rule 1.902.

[Report 1943; Report 1978, effective July 1, 1979; February 1, 1991, effective July 1, 1991; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.974 Notice of default in certain cases.** When any judgment other than one in rem has been taken by default against a party served with notice delivered to another person as provided in rule 1.305(1), the clerk shall immediately give written notice thereof, by ordinary mail to such party at that party's last known address, or the address where such service was had. The clerk shall make a record of such mailing. Failure to give such notice shall not invalidate the judgment.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.975 On published service.** No personal judgment shall be entered against a person served only by publication or by publication and mailing, as provided in rule 1.311, unless that party has appeared.
[Report 1943; amendment 1951; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.976 Relief in other cases.** The judgment may award any relief consistent with the petition and embraced in its issues; but unless the defaulting party has appeared, it cannot exceed what is demanded.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.977 Setting aside default.** On motion and for good cause shown, and upon such terms as the court prescribes, but not ex parte, the court may set aside a default or the judgment thereon, for mistake, inadvertence, surprise, excusable neglect or unavoidable casualty. Such motion must be filed promptly after the discovery of the grounds thereof, but not more than 60 days after entry of the judgment. Its filing shall not affect the finality of the judgment or impair its operation.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rules 1.978** to **1.980** Reserved.

D. SUMMARY JUDGMENTS

**Rule 1.981 On what claims.** Summary judgment may be had under the following conditions and circumstances:

**1.981(1)** *For claimant.* A party seeking to recover upon a claim, counterclaim, cross-petition or cross-claim or to obtain a declaratory judgment may, at any time after the appearance day or after the filing of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in that party's favor upon all or any part thereof.

**1.981(2)** *For defending party.* A party against whom a claim, counterclaim, cross-petition or cross-claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in that party's favor as to all or any part thereof.

**1.981(3)** *Motion and proceedings thereon.* The motion shall be filed not less than 60 days prior to the date the case is set for trial, unless otherwise ordered by the court. Any party resisting the motion shall file a resistance within 15 days, unless otherwise ordered by the court, from the time when a copy of the motion has been served. The resistance shall include a statement of disputed facts, if any, and a memorandum of authorities supporting the resistance. If affidavits supporting the resistance are filed, they must be filed with the resistance. Notwithstanding the provisions of rules 1.431 and 1.435, the time fixed for hearing or nonoral submission shall be not less than 20 days after the filing of the motion, unless a shorter time is ordered by the court. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

**1.981(4)** *Case not fully adjudicated on motion.* If on motion under this rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly.

**1.981(5)** *Form of affidavits; further testimony; defense required.* Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or filed therewith. The court may permit affidavits to be supplemented or opposed

by depositions, answers to interrogatories, further affidavits, or oral testimony. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials in the pleadings, but the response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered.

**1.981(6)** *When affidavits are unavailable.* Should it appear from the affidavits of a party opposing the motion that the party for reasons stated cannot present by affidavit facts essential to justify the opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

**1.981(7)** *Affidavits made in bad faith.* Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused that party to incur, including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt.

**1.981(8)** *Supporting statement and memorandum.* Upon any motion for summary judgment pursuant to this rule, there shall be annexed to the motion a separate, short and concise statement of the material facts as to which the moving party contends there is no genuine issue to be tried, including specific reference to those parts of the pleadings, depositions, answers to interrogatories, admissions on file and affidavits which support such contentions and a memorandum of authorities.

[Report 1943; amendment 1967; amendment 1975; amendment 1980; July 15, 1991, effective January 2, 1992; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; Court Order September 14, 2017, temporarily effective September 14, 2017, permanently effective November 14, 2017]

**Rule 1.982 On motion in other cases.**

**1.982(1)** Judgments may be obtained on motion by sureties against principals or cosureties for money due because paid by them as such; by clients against attorneys, by plaintiffs in execution against sheriffs or other officers for money or property collected by them; and in all other cases specially authorized by statute.

**1.982(2)** A judgment for contribution based on comparative fault may be obtained on motion only where the basis for such judgment has been established by findings of fact previously made by the court or jury in the action in which the motion is filed, and only by or against the persons who were parties to that action at the time said findings were made.

**1.982(3)** A motion for contribution permitted by this rule may be filed after final judgment has been entered in the action and the pendency of an appeal shall not deprive the court of jurisdiction to consider same.

**1.982(4)** A judgment for contribution on motion, where permitted under this rule, may be in the form of a declaratory judgment conditioned upon the future satisfaction by a party of one or more of the judgments entered in the action.

[Report 1943; amended February 21, 1985, effective July 1, 1985; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.983 Procedure.** If a motion under rule 1.982 is filed in an action already pending, the procedure shall be as in rule 1.981. Otherwise, the motion shall be served on the party against whom relief is sought, together with notice of the time and place of hearing. Service shall be made at least ten days before the date set for hearing. The court shall hear the motion at the time fixed in the notice without further pleadings and give judgment accordingly.

[Report 1943; amendment 1967; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rules 1.984** to **1.1000** Reserved.

## DIVISION X
PROCEEDINGS AFTER JUDGMENT

**Rule 1.1001 Bill of exceptions.**

**1.1001(1)** *When necessary.* A bill of exceptions shall be necessary only to show material portions of the record of the cause not shown by the court files, entries, or legally certified shorthand notes of the trial, if any.

**1.1001(2)** *Affidavits.* Not more than five affidavits in support of any exception may be filed with the bill. Controverting affidavits, not exceeding five, may be filed within seven days thereafter. The court, for good cause shown, may extend the time for filing such affidavits.

**1.1001(3)** *Certification; judge; bystanders.* The proposed bill of exceptions shall be promptly presented to the trial judge, who shall sign it if it fairly presents the facts. If the judge refuses, and counsel so certifies, and at least two bystanders attest in writing that the exceptions are correctly stated, the bill thus certified and attested shall be filed and become part of the record.

**1.1001(4)** *Disability.* Whenever the judge or master who tried the cause is for any reason unable to sign a bill of exceptions or certify the shorthand reporter's record, the same may be done by a successor, or by any judge of the court in which the proceeding was pending.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1002 New trial defined.** A new trial is the reexamination in the same court of any issue of fact or part thereof, after a verdict, or master's report, or a decision of the court.

[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.1003 Judgment notwithstanding verdict.** On motion, any party may have judgment in that party's favor despite an adverse verdict, or the jury's failure to return any verdict under any of the following circumstances:

**1.1003(1)** If the pleadings of the adverse party fail to allege some material fact necessary to constitute a complete claim or defense and the motion clearly specifies such failure.

**1.1003(2)** If the movant was entitled to a directed verdict at the close of all the evidence, and moved therefor, and the jury did not return such verdict, the court may then either grant a new trial or enter judgment as though it had directed a verdict for the movant.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1004 New trial.** On motion, the aggrieved party may have an adverse verdict, decision, or report or some portion thereof vacated and a new trial granted if any of the following causes materially affected movant's substantial rights:

**1.1004(1)** Irregularity in the proceedings of the court, jury, master, or prevailing party; or any order of the court or master or abuse of discretion which prevented the movant from having a fair trial.

**1.1004(2)** Misconduct of the jury or prevailing party.

**1.1004(3)** Accident or surprise which ordinary prudence could not have guarded against.

**1.1004(4)** Excessive or inadequate damages appearing to have been influenced by passion or prejudice.

**1.1004(5)** Error in fixing the amount of the recovery, whether too large or too small, in an action upon contract or for injury to or detention of property.

**1.1004(6)** That the verdict, report or decision is not sustained by sufficient evidence, or is contrary to law.

**1.1004(7)** Material evidence, newly discovered, which could not with reasonable diligence have been discovered and produced at the trial.

**1.1004(8)** Errors of law occurring in the proceedings, or mistakes of fact by the court.

**1.1004(9)** On any ground stated in rule 1.1003, the motion specifying the defect or cause giving rise thereto.

[Report 1943; amendment 1945; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1005 Motion; affidavits.** Motions under rules 1.1003 and 1.1004 shall be in writing; and if based on grounds stated in rule 1.1004(2), 1.1004(3), or 1.1004(7) may be sustained and controverted by affidavits and heard pursuant to rule 1.431(6).
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1006 Stay.** If motions under rule 1.1003 or 1.1004 or a petition under rule 1.1012 are timely filed, the court may, in its discretion and on such terms, if any, as it deems proper order a stay of any or all further proceedings, executions or process to enforce the judgment, pending disposition of such motion or petition.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.1007 Time for motions and exceptions.** Motions under rules 1.1003 and 1.1004 and bills of exception under rule 1.1001 must be filed within fifteen days after filing of the verdict, report or decision with the clerk or discharge of a jury which failed to return a verdict, unless the court, for good cause shown and not ex parte, grants an additional time not to exceed 30 days. Resistances and replies may be filed and supporting briefs may be served as provided in rules 1.431(4) and 1.431(5).
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; August 4, 2010, effective October 4, 2010]

**Rule 1.1008 Conditional rulings on grant of motion.**

**1.1008(1)** Any motion may be filed under rule 1.1003 or 1.1004 without waiving the right to file or rely on any other of such motions.

**1.1008(2)** Not later than fifteen days after entry of a judgment notwithstanding the verdict, the party whose verdict has been set aside may file a motion for new trial pursuant to rule 1.1004.

**1.1008(3)** If a motion for judgment notwithstanding the verdict is granted, the court shall also rule on any motion for new trial by determining whether it should be granted if the judgment is thereafter vacated or reversed, and shall specify the grounds for granting or denying the motion for new trial. If a motion for new trial is thus conditionally granted, the order thereon does not affect the finality of the judgment. If a motion for new trial has been conditionally granted and the judgment is reversed on appeal, the new trial shall proceed unless otherwise ordered by the appellate court. If a motion for new trial has been conditionally denied, the appellee may assert error in that denial; and if the judgment is reversed on appeal, subsequent proceedings shall be in accordance with the order of the appellate court.
[Report 1943; amendment 1953; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; August 4, 2010, effective October 4, 2010]

**Rule 1.1009 Issues tried by consent; amendment.** In deciding motions under rule 1.1003 or 1.1004, the court shall treat issues not embraced in the pleadings but actually tried by express or implied consent of the parties as though they had been pleaded. Either party may then amend to conform the party's pleadings to such issues and the evidence upon them; but failure so to amend shall not affect the result of the trial.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1010 Conditional new trial.**

**1.1010(1)** The district court may permit a party to avoid a new trial under rule 1.1003 or 1.1004 by agreeing to such terms or conditions as it may impose, which shall then be shown of record and a judgment entered accordingly.

**1.1010(2)** If the term or condition imposed is a choice between consenting to a reduced, modified or increased judgment amount or proceeding to a new trial, regardless of whether imposed by the district court or an appellate court, then the choice shall be made by filing a written consent to the reduced, modified or increased judgment with the clerk of the district court in which the case was tried within the following times:

*a.* If imposed by the district court, on or before seven days before the date when an appeal must be taken pursuant to Iowa R. App. P. 6.101.

*b.* If imposed by an appellate court, on or before 30 days after the date the procedendo is filed with the district court.

If such a written consent is not filed within these time periods, then the new trial imposed as the other choice shall be deemed ordered automatically.

**1.1010(3)** In the event of an appeal any such term or condition or judgment entered pursuant to district court order shall be deemed of no force and effect and the original judgment entered pursuant to rule 1.955 shall be deemed reinstated.

[Report 1943; amendment 1953; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

**Rule 1.1011 Retrial after published notice.**

**1.1011(1)** *Retrial.* Except in actions for dissolution of marriage and annulment of marriage, if judgment is entered against a defendant who did not appear and was served only by publication or by publication and mailing, as provided in rule 1.311, the defendant may apply for retrial within six months after entry of judgment, and on giving security for costs is then entitled to a defense and trial as though there was no judgment.

**1.1011(2)** *New judgment.* After such retrial, the court may confirm the judgment, modify or set it aside and order a party to restore any money or property remaining in the party's possession under it, or to repay the value of any money or property the party thus received.

[Report 1943; amendment 1951; Report 1978, effective July 1, 1979; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1012 Grounds for vacating or modifying judgment.** Upon timely petition and notice under rule 1.1013 the court may correct, vacate or modify a final judgment or order, or grant a new trial on any of the following grounds:

**1.1012(1)** Mistake, neglect or omission of the clerk.

**1.1012(2)** Irregularity or fraud practiced in obtaining it.

**1.1012(3)** Erroneous proceedings against a minor or person of unsound mind, when such errors or condition of mind do not appear in the record.

**1.1012(4)** Death of a party before entry of the judgment or order, and its entry without substitution of a proper representative.

**1.1012(5)** Unavoidable casualty or misfortune preventing the party from prosecuting or defending.

**1.1012(6)** Material evidence, newly discovered, which could not with reasonable diligence have been discovered and produced at the trial, and was not discovered within the time for moving for new trial under rule 1.1004.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1013 Procedure for vacating or modifying judgment.**

**1.1013(1)** *Petition.* A petition for relief under rule 1.1012 requires payment of the filing fee set forth in Iowa Code section 602.8105(1)(*a*), or if made in small claims, the filing fee set forth in section 631.6(1)(*a*), and must be filed and served in the original action within one year after the entry of the judgment or order involved. It shall state the grounds for relief, and, if it seeks a new trial, show that they were not and could not have been discovered in time to proceed under rule 1.977 or 1.1004. If the pleadings in the original action did not allege a meritorious action or defense the petition shall do so. It shall be supported by affidavit as provided in rule 1.413(3).

**1.1013(2)** *Notice.* The petitioner must serve the adverse party with an original notice and petition in the manner provided in rules 1.301 through 1.315, located in division III of the rules in this chapter.

**1.1013(3)** *Trial.* The court shall promptly assign the petition for trial not less than 20 days after notice is served. The petition shall stand denied without answer; otherwise the issues and pleadings, and form and manner of the trial shall be the same, as nearly as may be, as in the trial of an ordinary action to the court, and with the same right of appeal. No new claim shall be introduced.

**1.1013(4)** *Preliminary determination.* The court may try and determine the validity of the grounds to vacate or modify a judgment or order before trying the validity of the claim or defense.

**1.1013(5)** *Judgment.* If the original judgment or order is affirmed after a stay under rule 1.1006, additional judgment shall be entered against the petitioner for the costs of the trial, and also, in the court's discretion, for damages not exceeding 10 percent of the judgment affirmed.

[Report 1943; amended February 1, 1989, effective May 1, 1989; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; May 26, 2010, effective July 24, 2010]

**Rule 1.1014 Disposition of exhibits.** One year after the final determination of a case, the clerk may destroy all exhibits filed provided that counsel of record are notified in writing that the exhibits will

be destroyed unless receipted for within 60 days thereafter. The clerk may destroy all trial exhibits without notice two years after final determination of the case.
[Report 1965; January 2, 1996, effective March 1, 1996; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1015 Titles and liens protected.**

**1.1015(1)** The title of a good faith purchaser to property sold under the original judgment shall not be affected or impaired by any judgment, order or proceeding under rules 1.1011 through 1.1013.

**1.1015(2)** If the original judgment is merely modified pursuant to any of said rules, all liens or securities obtained under it shall be preserved in the modified judgment.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1016 Judgment discharged on motion.** Where matter in discharge of a judgment has arisen since its entry, the defendant or any interested person may, on motion, have the same discharged in whole or in part, according to the circumstances.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1017 Fraudulent assignment; motion.** The court may, on motion, inquire into the assignment of a judgment, or its entry to the use of any party, and cancel the assignment or strike out such use, in whole or in part, whenever it determines the same to be inequitable, fraudulent or done in bad faith.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.1018 Execution; duty of officer.** An officer receiving an execution must execute it with diligence. The officer shall levy on such property of the judgment debtor as is likely to bring the exact amount, as nearly as practicable. The officer may make successive levies if necessary. The officer shall collect the things in action, by suit in the officer's own name if need be, or sell them. The officer shall sell sufficient property levied on and garnish sufficient funds, or property of sufficient value, to satisfy the execution, paying the proceeds, less the officer's own costs, to the clerk.
[Report 1943; 1992 Iowa Acts, ch 1044, §1, effective July 1, 1992; November 9, 2001, effective February 15, 2002]

**Rule 1.1019 Endorsement.** The officer shall endorse on the execution, the day and hour the officer receives it; and the levy, sale, or other act done by virtue of it, with the date thereof; and the date and amount of any receipts or payments toward its satisfaction. Each endorsement shall be made at the time of the act or receipt; but no levy or sale under the execution shall be impaired by failure to make any such endorsement at the time here provided.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1020 Levy on personalty.** Levy on personalty may be made under an attachment or general execution by either of the following methods, but no lien is created until compliance with one of them.

**1.1020(1)** By the officer taking possession of the property, and signing and appending to the execution its exact description at length, with the date of the levy.

**1.1020(2)** If the creditor or the creditor's agent first so requests in writing, the officer may view the property, prepare a written inventory of its exact description at length, and append the inventory to the execution, with the officer's signed statement of the number and title of the case, the names of the debtor and judgment creditor, the amount claimed under the execution, the exact location of the property and in whose possession, and the last known address of the judgment debtor. A certified transcript of the inventory and statement shall be filed with the secretary of state. Such filing shall be accepted by the secretary of state and shall be marked, indexed and certified in the same manner as a financing statement, and shall be constructive notice of the levy to all persons. If the writ is satisfied or the levy discharged the officer shall file a termination statement with the secretary of state. The fees normally charged by the secretary of state for the filing of a financing statement and the filing of a termination statement shall be paid by the officer and shall be taxed as a part of the costs of the levy.
[Report 1943; amendment 1967; amendment 1975; October 31, 1997, effective January 24, 1998; July 27, 2001, effective October 1, 2001; November 9, 2001, effective February 15, 2002]

**Rules 1.1021** to **1.1100** Reserved.

## DIVISION XI
DECLARATORY JUDGMENTS

**Rule 1.1101 Declaratory judgments permitted.** Courts of record within their respective jurisdictions shall declare rights, status, and other legal relations whether or not further relief is or could be claimed. It shall be no objection that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form or effect, and such declarations shall have the force and effect of a final decree. The existence of another remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. The enumeration in rules 1.1102, 1.1103, and 1.1104, does not limit or restrict the exercise of this general power.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1102 Construing contracts, etc.** Any person interested in an oral or written contract, or a will, or whose rights, status or other legal relations are affected by any statute, municipal ordinance, rule, regulation, contract or franchise, may have any question of the construction or validity thereof or arising thereunder determined, and obtain a declaration of rights, status or legal relations thereunder.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1103 Before or after breach.** A contract may be construed either before or after a breach.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1104 Fiduciaries, beneficiaries and others.** Any person interested as or through an executor, administrator, trustee, guardian, conservator or other fiduciary, creditor, devisee, legatee, heir, next of kin or cestui que trust, in the administration of a trust or the estate of a decedent, insolvent, an infant or other person for whom a guardian, or conservator has been appointed, may obtain a declaration of rights or legal relations for any of the following reasons:

**1.1104(1)** To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others.

**1.1104(2)** To direct executors, administrators, guardians, conservators, trustees or other fiduciaries, to do or abstain from doing any particular act in their fiduciary capacity.

**1.1104(3)** To determine any question arising in the administration of the estate, guardianship, conservatorship or trust, including questions of construction of wills and other writings.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1105 Discretionary.** The court may refuse to render a declaratory judgment or decree where it would not, if rendered, terminate the uncertainty or controversy giving rise to the proceeding.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.1106 Supplemental relief.** Supplemental relief based on a declaratory judgment may be granted wherever necessary or proper. The application for relief shall be by petition in the original case. If the court deems the petition sufficient, it shall, on such reasonable notice as it prescribes, require any adverse party whose rights have been adjudicated to show cause why such relief should not be granted.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1107 Review.** All orders, judgments or decrees under rules 1.1101 through 1.1106 may be reviewed as other judgments, orders or decrees.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.1108 Jury trial.** The right of trial by jury shall not be abridged or extended by rules 1.1101 through 1.1107.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.1109 "Person."** For purposes of this division, "person" shall include any individual or entity capable of suing or being sued under the laws of Iowa.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rules 1.1110** to **1.1200** Reserved.

## DIVISION XII

**Rules 1.1201** to **1.1300** Reserved.

**COMMENT:** Division XII Rules 1.1201 through 1.228, Partition of Real and Personal Property, are rescinded effective July 1, 2018. Beginning July 1, 2018, all partition procedures are contained in Iowa Code chapter 651. 2018 Iowa Acts, ch 1108 (Senate File 2175). [Court Order May 21, 2018, effective July 1, 2018]

## DIVISION XIII
QUO WARRANTO

**Rule 1.1301 For what causes.** A civil action in the nature of quo warranto, triable by equitable proceedings, may be brought in the name of the state against any defendant who is any of the following:

**1.1301(1)** Unlawfully holding or exercising any public office or franchise in Iowa, or an office in any Iowa corporation.

**1.1301(2)** A public officer who has done or suffered to be done, an act which works a forfeiture of the office.

**1.1301(3)** Acting as a corporation in Iowa without being authorized by law so to act.

**1.1301(4)** A corporation exercising powers not conferred by law, or doing or omitting acts, which work a forfeiture of its corporate rights or privileges.

**1.1301(5)** A person or corporation claiming under a patent, permit, certificate of convenience and necessity or license of any nature which was granted by the state because of fraud, or mistake or ignorance of a material fact, or the terms of which have expired or been violated by the defendant, or which the defendant has in any manner forfeited. The action in such cases shall be to annul or vacate the patent, permit, certificate or license in question.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1302 By whom brought.**

**1.1302(1)** The county attorney of the county where the action lies has discretion to bring the action, but must do so when directed by the governor, general assembly or the supreme or district court, unless the county attorney may be a defendant, in which event the attorney general may, and shall when so directed, bring the action.

**1.1302(2)** If on demand of any citizen of the state, the county attorney fails to bring the action, the attorney general may do so, or such citizen may apply to the court where the action lies for leave to bring it. On leave so granted, and after filing bond for costs in an amount fixed by the court, with sureties approved by the clerk, the citizen may bring the action and prosecute it to completion.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1303 No joinder or counterclaim.** In such action there shall be no joinder of any other claim, and no counterclaim.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1304 Petition.** The petition shall state the grounds on which the action is brought, and if it involves an office, franchise or right claimed by others than the defendant, it shall name them; and they may be made parties.

[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.1305 Judgment.**

**1.1305(1)** The judgment shall determine all rights and claims of all parties respecting the matters involved, and shall include any provision necessary to enforce their rights as so determined, or to accomplish the objects of the decision.

**1.1305(2)** The judgment shall also determine which party, if any, is entitled to hold any office in controversy.

**1.1305(3)** If a party is unlawfully holding or exercising any office, franchise or privilege, or if a corporation has violated the law by which it exists or been guilty of any act or omission which amounts to a surrender or forfeiture of its privileges, the judgment shall remove the party from office or franchise, or forfeit the privilege, and forbid the party to exercise or use any such office, franchise or privilege.

**1.1305(4)** If a party has merely exercised powers or privileges to which that party was not entitled, but which does not warrant forfeiture under the law, the judgment shall prohibit that party from the further exercise thereof.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1306 Costs.**
**1.1306(1)** Judgment against any defendant or intervenor shall include judgment for the costs of the action. Judgment against a pretended corporation shall assess the costs against the person or persons acting as such.
**1.1306(2)** If the action fails, the court may assess the costs against any private individual who brought it; otherwise they shall be paid as provided by the statutes governing costs in criminal cases.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1307 Corporation dissolved.** If the judgment dissolves a corporation, the court shall make appropriate orders for the dissolution as provided by the statutes in force.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rules 1.1308** to **1.1400** Reserved.

## DIVISION XIV
CERTIORARI

**Rule 1.1401 Certiorari petition.** A party may commence a certiorari action when authorized by statute or when the party claims an inferior tribunal, board, or officer, exercising judicial functions, or a judicial magistrate exceeded proper jurisdiction or otherwise acted illegally.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

**Rule 1.1402 Procedure.**
**1.1402(1)** *Title.* The petition shall be captioned in the name of the petitioner as plaintiff, against the inferior tribunal, board or officer as defendant.
**1.1402(2)** *Nature of proceeding.* The action shall be by ordinary proceedings, so far as applicable.
**1.1402(3)** *Time for filing.* The petition must be filed within 30 days from the time the tribunal, board or officer exceeded its jurisdiction or otherwise acted illegally. An extension of such time, however, may be allowed by the reviewing court upon a showing that failure to file the petition within the time provided was due to a failure of the tribunal, board or officer to notify the petitioner of the challenged decision. Any motion for extension of time shall be filed with the clerk of the court in which the writ of certiorari is sought within 90 days of the challenged decision. The motion and any resistance may be supported by copies of relevant portions of the record of the proceedings being challenged, and by affidavits, and no other form of evidence will be received.
[Report 1943; amendment 1973; amended July 18, 1984, effective September 17, 1984; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

**Rule 1.1403 Other remedies.** The writ shall not be denied or annulled because plaintiff has another plain, speedy or adequate remedy; but the relief by way of certiorari shall be strictly limited to questions of jurisdiction or the legality of the challenged acts, unless otherwise provided by statute.
[Report 1943; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

**Rule 1.1404 The writ.** A district court judge may order the issuance of a writ to an inferior tribunal, board, or officer, or to a judicial magistrate. The writ shall be issued by the clerk of the court where the petition is filed, under its seal. It shall command the defendant to certify to that court, at a specified time and place, a transcript of so much of the defendant's records and proceedings as are pertinent to the petition, together with the facts of the case, described with reasonable certainty.
[Report 1943; Report 1978; effective July 1, 1979; amendment 1982; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

**Rule 1.1405 Stay, bond.** The court may stay the original proceedings even though no stay is requested. If the court grants the plaintiff's request for a stay, the stay may be conditioned upon the plaintiff's filing of a bond with penalty and conditions, including security for costs, as prescribed by the court and with sureties approved by the court or the clerk.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

**Rule 1.1406 Notice of issuing writ.** The court may issue the writ without notice upon the filing of the petition, or it may fix a time and place for hearing and prescribe reasonable notice to the defendant. If the petition is filed before a final order or decree in the original proceeding or if the plaintiff seeks a stay, the court shall fix a time and place for hearing and prescribe reasonable notice to the defendant before issuing the writ. Any hearing shall be confined to the sufficiency of the petition, what records or proceedings shall be certified, and the terms of any bond to be given.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

**Rule 1.1407 Service of writ.** The writ shall be served by a sheriff or deputy sheriff, unless the defendant accepts service of the writ. If the writ is issued to a magistrate, service shall be on the magistrate or clerk of that court; if issued to a board or other tribunal, it shall be served on its secretary, clerk, or any member. Service shall be by delivery of the original writ. A copy, with return of service, shall be returned to the clerk of the court issuing the writ.
[Report 1943; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

**Rule 1.1408 Return to writ, by whom.** If the writ is issued to a magistrate, the return shall be made and signed by the magistrate whose decision is challenged, if practicable, otherwise by the clerk of that court. If issued to an officer, the officer shall make and sign the return. If issued to a board or tribunal, the return shall be made and signed by its presiding officer, clerk, or secretary.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

**Rule 1.1409 Defective return.** If the return is defective, the court issuing the writ, on the court's own motion or that of any party, may order a further return. The court may compel obedience to the writ or to such order by attachment or citation for contempt.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

**Rule 1.1410 Hearing.** When full return has been made, the court shall fix a time and place for hearing. In addition to the record made by the return, the court may receive any transcript or recording of the original proceeding and such other oral or written evidence explaining the matters contained in the return. Unless otherwise specially provided by statute, such transcript, recording, or additional evidence shall be considered only to determine the legality of the proceedings or the sufficiency of the evidence before the original tribunal, board, officer, or magistrate.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

**Rule 1.1411 Judgment.** Unless otherwise provided by statute, the judgment on certiorari shall be limited to annulling the writ or to sustaining it, in whole or in part, to the extent the proceedings below were illegal or in excess of jurisdiction. The judgment shall prescribe the manner in which either party may proceed, and shall not substitute a different or amended decree or order for that being reviewed.
[Report 1943; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

**Rule 1.1412 Appeal.** An appeal from an order or judgment of the district court in a certiorari proceeding is governed by the rules of appellate procedure applicable to appeals in ordinary civil actions. An appeal is discretionary when the order or judgment sought to be reviewed is itself a discretionary review of another tribunal, board, officer, or magistrate.
[Report 1943; December 28, 1993, effective March 1, 1994; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

**Rules 1.1413** to **1.1500** Reserved.

## DIVISION XV
INJUNCTIONS

**Rule 1.1501 Independent or auxiliary remedy.** An injunction may be obtained as an independent remedy by an action in equity, or as an auxiliary remedy in any action. In either case, the party applying therefor may claim damages or other relief in the same action. An injunction may be granted as part of the judgment; or may be granted by order at any prior stage of the proceedings, and is then known as a temporary injunction.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.1502 Temporary; when allowed.** A temporary injunction may be allowed under any of the following circumstances:

**1.1502(1)** When the petition, supported by affidavit, shows the plaintiff is entitled to relief which includes restraining the commission or continuance of some act which would greatly or irreparably injure the plaintiff.

**1.1502(2)** Where, during the litigation, it appears that a party is doing, procuring or suffering to be done, or threatens or is about to do, an act violating the other party's right respecting the subject of the action and tending to make the judgment ineffectual.

**1.1502(3)** In any case specially authorized by statute.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1503 Endorsing refusal.** A court, or justice of the supreme court, refusing a temporary injunction shall endorse the refusal on the petition therefor.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.1504 Statement re prior presentation.** A petition seeking a temporary injunction shall state, or the attorney shall certify thereon, whether a petition for the same relief, or part thereof, has been previously presented to and refused by any court or justice, and if so, by whom and when.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rule 1.1505 Place for filing.** A request for a temporary injunction shall be filed in the county where the action is, or will be, pending.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1506 By whom granted.** A temporary injunction may be granted by any of the following:

**1.1506(1)** A judge of the district in which the action is or will be pending.

**1.1506(2)** The supreme court or a justice thereof.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1507 Notice.** Before granting a temporary injunction, the court may require reasonable notice of the time and place of hearing therefor to be given the party to be enjoined. When the applicant is requesting that a temporary injunction be issued without notice, applicant's attorney must certify to the court in writing either the efforts which have been made to give notice to the adverse party or that party's attorney or the reason supporting the claim that notice should not be required. Such notice and hearing must be had for a temporary injunction or stay of agency action pursuant to Iowa Code section 17A.19(5), to stop the general and ordinary business of a corporation, or action of an agency of the state of Iowa, or the operations of a railway or of a municipal corporation, or the erection of a building or other work, or the board of supervisors of a county, or to restrain a nuisance.
[Report 1943; amended October 9, 1984, effective December 8, 1984; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1508 Bond.** The order directing a temporary injunction must require that before the writ issues, a bond be filed, with a penalty to be specified in the order, which shall be 125 percent of the probable liability to be incurred. Such bond with sureties to be approved by the clerk shall be conditioned to pay all damages which may be adjudged against the petitioner by reason of the injunction. But in actions for dissolution of marriage, separate maintenance, annulment of marriage,

or domestic abuse, the court in its discretion may waive any bond, or fix its penalty in any amount deemed just and reasonable.
[Report 1943; Report 1978, effective July 1, 1979; amendment 1981; November 9, 2001, effective February 15, 2002]

**Rule 1.1509 Hearing to dissolve temporary injunction.** A party against whom a temporary injunction is issued without notice may, at any time, move the court where the action is pending to dissolve, vacate or modify it. Such motion shall be submitted to that court. A hearing shall be held within ten days after the filing of the motion.
[Report 1943; amendment 1984; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**COMMENT ON AMENDMENTS TO RULES 1.1505, 1.1506, 1.1507, AND 1.1509:** Concern has been raised regarding the issuance of temporary injunctions without a hearing or notice to the adverse party, and the subsequent difficulty in scheduling a hearing to dissolve, vacate or modify the injunction. The amendment to rule 1.1507 puts the burden upon the applicant to certify that he or she has either made an attempt to provide notice or has legitimate reasons for not providing notice. The amendment to rule 1.1509 provides once the temporary injunction has been issued, the adverse party may then file a motion to dissolve, vacate or modify the injunction, which shall be heard within ten days. This puts the burden upon the adverse party to request the hearing.

**Rule 1.1510 Enjoining proceedings or judgment; venue; bond.** An action seeking to enjoin proceedings in a civil action, or on a judgment or final order, must be brought in the county and court where such proceedings are pending or such judgment or order was obtained, unless that be the supreme court, in which case the action must be brought in the court from which appeal was taken. Any bond in such action must be further conditioned to pay or comply with such judgment or order, or to pay any judgment that may be recovered against the petitioner on the claim enjoined.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1511 Violation as contempt.** Violation of any provision of any temporary or permanent injunction shall constitute contempt and be punished accordingly.
[Report 1943; November 9, 2001, effective February 15, 2002]

**Rules 1.1512** to **1.1600** Reserved.

## DIVISION XVI
PROCEEDINGS FOR JUDICIAL REVIEW OF AGENCY ACTION

**Rule 1.1601 Applicability of rules.** Except to the extent that they are inconsistent with any provision of the Iowa Administrative Procedure Act, Iowa Code chapter 17A, or with the rules specifically set forth in this division, the rules of civil procedure shall be applicable to proceedings for judicial review of agency action brought under that Act.
[Report 1980; November 9, 2001, effective February 15, 2002]

**Rule 1.1602 Time for motion or answer.** Respondent shall, within 20 days from the date of personal service or mailing of a petition for judicial review under Iowa Code section 17A.19(2), serve upon petitioner and all others upon whom the petition is required to be served, and within a reasonable time thereafter file a motion or answer.
[Report 1980; amendment 1984; Report April 30, 1987, effective July 1, 1987; November 9, 2001, effective February 15, 2002]

**Rule 1.1603 Contested case proceedings; intervention; schedule.** In proceedings for judicial review of agency action in a contested case pursuant to Iowa Code section 17A.19:

**1.1603(1)** An intervenor may join with petitioner or respondent or claim adversely to both.

**1.1603(2)** Upon request of any party the reviewing court shall, or upon its own motion may, establish a schedule for the conduct of the proceeding.
[Report 1980; November 9, 2001, effective February 15, 2002; Court Order September 14, 2017, temporarily effective September 14, 2017, permanently effective November 14, 2017]

**Rules 1.1604** to **1.1700** Reserved.

## DIVISION XVII
SUBPOENAS

**Rule 1.1701 Subpoena.**

**1.1701(1)** *Form and contents.*

*a. Requirements.* Every subpoena must:

(1) State the court from which it issued;

(2) State the title of the action and its docket number;

(3) Command each person to whom it is directed to do the following at a specified time and place: attend and testify; produce designated documents, electronically stored information, or tangible things in that person's possession, custody, or control; or permit the inspection of premises; and

(4) Set out the text of rules 1.1701(4) and 1.1701(5).

*b. Command to attend a deposition; notice of the recording method.* A subpoena commanding attendance at a deposition must state the method for recording the testimony.

*c. Combining or separating a command to produce or to permit inspection; specifying the form for electronically stored information.* A command to produce documents, electronically stored information, or tangible things or to permit the inspection of premises may be included in a subpoena commanding attendance at a deposition, hearing, or trial, or may be set out in a separate subpoena. A subpoena may specify the form or forms in which electronically stored information is to be produced.

*d. Command to produce; included obligations.* A command in a subpoena to produce documents, electronically stored information, or tangible things requires the responding party to permit inspection, copying, testing, or sampling of the materials.

*e. Forms for subpoenas.* Subpoena forms can be found in rule 1.1901, Form 13, 14 and 15.

**1.1701(2)** *Issued by whom.* The clerk must issue a subpoena, signed but otherwise in blank, to a party who requests it. That party must complete it before service. A request may be made either orally or in writing. An attorney licensed or otherwise authorized to practice law in Iowa also may issue and sign a subpoena as an officer of the court.

**1.1701(3)** *Service.*

*a. By whom; tendering fees; serving a copy of certain subpoenas.* Any person who is at least 18 years old and not a party may serve a subpoena. Serving a subpoena requires delivering a copy to the named person and, if the subpoena requires that person's attendance and, if demanded, tendering the fees for one day's attendance and traveling fees to and from the court. If the subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, then before it is served, a notice must be served on each party.

*b. Permissible place of service.* A subpoena may be served at any place:

(1) Within the state of Iowa;

(2) That the court authorizes on motion and for good cause, if a statute so provides.

*c. Proof of service.* Proving service, when necessary, requires filing with the issuing court a statement showing the date and manner of service and the names of persons served. The server must certify the statement in accordance with Iowa Code section 622.1.

**1.1701(4)** *Protecting a person subject to a subpoena.*

*a. Avoiding undue burden or expense; sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction, which may include lost earnings and reasonable attorney's fees, on a party or attorney who fails to comply.

*b. Command to produce materials or permit inspection.*

(1) *Appearance not required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(2) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises, or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

1. At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

2. These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

*c. Attendance.* Any party shall be permitted to attend at the same time and place and for the same purposes specified in the subpoena. No prior notice of intent to attend is required.

*d. Quashing or modifying a subpoena.*

(1) *When required.* On timely motion, the issuing court must quash or modify a subpoena that:

1. Fails to allow a reasonable time to comply;

2. Requires a person who is neither a party nor a party's officer to travel more than 50 miles from where that person resides, is employed, or regularly transacts business in person, except that a person may be ordered to attend trial anywhere within the state in which the person is served with a subpoena;

3. Requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

4. Subjects a person to undue burden.

(2) *When permitted.* To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

1. Disclosing a trade secret or other confidential research, development, or commercial information; or

2. Disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

3. A person who is neither a party nor a party's officer to incur substantial expense to travel more than 50 miles to attend trial.

(3) *Specifying conditions as an alternative.* In the circumstances described in rule 1.1701(4)(*d*)(2), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

1. Shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

2. Ensures that the subpoenaed person will be reasonably compensated.

**1.1701(5)** *Duties in responding to a subpoena.*

*a. Producing documents or electronically stored information.* These procedures apply to producing documents or electronically stored information:

(1) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(2) *Form for producing electronically stored information not specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(3) *Electronically stored information produced in only one form.* The person responding need not produce the same electronically stored information in more than one form.

(4) *Inaccessible electronically stored information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of rule 1.504(1)(*b*). The court may specify conditions for the discovery.

*b. Claiming privilege or protection.*

(1) *Information withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

1. Expressly make the claim; and

2. Describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(2) *Information produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not

use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**1.1701(6)** *Duties of issuer of subpoena; producing copies of materials obtained by subpoena.* When a party on whose behalf a subpoena under rule 1.1701(1) has been issued thereby creates or obtains copies of designated electronically stored information, books, papers, documents or tangible things, that party shall make available a duplicate of such copies at the request of any other party, who shall be responsible for payment of the reasonable cost of making the copies.

**1.1701(7)** *Contempt.* The issuing court may hold in contempt a person who, having been served and if necessary been provided fees and traveling expenses allowed by law, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of rule 1.1701(4)(*d*)(1)2.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; February 14, 2008, effective May 1, 2008; August 10, 2009, effective October 9, 2009]

**Rule 1.1702 Uniform interstate depositions and discovery.**

**1.1702(1)** *Definitions.* In this rule:

*a.* "Foreign jurisdiction" means a state other than Iowa.

*b.* "Foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction.

*c.* "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

*d.* "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

*e.* "Subpoena" means a document, however denominated, issued under authority of a court of record of Iowa requiring a person to:

(1) Attend or give testimony at a deposition;

(2) Produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person; or

(3) Permit inspection of premises under the control of the person.

**1.1702(2)** *Issuance of subpoena.*

*a.* To obtain issuance of a subpoena under this rule, a party to a proceeding in a foreign jurisdiction must either:

(1) request a signed, blank subpoena from the clerk of an Iowa court in the county in which discovery is to be conducted pursuant to rule 1.1701(2); or

(2) arrange for an attorney who is retained by that party and who is licensed or otherwise authorized to practice law in Iowa to issue and sign the subpoena as an officer of the court pursuant to rule 1.1701(2). Obtaining and completing a subpoena under rule 1.1702 does not constitute an appearance in the courts of this state.

*b.* When a party submits a foreign subpoena to a clerk of court in this state, the clerk, pursuant to rule 1.1701(2), shall provide the party with a subpoena that is signed but otherwise blank.

*c.* A subpoena under this rule must:

(1) Comply with rule 1.1701(1), provided, however, that for purposes of rule 1.1701(1)(a)(1), the Iowa court, in the county in which discovery is to be conducted, shall be listed as the court from which the subpoena is issued, and for purposes of rule 1.1701(1)(a)(2), the title of the action and its docket number from the foreign jurisdiction shall be used;

(2) Contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel; and

(3) Include a copy of the foreign subpoena as an attachment.

*d.* Form 13 or Form 15 of rule 1.1901 may be used and shall be sufficient under this rule, so long as the form includes the information required by rule 1.1702(2)(c), and a copy of the foreign subpoena is attached as required by rule 1.1702(2)(c)(3).

**1.1702(3)** *Service of subpoena.* A subpoena issued under rule 1.1702(2) must be served in compliance with rule 1.1701(3).

**1.1702(4)** *Deposition, production, and inspection.* Rule 1.1701(4)-(7) applies to subpoenas issued under rule 1.1702(2).

**1.1702(5)** *Court file and docket number.* An attorney may issue a subpoena without an Iowa court file being opened or a docket number assigned. If action is taken pursuant to rule 1.1702(2)(b), the clerk shall open a court file and collect a $50 fee. If action is taken pursuant to rule 1.1702(6) and a file has not previously been opened, the clerk shall open a file and collect a $50 fee.

**1.1702(6)** *Motion to court.* A motion to the court for a protective order or to enforce, quash, or modify a subpoena issued under rule 1.1702(2) must comply with the rules or statutes of this state and be submitted to the court in the county in which discovery is to be conducted. Any fee paid in connection with the filing of a motion under rule 1.1702(6) shall be recoverable by the successful party against the losing party. In addition, the provisions of rule 1.517 apply to motions brought under this rule. An attorney who files such a motion or a resistance thereto must be eligible to appear in the courts of Iowa.

[Report December 6, 2012, effective February 4, 2013]

**Rules 1.1703** to **1.1800** Reserved.

## DIVISION XVIII
RULES OF A GENERAL NATURE

**Rule 1.1801 Computing time; holidays.** In computing time under these rules, the provisions of Iowa Code section 4.1, subsection 34, shall govern.

[Report 1943; amendment 1967; November 9, 2001, effective February 15, 2002]

**Rule 1.1802 Death, retirement or disability of judge.**

**1.1802(1)** In the event of the death or disability of a judge in the course of a proceeding at which the judge is presiding, or while a motion for new trial or for judgment notwithstanding the verdict, or for other relief, is pending, any other judge of the district may hear or act upon the same, and, if in the judge's opinion the judge can proceed with the matter or determine the motion the judge shall do so; otherwise, the judge may order a continuance, declare a mistrial, order a new trial of all or any of the issues, or make such disposition of the matter as the situation warrants.

**1.1802(2)** In the event of the death or disability of a judge who has under advisement an undecided motion, or case tried without a jury, any other judge of the district may be called in, or a judge from another district may be appointed by the chief justice of the supreme court to consider the same, and, if by a review of the transcript or a reargument the judge can, in the judge's opinion, become sufficiently informed to render a decision, the judge shall do so; otherwise the judge may order a continuance, declare a mistrial, or order a new trial of all or any of the issues, or direct the recalling of any witnesses, or make such disposition of the matter as the situation warrants.

**1.1802(3)** In the event of the death, disability or retirement of a judge before the record for appeal in any case tried by the judge is settled, the record shall be settled by another judge of the district, or by a judge of another district appointed for that purpose by the chief justice of the supreme court.

[Report 1943; amendment 1945; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1803 Appeal to district court from administrative body.** Where appeal to the district court from an action or decision of any officer, body or board is provided for by statute and the statute does not provide for the formulation of the issues either before such officer, body or board, or in the district court, the appellant shall file a petition in the district court within ten days after perfecting the appeal, or within such time as may be prescribed by the court. The appellee shall file motion or an answer to such petition within 20 days thereafter, or within such further time as may be prescribed by the court. Thereafter the rules of pleading and procedure in actions in the district court shall be applicable.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1804 Effect of notice by posting.** Notice by posting shall not have legal effect except where expressly authorized by statute.

[Report 1943; amendment 1945; amendment 1973; November 9, 2001, effective February 15, 2002]

**Rule 1.1805 General provisions, comments and footnotes.**

**1.1805(1)** The past, present and future tense shall each include the others; the masculine, feminine and neuter gender shall include the others; and the singular and plural number shall each include the other.

**1.1805(2)** Rule and subrule headings do not in any manner affect the scope, meaning or intent of the provisions of the rules in this chapter.

**1.1805(3)** All references to sources, comments, and footnotes are incorporated solely for convenience in the use of the rules and do not form a part thereof.

[Report 1943; amendment 1961; November 9, 2001, effective February 15, 2002]

**Rule 1.1806 Rules by trial courts.** Each district court, by action of a majority of its district judges, may from time to time make and amend rules governing its practice and administration not inconsistent with these rules. All such rules or changes shall be subject to prior approval of the supreme court.

[Report 1961; amendment 1969; amendment 1979; December 28, 1989, effective July 2, 1990; November 9, 2001, effective February 15, 2002]

**Rule 1.1807 Purpose of administrative rules.** The purpose of all rules for court administration shall be to provide for the administration of justice in an orderly, efficient and effective manner, in accordance with the highest standards of justice and judicial service.

[Report 1969; November 9, 2001, effective February 15, 2002]

**Rules 1.1808** to **1.1900** Reserved.

## DIVISION XIX
FORMS

**Rule 1.1901 Forms.** The forms contained in the Appendix of Forms following this rule are for use and are sufficient under the Iowa Rules of Civil Procedure.

[Report 1976; Report 1978, effective July 1, 1979; amendment 1979; November 9, 2001, effective February 15, 2002]

## APPENDIX OF FORMS

### Rule 1.1901 — Form 1: *Form of Original Notice for Personal Service*

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

| | |
|---|---|
| Plaintiff(s), PIN | No. _____ |
| vs. | _____ (INSERT "LAW" OR "EQUITY") |
| Defendant(s), PIN | **ORIGINAL NOTICE** |

TO THE ABOVE-NAMED DEFENDANT(S):

You are notified that a petition has been filed in the office of the clerk of this court naming you as the defendant in this action. A copy of the petition (and any documents filed with it) is attached to this notice. The attorney for the plaintiff(s) is _____, whose address is _____, Iowa _____. That attorney's telephone number is _____; facsimile number _____.

You must serve a motion or answer within 20 days after service of this original notice upon you and, within a reasonable time thereafter, file your motion or answer with the Clerk of Court for _____ County, at the county courthouse in _____, Iowa. If you do not, judgment by default may be rendered against you for the relief demanded in the petition.

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at _____. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

(SEAL)

_____
CLERK OF COURT
_____ County Courthouse
_____, Iowa _____

IMPORTANT

YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS.

[Report 1976; Report 1978, effective July 1, 1979; April 30, 1987, effective July 1, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1901 — Form 2:** ***Form of Original Notice Against a Nonresident Motor Vehicle Owner or Operator Under Iowa Code Section 321.500***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

| | |
|---|---|
| Plaintiff(s), PIN | No. _____ |
| vs. | _____ (INSERT "LAW" OR "EQUITY") |
| Defendant(s), PIN | **ORIGINAL NOTICE** |

TO THE ABOVE-NAMED DEFENDANT(S):

You are notified that a petition has been filed in the office of the clerk of this court naming you as the defendant in this action. A copy of the petition (and any documents filed with it) is attached to this notice. The attorney for the plaintiff(s) is _____, whose address is _____, Iowa _____. That attorney's telephone number is _____; facsimile number _____.

You must serve a motion or answer within 60 days following the filing of this notice with the director of transportation of this state, and within a reasonable time thereafter, file your motion or answer with the Clerk of Court for _____ County, at the county courthouse in _____, Iowa. If you do not, judgment by default may be rendered against you for the relief demanded in the petition.

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at _____. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

(SEAL)

_____
CLERK OF COURT
_____ County Courthouse
_____, Iowa _____

IMPORTANT

YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS.

[Report 1976; Report 1978, effective July 1, 1979; amendment 1984; Report April 30, 1987, effective July 1, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1901 — Form 3:** ***Form of Original Notice Against Foreign Corporation or Nonresident Under Iowa Code Section 617.3***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

| | |
|---|---|
| Plaintiff(s), PIN | No. _____ |
| vs. | _____ (INSERT "LAW" OR "EQUITY") |
| Defendant(s), PIN | **ORIGINAL NOTICE** |

TO THE ABOVE-NAMED DEFENDANT(S):

You are notified that a petition has been filed in the office of the clerk of this court naming you as the defendant in this action. A copy of the petition (and any documents filed with it) is attached to this notice. The attorney for the plaintiff(s) is _____, whose address is _____, Iowa _____. That attorney's telephone number is _____; facsimile number _____.

You must serve a motion or answer within 60 days following the filing of this notice with the secretary of state of the State of Iowa, and, within a reasonable time thereafter, file your motion or answer with the Clerk of Court for _____ County, at the county courthouse in _____, Iowa. If you do not, judgment by default may be rendered against you for the relief demanded in the petition.

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at _____. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

(SEAL)

_____
CLERK OF COURT
_____ County Courthouse
_____, Iowa _____

IMPORTANT

YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS.

[Report 1976; Report 1978, effective July 1, 1979; April 30, 1987, effective July 1, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1901 — Form 4:** ***Form of Original Notice for Publication***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

| | |
|---|---|
| Plaintiff(s), PIN | No. _____ |
| vs. | _____ (INSERT "LAW" OR "EQUITY") |
| Defendant(s), PIN | **ORIGINAL NOTICE** |

TO THE ABOVE-NAMED DEFENDANT(S):

You are notified that a petition has been filed in the office of the clerk of this court naming you as a defendant in this action, which petition prays[1] _____. The attorney for the plaintiff(s) is _____, whose address is _____, Iowa _____. That attorney's telephone number is _____; facsimile number _____.

You must serve a motion or answer on or before the[2] _____ day of _____, 20 ____, and, within a reasonable time thereafter, file your motion or answer with the Clerk of Court for _____ County, at the courthouse in _____, Iowa. If you do not, judgment by default may be rendered against you for the relief demanded in the petition.

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at _____. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

(SEAL)

_____
CLERK OF COURT
_____ County Courthouse
_____, Iowa _____

IMPORTANT

YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS.

[Report 1976; Report 1978, effective July 1, 1979; amendment 1979; Report April 3, 1986, effective July 1, 1986; April 30, 1987, effective July 1, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

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[1] Here make a general statement of the claim or claims and, subject to the limitation in Iowa R. Civ. P. 1.403(1), the relief demanded (Iowa R. Civ. P. 1.302(1)).
[2] Date inserted here must not be less than 20 days after the day of the last publication of the original notice (Iowa R. Civ. P. 1.303).

## Rule 1.1901 — Form 5: *Directions for Service of Original Notice*

COMPLETE ONE OF THESE DIRECTIONS FOR EACH INDIVIDUAL, COMPANY, CORPORATION, ETC., TO BE SERVED.

DIRECTIONS FOR SERVICE OF ORIGINAL NOTICE

TO: Sheriff _____ County OR TO: _____

_____ Courthouse _____

_____, Iowa _____

Serve: _____

At: _____

ON COMPLETION OF SERVICE NOTIFY: _____

Special Instructions or Information Relating to Service: _____

_____

_____

NAME AND SIGNATURE OF ATTORNEY

OR OTHER ORIGINATOR: _____

BY:

DATE: _____ TELEPHONE NO. _____

DEPOSIT FOR COST OF SERVICE

☐ Deposit Waived

☐ Deposit for $ _____ required and receipt thereof acknowledged.

_____

Clerk of Court

[Report 1976; November 9, 2001, effective February 15, 2002]

**Rule 1.1901 — Form 6:** ***Final Pretrial Order***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

| | |
|---|---|
| Plaintiff(s)<br><br>vs.<br><br>Defendant(s) | No. _____<br><br><br>**FINAL PRETRIAL ORDER** |

FOLLOWING THE FINAL PRETRIAL CONFERENCE IT IS ORDERED:

1. The following facts are undisputed:
   [list facts not in dispute]

2A. The following exhibits are received without objection:

2B. The following exhibits are subject to objection to be made at trial:

3. The legal issues to be tried are:
   [list theories of recovery or defense]

4. The factual issues to be tried are:
   [list the principal factual disputes and specifications of negligence or fault asserted by each party if applicable]

5. Requested instructions, motions in limine, and trial briefs shall be filed by _____

6. Trial will commence at _____ _____.m. on _____

7. It is further ordered that:
   [list other matters which the court desires to include]

_____

Judge for the _____ Judicial District of Iowa

[Report May 28, 1987, effective August 3, 1987; November 9, 2001, effective February 15, 2002]

**Rule 1.1901 — Form 7:** ***Dissolution of Marriage Affidavit of Financial Status***

The clerk of district court shall furnish without charge to parties in a dissolution of marriage action the following form of affidavit of financial status which includes the statement of net worth required by Iowa Code section 598.13, and other information deemed pertinent when a party is seeking or resisting alimony or support allowances.

**In the Iowa District Court for _____County**
*County where you are filing*

| **In Re the Marriage of** | |
|---|---|
| _____ *Full name: first, middle, last* **Petitioner** **vs.** _____ *Full name: first, middle, last* **Respondent** | **Dissolution of Marriage Affidavit of Financial Status** |

I, _____, the *Check one*

☐ Petitioner ☐ Respondent

in the above-entitled matter, being first duly sworn, state the following is a true and complete statement of my assets and liabilities, under Division I (and my present income under Division II, if applicable) as of the _____ day of _____, 20_____.
*(To be signed on page 4.)*

**Division I – Net Worth Statement**

(Required in all dissolution cases § 598.13)

**1. Assets** *Attach additional sheets, if necessary*

A. Real estate *If other, describe*

| | Description | P, R, J | Market Value | Encumbrance | Net Value |
|---|---|---|---|---|---|
| (1) | Homestead | | $ | $ | $ |
| (2) | | | $ | $ | $ |
| (3) | | | $ | $ | $ |

B. Vehicles *Make and year. Includes cars, trucks, motorcycles, and other motorized vehicles*

| | | | | | |
|---|---|---|---|---|---|
| (1) | | | $ | $ | $ |
| (2) | | | $ | $ | $ |
| (3) | | | $ | $ | $ |

C. Life insurance *Cash Value*

| | | | | | |
|---|---|---|---|---|---|
| (1) | | | $ | $ | $ |
| (2) | | | $ | $ | $ |
| (3) | | | $ | $ | $ |

Rule 1.1901—Form 7: *Dissolution of Marriage Affidavit of Financial Status*, continued

D. Securities, stocks, & bonds

| | Description | P, R, J | Market Value | Encumbrance | Net Value |
|---|---|---|---|---|---|
| (1) | _____ | _____ | $_____ | $_____ | $_____ |
| (2) | _____ | _____ | $_____ | $_____ | $_____ |
| (3) | _____ | _____ | $_____ | $_____ | $_____ |

E. Cash & bank accounts
*Bank or Credit Union name. If you do not use bank accounts, write "Cash" in the description.*

| | | | | | |
|---|---|---|---|---|---|
| (1) | _____ | _____ | $_____ | $_____ | $_____ |
| (2) | _____ | _____ | $_____ | $_____ | $_____ |
| (3) | _____ | _____ | $_____ | $_____ | $_____ |

F. Household contents

| | | | | | |
|---|---|---|---|---|---|
| (1) | _____ | _____ | $_____ | $_____ | $_____ |
| (2) | _____ | _____ | $_____ | $_____ | $_____ |
| (3) | _____ | _____ | $_____ | $_____ | $_____ |

G. Other assets *Itemize*

| | | | | | |
|---|---|---|---|---|---|
| (1) | _____ | _____ | $_____ | $_____ | $_____ |
| (2) | _____ | _____ | $_____ | $_____ | $_____ |
| (3) | _____ | _____ | $_____ | $_____ | $_____ |

H. Total assets

| | | | |
|---|---|---|---|
| Total | $_____ | $_____ | $_____ |

## 2. Other Debts

| | Description | Net Value |
|---|---|---|
| A. | _____ | $_____ |
| B. | _____ | $_____ |
| C. | _____ | $_____ |
| D. | _____ | $_____ |
| | Total | $_____ |

## 3. Net Worth

Total assets $ _____

Total debts $ _____

Net worth *Total assets minus total debts* $ _____

Rule 1.1901—Form 7: *Dissolution of Marriage Affidavit of Financial Status*, continued

## Division II – Current Income and Expense Information

(To be completed by all parties seeking or resisting alimony or support allowances)

1. **Income source** *Including ADC and other support payments*

| | Gross | | Deductions Frequency *see below* | Net Income |
|---|---|---|---|---|
| A. _____ | $_____ | per _____ | $_____ | $_____ |
| B. _____ | $_____ | per _____ | $_____ | $_____ |
| C. _____ | $_____ | per _____ | $_____ | $_____ |
| | | | Total | $_____ |

Deductions Explained *Specify income source (a), (b), (c), etc.*

| Income Source | | | |
|---|---|---|---|
| _____ | $_____ | per _____ | for _____ |
| _____ | $_____ | per _____ | for _____ |
| _____ | $_____ | per _____ | for _____ |

2. **Affiant's estimate of other spouse's income** *Including ADC and other support payments*

| | Gross | | Frequency *see below* | Net Income |
|---|---|---|---|---|
| A. _____ | $_____ | per _____ | $_____ | $_____ |
| B. _____ | $_____ | per _____ | $_____ | $_____ |
| C. _____ | $_____ | per _____ | $_____ | $_____ |
| | | | Total | $_____ |

Deductions Explained *Specify income source (a), (b), (c), etc.*

| Income Source | | | |
|---|---|---|---|
| _____ | $_____ | per _____ | for _____ |
| _____ | $_____ | per _____ | for _____ |
| _____ | $_____ | per _____ | for _____ |

3. **Residential Arrangement**

Are both spouses living in the same dwelling? ☐ Yes ☐ No

If there are children, which spouse or other person has physical care of the children?

_____ _____
*First name* *Last name*

Where do the children reside? ☐ In the family dwelling ☐ Elsewhere

Rule 1.1901—Form 7: *Dissolution of Marriage Affidavit of Financial Status*, continued

**4. Personal expenses for Support of Affiant (and ___ children)**

*Note: Report all expenses uniformly either weekly or monthly*

| | | | |
|---|---|---|---|
| A. House payment or rent | $_____ | per | _____ |
| B. Meals or food | $_____ | per | _____ |
| C. Clothing | $_____ | per | _____ |
| D. Car expense, transportation | $_____ | per | _____ |
| E. Medical, dental | $_____ | per | _____ |
| F. Utilities and phone | $_____ | per | _____ |
| G. Other expenses: | $_____ | per | _____ |
| H. _____ | $_____ | per | _____ |
| I _____ | $_____ | per | _____ |
| | | Total of Subdivision 4 | $_____ |
| J. Affiant requests: | $_____ | per | _____ as child support |
| | $_____ | per | _____ as temporary spousal support (alimony) |
| | $_____ | per | _____ as temporary attorney fees |

**Oath and Signature of Applicant**

I, _____, have read this Affidavit, and I
*Print full name of party completing this document*

certify under penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Affidavit is true and correct.

_____ _____, 20____ _____
*Month* *Day* *Year* *Affiant's signature**

_____ _____ _____ _____
*Mailing address* *City* *State* *ZIP code*

(_____) _____ _____ _____
*Phone number* *Email address* *Additional email address, if applicable*

**Whether filing electronically or in paper, you must handwrite your signature on this form. If you are filing electronically, scan the form after signing it and then file electronically.*



[Court Order June 26, 1980; July 10, 1980; July 27, 1984; Letter of request to correct total line of Division II, D by substituting "D" for "B," February 22, 1991; November 9, 2001, effective February 15, 2002; March 31, 2020, temporarily effective March 31, 2020, permanently effective May 30, 2020]

## Rule 1.1901 — Form 8: *Financial Affidavit and Application for Appointment of Counsel*

**In the Iowa District Court for _____ County**

| | | |
|---|---|---|
| **State of Iowa or _____,**<br>**Plaintiff/Petitioner,**<br>**vs.**<br>**_____,**<br>**Defendant/Respondent.** | )<br>)<br>)<br>)<br>)<br>)<br>) | **No. _____**<br>**Financial Affidavit and Application for Appointment of Counsel** |

**In support of my application for appointment of counsel, and under penalty of perjury, the undersigned states:**

Name: _____ Date of birth: _____

Home phone: _____ Cell phone: _____ Email: _____

Street address: _____
Street/P.O. Box Apt # City State Zip

Pending charges: _____. In jail? ❑ Yes ❑ No

Do you have a job? ❑ No job ❑ Yes, full time ❑ Yes, part time (list hours per week: _____)

Who do you work for? _____

How much money do you currently make, before taxes or deductions? _____ per ❑ hour ❑ month ❑ year

How much money have you made in the last 12 months from any source, before taxes or deductions? _____

How many family members are supported by or live with you? _____

If a spouse lives with you, how much money does your spouse make? _____ per ❑ hour ❑ month ❑ year

List all other money you, and anyone else living in your household, has coming in: _____
_____
_____
_____

List what you own, including money in banks, cars, trucks, other vehicles, land, houses, buildings, cash, or anything else worth more than $100: _____
_____
_____
_____

List amounts you pay monthly for mortgages, rent, car loans, credit cards, child support, and any other debts: _____
_____
_____
_____

**I understand I may be required to repay the state for all or part of my attorney fees and costs, I may be required to sign a wage assignment, and I must report any changes in the information submitted on this financial affidavit. I promise under penalty of perjury that the statements I make in this application are true, and that I am unable to pay for an attorney to represent me.**

Date_____ Signature _____

[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002; April 11, 2008, effective July 1, 2008; June 26, 2008, effective September 1, 2008; November 8, 2012, effective January 7, 2013]

## Rule 1.1901 — Form 8A: *Order for Appointment of Counsel*

**In the Iowa District Court for _____ County**

| | | |
|---|---|---|
| **State of Iowa or _____,** | ) | **No. _____** |
| **Plaintiff/Petitioner,** | ) | |
| | ) | **Order for Appointment of Counsel** |
| **vs.** | ) | |
| **_____,** | ) | |
| **Defendant/Respondent.** | ) | |

**Now** on this _____ day of _____, 20___, the court having received and examined Defendant's Financial Affidavit and Application for Appointment of Counsel and having considered not only Defendant's income, but also the availability of any assets subject to execution and the seriousness of the charge or nature of the case, finds the following:

1. **Defendant:**
   - ❑ Is eligible* for court-appointed counsel pursuant to Iowa Code section 815.9 because:
     - ❑ Defendant's income is **at or below 125%** of the poverty guidelines and Defendant is unable to pay for the cost of an attorney; **or**
     - ❑ Defendant's income is **between 125% and 200%** of the poverty guidelines and not appointing counsel would cause Defendant substantial financial hardship; **or**
     - ❑ Defendant's Income is **over 200%** of the poverty guidelines, Defendant is charged with a felony, and not appointing counsel would cause Defendant substantial financial hardship.
   - ❑ Is not eligible for court-appointed counsel pursuant to Iowa Code section 815.9.
2. **Counsel** appointed below to represent Defendant is:
   - ❑ The local public defender office, nonprofit organization, or attorney designated by the State Public Defender pursuant to Iowa Code section 13B.4(2) to represent indigent persons in this type of case in this county; **or**
   - ❑ An attorney not designated by the State Public Defender, **and** any local public defender office or other designee of the State Public Defender for this type of case in this county has been contacted and has declined the appointment or withdrawn from the case, or there is no designation for this type of case in this county, **and** the appointed attorney:
     - ❑ Has a current contract with the State Public Defender to represent indigent persons in this type of case and in this county; **or**
     - ❑ Does not have such a contract, but all attorneys with a contract to represent indigent persons in this type of case in this county have been contacted and no such attorney is available to take this case; **or**
     - ❑ Does not have such a contract, but the State Public Defender has been consulted and consents to the appointment.

**It is therefore ordered** that Defendant's Application for Appointment of Counsel is

- ❑ Denied.
- ❑ Approved, and that _____ is appointed to represent Defendant in this case at State expense and may be contacted at _____.

_____
Judge, _____ Judicial District

Copy to:

***Note**: In a parole revocation proceeding, the appointment order must include additional specific findings. *See* Iowa Code § 908.2A(1)(c); Iowa Administrative Code 493—12.2(1)"b"(2) . **Do not use this form for parole revocation appointments.**

[Report November 8, 2012, effective January 7, 2013]

**Rule 1.1901 — Form 9:** ***Financial Affidavit of Parent and Application for Appointment of Counsel for ❑ Child ❑ Parent ❑ Other***

**In the Iowa District Court for _____ County (Juvenile Division)**

| | |
|---|---|
| **In the Interest of**<br>_____,<br>_____,<br>_____,<br>**Child(ren).** | **Juvenile No.** _____<br>**Financial Affidavit of Parent and Application for Appointment of Counsel for**<br>**❑ Child ❑ Parent ❑ Other:** _____ |

**In support of my application for appointment of counsel, and under penalty of perjury, the undersigned states:**

Name: _____ Date of birth: _____

Home phone: _____ Cell phone: _____ Email: _____

Street address: _____
Street/P.O. Box Apt # City State Zip

Case: ❑ CINA ❑ TPR ❑ Del ❑ Other: _____ Relationship to Child(ren): ❑ Parent ❑ Other: _____

Do you have a job? ❑ No job ❑ Yes, full time ❑ Yes, part time (list hours per week: _____)

Who do you work for? _____

How much money do you currently make, before taxes or deductions? _____ per ❑ hour ❑ month ❑ year

How much money have you made in the last 12 months from any source, before taxes or deductions? _____

How many family members are supported by or live with you? _____

If a spouse lives with you, how much money does your spouse make? _____ per ❑ hour ❑ month ❑ year

List all other money you, and anyone else living in your household, has coming in: _____
_____
_____
_____

List what you own, including money in banks, cars, trucks, other vehicles, land, houses, buildings, cash, or anything else worth more than $100: _____
_____
_____
_____

List amounts you pay monthly for mortgages, rent, car loans, credit cards, child support, and any other debts: _____
_____
_____
_____

**I understand I may be required to repay the state for my attorney fees and costs and those of my child, I may be required to sign a wage assignment, and I must report any changes in the information submitted on this financial affidavit. I promise under penalty of perjury that the statements I make in this application are true, and that I am unable to pay for an attorney to represent me.**

Date: _____ Signature _____

[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002; April 11, 2008, effective July 1, 2008; June 26, 2008, effective September 1, 2008; November 8, 2012, effective January 7, 2013]

## Rule 1.1901 — Form 9A: *Order for Appointment of Counsel for ❑ Child ❑ Parent ❑ Other*

**In the Iowa District Court for _____ County (Juvenile Division)**

| | | |
|---|---|---|
| **In the Interest of** | ) | **Juvenile No.** _____ |
| _____, | ) | |
| _____, | ) | **Order for Appointment** |
| _____, | ) | **of Counsel for** |
| | ) | **❑ Child ❑ Parent ❑ Other:** _____ |
| **Child(ren).** | ) | |

**Now** on this _____ day of _____, 20___, the court having received and examined the Financial Affidavit of Parent and Application for Appointment of Counsel and having considered not only the Child/Applicant's income, but also the availability of any assets subject to execution and the seriousness of the charge or nature of the case, finds the following:

1. **Child/Applicant:**
   - ❑ Is eligible* for court-appointed counsel pursuant to Iowa Code section 815.9 because:
     - ❑ Child/Applicant's income is **at or below 125%** of the poverty guidelines and Child/Applicant is unable to pay for the cost of an attorney; **or**
     - ❑ Child/Applicant's income is **between 125% and 200%** of the poverty guidelines and not appointing counsel would cause Child/Applicant substantial financial hardship; **or**
     - ❑ Child/Applicant's Income is **over 200%** of the poverty guidelines, case is a felony-level delinquency, and not appointing counsel would cause Child/Applicant substantial financial hardship.
   - ❑ Is a child and is otherwise eligible for court-appointed counsel under Iowa Code chapter 232.
   - ❑ Is not eligible for court-appointed counsel.
2. **Counsel/guardian ad litem** appointed below to represent Child/Applicant is:
   - ❑ The local public defender office, nonprofit organization, or attorney designated by the State Public Defender pursuant to Iowa Code § 13B.4(2) to represent indigent persons in this type of case in this county; **or**
   - ❑ An attorney not designated by the State Public Defender, **and** any local public defender office or other designee of the State Public Defender for this type of case in this county has been contacted and has declined the appointment or withdrawn from the case, or there is no designation for this type of case in this county, **and** the appointed attorney:
     - ❑ Has a current contract with the State Public Defender to represent indigent persons in this type of case and in this county; **or**
     - ❑ Does not have such a contract, but all attorneys with a contract to represent indigent persons in this type of case in this county have been contacted and no such attorney is available to take this case; **or**
     - ❑ Does not have such a contract, but the State Public Defender has been consulted and consents to the appointment.

**It is therefore ordered** that Child/Applicant's Application for Appointment of Counsel is

- ❑ Denied.
- ❑ Approved, and that _____ is appointed to serve as counsel/guardian ad litem in this case for _____ at state expense and may be contacted at _____.

_____
Judge, _____ Judicial District

Copy to:

***Note**: A different standard applies for determining eligibility for appointment of respondent's counsel in a Chapter 600A TPR, and additional findings are required to determine the appropriate party/agency responsible for payment. *See* Iowa Code §§ 600A.2(11), 600A.6A(2), and 600A.6B. **Do not use this form order for 600A TPR Appointments.**

[Report November 8, 2012, effective January 7, 2013]

**Rule 1.1901 — Form 10:** ***Form of Notice of Intent to File Written Application for Default***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

| | |
|---|---|
| Plaintiff(s),<br><br>vs.<br><br>Defendant(s). | No. _____<br><br>**NOTICE OF INTENT TO FILE WRITTEN APPLICATION FOR DEFAULT** |

TO: (defendant)

DATE OF NOTICE: (date of mailing)

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE ACTION REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A DEFAULT JUDGMENT WILL BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD SEEK LEGAL ADVICE AT ONCE.

_____
(Signature of Plaintiff or Attorney)

_____
(Address)

_____
(Telephone Number)

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 1.1901 — Form 11:** ***Petition for Termination of Parental Rights and Child Support Obligation***

**In the Iowa District Court for _____County**
*County where you are filing this Petition*

| | |
|---|---|
| **In the Matter of the Paternity of**<br>_____<br>*Full name: first, middle, last*<br>**Child(ren)**<br>**vs.**<br>_____<br>*Father's full name: first, middle, last*<br>**Petitioner** | Case no. _____<br>*Leave blank – Clerk of Court will fill in*<br>**Petition for Termination of Parental Rights and Child Support Obligation**<br>Rule 1.1901—Form 11 |

**I, Petitioner, state:**

1. In an order dated ___ / ___ / _____, and filed in _____ County, Iowa, (*Month Day Year*) the court found that I am the established, but not the biological, father of the child(ren) below:

   _____

   _____

   **Contrary to my wishes, the court denied my Petition to overcome paternity and continued my child support obligation. A copy of that order is attached.**

2. I seek to be relieved of the obligations of parenthood and child support.
3. I request that the court enter an order that terminates my parental rights to the above-named child(ren) and ends my obligation for any and all future child support.
4. Upon filing this Petition, I will serve a copy on the following individuals:
   (a) Any parent who has not joined in this Petition, and
   (b) any person or agency with the right to receive child support for the above-named child(ren).
5. I understand that I must provide proof to the court that I served a copy of this Petition as required in paragraph (4).

**WHEREFORE**, I ask the court to grant this Petition to terminate my parental rights and to relieve me from any future child support payments.

Rule 1.1901—Form 11: *Petition for Termination of Parental Rights and Child Support Obligation*, continued

## Oath and Signature of Plaintiff

I, _____, have read this Petition, and I certify under
*Print your name*
penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Petition is true and correct.

_____ _____, 20____ _____
*Month* *Day* *Year* *Petitioner's signature**

_____ _____ _____ _____
*Mailing address* *City* *State* *ZIP code*

(_____) _____ _____ _____
*Phone number* *Email address* *Additional email address, if applicable*

**Whether filing electronically or in paper, you must handwrite your signature on this form. If you are filing electronically, scan the form after signing it and then file electronically.*



[Court Order June 26, 1997, temporary rules effective July 1, 1997; June 26, 1997, permanent rules effective September 1, 1997; November 9, 2001, effective February 15, 2002; March 31, 2020, temporarily effective March 31, 2020, permanently effective May 30, 2020]

**Rule 1.1901 — Form 12:** *Court Reporter Memorandum and Certificate*

**IN THE IOWA DISTRICT COURT FOR _____ COUNTY**

| | |
|---|---|
| _____<br>Plaintiff/Petitioner,<br><br>vs.<br>_____<br>Defendant/Respondent. | No._____<br><br>**COURT REPORTER MEMORANDUM AND CERTIFICATE** |

**COURT REPORTER MEMORANDUM**

**(The court reporter shall file this memorandum with the district court clerk.)**

**Appearances:**

For Plaintiff/Petitioner _____

For Defendant/Respondent _____

Other _____

**Information required by Iowa Rule of Civil Procedure 1.903(3):**

I _____ (*insert name*) am providing the following information as required by Iowa Rule of Civil Procedure 1.903(3):

1. The type of proceeding that was reported:_____
_____

2. The date(s) on which the proceeding occurred:_____
_____

3. The name of the court reporter who reported the proceeding:_____
_____

4. The name of the judge who presided over the proceeding:_____
_____

5. The reporting fee for the proceeding:_____
_____

6. We, the undersigned judge before whom the above-entitled case was tried, and the official court reporter who, by order of the court, reported the same, do hereby certify that the above and foregoing is the report of the whole proceedings upon the trial and/or hearing of the above-entitled cause made and take pursuant to the order and direction of the court,

in accordance with Iowa Code section 624.10.

DATED this ___ day of _____, ___.

_____

*(Signature of Court Reporter)*

_____

*(Signature of Judge)*

[Court Order July 31, 2008, effective October 1, 2008; August 10, 2009, effective October 9, 2009]

## Rule 1.1901 — Form 13: *Subpoena Form to Testify at Deposition or Produce Documents*

**THE IOWA DISTRICT COURT FOR _____ COUNTY**

)
)
)
)
)
)

**No. _____**

**SUBPOENA TO TESTIFY AT A DEPOSITION OR TO PRODUCE DOCUMENTS IN A CIVIL ACTION**

To: _____

☐ **YOU ARE COMMANDED** to appear at the time, date, and place specified below to testify at a deposition to be taken in this civil action. If you are an organization that is not a party in this case, you must designate one or more officers, directors, or managing agents, or designate other person who consents to testify on your behalf about the following matter, or those set forth in an attachment:

Place: _____

Date: _____ Time: _____

The deposition will be recorded by this method: _____

☐ You or your representative must also bring with you to the deposition the following books, documents, electronically stored information, or tangible things, and permit their inspection, copying, testing, or sampling of the material:

Form of electronically stored information to be produced: _____

Date: _____

_____
Signature of Clerk of the District Court

OR

_____
Attorney's signature

PLEASE NOTE: If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at _____. (If you are hearing impaired. call Relay Iowa TTY at 1-800-735-2942).

The name, address, e-mail, and telephone number of the attorney representing (*name of party*)_____

_____, who issues or requests this subpoena:

_____

**PROOF OF SERVICE**

This subpoena for (*name of individual and title, if any*) _____ was received by me on (*date*)_____.

☐ I personally served the subpoena on the individual at (*place*) _____ _____ on (*date*) _____; or

☐ I left the subpoena at the individual's dwelling house or usual place of abode with (*name*) _____ _____, a person residing therein who is at least 18 years old; or

☐ I served the subpoena on (*name of individual*) _____, who is designated by law to accept service of process on behalf of (*name of organization*)_____ _____ on (*date*)_____; or

☐ I returned the subpoena unexecuted because _____; or

☐ Other (*specify*):

**WITNESS FEES**

☐ No witness fee requested or required under Iowa Code section 622.74.

☐ I have tendered to the witness fees for one day's attendance in the amount of $_____and the mileage allowed by law in the amount of $ _____, for a total of $_____.

My fees are $ _____ for travel and $_____ for services, for a total of $ _____.

I declare under penalty of perjury that this information is true.

Date: _____ _____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc.:

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a genuine copy of the foregoing document was served upon the persons named below and at the address indicated on the ___ day of _____, 20__ by the following method_____ _____:

Name and address of party or attorney: _____

_____
Signature of server

[Court Order August 10, 2009, effective October 9, 2009]

**Rule 1.1901 — Form 14:** ***Subpoena Form to Testify at Hearing or Trial***

**THE IOWA DISTRICT COURT FOR _____ COUNTY**

)
)
)
)
)
)

**No. _____**

**SUBPOENA TO APPEAR AND TESTIFY AT A HEARING OR TRIAL IN A CIVIL ACTION**

To: _____

**YOU ARE COMMANDED** to appear in the Iowa District Court for _____ County at the time, date, and place specified below to testify at a hearing or trial in the above case. When you arrive, you must remain in the court until a judge or court officer allows you to leave. If you are an organization that is not a party in this case, you must designate one or more officers, directors, or managing agents, or designate other person who consents to testify on your behalf about the following matter, or those set forth in an attachment:

Place: _____

Date: _____ Time: _____

You must also bring with you the following books, documents, electronically stored information, or tangible things:

Form of electronically stored information to be produced: _____

Date: _____

_____
Signature of Clerk of the District Court

OR

_____
Attorney's signature

PLEASE NOTE: If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at _____. (If you are hearing impaired. call Relay Iowa TTY at 1-800-735-2942).

The name, address, e-mail, and telephone number of the attorney representing (name of party)_____

_____, who issues or requests this subpoena:

_____

**PROOF OF SERVICE**

This subpoena for (*name of individual and title, if any*) _____ was received by me on (*date*)_____.

☐ I personally served the subpoena on the individual at (*place*) _____ _____ on (*date*) _____; or

☐ I served the subpoena on (*name of individual*) _____, who is designated by law to accept service of process on behalf of (*name of organization*)_____ _____ on (*date*)_____; or

☐ I returned the subpoena unexecuted because _____; or

☐ Other (*specify*):

**WITNESS FEES**

☐ No witness fee requested or required under Iowa Code section 622.74.

☐ I have tendered to the witness fees for one day's attendance in the amount of $_____and the mileage allowed by law in the amount of $ _____, for a total of $_____.

My fees are $ _____ for travel and $_____ for services, for a total of $ _____.

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc.:

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a genuine copy of the foregoing document was served upon the persons named below and at the address indicated on the ___ day of _____, 20__ by the following method_____ _____:

Name and address of party or attorney: _____

_____
Signature of server

[Court Order August 10, 2009, effective October 9, 2009; July 31, 2020, temporarily effective July 31, 2020, permanently effective October 5, 2020]

## Rule 1.1901 — Form 15: *Subpoena Form to Produce Documents or Permit Inspection*

**THE IOWA DISTRICT COURT FOR _____ COUNTY**

| | |
|---|---|
| ) | |
| ) | **No. _____** |
| ) | |
| ) | **SUBPOENA TO PRODUCE BOOKS, DOCUMENTS,** |
| ) | **ELECTRONICALLY STORED INFORMATION, OR** |
| ) | **TANGIBLE THINGS OR TO PERMIT INSPECTION OF** |
| ) | **PREMISES** |

To: _____

☐ **YOU ARE COMMANDED** to produce at the time, date, and place specified below the following books, documents, electronically stored information, or tangible things, and permit their inspection, copying, testing, or sampling of the material:

Place: _____

Date: _____ Time: _____

Form of electronically stored information to be produced: _____

☐ **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated objection or operation on it.

Place: _____

Date: _____ Time: _____

Date: _____

_____
Signature of Clerk of the District Court

OR

_____
Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (*name of party*)_____

_____, who issues or requests this subpoena:

_____

**PROOF OF SERVICE**

This subpoena for (*name of individual and title, if any*) _____ was received by me on (*date*)_____.

☐ I personally served the subpoena on the individual at (place) _____ _____ on (*date*) _____; or

☐ I left the subpoena at the individual's dwelling house or usual place of abode with (*name*) _____ _____, a person residing therein who is at least 18 years old; or

☐ I served the subpoena on (*name of individual*) _____, who is designated by law to accept service of process on behalf of (*name of organization*)_____ _____ on (*date*)_____; or

☐ I returned the subpoena unexecuted because _____; or

☐ Other (*specify*):

**WITNESS FEES**

☐ No witness fee requested or required under Iowa Code section 622.74.

☐ I have tendered to the witness fees for one day's attendance in the amount of $_____and the mileage allowed by law in the amount of $ _____, for a total of $_____.

My fees are $ _____ for travel and $_____ for services, for a total of $ _____.

I declare under penalty of perjury that this information is true.

Date: _____ _____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc.:

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a genuine copy of the foregoing document was served upon the persons named below and at the address indicated on the ___ day of _____, 20__ by the following method_____ _____:

Name and address of party or attorney: _____

_____
Signature of server

[Court Order August 10, 2009, effective October 9, 2009]

**Rule 1.1901 — Form 16:** ***Expedited Civil Action Certification***

| **In the Iowa District Court for _____ County** | |
|---|---|
| _____<br>**Plaintiff**<br>*Full name of Plaintiff: first, middle, last*<br><br>vs.<br><br>_____<br>**Defendant**<br>*Full name of Defendant: first, middle, last* | Civil case no._____<br><br>**Expedited Civil Action Certification** |

Plaintiff, _____, together with Plaintiff's attorney,
*Name of Plaintiff*

_____, elect to bring this lawsuit as an Expedited
*Name of attorney*

Civil Action under Iowa Rule of Civil Procedure 1.281.

Plaintiff certifies that the sole relief sought is a money judgment and that all claims (other than compulsory counterclaims) for all damages by or against any one party total $75,000 or less, including damages of any kind, penalties, prefiling interest, and attorney fees, but excluding prejudgment interest accrued after the filing date, postjudgment interest, and costs.

Plaintiff certifies the following:

1. I am a plaintiff in this action.
2. If I am represented by an attorney, I have conferred with my attorney about using the Expedited Civil Action procedures available to parties in the State of Iowa.
3. I understand that by electing to proceed under Expedited Civil Action procedures, the total amount of my recovery will not exceed $75,000, excluding prejudgment interest accrued after the filing, postjudgment interest, and court costs. Additionally, no single defendant can be liable for more than $75,000 to all plaintiffs combined, excluding prejudgment interest accrued after the filing, postjudgment interest, and court costs.
4. I understand that if a jury were to award more than $75,000 as damages to me, or if a jury were to award more than $75,000 in total against a single defendant, the trial judge would reduce the amount of the judgment to $75,000, plus any applicable interest and court costs to which I may be entitled.

With this knowledge, I agree to proceed under the Expedited Civil Action procedures.

Dated this ____ day of _____, 20____.

_____
*Plaintiff*

Rule 1.1901—Form 16: *Expedited Civil Action Certification*, continued

## Oath and Signatures

I, _____, certify under penalty of perjury and pursuant to the
*Print Plaintiff's name*

laws of the State of Iowa that the preceding is true and correct.

_____ _____, 20_____
*Month* *Day* *Year*

_____
*Handwritten signature of Plaintiff*

_____
*Full name of Plaintiff: first, middle, last*

_____
*Plaintiff's attorney's name, if applicable*

_____
*Signature of attorney, if applicable*

_____
*Law firm, if applicable*

_____
*Mailing addr. of attorney (or Plaintiff if unrepresented)*

_____
*Telephone no. of attorney (or Plaintiff if unrepresented)*

_____
*Email address of attorney (or Plaintiff if unrepresented)*

_____
*Additional email address, if available*



[Court Order August 28, 2014, effective January 1, 2015]

**Rule 1.1901 — Form 17:** ***Alternative Expedited Civil Action Certification***

| **In the Iowa District Court for _____ County** | |
|---|---|
| _____<br>**Plaintiff**<br>*Full name of Plaintiff: first, middle, last*<br><br>vs.<br><br>_____<br>**Defendant**<br>*Full name of Defendant: first, middle, last* | Civil case no._____<br><br>**Alternative Expedited Civil Action Certification for Plaintiffs that Are Not Natural Persons or Otherwise Must Act Through a Representative** |

Plaintiff, _____, together with Plaintiff's attorney,
*Name of Plaintiff*
_____, elect to bring this lawsuit as an Expedited
*Name of attorney*
Civil Action under Iowa Rule of Civil Procedure 1.281.

Plaintiff certifies that the sole relief sought is a money judgment and that all claims (other than compulsory counterclaims) for all damages by or against any one party total $75,000 or less, including damages of any kind, penalties, prefiling interest, and attorney fees, but excluding prejudgment interest accrued after the filing date, postjudgment interest, and costs.

The undersigned person certifies the following:

1. I am the _____ of Plaintiff in this action. I am duly authorized to execute this
*Title*
certification.
2. If Plaintiff is represented by an attorney, I have conferred with that attorney about using the Expedited Civil Action procedures available to parties in the State of Iowa.
3. I understand that by electing to proceed under Expedited Civil Action procedures, the total amount of Plaintiff's recovery will not exceed $75,000, excluding prejudgment interest accrued after the filing, postjudgment interest, and court costs. Additionally, no single defendant can be liable for more than $75,000 to all plaintiffs combined, excluding prejudgment interest accrued after the filing, postjudgment interest, and court costs.
4. I understand that if a jury were to award more than $75,000 as damages to Plaintiff, or if a jury were to award more than $75,000 in total against a single defendant, the trial judge would reduce the amount of the judgment to $75,000, plus any applicable interest and court costs to which Plaintiff may be entitled.

***Continued on next page***

With this knowledge, Plaintiff agrees to proceed under the Expedited Civil Action procedures.

Dated this ____ day of _____, 20____.
*Month* *Year*

_____
*Plaintiff*

_____
*Name and title of Plaintiff's representative signing this form*

## Oath and Signature

I, _____, certify under penalty of perjury and pursuant to the
*Print name of Plaintiff's representative*
laws of the State of Iowa that the preceding is true and correct.

_____ _____, 20_____
*Month* *Day* *Year*

_____
*Handwritten signature of Plaintiff's representative*

_____
*Full name of Plaintiff's representative*

_____
*Name of attorney*

_____
*Signature of attorney*

_____
*Name of law firm*

_____
*Mailing address of attorney*

_____
*Telephone number of attorney*

_____
*Email address of attorney*

_____
*Additional email address, if available*



[Court Order August 28, 2014, effective January 1, 2015]

**Rule 1.1901 — Form 18:** ***Joint Motion to Proceed as an Expedited Civil Action***

| **In the Iowa District Court for _____ County** | |
|---|---|
| _____<br>**Plaintiff**<br>*Full name of Plaintiff: first, middle, last*<br><br>vs.<br><br>_____<br>**Defendant**<br>*Full name of Defendant: first, middle, last* | Civil case no._____<br><br>**Joint Motion to Proceed as an Expedited Civil Action** |

1. Pursuant to Iowa Rule of Civil Procedure 1.281(1)(*f*), the parties hereby move upon stipulation that this action proceed as an Expedited Civil Action.
2. All parties agree to this motion.
3. If the court grants this joint motion, the parties acknowledge and agree that this case will be subject to the Expedited Civil Action rule (Iowa R. Civ. P. 1.281), except for any limitations on damages set forth in the rule.

**Status of Trial Scheduling and Discovery Plan**: *Check one*

☐ The parties have already filed a Trial Scheduling and Discovery Plan. This case has a current trial date of _____. The parties wish to retain that trial date. The parties acknowledge and agree that in the event of any conflict between the existing Trial Scheduling and Discovery Plan and Iowa Rule of Civil Procedure 1.281, the deadlines in rule 1.281 will apply.

☐ The parties will be filing a Trial Scheduling and Discovery Plan in an Expedited Civil Action case.

I certify that all parties and attorneys to this action have agreed to this Joint Motion and have been served with a copy.

_____ _____, 20_____ _____
*Signed:* *Month* *Day* *Year* *Party's or attorney's signature*

_____ _____
*Printed name* *Attorney's law firm, if applicable*

_____ _____ _____ _____
*Mailing address* *City* *State* *ZIP code*

(_____) _____ _____ _____
*Phone number* *Email address* *Additional email address, if applicable*



[Court Order August 28, 2014, October 30, 2014, effective January 1, 2015]

**Rule 1.1901 — Form 19:** ***Health Care Provider Statement in Lieu of Testimony***

**In the Iowa District Court for _____ County**

| | |
|---|---|
| _____<br>**Plaintiff**<br>*Full name of Plaintiff: first, middle, last*<br><br>vs.<br><br>_____<br>**Defendant**<br>*Full name of Defendant: first, middle, last* | Civil case no._____<br><br>**Health Care Provider Statement in Lieu of Testimony (and Attorney Certificate)** |

Patient Name: _____

Type of Incident: _____

Date of Incident: _____

Answer the following questions with information and opinions regarding the named patient.

☐ Check this box if you are attaching separate pages for any of your answers to the questions below. Be sure that the question to which your answer relates appears at the top of each additional page. *Number of additional pages:* _____

1. What degrees, licenses, and board certifications do you hold, if any, and what year was each attained? Alternatively, you may attach your curriculum vitae.

_____

_____

2. What injuries, if any, did _____ sustain in the above-referenced incident?
*Patient*

_____

_____

3. Did _____ have any pre-existing, symptomatic conditions that were
*Patient*
aggravated by the injuries sustained in the incident? If so, describe the pre-existing conditions and the extent of their aggravation.

_____

_____

4. Did _____ have any pre-existing, nondisabling, nonsymptomatic conditions
*Patient*
that became symptomatic as a result of the incident? If so, describe.

_____

_____

**5.** What treatment has _____ received from you that was necessitated by the
*Patient*
injuries sustained in the incident? Include treatment provided by other care providers to the extent you are aware of such. Include medications prescribed, therapy recommended, surgery recommended and any other treatments needed as a result of this condition.

_____

_____

**6.** Have there been or are there any restrictions or limitations placed on _____
*Patient*
due to injuries sustained in the incident? If so, describe them, including the actual or expected duration of the restrictions or limitations.

_____

_____

**7.** Has _____ made a full recovery from the injuries sustained in the
*Patient*
incident? If not, what are your expectations for _____ regarding future
*Patient*
symptoms and the duration of such symptoms?

_____

_____

**8.** Is there any additional care or medications that may reasonably be required in the future as a result of the injuries sustained in the incident? If so, describe the expected care, including the expected frequency, duration, and cost.

_____

_____

**9.** Is _____ now susceptible to further health problems in the future as a
*Patient*
result of injuries sustained in the incident? If so, explain.

_____

_____

**10.** Is there anything _____ has done or failed to do that has aggravated
*Patient*
his or her condition or impaired his or her recovery? If so, explain.

_____

_____

**11.** Have you reviewed or relied upon any medical records other than those generated by you or other providers in your office in forming your opinions to the answers to the questions above? If so, identify or attach the records that you have reviewed and relied upon in forming your answers.

_____

_____

**12.** Have you relied upon any other documents or information about _____ or
*Patient*
the incident, other than the records indicated above? If so, state what documents or information you relied upon, and the manner by which you received it.

_____

_____

## Oath and Signature

I, _____, certify under penalty of perjury and pursuant to the
*Health care provider's name*
laws of the State of Iowa that the preceding is true and correct.

_____ _____, 20_____ _____
*Signed on: Month* *Day* *Year* *Health care provider's signature*

***Attorney Certificate on next page***

Rule 1.1901—Form 19: *Health Care Provider Statement in Lieu of Testimony,* continued

## Attorney Certificate

List any oral, written, or electronic communications between you or anyone in your office and the above-named treating health care provider or anyone in the provider's office regarding

_____.
*Patient*

For each such communication, identify the date of the communication and, if the communication was written or electronic, attach copies of such communications:

_____

_____

_____

_____

_____

_____

_____

_____

### Oath and Signature

I, _____, certify under penalty of perjury and pursuant to the
*Print attorney's name*

laws of the State of Iowa that the preceding is true and correct.

_____ _____, 20_____
*Month* *Day* *Year*

_____
*Handwritten signature*

Information supplied by:

_____
*Full name: first, middle, last*

_____
*Law firm, if applicable*

_____
*Mailing address*

_____
*Telephone number*

_____
*Email address*

_____
*Additional email address - if available*



[Court Order August 28, 2014, effective January 1, 2015]

# CHAPTER 2
# RULES OF CRIMINAL PROCEDURE

## INDICTABLE OFFENSES

**SIMPLE MISDEMEANORS**

**EXPUNGEMENT**

# CHAPTER 2
# RULES OF CRIMINAL PROCEDURE

## INDICTABLE OFFENSES

**Rule 2.1 Scope of rules.** The rules in this section provide procedures applicable to indictable offenses. Unless the context indicates otherwise, rights or obligations of a defendant's attorney also apply to an unrepresented defendant.
[66GA, ch 1245(2), §1301; 67GA, ch 153, §2, 3; amendment 1981; 1984 Iowa Acts, ch 1323, §4; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.2 Proceedings before the magistrate.**

**2.2(1)** *Definition of "magistrate".* For purposes of this section, "magistrate" includes judicial magistrates, district associate judges, and district judges.

**2.2(2)** *Initial appearance of the defendant.* An officer making an arrest with or without a warrant shall take the arrested person before a magistrate either personally or by interactive audiovisual system as provided by rule 2.27(1)(*a*) within 24 hours unless no magistrate is available and in all events within 48 hours.

*a.* When a person arrested without a warrant is brought before a magistrate, a complaint shall be filed forthwith.

*b.* If the defendant received a citation or was arrested without a warrant, the magistrate shall, prior to further proceedings in the case, make an initial, preliminary determination from the complaint or affidavits filed with the complaint whether there is probable cause to believe that an offense has been committed and that the defendant has committed it. The magistrate's decision in this regard shall be entered in the record.

*c.* Unless otherwise ordered by the court, a pro se defendant may waive the initial appearance by executing and filing rule 2.37—Form 8: *Pro Se Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense*. An attorney for the defendant may waive the initial appearance on the defendant's behalf by executing and filing a written waiver that substantially complies with rule 2.37—Form 9: *Attorney Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense*. The date of the initial appearance is deemed the date the waiver is filed.

**2.2(3)** *Events to occur at the initial appearance.* The defendant shall not be called upon to plead at the initial appearance. The following events shall occur:

*a.* The magistrate shall inform the defendant of the complaint and ensure the defendant receives a copy.

*b.* The magistrate shall inform the defendant of the following:

(1) The defendant's right to retain counsel.

(2) The defendant's right to request the appointment of counsel if the defendant is unable to obtain counsel by reason of indigency.

(3) The circumstances under which the defendant may secure pretrial release.

(4) The defendant's right to obtain review of any conditions imposed on the defendant's release.

(5) That the defendant is not required to make a statement and that any statement made by the defendant may be used against the defendant.

(6) The defendant's right to a preliminary hearing unless an indictment or trial information is filed beforehand.

*c.* If the defendant is found to be indigent pursuant to Iowa Code section 815.9, the magistrate shall appoint counsel to represent the defendant.

*d.* The magistrate shall order the defendant held to answer in further proceedings.

*e.* If the defendant does not waive the preliminary hearing, the magistrate shall schedule a preliminary hearing and inform the defendant of the date of the preliminary hearing. Such hearing shall be held within a reasonable time but in any event no later than 10 days following the initial appearance if the defendant is in custody and no later than 20 days if the defendant is not in custody. Upon a showing of good cause, the time limits specified in this paragraph may be extended by the magistrate. The preliminary hearing will not occur if, prior to its commencement, an indictment or trial information is filed.

**2.2(4)** *Preliminary hearing.*

*a. Waiver of preliminary hearing.* Unless otherwise ordered by the court, a pro se defendant may waive the preliminary hearing by executing and filing rule 2.37—Form 8: *Pro Se Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense*. An attorney for the defendant may waive the preliminary hearing on the defendant's behalf by executing and filing a written waiver that substantially complies with rule 2.37—Form 9: *Attorney Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense*.

*b. Method of proceeding.* The prosecution shall present evidence at the preliminary hearing. The defendant may cross-examine witnesses and may introduce evidence on the defendant's behalf.

*c. Probable cause finding.* If from the evidence it appears that there is probable cause to believe that an offense has been committed and that the defendant committed it, the magistrate shall order the defendant held to answer in further proceedings. The finding of probable cause shall be based upon substantial evidence, which may be hearsay in whole or in part provided there is a substantial basis for believing the source of the hearsay to be credible and for believing that there is a factual basis for the information furnished.

*d. Constitutional objections.* Rules excluding evidence on the ground that it was acquired by unlawful means and motions to suppress are not applicable to the preliminary hearing.

*e. Discharge of the defendant.* If from the evidence it appears that there is no probable cause to believe that an offense has been committed or that the defendant committed it, the magistrate shall dismiss the complaint and discharge the defendant. Unless the dismissed charge was a serious misdemeanor, the discharge of the defendant shall not preclude the government from instituting a subsequent prosecution for the same charge.

*f. Preliminary hearing testimony preserved by stenographer or electronic recording equipment; production prior to trial.* Proceedings at the preliminary hearing shall be reported by a court reporter or recorded by electronic recording equipment and the recording or transcript shall be made available to the defendant, the defendant's attorney, or the government on request. Prepayment for transcripts shall be required except for an indigent defendant.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §4 to 7; 69GA, ch 117, §1241; 1983 Iowa Acts, ch 186, §10143 and 10144; Report January 31, 1989, effective May 1, 1989; April 20, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.3 The grand jury.**

**2.3(1)** *Drawing grand jurors.* At such times as prescribed by the chief judge of the district court, the grand jurors shall be drawn using the methods authorized by rule 2.18(2) for random selection of prospective petit jurors. A grand jury shall have seven jurors. If any jurors so drawn are excused by the court or fail to attend on the day designated for their appearance, the clerk shall draw additional names until seven grand jurors are secured.

**2.3(2)** *Convening the grand jury.* The grand jury shall meet at times specified by order of a district judge, at the request of the prosecuting attorney, or upon the request of a majority of the grand jurors.

**2.3(3)** *Challenge to the grand jury.*

*a. Challenge to the grand jury.* The grand jury may be challenged upon any ground set forth in rule 2.18(4). If the challenge is sustained, the court shall take remedial action to select a proper grand jury.

*b. Challenge to individual jurors.* A challenge to an individual grand juror may be made upon any ground in rule 2.18(5) except for rule 2.18(5)(*g*).

*c. Timing of challenges.* Challenges to the grand jury or to an individual grand juror must be made and decided, if possible, before the grand jury is sworn.

*d. Motion to dismiss.* Where the grounds for the challenge could not have been raised earlier, a defendant may raise a challenge to the grand jury or to an individual grand juror by filing a motion to dismiss the indictment.

**2.3(4)** *Excusing and discharging grand jurors.*

*a. Excusing jurors.* If the court excuses a juror, the court may impanel another person in place of the juror excused. If the grand jury has been reduced to fewer than seven, the additional jurors required to fill the panel shall be summoned first from the grand jurors originally summoned who were not previously impaneled. If those jurors have been exhausted, the additional number required shall be drawn from the grand jury list.

*b. Discharging jurors.* The grand jury shall be discharged by order of the court at the request of the prosecuting attorney. The regular term of a grand jury should not normally exceed one calendar

year. However, when an investigation undertaken by the grand jury is incomplete, the court may extend the grand jury's service to the completion of the investigation.

**2.3(5)** *Duties of grand jury.* The grand jury shall inquire into all indictable offenses brought before it which may be tried within the county, and present them to the court by indictment. The grand jury has the special duty to inquire into:

*a.* The case of any person imprisoned in the detention facilities of the county on a criminal charge and not indicted.

*b.* The condition and management of the public prisons, county institutions, and places of detention within the county.

*c.* The unlawful misconduct in office of public officers and employees in the county.

**2.3(6)** *Oaths and procedure.*

*a. Foreperson.* The court shall appoint a foreperson and, if desired, an assistant foreperson from among the grand jurors. When the foreperson or assistant foreperson already appointed becomes unable to complete their service before the grand jury is finally discharged, a substitute foreperson or assistant foreperson shall be appointed. The foreperson or assistant foreperson of the grand jury shall administer the oath to all witnesses produced and examined before it.

*b. Clerks and court reporters.* The court may appoint a competent person who is not a member of the grand jury as its clerk. In addition, the court may appoint assistant clerks to the grand jury who are also not members. If the court makes no such appointments, the grand jury shall appoint as its clerk a member who is not its foreperson. The court may appoint a court reporter to record the grand jury proceedings. The court reporter may serve as the clerk of the grand jury.

*c. Oaths administered.*

(1) The following oath shall be administered to the grand jury: "Do each of you solemnly swear or affirm that you will, to the best of your ability, diligently inquire and make a true presentment or indictment of all public offenses against the people of this state committed or triable within this county; that you will maintain the secrecy of the proceedings now before you; that you will indict no person through malice, hatred, bias, or ill will, nor fail to indict because of fear, favor, affection, or hope of reward; but, rather, that you will base your decision solely upon the evidence before you and in accordance with the laws of this state?"

(2) The following oath shall be administered to any clerk, assistant clerk, court reporter, or court attendant appointed by the court: "Do you solemnly swear or affirm that you will faithfully and impartially perform the duties of your office, that you will not reveal to anyone the grand jury's proceedings or the testimony given before it and you will not express any opinion concerning any question before the grand jury, to the grand jury, or in the presence of the grand jury or any member thereof?"

(3) The foreperson or assistant foreperson shall administer the following oath to all witnesses called to testify: "Do you solemnly swear or affirm, under penalty of perjury, that you will tell the truth, the whole truth, and nothing but the truth and that you will keep secret all that you say, hear, and see while in this grand jury room?"

*d. Secrecy of proceedings.*

(1) Except where specific provisions require otherwise, grand jury proceedings remain confidential. Every grand juror and any clerk, assistant clerk, court reporter, or court attendant shall keep secret the proceedings of the grand jury and any testimony given before it. If an indictment is found, no person shall disclose that fact except when necessary for the issuance and execution of a warrant or summons. The duty of nondisclosure shall continue until the indicted person has been arrested.

(2) The prosecuting attorney may appear before the grand jury to give information or examine witnesses, and the grand jury may at all reasonable times ask the advice of the prosecuting attorney or the court.

(3) When the grand jury is deliberating on whether to find an indictment, only members of the grand jury shall be present. The prosecuting attorney, court personnel, and any other persons are barred from the grand jury's deliberations.

(4) No grand juror shall be questioned for anything the grand juror said or any vote the grand juror cast in the grand jury relating to a matter legally pending before it, except in a case of perjury against the grand juror.

(5) The court or any legislative committee duly authorized to inquire into the conduct or acts of any state officer that might be the basis for impeachment proceedings may require the disclosure of a witness's grand jury testimony when necessary in the administration of justice.

*e. Securing witnesses and records.*

(1) The clerk of court shall issue subpoenas, including subpoenas duces tecum, for witnesses to appear before the grand jury, as requested by the foreperson of the grand jury or the prosecuting attorney.

(2) The grand jury is entitled to free access, at all reasonable times, to county institutions and places of confinement and to the examination, without charge, of all public records within the county.

*f. Reporting.* All grand jury proceedings shall be stenographically reported or electronically recorded, except for the deliberations and votes of individual members on whether to find an indictment.

*g. Evidence for subject of investigation.* The grand jury is not bound to receive evidence from a person who is the subject of investigation, but may do so, and must weigh all the evidence before it. When at least three grand jurors have reason to believe other evidence is available that they wish to have submitted, they may order its submission. If submitted, such evidence shall be considered by the grand jury in deciding whether an indictment should be found.

*h. Refusal of witness to testify.* When a witness under examination refuses to testify or answer a question, the grand jury shall proceed with the witness before a district judge, and the foreperson shall repeat the question and the refusal of the witness. If the court finds that the witness is bound to testify or answer the question, the court shall inquire whether the witness persists in refusing and, if the witness does, the court shall proceed with the witness as in cases of similar refusal in open court.

*i. Finding an indictment.* An indictment should be found when all the evidence, taken together, is such that, if unexplained, would warrant a conviction by the trial jury; otherwise, an indictment shall not be found. An indictment must be based only upon testimony given by witnesses sworn and examined before the grand jury, and other evidence received by the grand jury. A grand jury may consider testimony previously heard by the same or another grand jury. In any case, a grand jury may take additional testimony.

*j. Vote necessary.* An indictment cannot be found without the concurrence of five grand jurors. Every indictment must be endorsed a true bill and the endorsement signed by the foreperson.

*k. Effect of refusal to indict.* If the grand jury refuses to return an indictment, all materials shall be returned to the clerk, with the foreperson's signed endorsement that the charge has been declined. If the subject of investigation was in custody, the district judge shall enter an order which requires the subject to be released and, if applicable, bond to be exonerated. Upon request of the prosecuting attorney, and for good cause shown, the court may direct that the charge be resubmitted to the same or a subsequent grand jury.

*l. Appearance not required.* A child under the age of 10 years shall not be required to personally appear before a grand jury to testify against a relative or another person with whom the child resides or has resided during any period of the grand jury's investigation unless the court enters an order finding that the interests of justice require the child's appearance and that the child will not be disproportionately traumatized by the appearance.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §8 to 11, ch 1037, §11; amendment 1980; amendment 1983; 1985 Iowa Acts, ch 174, §12; Report November 9, 2001, effective February 15, 2002; February 22, 2002, effective May 1, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.4 Indictment.**

**2.4(1)** *Defined.* An indictment is an accusation in writing, found and presented by a grand jury legally impaneled and sworn to the court in which it is impaneled, charging that the person named therein has committed a public offense.

**2.4(2)** *Use of indictment.* Offenses other than simple misdemeanors may be prosecuted to final judgment either on indictment or on information as provided in rule 2.5.

**2.4(3)** *Presentation and filing.* An indictment, when found by the grand jury and properly endorsed, shall be presented to the court. The presentation shall be made by the foreperson of the grand jury in the presence of the other members of the grand jury. The prosecuting attorney shall prepare and present minutes of testimony as provided in rule 2.4(7) by the time of arraignment. The indictment, minutes of testimony, and all exhibits relating thereto shall be filed by the court.

**2.4(4)** *Contents of indictment.* An indictment shall substantially comply with rule 2.37—Form 5: *General Indictment Form* and, in any event, contain a plain, concise, and definite statement of the

offense charged and be signed by the foreperson of the grand jury. The indictment shall include the following:

*a.* The name of the accused, if known, and if not known, designation of the accused by any name by which the accused may be identified.

*b.* The name of the offense and the statutory provision or provisions alleged to have been violated.

*c.* A brief statement of the time and place of the offense, if known.

*d.* Where the means by which the offense is committed are necessary to charge the offense, a brief statement of the acts or omissions by which the offense is alleged to have been committed.

**2.4(5)** *Nonprejudicial defects in indictments.* A trial judgment or other proceeding shall not be affected by any defect in the indictment that does not prejudice a substantial right of the defendant.

**2.4(6)** *Amendment of indictment.*

*a. Generally.* The court may, either before or during the trial, order the indictment amended.

*b. Opportunity to resist proposed amendment.* The defendant shall be given a reasonable opportunity to resist any proposed amendment.

*c. When amendment is not allowed.* Amendment is not allowed if substantial rights of the defendant are prejudiced by the amendment, or if a wholly new and different offense is charged.

*d. Contintuance.* When an amendment is allowed, no continuance or delay in trial shall be granted on that ground unless the defendant should have additional time to prepare.

**2.4(7)** *Minutes.*

*a. Contents.* A minute of testimony shall consist of a notice in writing stating the name and occupation of the witness upon whose testimony the indictment is found, a full and fair statement of the witness's testimony before the grand jury if such witness testified, and a full and fair statement of the witness's expected testimony at trial. Disclosure of witness addresses shall be governed by rule 2.11(13).

*b. Amending minutes.* The prosecuting attorney may file amended minutes subject to rule 2.19(2).

*c. Minutes not to be disseminated.* Minutes of testimony shall be available to the district judge, the prosecuting attorney, the defendant, and the defendant's attorney to be used confidentially in the case and shall not be made public or further disseminated.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §12, 13; amendment 1979; amendment 1980; amendment 1999; Report November 9, 2001, effective February 15, 2002; December 23, 2008, effective February 23, 2009; April 2, 2009, effective June 1, 2009; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.5 Information.**

**2.5(1)** *In general.*

*a. Prosecution on information.* All indictable offenses may be prosecuted by a trial information and supporting minutes of testimony. An information charging a person with an indictable offense may be filed at any time, whether or not the grand jury is in session.

*b. Submitting the information to the court.* Any prosecuting attorney has the authority to submit an information to the court for filing unless that authority is specifically reserved to the attorney general.

**2.5(2)** *Endorsement.* An information shall be endorsed "a true information" and shall be signed by the prosecuting attorney.

**2.5(3)** *Witness names and minutes.* The prosecuting attorney shall submit the minutes of testimony with the information. The minutes shall state the name and occupation of each witness upon whose expected testimony the information is based and a full and fair statement of the testimony. Disclosure of witness addresses shall be governed by rule 2.11(13).

**2.5(4)** *Approval by judge.*

*a.* A district judge, or a district associate judge having jurisdiction of the offense, shall determine if the minutes supporting the information, if unexplained, would warrant a conviction by the trial jury. If so, the judge shall promptly approve and file the information.

*b.* If not approved, the charge may be presented to the grand jury for consideration.

*c.* At any time after judicial approval of an information, and prior to the commencement of trial, the court, on its own motion, may order the information set aside and the charge submitted to the grand jury.

*d.* If a judge attempts to file an information but the document is returned by the Iowa Judicial Branch electronic document management system, the date and time of the corrected filing shall relate back to the date and time of the judge's attempted filing.

**2.5(5)** *Indictment rules applicable.* All provisions of these rules applying to prosecutions on indictments apply also to informations, except where otherwise provided by statute or these rules, or

when the context requires otherwise. Without limiting the foregoing, rules 2.4(4), 2.4(5), 2.4(6), and 2.4(7) shall apply to trial informations.

**2.5(6)** *Investigation by prosecuting attorney.*

*a.* The clerk of court, on written application of the prosecuting attorney and approval of the court, shall issue subpoenas, including subpoenas duces tecum, for such witnesses as the prosecuting attorney may require in investigating an offense.

*b.* In such subpoenas, the clerk of court shall direct the appearance of said witnesses before the prosecuting attorney at a specified time and place. In lieu of a witness's personal appearance, the subpoena may direct the witness to produce materials at a specified time and place.

*c.* The prosecuting attorney shall have the authority to administer oaths to said witnesses. The witness shall be subject to the same obligations as if subpoenaed before a grand jury.

*d.* The application and judicial order for any subpoena shall be maintained by the clerk of court in a confidential file until a charge is filed, in which event disclosure shall be made to the defendant unless the court, in an in camera hearing, orders that the application and order be kept confidential.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §14, 15; Report 1978, effective July 1, 1979; amendment 1979; amendment 1982; amendment 1983; amended February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002; December 23, 2008, effective February 23, 2009; April 2, 2009, effective June 1, 2009; Court Orders October 14, 2022, November 7, 2022, effective July 1, 2023]

**Rule 2.6 Multiple offenses or defendants; pleading special matters.**

**2.6(1)** *Multiple offenses.* Two or more offenses that arise from the same transaction or occurrence, or from two or more transactions or occurrences constituting parts of a common scheme or plan, may be alleged and prosecuted as separate counts in a single indictment unless, for good cause shown, the trial court determines otherwise. Where a charged offense has lesser included offenses, the latter shall not be charged. The defendant may be convicted of either the offense charged or an included offense, but not both.

**2.6(2)** *Charging multiple defendants.*

*a. Multiple defendants.* Two or more defendants may be charged in the same indictment if they are alleged to have participated in the same act or the same transaction or occurrence out of which the offense or offenses arose. Such defendants may be charged in one or more counts together or separately, and all the defendants need not be charged in each count.

*b. Prosecution and judgment.* When two or more defendants are jointly charged, each shall be charged in a separate numbered case with a notation in the indictment of the number or numbers of the other cases. Those defendants shall be tried jointly unless, on motion of a defendant, the court determines that prejudice will result to one of the parties, in which case those defendants shall be tried separately. When jointly tried, defendants shall be adjudged separately on each count.

**Comment:** Revised rule 2.6(2) is not intended to modify existing law on charging multiple defendants.

**2.6(3)** *Allegations of prior convictions.* If the defendant will be subject to an increased penalty because of prior convictions, the prior convictions shall be alleged in the indictment. When the indictment is read or presented to the jury, there shall be no mention, directly or indirectly, of the prior convictions before conviction of the current offense.

**2.6(4)** *Other enhancements.* If the offense charged is one for which the defendant, if convicted, will be subject by reason of the Iowa Code to a greater minimum or maximum sentence because of some fact, such as use of a dangerous weapon, the allegation of such fact shall be contained in the indictment. If the allegation is supported by substantial evidence, the court shall submit to the jury a special interrogatory concerning this matter, as provided in rule 2.22(3).

**2.6(5)** *Pleading statutes.* A pleading asserting any statute of another state, territory, or jurisdiction of the United States, or a right derived from such statute, must reference the statute with a common citation form. The court may take judicial notice of the statute.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §16; amendment 1980; amendment 1982; amendment 1983; Report January 24, 2000, effective March 1, 2000; November 9, 2001, effective February 15, 2002; December 22, 2003, effective November 1, 2004; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.7 Warrants and summonses.**

**2.7(1)** *Issuance.* Upon the request of the prosecuting attorney, the court shall issue a summons or warrant for each defendant named in the indictment who has not previously been held to answer. Where the defendant has previously been held to answer but the indictment has added new charges, the court may upon request of the prosecuting attorney issue a summons or warrant.

**2.7(2)** *Form.*

*a. Warrant.* The warrant shall substantially comply with rule 2.36—Form 6: *Arrest Warrant After Indictment or Information* or rule 2.36—Form 7: *Arrest Warrant When Defendant Fails to Appear for Sentencing*, as appropriate. The warrant shall be signed by a magistrate or a clerk of court if an order for the warrant has been entered, describe the offense charged in the indictment, and command that the defendant be arrested and brought before the court. The amount of bail or other conditions of release may be fixed by the court and endorsed on the warrant.

*b. Summons.* The summons shall be in the form prescribed in Iowa Code section 804.2, except that it shall be signed by the clerk of court. A summons to a corporation shall be in the form prescribed in Iowa Code section 807.5.

**2.7(3)** *Execution; service; return.*

*a. Execution or service.* The warrant shall be executed or the summons served as provided in Iowa Code chapter 804. With respect to an incarcerated person, the court may enter an order directing that such person be produced for trial. The sheriff shall execute such order by serving a copy thereof on the warden or other individual having authority over such accused person in custody, and thereupon such person shall be delivered to such sheriff and conveyed to the place of trial.

*b. Return.* The officer executing a warrant or the person to whom a summons was delivered for service shall make return of the warrant.

**2.7(4)** *Forfeiture of bail; warrant of arrest.* If the defendant has been released and does not appear when a personal appearance is necessary, the court may issue a warrant for the defendant's arrest and, if appropriate, order the forfeiture of bail.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §17, 18; amendment 1983; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023; Court Order June 30, 2023, temporarily effective July 1, 2023, permanently effective August 29, 2023]

**Rule 2.8 Arraignment and plea.**

**2.8(1)** *Conduct of arraignment.*

*a.* Arraignment shall be conducted as soon as practicable following the filing of the indictment. If the defendant appears for arraignment without counsel, the court must inform the defendant of the right to counsel and ask if the defendant desires counsel. If the defendant desires counsel, and is unable by reason of indigency to employ any, the court must appoint defense counsel.

*b.* The defendant shall be given a copy of the indictment and the minutes of testimony before being called upon to plead.

*c.* Arraignment shall consist of reading the indictment to the defendant or, if the defendant waives reading, stating to the defendant the substance of the charge and calling on the defendant to enter a plea.

*d.* The defendant must inform the court whether the name shown in the indictment is the defendant's true and correct name. If the defendant gives no other name, the defendant is thereafter precluded from objecting to the indictment on the ground of being improperly named.

*e.* Unless otherwise ordered by the court, the defendant or the defendant's attorney may waive formal arraignment and enter a plea of not guilty by executing and filing a written arraignment that substantially complies with rule 2.37—Form 6: *Written Arraignment and Plea of Not Guilty*. If a written arraignment is used, the date of arraignment is deemed the date the written arraignment is filed.

**2.8(2)** *Pleas to the indictment.*

*a. In general.* A defendant may plead guilty, not guilty, or former conviction or acquittal. If the defendant fails or refuses to enter a plea at arraignment, or if the court refuses to accept a guilty plea, the court shall enter a plea of not guilty. A plea of not guilty does not waive any right to challenge the indictment.

*b. Pleas of guilty.* The court may refuse to accept a guilty plea. The court shall not accept a guilty plea without establishing that the plea is made voluntarily and intelligently and has a factual basis; and addressing the defendant personally in open court and informing the defendant of, and establishing that the defendant understands, the following:

(1) The nature and elements of the offense to which the plea is offered.

(2) The statutory maximum and minimum penalties for the offense to which the plea is offered. For purposes of this rule, penalties include incarceration, fines, surcharges, and any other punitive consequences of the conviction.

(3) That a criminal conviction, deferred judgment, or deferred sentence may result in the defendant not being able to vote, hold public office, or possess firearms or ammunition and may have adverse consequences regarding housing, employment, federal or state benefits, student loans, and driving privileges, in addition to other consequences.

(4) That a criminal conviction, deferred judgment, or deferred sentence may affect a defendant's status under federal immigration laws. The court shall inform the defendant that if the defendant is not a citizen of the United States, the effects may include deportation, inability to reenter the United States, mandatory detention in immigration custody, ineligibility for release on bond during immigration proceedings, and increased penalties for unauthorized reentry into the United States.

(5) That the defendant has the right to a trial by jury; the defendant is presumed innocent and cannot be convicted unless the state establishes guilt beyond a reasonable doubt to the unanimous agreement of a twelve-person jury; and the defendant has the right to assistance of counsel, the right to confront and cross-examine witnesses, the right not to be compelled to incriminate oneself, and the right to present witnesses and to have compulsory process in securing their attendance.

(6) That by pleading guilty the defendant waives all trial rights and there will not be a trial of any kind.

(7) That if the defendant pleads guilty (and the offense is not a class "A" felony), no appeal may be taken unless there is good cause for the appeal.

(8) The court shall also inquire as to whether the defendant's willingness to plead guilty results from prior discussions between the prosecuting attorney and the defendant or the defendant's attorney. The terms of any plea agreement shall be disclosed of record as provided in rule 2.10(2). Subject to rule 2.10(3), the court shall inform the defendant that the court is not bound by any party's recommendation as to sentence and that the court will determine sentence at the time of judgment. If the defendant persists in the guilty plea and it is accepted by the court, the defendant shall not have the right to withdraw the plea later on the ground that the court did not follow the plea agreement.

(9) *Conditional Plea.* With the consent of the court and the prosecuting attorney, a defendant may enter a conditional plea of guilty, reserving in writing the right to have an appellate court review an adverse determination of a specified pretrial motion. A defendant who prevails on appeal may then withdraw the plea.

*c. Manner and method of plea colloquy.* The court shall question the defendant and may allow the defendant's attorney to question the defendant. The prosecuting attorney may suggest questions to be asked of the defendant.

**Comment:** *Alford* pleas are permitted in the court's discretion, so long as the plea meets the requirements of this rule. *See North Carolina v. Alford*, 400 U.S. 25, 37–38 (1970) (discussing the basis for the *Alford* plea procedure); *State v. Knight*, 701 N.W.2d 83, 89 (Iowa 2005) (noting that "the district court has discretion to accept" *Alford* pleas from defendants).

*d. Challenging pleas of guilty.* The court shall inform the defendant:

(1) That any challenges to a guilty plea based on alleged defects in the plea proceedings must be raised in a timely motion in arrest of judgment.

(2) Of the time period for filing a motion in arrest of judgment.

(3) That failure to raise such challenges in a motion in arrest of judgment shall preclude the right to assert them.

*e. Immediate sentencing.* Upon request of the defendant and agreement of the state, the court may proceed directly to judgment and sentencing if the defendant waives all of the following:

(1) The right to file a motion in arrest of judgment.

(2) The use of a presentence investigation.

(3) The allotted time period before entry of judgment.

**2.8(3)** *Record of proceedings.* A stenographic record of all plea colloquies shall be made.

**2.8(4)** *Pleas of guilty to serious or aggravated misdemeanors or nonforcible class "D" felonies.* With the court's approval, the defendant may waive personal colloquy in open court in a guilty plea to a serious or aggravated misdemeanor or a nonforcible class "D" felony. In such event, the defendant must sign a written document substantially complying with rule 2.37—Form 12: *Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class "D" Felonies* that:

*a.* Demonstrates the defendant has been informed of and understands the matters set forth in rule 2.8(2)(*b*)(1)–(9).

*b.* Discloses and acknowledges the terms of any plea agreement, which shall also be acknowledged by the state.

*c.* Informs the defendant that any challenges to the guilty plea based on alleged defects in the plea proceedings must be raised in a motion in arrest of judgment and that failure to raise such challenges precludes the right to assert them on appeal.

**2.8(5)** *Withdrawal of guilty plea.* At any time before judgment and upon a showing of good cause and that it is in the interests of justice, the court may permit a guilty plea to be withdrawn and a not guilty plea substituted.

**Comment:** Revised rule 2.8(5) is not intended to modify existing law as to when a defendant who pleads guilty may withdraw that plea. However, there was a concern that former rule 2.8(2)(*a*) did not reflect current law because it could be read as providing for unfettered trial judge discretion regarding the withdrawal of a guilty plea at any time before judgment.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §19 to 23; Report 1978, effective July 1, 1979; amendment 1979; amendment 1982; amendment 1983; 1984 Iowa Acts, ch 1321, §1; Report of April 20, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; December 22, 2003, effective November 1, 2004; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.9 Trial assignments.** Within 7 days after the entry of a plea of not guilty, the court shall, by written order, set the date and time for trial. If the defendant waives speedy trial at arraignment, the court may hold a case management conference within 30 days, at which the date and time for trial and deadlines for filing motions and taking depositions will be set.

[Report 1982; 1985 Iowa Acts, ch 174, §13; November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.10 Plea bargaining.**

**2.10(1)** *In general.* The prosecuting attorney and the defendant's attorney may engage in discussions toward reaching a plea agreement, i.e., an agreement that the defendant will plead guilty to one or more offenses in return for one or more concessions by the state.

**2.10(2)** *Advising the court of agreement.* If a plea agreement has been reached by the parties, the court shall require disclosure of the terms of the agreement on the record at the time the plea is offered. If the plea agreement is in writing, the agreement shall be provided to the court and made a part of the record. All parties shall acknowledge the agreement either in writing or in open court on the record.

**2.10(3)** *Plea agreements conditioned upon court acceptance.* If the plea agreement is conditioned upon the court's approval of a sentencing agreement between the parties, the court may accept or reject the plea agreement, or may defer its decision to accept or reject the plea agreement until receipt of a presentence investigation report.

*a. Acceptance of conditional plea agreement.* When the plea agreement is conditioned upon court approval of a sentencing agreement, and the court accepts the sentencing agreement, at or before the time the plea is accepted, the court shall inform the defendant that it will adopt the disposition provided for in the agreement or another disposition more favorable to the defendant.

*b. Rejection of conditional plea agreement.*

(1) When the plea agreement is conditioned upon court approval of a sentencing agreement, and the court determines it will reject the sentencing agreement, the court shall inform the parties of this fact and afford the defendant an opportunity to withdraw the plea. If the court defers its decision to accept or reject the plea agreement and later decides to reject the plea agreement after receiving the presentence investigation report, the court shall likewise afford the defendant the opportunity to withdraw the plea.

(2) If the court rejects the plea agreement, the court shall also advise the defendant that if the guilty plea continues, the disposition of the case may be less favorable to the defendant than that contemplated by the plea agreement. If the defendant persists in the guilty plea and it is accepted by the court, the defendant shall not have the right to withdraw the plea later on the ground that the court did not follow the plea agreement.

**2.10(4)** *Inadmissibility of plea discussions.* If plea discussions do not result in a guilty plea or if a guilty plea is not accepted or is withdrawn, or if judgment on a guilty plea is reversed on direct or collateral review, the content of any plea discussions and any resulting plea agreement, plea, or judgment shall be inadmissible in any proceeding except as provided in Iowa Rule of Evidence 5.410.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §24; amendment 1979; Court Order April 10, 1997; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.11 Pleadings and motions.**

**2.11(1)** *Pleadings and motions.* Pleadings in criminal proceedings shall be the indictment and the pleas entered pursuant to rule 2.8(2). Defenses and objections raised before trial shall be raised by motion.

**2.11(2)** *Motions.* An application to the court for an order shall be by motion. A motion other than one made during a trial or hearing shall be in writing unless the court permits it to be made orally. It shall state the grounds upon which it is made and shall set forth the relief or order sought.

**2.11(3)** *Service and filing of motions, orders, and papers.* Service and filing of written motions, notices, orders, and other similar papers shall be in the manner provided by the Chapter 16 Iowa Rules of Electronic Procedure.

**2.11(4)** *Pretrial motions.* Any defense, objection, or request that is capable of determination before trial may be raised prior to trial by motion. The following must be raised prior to trial:

*a.* Defenses and objections based on defects in the institution of the prosecution.

*b.* Defenses and objections based on defects in the indictment other than lack of jurisdiction in the court or failure to charge an offense.

*c.* Motions to suppress illegally obtained evidence pursuant to rule 2.12.

*d.* Requests for discovery.

*e.* Requests for a severance of charges or defendants.

*f.* Motions for change of venue.

*g.* Motions in limine.

*h.* Motions for separate interpreters.

*i.* Objections to enhancements based on prior convictions other than that the defendant was not the person convicted, or that the defendant was not represented and did not waive counsel.

*j.* Motions for bill of particulars.

**Comment:** Former rule 2.11(9) authorized a "motion for change of judge" to be "verified on information and belief by the movant." References to the motion of change of judge have been deleted from revised rule 2.11 because they have been superseded by other sources of law relating to recusal and disqualification. *See, e.g.*, Iowa Ct. R. 51:2.11. While a litigant should certainly move for disqualification of a judge when a legal ground for doing so arises, that is not the only way for disqualification to occur.

**2.11(5)** *Effect of failure to raise defenses or objections.* Failure of the defendant to timely raise defenses or objections or to make requests that must be made prior to trial under this rule shall constitute waiver thereof, but the court, for good cause shown, may grant relief from such waiver.

**2.11(6)** *Time of filing.* Pretrial motions, except motions for bill of particulars and motions in limine, shall be filed when the grounds therefor reasonably appear but no later than 40 days after arraignment. Motions in limine shall be filed when grounds therefor reasonably appear but no later than 9 days before the trial date. On request of a party, the court may establish different deadlines for filing motions.

**2.11(7)** *Bill of particulars.* When an indictment or information charges an offense, but fails to specify the particulars of the offense sufficiently to fairly enable the defendant to prepare a defense, the court may, on written motion of the defendant, require the prosecuting attorney to furnish the defendant with a bill of particulars containing such particulars as may be necessary for the preparation of the defense. A motion for a bill of particulars may be made any time prior to or within 10 days after arraignment unless the time is extended by the court for good cause shown. A plea of not guilty does not waive the right to move for a bill of particulars if such motion is timely filed within this rule. The prosecuting attorney may furnish a bill of particulars on the prosecuting attorney's own motion, or the court may order a bill of particulars without motion. Supplemental bills of particulars may likewise be ordered by the court or voluntarily furnished, or a new bill may be substituted for a bill already furnished. At the trial, the state's evidence shall be confined to the particulars of the bill or bills.

**2.11(8)** *Dismissing indictment or information.*

*a. In general.* A motion to dismiss the indictment or information may be made on the ground that the matters stated do not constitute the offense charged, that a prosecution for that offense is barred by the statute of limitations, or that the prosecution is barred by some other legal ground. If the court concludes that the motion is meritorious, it shall dismiss the indictment or information unless the prosecuting attorney furnishes an amendment that cures the defect.

*b. Indictment.* A motion to dismiss the indictment may also be made on one or more of the following grounds:

(1) When the indictment has not been presented and marked "filed" as prescribed.

(2) When any person other than the grand jurors was present before the grand jury when the question was taken upon the finding of the indictment.

(3) When any person other than the grand jurors was present before the grand jury during the investigation of the charge, except as required or permitted by law.

(4) When the grand jury was not selected, impaneled, or sworn as prescribed by law.

*c. Information.* A motion to dismiss the information may also be made on one or more of the following grounds:

(1) When the minutes of testimony have not been filed with the information.

(2) When the information has not been filed in the manner required by law.

(3) When the information has not been approved as required under rule 2.5(4).

**2.11(9)** *Effect of determination.* If the court grants a motion based on a defect in the institution of the prosecution or in the indictment, it may also order that a defendant continue to be held in custody or that the defendant's bail be continued for a specified period pending the filing of a new indictment, or the amendment of any such pleading if the defect is subject to correction by amendment. The new information or indictment must be filed within 20 days of the dismissal of the original indictment. The 90-day period under rule 2.33(2)(*b*) for bringing a defendant to trial shall commence anew with the filing of the new indictment.

**2.11(10)** *Ruling on motion.* A pretrial motion shall be determined without unreasonable delay. Where factual issues are involved in determining a motion, the court shall state its essential findings on the record.

**2.11(11)** *Motion for change of venue.* If a motion for change of venue is filed and the court finds there is a substantial likelihood a fair and impartial trial cannot be preserved with a jury selected from the county where trial is to be held, the court shall order that the action be transferred to another county in which that condition does not exist.

*a.* When a motion for change of venue is granted, the prosecution shall continue in the county where the action is transferred. If the defendant is in custody, the court may order the defendant to be delivered to the sheriff of the receiving county.

*b.* All expenses attendant upon the change of venue and trial, including the costs of keeping the defendant, may be recovered by the receiving county from the transferring county. The prosecuting attorney in the transferring county is responsible for prosecution in the receiving county.

**2.11(12)** *Defense notices.*

*a. Alibi.* A defendant who intends to offer evidence of an alibi defense shall file written notice of such intention within the time provided for pretrial motions.

(1) The notice shall specify the place or places at which the defendant claims to have been at the time of the alleged offense and the names of the witnesses upon whom the defendant intends to rely to establish such alibi.

(2) In response, the prosecuting attorney shall, within 10 days of the defendant's notice or within such other time as the court may direct, file written notice of the names of the witnesses the state proposes to offer in rebuttal to the defendant's alibi.

(3) The notice of alibi and any rebuttal notice shall include witness addresses that conform to rules 2.11(13) and 2.13(2).

*b. Insanity or diminished responsibility.*

(1) *Notice of defense.* If a defendant intends to rely upon either the defense of insanity or the defense of diminished responsibility, the defendant shall file written notice of such intention within the time provided for filing pretrial motions. The court may for good cause shown allow late filing of the notice or grant additional time to the parties to prepare for trial or make other orders as appropriate.

(2) *State's right to expert examination.* When a defendant intends to rely on an expert witness or witnesses for the defense of insanity or diminished responsibility, the defendant shall, within the time provided for filing pretrial motions, file written notice of the name of each such witness. Upon the prosecuting attorney's application in response, if a defendant's expert has examined the defendant, the court may order the examination of the defendant by a state-named expert or experts whose names shall be disclosed to the defendant prior to examination.

*c. Examination of the defendant for purposes of other defenses.* If a defendant's expert has examined the defendant for a reason other than insanity or diminished capacity and is expected to testify, the defendant shall, within the time for filing pretrial motions, file written notice of the name of the expert and the reason for examination. Upon the prosecuting attorney's application in

response, the court may order the examination of the defendant by a state-named expert for the same purpose. The name of the state's expert shall be disclosed to the defendant prior to examination.

**Comment:** Rule 2.11(12)(*c*) is intended to codify the principle set forth in *State v. Rodriguez*, 807 N.W.2d 35, 38-39 (Iowa 2011), including the safeguards described therein.

*d. Affirmative defenses.* If defendant intends to rely upon an affirmative defense of intoxication, entrapment, justification, necessity, duress, mistake, or prescription drugs, the defendant shall, within the time for filing pretrial motions, file written notice of intention as to each such defense.

*e. Failure to comply.* If a party fails to abide by the deadlines in this rule, such party may not offer evidence on the issue without leave of court for good cause shown. In granting leave, the court may impose terms and conditions including a delay or continuance of trial. The right of a defendant to give evidence of alibi, insanity, diminished responsibility, or any affirmative defense in the defendant's own testimony is not limited by this rule. Additionally, this rule does not limit the scope of cross-examination or the defendant's entitlement to an instruction on a defense if supported by the evidence admitted at trial.

**2.11(13)** *State's duty to disclose witnesses.*

*a. Duty to disclose addresses of law enforcement, governmental, and licensed professional witnesses.* In the minutes of testimony, the state shall provide the defense with a written list of the known employment addresses of the following persons who are expected to testify in their official or professional capacity during the state's case-in-chief: sworn peace officers; federal, state, local, and municipal employees and elected officials; and licensed professionals.

*b. Duty to disclose addresses of other witnesses.* In the minutes of testimony, the state shall provide the defense with a written list of the known residential and employment addresses of the other witnesses who are expected to testify during the state's case-in-chief.

*c. Grounds for withholding an address.* If the state contends disclosure of any address would result in substantial risk to any person of physical harm, intimidation, bribery, economic reprisal, coercion, or undue invasion of privacy, the state may withhold disclosure and shall inform the defendant's attorney of the basis of the nondisclosure.

*d. Disclosure of an address withheld by the state.* If the state withholds disclosure of an address, the defendant's attorney may request in writing the disclosure of residential or alternative addresses for investigative purposes or to ensure service of a subpoena.

(1) Within 5 days of receipt of the request, the state shall confer with the defendant's attorney and provide the requested information to the defendant's attorney or seek a protective order from the court. The court may deny, defer, or otherwise restrict disclosure to the defendant's attorney if the state proves the disclosure would result in substantial risk to any person of physical harm, intimidation, bribery, economic reprisal, coercion, or undue invasion of privacy that outweighs any usefulness of the disclosure to the defendant's attorney.

(2) In establishing the usefulness of the disclosure to the defendant's attorney, the defendant's attorney may provide the court with a written statement to be reviewed by the court in camera. The written statement shall not be served on the state, but shall be made a part of the file, placed under seal, and not subject to disclosure absent further order of the court.

(3) If the court denies the defendant's attorney's request, the court may enter an order allowing the defendant's attorney an opportunity to meet with any witness who is willing to talk to the defendant in an environment that provides for the protection of the witness. The court shall also enter an order facilitating the defendant's attorney's ability to serve a subpoena on the witness for deposition or trial.

*e. Further disclosure of addresses by the defendant's attorney.* Any address disclosed by the state in the minutes of testimony may be disclosed by the defendant's attorney to the defendant, persons employed by the attorney, persons appointed by the court to assist in the preparation of a defendant's case, or any other person if the disclosure is required for preparation of the defendant's case. An attorney shall inform persons provided this information that further dissemination of the information, except as provided by court order, is prohibited. A willful violation of this rule by the defendant, an attorney, persons employed by an attorney, persons appointed by the court, or other persons authorized by the court to receive the address is subject to punishment by contempt.

*f. Continuing duty to update.* The state has a continuing duty to inform the opposing party of any change in the last known residential address or employment address of any witness that the state intends to call during its case-in-chief as soon as practicable after the state obtains that information.

*g. Interference with witnesses.* The defendant, attorneys representing the defendant or the state, and their representatives and agents shall not instruct or advise persons, except the defendant, having relevant information that they should refrain from discussing the case with the opposing

party's attorney or an unrepresented defendant or from showing the opposing party's attorney or an unrepresented defendant any relevant evidence. The defendant, attorneys representing the defendant or the state, and their representatives and agents shall not otherwise impede investigation of the case by the opposing party's attorney or an unrepresented defendant. See Iowa R. Prof'l Conduct 32:3.4(a), (f).

*h. Service of subpoenas.* The most recent address provided by the state for a witness shall be the authorized address where the witness can be served, except when the defendant's attorney has reason to believe that the address is not accurate for that witness at the time of service, or the person in fact no longer works or resides at that address.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §25 to 36; amendment 1980; amendment 1981; 82 Acts, ch 1021, §1 to 3, effective July 1, 1983; amendment 1983; amendment 1984; 1984 Iowa Acts, ch 1320, §2; Report January 31, 1989, effective May 1, 1989; Report September 22, 1999; February 8, 2000; November 9, 2001, effective February 15, 2002; December 22, 2003, effective November 1, 2004; April 2, 2009, effective June 1, 2009; October 28, 2009, effective December 28, 2009; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.12 Suppression of unlawfully obtained evidence.**

**2.12(1)** *Motion to suppress evidence.* A person aggrieved by an unlawful search, seizure, interrogation, or other unlawfully obtained evidence may move to suppress for use as evidence anything so obtained. The court shall receive evidence on any issue of fact necessary to the decision of the motion. The motion shall be made as provided in rules 2.11(4)–(6).

**2.12(2)** *Discretionary review of an interlocutory order.* Any party aggrieved by an interlocutory order affecting the suppression of evidence, except in simple misdemeanors, may apply for discretionary review of the order in advance of trial.

**2.12(3)** *Effect of failure to file.* Failure to file a timely motion to suppress evidence waives the objection that the evidence was unlawfully obtained unless good cause is shown for a later filing.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §37; amendment 1979; amendment 1980; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.13 Depositions.**

**2.13(1)** *By defendant.* A defendant in a criminal case may depose all witnesses listed by the state in the minutes of testimony in the same manner, with the same effect, and with the same limitations, as in civil actions except as otherwise provided by statute and these rules.

**2.13(2)** *Reciprocal disclosure of witnesses.*

*a.* At or before the taking of any deposition by a defendant, the defendant shall file a written list of the names and addresses of all witnesses expected to be called for the defense except the defendant and surrebuttal witnesses.

*b.* The defendant shall have a continuing duty before and throughout trial promptly to disclose additional defense witnesses.

*c.* If the defendant has taken depositions and does not disclose to the prosecuting attorney all of the defense witnesses, except the defendant and surrebuttal witnesses, at least 9 days before trial, the court may order the defendant to permit the discovery of such witnesses, grant a continuance, or enter such other order as it deems just under the circumstances. The court may, if it finds that no less severe remedy is adequate to protect the state from undue prejudice, order the exclusion of the testimony of any such witnesses.

*d.* The state may depose any witness listed by the defense.

**2.13(3)** *Objections to depositions.* If either party objects to the taking of a deposition, the court shall determine whether discovery of the witness is necessary in the interest of justice and shall allow or disallow the deposition.

**Comment:** The former rule recognized only two objections to depositions: (1) that the witness was a foundation witness, and (2) that the witness had been adequately examined at the preliminary hearing. The revised rule recognizes there may be other legally valid objections to a deposition, e.g., the witness has already been deposed and there is no need for a second deposition.

**2.13(4)** *Time of taking.* If the defendant does not waive speedy trial, depositions shall be taken within 30 days after arraignment unless the deadline is extended by the court. If the defendant waives speedy trial, depositions shall be taken at least 30 days before trial unless the court orders otherwise.

**2.13(5)** *Presence of defendant.* Subject to rule 2.13(6)(*c*) and rule 2.27(1)(*c*), the defendant is required to be personally present at all depositions. If the identity of the defendant is at issue and the defendant makes a timely motion, the court may allow the defendant to be absent during the part

of the deposition when the parties question an eyewitness concerning the identity of the perpetrator of the crime. In that event, all parties shall complete their examination of the eyewitness regarding identity before the defendant is required to be present.

**2.13(6)** *Special circumstances.*

*a. Perpetuation of testimony where a witness will be unavailable at trial.* Whenever the interests of justice make necessary the taking of the deposition of a prospective witness for use at trial, the court may, upon motion of a party and notice to the other parties, order that the deposition be taken and that any designated materials, not privileged, be produced at the same time and place. This provision is available even if the moving party is the only party intending to call the prospective witness at trial.

*b. Continuation of the prosecuting attorney's investigation.* After a complaint or indictment has been filed, the prosecuting attorney may continue to subpoena witnesses and utilize subpoenas duces tecum, as provided in rule 2.5(6). However, the defendant shall receive notice, and if a witness appears pursuant to a subpoena, the defendant shall have the opportunity to appear, cross-examine the witness, and review materials produced by the witness.

*c. Minors.* A complaining witness who is a minor shall have the right to have an interview or deposition taken outside the personal presence of the defendant. To exercise this right, the minor or the state on the minor's behalf shall file a notice with the court, in which case the interview or deposition shall proceed as follows:

(1) There shall be an audiovisual connection or other method allowing the defendant to see and hear the interview or deposition.

(2) The manner of taking of the interview or deposition shall ensure that the defendant shall not have contact with the minor.

(3) The defendant shall be allowed to communicate with the defendant's attorney in the room where the minor is being interviewed or deposed by an appropriate electronic method.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §38; amendment 1980; amendment 1981; amendment 1982; 1985 Iowa Acts, ch 174, §14; Report November 9, 2001, effective February 15, 2002; Court Orders October 14, 2022, May 31, 2023, effective July 1, 2023; Court Order June 30, 2023, temporarily effective July 1, 2023, permanently effective August 29, 2023]

**Rule 2.14 Discovery.**

**2.14(1)** *Disclosure of evidence by the state upon defense request or motion.*

*a. Disclosure required upon request.*

(1) Upon a filed pretrial request by the defendant, the prosecuting attorney shall permit the defendant to inspect and copy:

1. Any relevant written or recorded statements made by the defendant, within the possession, custody, or control of the prosecuting attorney or investigating law enforcement agency unless those statements were included with the minutes of testimony accompanying the indictment.

2. The substance of any oral statement made by the defendant, which the state intends to offer in evidence at the trial, including any record of same.

3. The transcript or record of testimony of the defendant before a grand jury.

(2) When two or more defendants are jointly charged, upon the filed request of any defendant, the prosecuting attorney shall permit the defendant to inspect and copy any written or recorded statements and the substance of any oral statements of a codefendant that the state intends to offer in evidence at trial.

(3) Upon the filed request of the defendant, the state shall permit the defendant to inspect a copy of the defendant's prior criminal record, if any.

*b. Discretionary discovery.* Upon motion of the defendant, the court may order the prosecuting attorney to permit the defendant to inspect, copy, and photograph, and, where appropriate, subject to scientific tests:

(1) Items seized by the state in connection with the alleged crime.

(2) Any results or reports of physical or mental examinations and scientific tests or experiments made in connection with the particular case, within the possession, custody, or control of the state.

(3) Writings, recordings, photographs, or tangible objects within the possession, custody, or control of the prosecuting attorney or investigating law enforcement agency, which are material to the preparation of the defense, or are intended for use by the state as evidence at the trial, or were obtained from or belong to the defendant. This includes the transcript or record of any grand jury testimony given by a witness who is expected to testify in the government's case-in-chief.

**2.14(2)** *Disclosure of evidence by the defendant.* If the court grants the relief sought by the defendant under rule 2.14(1)(*b*), the defendant shall have a duty to permit the state to inspect and copy:

*a.* Writings, recordings, photographs, or tangible objects, including statements other than those of the defendant that are not privileged and are within the possession, custody, or control of the defendant, and which the defendant intends to introduce in evidence at trial.

*b.* Any results or reports of physical or mental examinations and scientific tests or experiments made in connection with the particular case, within the possession or control of the defendant, which the defendant intends to introduce in evidence at the trial, or which were prepared by a witness whom the defendant intends to call at the trial when such results or reports relate to the witness's testimony.

**2.14(3)** *Continuing duty to disclose.* If following the issuance of an order under this rule, a party discovers additional evidence or decides to use additional evidence that would be subject to discovery under the same order, the party shall promptly disclose the evidence to the other party.

**2.14(4)** *Regulation of discovery.*

*a. Protective orders.* For good cause shown, the court may order the discovery or inspection be denied, restricted, or deferred, or make such other order as is appropriate.

*b. Failure to comply.* If a party fails to comply with this rule or with an order issued pursuant to this rule, the court may, upon timely application, order such party to permit the discovery or inspection, grant a continuance, prohibit the party from introducing any evidence not disclosed, or enter such other order as it deems just under the circumstances.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §39, 40, 41; amendment 1981; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.15 Subpoenas.**

**2.15(1)** *For witnesses.* A party who requires a subpoena for witness testimony at a hearing, deposition, or trial in a pending criminal action must submit the subpoena to the clerk of court with the case caption and case number filled in and identify that the subpoena is for witness testimony. Upon receipt, the clerk of court shall issue the subpoena, signed by the clerk and with the court's seal, to the party.

**2.15(2)** *For production of documents.* A subpoena may direct the witness to bring with the witness any documents, electronically stored information, or other things under the witness's control that the witness is bound by law to produce as evidence. The court on motion may dismiss or modify the subpoena if compliance would be unreasonable or oppressive.

**2.15(3)** *Special circumstances.*

*a. Defense Subpoenas.*

(1) After an indictment or trial information is filed, the defendant may apply to the court, with notice to the state, to issue a subpoena for the purposes of investigation. The application must include a list of all other reasonable efforts made by the defendant to obtain the material sought and must establish in detail and in good faith all of the following:

1. The material sought contains exculpatory information.
2. The material sought does not include private information concerning a crime victim in the case.
3. The material sought is not otherwise protected from disclosure by a separate rule of criminal procedure, rule of evidence, or federal or state statute.
4. The information is not available from any other source.

(2) If the court concludes that the defendant's application does not meet the requirements of rule 2.15(3)(*a*)(1), the court shall return or reject the defendant's application and deny any hearing.

(3) If the court concludes that the defendant's application has made the showing required by rule 2.15(3)(*a*)(1) by a preponderance of the evidence, it shall order the defendant to notify any person or entity affected by the defendant's application. Any objections, motions to quash or modify the subpoena, or motions for protective orders by the state or nonparties must be filed with the court within 14 days of receiving the notice from the defendant and must include the basis for the objection or motion and may include a request for a hearing.

(4) The court may limit the scope of any subpoena issued under rule 2.15(3) and enter any protective order as necessary in the interests of justice, including a requirement of in camera review of the materials obtained before disclosure to the parties.

(5) The defendant is responsible for service of any subpoenas permitted by the court under rule 2.15(3) and service must be made pursuant to rule 2.15(4). The defendant is responsible for any costs associated with the production of the requested materials.

(6) The defendant must produce any materials obtained by a subpoena issued under rule 2.15(3) to the state and any codefendants within 7 days of receipt of the materials or at least 10 days prior to trial, whichever is earlier.

(7) Rule 2.15(3)(*a*) is the exclusive procedure by which a criminal defendant may subpoena documents or other evidence before trial, except that a request for documents may be included with a rule 2.15(1) trial subpoena or a rule 2.15(2) deposition notice. Failure to comply with this rule may result in sanctions from the court, such as contempt or a finding that the evidence obtained is inadmissible at trial.

*b. Preservation order.* The defendant may seek a preservation order to avoid the risk of loss of evidence or other reason justifying relief by filing an emergency application with the court along with any supporting affidavits and a proposed order. Notice shall be given to the state when making this application. If the court finds good cause has been shown by the application and any supporting affidavits, the court shall immediately issue a preservation order to be served on the appropriate person or entity.

**2.15(4)** *Service.* Any person who is at least 18 years old and not a party to the case may serve a subpoena.

**Comment:** Investigators, paralegals, and attorneys may serve subpoenas unless they are a party to the case.

*a.* A peace officer must serve without delay in the peace officer's county or city any subpoena delivered to the peace officer for service and make a written return stating the time, place, and manner of service.

*b.* When service is made by a person other than a peace officer, proof thereof shall be made by affidavit, which shall be filed in the court and shall include the time, place, and manner of service and the name of the person served.

*c.* Service upon an adult witness is made by personally delivering a copy of the subpoena to the witness.

*d.* Service may be by electronic mail or other electronic means with the consent of the person or entity being served. Proof of service shall be filed with the court.

*e.* Service upon a minor witness shall be as provided for personal service of an original notice in a civil case pursuant to Iowa Rule of Civil Procedure 1.305(2).

*f.* Any subpoena must comply with Iowa Code section 622.10, if applicable.

**2.15(5)** *Sanctions for refusing to appear or testify.* Disobedience to a subpoena, or refusal to be sworn or to answer as a witness, may be punished by the court as contempt. The attendance of a witness who so fails to appear may be compelled by warrant.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §42; Report April 20, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023; August 22, 2023, effective October 23, 2023]

**Rule 2.16 Pretrial conference.**

**2.16(1)** *When held.* The court may order all parties to appear for a conference to consider such matters as will promote a fair and expeditious trial.

**2.16(2)** *Subjects of the conference.* The conference may cover such matters as amendment of pleadings, agreements as to the introduction of evidence, submission of requested jury instructions, and any other matters that may facilitate trial.

**2.16(3)** *Stipulations and orders.* The court shall enter an order reciting any action taken at the conference.

**2.16(4)** *Orders on written agreement.* Nothing in this rule shall prevent the court from entering orders without a hearing on written stipulation of the parties.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §43; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.17 Trial by jury or court.**

**2.17(1)** *Trial by jury.* Cases required to be tried by jury shall be so tried unless the defendant voluntarily and intelligently waives a jury trial in open court and on the record. Any waiver of a jury trial must occur at least 10 days prior to trial unless the prosecuting attorney consents. The defendant may not withdraw waiver of a jury trial without court approval.

**2.17(2)** *Trial on the minutes.*

*a. Generally.* In a case where the parties agree to a trial on the minutes of testimony, the court shall render a verdict without a jury based on the previously filed minutes and any other material that the parties have agreed should be included in the trial record.

*b. Jury waiver required.* Before commencing a trial on the minutes, the court shall personally address the defendant and ensure the defendant has duly waived the right to a jury trial in open court and on the record.

*c. Additional colloquy required.* The court shall further address the defendant personally and in open court and inform the defendant of the following:

(1) That the determination of guilt or innocence will be based only upon the minutes of testimony filed by the state and any other materials the parties have agreed to be included.

(2) That the defendant will not have the right to call any witnesses on the defendant's behalf including the defendant.

(3) That the defendant is giving up the right to cross-examine the state's witnesses and to object to any evidence set forth in the minutes or any other materials the parties have agreed to be included.

*d. Excluding information from a trial on the minutes.* The parties may also agree to exclude portions of the minutes from consideration at trial, in which case the colloquy in rule 2.17(2)(*c*) will be adjusted accordingly.

**2.17(3)** *Findings.* In a case tried without a jury, the court shall find the facts specially, separately state its conclusions of law, and render an appropriate verdict in open court and on the record. The defendant may waive in advance the right to receive the verdict in open court.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §44; 69GA, ch 206, §16; amendment 1983; 1986 Iowa Acts, ch 1106, §1; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.18 Juries.**

**2.18(1)** *Definitions.* The following terms, as used in this rule, are defined as follows:

*a. Panel.* Those jurors drawn or assigned for service to a courtroom, judge, or trial.

*b. Pool.* The sum total of prospective jurors reporting for service.

**2.18(2)** *Selection of the panel.* For each jury trial, the clerk of court shall randomly select a number of prospective jurors equal to twelve plus the prescribed number of alternates and strikes. The clerk may randomly select additional prospective jurors for the panel to allow for possible challenges for cause.

**2.18(3)** *Depletion of the panel.* If for any reason the panel is exhausted without a jury being selected, the panel shall be replenished from the pool or, if necessary, in the manner provided in Iowa Code chapter 607A.

**2.18(4)** *Challenges to the panel or the pool.* Before any juror is sworn for examination, either party may challenge the panel or the pool on the record distinctly specifying the grounds, which can be founded only on a material departure from the legal requirements for selecting the jury. Any officer, judicial or ministerial, whose irregularity is complained of, and any other persons, may be examined concerning the facts specified. If the court sustains the challenge, it shall discharge the panel or the pool, as appropriate.

**2.18(5)** *Challenges to individual jurors for cause.* A challenge for cause of an individual juror may be made orally by the state or the defendant and must distinctly specify the facts constituting the cause. A challenge may be made on an individual juror for any of the following causes:

*a.* A previous conviction of the juror of a felony unless it can be established through the juror's testimony or otherwise that:

(1) The juror's rights of citizenship have been restored.

(2) The juror is not currently under the supervision of the department of corrections, a judicial district department of correctional services, or the board of parole.

(3) The juror is not currently registered as a sex offender under chapter 692A or required to serve a special sentence under chapter 903B.

*b.* Failure to meet any of the qualifications prescribed by Iowa Code chapter 607A to render a person a competent juror.

*c.* A physical or mental condition that would reasonably render the juror incapable of performing the duties of a juror.

*d.* Affinity or consanguinity, within the fourth degree, to an alleged victim, complaining witness, or defendant.

*e.* Standing in the relation of guardian and ward, attorney and client, employer and employee, or landlord and tenant with an alleged victim, complaining witness, or defendant.

*f.* Having been adverse to the defendant in a prior civil action or criminal prosecution.

*g.* Having served on a grand jury that heard evidence of the case.

*h.* Having served on a trial jury that heard evidence of the case in a trial of another defendant.

*i.* Having been on a jury previously sworn to try the same indictment.

*j.* Having served as a juror in a civil action that heard evidence of the case.

*k.* Having formed or expressed such an opinion as to the guilt or innocence of the defendant as would prevent the juror from rendering a true verdict upon the evidence submitted on the trial.

*l.* Having provided bail for any defendant in the indictment.

*m.* Having been a defendant in a similar indictment or the victim of a similar offense within the preceding year.

*n.* Having been a witness either for or against the defendant at the preliminary hearing or before the grand jury.

*o.* Where the circumstances indicate the juror would have an actual bias for or against a party.

**2.18(6)** *Examination of jurors.* Before examination, the jurors shall be sworn. On sensitive subjects, the court may order that jurors be examined individually, separate from each other and in a location other than the courtroom. If an individual juror is challenged, the juror may be examined as a witness to prove or disprove the challenge and must answer every question pertinent to the inquiry thereon, but the juror's answers cannot be used in a civil or criminal proceeding against the juror, other than a prosecution for perjury or contempt. When a potential juror expresses actual bias relevant to the case, including but not limited to bias based on age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability, the court may clarify the juror's position but shall not attempt to rehabilitate the juror by its own questioning.

**2.18(7)** *Order of challenges for cause.* The state shall first complete its challenges for cause, followed by the defendant, until a number of jurors equal to twelve plus the prescribed number of strikes has been obtained.

**2.18(8)** *Vacancy filled.* If a challenge for cause is sustained, another juror shall be called and examined. Any new juror thus called may be challenged for cause and shall be subject to being struck from the list as other jurors.

**2.18(9)** *Clerk to prepare list; procedure.* The clerk of court shall prepare a list of jurors called. After challenges for cause are completed, each side, commencing with the state, shall alternately exercise its strikes by indicating the strike upon the list opposite the name of the juror.

**2.18(10)** *Number of strikes.*

*a. Class "A" felonies.* If the offense charged is a class "A" felony, the state and defendant shall each strike ten prospective jurors.

*b. Other felonies.* If the offense charged is a felony other than a class "A" felony, the state and the defendant shall each strike six prospective jurors.

*c. Misdemeanors.* If the offense charged is a misdemeanor, the state and the defendant shall each strike four prospective jurors.

**2.18(11)** *Preserving appellate review of certain denials of challenges for cause.*

*a.* To preserve for appellate review a claim that a challenge for cause was improperly denied when the party later exercised a strike on the same juror, a party must do the following outside the presence of the jury before the jury is impaneled:

(1) The party must identify a seated juror whom the party would have stricken if an additional strike had been available and state the reasons why the juror would have been stricken.

(2) The party must request an additional strike to be used on that juror.

*b.* If the court grants the additional strike, then another juror shall be called and examined as needed.

**Comment:** Rule 2.18(11) is intended to codify the procedure set forth in *State v. Jonas*, 904 N.W.2d 566 (Iowa 2017).

**2.18(12)** *Multiple charges.* If the indictment charges multiple offenses, the number of strikes shall be based on the highest grade of offense charged.

**2.18(13)** *Multiple defendants.* Where two or more defendants are tried together, each defendant shall have one-half the number of strikes allowed in rule 2.18(10). The state shall have the number of strikes equal to the total number of strikes allotted to all defendants. Subject to the court's approval, the parties may agree to a reduced number of strikes.

**2.18(14)** *Selecting alternate jurors.* The court may require selection of one or more alternate jurors whose qualifications will be the same as principal jurors.

*a. The role of alternate jurors.* An alternate juror shall replace a principal juror if, during trial, a principal juror becomes unable to serve.

*b. Alternate juror selection procedure.* Prior to commencing jury selection, the court must determine, on the record, with input of the attorneys, how many alternate jurors will be selected and how they will be selected, provided that any method of selection must comply with this rule. The clerk of court will call for examination the number of additional prospective jurors necessary to allow for the number of alternates to be selected and one additional strike for each party.

*c. Examination and seating of alternate jurors.* Jury examination will proceed contemporaneously for both principal and alternate jurors.

*d. Identity of alternate jurors.* The identity of the alternate jurors will not be revealed to the jury or the alternates until the jury retires to deliberate.

*e. Excusing alternate jurors.* Once the jury commences deliberations, any remaining alternate jurors shall be excused from further service and not recalled.

**2.18(15)** *Reading of names or numbers.* After all challenges have thus been exercised or waived and the required number of jurors has been struck from the list, the court shall read the names or assigned numbers of the jurors remaining, including any alternates, who shall constitute the jury selected.

**2.18(16)** *Jurors sworn.* Once the jurors are selected, they shall be sworn to try the issues.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §45 to 49; Report 1978, effective July 1, 1979; amendment 1980; amendment 1982; 82 Acts, ch 1021, §4, effective July 1, 1983; amendment 1983; 1986 Iowa Acts, ch 1108, §56; November 9, 2001, effective February 15, 2002; Court Order June 30, 2016, temporarily effective June 30, 2016, permanently effective August 30, 2016; February 19, 2021, temporarily effective February 19, 2021, permanently effective April 21, 2021; October 14, 2022, November 7, 2022, May 31, 2023, effective July 1, 2023]

**Rule 2.19 Trial.**

**2.19(1)** *Order of trial and arguments.* After the jury has been impaneled and sworn, the trial shall proceed in the following order:

*a.* The prosecuting attorney must read the accusation from the indictment and state the defendant's plea to the jury. The level of offense shall not be read.

*b.* The prosecuting attorney may summarize the evidence expected to sustain the indictment.

*c.* The defendant's attorney may summarize the expected evidence, waive the making of such statement, or reserve the right to make such statement immediately prior to the presentation of the defendant's evidence.

*d.* The prosecuting attorney shall offer evidence in support of the indictment.

*e.* The defendant's attorney may offer evidence in support of the defense.

*f.* Either party may offer rebutting evidence.

*g.* After the completion of evidence, the prosecuting attorney may offer a closing argument, the defendant's attorney may offer a closing argument, and the prosecution may offer a rebuttal.

**Comment:** Former rule 2.19(1)(*b*) provided that "[l]ength of argument and the number of counsel arguing shall be as limited by the court." There is no intent to change this law; however, the drafters of the revised rule did not want to imply that the court lacked authority to limit segments of the trial other than the closing argument.

**2.19(2)** *Advance notice of evidence supporting indictment.*

*a.* The prosecuting attorney shall not be permitted to introduce any witness whose minutes of testimony were not filed at least 10 days before the commencement of trial, except rebuttal witnesses.

*b.* If the prosecuting attorney does not provide the requisite notice, the court may order the state to permit the discovery of such witness, grant a continuance, or enter such other order as it deems just under the circumstances. If the court finds that no less severe remedy is adequate to protect the defendant from undue prejudice, the court may order the exclusion of the testimony of any such witness.

**2.19(3)** *Reporting of trial.* Reporting of the trial shall be governed by Iowa Rule of Civil Procedure 1.903. However, reporting may not be waived except for voir dire in misdemeanor cases.

**2.19(4)** *The jury during trial.*

*a. Motion for a view.* Upon motion of either party, the court may allow the jury to view a location material to the case. The jury shall be accompanied by a person designated by the court and transported by proper officers. Any person accompanying the jury shall be sworn to protect the integrity of the proceedings and shall not allow communications to occur on any subject connected with the trial.

*b. Juror may not be witness.* A juror may not testify as a witness in the trial of the case in which the juror is sitting.

*c. Sequestration of jurors.* For good cause shown, the court may sequester the jury during trial in a manner prescribed by the court.

*d. Admonition to jurors.*

(1) After the jury is impaneled, the court shall admonish the jurors:

1. Not to speak or communicate with any person and not to permit any person to speak to or communicate with them regarding any subject related to the case. This prohibition includes all forms of communication, including social media.

2. To report immediately to the court any attempt by anyone to communicate with them in any way concerning the case.

3. Not to converse among themselves or form or express an opinion on any aspect of the case until the case is finally submitted.

4. Not to visit any place involved in the case, including the scene of the alleged offense.

5. Not to view, read, or listen to any accounts of the case or trial, whether on traditional media or social media.

6. Not to do any searches, research, experiments, or tests relating to anything connected with the case or trial. This includes internet research and accessing social media.

(2) At adjournments, the court shall restate or remind the jury of the admonition.

*e. Notes taken by jurors during trial.* Notes may be taken by jurors during the testimony of witnesses. At the completion of the jury's deliberations, the court shall destroy any notes taken during the trial.

*f. Exhibits during deliberations.* Upon retiring for deliberations, the jury shall be given the exhibits received in evidence and the court's instructions. Redactions should be made before exhibits are received in evidence. The jury shall not be given depositions. The court may also withhold from the jury original exhibits whose presence in the jury room could present an issue of safety, security, or risk of loss.

*g. Instructions.* The rules relating to the instruction of juries in civil cases apply to criminal cases.

*h. Duty of the court to instruct on lesser included offenses.* The trial court shall instruct the jury as to any offense charged and any lesser included offense supported by the evidence. The defendant may, with the consent of the state, waive the submission to the jury of any lesser included offense. Such waiver shall be made on the record.

*i. Jury deliberations.* On final submission, the jury shall retire for deliberation and be kept together under an officer's charge until the jurors agree on a verdict or are discharged by the court. Unless the jury is sequestered, the court may permit the jurors to separate temporarily overnight, on weekends, on holidays, and in emergencies.

*j. Duties of the officer in charge during deliberations.* The officer in charge must be sworn to:

(1) Not allow any communication to or from the jury during deliberations.

(2) Not personally make any communication to the jurors without court order, except to ask if they have agreed on a verdict.

(3) Not communicate to any person the state of the jury's deliberations or the verdict agreed upon before it is rendered.

*k. Juror inquiries.* After the jury has retired for deliberation, if any member of the jury has a question as to any part of the evidence or relevant point of law, the question must be made in writing and delivered to the judicial assistant by a juror, who shall then deliver it promptly to the presiding judge. The court, after consultation with the parties outside the presence of the jury, shall determine the response to be provided. Any response shall be provided in writing. A record shall be made of the question and the response.

**2.19(5)** *Mistrial.*

*a. Discharge for mistrial.*

(1) The court may declare a mistrial and discharge a jury for the following reasons:

1. Because of any accident or calamity requiring termination of the trial upon motion of a party for cause shown.

2. When a required continuance would make it impractical to proceed with the same jury.

3. When the jurors have deliberated until it satisfactorily appears that they cannot agree.

4. Because of an error resulting in the denial of a fair trial.

(2) If the court declares a mistrial, the case shall be retried within 90 days unless double jeopardy bars further prosecution, the defendant waives speedy trial, or good cause for further delay is shown.

*b. Lack of territorial jurisdiction.* If the court determines it lacks territorial jurisdiction of the offense, the court shall dismiss the indictment and discharge the jury. The court shall either order the immediate release of the defendant or order the defendant's retention in custody for a reasonable time to allow the prosecuting attorney to inform the relevant authorities in the appropriate jurisdiction and to permit that jurisdiction to take custody of the defendant.

**2.19(6)** *The trial judge.*

*a. Unavailability of the trial judge.* If the judge before whom trial has commenced is unable to continue presiding over any stage of the case, including sentencing, another judge may complete the proceedings. If such other judge cannot in fairness complete the proceedings due to not having previously presided, that judge may grant a new trial.

*b. Adjournments declared by the trial court.* While the jury is absent, the court may adjourn for other business, but it shall be available for every purpose connected with the case submitted to the jury until a verdict is rendered or the jury is discharged.

**2.19(7)** *Motion for judgment of acquittal.*

*a. Motion before submission to the jury.* At the close of evidence on either side, if the evidence is insufficient to sustain a conviction of an offense, the court on motion of a defendant or on its own motion shall enter a judgment of acquittal on that offense.

*b. No need to renew motion.* If a defendant's motion for judgment of acquittal at the close of the state's case is not granted, the defendant may offer evidence without having to renew the motion at the close of evidence.

*c. Reservation of decision on motion.* If a motion for judgment of acquittal is made at the close of all evidence, the court may either decide the motion at that time or reserve decision on the motion and submit the case to the jury. In the latter case, the court shall decide the motion after the jury returns a verdict or is discharged without having returned a verdict.

**2.19(8)** *Trial of questions involving prior convictions.* After conviction of the current offense, but prior to pronouncement of sentence, if the indictment alleges one or more prior convictions that subject the defendant to an increased sentence, the defendant shall have the opportunity in open court to affirm or deny that the defendant is the person previously convicted, or that the defendant was not represented by counsel and did not waive counsel when previously convicted.

*a.* Prior to accepting any affirmation by the defendant, the court shall determine that a factual basis exists for the affirmation and shall have a colloquy with the defendant to ensure any admission is knowing and voluntary consistent with rule 2.8(2). The court shall inform the defendant:

(1) Of the nature and elements of the enhancement.

(2) That the prior convictions must have been obtained when the defendant was represented by, or waived the right to, counsel.

(3) Of the maximum and minimum possible punishment resulting from the enhancement.

(4) That by affirming that the defendant is the person previously convicted, the defendant waives the right to a trial by jury, the right to the assistance of counsel, the right to confront and cross-examine witnesses, and the right against self-incrimination.

(5) That the defendant's affirmation means no trial will be held on whether the defendant is the person previously convicted.

(6) That the state is not required to prove the prior convictions were entered with counsel if the defendant does not first raise the claim.

(7) That any challenges to the increased sentence resulting from the prior convictions must be raised in a timely motion in arrest of judgment and failure to raise such challenges shall preclude the right to assert them on appeal.

*b.* If the defendant denies being the person previously convicted, sentence shall be postponed for such time as to permit a trial before a jury on the issue of the defendant's identity with the person previously convicted. Other objections shall be heard and determined by the court.

*c.* On the issue of identity, the court may reconvene the jury that heard the current offense or dismiss that jury and submit the issue to another jury to be later impaneled.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §50 to 57; Report 1978, effective July 1, 1979; amendment 1979; amendment 1982; Report December 29, 1992, effective July 1, 1993; November 9, 2001, effective February 15, 2002; June 17, 2010, effective August 16, 2010; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.20 Witnesses.**

**2.20(1)** *The defendant.* A defendant in a criminal action or proceeding shall be a competent witness in the defendant's own behalf but cannot be called by the state.

**Comment:** No substantive changes are intended from former rule 2.20(1).

**2.20(2)** *Compelling attendance of out-of-state witnesses.* The presence and testimony of a witness located outside the state may be secured as provided by Iowa Code chapter 819.

**2.20(3)** *Immunity.*

*a. Waiver required.* Before any witness shall be compelled to answer or to produce evidence in any judicial proceeding after having asserted in good faith that such answer or evidence would violate the witness's privilege against self-incrimination, the witness must knowingly waive the right unless granted immunity.

*b. Application for immunity.* If a witness refuses to testify or produce documents or evidence the county attorney or attorney general may file a verified application for immunity setting forth that:

(1) The testimony of the witness or the production of documents or other evidence in the possession of such witness is necessary and material.

(2) The witness has refused to testify, or to produce documents or other evidence upon the ground that such testimony or evidence would tend to incriminate the witness.

(3) It is the considered judgment of the county attorney or attorney general that justice and the public interest require the testimony, documents, or evidence in question.

*c. Reporting required.* Any testimony given in support of the application for immunity shall be reported and a transcript of the testimony shall be filed with the application.

*d. Ruling on application.* Following receipt of a proper application, the court shall enter an order granting the witness immunity from prosecution for any offense concerning which the witness is compelled to give testimony or provide evidence and based on the use, direct or indirect, of any testimony or evidence the witness is compelled to give.

*e. Effect of immunity.* Testimony or evidence that a witness granted immunity has given shall not be used against the witness in any trial or proceeding, or subject the witness to any penalty or forfeiture, except a charge of perjury or contempt of court committed in the course of or during the giving of such testimony. In addition, the witness shall not be prosecuted for any offense concerning which the witness was compelled to give testimony or provide evidence.

**Comment:** The changes to this part of rule 2.20 are intended to make clear that the rule follows the holding of *Allen v. Iowa District Court*, 582 N.W.2d 506 (Iowa 1998), with respect to the scope of immunity—i.e., the immunity is both transactional and use immunity.

*f. Filing of application and other materials.* The application, transcripts, and orders required by this rule shall be filed as a separate case in the criminal docket entitled "In the matter of the testimony of (Name of witness)." A transcript of testimony given pursuant to an order of immunity shall be made at state expense and filed in this docket. The application, order granting immunity, and all transcripts filed shall be sealed upon motion of the witness, the defendant, or the prosecuting attorney and shall be opened only by order of the court.

*g. Refusal to testify after immunity granted.* Whoever shall refuse to testify or to produce evidence after having been granted immunity shall be subject to punishment for contempt of court as in the case of any witness who refuses to testify.

**2.20(4)** *Witnesses for indigents.* An attorney for a defendant who because of indigency is financially unable to obtain expert or other witnesses necessary to an adequate defense of the case may request in a written application that the necessary witnesses be secured at state expense. Upon finding that the services are necessary and that the defendant is financially unable to provide compensation, the court shall authorize the defendant's attorney to obtain the witnesses on behalf of the defendant. The court shall determine reasonable compensation and direct payment pursuant to Iowa Code chapter 815.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §58 to 60; 1983 Iowa Acts, ch 186, §10145; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.21 Evidence.**

**2.21(1)** *Rules.* Chapter 5 Iowa Rules of Evidence apply to criminal proceedings.

**2.21(2)** *Questions of law and fact.* In a jury trial of a criminal case, questions of law are decided by the court and questions of fact are determined by the jury.

**2.21(3)** *Corroboration of accomplice or person solicited.* A conviction cannot be had upon the testimony of an accomplice or a solicited person unless corroborated by other evidence, which shall tend to connect the defendant with the commission of the offense. Corroboration is not sufficient if

it merely shows the commission of the offense or the circumstances thereof. Corroboration of the testimony of victims shall not be required.

**2.21(4)** *Confession of the defendant.* The confession of the defendant, unless made in open court, will not warrant a conviction unless accompanied with other proof that the defendant committed the offense.

**2.21(5)** *Disposition of exhibits.*

*a.* In all criminal cases other than class "A" felonies, the clerk of court may dispose of all exhibits when 180 days have elapsed after the expiration of all sentences imposed in the case. In class "A" felonies, the clerk may dispose of all exhibits 180 days after the death of the defendant.

*b.* In no event shall the clerk of court dispose of exhibits when there is a pending appeal or postconviction-relief action.

*c.* Disposal of firearms and ammunition shall be by delivery to the Department of Public Safety for disposition as provided by law. Disposal of controlled substances shall be by delivery to the seizing law enforcement agency for disposal under Iowa Code section 124.506.

*d.* Any motion for return of an exhibit must be filed before the date when the clerk of court is permitted to dispose of the exhibit.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §61 to 63; 1983 Iowa Acts, ch 37, §7; 1985 Iowa Acts, ch 174, §15; Court Order January 2, 1996, effective March 1, 1996; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.22 Verdict.**

**2.22(1)** *Form of verdicts.* For each count submitted in the jury instructions, the jury must render a unanimous verdict of "guilty," "not guilty," or "not guilty by reason of insanity." The jury's verdict shall include a determination of the degree of offense on those counts where the level of offense must be determined.

**2.22(2)** *Proof necessary to sustain verdict of guilty.*

*a. Reasonable doubt.* Where there is a reasonable doubt of the defendant's guilt, the defendant is entitled to an acquittal.

*b. Reasonable doubt as to degree.* Where there is a reasonable doubt as to the degree of the offense of which the defendant is guilty, the defendant shall only be convicted of the degree as to which there is no reasonable doubt.

**2.22(3)** *Special interrogatories.*

*a.* For each special interrogatory submitted in the jury instructions, the jury's verdict form must include a place for an answer. The following issues require special interrogatories:

(1) Whether a witness was an accomplice when the evidence warrants its submission.

(2) Whether such accomplice's testimony was corroborated.

(3) Factual findings that subject the defendant to a greater minimum or maximum sentence, such as whether the defendant committed the offense with the use of a dangerous weapon.

(4) Whether an offense was sexually motivated for purposes of sex offender registration.

*b.* The parties may agree to waive the submission of special interrogatories on the accomplice issues identified in 2.22(3)(*a*)(1) and (2). Such waiver shall be made on the record.

**2.22(4)** *Multiple defendants or offenses.* If the jury cannot agree on a verdict as to all defendants or offenses, it may render a verdict as to those defendants or offenses where it agrees. A judgment shall be entered accordingly as to those defendants or offenses and the case as to the remaining defendants or offenses may be tried by another jury.

**2.22(5)** *Return of jury and verdict.*

*a. Return and polling of unanimous verdict.* The jury, unanimously agreeing upon a verdict, shall bring the verdict into court, where it shall be read aloud, and inquiry made of the jurors if it is their verdict. A party may then require a poll asking each juror if it is the juror's verdict. If any juror expresses disagreement on such poll or inquiry, the jury shall be sent out for further deliberation; otherwise, the verdict is complete and the jury shall be discharged.

*b. Sealed verdicts.* In any misdemeanor case, the court may permit the return of a sealed verdict on agreement of the parties. Such verdict shall be signed by all jurors, sealed, and delivered to the court, which shall enter it upon the record and disclose it to the parties as soon as practicable. The sealing of the verdict is equivalent to rendition in open court, but the jury shall not be polled or permitted to disagree with the verdict.

**2.22(6)** *Verdict insufficient or inconsistent; reconsideration.* If the jury renders a verdict that is in none of the forms specified in this rule, or renders a verdict of guilty in which it appears to the court

that the jury was mistaken as to the law, or renders a verdict that is inconsistent, the court may direct the jury to reconsider it.

**2.22(7)** *Defendant discharged on acquittal.* If judgment of acquittal is given on a general verdict of not guilty and the defendant is not detained for any other legal cause, the defendant must be discharged as soon as the judgment is given.

**2.22(8)** *Acquittal on ground of insanity; commitment hearing.*

*a. Insanity defense verdict form.* If the defendant raises a defense of insanity, the verdict form shall include the defense as a possible verdict.

*b. Commitment for evaluation.*

(1) Upon a verdict of not guilty by reason of insanity, the court shall immediately order the defendant committed to a state mental health institute or other appropriate facility for a complete psychiatric evaluation and shall set a date for a hearing to inquire into the defendant's present mental condition.

(2) The court shall prepare written findings that shall be delivered to the facility at the time the defendant is admitted fully informing the chief medical officer of the facility of the reason for the commitment.

(3) The court shall direct the chief medical officer to report to the court in writing within 15 days of the admission of the defendant to the facility, stating the chief medical officer's diagnosis and opinion as to whether the defendant is mentally ill and dangerous to the defendant's self or others. An extension of time for the evaluation, not to exceed 15 days, may be granted upon the chief medical officer's request after due consideration of any objections or comments the defendant may have.

(4) Upon receipt of the report, the court shall promptly forward a copy to the defendant's attorney and to the prosecuting attorney.

*c. Independent examination.* The defendant may have a separate examination conducted at the facility by a licensed physician of the defendant's choice. The report of the independent examiner shall be submitted to the court.

*d. Return for hearing.* Upon receipt of the report or any subsequent report, the court shall hold a hearing to inquire into the defendant's mental condition. All parties shall be present. However, if the chief medical officer believes uninterrupted custody of the defendant at the facility is necessary to ensure the defendant's safety or the safety of others and states that finding in the report, the court may direct the chief medical officer to make arrangements for the defendant to appear at the hearing by phone or interactive audiovisual system.

*e. Hearing; release or retention in custody.*

(1) If, upon hearing, the court finds that the defendant is either not mentally ill or no longer dangerous to the defendant's self or others, the court shall order the defendant released. If, however, the court finds that the defendant is mentally ill and dangerous to the defendant's self or others, the court shall order the defendant committed to a state mental health institute or other appropriate facility. The court shall give due consideration to the chief medical officer's findings and opinion along with any other relevant evidence that may be submitted.

(2) No more than 30 days after entry of an order for continued custody, and thereafter at intervals of not more than 60 days as long as the defendant is in custody, the chief medical officer of the facility to which the defendant is committed shall report to the court which entered the order. Each periodic report shall describe the defendant's condition and state the chief medical officer's prognosis if the defendant's condition has remained unchanged or has deteriorated. The court shall forward a copy of each report to the defendant's attorney and to the prosecuting attorney.

(3) If the chief medical officer reports at any time that the defendant is either no longer mentally ill or no longer dangerous to the defendant's self or others, the court shall hold a hearing to determine if continued custody and treatment of the defendant are necessary because the defendant remains mentally ill and dangerous to the defendant's self or others. If the court finds continued custody is necessary, the court shall order the defendant committed to a state mental health institute or other appropriate facility for further evaluation, treatment, and custody. Otherwise, the court shall order the release of the defendant.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §64, 65; amendment 1980; amendment 1982; 1984 Iowa Acts, ch 1323, §5; amendment 1999; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.23 Judgment.**

**2.23(1)** *Entry of judgment.*

*a. Acquittal.* Upon a verdict of not guilty for the defendant or special verdict upon which a judgment of acquittal must be given, the court must render judgment of acquittal immediately.

*b. Conviction.* Upon a guilty plea, guilty verdict, or a special verdict upon which a judgment of conviction may be rendered, the court must fix a date for pronouncing judgment, which must be within a reasonable time but not less than 15 days after the plea is entered or the verdict is rendered unless the defendant consents to a shorter time.

**2.23(2)** *Imposition of sentence.*

*a. Written sentencing agreement.* For misdemeanors and nonforcible class "D" felonies, with court approval, the parties may submit a written sentencing agreement pursuant to rule 2.27(3)(*c*) in place of in-person sentencing.

*b. Informing the defendant.* When the defendant appears for judgment, the court shall inform the defendant of the defendant's plea or the verdict and ask whether the defendant has any legal cause to show why judgment should not be pronounced. The defendant, by timely motion, may show for cause against the entry of judgment any sufficient ground for a new trial or in arrest of judgment.

*c. Incompetency.* The provisions of Iowa Code chapter 812 apply to sentencing proceedings.

*d. Procedure.* Before imposing sentence, the court shall do all of the following:

(1) Verify that the defendant and the defendant's attorney have read and discussed the presentence investigation report and any addendum to the report.

(2) Provide the defendant's attorney an opportunity to speak on the defendant's behalf.

(3) Address the defendant personally in order to permit the defendant to make a statement or present any information to mitigate the defendant's sentence.

(4) Provide the prosecuting attorney an opportunity to speak.

(5) After hearing any statements presented, the court shall address any victim of the crime who is present at the sentencing and shall allow any victim to be reasonably heard, including, but not limited to, by presenting a victim-impact statement in the manner described in Iowa Code section 915.21.

*e. Other witnesses or evidence.* Before receiving victim statements, the trial court, in its discretion, may permit either side to present additional witnesses or evidence in support of its position.

*f. Basis for sentence imposed.* The court shall ensure that the basis for the sentence imposed appears in the record. The court shall consider all of the following:

(1) The recommendation of the prosecuting attorney, subject to the terms of the plea agreement, if any.

(2) The recommendation of the defendant's attorney, subject to the terms of the plea agreement, if any, and any statement of the defendant.

(3) The statement of the victim or victims of the offense, if any, as provided by law.

(4) The content and recommendation of the presentence investigation report.

(5) All other factors required by law to be considered.

*g. Judgment entered.* If no sufficient cause is shown why judgment should not be pronounced, and none appears to the court upon the record, judgment shall be rendered. In every case, the court shall include in the judgment entry the number of the particular section of the Code under which the defendant is sentenced. The court shall state on the record the basis for the sentence imposed and shall particularly state the reason for imposition of any consecutive sentence.

*h. Notification of right to appeal.* After imposing sentence in a case, the court shall advise the defendant in open court and on the record of the following:

(1) That the defendant has a statutory right to appeal.

(2) That if the defendant pled guilty to an offense other than a class "A" felony, no appeal may be taken without good cause.

(3) The deadline for filing an appeal.

(4) That the deadline for appeal is jurisdictional and that failing to file an appeal on time and in the manner specified in Iowa Rule of Appellate Procedure 6.101 will mean the defendant cannot appeal.

(5) That a person who is unable to pay the costs of appeal can apply to the court for appointment of counsel and the preparation of transcripts as provided in Iowa Code sections 814.9, 814.10, and 814.11.

*i. Clerical mistakes.* Clerical mistakes in judgments, orders, or other parts of the record and errors in the record arising from oversight or omission may be corrected by the court at any time and after such notice, if any, as the court orders.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §66 to 68; Report 1978, effective July 1, 1979; 1984 Iowa Acts, ch 1323, §6; Report June 5, 1985, effective August 5, 1985; November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.24 Motions after trial.**

**2.24(1)** *In general.* Permissible motions after trial include motions for new trial, motions in arrest of judgment, and motions to correct a sentence.

**2.24(2)** *New trial.*

*a. Motion generally.* A motion for new trial by the defendant shall be made not later than 45 days after verdict of guilty or special verdict upon which a judgment of conviction may be rendered and not later than 5 days before the date set for pronouncing judgment.

*b. Grounds.* The court, after giving the parties notice and an opportunity to be heard, may grant a new trial on any of the following grounds:

(1) When the trial has been held in the absence of the defendant, in cases where such presence is required by law, except as provided in rule 2.27.

(2) When the jury has been prejudicially exposed to information the jury was not authorized to receive.

(3) When the jurors have separated without leave of court, after retiring to deliberate upon their verdict, or have been guilty of any misconduct tending to prevent a fair and just consideration of the case.

(4) When the verdict has been decided by lot, or by means other than a fair expression of opinion on the part of all jurors.

(5) When the jury was improperly instructed in a material matter.

(6) When the prosecuting attorney has committed prejudicial error or misconduct.

(7) When the verdict is contrary to law or contrary to the weight of the evidence.

(8) When from any other cause the defendant has not received a fair and impartial trial.

*c. Motion alleging newly discovered evidence.* A motion for a new trial based upon newly discovered evidence may be made by the defendant after judgment when the defendant has discovered important and material evidence in the defendant's favor since the verdict that the defendant could not with reasonable diligence have discovered and produced at the trial.

(1) A motion based upon this ground shall be made without unreasonable delay and, in any event, within 2 years after final judgment, but such motion may be considered thereafter upon a showing of good cause.

(2) When a motion for a new trial is made upon the ground of newly discovered evidence, the defendant must produce at the hearing, in support thereof, the affidavits or testimony of the witnesses by whom such evidence is expected to be given. The court may, upon request of the defendant, allow the defendant additional time to procure such affidavits or testimony for such length of time as may be reasonable under all circumstances of the case.

*d. Trials without juries.* On a motion for a new trial in an action tried without a jury, the court may where appropriate, in lieu of granting a new trial, vacate the judgment if entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and enter judgment accordingly.

*e. Effect of a new trial.* Upon a new trial, the former verdict cannot be used or referred to either in evidence or in argument.

**Comment:** Former rule 2.24(2)(*a*) provided that the court could "grant a motion for a new trial even for a reason not asserted in the motion." Revised rule 2.24 does not deprive the court of that authority but makes clear that it may only be exercised after notice and an opportunity to be heard.

**2.24(3)** *Arrest of judgment.*

*a. Motion.*

(1) A defendant may file a motion in arrest of judgment to urge that no judgment be rendered on a finding, plea, or verdict of guilty.

(2) A defendant's failure to challenge the adequacy of a guilty plea proceeding by motion in arrest of judgment shall preclude the defendant's right to assert such challenge on appeal.

*b. Time of making motion.* The motion must be made not later than 45 days after a guilty plea, guilty verdict, or special verdict upon which a judgment of conviction may be rendered, but in any case not later than 5 days before the date set for pronouncing judgment.

*c. Grounds.* Such motion shall be granted when upon the whole record no legal judgment can be pronounced.

*d. On the court's own motion.* The court may arrest the judgment on its own motion if grounds for doing so exist as set forth in rule 2.24(3)(*c*).

*e. Effect of order arresting judgment.*

(1) An order arresting judgment on the ground the guilty plea proceeding was defective places the defendant in the situation in which the defendant was immediately after the indictment was found. However, when the only ground upon which the guilty plea is found to be defective is failure to establish a factual basis for the charge, the court shall afford the state an opportunity to establish an adequate factual basis before arresting judgment.

(2) An order arresting judgment on any other ground places the defendant in the situation in which the defendant was immediately before the indictment was found.

*f. Proceedings after order arresting judgment on any ground other than a defect in a guilty plea proceeding.* If a motion arresting judgment is granted, but from the trial evidence, there is reasonable ground to believe the defendant is guilty of an offense and a new indictment can be framed, the court may order that a defendant in custody continue to be held in custody or that a defendant's bail be continued for a specified period pending the filing of a new indictment. If the evidence upon trial appears to the trial court insufficient to charge the defendant with any offense, the defendant must, if in custody, be released and any bail must be exonerated.

**2.24(4)** *General principles.*

*a. Extensions.* The time for filing motions for new trial or in arrest of judgment may be extended by the court for good cause.

*b. Disposition.* Upon a timely motion for a new trial or in arrest of judgment, the court shall defer the judgment and proceed to hear and decide the motions.

*c. Appeal.* Appeal from an order granting or denying a motion for new trial or in arrest of judgment may be taken by the state or the defendant. Where the court has denied the motion for new trial or in arrest of judgment, appeal may be had only after judgment is pronounced.

*d. Custody pending appellate determination.* Pending determination by the appellate court of such appeal, the trial court shall determine whether the defendant shall remain in custody or be released, with or without bail. Where the trial court has arrested judgment and an appeal is taken by the state, and it further appears to the trial court that there is no evidence sufficient to charge the defendant with an offense, the defendant shall not be held in custody.

**2.24(5)** *Correction of sentence.*

*a. Time when correction of sentence may be made.* The district court may correct an illegal sentence at any time on motion of a party or on its own motion. Before correcting anything other than a clerical error, the court shall give notice to the parties and afford them an opportunity to be heard.

**Comment:** Former rule 2.24(5)(*a*) said, "The court may correct an illegal sentence at any time." The revised rule recognizes that the rules of criminal procedure govern proceedings in the trial courts, not the appellate courts. However, the revised rule is not intended to affect existing law regarding the authority of appellate courts to correct illegal sentences.

*b. Definition of illegal sentence.* An illegal sentence is a sentence that could not have been lawfully imposed for the defendant's conviction or convictions. An illegal sentence includes a separate sentence for a conviction where that conviction merged into another conviction. Challenges to the defendant's underlying convictions or claims that the sentencing court abused its discretion in imposing a sentence within legal limits do not raise illegal sentencing issues.

*c. Credit for time served.* The defendant shall receive full credit for time spent in custody under the sentence prior to correction or reduction.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §69 to 73; Report 1978, effective July 1, 1979; amendment 1983; November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

## Rule 2.25 Reserved.

**Comment:** Former rule 2.25, relating to the bill of exceptions, has been eliminated. The bill of exceptions is hereby abolished. If a party needs a record to be made of a matter that occurred off the record, it shall be the responsibility of that party to initiate that process by reasonable and appropriate means.

[Report 1979; Court Order December 20, 1996; November 9, 2001, effective February 15, 2002; October 14, 2022, effective July 1, 2023]

## Rule 2.26 Execution of judgment and stay thereof.

**2.26(1)** *Execution of judgment.*

*a. Mittimus.* When a judgment of confinement is pronounced, a certified copy of the entry of judgment shall be furnished to the sheriff, who shall execute it accordingly. Upon delivery of the defendant to the person in charge of the place where the defendant is to be confined, the sheriff shall make a return of execution, which shall be filed.

*b. Upon discharge.* When the court orders a defendant in custody released, the person in charge of the place of confinement shall file a notice of release with the clerk of court.

*c. Execution for fine.*

(1) Upon a judgment for a fine, an execution may be issued as upon a judgment in a civil case, and return thereof shall be made in like manner.

(2) Judgments for fines in all criminal actions rendered are liens upon the real estate of the defendant and shall be entered upon the lien index in the same manner and with like effect as judgments in civil actions.

*d. Execution in other cases.* When the judgment is for anything other than confinement or payment of money by the defendant, an execution consisting of a certified copy of the entry of such judgment, delivered to the sheriff of the proper county, shall authorize and require the sheriff to execute such judgment. The sheriff shall return and file the same, with the sheriff's actions thereon endorsed, with the court in which the judgment was rendered, within the time specified by the court but not exceeding 70 days after the date of the certificate of such certified copy.

*e. Available credit for time spent in custody before trial or sentencing.* The defendant shall receive full credit for time spent in custody on account of the offense for which the defendant is convicted.

**2.26(2)** *Stay of execution.*

*a. Confinement.* A sentence of confinement shall be stayed if an appeal is taken and the defendant is released on bond as permitted by Iowa Code section 811.1. The court shall fix the terms of release upon the posting of the appeal bond.

*b. Probation.* A sentencing order that places the defendant on probation may be stayed if an appeal is taken and an appeal bond is posted. If the sentencing order is not stayed, probation shall commence at the time of sentencing. If the order is stayed, the court shall fix the terms of the stay.

*c. Monetary payments.* Upon the posting of an appeal bond, the court may stay the collection of fines and restitution, including victim restitution, Category "A" restitution, and Category "B" restitution.

*d. Sex offender registry.* A stay of execution does not affect a defendant's requirement to comply with sex offender registration and notification.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §74; Report November 9, 2001, effective February 15, 2002; Court Orders October 14, 2022, November 7, 2022, effective July 1, 2023]

**Rule 2.27 Presence of the defendant; regulation of conduct by the court.**

**2.27(1)** *Defendant's appearance.* The defendant is required to appear as follows:

*a. Initial appearance, arraignment, and plea.* The defendant must be present personally or by interactive audiovisual system at the initial appearance, arraignment, and plea unless a written waiver is filed as provided in rule 2.2(2)(*c*) or rule 2.8(1)(*e*).

*b. Other pretrial court proceedings.* The defendant must be present personally or by interactive audiovisual system at other pretrial court proceedings unless either (1) the proceeding is not a critical stage of the proceedings and the court waives the defendant's appearance or (2) the defendant waives appearance with the approval of the court.

*c. Depositions.* With the consent of the prosecuting attorney, the defendant may waive presence at a deposition. The defendant's attorney shall make a record of the waiver at the deposition. Otherwise, the defendant is required to be present subject to rule 2.13(5) and rule 2.13(6)(*c*).

*d. Trial proceedings.* The defendant must be personally present at every stage of the trial, including the impaneling of the jury and the return of the verdict.

*e. Sentencing.* Except as provided in rule 2.27(3)(*c*), the defendant must be personally present at the imposition of sentence. Sentencing may proceed by interactive audiovisual system with the consent of all parties.

*f. Defendant in prison or incarcerated by another authority.* When the defendant is in prison, or is in the custody of the federal government or another state, at the defendant's request and with the agreement of the state the defendant may appear by interactive audiovisual system for any matter except the trial itself.

**2.27(2)** *When the court may proceed in the defendant's absence.* In all cases, the progress of the trial or any other proceeding shall not be prevented whenever a defendant, initially present:

*a.* Is voluntarily absent after the trial or other proceeding has commenced.

*b.* Engages in conduct justifying exclusion from the courtroom.

**2.27(3)** *Presence not required.* A defendant need not be present in the following situations:

*a.* A corporation may appear by its attorney for all purposes.

*b.* The defendant's presence is not required for a reduction of sentence or a correction of a clerical error in a sentence.

*c.* If the offense is a misdemeanor or nonforcible class "D" felony and the parties have entered into a written agreement as to sentence that requests the court to proceed to sentencing without the presence of the parties or making of a record, the court may enter judgment in accordance with the sentencing agreement.

**2.27(4)** *Regulation of conduct in the courtroom.*

*a.* When a defendant engages in conduct seriously disruptive of judicial proceedings, one or more of the following steps may be employed to ensure decorum in the courtroom:

(1) Citing the defendant for contempt.

(2) Removing the defendant from the courtroom until the defendant promises to behave properly.

(3) Restraining the defendant, while keeping the defendant present.

*b.* The court may direct that any person in the courtroom be searched for a weapon or other prohibited item, and any weapon or other prohibited item may be retained subject to order of the court.

**Comment:** In Iowa, because of limited resources, not all courthouses screen visitors. It is therefore often possible to enter a courtroom without having gone through a body scanner. Yet persons entering a courtroom should recognize they have a diminished expectation of privacy as to items that would ordinarily be detected in a regular screening. This rule recognizes that the courts may need to act preemptively to protect the security and integrity of criminal proceedings, particularly in enforcing a prohibition on weapons in the courtroom or on the improper use of electronic devices. In exercising this authority, courts should be mindful of the potential for unfair prejudice when such searches are conducted in the presence of the jury.

*c.* The court may have removed from the courtroom any person whose exclusion is necessary to preserve the integrity or order of the proceedings.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §75, 76; amendment 1984; Report April 20, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; Court Orders October 14, 2022, May 31, 2023, effective July 1, 2023]

**Rule 2.28 Right to appointed counsel.**

**2.28(1)** *Representation.* Every defendant, who is an indigent person as defined in Iowa Code section 815.9 and who faces the possibility of incarceration, is entitled to have counsel appointed to represent the defendant at every stage of the proceedings from the defendant's initial appearance before the court through appeal, including probation and parole revocation hearings as provided in section 815.10 and motions to correct illegal sentences unless the defendant waives such appointment.

**2.28(2)** *Limited appearances.* Limited appearances are not allowed in criminal cases where there is appointed counsel. However, appointed appellate counsel may file a limited appearance for the purpose of obtaining court records.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §77; 69GA, ch 117, §1242; 1983 Iowa Acts, ch 186, §10146; Report November 9, 2001, effective February 15, 2002; January 3, 2003, effective March 17, 2003; January 4, 2005, effective March 15, 2005; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.29 Withdrawal and duty of continuing representation.**

**2.29(1)** *Withdrawal of counsel.*

*a.* Trial counsel may withdraw at any time after the dismissal of the indictment or acquittal of the defendant.

*b.* In general, if a judgment of conviction and sentence is entered, an appointed attorney may not withdraw without leave of the court.

(1) If the defendant does not wish to appeal, appointed counsel may withdraw at the expiration of the time for appeal from the judgment of conviction.

(2) If the defendant wishes to appeal, appointed counsel may not withdraw before filing with the district court a notice of appeal, an application for appointment of counsel, and an application for production of transcripts at state expense.

**2.29(2)** *Appointment of counsel on appeal.* An indigent defendant, as defined in Iowa Code section 815.9, convicted of an indictable offense or a simple misdemeanor where defendant faces the possibility of incarceration, is entitled to appointment of counsel on appeal or application for discretionary review to the supreme court. An indigent defendant is also entitled to appointment of counsel on application for certiorari to the supreme court if such defendant had a right to appointment of counsel in the proceeding from which certiorari review is sought.

*a.* Application for appointment of appellate counsel shall be made to the district court, which shall retain authority to act on the application after notice of appeal or application for discretionary review has been filed.

*b.* If the defendant has proceeded as an indigent in the trial court and a financial statement already has been filed pursuant to Iowa Code section 815.9, the defendant, upon making application for appointment of appellate counsel, shall be presumed to be indigent, and an additional financial statement shall not be required unless evidence is offered that the defendant is not indigent.

*c.* The defendant and appointed appellate counsel are under a continuing obligation to inform the trial court of any change in circumstances that would make the defendant ineligible to qualify as indigent.

**2.29(3)** If the trial court finds the defendant is ineligible for appointment of appellate counsel, it shall include in the record a statement of the reasons why counsel was not appointed. The defendant may apply to the supreme court for review of a trial court order denying the defendant appointed counsel. Such application must be filed with the supreme court within 10 days of the filing of the trial court order denying the defendant's request for appointed counsel.

**2.29(4)** Unless appellate counsel is immediately appointed, trial counsel shall determine whether the defendant wants to appeal and shall take steps to effect the appeal pursuant to rule 2.29(1)(*b*)(2).

**2.29(5)** Withdrawals allowed under this rule pertain only to the district court proceedings, and counsel of record in the district court will be deemed to be counsel in the appellate court in accordance with the provisions of Iowa Rule of Appellate Procedure 6.109(4) in the event of an appeal unless other counsel is retained or appointed and notice is given to the parties and the clerk of the supreme court. If trial counsel was not court appointed, trial counsel may withdraw from the appellate proceedings pursuant to Iowa Rule of Appellate Procedure 6.109(5).

[Report 1980; 1983 Iowa Acts, ch 186, §10147; Report October 27, 1999, effective January 3, 2000; November 9, 2001, effective February 15, 2002; November 18, 2016, effective March 1, 2017; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.30 Reserved.**

**Comment:** Former rules 2.29 and 2.30 have been combined in new rule 2.29.

[Report 1980; November 9, 2001, effective February 15, 2002; November 18, 2016, effective March 1, 2017; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.31 Compensation of appointed appellate counsel.** Appointed appellate counsel's compensation shall be determined by the district court pursuant to the provisions of Iowa Code section 815.7.

[Report 1980; November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

## Rule 2.32 Forms — Appointment of Counsel

### Rule 2.32 — Form 1: *Financial Affidavit and Application for Appointment of Counsel.*

**In the Iowa District Court for _____ County**

| | | |
|---|---|---|
| **State of Iowa or _____,**<br>**Plaintiff/Petitioner,**<br>**vs.**<br>**_____,**<br>**Defendant/Respondent.** | )<br>)<br>)<br>)<br>)<br>)<br>) | **No. _____**<br>**Financial Affidavit and Application for Appointment of Counsel** |

**In support of my application for appointment of counsel, and under penalty of perjury, the undersigned states:**

Name: _____ Date of birth: _____

Home phone: _____ Cell phone: _____ Email: _____

Street address: _____
Street/P.O. Box Apt # City State Zip

Pending charges: _____. In jail? ❑ Yes ❑ No

Do you have a job? ❑ No job ❑ Yes, full time ❑ Yes, part time (list hours per week: _____)

Who do you work for? _____

How much money do you currently make, before taxes or deductions? _____ per ❑ hour ❑ month ❑ year

How much money have you made in the last 12 months from any source, before taxes or deductions? _____

How many family members are supported by or live with you? _____

If a spouse lives with you, how much money does your spouse make? _____ per ❑ hour ❑ month ❑ year

List all other money you, and anyone else living in your household, has coming in: _____

List what you own, including money in banks, cars, trucks, other vehicles, land, houses, buildings, cash, or anything else worth more than $100: _____

List amounts you pay monthly for mortgages, rent, car loans, credit cards, child support, and any other debts: _____

**I understand I may be required to repay the state for all or part of my attorney fees and costs, I may be required to sign a wage assignment, and I must report any changes in the information submitted on this financial affidavit. I promise under penalty of perjury that the statements I make in this application are true, and that I am unable to pay for an attorney to represent me.**

Date_____ Signature _____

[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002; April 11, 2008, effective July 1, 2008; June 26, 2008, effective September 1, 2008; November 8, 2012, effective January 7, 2013]

## Rule 2.32 — Form 1A: *Order for Appointment of Counsel.*

**In the Iowa District Court for _____ County**

| | | |
|---|---|---|
| **State of Iowa or _____,** | ) | **No. _____** |
| **Plaintiff/Petitioner,** | ) | |
| | ) | **Order for Appointment of Counsel** |
| **vs.** | ) | |
| **_____,** | ) | |
| **Defendant/Respondent.** | ) | |

**Now** on this _____ day of _____, 20___, the court having received and examined Defendant's Financial Affidavit and Application for Appointment of Counsel and having considered not only Defendant's income, but also the availability of any assets subject to execution and the seriousness of the charge or nature of the case, finds the following:

1. **Defendant:**
   - ❑ Is eligible* for court-appointed counsel pursuant to Iowa Code section 815.9 because:
     - ❑ Defendant's income is **at or below 125%** of the poverty guidelines and Defendant is unable to pay for the cost of an attorney; **or**
     - ❑ Defendant's income is **between 125% and 200%** of the poverty guidelines and not appointing counsel would cause Defendant substantial financial hardship; **or**
     - ❑ Defendant's Income is **over 200%** of the poverty guidelines, Defendant is charged with a felony, and not appointing counsel would cause Defendant substantial financial hardship.
   - ❑ Is not eligible for court-appointed counsel pursuant to Iowa Code section 815.9.
2. **Counsel** appointed below to represent Defendant is:
   - ❑ The local public defender office, nonprofit organization, or attorney designated by the State Public Defender pursuant to Iowa Code section 13B.4(2) to represent indigent persons in this type of case in this county; **or**
   - ❑ An attorney not designated by the State Public Defender, **and** any local public defender office or other designee of the State Public Defender for this type of case in this county has been contacted and has declined the appointment or withdrawn from the case, or there is no designation for this type of case in this county, **and** the appointed attorney:
     - ❑ Has a current contract with the State Public Defender to represent indigent persons in this type of case and in this county; **or**
     - ❑ Does not have such a contract, but all attorneys with a contract to represent indigent persons in this type of case in this county have been contacted and no such attorney is available to take this case; **or**
     - ❑ Does not have such a contract, but the State Public Defender has been consulted and consents to the appointment.

**It is therefore ordered** that Defendant's Application for Appointment of Counsel is

- ❑ Denied.
- ❑ Approved, and that _____ is appointed to represent Defendant in this case at State expense and may be contacted at _____.

_____
Judge, _____ Judicial District

Copy to:

***Note**: In a parole revocation proceeding, the appointment order must include additional specific findings. *See* Iowa Code § 908.2A(1)(c); Iowa Administrative Code 493—12.2(1)"b"(2) . **Do not use this form for parole revocation appointments.**

[Report November 8, 2012, effective January 7, 2013]

**Rule 2.32 — Form 2:** ***Financial Affidavit of Parent and Application for Appointment of Counsel for ❑ Child ❑ Parent ❑ Other.***

**In the Iowa District Court for _____ County (Juvenile Division)**

| | | |
|---|---|---|
| **In the Interest of** | ) | **Juvenile No.** _____ |
| _____, | ) | **Financial Affidavit of Parent and Application for Appointment of Counsel for** |
| _____, | ) | **❑ Child ❑ Parent ❑ Other:** _____ |
| _____, | ) | |
| **Child(ren).** | ) | |

**In support of my application for appointment of counsel, and under penalty of perjury, the undersigned states:**

Name: _____ Date of birth: _____

Home phone: _____ Cell phone: _____ Email: _____

Street address: _____
Street/P.O. Box Apt # City State Zip

Case: ❑ CINA ❑ TPR ❑ Del ❑ Other: _____ Relationship to Child(ren): ❑ Parent ❑ Other: _____

Do you have a job? ❑ No job ❑ Yes, full time ❑ Yes, part time (list hours per week: _____)

Who do you work for? _____

How much money do you currently make, before taxes or deductions? _____ per ❑ hour ❑ month ❑ year

How much money have you made in the last 12 months from any source, before taxes or deductions? _____

How many family members are supported by or live with you? _____

If a spouse lives with you, how much money does your spouse make? _____ per ❑ hour ❑ month ❑ year

List all other money you, and anyone else living in your household, has coming in: _____
_____
_____
_____

List what you own, including money in banks, cars, trucks, other vehicles, land, houses, buildings, cash, or anything else worth more than $100: _____
_____
_____
_____

List amounts you pay monthly for mortgages, rent, car loans, credit cards, child support, and any other debts: _____
_____
_____
_____

**I understand I may be required to repay the state for my attorney fees and costs and those of my child, I may be required to sign a wage assignment, and I must report any changes in the information submitted on this financial affidavit. I promise under penalty of perjury that the statements I make in this application are true, and that I am unable to pay for an attorney to represent me.**

Date_____ Signature _____

[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002; April 11, 2008, effective July 1, 2008; June 26, 2008, effective September 1, 2008; November 8, 2012, effective January 7, 2013]

## Rule 2.32 — Form 2A: *Order for Appointment of Counsel for ❑ Child ❑ Parent ❑ Other.*

**In the Iowa District Court for _____ County (Juvenile Division)**

| | | |
|---|---|---|
| **In the Interest of** | ) | **Juvenile No.** _____ |
| _____, | ) | |
| _____, | ) | **Order for Appointment of Counsel for** |
| _____, | ) | ❑ **Child** ❑ **Parent** ❑ **Other:** _____ |
| **Child(ren).** | ) | |

**Now** on this _____ day of _____, 20___, the Court having received and examined the Financial Affidavit of Parent and Application for Appointment of Counsel and having considered not only the Child/Applicant's income, but also the availability of any assets subject to execution and the seriousness of the charge or nature of the case, finds the following:

1. **Child/Applicant:**
   - ❑ Is eligible* for court-appointed counsel pursuant to Iowa Code section 815.9 because:
     - ❑ Child/Applicant's income is **at or below 125%** of the poverty guidelines and Child/Applicant is unable to pay for the cost of an attorney; **or**
     - ❑ Child/Applicant's income is **between 125% and 200%** of the poverty guidelines and not appointing counsel would cause Child/Applicant substantial financial hardship; **or**
     - ❑ Child/Applicant's Income is **over 200%** of the poverty guidelines, case is a felony-level delinquency, and not appointing counsel would cause Child/Applicant substantial financial hardship.
   - ❑ Is a child and is otherwise eligible for court-appointed counsel under Iowa Code chapter 232.
   - ❑ Is not eligible for court-appointed counsel.
2. **Counsel/guardian ad litem** appointed below to represent the Child/Applicant is:
   - ❑ The local public defender office, nonprofit organization, or attorney designated by the State Public Defender pursuant to Iowa Code section 13B.4(2) to represent indigent persons in this type of case in this county; **or**
   - ❑ An attorney not designated by the State Public Defender, **and** any local public defender office or other designee of the State Public Defender for this type of case in this county has been contacted and has declined the appointment or withdrawn from the case, or there is no designation for this type of case in this county, **and** the appointed attorney:
     - ❑ Has a current contract with the State Public Defender to represent indigent persons in this type of case and in this county; **or**
     - ❑ Does not have such a contract, but all attorneys with a contract to represent indigent persons in this type of case in this county have been contacted and no such attorney is available to take this case; **or**
     - ❑ Does not have such a contract, but the State Public Defender has been consulted and consents to the appointment.

**It is therefore ordered** that Child/Applicant's Application for Appointment of Counsel is

- ❑ Denied.
- ❑ Approved, and that _____ is appointed to serve as counsel/guardian ad litem in this case for _____ at state expense and may be contacted at _____.

_____
Judge, _____ Judicial District

Copy to:

***Note**: A different standard applies for determining eligibility for appointment of respondent's counsel in a Chapter 600A TPR, and additional findings are required to determine the appropriate party/agency responsible for payment. *See* Iowa Code §§ 600A.2(11), 600A.6A(2), and 600A.6B. **Do not use this form order for 600A TPR Appointments.**

[Report November 8, 2012, effective January 7, 2013]

**Rule 2.33 Dismissal of prosecutions; right to speedy trial.**

**2.33(1)** *Dismissal generally; effect.* The court, upon its own motion or the application of the prosecuting attorney, in the furtherance of justice, may order the dismissal of any pending criminal prosecution, the reasons therefor being stated in the order and entered of record, and no such prosecution shall be discontinued or abandoned in any other manner. Such a dismissal is a bar to another prosecution for the same offense if it is a simple or serious misdemeanor; but it is not a bar if the offense charged be a felony or an aggravated misdemeanor.

**2.33(2)** *Speedy trial.* It is the public policy of the state of Iowa that criminal prosecutions be concluded at the earliest possible time consistent with a fair trial to both parties. Applications for dismissals under this rule may be made by the prosecuting attorney or the defendant or by the court on its own motion.

*a.* When an adult is arrested for the commission of an offense, or, in the case of a minor, when the juvenile court enters an order waiving jurisdiction pursuant to Iowa Code section 232.45, and an indictment is not found against the defendant within 45 days, the court must order the prosecution be dismissed unless good cause to the contrary is shown. For purposes of this rule, the 45-day period commences for an adult only after the defendant has been taken before a magistrate for an initial appearance or a waiver of the initial appearance is filed.

*b.* The defendant must be brought to trial within 90 days after indictment is found or the court must order the indictment be dismissed unless good cause to the contrary is shown.

*c.* All criminal cases must be brought to trial within one year after the defendant's initial arraignment pursuant to rule 2.8 unless an extension is granted by the court, upon a showing of good cause.

*d.* The defendant personally or through the defendant's attorney may waive the deadlines in (*a*) and (*b*) above by filing a written waiver that substantially complies with rule 2.37—Form 10: *Waiver of Speedy Trial (90 Day)*. A waiver of speedy trial operates to waive both deadlines. The deadline in (*c*) may be waived only by the defendant personally and on the record or by the filing of a written waiver that substantially complies with rule 2.37—Form 11: *Waiver of Speedy Trial (One Year)*.

*e.* If the court directs the prosecution be dismissed, the defendant, if in custody, must be discharged, or the defendant's bail, if any, exonerated.

**2.33(3)** *Change of venue after jury selection commenced.* Whenever a change of venue is granted pursuant to Iowa Code section 803.2(2), the defendant may be brought to trial within 90 days of the grant of the change of venue, notwithstanding rule 2.33(2)(*b*).

[66GA, ch 1245(2), §1301; amendment 1979; amendment 1980; amendment 1982; 82 Acts, ch 1021, §5, effective July 1, 1983; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.34 Reserved.**

**Comment:** The substance of former rule 2.34 has been moved to rule 2.11.

[66GA, ch 1245(2), §1301; Report November 9, 2001, effective February 15, 2002; June 29, 2009, effective August 28, 2009; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.35 Reserved.**

**Comment:** Former rule 2.35 has been removed as unnecessary.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §78; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.36 Forms for search and arrest warrants.**
**Rule 2.36 — Form 1:** ***Search Warrant.***

A search warrant shall be in substantially the following form:

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

| | |
|---|---|
| State of Iowa,<br><br>vs.<br><br>_____<br>(Defendant). | Before (Judge, Magistrate) _____<br>Criminal Case No._____<br><br>**SEARCH WARRANT** |

TO ANY PEACE OFFICER OF THIS STATE:

Proof has been made before me, as provided by law, on this day that (describe property) is being kept at (describe location/address) in the possession of _____, and has been or is being held in violation of the laws of this state.

You are commanded to make immediate search of (state here whether the search is of a person (named), premises, or a designated thing).

If the property or any portion of the property is found, you are commanded to bring the property before me at my office.

Dated at _____, Iowa, this _____ day of _____, 20 _____.

_____ _____
(Signature) (Official title)

**Rule 2.36 — Form 2:** ***Application for Search Warrant.***

An application for a search warrant shall be in substantially the following form:

An application for a search warrant shall be in substantially the following form:

Case No._____

STATE OF IOWA, COUNTY OF _____

**APPLICATION FOR SEARCH WARRANT**

Being duly sworn, I, the undersigned, say that at the place (and on the person(s) and in the vehicle(s)) described as follows:

in _____ County, there is now certain property, namely:

which is:

_____ Property that has been obtained in violation of law.
_____ Property, the possession of which is illegal.
_____ Property used or possessed with the intent to be used as the means of committing a public offense or concealed to prevent an offense from being discovered.
_____ Property relevant and material as evidence in a criminal prosecution.

The facts establishing the foregoing ground(s) for issuance of a search warrant are as set forth in the attachment(s) made part of this application.

_____
Applicant

Subscribed and sworn to before me this _____ day of _____, 20 _____.

_____
Judge or Magistrate

_____ Judicial District,

_____ County, Iowa

WHEREFORE, the undersigned asks that a search warrant be issued.

_____

_____ County Attorney

By _____
Assistant County Attorney

Application for Search Warrant *(cont'd)*

Case No. _____

ATTACHMENT A

Applicant's name: _____
Occupation: _____ No. of years: _____
Assignment: _____ No. of years: _____

Your applicant conducted an investigation and received information from other officers and other sources as follows:
(_____ See attached investigative and police reports.)

Case No. _____

**INFORMANT'S ATTACHMENT**

(Note: Prepare separate attachment for each informant.)
Peace officer _____ received information from an informant whose name is:

_____

___Confidential because disclosure of informant's identity would:
___Endanger informant's safety;

___Impair informant's future usefulness to law enforcement.

The informant is reliable for the following reason(s):

___The informant is a concerned citizen who has been known by the above peace officer for _____ years and who:

___Is a mature individual.
___Is regularly employed.
___Is a student in good standing.
___Is a well-respected family or business person.
___Is a person of truthful reputation.
___Has no motivation to falsify the information.
___Has no known association with known criminals.
___Has no known criminal record.
___Has otherwise demonstrated truthfulness. (State in the narrative the facts that led to this conclusion.)
___Other: _____
_____

___The informant has supplied information in the past _____ times.
___The informant's past information has helped supply the basis for _____ search warrants.
___The informant's past information has led to the making of _____ arrests.
___Past information from the informant has led to the filing of the following charges:
_____

___Past information from the informant has led to the discovery and seizure of stolen property, drugs, or other contraband.
___The informant has not given false information in the past.
___The information supplied by the informant in this investigation has been corroborated by law enforcement personnel. (Indicate in the narrative the corroborated information and how it was corroborated.)
___Other: _____
_____

The informant has provided the following information:

## Rule 2.36 — Form 3: *Endorsement on Search Warrant Application.*

An endorsement on a search warrant shall be in substantially the following form:

Case No. _____

**ENDORSEMENT ON SEARCH WARRANT APPLICATION**

1. In issuing the search warrant, the undersigned relied upon the sworn testimony of the following person(s) together with the statements and information contained in the application and any attachments thereto. The court relied upon the following witnesses:

| Name | Address |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

2. Abstract of Testimony. (As set forth in the application and the attachments thereto, plus the following information.)

3. The undersigned has relied, at least in part, on information supplied by a confidential informant (who need not be named) to the peace officer(s) shown on Attachment(s)

_____.

4. The information appears credible because (select):
   _____A. Sworn testimony indicates this informant has given reliable information on previous occasions; or,
   _____B. Sworn testimony indicates that either the informant appears credible or the information appears credible for the following reasons **(if credibility is based on this ground, the magistrate MUST set out reasons here)**:
   _____
   _____
   _____

5. The information (is/is not) found to justify probable cause.

6. I therefore (do/do not) issue the warrant.

_____
Judge or Magistrate

**Rule 2.36 — Form 4:** ***Return of Service.***

The form of a return of search warrant shall be substantially as follows:

**RETURN OF SERVICE**

State of Iowa
_____County } ss:

I, _____, being a peace officer in and for _____ _____ County, state of Iowa, certify that the attached search warrant came into my hands on the _____ day of _____, 20 _____, and on the _____ day of _____, 20 _____, I executed the warrant by making a search of the described person, premises, or thing and found the following property: (state kind and quantity)

_____

_____

_____

which property I seized by virtue of the attached warrant and which I now hold subject to further order of the court.

I have further executed the attached warrant by giving a copy of the warrant, together with a receipt for the property taken to _____, or;

No person having been found on the premises, I have left a copy of the inventory and a receipt for the property taken at the place where the property taken was found.

I, the officer by whom the attached warrant was executed, do certify that the above inventory contains a true and detailed account of the property taken by me on the warrant, and is accurate to the best of my knowledge.

Fees _____
Services _____
Mileage _____
Cartage _____

_____
Peace Officer

Subscribed and sworn to before me this _____ day of _____, 20 _____.

_____
Judge, Magistrate, Clerk, or Deputy
Clerk of the District Court, or
Notary Public

[66 GA, ch 1245(2), §1301; 1984 Iowa Acts, ch 1324, §1; Report February 13, 1986, effective July 1, 1986; August 1, 1997; Report November 20, 1997, effective January 21, 1998; November 9, 2001, effective February 15, 2002]

## Rule 2.36 — Form 5: *Arrest Warrant on a Complaint.*

FORM 5
**ARREST WARRANT ON A COMPLAINT**

State of Iowa
County of _____
Criminal Case No. _____

To any peace officer of the state:

Complaint upon oath or affirmation having been this day filed with me, charging that the crime (naming it) has been committed and accusing A _____ B _____ thereof:

You are commanded forthwith to arrest the said A _____ B _____ and bring such person before me at (naming the place), or, in case of my absence or inability to act, before the nearest or most accessible magistrate in this county, without unnecessary delay.

Dated at _____ this _____ day of _____, 20 _____.

C _____ D _____
(with official title)

[66GA, ch 1245(2), §1301; 67GA, ch 153, §93; Report November 9, 2001, effective February 15, 2002]

**Rule 2.36 — Form 6:** ***Arrest Warrant After Indictment or Information.***

FORM 6
**ARREST WARRANT AFTER INDICTMENT OR INFORMATION**

State of Iowa
County of _____
Criminal Case No. _____

To any peace officer of the state:

An indictment (information) having been filed in the district court of said county on the _____ day of _____, 20 _____, (the day on which the indictment (information) is filed) charging A. B. with the crime of (here designate the offense by the number of the statutory provision and name of the offense if it have one, or by a brief general description of it, substantially as in the indictment).

You are hereby commanded to arrest the said A. B. and bring such person before said court to answer said indictment.

Signed this _____ day of _____, 20 _____

(Seal)

_____
Judge (or clerk if a judge has entered an order for the warrant)

By order of the judge of the court.

There may be added to the above, "Let the defendant be admitted to bail in the amount of _____ dollars (or subject to other conditions endorsed on the warrant)."

If the offense be a misdemeanor, the warrant may be in a similar form, adding to the body thereof a direction substantially to the following effect: "Or, if the said A. B. require it, that you take such person before a magistrate or the clerk of the district court in said county, or in the county in which you arrest such person, that such person may give bail to answer the said indictment," and the clerk may make an endorsement thereon to the following effect: "The defendant is to be admitted to bail in the sum of _____ dollars" (the amount fixed by the judge).

[66GA, ch 1245(2), §1301; 67GA, ch 153, §94; Report November 9, 2001, effective February 15, 2002; Court Order June 30, 2023, temporarily effective July 1, 2023, permanently effective August 29, 2023]

**Rule 2.36 — Form 7:** ***Arrest Warrant When Defendant Fails to Appear for Sentencing.***

FORM 7
**ARREST WARRANT WHEN DEFENDANT FAILS TO APPEAR FOR SENTENCING**

State of Iowa
County of _____
Criminal Case No. _____

To any peace officer in the state:

A _____ B _____, having been duly convicted on the _____ day of _____, 20 ____, in the district court of _____ County, of the crime of (here state the name of the offense and the statutory provision).

You are hereby commanded to arrest the said A _____ B _____ and bring such person before said court for judgment.

Signed this _____ day of _____, 20 ____

_____
Judge (or clerk if a judge has entered an order for the warrant)

[66GA, ch 1245(2), §1301; 67GA, ch 153, §95; Report November 9, 2001, effective February 15, 2002; Court Order June 30, 2023, temporarily effective July 1, 2023, permanently effective August 29, 2023]

**Rule 2.37 Forms other than warrants.** The following forms are illustrative and not mandatory, but any particular instrument shall substantially comply with the form illustrated.
[66GA, ch 1245(2), §1301; 1984 Iowa Acts, ch 1324, §2; Report November 9, 2001, effective February 15, 2002]

**Rule 2.37 — Form 1:** ***Bail Bond.***

FORM 1
**BAIL BOND**

State of Iowa
County of _____
Criminal Case No. _____

An indictment (or charge) having been found (or made) in the district court (or other appropriate court) of the county of _____ on the _____ day of _____, charging A _____ B _____ with the crime of _____, (designating it as in the warrant, indictment, or complaint), and such person having been duly admitted to bail in the sum of _____ dollars:

We, A _____ B _____ and E _____ F _____, hereby undertake that the said A _____ B _____ shall appear at the _____ court of the county of _____, on the _____ day of _____, 20 _____, and answer the said indictment (or charge), and submit to the orders and judgment of said court, and not depart without leave of same, or, if such person fail to perform either of these conditions, that such person will pay to the State of Iowa the sum of _____ _____ (inserting the sum in which the defendant is admitted to bail).

A _____ B _____

E _____ F _____

Acknowledged before and accepted by me at _____, in the township of _____ in the county of _____ this _____ day of _____, 20 _____

G _____ H _____
(with official title)

[66GA, ch 1245(2), §1301; 67GA, ch 153, §96; Report November 9, 2001, effective February 15, 2002]

**Rule 2.37 — Form 2:** ***Order for Discharge of Defendant Upon Bail.***

FORM 2
**ORDER FOR DISCHARGE OF DEFENDANT UPON BAIL**

State of Iowa
County of _____
Criminal Case No. _____

To the sheriff of the County of _____:

C _____ D _____, who is detained by you on commitment (or indictment or conviction, as the case may be) for the offense of (here designate it generally), having given sufficient bail to answer the same, you are commanded forthwith to discharge such person from custody.

Dated at _____, in the township (town or city) of _____, in the County of _____, this _____ day of _____, 20 _____.

K _____ L _____
(with official title)

[66GA, ch 1245(2), §1301; 67GA, ch 153, §97; Report November 9, 2001, effective February 15, 2002]

## Rule 2.37 — Form 3: *Order for Discharge of Defendant Upon Bail: Another Form.*

FORM 3
**ORDER FOR DISCHARGE OF DEFENDANT UPON BAIL: ANOTHER FORM**
(For endorsement on warrant or order of commitment)

State of Iowa
County of _____
Criminal Case No. _____

To the officer (naming the officer and the officer's title, thus A _____ B _____, Sheriff of _____ County) having in custody C _____ D _____ (name):

The defendant named in the within warrant of arrest (or order of commitment) now in your custody under the authority thereof for the offense therein designated, having given sufficient bail to answer the same by the undertaking herewith delivered to you, you are commanded forthwith to discharge such person from custody, and, without unnecessary delay, deliver this order, together with the said undertaking of bail, to _____ (name and address of the appropriate district court clerk, or the court or magistrate who issued the warrant).

Dated at _____ this _____ day of _____, 20 _____.

E _____ F _____
(with official title)

[66GA, ch 1245(2), §1301; 67GA, ch 153, §98; Report November 9, 2001, effective February 15, 2002]

**Rule 2.37 — Form 4:** ***Trial Information.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

| | |
|---|---|
| THE STATE OF IOWA,<br>vs.<br>_____,<br>Defendant. | **TRIAL INFORMATION**<br>No. _____ |

COMES NOW, _____, as Prosecuting Attorney of _____ County, Iowa, and in the name and by the authority of the State of Iowa accuses _____ of the crime of _____ _____ committed as follows: The said _____ on or about the _____ day of _____, 20 _____, in the County of _____ and State of Iowa did unlawfully and willfully

_____

_____

_____

_____

in violation of Iowa Code section(s) _____(_____).
insert year

A TRUE INFORMATION

_____
Prosecuting Attorney

Trial Information *(cont'd)*

On _____ I find that the evidence contained in the within Trial Information and minutes of evidence, if unexplained, would _____ warrant a conviction by the trial jury, and being satisfied from the showing made herein that this case should _____ be prosecuted by Trial Information the same is _____ approved.

Defendant is released on:

1. personal recognizance _____
2. appearance bond $_____
   a. unsecured _____
   b. secured _____
3. other (specify) _____

_____
JUDGE OF THE _____ JUDICIAL DISTRICT OF THE STATE OF IOWA

(Court file stamp)

This Trial Information, together with the minutes of evidence relating thereto, is duly filed in the District Court of Iowa for _____ County this _____ day of _____, 20 _____.

_____
CLERK OF THE DISTRICT COURT OF IOWA
FOR _____ COUNTY

Names of Witnesses

By: _____
Deputy Clerk

[66GA, ch 1245(2), §1301; 67GA, ch 153, §99; Report 1978, effective July 1, 1979; amendment 1979; November 9, 2001, effective February 15, 2002]

**Rule 2.37 — Form 5:** ***General Indictment Form.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

| | |
|---|---|
| STATE OF IOWA,<br>vs.<br>A _____ B _____.<br>Criminal Case No. _____ | **INDICTMENT** |

The grand jurors of the county of _____ accuse A _____ B _____ of (here state the offense and whether felony or misdemeanor) in violation of (here state by number the statutory section violated) and charge that the said A _____ B _____ on or about the _____ day of _____, _____, in the county of _____ and State of Iowa, (here briefly insert any particulars of the offense, such as the name of the victim in a criminal homicide case).

A true bill.

/s/_____
Foreman or forewoman of grand jury

Names of witnesses:
_____
_____
_____

[66GA, ch 1245(2), §1301; 67GA, ch 153, §100; Report November 9, 2001, effective February 15, 2002]

**Rule 2.37 — Form 6:** ***Written Arraignment and Plea of Not Guilty.***

**Rule 2.37—Form 6:** ***Written Arraignment and Plea of Not Guilty***

**In the Iowa District Court for _____County**
*County where you are filing this Written Arraignment*

| | |
|---|---|
| **State of Iowa**<br>vs.<br>_____<br>**Defendant** | Case no._____<br>**Written Arraignment and Plea of Not Guilty** |

Defendant acknowledges the following: *Read, complete, and check each item if you agree.*

**1.** ☐ Defendant is represented by the undersigned attorney.

**2.** ☐ Defendant's current mailing address is:

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

**3.** ☐ Defendant can read, write, and understand the English language and has completed the following level of education:

_____

_____

**4.** ☐ Defendant has been advised by the undersigned attorney and understands that Defendant has a right to arraignment in open court, and Defendant hereby voluntarily waives that right, choosing instead to file this written arraignment and plea of not guilty. Defendant understands that times for further proceedings that are computed from the date of arraignment will be computed from the date of filing this written arraignment and plea of not guilty.

**5.** ☐ Defendant has received a copy of the indictment/trial information, which charges Defendant with the crime(s) of: _____

in violation of Iowa Code section(s)_____ (_____).
*Year*

Defendant has read the indictment/trial information and is familiar with its contents.

*Rule 2.37—Form 6: Written Arraignment and Plea of Not Guilty,* continued

**6.** The name charged in Defendant's indictment/trial information is:

*Check one.*

A. ☐ Defendant's true and correct name and Defendant has been advised and understands that Defendant is now precluded from objecting to the indictment/trial information upon the ground that Defendant is improperly named.

B. ☐ Not Defendant's true and correct name. Defendant's true and correct name is:

_____ _____ _____
*First* *Middle* *Last*

Defendant requests that an entry be made in the minutes showing Defendant's true and correct name. Defendant has been advised and understands that further proceedings will be had against Defendant by the name provided in this response, the indictment/trial information will be amended accordingly, and when the indictment/trial information is so amended, Defendant will be precluded from objecting upon the ground that Defendant is improperly named.

**7.** ☐ Defendant has been advised and understands that Defendant may plead guilty, not guilty, or former conviction or acquittal.

**8.** ☐ For the purpose of this arraignment, Defendant has had sufficient time to discuss the case with the undersigned attorney, and Defendant waives any further time in which to enter a plea.

**9.** ☐ Defendant pleads **not guilty** to the charge(s) identified in paragraph **5**.

**10.** ☐ Defendant has been advised and understands that Defendant has a right under Iowa Rule of Criminal Procedure 2.33(2)(*b*) to a trial within 90 days after indictment/filing of the trial information and:

*Check one.*

A. ☐ Defendant demands a speedy trial pursuant to Iowa Rule of Criminal Procedure 2.33(2)(*b*).

B. ☐ Defendant waives Defendant's right to a speedy trial pursuant to Iowa Rule of Criminal Procedure 2.33(2)(*b*).

**11.** ☐ Defendant requests that a trial date be promptly set pursuant to Iowa Rule of Criminal Procedure 2.9. Defendant and the undersigned attorney will be available for trial on the following days: _____

*Rule 2.37—Form 6: Written Arraignment and Plea of Not Guilty,* continued

**Attorney's signature**

_____ _____, 20____ _____
*Month* *Day* *Year* *Signature of attorney for Defendant*

_____
*Name of law firm, if applicable*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

[Report 1982; November 9, 2001, effective February 15, 2002; Court Order March 31, 2020, temporarily effective March 31, 2020, permanently effective May 30, 2020; October 14, 2022, effective July 1, 2023]

**Rule 2.37 — Form 7:** ***Application for Postconviction Relief Form.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

| | |
|---|---|
| _____, Applicant,<br><br>vs.<br><br>STATE OF IOWA, Respondent. | Law No. CL _____<br><br>**APPLICATION FOR POSTCONVICTION RELIEF PURSUANT TO IOWA CODE CHAPTER 822** |

I.

Conviction or sentence concerning which postconviction relief is demanded:

A. Crime and statute applicant was convicted of violating:

_____

B. Criminal Case No. _____

C. District court and judge that entered judgment of conviction or sentence:

_____

D. Date of entry of judgment of conviction or sentence:

_____

E. Sentence: _____

F. Place of confinement: _____

G. Plea:

_____ Guilty

_____ Not Guilty

H. Trial:

_____ Jury

_____ Judge only

II.

Prior proceedings:

A. Conviction or sentence was _____ appealed

1. to _____ court

2. Grounds raised: _____

_____

3. Result: _____

4. Date of result: _____

B. Other petitions, applications or motions relating to this conviction or sentence in any court, state or federal:

1. Name of court: _____

2. Nature of proceedings: _____

_____

3. Grounds raised: _____

_____

4. Result: _____

5. Date of result: _____

Application for Postconviction Relief Form *(cont'd)*

III.

Grounds upon which application is based (grounds checked must be fully explained in space below):

A. _____ The conviction or sentence was in violation of the Constitution of the United States or the Constitution or laws of this state.

B._____ The court was without jurisdiction to impose sentence.

C. _____ The sentence exceeds the maximum authorized by law.

D. _____ There exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice.

E. _____ (1) Applicant's sentence has expired.

_____ (2) Applicant's probation, parole, or conditional release has been unlawfully revoked.

_____ (3) Applicant is otherwise unlawfully held in custody or other restraint.

F. _____ The conviction or sentence is otherwise subject to collateral attack upon ground(s) of alleged error formerly available under any common law, statutory, or other writ, motion, proceeding, or remedy.

Specific explanation of grounds and allegation of facts:

_____

_____

_____

_____

_____

_____

_____

_____

IV.

Facts supporting application within personal knowledge of applicant:

_____

_____

_____

_____

V.

The following documents, exhibits, affidavits, records, or other evidence supporting this application are attached to the application (list):

_____

_____

_____

_____

VI.

The following documents, exhibits, affidavits, records, or other evidence supporting this application are not attached to the application (list):

_____

_____

_____

_____

Application for Postconviction Relief Form *(cont'd)*

These items are not attached for the following reason(s):

_____

_____

_____

_____

VII.

Relief desired (state clearly)

_____

_____

_____

_____

_____

_____

_____

_____

VIII.

I, the undersigned applicant, am_____ able to pay court costs and expenses of representation and do _____ desire to have counsel appointed to represent me concerning this application. (If applicant indicates inability to pay court costs and expenses of representation and does desire to have counsel appointed, applicant shall attach a financial statement to this application. See Iowa Code §815.9 and 815.10.)

**Oath and Signature**

I,_____, have read this Application, and I certify under penalty
*Print your full name: first, middle, last*
of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Application is true and correct.

| _____ | _____ | _____, | 20_____ |
|---|---|---|---|
| *Applicant's Signature** | *Month* | *Day* | *Year* |

| _____ | _____ | _____ | _____ |
|---|---|---|---|
| *Mailing address* | *City* | *State* | *ZIP code* |

| (_____) _____ | _____ | _____ |
|---|---|---|
| *Phone number* | *Email address* | *Additional email address, if applicable* |

**Whether filing electronically or in paper, you must handwrite your signature on this form. If you are filing electronically, scan the form after signing it and then file electronically.*

DIRECTIONS TO CLERK OF COURT

The clerk of court shall docket this application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the county attorney and the attorney general. See Iowa Code §822.3.

[Report 1980; November 9, 2001, effective February 15, 2002; Court Order March 31, 2020, temporarily effective March 31, 2020, permanently effective May 30, 2020]

**Rule 2.37 — Form 8:** ***Pro Se Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense***

**Rule 2.37—Form 8:** ***Pro Se Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense***

**In the Iowa District Court for _____County**

*County where you are filing this Waiver*

| | |
|---|---|
| **State of Iowa**<br><br>vs.<br><br>_____<br>**Defendant** | Case no._____<br><br>**Pro Se Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense**<br><br>If you need assistance to participate in court due to a disability, call the disability coordinator (information at https://www.iowacourts.gov/for-the-public/ada). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.** |

## 1. Initial Appearance

I acknowledge the following: *Read, complete, and check each item if you agree.*

- ☐ I understand that a preliminary complaint has been filed in my name charging me with a crime.
- ☐ I understand that I am required to appear before the court at a date and time specified for an initial appearance.
- ☐ I understand that at my initial appearance, the court would advise me of the following:
  - ☐ The allegations of the complaint and provide me with a copy of the complaint.
  - ☐ My right to retain counsel or have counsel appointed for me if I am determined to be unable to afford an attorney according to certain guidelines the court must follow.
  - ☐ My right to obtain a review of my bond conditions and how I may secure pretrial release from custody.
  - ☐ That I am not required to make any statements, but that if I do make statements, they may be used against me.
  - ☐ My right to a preliminary hearing as provided by Iowa Rule of Criminal Procedure 2.2(4).
- ☐ I understand that it is my right to have an initial appearance and that I can either enforce that right or waive it (give it up).
- ☐ I hereby waive (give up) my right to appear for an initial appearance and ask that the court set the next appropriate court dates.
- ☐ This waiver is knowingly, voluntarily, and intelligently made with a full understanding of its meaning.

*Rule 2.37—Form 8: Pro Se Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense,* continued

## 2. Preliminary Hearing

*Read, complete, and check each item if you agree.*

☐ I understand that I am required to appear before the court at a date and time specified for a preliminary hearing.

☐ I understand that at the preliminary hearing, the following would occur:

- ☐ The prosecution would present evidence.
- ☐ I would have a right to cross-examine witnesses and introduce evidence on my own behalf.
- ☐ The court would determine if there was probable cause to believe that an offense had been committed and that I committed it.

☐ I understand that it is my right to have a preliminary hearing and that I can either enforce that right or waive it (give up).

☐ I hereby waive (give up) my right to appear for a preliminary hearing and ask the court set the next appropriate court dates.

☐ This waiver is knowingly, voluntarily, and intelligently made with a full understanding of its meaning.

## 3. Signature

_____ _____, 20____ _____
*Month* *Day* *Year* *Defendant's signature**

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____ _____
*Phone number* *Email address*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*

[Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.37 — Form 9:** ***Attorney Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense***

**Rule 2.37—Form 9:** ***Attorney Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense***

**In the Iowa District Court for _____County**
*County where you are filing this Waiver*

| | |
|---|---|
| **State of Iowa**<br>vs.<br>_____<br>**Defendant** | Case no._____<br>**Attorney Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense** |

Defendant's name as charged is Defendant's true and correct name.

Undersigned counsel has spoken with Defendant, _____, regarding
*Defendant's name*
the waiver of Defendant's right to an initial appearance and preliminary hearing, and Defendant has authorized the undersigned attorney to waive Defendant's right to the initial appearance scheduled for _____ _____, 20____.
*Month* *Day* *Year*

Furthermore, Defendant:

*Check one.*

☐ Demands a preliminary hearing.

☐ Waives the right to a preliminary hearing.

**Attorney's signature**

_____ _____, 20____ _____
*Month* *Day* *Year* *Signature of attorney for defendant*

_____
*Name of law firm, if applicable*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

[Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.37 — Form 10:** ***Waiver of Speedy Trial (90 Day)***

**Rule 2.37—Form 10:** ***Waiver of Speedy Trial (90 Day)***

**In the Iowa District Court for _____County**

*County where you are filing this Waiver*

| | |
|---|---|
| **State of Iowa**<br><br>vs.<br><br>_____<br>**Defendant** | Case no._____<br><br>**Waiver of Speedy Trial (90 Day)**<br><br>If you need assistance to participate in court due to a disability, call the disability coordinator (information at https://www.iowacourts.gov/for-the-public/ada/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.** |

The defendant acknowledges the following: *Read, complete, and check each item if you agree.*

☐ The defendant understands that the defendant has the right to be brought to trial within 90 days of the date that the indictment/trial information was filed and that if the State fails to do so, the case could be permanently dismissed. This right is called the Right to a Speedy Trial (90 day) and it is set out in Iowa Rule of Criminal Procedure 2.33(2)(*b*).

☐ The defendant understands that waiver of speedy trial is the defendant's right and the defendant can either enforce it or waive it (give it up).

☐ The defendant waives (gives up) the right to be tried within 90 days of the date that the indictment/trial information was filed and agrees that the State may delay bringing the defendant's case to trial beyond the required deadline.

**Signature**

*Check one*

A. ☐ The defendant files this Waiver pro se (without an attorney).

*If you check* A, *you must fill in the following information:*

_____ _____, 20___ _____

*Month* *Day* *Year* *Pro se defendant's signature**

_____

*Mailing address*

_____, _____ _____

*City* *State* *ZIP code*

(_____) _____ _____

*Phone number* *Email address*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*

*Rule 2.37—Form 10: Waiver of Speedy Trial (90 Day),* continued

B. ☐ The defendant's attorney is filing this Waiver on behalf of the defendant after discussing the contents of this Waiver with the defendant.

*If you check* B*, you must fill in the following information:*

_____ _____, 20____ _____
*Month* *Day* *Year* *Attorney's signature*

_____
*Name of law firm, if applicable*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

[Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.37 — Form 11:** ***Waiver of Speedy Trial (One Year)***

**Rule 2.37—Form 11:** ***Waiver of Speedy Trial (One Year)***

**In the Iowa District Court for _____County**

*County where you are filing this Waiver*

| | |
|---|---|
| **State of Iowa**<br><br>vs.<br><br>_____<br>**Defendant** | Case no._____<br><br>**Waiver of Speedy Trial (One Year)**<br><br>If you need assistance to participate in court due to a disability, call the disability coordinator (information at https://www.iowacourts.gov/for-the-public/ada/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.** |

The defendant acknowledges the following: *Read, complete, and check each item if you agree.*

☐ I understand that I have the right to be brought to trial within one year of the date of my arraignment and that if the State fails to do so, the case against me could be permanently dismissed. This right is called the right to a speedy trial (one year rule) and it is set out in Iowa Rule of Criminal Procedure 2.33(2)(*c*).

☐ I have already knowingly, voluntarily, and intelligently waived (given up) my right to have the case tried within 90 days of the date that formal charges were filed against me.

☐ I understand that waiver of speedy trial is my right and that I can either enforce it or waive it (give it up).

☐ I hereby waive (give up) the right to be tried within one year of my arraignment, and I agree that the State may delay bringing me to trial beyond the required deadline.

## Signatures

*Check one*

A. ☐ An attorney did not help me prepare or fill in this Waiver.

*If you check A, you must fill in the following information:*

_____ _____, 20____ _____

*Month* *Day* *Year* *Pro se defendant's signature**

_____

*Mailing address*

_____, _____ _____

*City* *State* *ZIP code*

(_____) _____ _____

*Phone number* *Email address*

*Rule 2.37—Form 11: Waiver of Speedy Trial (One Year),* continued

B. ☐ An attorney helped me prepare or fill in this Waiver.

*If you check* B*, you must fill in the following information:*

_____ _____, 20____ _____
*Month* *Day* *Year* *Defendant's signature**

_____ _____, 20____ _____
*Month* *Day* *Year* *Attorney's signature*

_____
*Name of attorney's law firm, if applicable*

_____
*Attorney's mailing address*

_____, _____ _____
*Attorney's city* *Attorney's state* *Attorney's ZIP code*

(_____) _____
*Attorney's phone number*

_____ _____
*Attorney's email address* *Additional email address, if applicable*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*

[Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.37 — Form 12:** ***Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class "D" Felonies***

**Rule 2.37—Form 12:** ***Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class "D" Felonies***

**In the Iowa District Court for _____County**
*County where you are filing this Waiver*

| | |
|---|---|
| **State of Iowa**<br>vs.<br>_____<br>**Defendant** | Case no._____<br>**Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class "D" Felonies** |

On _____, 20__, Defendant, _____, comes before the court with Defendant's attorney, _____, and submits this Waiver of Rights and Written Guilty Plea.

**1. Offense** **Initials**_____

I am pleading guilty to the following criminal offense(s) (charge/code section/level of offense):

Count I: _____

_____

Count II (if applicable): _____

_____

Count III (if applicable): _____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**2. Preliminary admissions** **Initials**_____

**A.** I am _____ years of age. I have completed ____ years of school. My highest level of education is _____. I have read and understand this document and the plea agreement.

**B.** I am not under the influence of any illicit drugs or alcohol. I have not used any illicit drugs or alcohol in the past 24 hours. I have not taken any medication(s) other than as prescribed by my doctor in the past 24 hours. To the extent that I am taking medication as prescribed, those medications do not affect my ability to understand the contents and consequences of this written guilty plea.

**C.** I do not have a physical or mental condition that prevents me from understanding the charge(s) or proceedings.

**D.** ☐ I read, write, and understand the English language.

☐ I do **not** read, write, or understand the English language. I have reviewed this written guilty plea with the assistance of _____, a court-appointed interpreter, who has translated this written guilty plea, the plea agreement, and any other documents related to this matter for me.

*Rule 2.37—Form 12: Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class "D" Felonies,* continued

**E.** I authorize my attorney to appear on my behalf for the ☐ guilty plea only ☐ guilty plea and sentencing.

**F.** I have received, read, and reviewed the trial information and minutes of testimony with my attorney. I understand the nature of the charges against me and what the State would be required to prove.

**G.** I have discussed possible legal defenses with my attorney, including any potential suppression issues. I know of no legal defense to the charge(s), suppression issue(s), or any other reason that would change my decision to enter this written guilty plea.

**H.** I understand that by pleading guilty, I may not be able to vote, hold public office, or possess firearms or ammunition. I further understand that certain convictions can have adverse consequences with housing, employment, federal or state benefits, student loans, and driving privileges in addition to other consequences.

**I.** If I am convicted of two or more felony offenses in my lifetime, I may be subject to an enhanced sentence as a habitual felon. Also, depending on the offense to which I am pleading guilty, an enhanced sentence may apply if I am convicted at a later date of a similar offense (for example, controlled substances, theft, domestic abuse assault).

**J.** ☐ I am not currently on probation or parole.

☐ I am currently on probation or parole. I understand that this written guilty plea is an acknowledgement that I have violated the terms and conditions of my probation or parole. I further understand that the court may revoke my probation or parole and order those terms to be served consecutive to any punishment imposed in this case.

**K.** I have had enough time and opportunity to meet or speak with my attorney. I am satisfied with their representation and the services they have provided.

**L.** I am entering this written guilty plea of my own free will. No promises, other than those contained in the plea agreement (if applicable), and no threats have been made to induce me to sign this written guilty plea. This guilty plea is made knowingly, intelligently, and voluntarily.

**3. Waiver of trial rights** **Initials**_____

I have been advised, and understand, that I may maintain my plea of not guilty to all charges. Before the court will accept my plea, the court must be satisfied that I understand my constitutional rights. I understand that I am giving up the following rights:

**A.** A speedy and public trial by a jury of twelve people.

**B.** A unanimous verdict before I can be found guilty by the jury.

**C.** The right to have my case tried to a judge instead of a jury, if I timely waive my right to a jury trial.

*Rule 2.37—Form 12: Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class "D" Felonies,* continued

**D.** An attorney to represent me at all proceedings; and if the court determines that I am unable to afford an attorney, one would be appointed at state expense to represent me at all stages of this criminal case. I understand that my attorney is willing to represent me at trial if I desire a trial.

**E.** The privilege against self-incrimination; I do not have to testify at my trial unless I want to, and the prosecution cannot comment on my refusal to testify, nor can the jury consider my silence against me.

**F.** The presumption of innocence; at trial, I would be presumed innocent until such a time, if ever, the State established my guilt beyond a reasonable doubt by producing competent evidence.

**G.** Confront and cross-examine witnesses called by the State.

**H.** Call witnesses and present evidence on my own behalf and subpoena witnesses (compulsory process) to secure their attendance.

**4. Penalties** **Initials**_____

**A.** I am pleading to a ☐ class "D" felony ☐ aggravated misdemeanor ☐ serious misdemeanor. I understand the court may impose the penalties detailed below:

| | Incarceration | | Fines | |
|---|---|---|---|---|
| | **Maximum** | **Minimum** | **Maximum** | **Minimum** |
| **Class "D" Felony** | Five (5) Years Incarceration | Suspended Sentence (Deferred eligibility pursuant to § 907.3) | $10,245.00 (Civil Penalty, if judgment deferred) | $1,025.00 (Civil Penalty, if judgment deferred) |
| **Aggravated Misdemeanor** | Two (2) Years Incarceration | Suspended Sentence (Deferred eligibility pursuant to § 907.3) | $8,540.00 (Civil Penalty, if judgment deferred) | $855.00 (Civil Penalty, if judgment deferred) |
| **Serious Misdemeanor** | One (1) Year Incarceration | Suspended Sentence (Deferred eligibility pursuant to § 907.3) | $2,560.00 (Civil Penalty, if judgment deferred) | $430.00 (Civil Penalty, if judgment deferred) |

**B.** I understand that if I am pleading guilty to multiple charges, the penalties detailed above could run consecutive to one another. I also understand that the terms of confinement set forth above could run consecutive to sentences in other cases, including cases for which I am on probation or parole.

*Rule 2.37—Form 12: Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class "D" Felonies,* continued

**C.** I have been advised of the following surcharges and collateral consequences that may apply for the crime(s) to which I am pleading guilty:

**(1)** Pursuant to Iowa Code section 911.1, I shall pay a 15% crime services surcharge on the total fine imposed, unless the fine or penalty has been suspended.

**(2)** Pursuant to Iowa Code section 911.2A, I shall pay a human trafficking victim surcharge of $1,000.00 for each violation of sections 725.1(2), 710A.2, 725.2, or 725.3.

**(3)** Pursuant to Iowa Code section 911.2B, I shall pay a domestic or sexual abuse related crimes surcharge of $90.00 for each violation of sections 708.2A, 708.11, 710A.2, or chapter 709, or if I am held in contempt of court for violating a domestic abuse protective order issued pursuant to chapter 236.

**(4)** Pursuant to Iowa Code section 911.5, I shall pay an agricultural theft surcharge of $500.00 for each violation of section 714.2(1)–(3) or sections 716.3, 716.4, or 716.5 if I damaged, defaced, altered, or destroyed agricultural property.

**(5)** If placed on supervised probation, there will be a $300 supervision fee.

**(6)** For aggravated misdemeanors and felonies, a DNA sample will be collected by the state.

**(7)** Other:_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**5. Plea agreement** **Initials**_____

**A.** Other than the plea agreement stated below, there are no other agreements that have been used to convince me to enter this written guilty plea. No one has threatened me or made any promises or assurances to me to force me to enter this written guilty plea. I am pleading guilty voluntarily and with a full understanding of my rights. The terms of the plea agreement are as follows:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**B.** ☐ **Court not bound by the plea agreement.** I understand that the court is not bound by the plea agreement detailed above and may sentence me up to the maximum sentence provided by law.

☐ **No agreement.** This written guilty plea is entered without any agreement with the State concerning the charge(s) against me or my sentence.

*Rule 2.37—Form 12: Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class "D" Felonies,* continued

☐ **Plea agreement conditioned on court approval.** This written guilty plea is entered pursuant to Iowa Rule of Criminal Procedure 2.10 based upon an agreement with the State concerning the charge(s) against me and my sentence. If, at the time of sentencing, the court does not accept the plea agreement, I may withdraw my plea of guilty.

**Prosecuting attorney's signature/initials:** _____

If the prosecuting attorney does not sign or initial above, the State must file an approval confirming the terms of the plea agreement within two working days of the date this plea is filed.

**6. Factual basis** **Initials**_____

**A.** I understand that I have the choice in maintaining my not guilty plea or entering a plea of guilty. I hereby plead guilty to (charge/code section/level of offense):

Count I: _____

_____

Count II (if applicable): _____

_____

Count III (if applicable): _____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**B.** I admit that on or about _____, 20___, in _____ County, I did the following:

Count I: _____

_____

_____

_____

Count II (if applicable): _____

_____

_____

_____

Count III (if applicable): _____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

*Rule 2.37—Form 12: Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class "D" Felonies,* continued

**C.** I agree that a jury could find me guilty on each charge for which I am pleading guilty if the witnesses testified as set forth in the minutes of testimony.

☐ The court may rely on the minutes of testimony for a further factual basis for my guilty plea.

**D.** If this is an enhanced charge, I admit the following:

**(1)** I understand that I have the right to a separate trial on the issue of whether I have prior convictions that increase the sentence in this case. I also understand that I would be entitled to the same trial rights explained in Section **3**.

**(2)** I understand that I have the right to a hearing before a judge to determine, and have the State prove, whether I was represented by an attorney or waived my right to be represented by an attorney in the prior case(s).

**(3)** By entering this written guilty plea, I understand that I am waiving my right to a separate trial on the issue of identity. I also understand that I am also waiving my right to a hearing before a judge on the issue of whether I was previously represented by an attorney.

**(4)** Prior convictions.

i. I admit that on or about _____, 20___, in _____ County, in case number _____, I was convicted of _____. At the time, I was represented by _____.
*Description and level of offense* *Name of attorney who represented you*

ii. I admit that on or about _____, 20___, in _____ County, in case number _____, I was convicted of _____. At the time, I was represented by _____.
*Description and level of offense* *Name of attorney who represented you*

☐ *Check this box if you have attached a sheet with additional information.*

*Rule 2.37—Form 12: Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class "D" Felonies*, continued

**7. Post-plea rights** **Initials**_____

**A. Motion in arrest of judgment and sentencing.** I understand that if I wish to challenge this written guilty plea, I must do so by filing a motion in arrest of judgment at least 5 days prior to the court imposing sentence and no later than 45 days from today's date. I understand that if I do not timely file a motion in arrest of judgment, I will not be able to challenge any defects in the plea, including in an appeal. I further understand that I have the right to a 15-day delay between the time the court accepts my guilty plea and the time the court conducts sentencing.

☐ I ask the court to sentence me at a later date.

☐ I ask the court to sentence me immediately. In doing so, I understand that I am waiving my right to challenge this guilty plea and waive my right to a 15-day delay between the time the court accepts my guilty plea and the time the court conducts sentencing.

**B. Presentence investigation report.** I understand that if I enter a plea of guilty to a felony, a presentence investigation report (PSI) must be ordered by the court pursuant to Iowa Code section 901.2 and that I cannot waive the preparation of a PSI. I understand that I have a right to have the court use the PSI when determining my sentence in this case. The report would contain information and background about myself, including information about my family, employment, education, substance abuse or mental health treatment, military service, prior criminal history, and other social history. The report would also include information from the Iowa Department of Corrections regarding my rehabilitative needs and services available as well as a sentencing recommendation. I understand that the report could contain favorable information that could result in a lesser sentence.

☐ I ask the court to order a PSI and sentence me at a later date.

☐ I waive the use of a PSI for purposes of sentencing and ask the court to sentence me immediately.

**C. Personal presence.** I understand that I have the right to a hearing in open court for my guilty plea and sentencing where a court reporter makes a transcript of what is said.

☐ I am waiving my right to a hearing in open court for my guilty plea and sentencing.

☐ I am waiving my right to a hearing in open court for my guilty plea but I want to appear by interactive audiovisual system for sentencing.

☐ I am waiving my right to a hearing in open court for my guilty plea but I want to appear in person in open court for sentencing.

**D. Allocution.** I understand that pursuant to Iowa Rule of Criminal Procedure 2.23(2)(*d*)(3), I have the right to make a statement to the court prior to sentencing in mitigation of punishment.

☐ I waive my right of allocution.

☐ I request a sentencing hearing and the right of allocution at the hearing.

*Rule 2.37—Form 12: Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class "D" Felonies,* continued

**E. Immigration consequences.** I have been advised that if I am not a United States citizen, a criminal conviction, deferred judgment, or deferred sentence may affect my status under federal immigration laws. I have consulted with my attorney and considered the immigration consequences that include, but are not limited to, deportation, inability to reenter the United States, mandatory detention in immigration custody, ineligibility for release on bond during immigration proceedings, and increased penalties for unauthorized reentry into the United States. I have been further advised that I should seek an immigration attorney if I have any questions about the impact of this conviction, deferred judgment, or deferred sentence on my immigration status now or in the future.

**F. Appellate rights.** I understand that by submitting this written guilty plea, I no longer have an absolute right to appeal my conviction. In order to appeal, I now need to establish good cause. If I choose to appeal, a notice of appeal must be filed within 30 days of sentencing, or I will not be able to appeal my conviction.

**G. Restitution.**

**(1) Category "A" restitution.** I understand that I may be assessed category "A" restitution, which encompasses monetary damages to crime victims (referred to as pecuniary damages), fines, penalties, and surcharges. **I understand that I will be required to pay, in full, pecuniary damages, if any, and category "A" restitution, except for any fines, penalties, or surcharges that are suspended.**

**(2) Category "B" restitution.** I further understand that I may be assessed category "B" restitution, which encompasses repayment of contributions to local anticrime organizations that provided assistance to law enforcement in this case, crime victim compensation program reimbursements, expenses incurred by public agencies pursuant to Iowa Code section 321J.2(13)(*b*), court costs, court-appointed attorney fees and expenses (including the expense of a public defender), and medical assistance program reimbursements pursuant to Iowa Code chapter 249A.

**(3) Reasonable ability to pay.** I understand that I may ask the court to determine the amount of category "B" restitution payments that I am reasonably able to pay. I understand that I am presumed to have the reasonable ability to make payments for the full amount of category "B" restitution. I understand that if I do not ask the court to make the determination at the time of sentencing or within 30 days of the issuance of a restitution order, and that if I do not file a completed financial affidavit and prove that I am not reasonably able to make payments toward the full amount of category "B" restitution, I will be ordered to pay the full amount of category "B" restitution, and I will waive future claims regarding my reasonable ability to pay, except as provided by Iowa Code section 910.7.

*Rule 2.37—Form 12: Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class "D" Felonies,* continued

## Defendant's Certification

I have had the opportunity to discuss this Waiver of Rights and Written Guilty Plea with my attorney and ask questions. I understand the contents and consequences of this written guilty plea as explained above. I also understand that by pleading guilty, I am giving up the rights set forth above and that there will not be a trial on this offense(s). I am pleading guilty because I am in fact guilty of the offense(s) detailed in Section **1** of this petition. I knowingly, intelligently, and voluntarily enter this written guilty plea and request that the court accepts it consistent with the terms set forth herein.

_____ ____, 20____ _____
*Month* *Day* *Year* *Defendant's signature*

## Defendant's Attorney's Certification

I certify, as an officer of the court, that I have had ample opportunity to confer with my client. I have provided my client with the opportunity to ask any questions that they may have. I have explained the contents of this written guilty plea, their waiver of rights, the minimum and maximum punishments, the plea agreement, the collateral consequences for a conviction of these offenses, and the possible defenses and strategies. I am not aware of any legal reason why the court should not accept this waiver of rights, plea agreement, and petition to plead guilty.

I further certify that after discussing these matters with my client, I believe they knowingly, intelligently, and voluntarily executed this waiver of rights and written guilty plea and request the court accept it, consistent with the terms set forth herein.

_____ ____, 20____ _____
*Month* *Day* *Year* *Attorney's signature*

_____
*Name of attorney's law firm, if applicable*

_____
*Attorney's mailing address*

_____, _____ _____
*Attorney's city* *Attorney's state* *Attorney's ZIP code*

(_____)_____
*Attorney's phone number*

_____ _____
*Attorney's email address* *Additional email address, if applicable*

[Court Order October 14, 2022, effective July 1, 2023]

**Rules 2.38** to **2.50** Reserved.

SIMPLE MISDEMEANORS

**Rule 2.51 Scope of rules and definitions.**

**2.51(1)** *Scope.* The rules set forth in this section shall apply to trials, related proceedings, and appeals from conviction of simple misdemeanors.

**2.51(2)** *Definition.* For purposes of this section, "magistrate" includes judicial magistrates, district associate judges, and district judges.

[66GA, ch 1245(2), §1302; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.52 Applicability of indictable offense rules.** Procedures not provided for herein shall be governed by the provisions of the rules or statutes governing indictable offenses that are by their nature applicable to simple misdemeanor prosecutions.

[66GA, ch 1245(2), §1302; 67GA, ch 153, §81; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.53 To whom tried.**

**2.53(1)** *Generally.* Judicial magistrates and district associate judges may hear, try, and determine simple misdemeanors.

**2.53(2)** *Transfer.* District judges may transfer any simple misdemeanors pending before them to a judicial magistrate or district associate judge.

**2.53(3)** *Joint trial.* When a simple misdemeanor arises out of the same transaction or occurrence as an indictable offense, preference should be given to consolidating the matters for trial.

**2.53(4)** *Jury trial.* A simple misdemeanor is not tried to a jury unless the defendant timely requests a jury trial within 10 days following the plea of not guilty.

[66GA, ch 1245(2), §1302; 67GA, ch 153, §82; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.54 The complaint.** Prosecutions for simple misdemeanors shall be initiated by sworn complaint.

[66GA, ch 1245(2), §1302; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.55 Contents of the complaint.** The complaint shall contain:

**2.55(1)** The name of the county and of the court where the complaint is filed.

**2.55(2)** The name of the accused, if known, and if not known, designation of the accused by any name by which the accused may be identified.

**2.55(3)** The name of the offense and the statutory provision or provisions alleged to have been violated, a brief statement of the acts or omissions by which the offense is alleged to have been committed, and a brief statement of the time and place of the offense, if known.

[66GA, ch 1245(2), §1302; 67GA, ch 153, §83; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.56 Approval of the complaint.** The complaint shall be approved by the magistrate upon a determination of probable cause.

[66GA, ch 1245(2), §1302; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.57 Arrest warrant.** Immediately upon approving the complaint, the magistrate may issue an arrest warrant.

[66GA, ch 1245(2), §1302; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.58 Appearance of the defendant.**

**2.58(1)** *Arrest and appearance.* An officer making an arrest with or without a warrant shall take the arrested person before a magistrate either personally or by interactive audiovisual system as

provided by rule 2.27(1)(*a*) within 24 hours unless no magistrate is available and in all events within 48 hours.

**2.58(2)** *Arrest without a warrant.* When a person is arrested without a warrant, a complaint shall be filed immediately.

**2.58(3)** *Determination of probable cause.* If the defendant received a citation or was arrested without a warrant, the magistrate shall, prior to further proceedings in the case, make a determination from the complaint or affidavits filed with the complaint whether there is probable cause to believe that an offense has been committed and that the defendant has committed it. The magistrate's decision in this regard shall be entered in the record.

**2.58(4)** *Prosecution of corporations.* A corporation may be summoned as provided in Iowa Code chapter 807.

[66GA, ch 1245(2), §1302; 67GA, ch 153, §84; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.59 Verification of complaint.** At the defendant's initial appearance, the magistrate shall inform the defendant of the complaint and ensure the defendant receives a copy of it. The defendant must inform the magistrate whether the name and address shown in the complaint are the defendant's true and correct name and address. If the defendant gives no other name, the defendant is thereafter precluded from objecting to the complaint on the ground of being improperly named.

[66GA, ch 1245(2), §1302; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.60 Advice of rights at the initial appearance.** At the defendant's initial appearance, the magistrate shall inform the defendant of the following:

**2.60(1)** The defendant's right to retain counsel.

**2.60(2)** The defendant's right to request the appointment of counsel if the defendant faces the possibility of incarceration and is unable to obtain counsel by reason of indigency.

**2.60(3)** The circumstances under which the defendant may secure pretrial release.

**2.60(4)** The defendant's right to obtain review of any conditions imposed on the defendant's release.

**2.60(5)** That the defendant is not required to make a statement and that any statement made by the defendant may be used against the defendant.

[66GA, ch 1245(2), §1302; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.61 Appointment of counsel.** In cases where the defendant faces the possibility of incarceration, the magistrate shall appoint counsel for an indigent defendant in accordance with procedures established under rule 2.2(3). The magistrate shall allow the defendant reasonable time and opportunity to consult with counsel if the defendant expresses a desire to do so.

[66GA, ch 1245(2), §1302; 67GA, ch 153, §85; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.62 Bail.** Admission to bail shall be as provided for in Iowa Code chapter 811. Upon proper application, a district judge or district associate judge is authorized to review and amend the conditions of bail previously imposed. There shall be no more than one review except upon changed conditions.

[66GA, ch 1245(2), §1302; Report December 28, 1989, effective April 2, 1990; November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.63 Plea.**

**2.63(1)** *Plea.* At the defendant's initial appearance, the defendant shall be required to enter a plea to the complaint. Permissible pleas include those allowed when the defendant is indicted as set forth in rule 2.8(2).

**2.63(2)** *Waiver of initial appearance.* Unless otherwise ordered by the court, a defendant may waive the initial appearance by executing and filing a written waiver that substantially complies with rule 2.76—Form 5: *Waiver of Initial Appearance for Simple Misdemeanors*. Thereafter, the date of

the initial appearance is deemed the date the waiver was filed. A defendant may also waive the initial appearance by filing a written guilty plea or written plea agreement.
[66GA, ch 1245(2), §1302; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.64 Trial.**

**2.64(1)** Upon a plea other than guilty, the magistrate shall set a trial date, which shall be at least 15 days after the plea is entered.

**2.64(2)** The magistrate shall advise the defendant of the following:

*a.* The trial will be without a jury unless the defendant makes a demand for jury trial within 10 days following the plea of not guilty.

*b.* Failure to make a jury demand in the manner prescribed herein constitutes a waiver of jury trial.

*c.* If a demand for jury trial is made, the action shall be tried by a jury of six persons.

*d.* If the defendant so requests, the magistrate may set a trial date for a nonjury trial less than 15 days after a plea other than guilty is entered; however, the magistrate shall notify the defendant that such a request constitutes a waiver of jury trial.

**2.64(3)** Upon request, evidence to be offered as an exhibit at trial by any party, other than evidence which will be offered for purposes of rebuttal or impeachment, shall be provided to all parties at least 7 days prior to trial. Parties shall be limited to these exhibits except for good cause shown.
[66GA, ch 1245(2), §1302; Report December 28, 1989, effective April 2, 1990; November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.65 Pretrial matters.** When the defendant has requested a jury trial, the magistrate may direct that certain matters be raised and addressed prior to the start of the jury trial.
[66GA, ch 1245(2), §1302; 82 Acts, ch 1021, §6, effective July 1, 1983; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.66 Joint trials.**

**2.66(1)** *Multiple complaints.* Two or more complaints against one defendant may be tried jointly.

**2.66(2)** *Multiple defendants.* Two or more defendants may be tried together if they are alleged to have participated in the same act or the same transaction or occurrence out of which the offense or offenses arose.

**2.66(3)** *No joinder if prejudice.* Complaints or defendants shall not be jointly tried if the court finds that prejudice will result to a party.

**2.66(4)** *Separate judgments.* Jointly tried complaints or defendants shall be adjudged separately.
[66GA, ch 1245(2), §1302; 1983 Iowa Acts, ch 186, §10148; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.67 Forfeiture of collateral in lieu of appearance.** In the event a simple misdemeanor is charged under the uniform citation and complaint as described in Iowa Code section 805.6, and the defendant either has submitted an unsecured appearance bond as provided in that section or has submitted bail as provided in Iowa Code section 805.9(3), the court or the clerk of court may enter a conviction pursuant to the defendant's written appearance and may enter a judgment of forfeiture of the collateral in satisfaction of the judgment and sentence; provided that if the defendant submitted unsecured appearance bond or if bail remains uncollected, execution may issue upon the judgment of the court at any time after entry of the judgment.
[66GA, ch 1245(2), §1302; 67GA, ch 153, §86; 1987 Iowa Acts, ch 25, §1; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.68 Change of venue.** A change of venue may be applied for and accomplished in the manner prescribed in rule 2.11(11).
[66GA, ch 1245(2), §1302; 1983 Iowa Acts, ch 186, §10149; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.69 Selection of jury; trial.**

**2.69(1)** *Selection of panel.* If a jury trial is demanded, the magistrate shall notify the clerk of court of the time and place of trial. The clerk shall randomly select 14 names from the jury pool, which

will constitute the jury panel for voir dire. The clerk shall notify these jurors of the time and place for trial.

**2.69(2)** *Incorporation of rule 2.18.* Except where inconsistent with this rule, rule 2.18 shall apply to juries in simple misdemeanor cases.

**2.69(3)** *Alternate jurors.* No alternate jurors shall be chosen.

**2.69(4)** *Jury of six.* The jury shall be comprised of six jurors.

**2.69(5)** *Trial.* The court shall conduct the trial in the manner of indictable cases in accordance with rule 2.19.

**2.69(6)** *Record.*

*a. Generally.* Trial of a simple misdemeanor offense shall not be reported; however, the magistrate may require electronic reporting upon advance notice to both parties. If the proceedings are not reported electronically, the magistrate shall make minutes of the testimony of each witness.

*b. Stenographic reporting.* A party may provide a reporter at such party's expense upon notice to all parties and with the magistrate's approval.

*c. Transcript of electronic recording.* If the trial has been reported electronically, the recording shall be retained by the court. Upon request, the recording shall be transcribed by a person designated by the court and a copy provided upon payment of actual cost or to an indigent defendant at state expense.

[66GA, ch 1245(2), §1302; Report November 9, 2001, effective February 15, 2002; Court Orders October 14, 2022, November 7, 2022, effective July 1, 2023]

**Rule 2.70 Judgment.**

**2.70(1)** When the defendant is acquitted, the defendant must be immediately discharged.

**2.70(2)** When the defendant pleads guilty or is convicted, the magistrate may render judgment as allowed under the law. If the judgment and costs are not fully and immediately satisfied, the magistrate shall so indicate on the judgment.

[66GA, ch 1245(2), §1302; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.71 Prior convictions.** If the complaint alleges one or more prior convictions that subject the defendant to an increased sentence, the defendant shall have the opportunity in open court to affirm or deny that the defendant is the person previously convicted, or that the defendant was not represented by counsel and did not waive counsel when previously convicted.

**2.71(1)** Prior to accepting any affirmation by the defendant, the court shall determine that a factual basis exists for the affirmation and shall have a colloquy with the defendant as provided in rule 2.19(8). However, such colloquy shall omit reference to a waiver of trial by jury unless the defendant timely requested a jury.

**2.71(2)** If the defendant denies being the person previously convicted, sentence shall be postponed for such time as to permit a trial on the matter.

**2.71(3)** If jury trial was demanded, the court may, on the issue of identity, reconvene the jury that heard the current offense or dismiss that jury and submit the issue to another jury to be later impaneled. Other objections shall be determined by the court.

[66GA, ch 1245(2), §1302; amendment 1982; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.72 Appeals.**

**2.72(1)** *Generally.* An appeal may be taken by the plaintiff only upon a finding of invalidity of an ordinance or statute. In all other cases, an appeal may only be taken by the defendant and only upon a judgment of conviction. Execution of the judgment shall be stayed upon posting of an appeal bond in the sum specified in the judgment.

**2.72(2)** *Notice of appeal.* A party takes an appeal by filing with the clerk of the district court a written notice of appeal not later than 10 days after judgment is rendered. Payment of a fine or service of a sentence of imprisonment does not waive the right to appeal nor render the appeal moot.

**2.72(3)** *Record.* When an appeal is taken, the magistrate shall promptly forward to the appropriate district court clerk a copy of the magistrate's minutes of the witnesses' testimony along with the exhibits. Within 10 days after an appeal is taken, unless extended by order of a district judge or district associate judge, any transcript or electronic recording of the official report shall be filed by the magistrate unless it is already on file.

**2.72(4)** *Procedure.*

*a.* Within 14 days after taking the appeal, the appellant shall file and serve a brief in support of the appeal. The brief shall include statements of the specific issues presented for review and the precise relief requested.

*b.* Within 10 days after service of the appellant's brief, the appellee may file and serve a responding brief.

*c.* Either party may request, at the end of the party's brief, permission to be heard in oral argument.

*d.* Within 30 days after the filing, or expiration of time for filing, of the appellee's brief, the appeal shall be submitted to the court on the record and any briefs without oral argument unless otherwise ordered by the court.

*e.* If the court, on its own motion or motion of a party, finds the record to be inadequate, it may order the presentation of further evidence.

*f.* If the original action was tried by a district judge, the appeal shall be decided by a different district judge. If the original action was tried by a district associate judge, the appeal shall be decided by a district judge or a different district associate judge. If the original action was tried by a judicial magistrate, the appeal shall be decided by a district judge or district associate judge.

*g.* Findings of fact in the original action shall be binding on the judge deciding the appeal if supported by substantial evidence. The judge deciding the appeal may affirm, reverse and enter judgment as if the case were being originally tried, or enter any judgment that is just under the circumstances.

**2.72(5)** *Counsel.* In appropriate cases, the magistrate shall appoint counsel on appeal.

**2.72(6)** *Review by supreme court.* The defendant may apply for discretionary review pursuant to Iowa Code section 814.6(2)(*d*), and the plaintiff may apply for discretionary review pursuant to Iowa Code section 814.5(2)(*d*). Procedure on discretionary review shall be as prescribed in Iowa Rule of Appellate Procedure 6.106.

[66GA, ch 1245(2), §1302; 67GA, ch 147, §54; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.73 Motion for a new trial.**

**2.73(1)** *Generally.* The magistrate, on motion of a defendant, may grant a new trial on the grounds set forth in rule 2.24(2)(*b*).

**2.73(2)** *Newly discovered evidence.* A motion for a new trial based on newly discovered evidence must be made within 6 months after the final judgment.

**2.73(3)** *Other grounds.* A motion for a new trial based on any other grounds shall be made within 7 days after a finding of guilty or within such further time as the magistrate may fix during the 7-day period.

[66GA, ch 1245(2), §1302; 67GA, ch 153, §87, 88; amendment 1979; 68GA, ch 1022, §22, effective January 1, 1981; amendment 1982; Report May 7, 1986, effective July 15, 1986; 1987 Iowa Acts, ch 25, §2, 3; Report June 29, 2001, effective September 10, 2001; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.74 Correction or reduction of sentence.**

**2.74(1)** The magistrate may correct an illegal sentence at any time. The magistrate may correct a sentence imposed in an illegal manner or may reduce a sentence:

*a.* Within 10 days after the sentence is imposed.

*b.* Within 10 days after the receipt by the magistrate of a mandate issued upon affirmance of the judgment or dismissal of the appeal.

*c.* Within 10 days after entry of any order or judgment of the appellate court denying review of, or having the effect of upholding, a judgment of conviction.

**2.74(2)** The magistrate may also reduce a sentence upon revocation of probation as provided by law.

[66GA, ch 1245(2), §1302; 67GA, ch 153, §89; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.75 Reserved.**

[66GA, ch 1245(2), §1302; 67GA, ch 153, §90; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

**Rule 2.76 Forms.**

**Rule 2.76 — Form 1: *Complaint.***

State of Iowa
County of _____
Criminal Case No. _____
State of Iowa
vs.
A _____ B _____, Defendant.

Before (Judge, Magistrate) _____

The defendant is accused of the crime of (here name the offense and Code or ordinance section), in that the defendant on the _____ day of _____, 20 _____ at the _____ (here locate the city, or township where the offense occurred), in _____ County, did (state the acts or omissions constituting the offense).

/s/_____

[66GA, ch 1245(2), §1302; 67GA, ch 153, §102; Report November 9, 2001, effective February 15, 2002]

**Rule 2.76 — Form 2:** ***Consent to Forfeiture of Collateral as Disposition of Misdemeanor.***

State of Iowa
County of _____
Criminal Case No. _____

I, the undersigned, agree to have the amount of $_____ forfeited as a fine and my case terminated. I do this with the following understanding:

1. I have been charged with the offense of _____ (here name the offense and Code or ordinance section).

2. I understand my rights, including my right to trial before the court on such charge, and voluntarily waive same, understanding that forfeiture of the aforesaid amount terminates my right to a trial and constitutes a conviction of the offense charged.

_____
(Signature of defendant)

[66GA, ch 1245(2), §1302; 67GA, ch 153, §103; Report November 9, 2001, effective February 15, 2002]

**Rule 2.76 — Form 3:** ***Notice of Appeal to a District Court Judge From a Judgment or Order.***

State of Iowa
County of _____
Criminal Case No. _____
State of Iowa
vs. Notice of Appeal
C _____ D _____, Defendant.

Notice is hereby given that C _____ D _____, defendant above named, hereby appeals to a district court judge for _____ County (from the final judgment) (from the order) entered in this action on the _____ day of _____, 20 _____.

/s/_____

_____
(Address)

Attorney for C _____ D _____

[66GA, ch 1245(2), §1302; 67GA, ch 153, §104; Report November 9, 2001, effective February 15, 2002]

**Rule 2.76 — Form 4:** ***Bail Bond on Appeal to District Court.***

State of Iowa
County of _____
Criminal Case No. _____

A _____ B _____ having been convicted before C _____ D _____ a magistrate of said county, of the crime of (here designate it generally as in the information), by a judgment rendered on the _____ day of _____, A.D. _____, and having appealed from said judgment to a district court judge of said county:

We, A _____ B _____, and E _____ F _____, hereby undertake that the said A _____ B _____ will appear in the district court of said county on the _____ day of _____ (month), 20 _____ (year), (which date shall be not more than 20 days after perfection of the undertaking), and submit to the judgment of said court, and not depart without leave of the same, or that we (or I, as the case may be) will pay to the state of Iowa the sum of _____ dollars (the amount of bail fixed).

A _____ B _____

E _____ F _____

Accepted by me, at _____, in the township of _____, this _____ day of _____, A.D. _____.

C _____ D _____
Judicial Magistrate

[66GA, ch 1245(2), §1302; 67GA, ch 153, §105; Report November 9, 2001, effective February 15, 2002]

**Rules 2.77** to **2.79** Reserved.

EXPUNGEMENT

**Rule 2.80 Expungement of dismissed cases or acquittals.**

**2.80(1)** Either a defendant or a prosecuting attorney may file an application to expunge the district court criminal records of a case under Iowa Code section 901C.2 where an acquittal was entered for all criminal charges or where all criminal charges have been otherwise dismissed. The court may also expunge an eligible case on its own motion. The application may be filed by an attorney of record in the case, by an attorney who enters a limited appearance for the expungement proceedings, or by a self-represented defendant.

**2.80(2)** An application for expungement of a criminal case record under Iowa Code section 901C.2 shall be initiated by completing and filing an application that substantially complies with Rule 2.86—Form 1: *Application to Expunge Court Record under Iowa Code section 901C.2.*

**2.80(3)** The application must be filed in the case where expungement is sought and served on the county attorney. If the application is filed by a county attorney, the county attorney shall provide notice to the defendant and any counsel of record.

**2.80(4)** The application and all attachments shall be confidential.

**2.80(5)** For the purposes of this rule, a "case" refers to a separately numbered case.

**2.80(6)** For the purposes of this rule, "otherwise dismissed" includes a separately numbered case in which a case number becomes inactive because all charges have been transferred to another case number.

[Court Order January 29, 2021, effective July 1, 2021]

**Rule 2.81 Expungement of eligible misdemeanor convictions.**

**2.81(1)** A defendant seeking expungement of district court criminal records for an eligible misdemeanor as defined in Iowa Code section 901C.3 shall file an application. The application may be filed by an attorney of record in the case, by an attorney who enters a limited appearance for the expungement proceedings, or by a self-represented defendant.

**2.81(2)** An application for expungement of a misdemeanor under Iowa Code section 901C.3 shall be initiated by executing and filing an application that substantially complies with Rule 2.86—Form 2: *Application to Expunge Misdemeanor Court Records under Iowa Code section*

*901C.3*. An application for expungement of a misdemeanor under Iowa Code section 901C.3 must be accompanied by an official Division of Criminal Investigation Iowa criminal history record check, obtained by submitting form DCI-77 with a release authorization signature, dated within the past 30 days.

**2.81(3)** The application must be filed in the case where expungement is sought and served on the county attorney.

**2.81(4)** If the defendant seeking misdemeanor expungement has records eligible for expungement under different case numbers that arose from the same transaction or occurrence, the defendant must file a copy of the application in each case.

**2.81(5)** The application and all attachments shall be confidential.

[Court Order January 29, 2021, effective July 1, 2021]

**Rule 2.82 Expungement of public intoxication, possession of alcohol under the legal age, and certain prostitution cases.**

**2.82(1)** A defendant seeking expungement of district court criminal records from an eligible misdemeanor as defined in Iowa Code section 123.46, 123.47, or 725.1 shall file an application. The application may be filed by an attorney of record in the case, by an attorney who enters a limited appearance for the expungement proceedings, or by a self-represented defendant.

**2.82(2)** An application for expungement of a case under Iowa Code section 123.46 shall be initiated by executing and filing an application that substantially complies with Rule 2.86—Form 3: *Application to Expunge Public Intoxication Court Records under Iowa Code section 123.46*.

**2.82(3)** An application for expungement of a case under Iowa Code section 123.47 shall be initiated by executing and filing an application that substantially complies with Rule 2.86—Form 4: *Application to Expunge Possession of Alcohol under the Legal Age Court Records under Iowa Code section 123.47*.

**2.82(4)** An application for expungement of a case under Iowa Code section 725.1 shall be initiated by executing and filing an application that substantially complies with Rule 2.86—Form 5: *Application to Expunge Prostitution Court Records under Iowa Code section 725.1.*

**2.82(5)** The application and all attachments shall be confidential.

[Court Order January 29, 2021, effective July 1, 2021]

**Rule 2.83 Expungement proceedings.**

**2.83(1)** The county attorney may file a response to an application under rule 2.80, 2.81, or 2.82. The response shall be filed within 20 days after service of the application unless otherwise ordered by the court. The response shall be confidential.

**2.83(2)** The district court shall grant the expungement if, after consideration of the application, the response (if any), and any other pertinent information, it determines that the requirements for expungement have been met. The court may conduct a hearing.

**2.83(3)** For purposes of Iowa Code sections 901C.2(1)(*a*)(2) and 901C.3(1)(*d*), the referenced financial obligations are those obligations in the case or cases where expungement is sought. Room and board fees sought under a separate civil action pursuant to Iowa Code section 356.7 are not considered to be obligations in the case or cases where expungement is sought. Payment of court debt or other financial obligations is not a precondition for expungement under Iowa Code section 123.46(6), 123.47(8), or 725.l(l)(*c*).

**2.83(4)** For purposes of Iowa Code section 901C.3(1)(*b*), any pending charge of a public offense as defined in Iowa Code section 692.1 shall be considered a pending criminal charge.

**2.83(5)** For purposes of Iowa Code section 901C.3(1)(*c*), all charges as to which a deferred judgment was granted at the same time shall be considered one deferred judgment.

[Court Order January 29, 2021, effective July 1, 2021]

**Rule 2.84 When expungement is granted.**

**2.84(1)** When expungement of a dismissal or acquittal is granted under Iowa Code section 901C.2, the court shall order that the record in that criminal case shall become a confidential record exempt from public access under Iowa Code section 22.7. The record shall be made available by the clerk of the district court, upon request and without court order, to the defendant or to an agency or person granted access to the deferred judgment docket under Iowa Code section 907.4(2). The record shall not otherwise be accessible except by court order.

**2.84(2)** When expungement of a misdemeanor conviction is granted under Iowa Code section 901C.3, the court shall order that the record in that criminal case shall become a confidential record exempt from public access under Iowa Code section 22.7. The record shall not be accessible except by court order.

**2.84(3)** When expungement of a conviction for public intoxication, possession of alcohol under legal age, or certain prostitution charges is granted under Iowa Code section 123.46, 123.47, or 725.1, the court shall order that the record in the criminal case shall become a confidential record exempt from public access under Iowa Code section 22.7. The record shall not be accessible except by court order.

**2.84(4)** The district court shall have jurisdiction to issue further orders as necessary to implement a grant of expungement.

**2.84(5)** Appellate records, other than appeals of simple misdemeanors to district court, are not subject to expungement.

[Court Order January 29, 2021, effective July 1, 2021]

**Rule 2.85 Confidential record of expunged misdemeanors.** In order to implement Iowa Code section 901C.3(4), the Iowa Judicial Branch shall maintain a confidential record of expunged misdemeanors. This record shall be confidential and exempt from public access under Iowa Code section 22.7. Before granting an application for expungement under Iowa Code section 901C.3, the district court shall access the record in a manner authorized by the record's designated custodian to determine whether the applicant has received a prior misdemeanor expungement. If a prior misdemeanor expungement is found, the case name, case number, and date of expungement shall be provided to the parties.

[Court Order January 29, 2021, effective July 1, 2021]

**Rule 2.86 Forms.**
**Rule 2.86 — Form 1:** ***Application to Expunge Court Record under Iowa Code section 901C.2***

**Rule 2.86—Form 1:** ***Application to Expunge Court Record under Iowa Code section 901C.2***

*If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.*

**In the Iowa District Court for _____County**
*County where you are filing this Application*

| | |
|---|---|
| **State of Iowa or _____**<br><br>vs.<br><br>_____<br>**Defendant** | Case no._____<br><br>**Application to Expunge Court Record under Iowa Code section 901C.2**<br><br>If you need assistance to participate in court due to a disability, call the disability coordinator (information at www.iowacourts.gov/for-the-public/ada). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.** |

Defendant respectfully applies to the court for an order expunging the court records in this case pursuant to Iowa Code section 901C.2. In support of this application, Defendant acknowledges that the following statements are true and correct to the best of Defendant's knowledge:

*Read, complete, and check each item if you agree.*

**1.** ☐ This criminal case contains one or more criminal charges for which:

*Check one*

A. ☐ An acquittal was entered for all criminal charges.

B. ☐ All criminal charges have been dismissed.

**2.** ☐ All court costs, fees, and any other financial obligations ordered by the court or assessed by the clerk of district court in relation to the charges in this case have been satisfied in full.

**3.** ☐ Since entry of the judgment of acquittal or of the order dismissing the case:

*Check one*

A. ☐ More than 180 days have passed.

B. ☐ The court should waive the 180-day requirement because:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**4.** ☐ This case was not dismissed due to Defendant being found not guilty by reason of insanity.

**5.** ☐ Defendant was not found incompetent to stand trial in this case.

*Rule 2.86—Form 1: Application to Expunge Court Record under Iowa Code section 901C.2,* continued

**Read Before Signing**
Please check each statement below after you have read it.

☐ **I understand** that I must provide a copy of this application to the county attorney.

☐ **I understand** that the records in a criminal case expunged under this section are confidential and exempt from public access under Iowa Code section 22.7, but the clerk of district court may make the records available upon request and without court order to Defendant or to an agency or person granted access to the deferred judgment docket under Iowa Code section 907.4(2).

☐ **I understand** that Iowa Code section 901C.2 does not apply to dismissals related to a deferred judgment under section 907.9.

☐ **I understand** that Iowa Code section 901C.2 applies only to public offenses, as defined under section 692.1.

## Certification of Service by Mailing or Delivery

*This section to be completed only if filing in paper. This Application, if filed electronically, will automatically be served on the county attorney.*

I, _____, certify that on _____ ____, 20____
*Print your full name: first, middle, last* *Month* *Day* *Year*

I mailed or gave a copy of this Application to the county attorney at this address:

_____
*Name of person to whom I delivered or mailed it*

_____, _____, _____ _____
*Mailing address* *City* *State* *ZIP code*

## Signature

*Check one*

A. ☐ The defendant files this Application pro se (without an attorney).

*If you check* A*, you must fill in the following information:*

I, _____, have read this Application, and I certify
*Print your full name: first, middle, last*
under penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Application is true and correct.

_____ _____, 20____ _____
*Month* *Day* *Year* *Pro se defendant's signature**

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____ _____
*Phone number* *Email address*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*

*Rule 2.86—Form 1: Application to Expunge Court Record under Iowa Code section 901C.2,* continued

B. ☐ Defendant's attorney is filing this Application on behalf of Defendant after discussing the contents of this Application with Defendant.

*If you check* B*, you must fill in the following information:*

_____ _____, 20____ _____
*Month* *Day* *Year* *Attorney's signature*

_____
*Name of law firm, if applicable*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

[Court Order January 29, 2021, effective July 1, 2021; October 14, 2022, effective July 1, 2023]

**Rule 2.86 — Form 2:** ***Application to Expunge Misdemeanor Court Records under Iowa Code section 901C.3***

**Rule 2.86—Form 2:** ***Application to Expunge Misdemeanor Court Records under Iowa Code section 901C.3***

**Note:** This form is for expunging **misdemeanor convictions**. Rule 2.86—Form 1 is to be used for expungement of criminal case records where the defendant was acquitted or the charges were dismissed. **Obtaining the advice of counsel is recommended**. Each individual is only allowed one Iowa Code section 901C.3 expungement in the individual's lifetime. If you have multiple misdemeanor convictions, choosing which to expunge may be a difficult strategic decision.

**In the Iowa District Court for _____County**

*County where you are filing this Application*

| | |
|---|---|
| **State of Iowa or _____** | Case no(s). _____ |
| vs. | _____ |
| _____ | _____ |
| **Defendant** | **Application to Expunge Misdemeanor Court Records under Iowa Code section 901C.3** |
| | If you need assistance to participate in court due to a disability, call the disability coordinator (information at www.iowacourts.gov/for-the-public/ada). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.** |

Defendant respectfully applies to the court for an order expunging the misdemeanor court records in the above-captioned case (or cases) pursuant to Iowa Code section 901C.3. In support of this application, Defendant acknowledges that the following statements are true and correct to the best of Defendant's knowledge:

*Read, complete, and check each item if you agree.*

**1. Defendant's personal information:**

Current legal name:

| _____ | _____ | _____ |
|---|---|---|
| *Full first name* | *Full middle name (write "N/A" if none)* | *Full last name* |

All other names ever used (including any other previous legal names and nicknames):

| _____ | _____ | _____ |
|---|---|---|
| *Full first name* | *Full middle name (write "N/A" if none)* | *Full last name* |

☐ *Check this box if you have attached a sheet with additional alternate names.*

Personal identifying information:

| - - | _____ | - - |
|---|---|---|
| *Date of birth (month/day/year)* | *Driver's License Number* | *Social Security Number* |

*Rule 2.86—Form 2: Application to Expunge Misdemeanor Court Records under Iowa Code section 901C.3,* continued

**2.** ☐ Defendant has not been granted a prior Iowa Code section 901C.3 expungement.

**3.** ☐ This expungement application involves related cases and Defendant seeks the expungement of the misdemeanor court records in all of following cases that arise out of the same transaction or occurrence: *See Iowa Code § 901C.3(3).*

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**NOTE:** You must file this application **separately in each of these cases**.

**4.** ☐ The misdemeanor criminal convictions covered by this application are eligible for expungement. ***NOTE:*** *Convictions under Iowa Code sections 123.46, 123.47(3) (or similar local ordinance), 235B.20, 321.218, 321A.32, 321J.21, 321J.2, 707.5, 708.2(3), 708.2A, 708.7, 708.11, 708.12, 716.8(3) or (4), 721.2, 721.10, 723.1; or chapters 717C, 719, 720, 721.2, 724, 726, 728, 901A; or a sex offense as defined in section 692A.101 are* ***ineligible****.*

**5.** ☐ All court costs, fees, fines, restitution, and any other financial obligations ordered by the court or assessed by the clerk of district court in relation to the misdemeanor convictions covered by this application have been paid in full.

**6.** ☐ More than eight years have passed since the date of the misdemeanor convictions identified in section 2.

**7.** ☐ Defendant has no pending criminal charges. ***NOTE:*** *For purposes of this question, a "criminal" charge means any public offense as defined in Iowa Code section 692.1.*

**8.** ☐ Defendant has not previously been granted more than one deferred judgment. *All charges as to which a deferred judgment was granted at the same time are considered one deferred judgment.*

**9.** ☐ Defendant has attached an official Division of Criminal Investigation Iowa criminal history records check dated within the past 30 days of the filing of this application. *Defendants must obtain their criminal history by submitting form DCI-77 with a release authorization signature. Additional information regarding obtaining the records check can be found at: https://dps.iowa.gov/divisions/criminal-investigation/criminal-history/record-check-forms.*

**Read Before Signing**
Please check each statement below after you have read it.

☐ **I understand** that I must provide a copy of this application to the county attorney.

☐ **I understand** that if I file this application to expunge multiple cases, all cases must be related to the same transaction or occurrence.

☐ **I understand** that Iowa Code section 901C.3 only permits me one misdemeanor expungement in my lifetime.

☐ **I understand** that the records in a criminal case expunged under this section are confidential and exempt from public access under Iowa Code section 22.7, but the clerk of district court may make the records available upon court order.

*Rule 2.86—Form 2: Application to Expunge Misdemeanor Court Records under Iowa Code section 901C.3,* continued

## Certification of Service by Mailing or Delivery

*This section to be completed only if filing in paper. This Application, if filed electronically, will automatically be served on the county attorney.*

I, _____, certify that on _____ ____, 20____
*Print your full name: first, middle, last* *Month* *Day* *Year*

I mailed or gave a copy of this Application to the county attorney at this address:

_____
*Name of person to whom I delivered or mailed it*

_____, _____, _____ _____
*Mailing address* *City* *State* *ZIP code*

## Signature

*Check one*

A. ☐ The defendant files this Application pro se (without an attorney).

*If you check* A*, you must fill in the following information:*

I, _____, have read this Application, and I certify
*Print your full name: first, middle, last*
under penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Application is true and correct.

_____ _____, 20____ _____
*Month* *Day* *Year* *Pro se defendant's signature**

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____ _____
*Phone number* *Email address*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*

B. ☐ Defendant's attorney is filing this Application on behalf of Defendant after discussing the contents of this Application with Defendant.

*If you check* B*, you must fill in the following information:*

_____ _____, 20____ _____
*Month* *Day* *Year* *Attorney's signature*

_____
*Name of law firm, if applicable*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

[Court Order January 29, 2021, effective July 1, 2021; October 14, 2022, effective July 1, 2023]

**Rule 2.86 — Form 3:** ***Application to Expunge Public Intoxication Court Records under Iowa Code section 123.46***

**Rule 2.86—Form 3:** ***Application to Expunge Public Intoxication Court Records under Iowa Code section 123.46***

***If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.***

**In the Iowa District Court for _____County**
*County where you are filing this Application*

| | |
|---|---|
| **State of Iowa or _____** | Case no. _____ |
| vs. | **Application to Expunge Public Intoxication Court Records under Iowa Code section 123.46** |
| _____ **Defendant** | If you need assistance to participate in court due to a disability, call the disability coordinator (information at www.iowacourts.gov/for-the-public/ada). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.** |

Defendant respectfully applies to the court for an order expunging the court records in the above-captioned case pursuant to Iowa Code section 123.46(6). In support of this application, Defendant acknowledges that the following statements are true and correct to the best of Defendant's knowledge:

*Read, complete, and check each item if you agree.*

**1.** ☐ I was convicted for a violation of Iowa Code section 123.46, consumption or intoxication in public places, or of a similar local ordinance on:

_____ _____, _____
*Month* *Day* *Year*

**2.** ☐ I have had no criminal convictions other than local traffic violations or simple misdemeanor violations under chapter 321 during the two-year period following the conviction.

**Read Before Signing**
Please check each statement below after you have read it.

☐ **I understand** that I must provide a copy of this application to the county attorney.

☐ **I understand** that the records in a criminal case expunged under this section are confidential and exempt from public access under Iowa Code section 22.7. The record shall not be accessible except by court order.

*Rule 2.86—Form 3: Application to Expunge Public Intoxication Court Records under Iowa Code section 123.46,* continued

## Certification of Service by Mailing or Delivery

*This section to be completed only if filing in paper. This Application, if filed electronically, will automatically be served on the county attorney.*

I, _____, certify that on _____ ____, 20____
*Print your full name: first, middle, last* *Month* *Day* *Year*

I mailed or gave a copy of this Application to the county attorney at this address:

_____
*Name of person to whom I delivered or mailed it*

_____, _____, _____ _____
*Mailing address* *City* *State* *ZIP code*

## Signature

*Check one*

A. ☐ The defendant files this Application pro se (without an attorney).

*If you check* A*, you must fill in the following information:*

I, _____, have read this Application, and I certify
*Print your full name: first, middle, last*
under penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Application is true and correct.

_____ _____, 20____ _____
*Month* *Day* *Year* *Pro se defendant's signature**

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____ _____
*Phone number* *Email address*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*

B. ☐ Defendant's attorney is filing this Application on behalf of Defendant after discussing the contents of this Application with Defendant.

*If you check* B*, you must fill in the following information:*

_____ _____, 20____ _____
*Month* *Day* *Year* *Attorney's signature*

_____
*Name of law firm, if applicable*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

[Court Order January 29, 2021, effective July 1, 2021; October 14, 2022, effective July 1, 2023]

**Rule 2.86 — Form 4:** ***Application to Expunge Possession of Alcohol under the Legal Age Court Records under Iowa Code section 123.47***

**Rule 2.86—Form 4:** ***Application to Expunge Possession of Alcohol under the Legal Age Court Records under Iowa Code section 123.47***

***If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.***

**In the Iowa District Court for _____County**
*County where you are filing this Application*

| | |
|---|---|
| **State of Iowa or _____** | Case no. _____ |
| vs. | **Application to Expunge Possession of Alcohol under the Legal Age Court Records under Iowa Code section 123.47** |
| _____ **Defendant** | If you need assistance to participate in court due to a disability, call the disability coordinator (information at www.iowacourts.gov/for-the-public/ada). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.** |

Defendant respectfully applies to the court for an order expunging the court records in the above-captioned case pursuant to Iowa Code section 123.47(9). In support of this application, Defendant acknowledges that the following statements are true and correct to the best of Defendant's knowledge:

*Read, complete, and check each item if you agree.*

**1.** ☐ I was convicted for a violation of Iowa Code section 123.47, possession of alcohol under the legal age, or of a similar local ordinance on:

_____ _____, _____
*Month* *Day* *Year*

**2.** ☐ I have had no criminal convictions other than local traffic violations or simple misdemeanor violations under chapter 321 during the two-year period following the conviction.

**Read Before Signing**
Please check each statement below after you have read it.

☐ **I understand** that I must provide a copy of this application to the county attorney.

☐ **I understand** that the records in a criminal case expunged under this section are confidential and exempt from public access under Iowa Code section 22.7. The record shall not be accessible except by court order.

*Rule 2.86—Form 4: Application to Expunge Possession of Alcohol under the Legal Age Court Records under Iowa Code section 123.47,* continued

## Certification of Service by Mailing or Delivery

*This section to be completed only if filing in paper. This Application, if filed electronically, will automatically be served on the county attorney.*

I, _____, certify that on _____ ____, 20____
*Print your full name: first, middle, last* *Month* *Day* *Year*

I mailed or gave a copy of this Application to the county attorney at this address:

_____
*Name of person to whom I delivered or mailed it*

_____, _____, _____ _____
*Mailing address* *City* *State* *ZIP code*

## Signature

*Check one*

A. ☐ The defendant files this Application pro se (without an attorney).

*If you check* A, *you must fill in the following information:*

I, _____, have read this Application, and I certify
*Print your full name: first, middle, last*
under penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Application is true and correct.

_____ _____, 20____ _____
*Month* *Day* *Year* *Pro se defendant's signature**

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____ _____
*Phone number* *Email address*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*

B. ☐ Defendant's attorney is filing this Application on behalf of Defendant after discussing the contents of this Application with Defendant.

*If you check* B, *you must fill in the following information:*

_____ _____, 20____ _____
*Month* *Day* *Year* *Attorney's signature*

_____
*Name of law firm, if applicable*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

[Court Order January 29, 2021, effective July 1, 2021; October 14, 2022, effective July 1, 2023]

**Rule 2.86 — Form 5:** ***Application to Expunge Prostitution Court Records under Iowa Code section 725.1***

**Rule 2.86—Form 5:** ***Application to Expunge Prostitution Court Records under Iowa Code section 725.1***

***If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.***

**In the Iowa District Court for _____County**
*County where you are filing this Application*

| | |
|---|---|
| **State of Iowa or _____** | Case no. _____ |
| vs. | **Application to Expunge Prostitution Court Records under Iowa Code section 725.1** |
| _____ **Defendant** | If you need assistance to participate in court due to a disability, call the disability coordinator (information at www.iowacourts.gov/for-the-public/ada). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.** |

The undersigned Defendant respectfully applies to the court for an order expunging the court records in the above-captioned case pursuant to Iowa Code section 725.1(1)(*c*). In support of this application, Defendant states that the following statements are true and correct to the best of Defendant's knowledge:

*Read, complete, and check each item if you agree.*

**1.** ☐ I was convicted for a violation of Iowa Code section 725.1(1)(*a*), prostitution, or of a similar local ordinance on:

_____ _____, _____
*Month* *Day* *Year*

**2.** ☐ I was under the age of eighteen when I engaged in the illegal sex act or acts I was found guilty of committing.

**3.** ☐ I have had no criminal convictions other than local traffic violations or simple misdemeanor violations under chapter 321 during the two-year period following the conviction.

**Read Before Signing**
Please check each statement below after you have read it.

☐ **I understand** that I must provide a copy of this application to the county attorney.

☐ **I understand** that the records in a criminal case expunged under this section are confidential and exempt from public access under Iowa Code section 22.7. The record shall not be accessible except by court order.

*Rule 2.86—Form 5: Application to Expunge Prostitution Court Records under Iowa Code section 725.1,* continued

## Certification of Service by Mailing or Delivery

*This section to be completed only if filing in paper. This Application, if filed electronically, will automatically be served on the county attorney.*

I, _____, certify that on _____ ____, 20____
*Print your full name: first, middle, last* *Month* *Day* *Year*

I mailed or gave a copy of this Application to the county attorney at this address:

_____
*Name of person to whom I delivered or mailed it*

_____, _____, _____ _____
*Mailing address* *City* *State* *ZIP code*

## Signature

*Check one*

A. ☐ The defendant files this Application pro se (without an attorney).

*If you check* A*, you must fill in the following information:*

I, _____, have read this Application, and I certify
*Print your full name: first, middle, last*
under penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Application is true and correct.

_____ _____, 20____ _____
*Month* *Day* *Year* *Pro se defendant's signature**

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____ _____
*Phone number* *Email address*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*

B. ☐ Defendant's attorney is filing this Application on behalf of Defendant after discussing the contents of this Application with Defendant.

*If you check* B*, you must fill in the following information:*

_____ _____, 20____ _____
*Month* *Day* *Year* *Attorney's signature*

_____
*Name of law firm, if applicable*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

[Court Order January 29, 2021, effective July 1, 2021; October 14, 2022, effective July 1, 2023]

# CHAPTER 3
# STANDARD FORMS OF PLEADINGS FOR SMALL CLAIMS ACTIONS

# CHAPTER 3
# STANDARD FORMS OF PLEADINGS FOR SMALL CLAIMS ACTIONS

[Pursuant to Iowa Code section 631.15]

**Form 3.1:** ***Original Notice and Petition for a Money Judgment.***

In the Iowa District Court for _____ County

| | |
|---|---|
| Plaintiff(s)<br>_____<br>(Name)<br>_____<br>(Address)<br>_____<br>(Name)<br>_____<br>(Address)<br>vs.<br>Defendant(s)<br>_____<br>(Name)<br>_____<br>(Address)<br>_____<br>(Name)<br>_____<br>(Address) | **Original Notice and Petition for a Money Judgment**<br><br>If you need assistance to participate in court due to a disability, call the disability coordinator (information at https://www.iowacourts.gov/for-the-public/ada/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.** |

To Defendant(s):

1. **You are notified** that Plaintiff(s) demand(s) from you the amount of $ _____ plus court costs based on (state briefly the basis for the demand, not to exceed $6500):

2. **Judgment may be entered against you unless** you file an Appearance and Answer within **20 days** of the service of the Original Notice upon you. Judgment may include the amount requested plus interest and court costs.

3. You must electronically file the Appearance and Answer using the Iowa Judicial Branch Electronic Document Management System (EDMS) at https://www.iowacourts.state.ia.us/EFile, unless you obtain from the court an exemption from electronic filing requirements.

4. If your Appearance and Answer is filed within **20 days** and you deny the claim, you will receive electronic notification through EDMS of the place and time of the hearing on this matter.

5. If you electronically file, EDMS will serve a copy of the Appearance and Answer on Plaintiff(s) or on the attorney(s) for Plaintiff(s). The Notice of Electronic Filing will indicate if Plaintiff(s) is (are) exempt from electronic filing, and if you must mail a copy of your Appearance and Answer to Plaintiff(s).

6. You must also notify the clerk's office of any address change.

***Continued on next page***

Original Notice and Petition for a Money Judgment (*cont'd*)

/s/ _____
Filing Plaintiff or Attorney

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

/s/ _____
Second Plaintiff, if applicable

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

Small Claims Form 3.1, page 2 of 3*
*Upon electronic filing, a clerk's signature page will be attached to this document as page 3.

[Court Order December 11, 1975, received for publication February 28, 1984; June 29, 1984; Letter May 12, 1987 (obsolete reference to "town" stricken); November 9, 2001, effective February 15, 2002; May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.2:** ***Original Notice and Petition for a Money Judgment for Taxes Owing.***

In the Iowa District Court for _____ County

| | |
|---|---|
| Plaintiff<br>_____<br>(Name)<br>_____<br>(Address)<br>VS.<br>Defendant(s)<br>_____<br>(Name)<br>_____<br>(Address)<br>_____<br>(Name)<br>_____<br>(Address) | **Original Notice and Petition for a Money Judgment for Taxes Owing**<br>**(Iowa Code sections 631.1(7) and 445.3)**<br><br>If you need assistance to participate in court due to a disability, call the disability coordinator (information at https://www.iowacourts.gov/for-the-public/ada/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.** |

To Defendant(s):

1. **You are notified** that Plaintiff, _____ County Treasurer, demands from you the amount of $ _____ for taxes due and owing based on the following:

2. **Judgment may be entered against you unless** you file an Appearance and Answer within **20 days** of the service of the Original Notice upon you. Judgment may include the amount requested plus interest and court costs.

3. You must electronically file the Appearance and Answer using the Iowa Judicial Branch Electronic Document Management System (EDMS) at https://www.iowacourts.state.ia.us/EFile, unless you obtain from the court an exemption from electronic filing requirements.

4. If your Appearance and Answer is filed within 20 days, and you deny the claim, you will receive electronic notification through EDMS of the place and time of the hearing on this matter.

5. If you electronically file, EDMS will serve a copy of the Appearance and Answer on Plaintiff(s) or on the attorney(s) for Plaintiff(s). The Notice of Electronic Filing will indicate if Plaintiff(s) is (are) exempt from electronic filing, and if you must mail a copy of your Appearance and Answer to Plaintiff(s).

6. You must also notify the clerk's office of any address change.

/s/ _____
Filing Plaintiff Treasurer or Designee

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Phone number

_____
Email address

_____
Additional email address, if applicable



[Court Order May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.3:** ***Original Notice and Petition for Money Judgment against a Nonresident Motor Vehicle Owner or Operator Defendant.***

In the Iowa District Court for _____ County

| | |
|---|---|
| Plaintiff(s)<br>_____<br>(Name)<br>_____<br>(Address)<br>_____<br>(Name)<br>_____<br>(Address)<br>vs.<br>Defendant(s)<br>_____<br>(Name)<br>_____<br>(Address)<br>_____<br>(Name)<br>_____<br>(Address) | **Original Notice and Petition for a Money Judgment against a Nonresident Motor Vehicle Owner or Operator Defendant**<br><br>If you need assistance to participate in court due to a disability, call the disability coordinator (information at https://www.iowacourts.gov/for-the-public/ada/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.** |

To Defendant(s):

1. **You are notified** that Plaintiff(s) demand(s) from you the amount of $ _____ plus court costs based on (state briefly the basis for the demand, not to exceed $6500):

2. **Judgment may be entered against you unless** you file an Appearance and Answer within **60 days** of the filing of this Original Notice with the Director of the Iowa Department of Transportation. Judgment may include the amount requested plus interest and court costs.

3. You must electronically file the Appearance and Answer using the Iowa Judicial Branch Electronic Document Management System (EDMS) at https://www.iowacourts.state.ia.us/EFile, unless you obtain from the court an exemption from electronic filing requirements.

4. If your Appearance and Answer is filed within **60 days** and you deny the claim, you will receive electronic notification through EDMS of the time and place for the hearing on this matter.

5. If you electronically file, EDMS will serve a copy of the Appearance and Answer on Plaintiff(s) or on the attorney(s) for Plaintiff(s). The Notice of Electronic Filing will indicate if Plaintiff(s) is (are) exempt from electronic filing, and if you must mail a copy of your Appearance and Answer to Plaintiff(s).

6. You must also notify the clerk's office of any address change.

***Continued on next page***

Original Notice and Petition for Money Judgment against a Nonresident Motor Vehicle Owner or Operator Defendant (*cont'd*)

/s/ _____
Filing Plaintiff or Attorney

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

/s/ _____
Second Plaintiff, if applicable

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable



[Report September 29, 1987, effective December 1, 1987; November 9, 2001, effective February 15, 2002; May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.4:** ***Original Notice and Petition for a Money Judgment against a Nonresident Defendant or a Foreign Corporation Defendant.***

In the Iowa District Court for _____ County

| | |
|---|---|
| Plaintiff(s)<br>_____<br>(Name)<br>_____<br>(Address)<br>_____<br>(Name)<br>_____<br>(Address)<br>VS.<br>Defendant(s)<br>_____<br>(Name)<br>_____<br>(Address)<br>_____<br>(Name)<br>_____<br>(Address) | **Original Notice and Petition for a Money Judgment against a Nonresident Defendant or a Foreign Corporation Defendant**<br><br>If you need assistance to participate in court due to a disability, call the disability coordinator (information at https://www.iowacourts.gov/for-the-public/ada/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.** |

To Defendant(s):

1. **You are notified** that Plaintiff(s) demand(s) from you the amount of $ _____ plus court costs based on (state briefly the basis for the demand, not to exceed $6500):

2. **Judgment may be entered against you unless** you file an Appearance and Answer as follows:
   - If you received service of this Original Notice **by mail** along with service upon the Secretary of State, you must file your Appearance and Answer within **60 days of the filing** of the Original Notice with the Secretary of State.
   - If you received service of this Original Notice in a manner **other than by mail**, you must file your Appearance and Answer within **60 days after the date you received** the Original Notice.

3. You must electronically file the Appearance and Answer using the Iowa Judicial Branch Electronic Document Management System (EDMS) at https://www.iowacourts.state.ia.us/EFile, unless you obtain from the court an exemption from electronic filing requirements.

4. If your Appearance and Answer is timely filed and you deny the claim, you will receive electronic notification through EDMS of the time and place for the hearing on this matter.

5. If you electronically file, EDMS will serve a copy of the Appearance and Answer on Plaintiff(s) or on the attorney(s) for Plaintiff(s). The Notice of Electronic Filing will indicate if Plaintiff(s) is (are) exempt from electronic filing, and if you must mail a copy of your Appearance and Answer to Plaintiff(s).

6. You must also notify the clerk's office of any address change.

***Continued on next page***

Original Notice and Petition for a Money Judgment against a Nonresident Defendant or a Foreign Corporation Defendant (*cont'd*)

/s/ _____
Filing Plaintiff or Attorney

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

/s/ _____
Second Plaintiff, if applicable

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

Small Claims Form 3.4, page 2 of 3*
*Upon electronic filing, a clerk's signature page will be attached to this document as page 3.

[Report September 29, 1987, effective December 1, 1987; November 9, 2001, effective February 15, 2002; May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.5:** ***Original Notice and Petition for Replevin.***

In the Iowa District Court for _____ County

| | |
|---|---|
| Plaintiff(s)<br>_____<br>(Name)<br>_____<br>(Address)<br>_____<br>(Name)<br>_____<br>(Address)<br>vs.<br>Defendant(s)<br>_____<br>(Name)<br>_____<br>(Address)<br>_____<br>(Name)<br>_____<br>(Address) | **Original Notice and Petition for Replevin**<br>**(Iowa Code chapter 643)**<br><br>If you need assistance to participate in court due to a disability, call the disability coordinator (information at https://www.iowacourts.gov/for-the-public/ada/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.** |

To Defendant(s):

1. **You are notified** that Plaintiff(s) demand(s) relief (not to exceed $6500 in total) from you in regard to the following described property:

_____

2. The value of the property described is (value may not exceed $6500): $_____

3. The relief requested includes (check all that apply):
   - ☐ Plaintiff(s) ask(s) for possession of the property.
   - ☐ Plaintiff(s) ask(s) for damages for unlawful retention.
   - ☐ Plaintiff(s) ask(s) for damages for any damage to the property.
   - ☐ Plaintiff(s) ask(s) for damages for:

     _____
     (If asking for money damages, total amount including value of property cannot exceed $6500.)

4. Plaintiff(s) claim(s) immediate possession because (check only one):
   - ☐ Plaintiff(s) own(s) the property.
   - ☐ Plaintiff(s) has (have) a security agreement for the property.
     i. A copy of the security agreement is attached.
     ii. The agreement shows that Plaintiff(s) is(are) entitled to seize possession on default.
     iii. Defendant(s) are in default because:

   - ☐ Other:

Original Notice and Petition for Replevin (*cont'd*)

5. The property (check only one):
   - ☐ Is not in the possession of Defendant(s) pursuant to court order or judgment; or
   - ☐ Was taken by Defendant(s) under court order or judgment, but the property is exempt from seizure because: _____.

6. **Judgment may be entered against you unless** you file an Appearance and Answer within **20 days** of the service of the Original Notice upon you. Judgment may include the amount requested plus interest and court costs.

7. You must electronically file the Appearance and Answer using the Iowa Judicial Branch Electronic Document Management System (EDMS) at https://www.iowacourts.state.ia.us/EFile, unless you obtain from the court an exemption from electronic filing requirements.

8. If your Appearance and Answer is filed within **20 days** and you deny the claim, you will receive electronic notification through EDMS of the time and place for the hearing on this matter.

9. If you electronically file, EDMS will serve a copy of the Appearance and Answer on Plaintiff(s) or on the attorney(s) for Plaintiff(s). The Notice of Electronic Filing will indicate if Plaintiff(s) is (are) exempt from electronic filing, and if you must mail a copy of your Appearance and Answer to Plaintiff(s).

10. You must also notify the clerk's office of any address change.

I (We) certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct.

Date: _____

_____
Plaintiff's signature

/s/ _____
Filing Plaintiff or Attorney

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

Date: _____

_____
Plaintiff's signature

/s/ _____
Second Plaintiff, if applicable

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable



[Report March 10, 1987, effective July 1, 1987; Court Order November 25, 1998; November 9, 2001, effective February 15, 2002; June 14, 2002, effective July 1, 2002; May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.6:** ***Original Notice and Petition for Forcible Entry and Detainer.***

In the Iowa District Court for _____ County

Plaintiff(s)

_____
(Name)

_____
(Address)

_____
(Name)

_____
(Address)

VS.

Defendant(s)

_____
(Name)

_____
(Address)

_____
(Name)

_____
(Address)

**Original Notice and Petition for Forcible Entry and Detainer**
**(Iowa Code chapter 648)**

If you need assistance to participate in court due to a disability, call the disability coordinator (information at https://www.iowacourts.gov/for-the-public/ada/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**

To Defendant(s):

**1. You are notified** that Plaintiff(s) demand(s) from you possession of (state exact address of real property):_____
because (state basis of demand):

2. **Hearing is set for** the date, time, and court location listed on the last page of this Original Notice and Petition. The court will electronically record the hearing. If either party desires that a certified court reporter report the hearing, that party must arrange and pay for the costs of reporting. **Failure to appear at the hearing may result in judgment entered against you for possession of the property and court costs.**

**Plaintiff(s):** The court shall set the date of hearing to occur within **8 days** from the filing date of the Original Notice unless you check the box below:

☐ Plaintiff(s) request(s) or consent(s) to the court setting the date of hearing to occur no later than **15 days** from the filing of the Original Notice.

/s/ _____
Filing Plaintiff or Attorney

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

/s/ _____
Second Plaintiff, if applicable

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

Small Claims Form 3.6, page 1 of 2*
*Upon electronic filing, a clerk's signature page will be attached to this document as page 2.

[Court Order December 11, 1975, received for publication February 28, 1984; Letter May 12, 1987 (obsolete reference to "town" stricken); November 9, 2001, effective February 15, 2002; May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.7:** ***Original Notice and Petition against Third Party Defendant(s).***

In the Iowa District Court for _____ County

Plaintiff(s)

_____
(Name)

_____
(Address)

_____
(Name)

_____
(Address)

vs. Defendant(s)/Third Party Plaintiff(s)

_____
(Name)

_____
(Address)

_____
(Name)

_____
(Address)

vs. Third Party Defendant(s)

_____
(Name)

_____
(Address)

**Original Notice and Petition against Third Party Defendant(s)**

If you need assistance to participate in court due to a disability, call the disability coordinator (information at https://www.iowacourts.gov/for-the-public/ada/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**

_____
(Name)

_____
(Address)

To Third Party Defendant(s), _____:
(Name(s) of Third Party Defendant(s))

1. **You are notified** that, _____, as Third Party Plaintiff(s), demand(s) from you the amount of $ _____ because (state briefly the basis for demand, not to exceed $6500):

2. **Judgment may be entered against you unless** you file an Appearance and Answer within **20 days** of the service of the Original Notice upon you. Judgment may include the amount requested plus interest and court costs.

3. You must electronically file the Appearance and Answer using the Iowa Judicial Branch Electronic Document Management System (EDMS) at https://www.iowacourts.state.ia.us/EFile, unless you obtain from the court an exemption from electronic filing requirements.

4. If your Appearance and Answer is filed within **20 days** and you deny this Third Party Petition, you will receive electronic notification through EDMS of the time and place for the hearing on this matter.

5. If you electronically file, EDMS will serve a copy of the Appearance and Answer on Plaintiff(s) or on the attorney(s) for Plaintiff(s). The Notice of Electronic Filing will indicate if Plaintiff(s) is (are) exempt from electronic filing, and if you must mail a copy of your Appearance and Answer to Plaintiff(s).

6. You must also notify the clerk's office of any address change.

***Continued on next page***

Original Notice and Petition against Third Party Defendant(s) (*cont'd*)

/s/ _____
Filing Third Party or Attorney

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

/s/ _____
Second Third Party, if applicable

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable



[Court Order December 11, 1975, received for publication February 28, 1984; June 29, 1984; Letter May 12, 1987 (obsolete reference to "town" stricken); November 9, 2001, effective February 15, 2002; May 7, 2012; June 26, 2018, effective July 1, 2018]

## Form 3.8: *Original Notice and Petition for Disposition of Abandoned Property.*

Small Claims Form 3.8: *Original Notice and Petition for Disposition of Abandoned Property*

In the Iowa District Court for _____ County

| | |
|---|---|
| Plaintiff(s)<br>_____<br>(Name)<br>_____<br>(Address)<br>_____<br>(Name)<br>_____<br>(Address)<br>vs.<br>Defendant(s)<br>_____<br>(Name)<br>_____<br>(Address)<br>_____<br>(Name)<br>_____<br>(Address) | **Original Notice and Petition for Disposition of Abandoned Property**<br>**(Iowa Code chapter 555B)**<br>**(Mobile Home and Personal Property in the Vicinity)**<br><br>If you need assistance to participate in court due to a disability, call the disability coordinator (information at https://www.iowacourts.gov/for-the-public/ada/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.** |

To Defendant(s):

1. Plaintiff(s) demand(s) a judgment of abandonment for (state the exact nature of abandoned property):

_____

because (state basis of demand):

2. In support of this demand Plaintiff(s) state(s):
   - Plaintiff(s) has (have) not requested notice by the sheriff as provided for in Iowa Code section 555B.2;
   - The property is located in the above county; and
   - Regarding liens against the property (check only one of the following):

     ☐ There is no lien against the property other than a tax lien pursuant to Iowa Code chapter 435.

     If this box is checked, the hearing will be set **within 14 days** of filing the petition. Service must be made on the owner of the property **at least 10 days** before the hearing.

     ☐ There is a lien other than a tax lien pursuant to Iowa Code chapter 435.

     If this box is checked, the hearing will be set **no sooner than 25 days** from the filing of the petition so as to allow service on the lienholder. Service must be made on the owner of the property **at least 10 days** before the hearing. Service must be made on the lienholder **no less than 20 days** before the hearing.

3. **Hearing is set for** the date, time, and court location listed on the last page of this Original Notice and Petition. The court will electronically record the hearing. Any party desiring that a certified court reporter report the hearing must arrange and pay for the costs of reporting. **Failure to appear at the hearing may result in judgment entered against you for statutory damages, interest, and court costs, and the property will be disposed of as abandoned property.**

***Continued on next page***

| | |
|---|---|
| /s/ _____ | /s/ _____ |
| Filing Plaintiff or Attorney | Second Plaintiff, if necessary |
| Law firm, or entity for which filing is made, if applicable | Law firm, or entity for which filing is made, if applicable |
| Mailing address | Mailing address |
| Telephone number | Telephone number |
| Email address | Email address |
| Additional email address, if applicable | Additional email address, if applicable |



*Upon electronic filing, a clerk's signature page will be attached to this document as page 3.

[Court Order May 7, 2012; June 26, 2018, effective July 1, 2018; June 24, 2022, effective July 1, 2022]

**Form 3.9:** ***Original Notice and Petition for Intervention.***

In the Iowa District Court for _____ County

| | |
|---|---|
| Plaintiff(s)<br>_____<br>(Name)<br>_____<br>(Address)<br>_____<br>(Name)<br>_____<br>(Address)<br>vs.<br>Defendant(s)<br>_____<br>(Name)<br>_____<br>(Address)<br>_____<br>(Name)<br>_____<br>(Address) | **Original Notice and Petition for Intervention**<br><br>If you need assistance to participate in court due to a disability, call the disability coordinator (information at https://www.iowacourts.gov/for-the-public/ada/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.** |

To Plaintiff(s) and Defendant(s):

1. I (We), _____, being interested in the subject matter of this case seek to intervene in the following manner:

2. This Petition for Intervention is based on (state briefly the basis for the demand):

***Continued on next page***

Original Notice and Petition for Intervention (*cont'd*)

/s/ _____
Filing Intervenor or Attorney

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

/s/ _____
Second Intervenor, if applicable

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable



[Court Order December 11, 1975, received for publication February 28, 1984; November 9, 2001, effective February 15, 2002; May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.10 Reserved.**

**Form 3.11: *Appearance and Answer of Defendant(s).***

Small Claims Form 3.11: *Appearance and Answer of Defendant(s)*

In the Iowa District Court for _____ County

| | |
|---|---|
| Plaintiff(s)<br>_____<br>(Name)<br>_____<br>(Name)<br>vs.<br>Defendant(s)<br>_____<br>(Name)<br>_____<br>(Name) | **Appearance and Answer of Defendant(s)**<br>Small Claim No. _____<br>If you need assistance to participate in court due to a disability, call the disability coordinator (information at https://www.iowacourts.gov/for-the-public/ada/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.** |

Check **only one** of the following:

- ☐ The **claim is denied**. Parties will receive electronic notification of the hearing time and place through the Iowa Judicial Branch Electronic Document Management System (EDMS).
- ☐ The **claim is admitted.** Judgment may be entered.
- ☐ The **claim is admitted in part in the amount** of $_____. Parties will receive electronic notification of the hearing time and place through the Iowa Judicial Branch Electronic Document Management System (EDMS).

1. You must electronically file this Appearance and Answer using EDMS at https://www.iowacourts.state.ia.us/EFile unless you obtain from the court an exemption from electronic filing requirements.

2. If you electronically file, EDMS will serve a copy of this Appearance and Answer on Plaintiff(s) or on the attorney(s) for Plaintiff(s). The Notice of Electronic Filing will indicate if Plaintiff(s) is (are) exempt from electronic filing, and if you must mail a copy of your Appearance and Answer to Plaintiff(s).

3. You may download this form online at https://iowacourts.state.ia.us/Efile. Unless the court has granted you an exemption from electronic filing, you must scan and electronically file this Answer and Appearance form, or fill out and electronically file the online form, in accordance with Chapter 16 Rules Pertaining to the Use of the Electronic Document Management System.

| | |
|---|---|
| /s/ _____<br>Filing Defendant or Attorney | /s/ _____<br>Second Defendant, if applicable |
| _____<br>Law firm, or entity for which filing is made, if applicable | _____<br>Law firm, or entity for which filing is made, if applicable |
| _____<br>Mailing address | _____<br>Mailing address |
| _____<br>Telephone number | _____<br>Telephone number |
| _____<br>Email address | _____<br>Email address |
| _____<br>Additional email address, if applicable | _____<br>Additional email address, if applicable |

[Court Order December 11, 1975, received for publication February 28, 1984; November 9, 2001, effective February 15, 2002; May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.12:** ***Appearance and Answer of Third Party Defendant(s).***

In the Iowa District Court for _____ County

Plaintiff(s)

_____
(Name)

_____
(Name)

vs.

Defendant(s)/Third Party Plaintiff(s)

_____
(Name)

_____
(Name)

vs.

Third Party Defendant(s)

_____
(Name)

_____
(Address)

_____
(Name)

_____
(Address)

**Appearance and Answer of Third Party Defendant(s)**

Small Claim No. _____

If you need assistance to participate in court due to a disability, call the disability coordinator (information at https://www.iowacourts.gov/for-the-public/ada/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**

Check **only one** of the following:

- ☐ The **claim is denied**. Parties will receive electronic notification through the Iowa Judicial Branch Electronic Document Management System (EDMS) of the hearing time and place.
- ☐ The **claim is admitted.** Judgment may be entered.
- ☐ The **claim is admitted in part in the amount** of $_____. Parties will receive electronic notification through the Iowa Judicial Branch Electronic Document Management System (EDMS) of the hearing time and place.

1. You must electronically file this Appearance and Answer using EDMS at https://www.iowacourts.state.ia.us/EFile unless you obtain from the court an exemption from electronic filing requirements.

2. If you electronically file, EDMS will serve a copy of this Appearance and Answer on Plaintiff(s) or on the attorney(s) for Plaintiff(s). The Notice of Electronic Filing will indicate if Plaintiff(s) is (are) exempt from electronic filing, and if you must mail a copy of your Appearance and Answer to Plaintiff(s).

3. You may download this form online at https://iowacourts.state.ia.us/Efile. Unless the court has granted you an exemption from electronic filing, you must scan and electronically file this Answer and Appearance form, or fill out and electronically file the online form, in accordance with Chapter 16 Rules Pertaining to the Use of the Electronic Document Management System.

***Continued on next page***

Appearance and Answer of Third Party Defendant(s) (*cont'd*)

/s/_____
Filing Third Party or Attorney

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

/s/_____
Second Third Party, if applicable

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

Small Claims Form 3.12, page 2 of 2

[Court Order December 11, 1975, received for publication February 28, 1984; November 9, 2001, effective February 15, 2002; May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.13:** ***Counterclaim against Plaintiff(s).***

In the Iowa District Court for _____ County

| | |
|---|---|
| Plaintiff(s)<br>_____<br>(Name)<br>_____<br>(Name)<br>vs.<br>Defendant(s)<br>_____<br>(Name)<br>_____<br>(Name) | **Counterclaim against Plaintiff(s)**<br>Small Claim No. _____<br>If you need assistance to participate in court due to a disability, call the disability coordinator (information at https://www.iowacourts.gov/for-the-public/ada/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.** |

To Plaintiff(s):_____
(List name(s) of Plaintiff(s) against whom you are counterclaiming.)

1. You are notified that Defendant(s) identified below demand(s) from you the amount of $ _____ because (state briefly the basis for the demand, not to exceed $6500):

2. Defendant(s) must electronically file this original Counterclaim with the clerk of court using the Iowa Judicial Branch Electronic Document Management System (EDMS) at https://www.iowacourts.state.ia.us/EFile, unless the court has granted Defendant(s) an exemption from electronic filing requirements.

3. EDMS will serve a copy of the Counterclaim on Plaintiff(s) or on the attorney(s) for Plaintiff(s). If Plaintiff(s) is (are) exempt from electronic filing, the clerk of court will provide a copy to Plaintiff(s) or Plaintiff(s) attorney(s).

/s/ _____
Filing Defendant or Attorney
_____
Law firm,or entity for which filing is made, if applicable
_____
Mailing address
_____
Telephone number
_____
Email address
_____
Additional email address, if applicable

/s/ _____
Second Defendant, if applicable
_____
Law firm, or entity for which filing is made, if applicable
_____
Mailing address
_____
Telephone number
_____
Email address
_____
Additional email address, if applicable

[Court Order December 11, 1975, received for publication February 28, 1984; November 9, 2001, effective February 15, 2002; May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.14:** ***Cross-Claim against a Co-Defendant.***

In the Iowa District Court for _____ County

| | |
|---|---|
| Plaintiff(s)<br>_____<br>(Name)<br>_____<br>(Name)<br>vs.<br>Defendant(s)<br>_____<br>(Name)<br>_____<br>(Name) | **Cross-Claim against a Co-Defendant**<br>Small Claim No. _____<br>If you need assistance to participate in court due to a disability, ca the disability coordinator (information at https://www.iowacourts.gov/for-the-public/ada/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.** |

1. You are notified that the Cross-Claimant(s) identified below demand(s) from

_____
(List name(s) of party(ies) against whom the demand is made.)

the amount of $_____ because (state briefly the basis for the demand, not to exceed $6500):

2. Cross-Claimant(s) must electronically file this original Cross-Claim with the clerk of court using the Iowa Judicial Branch Electronic Document Management System (EDMS) at https://www.iowacourts.state.ia.us/EFile, unless the court has granted Cross-Claimant(s) an exemption from electronic filing requirements.

3. If you electronically file, EDMS will serve a copy of the Cross-Claim on the other party(ies) or on the attorney(s) for the other party(ies). If the other party(ies) is (are) exempt from electronic filing, the clerk of court will provide a copy to the other party(ies).

/s/ _____
Filing Cross-Claimant or Attorney

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

/s/ _____
Second Cross-Claimant, if applicable

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable



[Court Order December 11, 1975, received for publication February 28, 1984; November 9, 2001, effective February 15, 2002; May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.15 Reserved.**
**Form 3.16:** ***Affidavit of Default.***

In the Iowa District Court for _____ County

Plaintiff(s)

_____
(Name)

_____
(Address)

_____
(Name)

_____
(Address)

vs.

Defendant(s)

_____
(Name)

_____
(Address)

_____
(Name)

_____
(Address)

**Affidavit of Default**
**(Failure to Comply with Payment Plan)**

Small Claim No. _____

1. The court entered judgment on the _____ day of _____, 20____, in the amount of $ _____ plus court costs in the amount of $ _____.

2. The court further ordered that the judgment debtor(s) could satisfy the judgment by an installment payment plan of $ _____ per _____ beginning on the _____ day of _____, 20____.

3. The judgment debtor(s) has (have) failed to make installment payments as ordered.

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct.

Date: _____

_____
Signature of Affiant

**/s/** _____
Filing Judgment Creditor or Attorney

_____
Law firm, for which filing is made, if applicable

_____
Mailing address

_____
Phone number

_____
Email address

_____
Additional Email address, if applicable

[Court Order May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.17:** ***Application to Condemn Funds.***

In the Iowa District Court for _____ County

Plaintiff(s)

_____
(Name)

_____
(Name)

vs.

Defendant(s)

_____
(Name)

_____
(Name)

**Application to Condemn Funds**

Small Claim No. _____

The undersigned states as follows:

1. An Execution was issued based on the judgment entered in this case.

2. A Garnishment was served and the garnishee has either answered that after allowing all exemptions money is owed to Defendant(s) named above, or turned over the funds pursuant to Iowa Code sections 642.10 and 642.13.

3. The Notice of Garnishment required by Iowa Code section 642.14 was served on Defendant(s) named above.

4. A copy of that Notice with proof of service on Defendant(s) is on file.

5. More than **10 days** have passed since the Notice of Garnishment was served.

6. No motion, Answer, Affidavit of Exemption, or other pleading has been filed to contest the Garnishment.

Based on the foregoing, Plaintiff(s) request(s) the court issue an order condemning the garnished funds.

**/s/** _____
Filing Plaintiff or Attorney

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

**/s/** _____
Second Plaintiff, if applicable

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

[Court Order May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.18:** ***Dismissal.***

In the Iowa District Court for _____ County

| | |
|---|---|
| Plaintiff(s)<br>_____<br>(Name)<br>_____<br>(Name)<br>vs.<br>Defendant(s)<br>_____<br>(Name)<br>_____<br>(Name) | **Dismissal**<br>Small Claim No. _____ |

By this filing, I (we) dismiss my (our) claim(s) (check **only one** of the following):

☐ **With prejudice** (I (we) cannot refile the claim(s)).

☐ **Without prejudice** (I (we) may refile the claim(s)).

/s/ _____
Filing Plaintiff or Attorney

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

/s/ _____
Second Plaintiff, if applicable

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

[Court Order May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.19:** ***Notice of Garnishment.***

In the Iowa District Court for _____ County

| | |
|---|---|
| Plaintiff(s)<br>_____<br>(Name)<br>_____<br>(Name)<br>vs.<br>Defendant(s)<br>_____<br>(Name)<br>_____<br>(Name) | **Notice of Garnishment**<br>Small Claim No. _____<br><br>If you need assistance to participate in court due to a disability, call the disability coordinator (information at https://www.iowacourts.gov/for-the-public/ada/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.** |

1. **You are notified** that a Garnishment was issued based on a judgment against you and the Garnishment was served on _____, who has admitted to be in possession of your property or is indebted to you.

2. **You are further notified** that to contest the Garnishment you must file a Motion to Quash, an Answer, an Affidavit of Exemption, or other appropriate pleading within **10 days** from the date this Notice was served on you. Your motion, Answer, or pleading must explain why you think these funds are exempt from execution under state or federal law. Some examples of exempt funds may include social security benefits, public assistance, county assistance, veteran's benefits, and unemployment compensation. These are examples only and not intended as a complete list. If you do not contest the Garnishment, a court order will be entered condemning the funds and the funds will be applied against the judgment.

3. Any Motion to Quash, Answer, Affidavit of Exemption, or other pleading that you file to contest the Garnishment must be electronically filed using the Iowa Judicial Branch Electronic Document Management System (EDMS) at https://www.iowacourts.state.ia.us/EFile unless you obtain an exemption from electronic filing requirements from the court.

4. If you file to contest the Garnishment, the court may set a prompt hearing, in which case you will receive electronic notification of the hearing through EDMS. If the court sets a hearing, you should be ready to explain to the judge why you believe your property is exempt from the Garnishment.

5. Iowa Code section 642.14 requires that you be told the exact language of Iowa Code section 630.3A. That section reads:

> At any time after the rendition of judgment the court, upon application of the judgment creditor or the judgment debtor and upon notice to the adverse party as the court shall direct, shall conduct a hearing to determine the reasonably expected annual earnings of the judgment debtor for the current calendar year and the applicable limitation upon garnishment as provide in Section 642.21. The court shall also consider in the interest of justice whether a greater amount than provided in Section 642.21 shall be exempt from garnishment. In making the determination, the court shall consider the age, number and circumstances of the dependents of the debtor, existing federal poverty level guidelines, the debtor's maintenance and support needs, the debtor's other financial obligations, and any other relevant information. An order reducing the garnishment may be modified or vacated upon the application of a party to the court, notice to the adverse party, and a showing at a hearing of changed circumstances. An additional filing fee shall not be assessed for proceedings under this section.

**You may wish to consult a lawyer for advice as to the meaning of this notice.**

***Continued on next page***

Notice of Garnishment (*cont'd*)

/s/ _____
Filing Judgment Creditor or Attorney

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

/s/ _____
Second Judgment Creditor, if applicable

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

Small Claims Form 3.19, page 2 of 2

[Court Order May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.20:** ***Motion to Quash Garnishment and Request for Hearing.***

| In the Iowa District Court for _____ County | |
|---|---|
| Plaintiff(s)<br>_____<br>(Name)<br>_____<br>(Name)<br>vs.<br>Defendant(s)<br>_____<br>(Name)<br>_____<br>(Name) | **Motion to Quash Garnishment and Request for Hearing**<br>Small Claims No._____ |

1. This Garnishment represents a hardship because:

2. The funds are exempt because:

3. I (we) request a hearing on this Motion to Quash Garnishment.

**Note**: Defendant(s) must electronically file this original Motion to Quash using the Iowa Judicial Branch Electronic Document Management System (EDMS) at https://www.iowacourts.state.ia.us/EFile, unless Defendant(s) receive(s) an exemption from electronic filing requirements from the court. EDMS will serve a copy of this Motion to Quash on the other party(ies) or on the attorney(s) for the other parties. The Notice of Electronic Filing will indicate if Defendant(s) must mail a copy of this Motion to Quash to any party(ies) who is (are) exempt from electronic filing.

***Continued on next page***

Motion to Quash Garnishment and Request for Hearing (*cont'd*)

/s/ _____
Filing Defendant or Attorney

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

/s/ _____
Second Defendant, if applicable

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable



[Court Order May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.21:** ***Affidavit of Property Exempt from Execution.***

In the Iowa District Court for _____ County

| | |
|---|---|
| Plaintiff(s)<br>_____<br>(Name)<br>_____<br>(Name)<br>vs.<br>Defendant(s)<br>_____<br>(Name)<br>_____<br>(Name) | **Affidavit of Property Exempt from Execution**<br>**(Iowa Code sections 626.50 and 642.15)**<br>Small Claim No. _____ |

1. This is an Affidavit pursuant to Iowa Code sections 626.50 and 642.15 to inform the sheriff and creditors of income and property exempt from execution under Iowa law. **This filing is not an Answer or motion in this proceeding.**

2. The following are my (our) only sources of monthly income and are exempt from execution (check all that apply):

- ☐ Social Security $_____
- ☐ Supplementary Security Income (SSI) $_____
- ☐ Veterans benefits $_____
- ☐ Alimony, support, or separate maintenance $_____
- ☐ Other (any other source of income) $_____
- ☐ Employment* $_____

*Under Iowa law, disposable earnings are exempt if less than $290/week, $580/every 2 weeks, or $1,257/month.

3. I (We) have $_____ in cash, checking, and savings. This money is deposits from the sources listed above. If there are deposits from others sources, they total $1000 or less.

4. I (We) own the following property, which is exempt from execution (check all that apply):

- ☐ Homestead;
- ☐ Clothing, suitcases, musical instruments, and household goods and furnishings with a total value of $7,000 or less;
- ☐ Books, family Bibles, pictures, portraits, and paintings with a total value of $1000 or less;
- ☐ Burial plots;
- ☐ One shotgun and either one rifle or one musket;
- ☐ Prescribed health aids;
- ☐ A motor vehicle (list year and make), _____, with equity of $7,000 or less;
- ☐ Tools of trade or farm equipment, livestock, and feed with a total value of $10,000 or less;
- ☐ Wedding or engagement rings with a total value of $5,000 or less, or wedding or engagement rings received at least two years before the date of this Affidavit;
- ☐ Other jewelry with a total value of $2,000 or less;

Affidavit of Property Exempt from Execution (*cont'd*)

- ☐ Cash value of life insurance of $10,000 or less if spouse, child, or dependent is beneficiary;
- ☐ Rental deposits, utility deposits, or rent paid in advance of $500 or less;
- ☐ Qualified retirement funds;
- ☐ Cash on hand, bank deposits, other deposits, and other personal property up to $1,000.

5. I (We) will electronically file this original document using the Iowa Judicial Branch Electronic Document Management System (EDMS) at https://www.iowacourts.state.ia.us/EFile, unless I (we) obtain an exemption from electronic filing requirements from the court. I (We) will provide a copy of this original document to

- The Sheriff of _____ County.

6. If this original document is electronically filed, EDMS will serve copies on the other party(ies) or on the attorney(s) for the other party(ies). The Notice of Electronic Filing will indicate if I (we) must mail a copy to other party(ies).

I (We) certify, under the penalty of perjury, that I (we) own all of the property listed on this Affidavit and, to the best of my (our) knowledge, it is an accurate listing of my (our) exempt property.

Date:_____

_____
Defendant's signature

/s/_____
Filing Defendant or Attorney

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

Date:_____

_____
Defendant's signature

/s/_____
Second Defendant, if applicable

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable



[Court Order May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.22:** ***Application for Release and Satisfaction of Judgment.***

In the Iowa District Court for _____ County

Plaintiff(s)

_____
(Name)

_____
(Name)

vs.

Defendant(s)

_____
(Name)

_____
(Name)

**Application for Release and Satisfaction of Judgment**

Small Claim No. _____

1. The judgment entered has been paid off or satisfied in full.

2. The judgment creditor has failed to file a release and satisfaction of that judgment.

3. Check only one of the following:

   ☐ Applicant(s) has (have) requested in writing the release and satisfaction from the judgment creditor(s) and provided a draft release of the judgment to the last known address of the judgment creditor(s). Copies of those documents are attached, and applicant(s) request(s) imposition of the $400 penalty pursuant to Iowa Code section 624.37; or,

   ☐ Applicant(s) has (have) made reasonable efforts, without success, to contact the judgment creditor(s) to obtain the release and satisfaction.

4. Proof of payment of the judgment is attached.

5. The undersigned requests that the court enter an order stating the judgment is released and satisfied or in the alternative, set this matter for hearing.

/s/ _____
Filing Applicant or Attorney

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

/s/ _____
Second Applicant, if applicable

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Telephone number

_____
Email address

_____
Additional email address, if applicable

[Court Order May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.23:** ***Release and Satisfaction of Judgment.***

In the Iowa District Court for _____ County

Plaintiff(s)

_____
(Name)

_____
(Name)

vs.

Defendant(s)

_____
(Name)

_____
(Name)

**Release and Satisfaction of Judgment**

Small Claim No. _____

To Judgment Debtor(s):

I (We) knowingly and voluntarily state that the judgment in this matter has been paid off or satisfied in full, including interest and court costs, and I (we) release the Debtor(s) named above from any further obligation on the judgment in this matter.

**Note**: Failure to satisfy and release a judgment, when paid off or satisfied in full, could result in a penalty of $400.00 if not filed within **30 days** of written request (Iowa Code section 624.37).

Date: _____

_____
Judgment Creditor's signature (must sign before a Notary)

/s/_____
Judgment Creditor's name

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____

_____
Email address

_____
Additional email address, if applicable

Date: _____

_____
Judgment Creditor's signature (must sign before a Notary

/s/_____
Judgment Creditor's name

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____

_____
Email address

_____
Additional email address, if applicable

**Certification of Acknowledgment** (Iowa Code section 624.37):

On this date, _____, appeared before me, acknowledged that signing this Release and Satisfaction of Judgment was a voluntary and knowing act, and signed the document before me.

Date: _____

_____
Notary Public or Clerk of Court

[Court Order May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.24 Reserved.**

**Form 3.25:** ***Request for General Execution (Praecipe).***

In the Iowa District Court for _____ County

| | |
|---|---|
| Plaintiff(s)<br>_____<br>(Name)<br>_____<br>(Address)<br>_____<br>(Name)<br>_____<br>(Address)<br>vs.<br>Defendant(s)<br>_____<br>(Name)<br>_____<br>(Address)<br>_____<br>(Name)<br>_____<br>(Address) | **Request for General Execution**<br>**(Praecipe)**<br>**(Iowa Code section 626.12)**<br><br>Small Claim No. _____ |

To the Clerk of Court for _____ County: Please issue a writ of General Execution to the Sheriff of _____ County, Iowa, against (list name(s) of judgment debtor(s)) _____ _____ for the balance owing on the judgment in this matter.

Date of Judgment _____

Original amount of judgment $ _____

Original amount of court costs $ _____

Original amount of attorney fees $ _____

Interest accrued to (date) _____

Interest rate per annum: _____%

Effective from (date)_____

Balance due on judgment $ _____

Balance due on court costs $ _____

Balance due on attorney fees $ _____

Amount of interest accrued $ _____

**Total amount due** $ _____

Interest amount per diem $ _____

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct.

Date: _____

_____
Judgment Creditor's signature

**/s/**_____
Filing Judgment Creditor or Attorney

_____
Law firm, or entity for which filing is made, if applicable

_____
Mailing address

_____
Phone #

_____
Email address

_____
Additional email address, if applicable

[Court Order May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.26:** ***Notice of Appeal.***

In the Iowa District Court for _____ County

| | |
|---|---|
| Plaintiff(s)<br>_____<br>(Name)<br>_____<br>(Name)<br>vs.<br>Defendant(s)<br>_____<br>(Name)<br>_____<br>(Name) | **Notice of Appeal**<br>Small Claim No. _____ |

1. I (We) appeal to the district court from the judgment entered on the _____ day of _____, 20_____.
2. I (We) am (are) appealing this decision because:

By checking this box, I (we) request an oral hearing. If my (our) request is granted, I (we) will receive a notice of hearing time and date.

**Note**: The appealing party(ies) must electronically file this original Notice of Appeal using the Iowa Judicial Branch Electronic Document Management System (EDMS) at https://www.iowacourts.state.ia.us/EFile, unless exempted from electronic filing requirements by the court,. EDMS will serve a copy of this Notice of Appeal on the other party(ies) or on the attorney(s) for the other party(ies). The Notice of Electronic Filing will indicate if the other party(ies) are exempt from electronic filing, and if the appealing party(ies) must mail a copy of this Notice of Appeal to the other party(ies).

| | |
|---|---|
| /s/ _____<br>Filing Appealing Party or Attorney | /s/ _____<br>Second Appealing Party, if applicable |
| _____<br>Law firm, or entity for which filing is made, if applicable | _____<br>Law firm, or entity for which filing is made, if applicable |
| _____<br>Mailing address | _____<br>Mailing address |
| _____<br>Telephone number | _____<br>Telephone number |
| _____<br>Email address | _____<br>Email address |
| _____<br>Additional email address, if applicable | _____<br>Additional email address, if applicable |

[Court Order October 12, 2005; May 7, 2012; June 26, 2018, effective July 1, 2018]

**Form 3.27:** ***Verification of Account, Identification of Judgment Debtor, and Certificate Re Military Service.***

In the Iowa District Court for _____ County

| | |
|---|---|
| Plaintiff(s)<br>_____<br>(Name)<br>_____<br>(Name)<br>vs.<br>Defendant(s)<br>_____<br>(Name)<br>_____<br>(Name) | **Verification of Account, Identification of Judgment Debtor, and Certificate Re Military Service**<br>Small Claim No. _____<br><br>**For defendant:** _____<br>**(This form required for each Defendant.)** |

1. I, _____, am a party or an employee of Plaintiff(s) whose claim(s) is (are) shown in the attached statement(s). I have personal knowledge that the attached statement(s) is (are) a true copy of the original creditor's records showing the balance due is true and correct. I further state that the sum of $_____ is the balance due and owing as of _____ from Defendant(s) to Plaintiff(s) and any interest amount owing is accurately stated in the Petition or Original Notice.

2. I further state that Defendant resides at _____, is employed at _____, and Defendant's occupation is _____.

3. Check A, B, **or** C for Defendant

A. Defendant **is not** in the military service of the United States government, I have verified this fact by (check one):

- ☐ Checking the Defense Manpower Data Center (DMDC) (requires name and SSN or name and date of birth).
- ☐ Contacting Defendant who informed me.
- ☐ Regularly seeing Defendant and believing Defendant is are not active in the U.S. military.

**Or** B. I have investigated, and I am unable to determine whether or not Defendant is in the military service of the United States government

**Or** C. Defendant **is** in the military service of the United States government

4. I also state to the best of my knowledge (check one):

- ☐ Defendant **is** under a disability or confined in a reformatory, jail, or penitentiary.
- ☐ Defendant **is not** under a disability or confined in a reformatory, jail, or penitentiary

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that these facts are true and correct.

Date: _____ _____
Signature of Affiant

_____ /s/_____
Phone number Filing Plaintiff or Attorney

_____ _____
Email address Law firm, or entity for which filing is made, if applicable

_____ _____
Additional email address, if applicable Mailing Address

[Court Order May 7, 2012; September 12, 2012; June 26, 2018, effective July 1, 2018]

# CHAPTER 4
# PROTECTIVE AND NO CONTACT ORDERS

# CHAPTER 4
# PROTECTIVE AND NO CONTACT ORDERS

**Rules 4.1** to **4.99** Reserved.

## DIVISION I

**Rule 4.100 Form orders for elder abuse protective orders.** Iowa courts must use the following form civil protective orders, as the supreme court has approved, in actions under Iowa Code chapter 235F concerning elder abuse. Filed template orders may not display all form options available to the court.

| | |
|---|---|
| Form 4.101 | Temporary Protective Order—Elder Abuse (Iowa Code chapter 235F) |
| Form 4.102 | Final Protective Order—Elder Abuse (Iowa Code chapter 235F) |
| Form 4.103 | Cancellation, Modification, or Extension of Protective Order—Elder Abuse (Iowa Code chapter 235F) |
| Form 4.104 | Order Appointing Guardian Ad Litem—Elder Abuse (Iowa Code chapter 235F) |

[Court Order November 29, 2022, effective January 1, 2023]

**Rules 4.101** to **4.199** Reserved.

## DIVISION II

**Rule 4.200 Form orders for domestic abuse civil protective orders.** Iowa courts must use the following form civil protective orders, as the supreme court has approved, in actions under Iowa Code chapter 236 concerning domestic abuse. Filed template orders may not display all form options available to the court.

| | |
|---|---|
| Form 4.201 | Temporary Protective Order—Domestic Abuse (Iowa Code chapter 236) |
| Form 4.202 | Final Protective Order—Domestic Abuse (Iowa Code chapter 236) |
| Form 4.203 | Cancellation, Modification, or Extension of Protective Order—Domestic Abuse (Iowa Code chapter 236) |
| Form 4.204 | Final Protective Order by Consent Agreement—Domestic Abuse |

[Court Order November 29, 2022, effective January 1, 2023]

**Rules 4.201** to **4.299** Reserved.

## DIVISION III

**Rule 4.300 Form orders for sexual abuse civil protective orders.** Iowa courts must use the following form civil protective orders, as the supreme court has approved, in actions under Iowa Code chapter 236A. Filed template orders may not display all form options available to the court.

| | |
|---|---|
| Form 4.301 | Temporary Protective Order—Sexual Abuse (Iowa Code chapter 236A) |
| Form 4.302 | Final Protective Order—Sexual Abuse (Iowa Code chapter 236A) |
| Form 4.303 | Cancellation, Modification, or Extension of Protective Order—Sexual Abuse (Iowa Code chapter 236A) |
| Form 4.304 | Final Protective Order by Consent Agreement—Sexual Abuse |

[Court Order November 29, 2022, effective January 1, 2023]

**Rules 4.301** to **4.399** Reserved.

## DIVISION IV

**Rule 4.400 Form orders for civil protective orders in dissolution actions.** Iowa courts must use the following form civil protective orders, as the supreme court has approved, in actions under Iowa Code chapter 598. Filed template orders may not display all form options available to the court.

| | |
|---|---|
| Form 4.401 | Temporary Protective Order—Dissolution (Ex Parte) (Iowa Code chapter 598) |
| Form 4.402 | Temporary Protective Order—Dissolution (Hearing) (Iowa Code chapter 598) |
| Form 4.403 | Domestic Abuse Protective Order Accompanying Dissolution Decree (Iowa Code chapter 598) |
| Form 4.404 | Cancellation, Modification, or Extension of Protective Order—Dissolution (Iowa Code chapter 598) |

[Court Order November 29, 2022, effective January 1, 2023]

**Rules 4.401** to **4.499** Reserved.

## DIVISION V

**Rule 4.500 Form orders for criminal no contact orders.** Iowa courts must use the following form criminal no contact orders as the supreme court has approved. Filed template orders may not display all form options available to the court.

| | |
|---|---|
| Form 4.501 | Temporary No Contact Order and Order Setting Contempt Hearing (Iowa Code section 664A.7) |
| Form 4.502 | Entry or Modification of No Contact Order (Iowa Code section 664A.5) |
| Form 4.503 | Extension of No Contact Order (Iowa Code section 664A.8) |
| Form 4.504 | Termination of No Contact Order |
| Form 4.505 | Order to Show Cause—Violation of No Contact Order |

[Court Order November 29, 2022, effective January 1, 2023]

**Rules 4.501** to **4.599** Reserved.

# CHAPTER 5
# RULES OF EVIDENCE

## ARTICLE I
## GENERAL PROVISIONS



## ARTICLE II
## JUDICIAL NOTICE



## ARTICLE III
## PRESUMPTIONS IN CIVIL CASES



## ARTICLE IV
## RELEVANCE AND ITS LIMITS



## ARTICLE V
## PRIVILEGES



## ARTICLE VI
## WITNESSES

# CHAPTER 5
# RULES OF EVIDENCE

## ARTICLE I
GENERAL PROVISIONS

**Rule 5.101 Scope; definitions.**

*a. Scope.* These rules apply to proceedings in the courts of this state to the extent and with the exceptions stated in rule 5.1101.

*b. Definitions.* In these rules:

(1) "Civil case" means a civil action or proceeding.

(2) "Criminal case" includes a criminal proceeding.

(3) "Public office" includes a public agency.

(4) "Record" includes a memorandum, report, or data compilation.

(5) "Other Iowa Supreme Court rule" means a rule the Iowa Supreme Court has adopted.

(6) A reference to any kind of written material or any other medium includes electronically stored information.

(7) "Victim" includes an alleged victim.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.102 Purpose.** These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.103 Rulings on evidence.**

*a. Preserving a claim of error.* A party may claim error in a ruling to admit or exclude evidence only if the error affects a substantial right of the party and:

(1) If the ruling admits evidence, a party, on the record:

(A) Timely objects or moves to strike; and

(B) States the specific ground, unless it was apparent from the context; or

(2) If the ruling excludes evidence, a party informs the court of its substance by an offer of proof, unless the substance was apparent from the context.

*b. Not needing to renew an objection or offer of proof.* Once the court rules definitively on the record—either before or at trial—a party need not renew an objection or offer of proof to preserve a claim of error for appeal.

*c. Court's statement about the ruling; directing an offer of proof.* The court may make any statement about the character or form of the evidence, the objection made, and the ruling. The court may direct that an offer of proof be made in question-and-answer form.

*d. Preventing the jury from hearing inadmissible evidence.* To the extent practicable, the court must conduct a jury trial so that inadmissible evidence is not suggested to the jury by any means.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.104 Preliminary questions.**

*a. In general.* Subject to rule 5.104(*b*), the court must decide any preliminary question about whether a witness is qualified, a privilege exists, or evidence is admissible. In so deciding, the court is not bound by evidence rules, except those on privilege.

*b. Relevance that depends on a fact.* When the relevance of evidence depends on whether a fact exists, proof must be introduced sufficient to support a finding that the fact does exist. The court may admit the proposed evidence on the condition that the proof be introduced later.

*c. Conducting a hearing so that the jury cannot hear it.* The court must conduct any hearing on a preliminary question so that the jury cannot hear it if:

(1) The hearing involves the admissibility of a confession;

(2) A defendant in a criminal case is a witness and so requests; or

(3) Justice so requires.

*d. Cross-examining a defendant in a criminal case.* By testifying on a preliminary question, a defendant in a criminal case does not become subject to cross-examination on other issues in the case. Testimony given by a defendant in a criminal case upon a preliminary question is not admissible against the defendant on the issue of guilt but may be used for impeachment if inconsistent with defendant's testimony at trial.

*e. Evidence relevant to weight and credibility.* This rule does not limit a party's right to introduce before the jury evidence that is relevant to the weight or credibility of other evidence.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.105 Limiting evidence that is not admissible against other parties or for other purposes.** If the court admits evidence that is admissible against a party or for a purpose—but not against another party or for another purpose—the court, on timely request, must restrict the evidence to its proper scope and instruct the jury accordingly.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.106 Remainder of related acts, declarations, conversations, writings, or recorded statements.**

*a.* If a party introduces all or part of an act, declaration, conversation, writing, or recorded statement, an adverse party may require the introduction, at that time, of any other part or any other act, declaration, conversation, writing, or recorded statement that in fairness ought to be considered at the same time.

*b.* Upon an adverse party's request, the court may require the offering party to introduce at the same time with all or part of the act, declaration, conversation, writing, or recorded statement, any other part or any other act, declaration, conversation, writing, or recorded statement that is admissible under rule 5.106(*a*). Rule 5.106(*b*), however, does not limit the right of any party to develop further on cross-examination or in the party's case in chief matters admissible under rule 5.106(*a*).

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rules 5.107** to **5.200** Reserved.

## ARTICLE II
JUDICIAL NOTICE

**Rule 5.201 Judicial notice of adjudicative facts.**

*a. Scope.* This rule governs judicial notice of an adjudicative fact only, not a legislative fact.

*b. Kinds of facts that may be judicially noticed.* The court may judicially notice a fact that is not subject to reasonable dispute because it:

(1) Is generally known within the trial court's territorial jurisdiction; or

(2) Can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

*c. Taking notice.* The court:

(1) May take judicial notice on its own; or

(2) Must take judicial notice if a party requests it and the court is supplied with the necessary information.

*d. Timing.* The court may take judicial notice at any stage of the proceeding.

*e. Opportunity to be heard.* On timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed. If the court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard.

*f. Instructing the jury.* In a civil case, the court must instruct the jury to accept the noticed fact as conclusive. In a criminal case, the court must instruct the jury that it may or may not accept the noticed fact as conclusive.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rules 5.202** to **5.300** Reserved.

## ARTICLE III
PRESUMPTIONS IN CIVIL CASES

**Rule 5.301 Presumptions in civil cases generally.** These rules do not modify or supersede existing law relating to presumptions in civil cases.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rules 5.302** to **5.400** Reserved.

## ARTICLE IV
RELEVANCE AND ITS LIMITS

**Rule 5.401 Test for relevant evidence.** Evidence is relevant if:

*a.* It has any tendency to make a fact more or less probable than it would be without the evidence; and

*b.* The fact is of consequence in determining the action.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.402 General admissibility of relevant evidence.** Relevant evidence is admissible, unless any of the following provide otherwise: the United States Constitution or Iowa Constitution, statute, these rules, or other Iowa Supreme Court rule. Irrelevant evidence is not admissible.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.403 Excluding relevant evidence for prejudice, confusion, waste of time, or other reasons.** The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.404 Character evidence; crimes or other acts.**

*a. Character evidence.*

(1) *Prohibited uses.* Evidence of a person's character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait.

(2) *Exceptions for a defendant or victim in a criminal case.* The following exceptions apply in a criminal case:

(A) A defendant may offer evidence of the defendant's pertinent trait, and if the evidence is admitted, the prosecutor may offer evidence to rebut it.

(B) Subject to the limitations in rule 5.412, a defendant may offer evidence of the victim's pertinent trait, and if the evidence is admitted, the prosecutor may:

(i) Offer evidence to rebut it; and

(ii) Offer evidence of the defendant's same trait.

(C) When the victim is unavailable to testify due to death or physical or mental incapacity, the prosecutor may offer evidence of the victim's trait of peacefulness to rebut evidence that the victim was the first aggressor.

(3) *Exceptions for a witness.* Evidence of a witness's character may be admitted under rules 5.607, 5.608, and 5.609.

*b. Other crimes, wrongs, or acts.*

(1) *Prohibited uses.* Evidence of any other crime, wrong, or act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.

(2) *Permitted uses.* This evidence may be admissible for another purpose such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.

(3) *Notice in a Criminal Case.* In a criminal case, the prosecutor must:

(A) Provide reasonable notice of any such evidence that the prosecutor intends to offer at trial, so

that the defendant has a fair opportunity to meet it;

(B) Articulate in the notice the permitted purpose for which the prosecutor intends to offer the evidence and the reasoning that supports the purpose; and

(C) Do so in writing before trial—or in any form during trial if the court, for good cause, excuses lack of pretrial notice.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

**Rule 5.405 Methods of proving character.**

*a. By reputation or opinion.* When evidence of a person's character or character trait is admissible, it may be proved by testimony about the person's reputation or by testimony in the form of an opinion. On cross-examination of the character witness, the court may allow an inquiry into relevant specific instances of the person's conduct.

*b. By specific instances of conduct.* When a person's character or character trait is an essential element of a charge, claim, or defense, the character or trait may also be proved by relevant specific instances of the person's conduct.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.406 Habit; routine practice.** Evidence of a person's habit or an organization's routine practice may be admitted to prove that on a particular occasion the person or organization acted in accordance with the habit or routine practice. The court may admit this evidence regardless of whether it is corroborated or whether there was an eyewitness.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.407 Subsequent remedial measures.** When measures are taken that would have made an earlier injury or harm less likely to occur, evidence of the subsequent measures is not admissible to prove negligence or culpable conduct. But the court may admit this evidence when offered on a manufacturing defect claim based on strict liability in tort, breach of warranty, or when offered for another purpose, such as impeachment or—if disputed—proving ownership, control, or feasibility of precautionary measures.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.408 Compromise offers and negotiations.**

*a. Prohibited uses.* Evidence of the following is not admissible—on behalf of any party—either to prove or disprove the validity or amount of a disputed claim or to impeach by a prior inconsistent statement or a contradiction:

(1) Furnishing, promising, or offering—or accepting, promising to accept, or offering to accept—a valuable consideration in compromising or attempting to compromise the claim; and

(2) Conduct or a statement made during compromise negotiations about the claim.

*b. Exceptions.* The court may admit this evidence for another purpose, such as proving a witness's bias or prejudice, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

**Rule 5.409 Payment of expenses.** Evidence of furnishing, promising to pay, or offering to pay expenses resulting from an injury is not admissible to prove liability for the injury.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.410 Pleas, plea discussions, and related statements.**

*a. Prohibited uses.* In a civil or criminal case, evidence of the following is not admissible against the defendant who made the plea or participated in the plea discussions:

(1) A guilty plea that was later withdrawn.

(2) A nolo contendere plea.

(3) A statement made during a proceeding on either of those pleas under Fed. R. Crim. P. 11, Iowa R. Crim. P. 2.10, or a comparable state procedure.

(4) A statement made during plea discussions with an attorney for the prosecuting authority if the discussions do not result in a guilty plea or they resulted in a later-withdrawn guilty plea.

*b. Exceptions.* The court may admit a statement described in rule 5.410(*a*)(3) or (4):

(1) In any proceeding in which another statement made during the same plea or plea discussions has been introduced, if in fairness the statements ought to be considered together.

(2) In a criminal proceeding for perjury or false statement, if the defendant made the statement under oath, on the record, and with counsel present.

[Report 1983; July 31, 1987, effective October 1, 1987; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.411 Liability insurance.** Evidence that a person was or was not insured against liability is not admissible to prove whether the person acted negligently or otherwise wrongfully. But the court may admit this evidence for another purpose, such as proving a witness's bias or prejudice or proving agency, ownership, or control.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.412 Sex-offense cases: the victim's sexual behavior or predisposition.**

*a. Prohibited uses.* The following evidence is not admissible in a civil or criminal proceeding involving alleged sexual misconduct:

(1) Evidence offered to prove that a victim engaged in other sexual behavior; or

(2) Evidence offered to prove a victim's sexual predisposition.

*b. Exceptions.*

(1) *Criminal cases.* The court may admit the following evidence in a criminal case:

(A) Evidence of specific instances of a victim's sexual behavior, if offered to prove that someone other than the defendant was the source of semen, injury, or other physical evidence;

(B) Evidence of specific instances of a victim's sexual behavior with respect to the person accused of sexual misconduct, if offered by the defendant to prove consent or if offered by the prosecutor; and

(C) Evidence whose exclusion would violate the defendant's constitutional rights.

(2) *Civil cases.* In a civil case, the court may admit evidence offered to prove a victim's sexual behavior or sexual predisposition if its probative value substantially outweighs the danger of harm to any victim and of unfair prejudice to any party. The court may admit evidence of a victim's reputation only if the victim has placed it in controversy.

*c. Procedure to determine admissibility.*

(1) *Motion.* If a party intends to offer evidence under rule 5.412(*b*), the party must:

(A) File a motion that specifically describes the evidence and states the purpose for which it is to be offered;

(B) Do so at least 14 days before trial unless the court, for good cause, sets a different time;

(C) Serve the motion on all parties; and

(D) Notify the victim or, when appropriate, the victim's guardian or representative.

(2) *Hearing.* Before admitting evidence under this rule, the court must conduct an in camera hearing and give the victim and parties a right to attend and be heard. Unless the court orders otherwise, the motion, related materials, and the record of the hearing must be and remain sealed.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

**Rules 5.413** to **5.500** Reserved.

## ARTICLE V
## PRIVILEGES

**Rule 5.501 Privilege in general.** Nothing in these rules modifies or supersedes existing law governing a claim of privilege.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.502 Attorney-client privilege and work product; limitations on waiver.** The following provisions apply, in the circumstances set out, to disclosure of a communication or information covered by the attorney-client privilege or work-product protection.

*a. Disclosure made in a court or agency proceeding; scope of a waiver.* When the disclosure is made in a court or agency proceeding and waives the attorney-client privilege or work-product protection, the waiver extends to an undisclosed communication or information only if:

(1) The waiver is intentional;

(2) The disclosed and undisclosed communications or information concern the same subject matter; and

(3) They ought in fairness to be considered together.

*b. Inadvertent disclosure.* When made in a court or agency proceeding, the disclosure does not operate as a waiver if:

(1) The disclosure is inadvertent;

(2) The holder of the privilege or protection took reasonable steps to prevent disclosure; and

(3) The holder promptly took reasonable steps to rectify the error, including (if applicable) following Iowa Rule of Civil Procedure 1.503(5)(*b*).

*c. Disclosure made in a federal or state proceeding.* When a disclosure is made in a federal or state proceeding and is not the subject of a federal or state court order concerning waiver, the disclosure does not operate as a waiver in an Iowa proceeding if the disclosure:

(1) Would not be a waiver under this rule if it had been made in an Iowa proceeding; or

(2) Is not a waiver under the law of the jurisdiction where the disclosure occurred.

*d. Controlling effect of a court order.* A court may order that the privilege or protection is not waived by disclosure connected with the litigation pending before the court—in which event the disclosure is also not a waiver in any other proceeding.

*e. Controlling effect of a party agreement.* An agreement on the effect of disclosure in a state proceeding is binding only on the parties to the agreement, unless it is incorporated into a court order.

*f. Controlling effect of this rule.* Notwithstanding rules 5.101 and 5.1101, this rule applies to all proceedings in the circumstances set out in the rule.

*g. Definitions.* In this rule:

(1) "Attorney-client privilege" means the protection that applicable law provides for confidential attorney-client communications.

(2) "Work-product protection" means the protection that applicable law provides for tangible material (or its intangible equivalent) prepared in anticipation of litigation or for trial.

[Report April 2, 2009; effective June 1, 2009; September 28, 2016, effective January 1, 2017]

**Rules 5.503** to **5.600** Reserved.

## ARTICLE VI
## WITNESSES

**Rule 5.601 Competency to testify in general.** Every person is competent to be a witness unless a statute or rule provides otherwise.

[Report 1983; 1985 Iowa Acts, ch 174, §16; 1990 Iowa Acts, ch 1015; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.602 Need for personal knowledge.** A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness's own testimony. This rule does not apply to a witness's expert testimony under rule 5.703.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.603 Oath or affirmation to testify truthfully.** Before testifying, a witness must give an oath or affirmation to testify truthfully. It must be in a form designed to impress that duty on the witness's conscience.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.604 Interpreter.** An interpreter must be qualified under Iowa Court Rules chapter 47 and must give an oath or affirmation to interpret accurately during the proceeding to the best of the interpreter's ability.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.605 Judge's competency as a witness.** The presiding judge may not testify as a witness at the trial. A party need not object to preserve the issue.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.606 Juror's competency as a witness.**

*a. At the trial.* A juror may not testify as a witness before the other jurors at the trial. If a juror is called to testify, the court must give a party an opportunity to object outside the jury's presence.

*b. During an inquiry into the validity of a verdict or indictment.*

(1) *Prohibited testimony or other evidence.* During an inquiry into the validity of a verdict or indictment, a juror may not testify about any statement made or incident that occurred during the jury's deliberations; the effect of anything upon that juror's or another juror's vote; or any juror's mental processes concerning the verdict or indictment. The court may not receive a juror's affidavit or evidence of a juror's statement on these matters.

(2) *Exceptions.* A juror may testify about whether:

(A) Extraneous prejudicial information was improperly brought to the jury's attention.

(B) An outside influence was improperly brought to bear on any juror.

(C) A mistake was made in entering the verdict on the verdict form.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.607 Who may impeach a witness.** Any party, including the party that called the witness, may attack the witness's credibility.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.608 Witness's character for truthfulness or untruthfulness.**

*a. Reputation or opinion evidence.* A witness's credibility may be attacked or supported by testimony about the witness's reputation for having a character for truthfulness or untruthfulness, or by testimony in the form of an opinion about that character. But evidence of truthful character is admissible only after the witness's character for truthfulness has been attacked.

*b. Specific instances of conduct.* Except for a criminal conviction under rule 5.609, extrinsic evidence is not admissible to prove specific instances of a witness's conduct in order to attack or support the witness's character for truthfulness. But the court may, on cross-examination, allow them to be inquired into if they are probative of the character for truthfulness or untruthfulness of:

(1) The witness; or

(2) Another witness whose character the witness being cross-examined has testified about.

By testifying on another matter, a witness does not waive any privilege against self-incrimination for testimony that relates only to the witness's character for truthfulness.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.609 Impeachment by evidence of a criminal conviction.**

*a. In general.* The following apply to attacking a witness's character for truthfulness by evidence of a criminal conviction:

(1) For a crime that in the convicting jurisdiction was punishable by death or by imprisonment for more than one year, the evidence:

(A) Must be admitted, subject to rule 5.403, in a civil case or in a criminal case in which the witness is not a defendant.

(B) Must be admitted in a criminal case in which the witness is a defendant, if the probative value of the evidence outweighs its prejudicial effect to that defendant.

(2) For any crime regardless of the punishment, the evidence must be admitted if the crime involved dishonesty or false statement.

*b. Limit on using the evidence after ten years.* This subdivision (*b*) applies if more than ten years have passed since the witness's conviction or release from confinement for it, whichever is later. Evidence of the conviction is admissible only if:

(1) Its probative value, supported by specific facts and circumstances, substantially outweighs its prejudicial effect; and

(2) The proponent gives an adverse party reasonable written notice of the intent to use it so that the party has a fair opportunity to contest its use.

*c. Effect of pardon, annulment, or certificate of rehabilitation.* Evidence of a conviction is not admissible if:

(1) The conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding that the person has been rehabilitated, and the person has not been convicted of a later crime punishable by death or by imprisonment for more than one year; or

(2) The conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

*d. Juvenile adjudications.* Evidence of a juvenile adjudication is admissible under this rule only if:

(1) It is offered in a criminal case;

(2) The adjudication was of a witness other than the defendant;

(3) An adult's conviction for that offense would be admissible to attack the adult's credibility; and

(4) Admitting the evidence is necessary to fairly determine guilt or innocence.

*e. Pendency of an appeal.* A conviction that satisfies this rule is admissible even if an appeal is pending. Evidence of the pendency of the appeal is also admissible.

[Report 1983; Court Order December 7, 1995, effective March 1, 1996; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.610 Religious beliefs or opinions.** Evidence of a witness's religious beliefs or opinions is not admissible to attack or support the witness's credibility.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.611 Mode and order of examining witnesses and presenting evidence.**

*a. Control by the court; purposes.* The court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to:

(1) Make those procedures effective for determining the truth.

(2) Avoid wasting time.

(3) Protect witnesses from harassment or undue embarrassment.

*b. Scope of cross-examination.* Cross-examination should not go beyond the subject matter of the direct examination and matters affecting the witness's credibility. The court may allow inquiry into additional matters as if on direct examination.

*c. Leading questions.* Leading questions should not be used on direct examination except as necessary to develop the witness's testimony. Ordinarily the court should allow leading questions:

(1) On cross-examination; and

(2) When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party.

[Report 1983; amended February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.612 Writing used to refresh a witness's memory.**

*a. Scope.* This rule gives an adverse party certain options when a witness uses a writing to refresh memory:

(1) While testifying; or

(2) Before testifying, if the court decides that justice requires the party to have those options.

*b. Adverse party's options; deleting unrelated matter.* Unless Iowa Rule of Criminal Procedure 2.14 provides otherwise in a criminal case, an adverse party is entitled to have the writing produced at the hearing, to inspect it, to cross-examine the witness about it, and to introduce into evidence any

portion that relates to the witness's testimony. If the producing party claims that the writing contains unrelated matter, the court must examine the writing in camera, delete any unrelated portion, and order that the rest be delivered to the adverse party. Any portion deleted over objection must be preserved for the record.

*c. Failure to produce or deliver the writing.* If a writing is not produced or is not delivered as ordered, the court may issue any appropriate order. But if the prosecution does not comply in a criminal case, the court must strike the witness's testimony or—if justice so requires—declare a mistrial.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.613 Witness's prior statement.**

*a. Showing or disclosing the statement during examination.* When examining a witness about the witness's prior statement, a party need not show it or disclose its contents to the witness. But the party must, on request, show it or disclose its contents to an adverse party's attorney.

*b. Extrinsic evidence of a prior inconsistent statement.* Extrinsic evidence of a witness's prior inconsistent statement is admissible only if the witness is given an opportunity to explain or deny the statement and an adverse party is given an opportunity to examine the witness about it, or if justice so requires. This subdivision (*b*) does not apply to an opposing party's statement under rule 5.801(*d*)(2).

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.614 Court's calling or examining a witness.**

*a. Calling.* For good cause in exceptional cases, the court may call a witness on its own or at a party's request. Each party is entitled to cross-examine the witness.

*b. Examining.* When necessary, the court may examine a witness regardless of who calls the witness.

*c. Objections.* A party may object to the court's calling or examining a witness either at that time or at the next opportunity when the jury is not present.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.615 Excluding witnesses.** At a party's request the court may order witnesses excluded so that they cannot hear other witness's testimony. Or the court may do so on its own. But this rule does not authorize excluding:

*a.* A party who is a natural person.

*b.* An officer or employee of a party that is not a natural person, after being designated as the party's representative by its attorney.

*c.* A person whose presence a party shows to be essential to presenting the party's claim or defense.

*d.* A person authorized by statute to be present.

[Report 1983; November 9, 2001, effective February 15, 2002; April 2, 2009, effective June 1, 2009; September 28, 2016, effective January 1, 2017]

**Rules 5.616** to **5.700** Reserved.

## ARTICLE VII
OPINIONS AND EXPERT TESTIMONY

**Rule 5.701 Opinion testimony by lay witnesses.** If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is:

*a.* Rationally based on the witness's perception;

*b.* Helpful to clearly understanding the witness's testimony or to determining a fact in issue; and

*c.* Not based on scientific, technical, or other specialized knowledge within the scope of rule 5.702.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.702 Testimony by expert witnesses.** A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if the

expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.703 Bases of an expert's opinion testimony.** An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted. But if the facts or data would otherwise be inadmissible, the proponent of the opinion may disclose them to the jury only if their probative value in helping the jury evaluate the opinion substantially outweighs their prejudicial effect.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

**Rule 5.704 Opinion on an ultimate issue.** An opinion is not objectionable just because it embraces an ultimate issue.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.705 Disclosing the facts or data underlying an expert's opinion.** Unless the court orders otherwise, an expert may state an opinion—and give the reasons for it—without first testifying to the underlying facts or data. But the expert may be required to disclose those facts or data on cross-examination.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.706 Court-appointed expert witnesses.**

*a. Appointment process.* On a party's motion or on its own, the court may order the parties to show cause why expert witnesses should not be appointed and may ask the parties to submit nominations. The court may appoint any expert that the parties agree on and any of its own choosing. But the court may only appoint someone who consents to act.

*b. Expert's role.* The court must inform the expert of the expert's duties. The court may do so in writing and have a copy filed with the clerk or may do so orally at a conference in which the parties have an opportunity to participate. The expert:

(1) Must advise the parties of any findings the expert makes.
(2) May be deposed by any party.
(3) May be called to testify by the court or any party.
(4) May be cross-examined by any party, including the party that called the expert.

*c. Compensation.* The expert is entitled to a reasonable compensation as set by the court. Except as otherwise provided by law, the compensation must be paid by the parties in the proportion and at the time that the court directs, and the compensation is then charged like other costs.

*d. Disclosing the appointment to the jury.* The court may authorize disclosure to the jury that the court appointed the expert.

*e. Parties' choice of their own experts.* Rule 5.706 does not limit a party in calling its own experts.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

**Rules 5.707** to **5.800** Reserved.

## ARTICLE VIII
HEARSAY

**Rule 5.801 Definitions that apply to this Article; exclusions from hearsay.**

*a. Statement.* "Statement" means a person's:

(1) Oral assertion or written assertion; or
(2) Nonverbal conduct, if intended as an assertion.

*b. Declarant.* "Declarant" means the person who made the statement.

*c. Hearsay.* "Hearsay" means a statement that:

(1) The declarant does not make while testifying at the current trial or hearing; and

(2) A party offers into evidence to prove the truth of the matter asserted in the statement.

*d. Statements that are not hearsay.* A statement that meets the following conditions is not hearsay:

(1) *A declarant-witness's prior statement.* The declarant testifies and is subject to cross-examination about a prior statement, and the statement:

(A) Is inconsistent with the declarant's testimony and was given under penalty of perjury at a trial, hearing, or other proceeding or in a deposition;

(B) Is consistent with the declarant's testimony and is offered to rebut an express or implied charge that the declarant recently fabricated it or acted from a recent improper influence or motive in so testifying; or

(C) Identifies a person as someone the declarant perceived earlier.

(2) *An opposing party's statement.* The statement is offered against an opposing party and:

(A) Was made by the party in an individual or representative capacity;

(B) Is one the party manifested that it adopted or believed to be true;

(C) Was made by a person whom the party authorized to make a statement on the subject;

(D) Was made by the party's agent or employee on a matter within the scope of that relationship and while it existed; or

(E) Was made by the party's coconspirator during and in furtherance of the conspiracy.

The statement must be considered but does not by itself establish the declarant's authority under (C); the existence or scope of the relationship under (D); or the existence of the conspiracy or participation in it under (E).

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

**Rule 5.802 The rule against hearsay.** Hearsay is not admissible unless any of the following provide otherwise: the Constitution of the State of Iowa; a statute; these rules of evidence; or an Iowa Supreme Court rule.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.803 Exceptions to the rule against hearsay—regardless of whether the declarant is available as a witness.** The following are not excluded by the rule against hearsay, regardless of whether the declarant is available as a witness:

(1) *Present sense impression.* A statement describing or explaining an event or condition, made while or immediately after the declarant perceived it.

(2) *Excited utterance.* A statement relating to a startling event or condition, made while the declarant was under the stress of excitement that it caused.

(3) *Then existing mental, emotional, or physical condition.* A statement of the declarant's then existing state of mind (such as motive, intent, or plan) or emotional, sensory, or physical condition (such as mental feeling, pain, or bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the validity or terms of the declarant's will.

(4) *Statement made for medical diagnosis or treatment.* A statement that:

(A) Is made for—and is reasonably pertinent to—medical diagnosis or treatment; and

(B) Describes medical history, past or present symptoms or sensations, or the inception or general cause of symptoms or sensations.

(5) *Recorded recollection.* A record that:

(A) Is on a matter the witness once knew about but now cannot recall well enough to testify fully and accurately;

(B) Was made or adopted by the witness when the matter was fresh in the witness's memory; and

(C) Accurately reflects the witness's knowledge.

If admitted, the record may be read into evidence, but it may be received as an exhibit only if offered by an adverse party.

(6) *Records of a regularly conducted activity.* A record of an act, event, condition, opinion, or diagnosis if:

(A) The record was made at or near the time by—or from information transmitted by—someone with knowledge;

(B) The record was kept in the course of a regularly conducted activity of a business, organization, occupation, or calling, whether or not for profit;

(C) Making the record was a regular practice of that activity;

(D) All these conditions are shown by the testimony of the custodian or another qualified witness, or by a certification that complies with rule 5.902(11) or rule 5.902(12) or with a statute permitting certification; and

(E) The opponent does not show that the source of information or the method or circumstances of preparation indicate a lack of trustworthiness.

(7) *Absence of a record of regularly conducted activity.* Evidence that a matter is not included in a record described in rule 5.803(6) if:

(A) The evidence is admitted to prove that the matter did not occur or exist;

(B) A record was regularly kept for a matter of that kind; and

(C) The opponent does not show that the possible source of the information or other circumstances indicate a lack of trustworthiness.

(8) *Public records.*

(A) To the extent not otherwise provided in rule 5.803(8)(B), a record or statement of a public office or agency if it sets out:

(i) Its regularly conducted and regularly recorded activities;

(ii) Matters observed while under a legal duty to report; or

(iii) Factual findings from a legally authorized investigation.

Rule 5.803(8)(A) does not apply if the opponent shows that the source of the information or other circumstances indicate a lack of trustworthiness.

(B) The following are not within this public records exception to the hearsay rule:

(i) Investigative reports by police and other law enforcement personnel.

(ii) Investigative reports prepared by or for a government, a public office, or an agency when offered by it in a case in which it is a party.

(iii) Factual findings offered by the state or a political subdivision in criminal cases.

(iv) Factual findings resulting from special investigation of a particular complaint, case, or incident.

Rule 5.803(8)(B) does not supersede specific statutory provisions regarding the admissibility of particular public records and reports.

(9) *Public records of vital statistics.* A record of a birth, fetal death, adoption, death, marriage, divorce, dissolution, or annulment, if reported to a public office in accordance with a legal duty.

(10) *Absence of a public record.* Testimony—or a certification under rule 5.902—that a diligent search failed to disclose a public record or statement if:

(A) The testimony or certification is admitted to prove that:

(i) The record or statement does not exist; or

(ii) A matter did not occur or exist, if a public office regularly kept a record or statement for a matter of that kind, and

(B) In a criminal case, a prosecutor who intends to offer a certification provides written notice of that intent at least 14 days before trial, and the defendant does not object in writing within 7 days of receiving the notice—unless the court sets a different time for the notice or the objection.

(11) *Records of religious organizations concerning personal or family history.* A statement of birth, legitimacy, ancestry, marriage, divorce, death, relationship by blood or marriage, or similar facts of personal or family history, contained in a regularly kept record of a religious organization.

(12) *Certificates of marriage, baptism, and similar ceremonies.* A statement of fact contained in a certificate:

(A) Made by a person who is authorized by a religious organization or by law to perform the act certified;

(B) Attesting that the person performed a marriage or similar ceremony or administered a sacrament; and

(C) Purporting to have been issued at the time of the act or within a reasonable time after it.

(13) *Family records.* A statement of fact about personal or family history contained in a family record, such as a Bible, genealogy, chart, engraving on a ring, inscription on a portrait, or engraving on an urn or burial marker.

(14) *Records of documents that affect an interest in property.* The record of a document that purports to establish or affect an interest in property if:

(A) The record is admitted to prove the content of the original recorded document, along with its signing and its delivery by each person who purports to have signed it;

(B) The record is kept in a public office; and

(C) A statute authorizes recording documents of that kind in that office.

(15) *Statements in documents that affect an interest in property.* A statement contained in a document that purports to establish or affect an interest in property if the matter stated was relevant to the document's purpose—unless later dealings with the property are inconsistent with the truth of the statement or the purport of the document.

(16) *Statements in ancient documents.* A statement in a document that was prepared before January 1, 1998, and whose authenticity is established.

(17) *Market reports and similar commercial publications.* Market quotations, lists, directories, or other compilations that are generally relied on by the public or by persons in particular occupations.

(18) *Statements in learned treatises, periodicals, or pamphlets.* A statement contained in a treatise, periodical, or pamphlet if:

(A) The statement is called to the attention of an expert witness upon cross-examination or relied on by the expert on direct examination; and

(B) The publication is established as a reliable authority by the expert's admission or testimony, by another expert's testimony, or by judicial notice.

If admitted, the statement may be read into evidence but not received as an exhibit.

(19) *Reputation concerning personal or family history.* A reputation among a person's family by blood, adoption, or marriage—or among a person's associates or in the community—concerning the person's birth, adoption, legitimacy, ancestry, marriage, divorce, death, relationship by blood, adoption, or marriage, or similar facts of personal or family history.

(20) *Reputation concerning boundaries or general history.* A reputation in a community—arising before the controversy—concerning boundaries of land in the community or customs that affect the land, or concerning general historical events important to that community, state, or nation.

(21) *Reputation concerning character.* A reputation among a person's associates or in the community concerning the person's character.

(22) *Judgment of a previous conviction.* Evidence of a final judgment of conviction if:

(A) The judgment was entered after a trial or guilty plea, but not a nolo contendere plea;

(B) The conviction was for a crime punishable by death or by imprisonment for more than a year;

(C) The evidence is admitted to prove any fact essential to the judgment; and

(D) When offered by the prosecutor in a criminal case for a purpose other than impeachment, the judgment was against the defendant.

The pendency of an appeal of a previous conviction may be shown but does not affect admissibility.

(23) *Judgments involving personal, family, or general history, or a boundary.* A judgment that is admitted to prove a matter of personal, family, or general history, or boundaries, if the matter:

(A) Was essential to the judgment; and

(B) Could be proved by evidence of reputation.

(24) [Transferred to rule 5.807.]

[Report 1983; amended February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002; March 25, 2009, effective May 25, 2009; April 2, 2009, effective June 1, 2009; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

**Rule 5.804 Exceptions to the rule against hearsay—when the declarant is unavailable as a witness.**

*a. Criteria for being unavailable.* A declarant is considered to be unavailable as a witness if the declarant:

(1) Is exempted from testifying about the subject matter of the declarant's statement because the court rules that a privilege applies;

(2) Refuses to testify about the subject matter despite a court order to do so;

(3) Testifies to not remembering the subject matter;

(4) Cannot be present or testify at the trial or hearing because of death or a then-existing infirmity, physical illness, or mental illness; or

(5) Is absent from the trial or hearing and the statement's proponent has not been able, by process or other reasonable means, to procure the declarant's attendance.

But rule 5.804(*a*) does not apply if the statement's proponent procured or wrongfully caused the declarant's unavailability as a witness in order to prevent the declarant from attending or testifying.

*b. The exceptions.* The following are not excluded by the rule against hearsay if the declarant is unavailable as a witness:

(1) *Former testimony.* Testimony that:

(A) Was given as a witness at a trial, hearing, or lawful deposition, whether given during the current proceeding or a different one; and

(B) Is now offered against a party who had—or, in a civil case, whose predecessor in interest had—an opportunity and similar motive to develop it by direct, cross-, or redirect examination.

(2) *Statement under the belief of imminent death.* A statement that the declarant, while believing the declarant's death to be imminent, made about its cause or circumstances.

(3) *Statement against interest.* A statement that:

(A) A reasonable person in the declarant's position would have made only if the person believed it to be true because, when made, it was so contrary to the declarant's proprietary or pecuniary interest or had so great a tendency to invalidate the declarant's claim against someone else or to expose the declarant to civil or criminal liability; and

(B) Is supported by corroborating circumstances that clearly indicate its trustworthiness, if it is offered in a criminal case as one that tends to expose the declarant to criminal liability.

(4) *Statement of personal or family history.* A statement about:

(A) The declarant's own birth, adoption, legitimacy, ancestry, marriage, divorce, relationship by blood, adoption, or marriage, or similar facts of personal or family history, even though the declarant had no way of acquiring personal knowledge about that fact; or

(B) Another person concerning any of these facts, as well as death, if the declarant was related to the person by blood, adoption, or marriage, or was so intimately associated with the person's family that the declarant's information is likely to be accurate.

(5) [Transferred to rule 5.807.]

(6) *Statement offered against a party that wrongfully caused the declarant's unavailability.* A statement offered against a party that wrongfully caused—or acquiesced in wrongfully causing—the declarant's unavailability as a witness, and did so intending that result.

[Report 1983; November 9, 2001, effective February 15, 2002; April 2, 2009, effective June 1, 2009; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

**Rule 5.805 Hearsay within hearsay.** Hearsay within hearsay is not excluded by the rule against hearsay if each part of the combined statements conforms with an exception to the rule.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.806 Attacking and supporting the declarant's credibility.** When a hearsay statement—or a statement described in rule 5.801(*d*)(2)(C), (D), or (E)—has been admitted into evidence, the declarant's credibility may be attacked, and then supported, by any evidence that would be admissible for those purposes if the declarant had testified as a witness. The court may admit evidence of the declarant's inconsistent statement or conduct, regardless of when it occurred or whether the declarant had an opportunity to explain or deny it. If the party against whom the statement was admitted calls the declarant as a witness, the party may examine the declarant on the statement as if on cross-examination.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.807 Residual exception.**

*a. In general.* Under the following conditions, a hearsay statement is not excluded by the rule against hearsay even if the statement is not admissible under a hearsay exception in rule 5.803 or 5.804:

(1) The statement is supported by sufficient guarantees of trustworthiness—after considering the totality of circumstances under which it was made and evidence, if any, corroborating the statement; and

(2) It is more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts.

*b. Notice.* The statement is admissible only if the proponent gives an adverse party reasonable notice of the intent to offer the statement—including its substance and the declarant's name—so that the party has a fair opportunity to meet it. The notice must be provided in writing before the trial

or hearing—or in any form during the trial or hearing if the court, for good cause, excuses a lack of earlier notice.
[Report April 2, 2009, effective June 1, 2009; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

**Rules 5.808** to **5.900** Reserved.

## ARTICLE IX
AUTHENTICATION AND IDENTIFICATION

**Rule 5.901 Authenticating or identifying evidence.**

*a. In general.* To satisfy the requirement of authenticating or identifying an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is.

*b. Examples.* The following are examples only—not a complete list—of evidence that satisfies the requirement:

(1) *Testimony of witness with knowledge.* Testimony that an item is what it is claimed to be.

(2) *Nonexpert opinion about handwriting.* A nonexpert's opinion that handwriting is genuine, based on a familiarity with it that was not acquired for the current litigation.

(3) *Comparison by an expert witness or the trier of fact.* A comparison with an authenticated specimen by an expert witness or the trier of fact.

(4) *Distinctive characteristics and the like.* The appearance, contents, substance, internal patterns, or other distinctive characteristics of the item, taken together with all the circumstances.

(5) *Opinion about a voice.* An opinion identifying a person's voice—whether heard firsthand or through mechanical or electronic transmission or recording—based on hearing the voice at any time under circumstances that connect it with the alleged speaker.

(6) *Evidence about a telephone conversation.* For a telephone conversation, evidence that a call was made to the number assigned at the time to:

(A) A particular person, if circumstances, including self-identification, show that the person answering was the one called; or

(B) A particular business, if the call was made to a business and the call related to business reasonably transacted over the telephone.

(7) *Evidence about public records.* Evidence that:

(A) A document was recorded or filed in a public office as authorized by law; or

(B) A purported public record or statement is from the office where items of this kind are kept.

(8) *Evidence about ancient documents or data compilations.* For a document or data compilation, evidence that it:

(A) Is in a condition that creates no suspicion about its authenticity;

(B) Was in a place where, if authentic, it would likely be; and

(C) Is at least 20 years old when offered.

(9) *Evidence about a process or system.* Evidence describing a process or system and showing that it produces an accurate result.

(10) *Methods provided by a statute or rule.* Any method of authentication or identification allowed by a statute or Iowa Supreme Court rule.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

**Rule 5.902 Evidence that is self-authenticating.** The following items of evidence are self-authenticating; they require no extrinsic evidence of authenticity to be admitted:

(1) *Domestic public documents that are sealed and signed.* A document that bears:

(A) A seal purporting to be that of the United States; any state, district, commonwealth, territory, or insular possession of the United States; the former Panama Canal Zone; the Trust Territory of the Pacific Islands; a political subdivision of any of these entities; or a department, agency, or officer of any entity named above; and

(B) A signature purporting to be an execution or attestation.

(2) *Domestic public documents that are not sealed but are signed and certified.* A document that bears no seal if:

(A) It bears the signature of an officer or employee of an entity named in rule 5.902(1)(A); and

(B) Another public officer who has a seal and official duties within that same entity certifies under seal—or its equivalent—that the signer has the official capacity and that the signature is genuine.

(3) *Foreign public documents.* A document that purports to be signed or attested by a person who is authorized by a foreign country's law to do so. The document must be accompanied by a final certification that certifies the genuineness of the signature and official position of the signer or attestor—or of any foreign official whose certificate of genuineness relates to the signature or attestation or is in a chain of certificates of genuineness relating to the signature or attestation. The certification may be made by a secretary of a United States embassy or legation; by a consul general, vice consul, or consular agent of the United States; or by a diplomatic or consular official of the foreign country assigned or accredited to the United States. If all parties have been given a reasonable opportunity to investigate the document's authenticity and accuracy, the court may, for good cause, either:

(A) Order that it be treated as presumptively authentic without final certification; or

(B) Allow it to be evidenced by an attested summary with or without final certification.

(4) *Certified copies of public records.* A copy of an official record—or a copy of a document that was recorded or filed in a public office as authorized by law—if the copy is certified as correct by:

(A) The custodian or another person authorized to make the certification; or

(B) A certificate that complies with rule 5.902(1), (2), or (3), a federal, state, or territorial statute, United States Supreme Court rule, or Iowa Supreme Court rule.

(5) *Official publications.* A book, pamphlet, or other publication purporting to be issued by public authority.

(6) *Newspapers and periodicals.* Printed materials purporting to be a newspaper or periodical.

(7) *Trade inscriptions and the like.* An inscription, sign, tag, or label purporting to have been affixed in the course of business and indicating origin, ownership, or control.

(8) *Acknowledged documents.* A document accompanied by a certificate of acknowledgement that is lawfully executed by a notary public or another officer who is authorized to take acknowledgements.

(9) *Commercial paper and related documents.* Commercial paper, a signature on it, and related documents, to the extent allowed by general commercial law.

(10) *Presumptions under a federal statute or a statute of Iowa or any other state or territory of the United States.* A signature, document, or anything else that a federal statute or a statute of Iowa or any other state or territory of the United States declares to be presumptively or prima facie genuine or authentic.

(11) *Certified domestic records of a regularly conducted activity.* The original or a copy of a domestic record that meets the requirements of rule 5.803(6)(A) to (C) as shown by a certification of the custodian or another qualified person that complies with a federal statute, a rule prescribed by the United States Supreme Court, a statute of Iowa or any other state or territory of the United States, or other Iowa Supreme Court rule. Before the trial or hearing, the proponent must give an adverse party reasonable written notice of the intent to offer the record—and must make the record and certification available for inspection—so that the party has a fair opportunity to challenge them.

(12) *Certified foreign records of a regularly conducted activity.* In a civil case, the original or a copy of a foreign record that meets the requirements of rule 5.902(11), modified as follows: the certification, rather than complying with a federal statute or a United States Supreme Court rule or a statute of Iowa or any other state or territory of the United States or other Iowa Supreme Court rule, must be signed in a manner that, if falsely made, would subject the maker to a criminal penalty in the country where the certification is signed. The proponent must also meet the notice requirements of rule 5.902(11).

(13) *Certified records generated by an electronic process or system.* A record generated by an electronic process or system that produces an accurate result, as shown by a certification of a qualified person that complies with the certification requirements of rule 5.902(11) or (12). The proponent must also meet the notice requirements of rule 5.902(11).

(14) *Certified data copied from an electronic device, storage medium, or file.* Data copied from an electronic device, storage medium, or file, if authenticated by a process of digital identification, as shown by a certification of a qualified person that complies with the certification requirements of rule 5.902(11) or (12). The proponent also must meet the notice requirements of rule 5.902(11).

[Report 1983; November 9, 2001, effective February 15, 2002; March 25, 2009, effective May 25, 2009; September 28, 2016, effective January 1, 2017; September 14, 2022, effective January 1, 2023]

**Rule 5.903 Subscribing witness's testimony.** A subscribing witness's testimony is necessary to authenticate a writing only if required by the law of the jurisdiction that governs its validity. This rule does not affect the admission of a foreign will into probate in this state.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rules 5.904** to **5.1000** Reserved.

## ARTICLE X
CONTENTS OF WRITINGS, RECORDINGS, AND PHOTOGRAPHS

**Rule 5.1001 Definitions that apply to this article.** In this article:

*a.* A "writing" consists of letters, words, numbers, or their equivalent set down in any form.

*b.* A "recording" consists of letters, words, numbers, or their equivalent recorded in any manner.

*c.* A "photograph" means a photographic image or its equivalent stored in any form.

*d.* An "original" of a writing or recording means the writing or recording itself or any counterpart intended to have the same effect by the person who executed or issued it. For electronically stored information, "original" means any printout—or other output readable by sight—if it accurately reflects the information. An "original" of a photograph includes the negative or a print from it.

*e.* A "duplicate" means a counterpart produced by a mechanical, photographic, chemical, electronic, or other equivalent process or technique that accurately reproduces the original.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.1002 Requirement of the original.** An original writing, recording, or photograph is required to prove its content, unless these rules or a statute provides otherwise.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.1003 Admissibility of duplicates.** A duplicate is admissible to the same extent as the original unless a genuine question is raised about the original's authenticity or the circumstances make it unfair to admit the duplicate.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.1004 Admissibility of other evidence of content.** An original is not required and other evidence of the content of a writing, recording, or photograph is admissible if:

*a.* All the originals are lost or destroyed, and not be the proponent acting in bad faith;

*b.* An original cannot be obtained by any available judicial process;

*c.* The party against whom the original would be offered had control of the original; was at that time put on notice, by pleadings or otherwise, that the original would be a subject of proof at the trial or hearing; and fails to produce it at the trial or hearing; or

*d.* The writing, recording, or photograph is not closely related to a controlling issue.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.1005 Copies of public records to prove content.**

*a. Using a copy to prove content.* The proponent may use a copy to prove the content of an official record—or of a document that was recorded or filed in a public office as authorized by law—if these conditions are met:

(1) The record or document is otherwise admissible.

(2) The copy is certified as correct in accordance with rule 5.902(4) or a witness who has compared it with the original testifies the copy is correct.

*b. Using other evidence to prove content.* If no such copy can be obtained by reasonable diligence, then the proponent may use other evidence to prove the content.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.1006 Summaries to prove content.** The proponent may use a summary, chart, or calculation to prove the content of voluminous writings, recordings, or photographs that cannot be conveniently examined in court. The proponent must make the originals or duplicates available for examination or copying, or both, by other parties at reasonable time and place. And the court may order the proponent to produce them in court.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.1007 Testimony or statement of a party to prove content.** The proponent may prove the content of a writing, recording, or photograph by the testimony, deposition, or written statement of the party against whom the evidence is offered. The proponent need not account for the original.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rule 5.1008 Functions of the court and jury.** Ordinarily, the court determines whether the proponent has fulfilled the factual conditions for admitting other evidence of the content of a writing, recording, or photograph under rule 5.1004 or 5.1005. But in a jury trial, the jury determines—in accordance with rule 5.104(*b*)—any issue about whether:

*a.* An asserted writing, recording, or photograph ever existed; or

*b.* Another one produced at the trial or hearing is the original; or

*c.* Other evidence of content accurately reflects the content.

[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

**Rules 5.1009** to **5.1100** Reserved.

## ARTICLE XI
## MISCELLANEOUS RULES

**Rule 5.1101 Applicability of the rules.**

*a. To courts and judges.* The Iowa Rules of Evidence apply to proceedings before the courts of this state, including proceedings before magistrates and court-appointed referees and masters, except as Iowa Supreme Court rules otherwise provide.

*b. Rules on privilege.* The rules on privilege apply to all stages of a case or proceeding.

*c. Exceptions.* The Iowa Rules of Evidence—except for those on privilege—do not apply to the following:

(1) The court's determination, under rule 5.104(*a*), on a preliminary question of fact governing admissibility.

(2) Grand-jury proceedings.

(3) Contempt proceedings in which an adjudication is made without prior notice and a hearing.

(4) Miscellaneous proceedings such as: extradition or rendition; issuing an arrest warrant, criminal summons, or search warrant; a preliminary examination in a criminal case; sentencing; granting or revoking probation or supervised release; and considering whether to release on bail or otherwise.
[Report 1983; November 9, 2001, effective February 15, 2002; March 25, 2009, effective May 25, 2009; September 28, 2016, effective January 1, 2017]

**Rule 5.1102** Reserved.

**Rule 5.1103 Title.** These Iowa Rules of Evidence may be cited as Iowa R. Evid.
[Report 1983; November 9, 2001, effective February 15, 2002; September 28, 2016, effective January 1, 2017]

# CHAPTER 6
# RULES OF APPELLATE PROCEDURE

## DIVISION I
## CASE INITIATION: CIVIL AND CRIMINAL; PARTIES AND ATTORNEYS; PROTECTED INFORMATION; CONFIDENTIAL MATERIALS



## DIVISION II
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# CHAPTER 6
# RULES OF APPELLATE PROCEDURE

## DIVISION I
CASE INITIATION: CIVIL AND CRIMINAL; PARTIES AND ATTORNEYS; PROTECTED INFORMATION; CONFIDENTIAL MATERIALS

**Rule 6.1 Mandatory use of the Iowa Judicial Branch Electronic Document Management System (EDMS) for appellate cases.**

**6.1(1)** *Mandatory electronic filing.* All attorneys authorized to practice law in Iowa, all attorneys admitted pro hac vice, *see* Iowa Ct. R. 31.14, and all self-represented parties must register under Iowa Rule of Electronic Procedure 16.304(1) to use EDMS. If an attorney or self-represented party has previously registered for electronic filing at the district or appellate court level, no additional registration is required. Registered filers must electronically submit all documents to be filed with the court unless otherwise required or authorized by these rules.

**6.1(2)** *Applicability of Iowa Rules of Electronic Procedure.* The Iowa Rules of Electronic Procedure, including rules pertaining to the protection of personal privacy, apply in appellate court cases, except for rules 16.101, 16.301, 16.302(2), and 16.303(4).

**6.1(3)** *Exceptions from electronic filing requirements.*

*a. Submission of single filing.* For good cause, the clerk of the supreme court may authorize a filer to submit a document for filing by nonelectronic means.

*b. All filings for case on appeal.* Upon a motion showing that exceptional circumstances make it unreasonable for a party to file documents electronically, the supreme court may excuse the party from electronic filing for purposes of the party's case on appeal.

*c. District court exception.* If a district court excused a party from electronic filing for the duration of the case in the underlying action, *see* Iowa R. Elec. P. 16.302(2)(*c*)–(*d*), a copy of the district court order granting the exception must be attached to the party's request to be excused from electronic filing requirements for the case on appeal.

*d. Abortion notification appeals.* Abortion notification appeals may be filed electronically or nonelectronically without court authorization.

*e. Nonelectronic filings by certain confined persons.* A person confined pursuant to governmental authority, including but not limited to a person who is incarcerated or civilly committed, is excused from registering to file electronically without court authorization.

*f. Paper case files.* Except as otherwise provided by court rules, *see, e.g.*, Iowa R. Elec. P. 16.313(1), or as the supreme court directs, the clerk of the supreme court will not maintain paper case files in appeals initiated on or after February 1, 2016.

[Court Order November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rules 6.2** to **6.10** Reserved.

**Rule 6.11 Clerk of the supreme court.** In complying with these rules, the clerk of the supreme court may act through deputies.

[Court Order September 29, 2023, effective April 1, 2024]

**Rules 6.12** to **6.100** Reserved.

**Rule 6.101 Time for appealing final orders and judgments appealable as a matter of right.**

**6.101(1)** *Time for filing notice of appeal from final orders and judgments.*

*a. Termination of parental rights and child in need of assistance proceedings under Iowa Code chapter 232.* A notice of appeal from a final order or judgment entered in Iowa Code chapter 232 termination of parental rights or child in need of assistance proceedings must be filed in the district court and an informational copy with the supreme court within 15 days after the filing of the order or judgment. However, if a motion is timely filed under Iowa Rule of Civil Procedure 1.904(2) or 1.1007, the notice of appeal must be filed within 15 days after the filing of the ruling on such motion.

*b. All other cases.* A notice of appeal must be filed in the district court and an informational copy with the supreme court within 30 days after the filing of the final order or judgment. However, if a

motion is timely filed under Iowa Rule of Civil Procedure 1.904(2) or 1.1007, the notice of appeal must be filed within 30 days after the filing of the ruling on such motion.

*c. Timely filing of motion defined.* For purposes of rule 6.101(1)(*a*)–(*b*), a motion is considered timely if it is filed by the applicable deadline and the motion asks the court to reconsider, enlarge, or amend the court's order, ruling, judgment, or decree. Whether a motion is proper or not does not affect its timeliness. However, a motion will not be considered timely if the same party has previously filed a motion to reconsider, enlarge, or amend the court's order, ruling, judgment, or decree, unless the court has modified its order, ruling, judgment, or decree and the subsequent motion is directed only at the modification.

*d. Orders on partial dispositions.* An order disposing of some but not all of the parties or issues in an action may be appealed within the time for appealing from the judgment that finally disposes of all remaining parties and issues to an action, even if the parties' interests or the issues are severable.

**COMMENT: Rule 6.101(1)(*c*).** Rule 6.101(1)(*c*) is intended to supersede prior caselaw that held a timely rule 1.904(2) motion must also have been "proper" to extend the time for appeal. *See, e.g.*, *Hedlund v. State,* 875 N.W.2d 720, 725 (Iowa 2016). To avoid controversies over whether a rule 1.904(2) motion tolls the time for appeal, rule 6.101 authorizes any timely rule 1.904(2) motion to extend the appeal deadline, subject to an exception for successive motions.

Under rule 6.101(1)(*c*), the timely filing of a rule 1.904(2) motion extends the deadline for filing a notice of appeal or an application for interlocutory appeal. *See* Iowa Rs. App. P. 6.101(1)(*b*), 6.104(1)(*c*). However, the rule does not address whether a rule 1.904(2) motion preserves error for purposes of appeal as to evidence or arguments raised for the first time in that motion. *See, e.g.*, *Tenney v. Atl. Assocs.,* 594 N.W.2d 11, 14 (Iowa 1999). The rule does not affect prior caselaw concerning a court's inherent authority to reconsider. *See Iowa Elec. Light & Power Co. v. Lagle,* 430 N.W.2d 393, 395–96 (Iowa 1988). [Court Order November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**6.101(2)** *Time for filing notice of cross-appeal.*

*a. Termination of parental rights and child in need of assistance proceedings under Iowa Code chapter 232.* In Iowa Code chapter 232 termination of parental rights and child in need of assistance proceedings, any notice of cross-appeal must be filed in the district court and an informational copy with the supreme court within the 15-day limit for filing a notice of appeal, or within 10 days after the filing of a notice of appeal, whichever is later.

*b. All other cases.* In all other appeals, any notice of cross-appeal must be filed in the district court and an informational copy with the supreme court within the 30-day limit for filing a notice of appeal, or within 10 days after the filing of a notice of appeal, whichever is later.

**6.101(3)** *Appeal taken before order or judgment filed.* An appeal taken from an order or judgment of the district court is considered timely even though taken before the order or judgment has been filed by the clerk of the district court, if the order or judgment is filed within 30 days after the date on which the notice of appeal is filed.

**6.101(4)** *Tolling of filing deadline by timely service.* The time for filing a notice of appeal is tolled when the notice is served, provided the notice is filed with the clerk of the district court within a reasonable time. *See* Iowa R. Civ. P. 1.442(4).

**6.101(5)** *Extension when clerk of district court fails to notify.* The supreme court may extend the time for filing a notice of appeal if it determines the clerk of the district court failed to notify the prospective appellant of entry of the appealable final order or judgment.

*a.* A motion for an extension of time must be filed with the clerk of the supreme court and served on all parties and the clerk of the district court no later than 60 days after expiration of the original appeal deadline as prescribed in rule 6.101(1)(*a*)–(*b*). The motion and any resistance must be supported by copies of relevant portions of the record and by affidavits.

*b.* Any extension granted will not exceed 30 days after the date of the order granting the motion. [Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

## Rule 6.102 Initiation of appeal from final orders or judgments.

**6.102(1)** *Appeal from final orders or judgments in termination of parental rights and child in need of assistance proceedings under Iowa Code chapter 232.*

*a. Notice of appeal.* An appeal from a final order or judgment in a termination of parental rights or a child in need of assistance proceeding under Iowa Code chapter 232 is initiated by filing the notice of appeal with the clerk of the district court where the order or judgment was entered within the time provided in rule 6.101(1)(*a*).

(1) The notice of appeal cannot be filed unless signed by both the appellant and the appellant's counsel. The notice of appeal must follow the requirements of Iowa Rule of Electronic Procedure 16.305(5)(*c*)(1) for filing documents containing two or more signatures.

(2) The appellant's signature must be an original or an unaltered digitized signature. *See* Iowa R. Elec. P. 16.201(35).

*b. Contents of notice of appeal.* The notice of appeal must specify the parties taking the appeal and the decree, judgment, order, or part of the decree, judgment, or order appealed from. The notice must substantially comply with rule 6.1401—Form 4: *Notice of Appeal (Cross-Appeal) (Child in Need of Assistance and Termination Cases)*

*c. Special service of notice of appeal.* The notice of appeal must be served on any court reporter who reported a proceeding that is the subject of the appeal in the manner stated in rule 6.702(4) and on the attorney general in the manner stated in Iowa Rule of Civil Procedure 1.442(2). The notice of appeal must include a certificate of service in the form prescribed in Iowa Rule of Civil Procedure 1.442(7).

*d. Informational copy.* An informational copy of the notice of appeal must be filed with the clerk of the supreme court.

*e. Petition on appeal.* An appeal in a termination of parental rights or a child in need of assistance proceeding will be dismissed unless a petition on appeal is timely filed as set forth in rule 6.201(1)(*b*).

**6.102(2)** *Appeal from final orders appealable as matter of right in all other cases.* An appeal from a final order appealable as a matter of right in all cases, other than termination of parental rights and child in need of assistance proceedings under Iowa Code chapter 232, is taken by filing a notice of appeal within the time provided in rule 6.101(1)(*b*) with the clerk of the district court where the final order was entered. The notice of appeal must be signed by either the appellant's counsel or the appellant.

*a. Contents of notice of appeal.* The notice of appeal must specify the parties taking the appeal and the decree, judgment, order, or part of the decree, judgment, or order appealed from. The notice must substantially comply with rule 6.1401—Form 1: *Notice of Appeal*.

*b. Special service of notice of appeal.*

(1) The notice of appeal must be served on any court reporter who reported a proceeding that is the subject of the appeal in the manner stated in rule 6.702(4).

(2) If the State is a party to the case, the notice of appeal must also be served on the attorney general in the manner stated in Iowa Rule of Civil Procedure 1.442(2).

(3) The notice of appeal must include a certificate of service in the form prescribed in Iowa Rule of Civil Procedure 1.442(7).

*c. Informational copy.* An informational copy of the notice of appeal must be filed with the clerk of the supreme court.

**6.102(3)** *Filing fee.* Within seven days of filing the notice of appeal, the appellant must pay to the clerk of the supreme court a filing fee or file a motion to waive or defer the fee as provided in rule 6.703.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; Court Order February 16, 2017, temporarily effective March 1, 2017, permanently effective April 17, 2017; Court Order July 20, 2017, temporarily effective July 20, 2017, permanently effective September 18, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.103 Review of final orders and judgments.**

**6.103(1)** *Final order and judgment defined.* All final orders and judgments of the district court involving the merits or materially affecting the final decision may be appealed to the supreme court, except as provided in this rule, rule 6.105, and Iowa Code sections 814.5 and 814.6.

*a.* An order granting or denying a new trial is a final order.

*b.* An order setting aside a default judgment in an action for dissolution of marriage or annulment is a final order.

*c.* An order setting aside a default judgment in any other action is not a final order.

**6.103(2)** *Appeal from final judgment of sentence following guilty plea pursuant to Iowa Code section 814.6(1)(a)(3).*

*a. Jurisdictional statement.* In an appeal from a judgment of sentence following a guilty plea, the appellant's brief must include a concise statement that either (1) explains that the appellant pleaded guilty to a class "A" felony, or (2) demonstrates the grounds that establish "good cause" for purposes of Iowa Code section 814.6(1)(*a*)(3). The jurisdictional statement must follow the requirements prescribed in rule 6.903(2)(*a*)(7).

*b. Appellee's response, consideration, and ruling.* If the appellee is dissatisfied with the appellant's jurisdictional statement, the appellee may include in the appellee's brief a jurisdictional statement that

conforms to rule 6.903(3) or the appellee may file a motion to dismiss for lack of good cause in the manner provided under rule 6.1006.

*c. Motions to withdraw for lack of good cause.* If court-appointed counsel for the appellant cannot in good conscience make an argument establishing good cause, counsel may file a motion to withdraw pursuant to rule 6.1005(2).

**6.103(3)** *Attorney fee order entered after final judgment.* A final order or judgment on an application for attorney fees entered after the final order or judgment in the underlying action is separately appealable. The district court retains jurisdiction to consider an application for attorney fees notwithstanding the appeal of a final order or judgment in the action. If the final order or judgment in the underlying case is also appealed, the party appealing the attorney fee order or judgment must file a motion to consolidate the two appeals.

**6.103(4)** *Interlocutory ruling or order included in appeal of final order or judgment.* No interlocutory ruling or order may be appealed until after the final order or judgment is entered except as provided in rule 6.104. Error in an interlocutory order is not waived by pleading over or proceeding to trial. If no appeal was taken from an interlocutory ruling or order or a final adjudication in the district court under Iowa Rule of Civil Procedure 1.444 that substantially affected the rights of the complaining party, the appellant may challenge such order or final adjudication on appeal of the final order or judgment.

[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

**Rule 6.104 Review of interlocutory rulings or orders.**

**6.104(1)** *Application for interlocutory appeal.*

*a. Applicability.* Any party aggrieved by an interlocutory ruling or order of the district court may apply to the supreme court for permission to appeal in advance of final judgment.

*b. Time for filing in termination of parental rights and child in need of assistance proceedings.*

(1) An application for interlocutory appeal in an Iowa Code chapter 232 termination of parental rights or a child in need of assistance proceeding must be filed within 15 days after entry of the challenged ruling or order. However, if a motion is timely filed under Iowa Rule of Civil Procedure 1.904(2), the application must be filed within 15 days after the entry of the ruling on such motion.

(2) The application for interlocutory appeal cannot be filed unless signed by both the applicant and the applicant's counsel. An application for interlocutory appeal must follow the requirements of Iowa Rule of Electronic Procedure 16.305(5)(*c*)(1) for filing documents containing two or more signatures. The appellant's signature must be an original or an unaltered digitized signature. *See* Iowa R. Elec. P. 16.201(35).

(3) If the application is granted, the appellant must file a petition on appeal as set forth in rule 6.201(1)(*b*). The failure to file a timely petition on appeal will result in dismissal of the interlocutory appeal.

*c. Time for filing in all other cases.* An application for interlocutory appeal must be filed within 30 days after entry of the challenged ruling or order. However, if a motion is timely filed under Iowa Rule of Civil Procedure 1.904(2), the application must be filed within 30 days after filing of the ruling on such motion.

*d. Extension when clerk of district court fails to notify.* The supreme court may extend the time for filing an application for interlocutory appeal if it determines the clerk of the district court failed to notify the prospective appellant of entry of the challenged ruling or order.

(1) A motion for an extension of time must be filed with the clerk of the supreme court and an informational copy filed with the clerk of the district court no later than 60 days after the expiration of the time for filing an application for interlocutory appeal. The motion and any resistance must be supported by copies of relevant portions of the record and by affidavits.

(2) An extension granted under this rule will not exceed 30 days after the date of the order granting the motion.

*e. Special service of application.* If the State is a party, the application must be served on the attorney general in the manner stated in Iowa Rule of Civil Procedure 1.442(2).

*f. Content and form of application.* The application must follow the content and form requirements of rules 6.1002(1) and 6.1007. In addition, the applicant must state with particularity the substantial rights affected by the challenged ruling or order, how the ruling or order will materially affect the final decision, and how a determination of its correctness before trial on the merits will better serve the interests of justice. The date of any impending hearing, trial, or matter needing immediate attention of the court must be prominently displayed beneath the title of the application.

*g. Filing fee.* The applicant must pay a filing fee to the clerk of the supreme court or file a motion to waive or defer the fee as provided in rules 6.703(2)(*a*) and 6.703(2)(*b*).

*h. Filing of application does not stay district court proceedings.* Filing of an application for interlocutory appeal does not stay district court proceedings. The applicant may apply to the district court for a continuance or a stay of proceedings or to the supreme court for a stay of proceedings. Any application for a stay order from the supreme court must state the dates of any proceedings to be stayed and why a stay is necessary.

**6.104(2)** *Resistance; consideration; and ruling.* The application may be resisted and will be considered in the same manner provided for motions in rule 6.1002. The supreme court may grant permission to appeal on finding the challenged ruling or order involves substantial rights and will materially affect the final decision and that a determination of its correctness before trial on the merits will better serve the interests of justice. An order granting an appeal under this rule will stay further proceedings in the court below, may require bond, and may expedite the time for briefing and submission.

**6.104(3)** *Procedure after order granting application.* The clerk of the supreme court will promptly transmit a copy of the order granting the interlocutory appeal to all counsel of record, all parties not represented by counsel, the clerk of the district court, and the attorney general if the State is a party in the manner stated in Iowa Rule of Civil Procedure 1.442(2). The appellant must file and serve the combined certificate required by rule 6.804(1) within seven days after the filing date of the order granting the interlocutory appeal or court appointment of new appellate counsel, whichever is later. *See* Iowa R. App. P. 6.702(4).

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; Court Order July 20, 2017, temporarily effective July 20, 2017, permanently effective September 18, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.105 Review of small claims actions.** Except where the action involves an interest in real estate, a case originally tried as a small claims action may not be appealed to the supreme court. Any appeal must be made to the district court as prescribed by Iowa Code section 631.13. An action originally tried as a small claim may be reviewed by the supreme court only as provided in Iowa Code section 631.16 and rule 6.106.

[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

**Rule 6.106 Discretionary review.**

**6.106(1)** *Application for discretionary review.*

*a. Applicability.* An application for discretionary review may be filed with the clerk of the supreme court to review certain orders specified by statute that are not subject to appeal as a matter of right.

*b. Time for filing.* An application for discretionary review must be filed within 30 days after entry of the challenged ruling, order, or judgment of the district court. However, if a motion is timely filed under Iowa Rule of Civil Procedure 1.904(2), the application must be filed within 30 days after entry of the ruling on such motion.

*c. Extension where clerk of district court fails to notify.* The supreme court may extend the time for filing an application for discretionary review if it determines the clerk of the district court failed to notify the applicant of entry of the ruling, order, or judgment.

(1) A motion for an extension of time must be filed with the clerk of the supreme court and an informational copy filed with the clerk of the district court no later than 60 days after expiration of the time for filing an application for discretionary review. The motion and any resistance must be supported by affidavit and copies of relevant portions of the record.

(2) An extension granted under this rule may not exceed 30 days after the date of the order granting the motion.

*d. Special service of application.* If the State is a party, the application must be served on the attorney general in the manner stated in Iowa Rule of Civil Procedure 1.442(2).

*e. Content and form of application.* The application must follow the content and form requirements of rules 6.1002(1) and 6.1007. In addition, the application must state with particularity the grounds upon which discretionary review should be granted. The date of any impending hearing, trial, or matter needing immediate attention of the court must be prominently displayed beneath the title of the application.

*f. Filing fee.* The applicant must pay a filing fee to the clerk of the supreme court or file a motion to waive or defer the fee as provided in rules 6.703(2)(*a*) and 6.703(2)(*b*).

*g. Filing of application does not stay district court proceedings.* Filing an application for discretionary review does not stay district court proceedings. The applicant may apply to the district court for a continuance or a stay of proceedings or to the supreme court for a stay of proceedings. Any application for a stay order from the supreme court must set forth the dates of any proceedings to be stayed and why a stay is necessary.

**6.106(2)** *Resistance; consideration; ruling.* The application may be resisted and will be considered in the same manner provided for motions in rule 6.1002. The supreme court may grant discretionary review upon a determination that (1) substantial justice has not been accorded the applicant, (2) the grounds set forth in rule 6.104(1)(*f*) for an interlocutory appeal exist, or (3) the grounds prescribed in any statute allowing discretionary review exist. An order allowing discretionary review under this rule may stay further proceedings below, may require bond, and may expedite the time for briefing and submission.

**6.106(3)** *Procedure after order granting application.* The clerk of the supreme court will promptly transmit a copy of the order granting discretionary review to the attorneys of record, any parties not represented by counsel, the clerk of the district court, and the attorney general if the State is a party in the manner stated in Iowa Rule of Civil Procedure 1.442(2). The appellant must file and serve the combined certificate required by rule 6.804(1) within seven days after the filing date of the order granting discretionary review or appointment of new appellate counsel, whichever is later. *See* Iowa R. App. P. 6.702(4). Further proceedings shall be had pursuant to the rules of appellate procedure.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; July 20, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.107 Original certiorari proceedings.**

**6.107(1)** *Petition for writ of certiorari.*

*a. Applicability.* Any party claiming a district judge, a district associate judge, an associate juvenile judge, or an associate probate judge exceeded the judge's jurisdiction or otherwise acted illegally may commence an original certiorari action in the supreme court by filing a petition for writ of certiorari with the clerk of the supreme court as provided in these rules.

*b. Time for filing.* A petition for writ of certiorari must be filed within 30 days after entry of the challenged decision. However, if a motion is timely filed under Iowa Rule of Civil Procedure 1.904(2) or 1.1007, the petition must be filed within 30 days after entry of the ruling on such motion.

*c. Extension when clerk of district court fails to notify.* The supreme court may extend the time for filing a petition for writ of certiorari if it determines the clerk of the district court failed to notify the prospective party of entry of the challenged decision.

(1) A motion for an extension of time must be filed with the clerk of the supreme court and an informational copy filed with the clerk of the district court no later than 60 days after expiration of the time for filing a petition for writ of certiorari.

(2) The motion and any resistance must be supported by affidavit and copies of relevant portions of the record.

(3) An extension granted under this rule may not exceed 30 days after the date of the order granting the motion.

*d. Special service of petition on attorney general.* If the State is a party, the petition must be served on the attorney general in the manner stated in Iowa Rule of Civil Procedure 1.442(2).

*e. Content and form of petition.*

(1) The caption of the petition must name the challenging party as the plaintiff and the district court, not the judge, as the defendant.

(2) The date of any impending hearing, trial, or matter needing immediate attention of the court must be prominently displayed beneath the title of the petition.

(3) The petition must follow the content and form requirements of rules 6.1002(1) and 6.1007.

(4) The petition must state whether the plaintiff raised the issue in the district court, identify the interest of the plaintiff in the challenged decision, and state the grounds that justify issuance of the writ.

*f. Filing fee.* The plaintiff must pay a filing fee to the clerk of the supreme court or file a motion to waive or defer the fee as provided in rules 6.703(2)(*a*) and 6.703(2)(*b*).

*g. Filing of petition does not stay district court proceedings.* Filing a petition for writ of certiorari does not stay the district court proceedings. The plaintiff may apply to the district court for a continuance or a stay of proceedings or to the supreme court for a stay of proceedings. Any

application to the supreme court for a stay order must state the dates of any proceedings to be stayed and why a stay is necessary.

**COMMENT: Rule 6.107(1).** This rule is not intended to affect prior caselaw concerning the supreme court's constitutional authority to review decisions rendered by other judicial tribunals. *See, e.g.*, *State v. Davis*, 493 N.W.2d 820, 822 (Iowa 1992).

**6.107(2)** *Resistance; consideration; ruling.* A petition for writ of certiorari may be resisted and will be considered in the same manner provided for motions in rule 6.1002. An order granting the petition may stay further proceedings below, may require bond, and may expedite the time for briefing and submission. The clerk of the supreme court will promptly transmit a copy of the ruling on the petition to the attorneys of record, any parties not represented by counsel, the clerk of the district court, and the attorney general if the State is a party in the manner stated in Iowa Rule of Civil Procedure 1.442(2).

**6.107(3)** *Issuance of writ.* If the petition for writ of certiorari is granted, the clerk of the supreme court must issue a writ under its seal. The original writ must be transmitted to the clerk of the district court, which will constitute service on the district court.

**6.107(4)** *Procedure after order granting petition.* The plaintiff must file and serve the combined certificate required by rule 6.804(1) within seven days after the filing date of the order granting the petition or appointment of new appellate counsel, whichever is later. *See* Iowa R. App. P. 6.702(4). Further proceedings will be had pursuant to the rules of appellate procedure. The appellate rules applicable to appellants apply to plaintiffs and those applicable to appellees apply to defendants.

**6.107(5)** *Representation of district court.* Parties before the district court other than the certiorari plaintiff must defend the district court and make all filings required of the defendant under these rules unless permitted to withdraw by the supreme court.

*a.* A party required to defend the district court under this rule may file an application to withdraw stating (1) whether the applicant raised the issue addressed in the challenged decision in the district court, (2) the interest or lack of interest of the applicant in the challenged decision, and (3) the grounds justifying withdrawal.

*b.* The application to withdraw must be served on the district court by filing the application with the clerk of the district court and on the attorney general if the State is a party in the manner stated in Iowa Rule of Civil Procedure 1.442(2).

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; July 20, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.108 Appeals authorized by statute or rule.** When a statute or rule authorizes an appeal as a matter of right, other than from a final order or judgement, appeal is taken by filing a notice of appeal as provided in rule 6.102, except that the notice must also specify the statute or rule providing the right to appeal.

**COMMENT: Rule 6.108.** Examples include appeals involving qualified immunity under Iowa Code section 670.4A(4), appeals involving arbitration under Iowa Code section 679A.17, and appeals involving class certification under Iowa Rule of Civil Procedure 1.264(3).

[Court Order September 29, 2023, effective April 1, 2024]

**Rule 6.109 Review of expungement matters.**

**6.109(1)** *Certiorari proceeding.* Review of decisions on expungement applications will be by certiorari pursuant to rule 6.107. The appellate case will be deemed confidential and subject to rule 6.153.

**6.109(2)** *Protected and confidential information.* The caption of the petition must name the challenging party as the plaintiff and name the district court, not the judge, as the defendant. Names, including the name of the plaintiff, dates of birth, the criminal case number, and other identifying information must be treated as protected and confidential information pursuant to rule 6.153(2)(*b*) and must not be included in the briefs or opinions. If the challenging party is not the State, the plaintiff must be referred to as "J. Doe."

**6.109(3)** *Certificate of confidentiality.* Any filings that necessarily contain identifying information, including any materials that contain references to underlying district court criminal case numbers, must contain a certificate of confidentiality in accordance with rule 6.153(2) and be designated as confidential by the filer when electronically filing the document.

[Court Order September 29, 2023, effective April 1, 2024]

**Rules 6.110** to **6.150** Reserved.

**Rule 6.151 Proper form of review.**

**6.151(1)** *General rule.* If any case is initiated by a notice of appeal, an application for interlocutory appeal, an application for discretionary review, or a petition for writ of certiorari and the appellate court determines another form of review was the proper one, the case will not be dismissed, but will proceed as though the proper form of review had been requested.

**6.151(2)** *Appellate court may request further action.* The appellate court may treat the documents upon which the action was initiated as seeking the proper form of review and, in appropriate cases, may order the parties to file jurisdictional statements or file documents supporting the proper form of discretionary review.

**6.151(3)** *Opposition.* This rule does not preclude opposing parties from filing a motion to challenge the form of review.

**6.151(4)** *Timing.* This rule does not extend the time for initiating a case.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.152 Parties and attorneys on appeal; caption; substitution of parties; withdrawal of counsel.**

**6.152(1)** *Parties on appeal.* The party who files a notice of appeal is the appellant, and the opposing party is the appellee. If opposing parties seek to appeal, the party who first files a notice of appeal is the appellant/cross-appellee, and the other party is the appellee/cross-appellant, unless the parties otherwise agree or the supreme court otherwise orders upon motion of any party.

**6.152(2)** *Caption on appeal.* The appeal must be captioned under the title of the action in the district court, with the parties identified as appellant and appellee. Parties not involved in the appeal may be omitted from the caption. If the title does not contain the name of the appellant, the appellant's name must be added to the caption.

**6.152(3)** *Substitution of party.* If substitution of a party is sought for any reason, including those stated in Iowa Rules of Civil Procedure 1.221, 1.222, 1.223, 1.224, and 1.226, the person seeking the substitution must file a motion for substitution of party with the clerk of the supreme court.

**6.152(4)** *Attorneys and guardians ad litem.* The attorneys and guardians ad litem of record in the district court will be the attorneys and guardians ad litem in the appellate court, unless others are retained or appointed and notice is given to the parties and the clerk of the supreme court. However, the representation of an attorney appointed for a minor child or children pursuant to Iowa Code section 598.12 ends when an appeal is taken, unless the district court appoints the attorney or a successor for the appeal.

**6.152(5)** *Withdrawal of attorney.* An attorney may not withdraw from representation of a party before an appellate court without permission of that court unless another attorney has appeared or simultaneously appears for the party. A motion for permission to withdraw as counsel for a party must show service of the motion on the party and must include the party's address, telephone number, and any available email address. Before court-appointed trial counsel for a criminal defendant may withdraw, the court file must contain proof counsel has completed counsel's duties under Iowa Rule of Criminal Procedure 2.29(5).

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.153 Protected information; confidential materials and cases; briefs not confidential.**

**6.153(1)** *Protected information.*

*a.* When a party files any document that contains protected information as defined in Iowa Rule of Civil Procedure 1.422(1) or Iowa Rule of Electronic Procedure 16.602 or a reproduction, quotation, or extensive paraphrase of material that contains protected information, the party must omit or redact that information from the document in the manner provided by Iowa Rule of Civil Procedure 1.422(1) or Iowa Rule of Electronic Procedure 16.605.

*b.* When a party files any document that contains information that may be omitted or redacted under Iowa Rule of Civil Procedure 1.422(2) or a reproduction, quotation, or extensive paraphrase of material that contains such information, the party may omit or redact that information from the document in the manner provided by Iowa Rule of Civil Procedure 1.422(2).

*c.* The omission or redaction of protected information is not required if the document is certified as confidential under rule 6.153(2).

**6.153(2)** *Party certification of confidential and protected material or cases.*

*a. Confidential and protected material.* When a party files any document, except a brief, that contains material or a reproduction, quotation, or extensive paraphrase of material that is declared confidential by any statute or court rule or to which access is restricted by court order, the party must certify the document's confidential nature by including a certificate of confidentiality as the first page of the document. The certificate page should substantially comply with rule 6.1401—Form 11: *Certificate of Confidentiality*, and include the caption of the case; certificate of confidentiality, which includes the applicable statute, rule, or court order; and signature of the party or counsel. When filing a document that contains a certificate of confidentiality, the filer must note that fact in the appropriate place on the electronic cover sheet. *See* Iowa R. Elec. P. 16.201(7).

*b. Confidential and protected cases.* When a party files any document, except a brief, in a case declared confidential by statute or court rule or to which access is restricted by court order, the party need not certify the document's confidential nature. Briefs filed in a confidential or restricted-access case must comply with the personal privacy protection provisions in division VI of the Iowa Rules of Electronic Procedure. *See* Iowa R. Elec. P. 16.601(1).

**6.153(3)** *Clerk to maintain confidentiality.* Upon the clerk of the supreme court's receipt of a notice, motion, district court record, portion of district court record, or other document that has been certified by a party or the clerk of the district court as confidential, the clerk of the supreme court will maintain its confidentiality. If the confidential designation is not warranted, the appropriate appellate court will direct the clerk of the supreme court to file the document as a public record. Confidential documents may be inspected only by persons authorized by statute, rule, or court order to inspect such documents.

**6.153(4)** *Responsibility of filer.* It is the responsibility of the filing party to ensure that confidential or protected information is properly redacted, omitted, or certified as confidential. For purposes of this rule, a pro se party is the filing party of a pro se document. It is not the responsibility of the clerk of the supreme court to review filings to determine whether appropriate redactions, omissions, or certifications have been made; to redact or remove confidential or protected information from court filings; or to certify or restrict access to confidential or protected information on the clerk's own initiative. Failure of the filing party to ensure that confidential or protected information is properly redacted, omitted, or certified as confidential may subject the filing party to sanctions by the court.

**6.153(5)** *Briefs not confidential.*

*a.* Briefs filed with the clerk of the supreme court are not confidential. A brief may not contain a reproduction, quotation, or extensive paraphrase of material that is declared by any statute or rule of the supreme court to be confidential. Instead, a brief may include general statements of fact supported by references pursuant to rule 6.904(4) to pages or parts of the record that are confidential.

*b.* Briefs in a case declared confidential by any statute or rule of the supreme court are not confidential and must refer to the parties in the caption and text by initials or other nonidentifying description. When a victim's name is deemed confidential by law, a brief must refer to the victim by initials or other nonidentifying description.

[Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017; July 20, 2017; September 29, 2023, effective April 1, 2024]

**Rules 6.154** to **6.200** Reserved.

## DIVISION II
TERMINATION OF PARENTAL RIGHTS AND CHILD IN NEED OF ASSISTANCE APPEALS UNDER IOWA CODE CHAPTER 232

### Rule 6.201 Petition on appeal in termination of parental rights and child in need of assistance proceedings under Iowa Code chapter 232.

**6.201(1)** *Petition on appeal.*

*a. Trial counsel's obligation to prepare petition.* The appellant's trial counsel must prepare the petition on appeal. Trial counsel may be relieved of this obligation by the district court only upon a showing of extraordinary circumstances.

*b. Time for filing petition on appeal.* A petition on appeal must be filed with the clerk of the supreme court within 15 days after the filing of the notice of appeal with the clerk of the district court or within 15 days after the filing of an order granting an interlocutory appeal. The time for filing a petition on appeal will not be extended.

*c. Length; form; cover page.* The petition on appeal may not exceed 20 pages, excluding the attachments required by rule 6.201(1)(*e*), and must be in the form prescribed by rule 6.1007. The cover page must contain:

(1) The caption of the case.

(2) The title of the document: "Petition on Appeal".

(3) The name of the court and judge whose decision is under review.

(4) The name, address, telephone number, and email address of counsel representing the appellant.

*d. Contents of petition.* The petition on appeal must substantially comply with rule 6.1401–Form 5: *Petition on Appeal (Cross-Appeal) (Child in Need of Assistance and Termination Cases)*.

*e. Attachments to petition.*

(1) In an appeal from an order or judgment in a child in need of assistance proceeding, the appellant must attach to the petition on appeal a copy of:

1. The order or judgment from which the appeal is taken.

2. Any ruling on a motion for new trial under Iowa Rule of Civil Procedure 1.1004 or a motion under Iowa Rule of Civil Procedure 1.904(2).

(2) In an appeal from an order terminating parental rights or dismissing the termination petition, the appellant must attach to the petition on appeal a copy of:

1. The petition for termination of parental rights and any amendments to the petition.

2. The order or judgment terminating parental rights or dismissing the termination petition.

3. Any ruling on a motion for new trial under Iowa Rule of Civil Procedure 1.1004 or a motion under Iowa Rule of Civil Procedure 1.904(2).

(3) In an appeal from a posttermination order, the appellant must attach to the petition on appeal a copy of:

1. The order or judgment terminating parental rights.

2. Any ruling on a motion for new trial under Iowa Rule of Civil Procedure 1.1004 or a motion under Iowa Rule of Civil Procedure 1.904(2).

3. Any motion requesting posttermination relief.

4. Any resistance to the request for posttermination relief.

5. The posttermination order from which the appeal is taken.

**6.201(2)** *Joinder disallowed.* A party may not join in a petition on appeal that another party files separately.

**6.201(3)** *Consequence of failure to file timely petition on appeal.* If the petition on appeal is not filed with the clerk of the supreme court within 15 days after the filing of a notice of appeal or within 15 days after the filing of an order granting an interlocutory appeal, the supreme court will dismiss the appeal, and the clerk will immediately issue procedendo.

[Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017; July 20, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.202 Response to petition on appeal in termination of parental rights and child in need of assistance proceedings under Iowa Code chapter 232.**

**6.202(1)** *When response required.* A response to the petition on appeal is optional unless the appellee has filed a notice of cross-appeal, in which case a response is required. The required response must address the claims of error alleged in the petition on appeal and separately state the grounds for the cross-appeal. Any response, optional or required, must substantially comply with rule 6.1401—Form 6: *Response to Petition on Appeal (Cross-Appeal)*.

**6.202(2)** *Time for filing response to petition on appeal.* A response to a petition on appeal must be filed with the clerk of the supreme court within 15 days after service of the petition.

**6.202(3)** *Length; form; cover page.* Any response, optional or required, to the petition on appeal may not exceed 20 pages and must be in the form prescribed by rule 6.1007. The cover page must contain:

*a.* The caption of the case.

*b.* The title of the document: "Response to Petition on Appeal".

*c.* The name of the court and judge whose decision is under review.

*d.* The name, address, telephone number, and email address of counsel representing the appellee.

[Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017; July 20, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.203 Reply to issues raised in cross-appeal.** If a notice of cross-appeal is filed, the appellant may file a reply to the cross-appeal within seven days after service of the appellee's response. An appellant may not file a reply if the appellee has not filed a notice of cross-appeal.
[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

**Rule 6.204 Filing fee and transmission of the record.** Within seven days after filing the notice of appeal, the appellant must pay the filing fee as provided in rule 6.703(1) or request waiver or deferral of the fee pursuant to rule 6.703(2). Within 30 days after the filing of the notice of appeal, the appellant must request the clerk of the district court to transmit the record to the clerk of the supreme court and file an informational copy with the clerk of the supreme court. The clerk of the district court must certify the record and its confidential nature.

**6.204(1)** *Record on appeal in child in need of assistance proceedings.* In appeals from child in need of assistance proceedings, the record on appeal will include:

*a.* The child in need of assistance court file, including all exhibits.

*b.* Any transcript of a hearing or hearings resulting in the order from which an appeal has been taken.

**6.204(2)** *Record on appeal in termination of parental rights proceedings.* In appeals from termination of parental rights proceedings, the record on appeal includes:

*a.* The termination of parental rights court file, including all exhibits.

*b.* Those portions of the child in need of assistance court file either received as exhibits or judicially noticed in the termination proceeding.

*c.* The transcript of the termination of parental rights hearing.

**6.204(3)** *Record on appeal of posttermination rulings in termination of parental rights proceedings.* In appeals from posttermination rulings in termination of parental rights proceedings, the record on appeal includes:

*a.* The termination of parental rights court file, including all exhibits.

*b.* Any motion, resistance, or transcript relevant to the posttermination order from which the appeal is taken.
[Court Order October 31, 2008, effective January 1, 2009; July 20, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.205 Disposition.**

**6.205(1)** *Ruling.* After reviewing the petition on appeal, any response, any reply, and the record, the appellate court may request supplemental briefing, affirm or reverse the district court's order or judgment, or remand the case.

**6.205(2)** *Further review.* If the court of appeals affirms or reverses the district court's order or judgment or remands the case, further review pursuant to the shortened timeline in rule 6.1103 may be sought.
[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

**Rules 6.206** to **6.300** Reserved.

## DIVISION III
CERTIFIED QUESTIONS OF LAW

**Rule 6.301 Procedure for certification of questions of law.** The procedure for answering and certifying questions of law will be as provided in the Uniform Certification of Questions of Law Act, Iowa Code chapter 684A, and the rules of appellate procedure.
[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

**Rule 6.302 Initiation of certification proceedings.**

**6.302(1)** *Certification order.*

*a. Filing.* The certification order prepared by the certifying court must be forwarded by the clerk of the certifying court under its official seal to the clerk of the supreme court, who will file the order and assign a number to the matter. The clerk of the supreme court will notify the certifying court that the certification order has been received.

*b. Contents.* The certification order must contain all of the following:

(1) The information required by Iowa Code section 684A.3.

(2) The names and addresses of the interested parties or their counsel, if they are represented by counsel.

(3) The party, if any, requesting submission of a certified question.

(4) A designation of the party to file the first brief, if the question is certified on the court's own motion.

*c. Service on attorney general.* When the constitutionality of an act of the general assembly is drawn into question in a certification proceeding to which the State of Iowa or an officer, agency, or employee thereof is not a party, the certifying court must serve the certification order on the attorney general.

**6.302(2)** *Record.* The certifying court must attach to its certification order a copy of the portions of the record deemed necessary for a full understanding of the question. If the entire record is not included, the supreme court may order that a copy of any portion of the remaining record be filed with the clerk of the supreme court.

**6.302(3)** *Parties.* The party requesting certification or, if none, the party who is to file the first brief will be considered the appellant and must make all filings required of the appellant under these rules.

**6.302(4)** *Filing fee.* A filing fee must be paid to the clerk of the supreme court as provided in rule 6.703(1)(*f*), unless otherwise waived or deferred as provided in rule 6.703(2).

[Court Order October 31, 2008, effective January 1, 2009; July 20, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.303 Briefing.**

**6.303(1)** *Form of briefs.* Briefs must be prepared in the manner and form specified in rules 6.903 and 6.904.

**6.303(2)** *Filing deadlines.* All briefs must be filed within the expedited times prescribed by rule 6.902(2).

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.304 Disposition.**

**6.304(1)** *Opinion.* Upon the filing of an opinion on a certified question, the clerk of the supreme court must comply with Iowa Code section 684A.7.

**6.304(2)** *Costs and fees.* Printing costs, if any, must be certified by the parties as provided in rule 6.903(1)(*j*). Upon the filing of the supreme court's opinion, the clerk of the supreme court must prepare and transmit to the clerk of the certifying court a bill of costs listing the filing fee and reasonable printing costs and the parties who paid them. The clerk of the certifying court will be responsible for collecting and apportioning the fee and costs pursuant to Iowa Code section 684A.5.

[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

**Rule 6.305 State as amicus curiae.** When the constitutionality of an act of the general assembly is drawn into question in a certification proceeding to which the State of Iowa or an officer, agency, or employee thereof is not a party, the attorney general will be permitted to file an amicus curiae brief on behalf of the State, as provided in rule 6.906, regarding the constitutionality of the act.

[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

**Rules 6.306** to **6.400** Reserved.

## DIVISION IV
ABORTION NOTIFICATION APPEALS

**Rule 6.401 Procedure in abortion notification appeals.**

**6.401(1)** *Notice of appeal.* A pregnant minor may appeal from a district court order denying a petition for waiver of notification regarding abortion.

*a.* The notice of appeal must be filed within 24 hours of issuance of the district court order.

*b.* The notice of appeal must be filed with the clerk of the district court where the order was entered and may be filed in person, by facsimile transmission, or electronically. A list of the clerk of the district court's facsimile numbers can be found at www.iowacourts.gov/iowa-courts/court-directory.

The notice must also be filed with the clerk of the supreme court and may be filed in person, by facsimile transmission at (515)348-4707, or electronically.

*c.* The notice of appeal must contain the date the petition was filed. A notice of appeal is filed for purposes of this rule when it is date and time stamped if filed in person or when it is received if transmitted by facsimile or electronically.

**6.401(2)** *Procedure on appeal.*

*a.* Within 48 hours after the filing of a notice of appeal, the court reporter must file the original of the completed transcript with the clerk of the supreme court. The reporter must also file a certificate with the clerk of the district court stating the date the transcript was filed in the supreme court.

*b.* Within 48 hours after the filing of a notice of appeal, the clerk of the district court must transmit to the supreme court any relevant district court documents, including the district court decision.

*c.* The minor must file a written argument supporting her appeal with the clerk of the supreme court within 48 hours of filing the notice of appeal with the district court. The written argument must include a statement designating the method by which the minor chooses to receive notice of the supreme court's final decision.

**6.401(3)** *Decision on appeal.* The appeal will be considered by a three-justice panel of the supreme court.

*a.* The appeal will be considered without oral argument unless the supreme court or a justice thereof orders otherwise.

*b.* A single justice may conduct a hearing, but a majority of the three-justice panel must issue any decision on the appeal.

*c.* The court will consider the appeal de novo and enter its decision as soon as is reasonably possible. In no event will the court's decision be made later than ten calendar days from the day after filing of the petition for waiver in the district court, or the ten calendar days plus the period of time granted by the district court for any extension under Iowa Court Rule 8.27.

*d.* The court's decision may be entered by order or opinion and may simply state that the district court's order is affirmed or reversed. Any decision affirming the denial of waiver of notification will inform the minor of her right to request appointment of a therapist by the district court on remand.

*e.* Notwithstanding any other rule, the panel's decision is not subject to review or rehearing.

*f.* The clerk of the supreme court will promptly issue procedendo once an order or opinion is filed.

*g.* The minor will be notified of the final decision in the manner designated in the written argument submitted to the court.

**6.401(4)** *Confidentiality.* Notwithstanding any other rule or statute, all documents filed in the appeal and the supreme court's docket are confidential. Any hearing held on an appeal under this rule is confidential.

*a.* The minor may use the same pseudonym that she used in the juvenile court proceedings.

*b.* Identifying information, including address, parents' names, or social security number, must not appear on any court documents.

*c.* All documents must contain the juvenile court docket number for identification purposes.

*d.* The only persons who may have access to the court documents and admission to any hearing are the supreme court justices, court staff who must have access to the records for administrative purposes, the minor, her attorney, her guardian ad litem, and any person designated in writing by the minor, her attorney, or her guardian ad litem to have such access or admission. In no case may the minor's parents have access to her documents or admission to any hearing.

**6.401(5)** *Computation of time.* For the purpose of this rule, any duty of filing or issuance of a decision or order that falls on a Saturday, Sunday, or legal holiday is extended to 9 a.m. on the next business day.

[Court Order October 31, 2008, effective January 1, 2009; November 1, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rules 6.402** to **6.500** Reserved.

## DIVISION V
OTHER PROCEEDINGS

**Rule 6.501 Procedure in other proceedings.** Unless otherwise ordered, the procedure in all other proceedings in the appellate courts, such as an action to invoke the supreme court's original

jurisdiction, will comply with the rules of appellate procedure to the fullest extent not inconsistent with specific constitutional or statutory provisions authorizing the proceeding.
[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

**Rules 6.502** to **6.600** Reserved.

## DIVISION VI
STAYING DISTRICT COURT JUDGMENTS AND PROCEEDINGS

**Rule 6.601 Supersedeas bond.**

**6.601(1)** *Requirement of bond and effect on judgment.* Except upon supreme court order or upon district court order entered pursuant to rule 6.601(3), no appeal stays proceedings under a judgment or order unless the appellant executes a bond with sureties, filed with and approved by the district court or the clerk of the district court where the judgment or order was entered. Initiation of appeal will not stay, vacate, or affect the judgment or order appealed from; but the district court or the clerk of the district court will issue a written order requiring the appellee and all others to stay proceedings under it or such part of it as has been appealed from when the supersedeas bond is filed and approved.

**6.601(2)** *Condition and amount of bond.*

*a.* The conditions of such bond will be that the appellant must satisfy and perform the judgment if affirmed, or any judgment or order, not exceeding in amount or value the obligation of the judgment or order appealed from, which an appellate court may render or order to be rendered by the district court, and also all costs and damages adjudged against the appellant on the appeal, and all rents from or damage to property during the pendency of the appeal of which the appellee is deprived by reason of the appeal.

*b.* If the judgment or order appealed from is for money, the bond must not exceed 110% of the amount of the money judgment, unless the district court otherwise sets the bond at a higher amount pursuant to Iowa Code section 625A.9(2)(*a*). The bond must not exceed the maximum amount set forth in Iowa Code section 625A.9(2)(*b*). In all other cases, the bond must be an amount sufficient to hold the appellee harmless from the consequences of the appeal, but in no event less than $1000.

**6.601(3)** *Bond by State or political subdivision.* Upon motion and for good cause shown, the district court may stay all proceedings under the order or judgment being appealed and permit the State or any of its political subdivisions to appeal a judgment or order to the supreme court without the filing of a supersedeas bond.

**6.601(4)** *Form of bond.* A supersedeas bond secured by cash, a certificate of deposit, or government security in a form and in an amount approved by the clerk of the district court may be filed in lieu of other form of bond. If a cash bond is filed, the cash must be deposited at interest with the interest earnings being paid into the general fund of the State in accordance with Iowa Code section 602.8103(5). The cash bond will be disbursed pursuant to court order upon the district court's receipt of the procedendo.

**6.601(5)** *Child custody.* A supersedeas bond filed pursuant to this rule does not stay an order, judgment, decree, or portion thereof affecting the custody of a child. Requests for stays involving child custody are governed by rule 6.604.
[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

**Rule 6.602 Sufficiency of bond.** If any party to an appeal is aggrieved by the clerk of district court's approval of, or refusal to approve, a supersedeas bond tendered by the appellant, the party may apply to the district court, on at least three days' notice to the adverse party, to review the clerk's action. Pending such hearing, the district court may recall or stay all proceedings under the order or judgment appealed from. On such hearing, the district court will determine the sufficiency of the bond, and if the clerk has not approved the bond, the district court will, by order, fix its conditions and determine the sufficiency of the security; or if the district court determines that a bond approved by the clerk is insufficient in security or defective in form, it will discharge the bond and fix a time for filing a new one.
[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

**Rule 6.603 Judgment on bond.** If an appellate court affirms the judgment appealed from, it may, on motion of the appellee, enter judgment against the appellant and the sureties on the supersedeas bond

for the amount of the judgment, with damages and costs, or it may remand the cause to the district court for the determination of such damages and costs and entry of judgment on the bond.
[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

**Rule 6.604 Stays involving child custody.**

**6.604(1)** *Application.* A supersedeas bond filed pursuant to rule 6.601 will not stay an order, judgment, decree, or portion thereof affecting the custody of a child. Upon application in a pending appeal, the appellate court may, in its discretion, stay any district court order, judgment, decree, or portion thereof affecting the custody of a child and provide for the custody of the child during the pendency of the appeal.

**6.604(2)** *Resistance.* An application for a stay pending appeal of any order, judgment, or decree affecting the custody of a child may be resisted and will be ruled upon as provided in rule 6.1002, unless otherwise ordered. Pending consideration of the application for stay, the appellate court may immediately order a temporary stay pursuant to rule 6.1002(4).

**6.604(3)** *Considerations in granting stay.* The best interests of the child are the primary consideration in deciding whether to grant the application for a stay. The best interests of the child likewise are paramount in determining where to place custody of the child during the pendency of the appeal. Additional considerations include, but are not limited to, the following factors when they appear:

*a.* The circumstances giving rise to the adjudication being appealed.

*b.* The safety and protection of the child.

*c.* The safety and protection of the community and the likelihood of serious violence.

*d.* The need to quickly begin treatment or rehabilitation of the child.

*e.* The likelihood of the child fleeing or being removed from the jurisdiction during the pendency of the appeal or not appearing at further court proceedings.

*f.* The availability of custody placement alternatives.

*g.* The child's family ties, employment, school attendance, character, length of residence in the community, and juvenile court record.

*h.* The likelihood of a reversal of the district court order, judgment, or decree on appeal.

**6.604(4)** *Burden.* The applicant seeking the stay order has the burden of showing that such a stay or alternative custody placement of the child pending appeal is in the child's best interests.
[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rules 6.605** to **6.700** Reserved.

## DIVISION VII
FILING, SERVICE, AND FEES

**Rule 6.701 Filing.**

**6.701(1)** *Filing with clerk of supreme court.* Documents required or permitted to be filed in the supreme court or in the court of appeals must be filed with the clerk of the supreme court. All documents required to be served upon a party must be filed with the court before or at the time of service or within a reasonable time thereafter. Whenever these rules require a filing with the supreme court or its clerk within a certain time, the time requirement is tolled once service is made, provided the actual filing is done within a reasonable time thereafter. Documents received by the clerk of the supreme court without a certificate of service are deemed filed when received by the clerk.

**6.701(2)** *Emailing or faxing documents does not constitute electronic filing.* Emailing or faxing a document to the clerk of the supreme court or to an appellate court will not generate a file stamp or a notice of electronic filing and will not result in the filing of the document. *See* Iowa Rs. Elec. P. 16.201(23), 16.306. Documents transmitted to the clerk of the supreme court or to an appellate court by fax or email will only be filed if the party is authorized to submit the document in that manner under rule 6.1(3). Documents transmitted by fax or email may only be transmitted pursuant to a prior arrangement with the clerk of the supreme court. Failure to comply with the submission requirements may result in the imposition of sanctions: the document transmitted may be stricken or

deemed not filed, the appeal or review may be dismissed, or other appropriate action may be taken. Faxed documents are subject to a fee of $3 per page, excluding the cover page.
[Court Order October 31, 2008, effective January 1, 2009; June 29, 2009; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.702 Service.**

**6.702(1)** *Filer's duty to ensure service.* Documents filed with the clerk of the supreme court must be served on all other parties to the appeal or review and on any nonparty required to be served by these rules unless the appropriate appellate court orders otherwise. The filer must ensure that all required service is accomplished pursuant to Iowa Rules of Electronic Procedure 16.315 and 16.319(1)(*c*).

**6.702(2)** *Electronic service on registered filers.* Filed documents are electronically served pursuant to Iowa Rule of Electronic Procedure 16.315(1). Electronic service is not effective if the filer learns that the notice of electronic filing was not transmitted to a party.

**6.702(3)** *Service of paper copies on nonregistered parties.* The filer must serve nonregistered or excused filers and not-yet-registered filers in paper pursuant to Iowa Rule of Electronic Procedure 16.315(2). A certificate of service must be filed for all documents not served by EDMS pursuant to Iowa Rule of Electronic Procedure 16.316.

**6.702(4)** *Service on court reporters.* Required service on a court reporter must be made by email, mail, fax, or hand-delivery.

**6.702(5)** *Additional time after service.* Whenever a party is required or permitted to do an act within a prescribed period after service of a document upon that party and the document is served by mail, email, or fax transmission, three days will be added to the prescribed period. Such additional time is not applicable when the deadline runs from entry or filing of a judgment, order, decree, or opinion.
[Court Order November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.703 Filing fees and copies.**

**6.703(1)** *Filing fees.*

*a. Appeal or cross-appeal from final order or judgment.* The fee for filing a notice of appeal from a final order or judgment is $150. The appellant must pay the fee to the clerk of the supreme court within seven days after filing the notice of appeal. If any party files a notice of cross-appeal, the fee is $150. The cross-appellant must pay the fee to the clerk of the supreme court within seven days after filing the notice of cross-appeal. If the appropriate appellate court determines the appeal or cross-appeal is not from a final order or judgment, the clerk will not refund any part of the filing fee.

*b. Application for interlocutory appeal.* The fee for filing an application for interlocutory appeal is $100. The applicant must pay the fee to the clerk of the supreme court at the time the application is filed. If the application is granted, the applicant must pay an additional $50 fee within seven days after the order granting the application is filed.

*c. Application for discretionary review.* The fee for filing an application for discretionary review is $100. The appellant must pay the fee to the clerk of the supreme court at the time the application is filed. If the application is granted, the appellant must pay an additional $50 fee within seven days after the order granting the application is filed.

*d. Petition for writ of certiorari.* The fee for filing a petition for writ of certiorari is $100. The certiorari plaintiff must pay the fee to the clerk of the supreme court at the time the petition is filed. If the petition is granted, the plaintiff must pay an additional $50 fee within seven days after the order granting the petition is filed.

*e. Original proceeding other than certiorari.* The fee for filing an original proceeding other than certiorari is $150. The initiating party must pay the fee to the clerk of the supreme court at the time the proceeding is filed.

*f. Certified questions of law.* The fee for filing a certification order is $150. The appellant must advance the fee to the clerk of the supreme court within seven days after the certification order is filed. Costs will ultimately be apportioned pursuant to rule 6.304(2).

*g. Application for further review.* The fee for filing an application to the supreme court for further review of a decision of the court of appeals is $75. The applicant must pay the fee to the clerk of the supreme court at the time of filing the application for further review.

**6.703(2)** *Waiver or deferral of filing fees.*

*a. Waiver of filing fees.*

(1) *State as filing party.* If the State of Iowa is the filing party, the clerk of the supreme court will waive any filing fees.

(2) *Abortion notification appeals.* In appeals from abortion notification proceedings, the clerk of the supreme court will waive any filing fees.

(3) *Criminal defendant as filing party.* If a criminal defendant is the filing party and there has been a district court finding of indigency, the clerk of the supreme court will waive any filing fees upon the defendant's motion. The defendant's motion to waive the filing fee must be accompanied by a copy of the district court order finding the defendant indigent. If a criminal defendant is the filing party and the appellate defender's office has been appointed to represent the defendant, the clerk will waive any filing fees without motion.

(4) *Postconviction applicant as filing party.* If an applicant under Iowa Code section 822.9 is the filing party and there has been a district court finding of indigency, the clerk of the supreme court will waive any filing fees upon the applicant's motion. The applicant's motion to waive the filing fee must be accompanied by a copy of the district court order finding the applicant indigent. If the appellate defender's office has been appointed to represent the postconviction-relief applicant, the clerk will waive the filing fees without motion.

(5) *Waiver of filing fee authorized by other rule or statute.* If waiver of the filing fee is otherwise authorized by a rule or statute, the clerk of the supreme court will waive the filing fee upon motion. The motion must state the applicable rule or statute that authorizes waiver of the filing fee.

*b. Deferral of filing fee.* If a rule, statute, or court order authorizes a party to defer payment of a filing fee, the clerk of the supreme court will enter an order deferring the fee upon motion. The motion must state the applicable rule or statute or attach the court order that authorizes deferral of the filing fee.

**6.703(3)** *Copies.* The fee for providing paper copies of documents is 50¢ for each page. An additional fee of $10 applies for a certified copy of a document.

[Court Order October 31, 2008, effective January 1, 2009; December 18, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rules 6.704** to **6.800** Reserved.

## DIVISION VIII
RECORD ON APPEAL

**Rule 6.801 Composition of record on appeal.** Only the following constitute the record on appeal:

*a.* Original documents and exhibits filed in the district court case from which the appeal is taken.

*b.* Transcript of proceedings, if any.

*c.* Court calendar entries prepared by the clerk of the district court.

*d.* Documents from related cases when judicial notice was taken of the specific document or file.

*e.* Documents or filings from other cases when required by law, including Iowa Code section 822.6A involving claims of postconviction relief.

[Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.802 Transmission of record.**

**6.802(1)** *Transmission of notice of appeal.* The clerk of the district court will electronically transmit certified copies of the notice of appeal and the notice of cross-appeal, if any, in the district court proceeding to the clerk of the supreme court, any court reporter who reported a proceeding that is the subject of the appeal, and the attorney general in juvenile cases and other cases in which the State is an interested party whether or not the attorney general has appeared in the district court. Transmission must be completed within four days after the filing of the notice of appeal or the notice of cross-appeal, if any.

**6.802(2)** *Transmission of record on appeal.*

*a. Termination of parental rights and child in need of assistance proceedings under Iowa Code chapter 232.* If the appeal is from a termination of parental rights or a child in need of assistance proceeding under Iowa Code chapter 232, the appellant must file a request with the clerk of the district court to transmit to the clerk of the supreme court any remaining record within 30 days after the filing of the notice of appeal.

*b. All other cases.* No later than 14 days after all briefs have been filed or the time periods for filing them have expired, the appellant must file a request with the clerk of the district court to transmit the record to the clerk of the supreme court and file an informational copy with the clerk of the supreme court.

*c. Nonelectronic documents or exhibits.*

(1) Any nonelectronic document or exhibit that may reasonably be maintained electronically must be converted to an electronic document and transmitted to the clerk of the supreme court electronically.

(2) Physical media such as CDs, DVDs, or USB drives containing electronic documents or exhibits that cannot be maintained by EDMS must be transmitted to the clerk of the supreme court with the record. Nonelectronic exhibits of unusual bulk or weight will not be transmitted by the clerk of the district court unless a party or the clerk of the supreme court requests transmission. A party must make advance arrangements with the clerk of the district court for the transmission and the clerk of the supreme court for the receipt of exhibits of unusual bulk or weight.

**6.802(3)** *Request to transmit record in rule 6.1005 cases.* At the time of filing a motion to withdraw pursuant to rule 6.1005(3), counsel must file a request with the clerk of the district court to transmit the record to the clerk of the supreme court. *See* rule 6.1005(5).

**6.802(4)** *Certification of confidential record.* Whenever the clerk of the district court transmits a district court record or any portion of the record that is declared by any statute or rule of the supreme court to be confidential, the clerk of the district court must certify its confidential nature.

**6.802(5)** *Portions of record not transmitted.* Any parts of the record not transmitted to the clerk of the supreme court will, on request of an appellate court or any party, be transmitted by the clerk of the district court to the clerk of the supreme court.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.803 Transcripts.**

**6.803(1)** *Ordering transcripts of district court proceedings.* It is the appellant's responsibility to ensure that the transcripts of any district court proceeding needed for resolution of the appeal are included in the record. If the appellant intends to argue on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the record on appeal must include a transcript of all evidence relevant to such finding or conclusion. Any relevant evidence presented before the district court in a reported or recorded proceeding that has not previously been both transcribed and filed in the district court record must be ordered in the combined certificate. *See* rule 6.804. If a transcript is needed from a recorded hearing, the appellant must also file an application for a transcript of an electronically recorded court proceeding and appointment of a transcriptionist in the district court within seven days of the filing of the notice of appeal.

**COMMENT: Rule 6.803(1).** A written transcript from an electronic recording of a court proceeding, when produced by a transcriptionist appointed by the court or district court administrator, is the official transcript of the court proceeding. An application for a transcript of an electronically recorded court proceeding and appointment of a transcriptionist may be found at the Iowa Judicial Branch website at: www.iowacourts.gov/for-the-public/court-forms.

**6.803(2)** *Form of transcript.* The following transcript format requirements must be followed whether the transcript is produced in printed or electronic format.

*a. Page layout.* A page of transcript must consist of no fewer than 25 lines per page of type on document pages 8 1/2 by 11 inches in size. Margins must be 1 1/8 inches on each side and 1 inch on the top and bottom. Pages must be numbered consecutively in the upper right-hand corner. If the transcript for a proceeding consists of multiple volumes, the volumes must not be consecutively paginated.

*b. Font.* A monospaced typeface may not contain more than ten characters per inch. Font size must be 12-point.

*c. Question-and-answer form.* Questions and answers must each begin a new line of transcript. Indentations for speakers or paragraphs may not be more than ten spaces from the left-hand margin. Testimony of a new witness may be started on a new page where the prior witness's testimony ends below the center of the preceding page. On any page containing witness testimony, the name of the witness and the designation of questioning (direct, cross, etc.) must appear in the margin at the top of each page of testimony.

*d. Index.* Transcripts must include an index of witnesses and exhibits at the beginning of each volume of the transcript.

*e. Condensed transcripts not permitted.* Condensed transcripts, which include multiple pages of transcript on a single page, may not be submitted.

*f. Format of electronic transcripts.* Electronic transcripts must be prepared to be text searchable and comply with Iowa Rule of Electronic Procedure 16.402.

**6.803(3)** *Filing transcript and certificate of filing.*

*a.* The reporter will file the transcript with the clerk of the district court. The reporter will also prepare and file with the clerk of the supreme court a reporter's certificate of filing the transcript. The certificate must contain the case caption, the date the transcript was ordered, the name of the attorney or other person ordering the transcript, and the date it was filed with the district court.

*b.* The transcript and the reporter's certificate of filing the transcript must be filed within the following number of days from service of the combined certificate:

(1) Guilty pleas and sentencing: 20 days.

(2) Child in need of assistance and termination of parental rights proceedings under chapter 232: 30 days.

(3) All other cases: 40 days.

*c.* If a reporter cannot file the transcript and certificate of filing the transcript in the time allowed under this rule, the reporter must file with the clerk of the supreme court an application for extension of time and serve a copy on all counsel of record, any unrepresented parties, and the chief judge of the judicial district. The application must include the estimated date of completion, the approximate page length of the transcript, and the grounds for requesting the extension.

**6.803(4)** *Charges for transcription.* Pursuant to Iowa Code section 602.3202, the maximum compensation of reporters for transcribing their official notes will be as provided in Iowa Court Rule 22.28.

**6.803(5)** *Payment for transcript.* The ordering party must make satisfactory arrangements with the reporter for payment of the transcript costs. The cost of the transcript will be taxed by court order in the district court.

**6.803(6)** *Issuance of briefing notice.* The clerk of the supreme court will issue a notice of briefing deadline when all transcripts ordered for the appeal have been filed.

[Court Order October 31, 2008, effective January 1, 2009; March 9, 2009; November 18, 2016, effective March 1, 2017; December 6, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.804 Combined certificate.**

**6.804(1)** *Duty of appellant to file combined certificate.* In all cases, the appellant must complete the combined certificate form found in rule 6.1401—Form 2: *Combined Certificate*. The combined certificate must be separately filed with both the clerk of the district court and the clerk of the supreme court within seven days after filing the notice of appeal or appointment of new appellate counsel, whichever is later. The appellant must serve the combined certificate on each court reporter from whom a transcript was ordered. Service on a court reporter must be made by email, mail, fax, or hand-delivery. Iowa R. App. P. 6.702(4).

**6.804(2)** *Certification of ordering transcript.* If a report of the evidence or proceedings at a hearing or trial was made and is available and the appellant deems some or all of that report necessary for inclusion in the record on appeal, the appellant must certify in the combined certificate that the transcript has been ordered. This certification will be deemed a professional statement by the person signing it that the transcript has been ordered in good faith, that no arrangements have been made or suggested to delay the preparation of the transcript, and that payment for the transcript will be made in accordance with these rules.

**6.804(3)** *Appellant's designation of parts of transcript ordered.* Unless all of the proceedings are to be transcribed, the appellant must describe in the combined certificate the parts of the proceedings ordered transcribed and state the issues the appellant intends to present on appeal.

**6.804(4)** *Statement that expedited deadlines apply.* The appellant must indicate in the combined certificate whether the expedited deadlines of rule 6.902 apply.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.805 Appellee's designation of additional parts of transcript.**

**6.805(1)** *Appellee's designation.* If the appellee deems a transcript of other parts of the proceedings is necessary, the appellee must separately file a designation of additional parts to be transcribed with both the clerk of the district court and the clerk of the supreme court and must serve

the designation on each court reporter within ten days after service of the combined certificate. The appellee may request permission to file a separate designation of additional parts to be transcribed beyond the ten-day period upon a showing of good cause for being unable to meet the ten-day requirement.

**6.805(2)** *Disputes regarding transcription.* The parties are encouraged to agree on which parts of the proceedings are to be transcribed. Any disputes concerning which parts of the proceedings are to be transcribed and which party is to advance payment to the reporter for transcription are to be submitted to the district court. If, within four days of the appellee's designation of additional parts, the appellant fails or refuses to order such parts, the appellee must either order the parts or apply to the district court to compel the appellant to do so.

**6.805(3)** *Supplemental certificate.* Within seven days after the appellee has served a designation of additional parts of the proceedings requested to be transcribed, the party ordering the additional proceedings must use the supplemental certificate found in rule 6.1401—Form 3: *Supplemental Certificate* to order the additional proceedings transcribed, serve it on each court reporter, and file it with both the clerk of the district court and the clerk of the supreme court.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.806 Proceedings when the transcript is unavailable.**

**6.806(1)** *Statement of the evidence or proceedings.* A statement of the evidence or proceedings may be prepared to create a record of a hearing or trial for which a transcript is unavailable if a party deems it necessary to complete the record on appeal. The statement must be prepared from the best available means, including the parties' recollection. The statement must be filed with the clerk of the district court within 20 days after the filing of the notice of appeal or within 10 days after the party discovers the transcript of a proceeding is unavailable.

**6.806(2)** *Objections to statement of evidence or proceedings.* The opposing party may file with the clerk of the district court objections or proposed amendments to the statement of the evidence or proceedings within ten days after service of the statement.

**6.806(3)** *District court approval of the statement of evidence or proceedings.* The statement of the evidence or proceedings and any objections or proposed amendments thereof must be submitted to the district court for settlement and approval. After considering the statement, any objections or proposed amendments, and its own recollections, the district court may conduct a hearing and compel any necessary persons to appear as witnesses, and may approve, reject, or revise the statement as it deems necessary to ensure the correctness and completeness of the record. The statement as settled and approved must be filed with the clerk of the district court and the clerk of the supreme court.

[Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.807 Correction or modification of the record.** If any difference arises as to whether the record truly discloses what occurred in the district court, commission, agency, or other tribunal, a request to settle the difference must be submitted to and resolved by that court, commission, agency or other tribunal and the record made to conform to the truth.

**6.807(1)** If that court, commission, agency, or other tribunal determines that anything a party deems necessary was omitted from the record by error or accident or is misstated, such error or omission must be corrected in the record on appeal. Such correction may be made by stipulation of the parties or by the district court, commission, agency, or other tribunal.

**6.807(2)** If the correction is made after the record has been transmitted to the supreme court, a supplemental record must be certified and transmitted.

**6.807(3)** A copy of any request to correct or modify the record must be filed with the clerk of the supreme court.

**6.807(4)** All other questions as to the form and content of the record must be presented to the supreme court, unless the questions arise after the case has been transferred to the court of appeals, in which event, they must be presented to that court.

[Court Order October 31, 2008, effective January 1, 2009; March 9, 2009; September 29, 2023, effective April 1, 2024]

**Rules 6.808** to **6.900** Reserved.

## DIVISION IX
BRIEFS

**Rule 6.901 Filing and service of briefs and amendments.**

**6.901(1)** *Time for filing briefs.* Except for cases expedited under rule 6.902, the following filing deadlines apply:

*a. Appellant's brief.* The appellant's brief must be filed within 50 days after the date the clerk of the supreme court gives the notice of the briefing deadline required under rule 6.803(6).

*b. Appellee's brief.* Within 30 days after service of the appellant's brief, the appellee must file either a brief, a written statement under rule 6.903(3) waiving the brief, or a combined appellee's/cross-appellant's brief pursuant to rule 6.903(6).

*c. Reply briefs.* If a cross-appeal has not been filed, the appellant may file a reply brief within 21 days after service of the appellee's brief. If a cross-appeal has been filed, the appellant/cross-appellee must respond within 21 days after service of the appellee/cross-appellant's brief by filing either a reply brief or a statement waiving any further brief. If the appellant/cross-appellee files a reply brief, the appellee/cross-appellant may file a reply brief within 14 days after service of the appellant's/cross-appellee's reply brief.

**6.901(2)** *Request to modify roles and briefing schedule.* If the parties' interests differ from traditional appellant-appellee roles, a party may request the clerk of the supreme court to realign the parties or modify the briefing schedule.

**6.901(3)** *Notice to the attorney general.* When the constitutionality of an act of the general assembly is drawn into question in an appeal or other proceeding to which the State of Iowa or an officer, agency, or employee thereof is not a party in an official capacity, the party raising the constitutional issue must, within three days after filing the party's brief, provide the attorney general with written notice containing the supreme court case number, a reference to rule 6.901(3) identifying the act called into question, and the contact information of the attorney(s) of record. The notice to the attorney general may be provided by regular mail or as directed by the attorney general. An informational copy of the notice must be filed with the clerk of the supreme court within three days after the filing of the party's brief.

**6.901(4)** *Counsel's duty to serve brief on respondent committed under Iowa Code chapter 229A.* In addition to the service requirements of rule 6.702, appellate counsel for a respondent committed under Iowa Code chapter 229A must serve a copy of counsel's brief upon the respondent. Counsel must indicate such service in the certificate of service on the brief. The certificate of service must include the address at which the respondent was served.

**6.901(5)** *Pro se supplemental briefs by respondents committed under Iowa Code chapter 229A.*

*a. Filing of supplemental brief.*

(1) Any respondent committed under Iowa Code chapter 229A may submit a pro se supplemental brief to the clerk of the supreme court within 15 days after service of the brief filed by respondent's counsel.

(2) Any pro se supplemental brief submitted beyond this period by a properly served respondent will not be considered by the court and no response by the State will be allowed.

(3) The pro se supplemental brief may not exceed more than one-half of the length limitations for a required brief specified in rule 6.903(1)(*i*) unless otherwise ordered by the court for good cause shown.

(4) A pro se supplemental brief may be filed by the pro se filer or by the pro se filer's counsel.

*b. Pro se as appellant.*

(1) If the respondent is the appellant, the State's brief must be filed within 30 days after service of the pro se supplemental brief, and the State must serve a copy of its brief upon the appellant.

(2) Within the time provided for the appellant's counsel to file a reply brief, the appellant may also file a pro se supplemental reply brief. The pro se supplemental reply brief may not exceed more than one-half of the length limitations for a reply brief specified in rule 6.903(1)(*i*) unless otherwise ordered by the court for good cause shown.

*c. State as appellant.* If the State is the appellant, the State must serve and file a reply brief, if any, within 21 days after service of the pro se supplemental brief.

*d. Counsel's duty to ensure filing and service of supplemental briefs.* Counsel for the respondent must ensure that pro se supplemental briefs have been electronically filed and ensure that service has been accomplished pursuant to rule 6.702.

**6.901(6)** *Other supplemental briefs.* If the appellate court concludes supplemental briefs from the parties will assist the court in deciding any issue in the case, it may file an order stating the issue or issues to be addressed, the length of such brief, and the schedule for filing them.

**6.901(7)** *Multiple adverse parties.* In the event of multiple appellants, the deadline to file a responding appellee's brief will run from the date of service of the last appellant's brief filed. In the event of multiple appellees, the deadline to file any reply brief will run from the date of service of the last timely served appellee's brief, the last statement waiving a brief, or the date of expiration of time for such service.

**6.901(8)** *Amendments.*

*a.* An appellant's opening brief may be amended once within 15 days after service of the brief, provided no brief has been served in response to it. The time for serving and filing of the appellee's brief will be measured from the date of service of the amendment to the appellant's brief.

*b.* An appellee's brief may be amended once within ten days after service, provided no brief has been served in reply to it. The time for serving and filing the appellant's reply brief will be measured from the date of service of the amendment to the appellee's brief.

*c.* A reply brief may be amended once within seven days after it is served.

*d.* Any other amendments to the briefs may be made only with leave of the appropriate appellate court. An amendment may be conditionally filed with a motion for leave.

**6.901(9)** *Deadlines shortened by order.* The supreme court may shorten the periods for serving and filing briefs.

[Court Order October 31, 2008, effective January 1, 2009; March 9, 2009; November 18, 2016, effective March 1, 2017; July 20, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.902 Cases involving expedited times for filing briefs.**

**6.902(1)** *Expedited cases.* The following cases are expedited on appeal:

*a.* Child custody, physical care, or visitation.

*b.* Adoption.

*c.* Termination of parental rights proceedings under Iowa Code chapter 600A.

*d.* Child in need of assistance or termination of parental rights proceedings under Iowa Code chapter 232 when full briefing has been granted.

*e.* Criminal proceedings in which an appeal is taken from a judgment and sentence entered upon a guilty plea or from a sentence or resentencing order only.

*f.* Juvenile proceedings affecting child placement.

*g.* Lawyer disciplinary matters.

*h.* Involuntary commitments of mentally ill persons under Iowa Code chapter 229.

*i.* Involuntary commitments of persons with substance use disorders under Iowa Code chapter 125.

*j.* Certified questions under Iowa Code chapter 684A.

**6.902(2)** *Filing deadlines.*

*a.* The time for serving and filing briefs, other than reply briefs, is reduced by one-half of the time provided in rule 6.901(1).

*b.* Reply briefs, except an appellee/cross-appellant's reply brief, must be served and filed not more than 15 days after service or expiration of the time for service of the appellee's brief.

*c.* An appellee/cross-appellant's reply brief must be served and filed not more than seven days after service of the appellant's/cross-appellee's reply brief.

*d.* The court will not grant extensions of time in which to comply with the expedited deadlines except upon a showing of the most unusual and compelling circumstances.

**6.902(3)** *Priority.* Each case subject to rule 6.902 will be given the highest priority at all stages of the appellate process. These appeals will be accorded submission precedence over other civil cases.

**6.902(4)** *Transcripts.* Court reporters must give priority to transcription of proceedings in these cases.

[Court Order October 31, 2008, effective January 1, 2009; January 26, 2024; September 29, 2023, effective April 1, 2024]

**Rule 6.903 Briefs.**

**6.903(1)** *Form of briefs.*

*a. Reproduction.* A brief must show clear black text on a white background. A brief filed in paper may be reproduced by any process that yields a clear black image on white paper. The paper must

be opaque and unglazed. Briefs filed in paper must comply with Iowa Rule of Electronic Procedure 16.303.

*b. Images.* Charts, diagrams, graphs, photographs, or other images may be included in a brief; however, images depicting a person are not permitted without leave of the appellate court. Images that contain information considered confidential or protected by statute, rule, or court order may not be included in a brief. To the extent practicable, text in charts, diagrams, or graphs should follow the requirements in rule 6.903(1)(*g*).

*c. Form of front covers.* The front covers of briefs must contain:

(1) The name of the court, any district court number, and the appellate number of the case.

(2) The caption on appeal. *See* rule 6.152(2).

(3) The nature of the proceeding (e.g., appeal, certiorari) and the name of the court and judge, agency, or board whose decision is under review.

(4) The title of the document (e.g., Brief for Appellant).

(5) The name, address, telephone number, and email address of counsel or the self-represented party filing the brief.

*d. Searchable .pdfs.* Every brief must be filed as a searchable .pdf document.

*e. Document size; line spacing; margins.* The brief must be an 8 1/2 by 11 inch document. The text must be double-spaced, but quotations more than 50 words long may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be 1 inch on all sides.

*f. Page numbering.* Page numbers must be located at the bottom center of each page. The pages must be numbered consecutively using Arabic whole numbers. The cover page must be numbered as page one. Any blank pages must be numbered. Roman numerals may not be used as page numbers. Page numbers must match the digital page numbers of the electronic document.

*g. Typeface.* Either a proportionally spaced or a monospaced typeface may be used.

(1) A proportionally spaced typeface must include serifs, but sans-serif type may be used in headings and captions. A proportionally spaced typeface must be 14-point or larger for all text, including footnotes. Examples of proportionally spaced typeface with serifs that can be used in the body of a brief are Baskerville Old Face, Bookman Old Style, Cambria, Century Schoolbook, Garamond, Georgia, or Times New Roman.

(2) A monospaced typeface may not contain more than 10 1/2 characters per inch for all text, including footnotes. Examples of monospaced typeface that can be used in the body of a brief are Courier 12-point and Consolas 12-point.

*h. Type styles.* A brief must be set in a plain style. Italics or boldface may be used for emphasis. Case names must be italicized or underlined.

*i. Length.* The maximum length of a brief is determined by whether it is printed or handwritten.

(1) *Proportionally spaced typeface.* A brief using proportionally spaced typeface may contain no more than 13,000 words. A reply brief may contain no more than half of the type volume specified for a brief. Headings, footnotes, and quotations count toward the word limitation. Captions, tables of contents, tables of authorities, statements of the issues, signature blocks, and certificates do not count toward the word limitation.

(2) *Monospaced typeface.* A brief using a monospaced typeface may contain no more than 1,300 lines of text. A reply brief may contain no more than half of the type volume specified for a brief. Headings, footnotes, and quotations count toward the line limitation. Captions, tables of contents, tables of authorities, statements of the issues, signature blocks, and certificates do not count toward the line limitation.

(3) *Handwritten briefs.* A brief that is handwritten may not exceed 50 pages. Reply briefs may not exceed 25 pages. Headings, footnotes, and quotations count toward the page limitation. Captions, tables of contents, tables of authorities, statements of the issues, signature blocks, and certificates do not count toward the page limitation.

(4) *Certificate of compliance.* A brief submitted under rule 6.903(1)(*i*)(1)–(2) must include a certificate of compliance using rule 6.1401—Form 7: *Certificate of Compliance with Typeface Requirements and Type-Volume Limitation for Briefs*.

*j. Printing or duplicating taxed as costs.* To the extent reasonable, the costs of printing or duplicating a brief may be taxed in the appellate court as costs. Reasonable printing or duplicating costs may not exceed actual costs or $1 per page, whichever is lower, unless otherwise ordered by the appropriate appellate court. The costs of any printing or duplication not required by these rules may not be taxed as costs.

**COMMENT: Rule 6.903(1)(*b*).** Parties may include images useful to the appellate courts, such as boundary-dispute maps, accident-reconstruction diagrams, and particularly relevant photographs. Parties are discouraged from including or seeking leave to include gratuitous or inflammatory images, such as autopsy photos, photos depicting injuries or bodily fluids, and other images that unnecessarily invade the privacy of a party or other person.

**6.903(2)** *Appellant's brief.*

*a. Contents.* The appellant's brief must contain all of the following under appropriate headings and in the following order:

(1) *Table of contents.* A table of contents containing page references.

(2) *Table of authorities.* A table of authorities containing a list of cases alphabetically arranged, statutes, and other authorities cited with references to all pages of the brief where they are cited.

(3) *Statement of the issues presented for review.* A statement of the issues presented for review. Each issue must be numbered and stated separately in the same order as presented in the argument.

(4) *Routing statement.* A routing statement indicating whether the case should be retained by the supreme court or transferred to the court of appeals with reference to the applicable criteria in rule 6.1101.

(5) *Nature of the case.* The nature of the case is a brief statement indicating what the appellant is appealing, the type of case being appealed, and the disposition of the case in the district court. If a defendant appeals from a criminal conviction, the statement must include the crimes for which the defendant was convicted and the sentence imposed. All portions of the statement must be supported by appropriate references to the record in accordance with rule 6.904(4).

(6) *Statement of the facts.* A statement of the facts reciting the facts relevant to the issues presented for review. Each statement must be supported by specific references to the record in accordance with rule 6.904(4).

(7) *Jurisdictional statement.* In an appeal from a final judgment of sentence following a guilty plea, a jurisdictional statement is required that must include a concise statement that either (1) explains that the appellant pleaded guilty to a class "A" felony, or (2) demonstrates the grounds that establish "good cause" for purposes of Iowa Code section 814.6(1)(*a*)(3). The appellant must include citations to the authorities relied on to invoke the supreme court's jurisdiction and references to the pertinent parts of the record in accordance with rule 6.904(4).

(8) *Argument section.* An argument section structured so that each issue raised on appeal is addressed in a separately numbered division. Each division must include all of the following in the following order:

1. A statement addressing how the issue was preserved for appellate review, with references to the places in the record where the issue was raised and decided in the district court. Filing a notice of appeal does not preserve an issue for appeal, and citing to the notice does not satisfy this requirement.

2. A statement addressing the scope and standard of appellate review (e.g., de novo, correction of errors at law, abuse of discretion), citing relevant authority.

3. An argument containing the appellant's contentions and the reasons for them with citations to the authorities relied on and references to the pertinent parts of the record in accordance with rule 6.904(4). No authorities or argument may be incorporated into the brief by reference to another document. Failure to cite authority in support of an issue may be deemed waiver of that issue.

(9) *Conclusion.* A conclusion stating the precise relief being sought.

(10) *Request for oral or nonoral submission.* A request to submit the case with or without oral argument. The request may include a statement explaining why oral argument should or should not be granted.

(11) *Certificate of cost.*A certificate of cost is required only for briefs filed in paper form. The amount actually paid for printing or duplicating paper copies of briefs in final form required by these rules must be certified by the attorney.

*b. Attachments.*

(1) The appellant must attach to the brief a file-stamped copy of the written judgment(s), order(s), or decision(s) being appealed. Transcripts of oral rulings may not be attached to the brief; parties must cite to the relevant transcript of oral rulings in their brief pursuant to rule 6.904(4).

1. For appeals from administrative agency actions, the appellant must attach the written rulings from each stage of the agency proceeding in addition to the district court's final judgment, order, or decision.

2. For appeals in criminal cases, the appellant must attach the final judgment of sentence in addition to any specific written order(s) or decision(s) being appealed.

3. For appeals from a ruling on a motion for new trial under Iowa Rule of Civil Procedure 1.1004 or a motion under Iowa Rule of Civil Procedure 1.904(2), the appellant must attach both the judgment, order, or decision that was the subject of the motion and the written ruling on the motion.

(2) Attachments containing protected information as defined in Iowa Rule of Civil Procedure 1.422(1) or Iowa Rule of Electronic Procedure 16.602 or a reproduction, quotation, or extensive paraphrase of material that contains protected information must be identified as "confidential" when attached via the EDMS electronic attachment function and must comply with the certificate of confidentiality provisions in rule 6.153(2)(*a*).

**COMMENT: Rule 6.903(2)(*a*)(8)(3).** Under rule 6.903(2)(*a*)(8)(3), an issue may be deemed waived by failure to cite applicable authority in support of an argument. If a party intends to raise a state constitutional issue independent of a federal constitutional issue, ordinarily the party should make a separate argument supported by citation to authority to avoid waiving the issue under rule 6.903(2)(*a*)(8)(3).

**6.903(3)** *Appellee's brief.* The appellee must file a brief or a statement waiving the appellee's brief. If the appellee files a brief, the brief must conform to the requirements of rule 6.903(2), except that the nature of the case, statement of the facts, and jurisdictional statement for an appeal from a final judgment of sentence following a guilty plea pursuant to Iowa Code section 814.6(1)(*a*)(3) need not be included unless the appellee is dissatisfied with the appellant's statements. Each division of the appellee's argument must begin with a discussion of whether the appellee agrees with the appellant's statements on error preservation, scope of review, and standard of review.

**6.903(4)** *Appellant's reply brief.* The appellant may file a brief in reply to the brief of the appellee. Issues may not be asserted for the first time in the reply brief. The reply brief does not need to contain the sections required by rule 6.903(2)(*a*)(4)–(7), 6.903(2)(*a*)(8)(1)–(2), and 6.903(2)(*a*)(10). The reply brief must otherwise comply with rule 6.903(2)(*a*). Unless a cross-appeal is filed, no further briefs may be filed without leave of the appropriate appellate court.

**6.903(5)** *Briefs in cross-appeals.* The brief of the appellee/cross-appellant must respond to the brief of the appellant and then address the issues raised in the cross-appeal. The cross-appellant's brief must include the attachments required by rule 6.903(2)(*b*) unless the cross-appeal is from an order attached to the appellant's brief. The appellant/cross-appellee must file a reply brief responding to the issues presented by the cross-appeal or a statement waiving the reply brief. The appellee/cross-appellant may file a reply brief responding to the appellant/cross-appellee's reply brief, which must be limited to the cross-appeal and may not assert any issues for the first time.

**6.903(6)** *Multiple appellants or appellees.* In a case involving a cross-appeal, an appellee who has not filed a cross-appeal must file a brief that either responds to or waives response to the issues raised in the appellant's brief, and then addresses the issues raised in the cross-appeal. The appellant must then file either a brief that addresses the appeal or cross-appeal issues, or a statement waiving any responsive brief. If the appellant files a brief that addresses the cross-appeal issues, the appellee may file a reply brief limited to those issues.

[Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.904 References in briefs.**

**6.904(1)** *To the parties.* Briefs should minimize references to parties by such designations as "appellant" and "appellee" and should use the actual names of the parties or descriptive terms such as "the plaintiff," "the defendant," "the employee," "the injured person," "the taxpayer," or "the decedent."

**6.904(2)** *To legal authorities.*

*a. Cases.*

(1) When citing cases, parties must use a Bluebook-type citation format that includes the parties' names, the volume and page number of the national reporter, a pin cite to the specific page of the opinion supporting the proposition for which the case is cited, the court issuing the decision, and the year it was filed. Citations to Iowa cases must be to the North Western Reporter unless not reported therein, in which case the citation must be to the official reporter. E.g., ___N.W.2d___, ___ (Iowa ___ ); ___ N.W.2d ___, ___ (Iowa Ct. App___); ___ U.S. ___, ___(___).

(2) Unpublished opinions or decisions. Unpublished opinions or decisions of a court or agency do not constitute controlling legal authority, but they may be cited as providing persuasive reasoning.

1. When citing an unpublished opinion or decision, a party must use a Bluebook-type citation format and include the docket number and a citation to a readily accessible electronic database, such

as Westlaw or LexisNexis, if available. E.g., *Smith v. Smith*, No. _____, ____ WL _____, at *___ (Iowa Ct. App. ___ __, ____).

2. If a party cites an unpublished opinion or decision that is not available in a readily accessible electronic database, such as Westlaw or LexisNexis, the party must file and serve as an attachment a copy of that opinion or decision with the brief or other paper in which it is cited. Iowa R. Elec. P. 16.311.

*b. Iowa Court Rules.* When citing the Iowa Court Rules, parties must use the following references:

(1) "Iowa R. Civ. P."; "Iowa R. Crim. P."; "Iowa R. Evid."; "Iowa R. App. P."; "Iowa R. Remote P."; "Iowa R. Elec. P."; "Iowa R. of Prof'l Conduct"; and "Iowa Code of Judicial Conduct" when citing those rules.

(2) "Iowa Ct. R." when citing all other rules.

*c. Other authorities.* When citing other authorities, parties must use a Bluebook-type citation format. References must be made as follows:

(1) Citations to codes must include the section number and date.

(2) Citations to treatises, textbooks, and encyclopedias must include the edition and the section or page number as applicable.

(3) Citations to all other authorities must include page numbers.

*d. Internal cross-references.* Use of "supra" and "infra" is not permitted.

**6.904(3)** *To legal propositions.* The following propositions are deemed so well established that authorities need not be cited in support of them:

*a.* Findings of fact in a law action are binding upon the appellate court if supported by substantial evidence.

*b.* In considering the propriety of a motion for directed verdict, the court views the evidence in the light most favorable to the party against whom the motion was made.

*c.* In ruling upon motions for new trial, the district court has a broad but not unlimited discretion in determining whether the verdict effectuates substantial justice between the parties.

*d.* The court is less likely to interfere with the grant of a new trial than with its denial.

*e.* Ordinarily, the burden of proof on an issue is upon the party who would suffer loss if the issue were not established.

*f.* In civil cases, the burden of proof is measured by the test of preponderance of the evidence.

*g.* In equity cases, especially when considering the credibility of witnesses, the appellate court gives weight to the fact-findings of the district court but is not bound by them.

*h.* The party who so alleges must, unless otherwise provided by statute, prove negligence by a preponderance of the evidence.

*i.* A motorist upon a public highway has a right to assume that others using the road will obey the law, including statutes, rules of the road, and necessity for due care, at least until the motorist knows or in the exercise of due care should have known otherwise.

*j.* Generally questions of negligence and contributory negligence are for the jury; it is only in exceptional cases that they may be decided as matters of law.

*k.* Reformation of written instruments may be granted only upon clear, satisfactory, and convincing evidence of fraud, deceit, duress, or mutual mistake.

*l.* Written instruments affecting real estate may be set aside only upon evidence that is clear, satisfactory, and convincing.

*m.* In construing statutes, the court searches for the legislative intent as shown by what the legislature said, rather than what it should or might have said.

*n.* In child custody cases, the first and governing consideration of the courts is the best interests of the child.

*o.* Direct evidence and circumstantial evidence are equally probative.

*p.* Even when the facts are not in dispute or contradicted, if reasonable minds might draw different inferences from them a jury question is engendered.

**6.904(4)** *To the record.*

*a. Record citations in briefs.*

(1) *Citation format.* Briefs must contain a citation to the record for each material statement of fact and case proceeding that identifies the particular part of the record by docket number, title of document (intelligible abbreviations may be used), reference to the specific pages of the record including the original page and line numbers for citations to a transcript, and the filing date. E.g., D0023, M. New Trial at 5 (5/26/2020).

(2) *Multiple district court cases.* In an appeal involving review of more than one district court docket, the citation to the record must also include the district court docket number. E.g., D0002 (CVCV307586), M.S.J. at 7 (5/26/2020).

(3) *District court attachments to filings.* If an attachment to a document does not have its own docket number, a citation to the attachment must refer to the docket number of the document in addition to the title of the attachment. E.g., Attachment to D0543, Exh. 3 at 5 (3/31/2007).

*b. Abbreviations.* Subsequent citations to the same filing from the district court may be abbreviated by reference to the docket number and the corresponding page number. E.g., D0307 at 5.

**6.904(5)** *Hyperlinks and other electronic navigational aids.* Hyperlinks and other electronic navigational aids may be included in an electronically filed document as an aid to the court and the parties subject to the limitations of Iowa Rule of Electronic Procedure 16.312. A party may not use hyperlinks or other navigational aids to circumvent any page limitations set by these rules.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.905** Reserved.

**COMMENT: Former rule 6.905.** The appendix process has been eliminated and has been replaced with the requirement to attach to the appellant's brief the orders and judgments being appealed as provided in rule 6.903(2)(*b*).

In exceptional cases, if a party believes that an appendix will assist the reviewing court, then that party may file a motion seeking leave of court to file an appendix. The motion must comply with rule 6.1002 and state the reasons leave of court is being requested. If granted, the requesting party may file an appendix with the brief.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.906 Brief of amicus curiae.**

**6.906(1)** *Appeal.*

*a.* An amicus curiae brief may be filed only by leave of the appropriate appellate court granted on motion, at the request of the appropriate appellate court, or when accompanied by the written consent of all parties. The United States and Iowa Attorney General may file an amicus curiae brief without leave of the appellate court or consent of the parties.

*b.* A motion for leave must identify the interest of the applicant and state the reasons an amicus curiae brief would assist the court in resolving issues preserved for appellate review in the case.

*c.* The brief may be conditionally filed with a motion for leave. The brief may not be included as an attachment to the motion but must be filed as a separate document.

*d.* An amicus curiae brief must be filed no later than seven days after the brief of the party to be supported is filed, or if in support of no party, no later than seven days after the appellant's brief. The appropriate appellate court may extend the deadline for the brief only upon an affirmative showing of good cause, specifying the period within which an opposing party may respond.

*e.* Amicus curiae who wish to participate in oral argument must file a motion requesting leave to participate with the appropriate appellate court within 30 days after filing of the brief. The motion must state whether counsel for the party with whom the amicus curiae is aligned has agreed to share oral argument time, and if there is no such agreement or if the amicus curiae is not aligned with a party, the motion must state with particularity the reasons why the amicus curiae should be given oral argument time and the amount of time requested.

**6.906(2)** *Further review.*

*a.* Amicus curiae briefs may not be filed in support of, or in resistance to, an application for further review of a decision of the court of appeals.

*b.* If the supreme court grants further review, an amicus curiae brief may be filed upon leave of the supreme court granted on motion, at the request of the supreme court, or when accompanied by the written consent of all parties. The United States and Iowa Attorney General may file an amicus curiae brief without leave of the appellate court or consent of the parties.

*c.* A motion for leave to file an amicus curiae brief must be filed within 30 days of the supreme court's order granting further review, and no response to the motion will be allowed unless requested by the court. The motion must identify the interest of the applicant, state the reasons an amicus curiae brief would assist the court in resolving issues preserved for appellate review in the case, and be accompanied by the proposed amicus curiae brief. The brief may not be included as an attachment to the motion but must be filed as a separate document.

*d.* An amicus brief not requiring leave of court must be filed within 30 days of the supreme court's order granting further review.

*e.* Parties may file a response to the amicus curiae brief within 15 days of the court's order granting the motion, or within 15 days of the filing of an amicus curiae brief by the United States or the Iowa Attorney General.

*f.* Amicus curiae who wish to participate in oral argument must file a motion requesting leave to participate with the supreme court at the time of the filing of the brief or, if a brief has already been filed under rule 6.906(1), within 14 days of the order granting further review. The motion must state whether counsel for the party with whom the amicus curiae is aligned has agreed to share oral argument time, and if there is no such agreement or if the amicus curiae is not aligned with a party, the motion must state with particularity the reasons why the amicus curiae should be given oral argument time and the amount of time requested.

*g.* The deadlines for filing of an amicus brief under rule 6.906(2) will not delay submission of the case on further review.

**6.906(3)** *Rehearing.* Amicus curiae briefs may not be filed in support of, or in resistance to, a petition for rehearing of an opinion of the court of appeals or the supreme court.

**6.906(4)** *Form of amicus curiae brief.* An amicus curiae brief may not exceed more than one-half of the length limitations for a required brief specified in rule 6.903(1)(*i*). An amicus curiae brief must comply with the format requirements of rule 6.903(1). An amicus curiae brief need not comply with rules 6.903(2) and 6.903(3) but must include all of the following:

*a.* A table of contents with page references.

*b.* A table of authorities containing cases alphabetically arranged, statutes, and other authorities cited, with references to all pages of the brief where they are cited.

*c.* A concise statement of the identity of the amicus curiae and the interest in the case.

*d.* A statement that indicates whether a party's counsel authored the brief in whole or in part, indicates whether a party or party's counsel contributed money to fund the preparation or submission of the brief, and identifies any other person who contributed money to fund the preparation or submission of the brief.

*e.* An argument.

*f.* A certificate of compliance, if required by rule 6.903(1)(*i*)(4).

**6.906(5)** *Criteria for allowing amicus curiae brief.* An appellate court has broad discretion in determining whether to allow an amicus curiae brief. The court will base its decision on whether the brief will assist the court in resolving the issues preserved for appellate review in the case. In reaching its decision, the court will consider various factors, including those set forth below.

*a.* The court will ordinarily grant a motion for leave to file an amicus curiae brief if any of the following factors is present:

(1) The proposed amicus brief supports the position of an unrepresented party or party who has not received adequate representation.

(2) The proposed amicus curiae has a direct interest in another case that may be materially affected by the outcome of the present case.

(3) The proposed amicus curiae has a unique perspective or information that will assist the court in assessing the ramifications of any decision rendered in the present case.

*b.* The court will ordinarily deny a motion for leave to file an amicus curiae brief if any of the following factors is present.

(1) The proposed amicus curiae brief will merely reiterate the arguments of the party whose position the brief supports.

(2) The proposed amicus curiae brief appears to be an attempt to expand the number of briefing pages available to the party whose position the brief supports.

(3) The proposed amicus curiae brief attempts to raise issues that were not preserved for appellate review.

(4) The proposed amicus curiae brief would place an undue burden on the opposing party.

*c.* The court may also strike an amicus curiae brief filed with the consent of all parties if it appears the brief would not be allowed under the criteria of rule 6.906(5).

[Court Order October 31, 2008, effective January 1, 2009; November 19, 2016, effective March 1, 2017; July 20, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.907 Scope of review.** In equity cases review is de novo. In all other cases the appellate courts constitute courts for correction of errors at law. Findings of fact in jury-waived cases have the effect of a special verdict.

[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

**Rule 6.908 Oral and nonoral submission; notice of additional authorities.**

**6.908(1)** *Requests for oral argument.* A party requesting oral argument must do so in the party's brief as provided in rule 6.903(2)(*a*)(10). Oral argument will ordinarily not be granted if it is not requested in the brief except by order of the appropriate appellate court.

**6.908(2)** *Denial of oral argument.* The appropriate appellate court will deny a request for oral argument if oral argument is unlikely to be of assistance to the court.

**6.908(3)** *Grant of oral argument.* If oral argument is granted, the court will set the time allotted for oral argument and notify the parties. Oral argument may be conducted in person, by video conference, by telephone, or a combination thereof at the appropriate appellate court's discretion.

**6.908(4)** *Issues raised but not argued.* Issues properly raised in the briefs will not be waived as a consequence of failing to address them during oral argument.

**6.908(5)** *Additional authorities.* After briefs are filed, a party may file a notice of additional authorities not cited in the briefs. The notice must include a citation for each additional authority. A concise parenthetical accompanying each citation explaining the relevance of the additional authority may be included. No further argument may be included in the notice. If the case is set for oral argument, the party must ensure that all opposing parties are served with the notice at least seven days in advance of oral argument unless the authorities were not in existence prior to that time.

**6.908(6)** *Use of exhibits and demonstrative aids during oral argument.* If a party intends to display exhibits or any other demonstrative aids during oral argument, the party must ensure that all opposing parties are served a copy of the exhibit or aid no later than seven days prior to the oral argument. No such exhibit or aid may be used in oral argument unless a sufficient number of copies for the court is given to the bailiff when a party checks in for oral argument and it is practical to do so.
[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rules 6.909** to **6.1000** Reserved.

## DIVISION X
WRITS, MOTIONS, AND OTHER DOCUMENTS

**Rule 6.1001 Writs and process.**

**6.1001(1)** *Writs and process, supreme court.* The supreme court will issue all writs and process necessary for the exercise and enforcement of its appellate jurisdiction and in furtherance of its supervisory and administrative control over all lower courts and judicial officers. The supreme court may enforce its mandates by fine and imprisonment, and imprisonment may be continued until the mandate is obeyed.

**6.1001(2)** *Writs and process; court of appeals.* The court of appeals will issue writs and other process necessary for the exercise and enforcement of its jurisdiction, but only in cases that have been transferred to the court of appeals by the supreme court.

**6.1001(3)** *Resistance and consideration.* Any request for relief under rule 6.1001 may be resisted, and the court will consider it in the same manner as rule 6.1002 provides for motions.
[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

**Rule 6.1002 Motions.**

**6.1002(1)** *Motions in supreme court and court of appeals.* All motions and supporting documents on appeal must be filed with the clerk of the supreme court as provided in rule 6.701 and served as provided in rule 6.702. A motion must:

*a.* Prominently display beneath the title of the motion the date of any impending hearing, trial, or matter needing immediate attention of the court. If the filing requires expedited consideration, the filing party must state the circumstances in the special filing instructions to the clerk of the supreme court on the electronic cover sheet, *see* Iowa R. Elec. P. 16.306(1), including the date of any impending district court trial or hearing.

*b.* Include any materials required by a specific provision of these rules governing such motion.

*c.* Be accompanied by a copy of any ruling from which a party seeks appellate review.

*d.* State with particularity the grounds on which it is based, including citations to relevant authorities.

*e.* Set forth the order or precise relief sought.

*f.* Be supported by other relevant portions of the record. The supporting documents to a motion must be electronically attached to the motion. *See* Iowa R. Elec. P. 16.311. Such attachments may not exceed 25 pages unless otherwise ordered by the appellate court. Any application for the inclusion of attachments exceeding the 25-page limit may not include such attachments.

**6.1002(2)** *Resistance; reply to resistance.* All resistances, replies, and any supporting documents must be filed with the clerk of the supreme court as provided in rule 6.701 and served as provided in rule 6.702. Unless the appropriate appellate court orders otherwise, any party may file a resistance to a motion within 14 days after service of the motion. A reply to the resistance may be filed within three days after the service of the resistance. However, the appropriate appellate court may act upon the motion prior to the expiration of the time to file a reply to the resistance. A resistance or a reply to the resistance may be supported by other relevant portions of the record, but such attachments may not exceed 25 pages unless otherwise ordered by an appellate court. Any application for the inclusion of attachments exceeding the 25-page limitation may not include such attachments.

**6.1002(3)** *Additional filings; hearings.* The court may require additional filings and may set any motion for hearing.

**6.1002(4)** *Motions for procedural or temporary orders.* Notwithstanding rule 6.1002(2), motions for procedural orders, including any motion under rule 6.1003(2), and motions for temporary orders in which it appears that rights would be lost or greatly impaired by delay, may be ruled upon at any time without awaiting a resistance. Any party adversely affected by such ruling may request review of the ruling within ten days.

**6.1002(5)** *Authority of a single justice or senior judge of supreme court to entertain motions.*

*a.* In addition to any authority expressly conferred by rule or by statute, a single justice or senior judge of the supreme court may entertain any motion in an appeal or original proceeding in the supreme court and grant or deny any relief that may properly be sought by motion, except that a single justice or senior judge of the supreme court may not dismiss, affirm, reverse, or otherwise resolve an appeal or original proceeding.

*b.* An order entered by a single justice or senior judge of the supreme court may be reviewed by a quorum of the supreme court upon motion of an adversely affected party filed within ten days after the date of filing of the challenged order or upon the court's own motion.

**6.1002(6)** *Authority of the court of appeals and its judges to entertain motions.*

*a.* The court of appeals and its judges may entertain motions only in appeals that the supreme court has transferred to that court. In such appeals, a single judge or senior judge of the court of appeals may entertain any motion and grant or deny any relief that may properly be sought by motion, except that a single judge may not dismiss, affirm, reverse, or otherwise resolve an appeal.

*b.* An order entered by a single judge or senior judge of the court of appeals may be reviewed by a quorum of the court of appeals upon motion of an adversely affected party filed within ten days after the date of filing of the challenged order or upon the court's own motion.

**6.1002(7)** *Authority of the clerk of the supreme court to entertain motions for procedural orders.*

*a.* The clerk of the supreme court is authorized, subject to the control and direction of the supreme court, to take appropriate action for the supreme court on motions for procedural orders upon which the court, pursuant to rule 6.1002(4), could rule without awaiting a resistance. The clerk may grant a motion only for good cause shown and when the prejudice to the nonmoving party is not great. Good cause for an extension includes, but is not limited to, illness of counsel, unavailability of counsel due to unusual and compelling circumstances, unavailability of a necessary transcript or other portion of the record due to circumstances beyond the control of counsel, or a reasonably good possibility of settlement within the time as extended.

*b.* An order of the clerk of the supreme court entered pursuant to rule 6.1002(7) may be reviewed by the appropriate appellate court upon motion of an adversely affected party filed within ten days after the date of filing of the challenged order or upon the court's own motion.

**6.1002(8)** *Authority of the clerk of the supreme court to set motions for consideration.* The clerk of the supreme court is authorized, subject to the control and direction of the supreme court, to set any motion pending in the supreme court for consideration and set the time allowed for resistance to the motion.

**6.1002(9)** *Filing deadlines not extended.* The filing of a motion will not stay a filing deadline unless otherwise provided by these rules or order of the appropriate appellate court.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.1003 Motions to shorten or extend deadlines.**

**6.1003(1)** *Jurisdictional deadlines.*

*a. Notices of appeal.* The supreme court may not extend the deadline for filing a notice of appeal except as provided in rule 6.101(5).

*b. Applications for interlocutory appeal.* The supreme court may not extend the deadline for filing an application for interlocutory appeal except as provided in rule 6.104(1)(*b*)(3).

*c. Applications for discretionary review.* The supreme court may not extend the deadline for filing an application for discretionary review except as provided in rule 6.106(1)(*b*).

*d. Petitions for writ of certiorari.* The supreme court may not extend the deadline for filing a petition for writ of certiorari except as provided in rule 6.107(1)(*b*).

*e. Applications for further review.* The court of appeals may not extend the deadline for filing an application for further review except as provided in Iowa Code section 602.4102(5). The supreme court may not extend the deadline for filing an application for further review.

**6.1003(2)** *All other deadlines.* The appropriate appellate court may upon its own motion or upon motion of a party for good cause shorten or extend a nonjurisdictional deadline set by these rules or by an order of the court. In cases where the expedited deadlines of rule 6.902 apply, the motion must so state. Good cause for an extension includes, but is not limited to, illness of counsel, unavailability of counsel due to unusual and compelling circumstances, unavailability of a necessary transcript or other portion of the record due to circumstances beyond the control of counsel, or a reasonably good possibility of settlement within the time as extended.

[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

**Rule 6.1004 Limited remands.** The appropriate appellate court may on its own motion or on motion of a party remand a pending appeal to the district court, which will have jurisdiction to proceed as the appellate court directs. Jurisdiction of the appeal otherwise remains with the remanding appellate court. A motion for limited remand must be filed as soon as the grounds for the motion become apparent.

[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

**Rule 6.1005 Frivolous appeals; withdrawal of counsel.**

**6.1005(1)** *Applicability.* The procedures in this rule apply when court-appointed counsel moves to withdraw on the grounds that the appeal is frivolous or good cause cannot be established for an appeal from a guilty plea to a crime other than a class "A" felony pursuant to Iowa Code section 814.6(1)(*a*)(3). These withdrawal procedures cannot be used in termination of parental rights or child in need of assistance appeals under Iowa Code chapter 232, in direct criminal appeals following a trial, or in appeals from the denial of an application for postconviction relief following a reported evidentiary hearing on that application, unless the application was ultimately denied based upon the statute of limitations, law of the case, or res judicata principles.

**6.1005(2)** *Motion to withdraw from direct appeal of guilty plea to a crime other than a class "A" felony subject to Iowa Code section 814.6(1)(a)(3) for lack of good cause.* If, after a diligent investigation of the entire record, the appellant's counsel is convinced the appellant cannot make an argument establishing good cause to appeal from a guilty plea to a crime other than a class "A" felony to satisfy the requirements of Iowa Code section 814.6(1)(*a*)(3), counsel may file a motion to withdraw. The motion must be accompanied by the following:

*a.* A brief that explains why good cause cannot be established.

(1) The brief must, at a minimum, discuss with proper citation to the record:

1. Whether the appellant was adequately advised of the right to file a motion in arrest of judgment and whether the appellant waived that right.

2. Whether the sentencing proceedings substantially complied with the rules of criminal procedure.

3. Whether the appellant received a sentence that was mandatory or agreed to as part of a plea bargain.

4. Whether the State complied with its obligations under any plea agreement.

5. Whether the sentence was authorized by the Iowa Code, caselaw, or the rules of criminal procedure. The brief must contain specific citations to the sections of the Iowa Code, the Iowa Court Rules, and caselaw that are applicable to the determination of whether the sentence imposed was within the statutory limits and compare those sections to the sentence imposed.

(2) The brief must also address any other issues that might arguably establish good cause.

(3) Counsel on direct appeal from a criminal proceeding is not required to review potential claims of ineffective assistance of counsel. *See* Iowa Code section 814.7.

*b.* A copy of the rule 6.1005(6) notice.

*c.* A certificate showing service of the motion, brief, and notice upon the client.

**6.1005(3)** *Motion to withdraw from all other cases.* In all other applicable circumstances, if, after a diligent investigation of the entire record, court-appointed counsel is convinced the appeal is frivolous and that counsel cannot, in good conscience, proceed with the appeal, counsel may file a motion to withdraw. The motion must be accompanied by:

*a.* A brief referring to anything in the record that might arguably support the appeal.

(1) If the appeal is from a guilty plea to a class "A" felony or sentence, the brief must, at a minimum, address with proper citation to the record:

1. Whether a factual basis existed for each and every element of the crime, whether the plea and sentencing proceedings substantially complied with the rules of criminal procedure.

2. Whether the State complied with its obligations under any plea agreement.

3. Whether the sentence was authorized by the Iowa Code, caselaw, or the rules of criminal procedure. The brief must contain specific citations to the sections of the Iowa Code and the Iowa Court Rules that are applicable to the determination of whether the sentence imposed was within the statutory limits and compare those sections to the sentence imposed.

(2) The brief must also contain citations to the record establishing each of the elements of the crime and establishing compliance with the rules of criminal procedure and the Iowa Code.

(3) Counsel on direct appeal from a criminal proceeding is not required to review potential claims of ineffective assistance of counsel. *See* Iowa Code section 814.7.

*b.* A copy of the rule 6.1005(6) notice.

*c.* A certificate showing service of the motion, brief, and notice upon the client.

**6.1005(4)** *Format of motion and brief.* A motion and brief filed pursuant to rule 6.1005 must be in the form specified in rule 6.1007, and must contain citations to authorities relied on and references to the pertinent parts of the record.

**6.1005(5)** *Request to transmit record.* At the time of filing the motion to withdraw under rule 6.1005(3), counsel must file a request with the clerk of the district court to transmit the record to the clerk of the supreme court.

**6.1005(6)** *Written notice to client.* Counsel must notify the client in writing of counsel's conclusion that good cause cannot be established under rule 6.1005(2) or that the appeal is frivolous under rule 6.1005(3) and that counsel is filing a motion to withdraw. The notice must be accompanied by a copy of counsel's motion and brief. The notice must advise the client that:

*a.* If the client agrees with counsel's decision and does not desire to proceed with the appeal, the client must within 30 days from service of the motion and brief clearly and expressly communicate such desire, in writing, to the supreme court.

*b.* If the client desires to proceed with the appeal, the client must within 30 days communicate that fact to the supreme court, raising any issues the client wants to pursue.

*c.* If the client fails to file a response to counsel's assertion that the appeal is frivolous under section 6.1005(3) with the supreme court, such failure could result in the waiver of the client's claims in any subsequent postconviction-relief action.

**6.1005(7)** *Dismissal upon client's agreement.* When a client communicates to the court the client's agreement with counsel's decision, the appeal will be promptly dismissed.

**6.1005(8)** *Supreme court review.*

*a.* In considering a rule 6.1005(2) motion to withdraw from an appeal of a guilty plea to a crime other than a class "A" felony subject to Iowa Code section 814.6(1)(*a*)(3) for lack of good cause, if the supreme court finds the appeal lacks good cause, it will grant counsel's motion to withdraw and dismiss the appeal for lack of appellate jurisdiction. If, however, the supreme court finds good cause exists or arguably exists, it will deny counsel's motion and may remand the matter to the district court for appointment of new counsel.

*b.* In considering a rule 6.1005(3) motion to withdraw from a frivolous appeal in all other cases, the supreme court will, after a full examination of the record, decide whether the appeal is wholly frivolous. If it finds the appeal is frivolous, it may grant counsel's motion to withdraw and dismiss the appeal. If, however, the supreme court finds the legal points to be arguable on their merits and therefore not frivolous, it will deny counsel's motion and may remand the matter to the district court for appointment of new counsel.

**6.1005(9)** *Extension of times.* The filing of a motion to withdraw pursuant to rule 6.1005 will extend the times for further proceedings on appeal until the court rules on the motion.
[Court Order October 31, 2008, effective January 1, 2009; May 21, 2012; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.1006 Motions to dismiss, affirm, or reverse.**

**6.1006(1)** *Motions to dismiss.*

*a. Contents and time for filing.*

(1) An appellee may file a motion to dismiss an appeal based upon the appellant's failure to comply with an appellate filing deadline established by an appellate rule or court order, the appellant's filing of a document that fails to substantially comply with the appellate rules or a court order, or an allegation that the appropriate appellate court lacks jurisdiction or authority to address the case.

(2) The motion must state with particularity the grounds justifying dismissal and, if applicable, must specify the prejudice to the appellee's interests.

(3) The motion must comply with the requirements of rule 6.1002(1).

(4) A motion to dismiss should ordinarily be filed within a reasonable time after the grounds supporting the motion become apparent.

(5) Except for instances in which the court allegedly lacks jurisdiction or authority over the case, the motion to dismiss should be used sparingly.

(6) A motion to dismiss will usually be granted only if the alleged infractions are repeated or significant and have resulted in prejudice to another party or the administration of justice.

*b. Ruling.* The appropriate appellate court may rule on the motion to dismiss or may order the motion submitted with the appeal. One justice, judge, or senior judge may order submission with the appeal or deny, but only a quorum of the appropriate appellate court may grant, a motion to dismiss. An order dismissing an appeal for failure to prosecute must direct the clerk of the supreme court to forward certified copies of the docket and the order of dismissal to the Iowa Supreme Court Attorney Disciplinary Board unless the appellant was unrepresented. If counsel was court appointed, the clerk must also forward certified copies of those documents to the State Public Defender.

*c. Motions to reinstate appeal.* Within ten days after issuance of the dismissal order an appellant may file a motion to reinstate an appeal dismissed under this rule. The motion must set forth the grounds for reinstatement and may be resisted. The appropriate appellate court may, in its discretion, and must upon a showing that such dismissal was the result of oversight, mistake, or other reasonable cause, reinstate the appeal. One justice, judge, or senior judge may deny, but only a quorum of the appropriate appellate court may grant, a motion to reinstate an appeal.

**6.1006(2)** *Motions to affirm.* The appellee may file a motion with the appropriate appellate court to affirm the order or judgment on appeal on the ground that the issues raised by the appeal are frivolous. The motion should ordinarily be served and filed within the time provided for service of the appellee's brief. However, if the motion is based on an allegation that the result in the case is controlled by an indistinguishable recently published decision of an appellate court, the motion may be filed when the grounds for affirmance become apparent. The appellee may not file a motion to affirm prior to the filing of appellant's brief. The motion must comply with the requirements of rule 6.1002(1). One justice, judge, or senior judge may deny, but only a quorum of the appropriate appellate court may grant, a motion to affirm.

**6.1006(3)** *Motions to reverse.* Any party may file a motion with the appropriate appellate court to summarily reverse the order or judgment on appeal on the grounds the result is controlled by an indistinguishable recently published decision of an appellate court or where error has been confessed. The motion must comply with the requirements of rule 6.1002(1). One justice, judge, or senior judge may overrule, but only a quorum of the appropriate appellate court may sustain, a motion to reverse.

**6.1006(4)** *Excluding time.* The time between the service of a motion to dismiss, affirm, or reverse and an order overruling the motion or ordering its submission with the appeal will be excluded in measuring the time within which subsequent acts required by these rules must be done.
[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.1007 Format and contents of motions and other filings.**

**6.1007(1)** *Format.* Motions and other related filings must show clear black text or images on a white background on an 8 1/2 by 11 inch document. If filed in paper, they may be reproduced by any process that yields a clear black image on white paper. The paper must be opaque and unglazed.

Unless handwritten, the text must be double-spaced, but quotations more than 50 words long may be indented and single-spaced. Margins must be one inch on all sides. Page numbers must be located at the bottom center of each page. Typeface must conform to rule 6.903(1)(*g*). Paper filings must comply with Iowa Rule of Electronic Procedure 16.303.

**6.1007(2)** *Contents.* A motion or other similar filing addressed to an appellate court must contain a caption setting forth the name of the court, the title of the case, the file number, a brief descriptive title indicating the purpose of the filing, and the name, address, telephone number, and email address of counsel or self-represented party.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rules 6.1008** to **6.1100** Reserved.

## DIVISION XI
TRANSFER, SUBMISSION, AND FURTHER REVIEW

### Rule 6.1101 Transfer of cases to the court of appeals.

**6.1101(1)** *Transfer.* The supreme court may by order, on its own motion, transfer to the court of appeals for decision any case filed in the supreme court except a case in which the Iowa Constitution or statutes grant exclusive jurisdiction to the supreme court.

**6.1101(2)** *Criteria for retention.* The supreme court ordinarily will retain the following types of cases:

*a.* Cases presenting substantial constitutional questions as to the validity of a statute, ordinance, or court or administrative rule.

*b.* Cases presenting substantial issues in which there appears to be a conflict between a published decision of the court of appeals or supreme court.

*c.* Cases presenting substantial issues of first impression.

*d.* Cases presenting fundamental and urgent issues of broad public importance requiring prompt or ultimate determination by the supreme court.

*e.* Cases involving lawyer discipline.

*f.* Cases presenting substantial questions of enunciating or changing legal principles.

**6.1101(3)** *Criteria for transfer.* The supreme court ordinarily will transfer to the court of appeals the following types of cases:

*a.* Cases presenting the application of existing legal principles.

*b.* Cases presenting issues that are appropriate for summary disposition.

[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

### Rule 6.1102 Order of submission and transfer.

**6.1102(1)** *Submission.* Appeals will be submitted to the supreme court or transferred to the court of appeals substantially in the order they are made ready for submission except when earlier submission is mandated by statute, rule, or order of the supreme court.

**6.1102(2)** *Early submission or transfer.* If an appeal involves questions of public importance or rights that are likely to be lost or greatly impaired by delay, the supreme court may upon the motion of a party or on the court's own motion order the submission or transfer of the case in advance of the time at which it would otherwise be submitted or transferred.

[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

### Rule 6.1103 Application to the supreme court for further review of a court of appeals decision.

**6.1103(1)** *Application for further review.*

*a. Time for filing.*

(1) An application for further review in an appeal from an Iowa Code chapter 232 child in need of assistance or termination of parental rights proceeding must be filed within ten days following the filing of the court of appeals decision.

(2) In all other cases, an application for further review must be filed within 20 days following the filing of the court of appeals decision.

(3) The court of appeals must extend the time for filing an application if the court determines that a failure to timely file an application was due to the clerk of the supreme court's failure to notify the prospective applicant of the filing of the decision.

*b. Grounds.* Further review by the supreme court is not a matter of right, but of judicial discretion. An application for further review will not be granted in normal circumstances. The following, although neither controlling nor fully measuring the supreme court's discretion, indicate the character of the reasons the supreme court considers:

(1) The court of appeals has entered a decision in conflict with a decision of the supreme court or the court of appeals on an important matter.

(2) The court of appeals has decided a substantial question of constitutional law or an important question of law that has not been, but should be, settled by the supreme court.

(3) The court of appeals has decided a case where there is an important question of changing legal principles.

(4) The case presents an issue of broad public importance that the supreme court should ultimately determine.

*c. Form.* An application for further review must be a single document in the form prescribed by rule 6.903(1). An application for further review must contain all of the following under appropriate headings in the following order:

(1) *Questions presented for review.* The application must contain questions presented for review expressed concisely in relation to the circumstances of the case without unnecessary detail. The questions should be short and not argumentative or repetitive. The questions must be set out on the first page following the cover and no other information may appear on that page.

(2) *Table of contents.*The application must contain a table of contents including page references.

(3) *Statement supporting further review.* The application must contain a direct and concise statement of the reasons why the case warrants further review. The statement must not be limited to a recitation of rule 6.1103(1)(*b*) but should identify the specific issue of importance and any purported prior conflicting authority. For example, if the claim is that the court of appeals decision is in conflict with a decision of the supreme court or the court of appeals on an important matter, the party must cite to the case in conflict.

(4) *Brief.* The application must contain a brief in support of the request for further review including all contentions and legal authorities in support of the application. No authorities or argument may be incorporated into the application by reference to another document; however, citations to the district court record are permitted.

(5) *Decision of court of appeals.* The application must contain or be accompanied by a copy of the court of appeals decision showing the date of its filing.

(6) *Other attachments.*The only materials that may be attached to or filed with an application, other than the court of appeals decision, are relevant materials from the district court record not exceeding ten pages, district court orders, and administrative agency rulings. The district court order must be attached if the court of appeals affirmed the decision of the district court under rule 6.1203, Iowa Court Rule 21.26, or Iowa Code section 602.5106(1).

*d. Discretion of supreme court on further review.* On further review, the supreme court may review any or all of the issues raised in the original appeal or limit its review to just those issues brought to the court's attention by the application for further review.

*e. Filing fee.* The applicant must pay to the clerk of the supreme court a filing fee or file a motion to waive or defer the fee as provided in rules 6.703(1)(*g*) and 6.703(2).

**6.1103(2)** *Resistance to application for further review.*

*a. When allowed; time for filing.* A resistance to an application for further review is not permitted in an Iowa Code chapter 232 child in need of assistance or termination of parental rights proceeding unless requested by the supreme court.

*b.* In all other cases, a party may file a resistance within ten days after service of the application.

*c. Form.* A resistance to an application must be in the form prescribed by rule 6.903(1). The resistance must be a single document including all contentions and legal authorities in opposition to the application. No authorities or argument may be incorporated into the resistance by reference to another document; however, citations to district court record are permitted. The only materials that may be attached to or filed with a resistance are relevant materials from the district court record not exceeding ten pages, district court orders, and administrative agency rulings.

**6.1103(3)** *Replies to resistance to application for further review.* Replies to a resistance to an application for further review are not allowed.

**6.1103(4)** *Cover of application for further review or resistance to application.* The cover of the application for further review or resistance to the application must contain the following:

*a.* The name of the court and the appellate number of the case.
*b.* The caption of the case. *See* rule 6.152(2).
*c.* The date of filing of the court of appeals decision.
*d.* The title of the document.
*e.* The name, address, telephone number, and email address of counsel or self-represented party.

**6.1103(5)** *Length of application for further review or resistance to application.*

*a.* The application for further review or resistance to the application may not exceed two-fifths of the length limitations for a required brief specified in rule 6.903(1)(*i*) exclusive of the court of appeals decision, table of contents, table of authorities, relevant materials from the district court record, district court orders, and administrative agency decisions.

*b.* An application for further review or resistance to the application must include a certificate of compliance using rule 6.1401—Form 10: *Certificate of Compliance with Typeface Requirements and Type-Volume Limitation for an Application for Further Review or a Resistance to an Application for Further Review*.

**6.1103(6)** *Supplemental briefs.* If an application for further review is granted, the supreme court may require the parties to file supplemental briefs on all or some of the issues to be reviewed.

**6.1103(7)** *Procedendo.* When an application for further review is denied by the supreme court, the clerk of the supreme court will immediately issue procedendo.

[Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017; February 23, 2017, effective March 1, 2017; July 20, 2017; September 29, 2023, effective April 1, 2024]

**Rules 6.1104** to **6.1200** Reserved.

## DIVISION XII
DISPOSITION OF APPEALS

### Rule 6.1201 Voluntary dismissals.

**6.1201(1)** *Dismissal of appeal.* An appeal may be voluntarily dismissed by the party who filed the appeal at any time before a decision is filed by either the supreme court or the court of appeals.

**6.1201(2)** *Dismissal of cross-appeal.* A cross-appeal may be voluntarily dismissed by the party who filed the cross-appeal at any time before a decision is filed by either the supreme court or court of appeals.

**6.1201(3)** *Effect of dismissal.* The clerk of the supreme court will promptly issue procedendo upon the filing of a voluntary dismissal unless another party's appeal or cross-appeal remains pending under the same appellate docket number. If only a cross-appeal remains pending following the dismissal, the cross-appeal becomes the primary appeal, and the cross-appellant will assume the role of the appellant. The issuance of procedendo constitutes a final adjudication with prejudice. A voluntary dismissal of a direct appeal from a criminal case does not preclude the subsequent consideration of a claim for ineffective assistance of counsel in an action for postconviction relief pursuant to Iowa Code chapter 822.

[Court Order October 31, 2008, effective January 1, 2009; May 21, 2012; September 29, 2023, effective April 1, 2024]

### Rule 6.1202 Failure to comply with appellate deadlines and appellate court orders; consequences and penalties.

**6.1202(1)** *Notice of default.*

*a. For appellant's failure to comply.* When an appellant fails to comply with an appellate deadline, the clerk of the supreme court will issue a notice stating that the appeal may be dismissed unless the appellant cures the default by performing the overdue action within 15 days of issuance of the notice. If the appellant fails to cure the default, the supreme court may enter an order dismissing the appeal.

*b. For appellee's failure to comply.* When an appellee fails to meet the deadline for filing a brief or statement waiving the appellee's brief, the clerk of the supreme court will issue a notice stating that the appellee is not allowed to participate in oral argument unless the appellee remedies the default by filing the overdue brief within 15 days of issuance of the notice.

**6.1202(2)** *Penalty assessed to attorney.* When a default notice is sent to a party's attorney for failing to comply with an appellate deadline, the attorney will be assessed a penalty of $150 by the clerk of the supreme court for each violation. The attorney must pay the penalty individually and it

may not be charged to the client. If the penalty is not paid within 15 days, the attorney may be ordered to show cause why the attorney should not be found in contempt of court.

**6.1202(3)** *Notice of dismissal due to attorney's failure to comply.* Following dismissal of an appeal for failure to comply with an appellate deadline where the appellant was represented by an attorney, the clerk of the supreme court will forward certified copies of the docket, the notice of default that resulted in dismissal, and the order of dismissal to the Iowa Supreme Court Attorney Disciplinary Board. In cases where the attorney was court appointed, the clerk will also forward certified copies of those documents to the State Public Defender.

**6.1202(4)** *Dismissal on appellate court's motion.* An appeal may be dismissed, with or without notice of default, upon the motion of the appropriate appellate court.

**6.1202(5)** *Motion to reinstate appeal.* Within ten days after issuance of a dismissal order, the appellant may file a motion to reinstate the dismissed appeal. The motion must set forth the grounds for reinstatement and may be resisted. The appropriate appellate court may, in its discretion, and must upon a showing that such dismissal was the result of oversight, mistake, or other reasonable cause, reinstate the appeal. One justice, judge, or senior judge may deny, but only a quorum of the appropriate appellate court may grant, a motion to reinstate an appeal.

**6.1202(6)** *Failure to follow or respond to appellate court order.* When a party to an appeal fails to follow or respond to an appellate court order, the appropriate appellate court may dismiss the appeal or impose a penalty. If a monetary penalty is imposed on a party's attorney, the attorney must pay the penalty individually and it may not be charged to the client. If such penalties are not paid within 15 days, the attorney may be ordered to show cause why the attorney should not be found in contempt of court.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.1203 Affirmed or enforced without opinion.** A judgment or order may be affirmed or enforced without opinion if the appropriate appellate court concludes the questions presented are not of sufficient importance to justify an opinion, an opinion would not have precedential value, and any of the following circumstances exists: (1) the judgment of the district court is correct, (2) the evidence in support of a jury verdict is sufficient, (3) the order of an administrative agency is supported by substantial evidence, or (4) no error of law appears.

[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

**Rule 6.1204 Petition for rehearing in the court of appeals.**

**6.1204(1)** *Filing does not toll further review deadline.* The filing of a petition for rehearing with the court of appeals does not toll the 20-day period provided in Iowa Code section 602.4102(4) for filing an application for further review of a court of appeals decision with the supreme court. Nothing in these rules prohibits any party from filing both a petition for rehearing with the court of appeals and an application for further review with the supreme court.

**6.1204(2)** *Time for filing.* A petition for rehearing must be filed within seven days after the filing of the court of appeals decision.

**6.1204(3)** *Content.* The petition must state with particularity the points of law or fact that in the opinion of the petitioner the court of appeals has overlooked or misapprehended.

**6.1204(4)** *Response.* No response to a petition for rehearing will be received unless requested by the court of appeals.

**6.1204(5)** *Action by court of appeals.*

*a.* Oral argument in support of a petition for rehearing not permitted.

*b.* If the petition for rehearing is not expressly granted or denied by the court of appeals within seven days after the petition is filed, the petition will be deemed denied. Upon request of the court of appeals within the seven-day period, the supreme court may grant an extension not to exceed seven days for the court of appeals to rule upon the petition.

*c.* If the petition for rehearing is granted, the decision of the court of appeals is vacated and the court of appeals retains jurisdiction of the case. The court of appeals may dispose of the case with or without oral argument, order resubmission, or enter any other appropriate order. The decision after rehearing will be subject to further review as provided in Iowa Code section 602.4102(4).

**6.1204(6)** *Stay of pending application of further review.* Upon motion of a party or request of the court of appeals, the supreme court may stay any pending application for further review for consecutive periods of up to 30 days during the pendency of a petition for rehearing.

**6.1204(7)** *Form of petition.* The petition for rehearing must be in the form prescribed by rule 6.903(1). Except by permission of the court of appeals, a petition for rehearing may not exceed one-fifth of the length limitations for a required brief specified in rule 6.903(1)(*i*).
[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.1205 Petition for rehearing in the supreme court.**

**6.1205(1)** *Time for filing.* A petition for rehearing must be filed within 14 days after the filing of the supreme court opinion unless the time is shortened or enlarged by order of that court. A party may not file a petition for rehearing from an order denying an application for further review.

**6.1205(2)** *Content and form of petition for rehearing.* The petition must state with particularity the points of law or fact that in the opinion of the petitioner the supreme court has overlooked or misapprehended. The petition must be in the form prescribed by rule 6.903(1). Except by permission of the supreme court, a petition for rehearing may not exceed one-fifth of the length limitations for a required brief specified in rule 6.903(1)(*i*).

**6.1205(3)** *Response.* A response to a petition for rehearing is not permitted unless requested by the supreme court, but a petition for rehearing will ordinarily not be granted in the absence of such a request.

**6.1205(4)** *No oral argument.* Oral argument in support of a petition for rehearing is not permitted.

**6.1205(5)** *Supreme court action.* If a petition for rehearing is granted, the supreme court may make a final disposition of the case with or without oral argument, order resubmission, or enter any other appropriate order. The supreme court may deny the rehearing but simultaneously amend the opinion.
[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.1206 Remands.** When a judgment is reversed for error in overruling a motion and granting the motion would have terminated the case in favor of the appellant, the appropriate appellate court may enter or direct the district court to enter final judgment as if such motion had been initially granted. However, if it appears from the record that the material facts were not fully developed at the trial or if in the opinion of the appropriate appellate court the ends of justice will be served, a new trial will be awarded on all or part of the case.
[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

**Rule 6.1207 Costs.** All appellate fees and costs will be taxed to the unsuccessful party unless the appropriate appellate court orders otherwise.
[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

**Rule 6.1208 Procedendo.**

**6.1208(1)** *Procedendo from supreme court action.* Unless the supreme court orders otherwise, procedendo may not issue until:

*a.* Twenty-one days after the supreme court opinion is filed, or while a properly filed petition for rehearing or application for extension of time to file a petition for rehearing is pending.

*b.* Twenty-one days after an order is filed that both denies a petition for rehearing and amends the original opinion.

*c.* Seventeen days after an order dismissing the appeal is filed, or while a properly filed motion requesting the dismissal be set aside is pending.

**6.1208(2)** *Procedendo from court of appeals action.* Unless the court of appeals orders otherwise, procedendo may not issue until:

*a.* Seventeen days after an opinion is filed in a chapter 232 termination of parental rights or child in need of assistance case, or while an application for further review is pending.

*b.* Twenty-seven days after an opinion is filed in all other cases, or while an application for further review is pending.
[Court Order October 31, 2008, effective January 1, 2009; March 9, 2009; November 18, 2016, effective March 1, 2017; September 29, 2023, effective April 1, 2024]

**Rule 6.1209 Quarterly publication.** A list indicating the disposition of all decisions rendered by the supreme court per curiam or under rule 6.1203 will be published quarterly in the North Western

Reporter, except for such of those decisions as the supreme court specially orders to be published in the regular manner.
[Court Order October 31, 2008, effective January 1, 2009; September 29, 2023, effective April 1, 2024]

## DIVISION XIII
RESERVED

**Rules 6.1210** to **6.1400** Reserved.

## DIVISION XIV
FORMS

### Rule 6.1401 Forms.
### Rule 6.1401 — Form 1: *Notice of Appeal.*

**IN THE IOWA DISTRICT COURT**
**FOR _____ COUNTY**

*(Insert district court caption.)* No. _____ *(district court case number)*

**NOTICE OF APPEAL**

To: The clerk of the district court for _____ County, the clerk of the supreme court and

_____

_____
*(insert names of unrepresented parties and attorneys of record).*

Notice is given that _____ *(insert the names of the parties who are taking the appeal)* appeal(s) to the Supreme Court of Iowa from the final order entered in this case on the _____ day of _____, 20____, and from all adverse rulings and orders inhering therein.

Dated this _____ day of _____, 20____.

_____
*(signature of appellant or appellant's attorney)*
*Name, address, telephone number, fax number, and e-mail address of appellant or appellant's attorney.*

**CERTIFICATE OF SERVICE**

The undersigned certifies a copy of this notice of appeal was served on the _____ day of _____, 20____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service).*

_____
*(signature of person making service)*

[Court Order October 31, 2008, effective January 1, 2009]

## Rule 6.1401 — Form 2: *Combined Certificate.*

**IN THE SUPREME COURT OF IOWA**

*(Insert supreme court caption.)* No. _____ *(supreme court case number)*

**COMBINED CERTIFICATE**

(See Iowa R. App. P. 6.804.)

1. Notice of appeal was filed in district court on _____ *(date)* from a judgment or ruling filed on _____ *(date)*.

2A. I hereby order a transcript or portions thereof on the _____ day of _____, 20____,[1] from:

(1) _____ _____
*(court reporter name)* *(address)*

(2) _____ _____
*(court reporter name)* *(address)*

No arrangements have been made or suggested to delay the preparation thereof.

Financial arrangements have been made with the reporter(s) in accordance with Iowa R. App. P. 6.803(5). Payment (____ will be) (____ has been) made by

_____ private funds

_____ court-ordered funds *(attach a copy of the order appointing appellate counsel)*

The following proceedings are ordered:[1]

(1) _____
*(describe parts ordered)* before _____ *(judge)* on _____ *(date of hearing/trial)*.

(2) _____
*(describe parts ordered)* before _____ *(judge)* on _____ *(date of hearing/trial)*.

—OR—

2B. I need not order a transcript under Iowa R. App. P. 6.804(2) because:

_____

_____

_____

I (____ will) (____ will not) prepare a statement of the evidence or proceedings pursuant to Iowa R. App. P. 6.806.

2C. [*To be completed by appellant if less than full transcript is ordered.*]

The issues appellant(s) intends to present on appeal are:

I.

II.

III.

[1]This certificate shall be used to order the transcript. *See* rule 6.803(1).

**FAILURE TO SPECIFY IN ADEQUATE DETAIL THOSE PROCEEDINGS TO BE TRANSCRIBED, OR FAILURE TO MAKE PROMPT SATISFACTORY ARRANGEMENTS TO PAY FOR THE TRANSCRIPT, ARE GROUNDS FOR DISMISSAL OF THE APPEAL.**

3. If Iowa Rs. App. P. 6.303(2), 6.803(3), or 6.902(1) apply to this case, check category:

_____ A contest as to custody of children, an adoption, or a juvenile proceeding affecting child placement.

_____ A termination of a parent-child relationship under Iowa Code chapter 600A.

_____ A conviction and sentence on a plea of guilty or a sentence only.

_____ A certified question of law under Iowa Code chapter 684A.

_____ A lawyer disciplinary matter.

_____ Involuntary mental health commitments under Iowa Code chapter 229.

_____ Involuntary substance abuse commitments under Iowa Code chapter 125.

4. I assert in good faith that this appeal meets jurisdicitional requirements and is from:

_____ A final judgment, order, or decree and a timely notice of appeal has been filed.

—OR—

_____ A ruling entered in advance of a final judgment and permission to appeal has been granted by the supreme court.

5. The names of the parties involved in this appeal and their designations in district court are shown below under column A. Their respective attorneys' names, law firms, addresses, and telephone numbers are shown below under column B:

| Column A<br>Parties | Column B<br>Attorneys |
|---|---|
| Appellant(s): | |
| Appellee(s): | |

_____

*(signature of appellant or appellant's attorney)*
*Name, address, telephone number, fax number, and e-mail address of appellant or appellant's attorney.*

**CERTIFICATE OF SERVICE**

The undersigned certifies a copy of this combined certificate was served on the _____ day of _____, 20____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service)*.

_____

*(signature of person making service)*

[Court Order October 31, 2008, effective January 1, 2009]

**Rule 6.1401 — Form 3:** ***Supplemental Certificate.***

**IN THE SUPREME COURT OF IOWA**

*(Insert supreme court caption.)* No. _____ *(supreme court case number)*

**SUPPLEMENTAL CERTIFICATE**

(See Iowa R. App. P. 6.805.)

I hereby order a transcript or portions thereof on the _____ day of _____, 20____,[2] from:

(1) _____ _____
*(court reporter name)* *(address)*

(2) _____ _____
*(court reporter name)* *(address)*

No arrangements have been made or suggested to delay the preparation thereof.

Financial arrangements have been made with the reporter(s) in accordance with Iowa R. App. P. 6.803(5). Payment (____ will be) (____ has been) made by

_____ private funds

_____ court-ordered funds *(attach a copy of the order appointing appellate counsel)*

The following proceedings are ordered:

(1) _____
*(describe parts ordered)* before _____ *(judge)* on _____ *(date of hearing/trial)*.

(2) _____
*(describe parts ordered)* before _____ *(judge)* on _____ *(date of hearing/trial)*.

**FAILURE TO SPECIFY IN ADEQUATE DETAIL THOSE PROCEEDINGS TO BE TRANSCRIBED, OR FAILURE TO MAKE PROMPT SATISFACTORY ARRANGEMENTS TO PAY FOR THE TRANSCRIPT, ARE GROUNDS FOR DISMISSAL OF THE APPEAL.**

_____
*(signature of appellant or appellant's attorney)*
*Name, address, telephone number, fax number, and e-mail address of appellant or appellant's attorney.*

**CERTIFICATE OF SERVICE**

The undersigned certifies a copy of this supplemental certificate was served on the _____ day of _____, 20____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service).*

_____
*(signature of person making service)*

[2]This certificate shall be used to order the transcript. *See* rule 6.805(3).

[Court Order October 31, 2008, effective January 1, 2009]

**Rule 6.1401 — Form 4:** ***Notice of Appeal (Cross-Appeal) (Child-in-Need-of-Assistance and Termination Cases).***

**IN THE IOWA DISTRICT COURT**
**FOR _____ COUNTY**

*(Insert district court caption.)* Juvenile No. _____

**NOTICE OF APPEAL**
**(CROSS-APPEAL)**
**(Child-in-Need-of-Assistance and Termination Cases)**

To: The clerk of the district court for _____ County, the clerk of the supreme court and

_____

_____

*(insert names of unrepresented parties and attorneys of record).*

Notice is given that _____ (insert the names of the parties who are taking the appeal) appeal(s) to the Supreme Court of Iowa from *(check one of the following)* and from all adverse rulings and orders inhering therein.

☐ An order in a child-in-need-of-assistance proceeding entered on the _____ day of _____, 20 ____.

☐ An order terminating the parent-child relationship or dismissing a petition to terminate the parent-child relationship entered pursuant to Iowa Code section 232.117 on the _____ day of _____, 20 ____.

☐ A post-termination order entered pursuant to Iowa Code section 232.117 on the _____ day of _____, 20 ____.

Dated this _____ day of _____, 20 ____.

_____
*(signature of appellant's attorney)*
*Name, address, telephone number, fax number, and e-mail address of appellant's attorney.*

_____
*(Signature of appellant.*)*
*Name, address, and telephone number of Appellant.*

***The signature of the appellant is required by Iowa R. App. P. 6.102(1)(*a*).**

**CERTIFICATE OF SERVICE**

The undersigned certifies a copy of this notice of appeal (cross-appeal) was served on the _____ day of _____, 20____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service).*

_____
*(signature of person making service)*

[Court Order October 31, 2008, effective January 1, 2009]

**Rule 6.1401 — Form 5:** ***Petition on Appeal (Cross-Appeal) (Child-in-Need-of-Assistance and Termination Cases).***

**IN THE SUPREME COURT OF IOWA**

| | |
|---|---|
| IN THE INTEREST OF<br><br>_____, CHILD(REN) | Supreme Court No. _____<br>Juvenile Court No. _____<br><br>**PETITION ON APPEAL (CROSS–APPEAL) (Child-In-Need-Of-Assistance and Termination Cases)** |

County _____ Judge _____

The names of the parties involved in this appeal and their designations in juvenile court are shown below in column A. Their respective attorneys' names, law firms, addresses, and telephone numbers are shown below in column B.

| Column A<br>Parties | Column B<br>Attorneys |
|---|---|
| Appellant(s): | |
| Appellee(s): | |

1. This Petition on Appeal is filed on behalf of, *(insert name of person)* _____, *(insert role of filer i.e. mother, father, child, State, intervenor, or other)* in the above–identified (CHECK ONE)

☐ child-in-need-of-assistance

☐ termination-of-parental-rights

☐ post–termination

proceeding, with respect to child(ren)

| Child(ren)'s Name(s) | Date(s) of Birth |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

2. (If applicable), parental rights were terminated by the juvenile court pursuant to Iowa Code section(s) 232.116(_____) *(insert specific subsection(s))* as to the mother and Iowa Code section(s) 232.116(_____) *(insert specific subsection(s))* as to the father.

If appealing from a **CINA** order, indicate as to the mother on what statutory ground(s) the child(ren) was/were adjudicated in need of assistance (____)*(insert specific subsection(s))* and indicate as to the father on what statutory ground(s) the child(ren) was/were adjudicated in need of assistance (____)*(insert specific subsection(s))*.

3. Appellant's attorney, _____, is/is not the attorney who represented appellant at trial.

4. List any other pending appeals involving the child(ren).

Case Name: _____

Supreme Court No.: _____

Type of Appeal: (e.g., appeal from adjudication/disposition, dissolution) _____

5. The relevant dates regarding this appeal are the following:

a. Date of adjudication _____

b. Date of last removal (excluding any trial period at home of less than 30 days)

c. Date of disposition _____

d. Date(s) of any review hearings _____

e. Date of any permanency hearing _____

f. Date(s) termination petition filed/amended _____

g. Date(s) of termination hearing _____

h. Date(s) of child-in-need-of-assistance order(s) from which appeal was taken _

i. Date of termination or dismissal order from which appeal was taken _____

j. Date of post–termination order from which appeal was taken

k. Date notice of appeal filed _____

l. Any other date(s)/hearing(s) material to appeal _____

6. Nature of case and relief sought: The appellant seeks a reversal of the juvenile court order:

a. terminating the parental rights of _____*(insert name(s))* with respect to the child(ren) _____*(insert name(s))*; OR

b. dismissing a petition to terminate the parental rights of _____ *(insert name(s))* with respect to the child(ren), _____ *(insert name(s))*; OR

c. If seeking reversal or modification of a **CINA** order, specify the relief requested:

_____

_____

d. OTHER (specify) _____

7. State the material facts as they relate to the issues presented for appeal:

_____

_____

_____

_____

_____

8. State the legal issues presented for appeal, including a statement of how the issues arose and how they were preserved for appeal. Also, state what findings of fact or conclusions of law the district court made with which you disagree and why, generally referencing a particular part of the record, witnesses' testimony, or exhibits that support your position on appeal:

*The issue statement should be concise in nature setting forth specific legal questions. General conclusions, such as "the trial court's ruling is not supported by law or the facts" are not acceptable. Include supporting legal authority for each issue raised, including authority contrary to appellant's case, if known.*

a. Issue I:

_____

_____

_____

Was error preserved? _____ yes _____ no. If yes, state how:

_____

_____

Supporting legal authority for Issue I:

_____

_____

_____

_____

_____

_____

_____

_____

Findings of fact or conclusions of law with which you disagree:

_____

_____

_____

_____

b. Issue II:

Was error preserved? _____ yes _____ no. If yes, state how:

Supporting legal authority for Issue II:

Findings of fact or conclusions of law with which you disagree:

(Additional issues may be added)

9. I hereby certify I will request within 30 days after the filing of the notice of appeal that the clerk of the trial court transmit immediately to the clerk of the supreme court:

(For appeals from child-in-need-of-assistance proceedings)

a. The child-in-need-of-assistance court file, including all exhibits.

b. Any transcript of a hearing or hearings resulting in the order from which an appeal has been taken.

(For appeals from termination proceedings)

a. The termination-of-parental-rights court file, including all exhibits.

b. Those portions of the child-in-need-of-assistance court file, either received as exhibits or judicially noticed in the termination proceedings.

c. The transcript of the termination hearing.

(For appeals from post–termination proceedings)

a. The order, judgment, or decree terminating parental rights.

b. Any ruling on a motion for new trial under Iowa R. Civ. P. 1.1007 or a motion under Iowa R. Civ. P. 1.904(2).

c. The post–termination order from which the appeal was taken.

d. Any motion(s), resistance(s), or transcript(s) related to the post–termination order from which the appeal was taken.

The undersigned requests that the appellate court issue an opinion reversing the order of the juvenile court in this matter, or, in the alternative, enter an order setting this case for full briefing.

_____

*(signature of appellant or appellant's attorney)*
*Name, address, telephone number, fax number, and e-mail address of appellant or appellant's attorney.*

**ATTACHMENTS:**

(For appeals from child-in-need-of-assistance proceedings):

(1) a copy of the order or judgment from which the appeal has been taken; and

(2) a copy of any rulings on a motion for new trial as provided in Iowa R. Civ. P. 1.1007 or a motion as provided in Iowa R. Civ. P. 1.904(2).

(For appeals from termination orders):

(1) a copy of the petition (and any amendments) for termination of parental rights filed in the juvenile court proceedings;

(2) any ruling on a motion for new trial under Iowa R. Civ. P. 1.1007 or a motion under Iowa R. Civ. P. 1.904(2);

(3) a copy of the order, judgment, or decree terminating parental rights or dismissing the termination petition; and

(4) a copy of any rulings on a motion for new trial as provided in Iowa R. Civ. P. 1.1007 or a motion as provided in Iowa R. Civ. P. 1.904(2).

(For appeals from post–termination orders):

(1) a copy of the order, judgment, or decree terminating parental rights;

(2) a copy of the post–termination order from which the appeal was taken; and

(3) any motion(s) or resistance(s) related to the post–termination order from which the appeal was taken.

**CERTIFICATE OF SERVICE**

The undersigned certifies a copy of this petition on appeal (cross-appeal) was served on the _____ day of _____ 20 _____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service).*

_____

*(signature of person making service)*

[Court Order October 31, 2008, effective January 1, 2009; May 27, 2010]

**Rule 6.1401 — Form 6:** ***Response to Petition on Appeal (Cross-Appeal).***

**IN THE SUPREME COURT OF IOWA**

IN THE INTEREST OF

_____, CHILD(REN)

Supreme Court No._____

Juvenile Court No. _____

**RESPONSE TO PETITION ON APPEAL (CROSS-APPEAL)**

1. This response to the petition on appeal/cross-appeal is filed on behalf of _____, *(insert name of person)* _____, *(insert role of filer i.e. mother, father, child, State, intervenor, or other)* in the above-identified proceeding.

2. The appellee's attorney, _____, is/is not the attorney who represented appellee at trial.

3. The relevant date(s) regarding this appeal:

_____ are correctly stated in the petition on appeal.

_____ are corrected by appellee as follows: _____

_____

4. The statement of material facts as they relate to the issues presented for appeal is:

_____ accurate as set forth by appellant and accepted by the undersigned appellee; OR

_____ requires additions/corrections, as follows:

_____

_____

5. Appellee's responses to the legal issues presented for appeal are as follows:

a. Issue I:

_____

_____

Appellee states that:

_____ error was preserved as alleged in the petition on appeal.

_____ error was not preserved. If so, please explain briefly:

_____

_____

Legal authorities for Issue I supporting appellee's response:

_____

_____

_____

_____

b. Issue II:

_____

_____

Appellee states that:

_____ error was preserved as alleged in the petition on appeal.

_____ error was not preserved. If so, please explain briefly:

_____

_____

Legal authorities for Issue II supporting appellee's response:

_____

_____

_____

_____

6. The undersigned requests the appellate court issue an opinion affirming the order of the juvenile court in this matter.

_____

*(signature of appellee or appellee's attorney)*
*Name, address, telephone number, fax number, and e-mail address of appellee or appellee's attorney.*

**CERTIFICATE OF SERVICE**

The undersigned certifies a copy of this response to petition on appeal (cross-appeal) was served on the _____ day of _____, 20____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service).*

_____

*(signature of person making service)*

[Court Order October 31, 2008, effective January 1, 2009]

**Rule 6.1401 — Form 7:** ***Certificate of Compliance with Typeface Requirements and Type-Volume Limitation for briefs.***

**Certificate of Compliance with Typeface Requirements and Type-Volume Limitation**

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(*d*) and 6.903(1)(*g*)(1) or (2) because:

[ ] this brief has been prepared in a proportionally spaced typeface using [state name of typeface] in [state font size] and contains [state the number of] words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(*g*)(1) or

[ ] this brief has been prepared in a monospaced typeface using [state name of typeface] in [state font size] and contains [state the number of] lines of text, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(*g*)(2).

_____ _____

Signature Date

[Court Order October 31, 2008, effective January 1, 2009; February 23, 2017, effective March 1, 2017; March 1, 2017]

**Rule 6.1401 — Form 8:** ***Reporter's Certificate of Filing a Transcript.***

**IN THE SUPREME COURT OF IOWA**

*(Insert supreme court caption.)*

Supreme Court No._____

District Court No. _____

**REPORTER'S CERTIFICATE OF FILING A TRANSCRIPT**

(See Iowa R. App. P. 6.803(2)(*e*))

I hereby certify that on the _____ day of _____, 20____, _____ *(name of attorney or party)* ordered the following transcript(s)

_____

_____

_____

_____

_____

in the above captioned matter by serving a copy of the combined certificate. I further certify that on the _____ day of _____, 20____, I filed the following transcript(s)

_____

_____

_____

_____

_____

with the clerk of the supreme court.

_____

*(signature of court reporter)*
*Name, address, telephone number, and e-mail address of court reporter*

**CERTIFICATE OF SERVICE**

The undersigned certifies a copy of this reporter's certificate was served on the _____ day of _____, 20____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service).*

_____

*(signature of person making service)*

**NOTE: RULE 6.803(3) REQUIRES THIS CERTIFICATE TO BE FILED AS A SEPARATE DOCUMENT AND TO BE SERVED ON THE PARTIES OF RECORD AND THE CLERK OF THE DISTRICT COURT.**

[Court Order October 31, 2008, effective January 1, 2009]

**Rule 6.1401 — Form 9:** ***Reporter's Application for an Extension of Time to File a Transcript.***

**In the Iowa District Court for _____ County**

| *Insert supreme court caption* | Supreme court no. _____<br><br>**Reporter's Application for an Extension of Time to File a Transcript**<br>*See* Iowa R. App. P.6.803(3)) |
|---|---|

1. I hereby certify that on the _____ day of _____, 20_____,
   *Month* *Year*

   _____ ordered the following transcript(s):
   *Name of attorney or party*

   _____

   _____

   _____

   _____

   _____

   _____

   in the above captioned matter by serving a combined certificate.

2. The deadline for filing the transcript(s) with the clerk of the supreme court is the

   _____ day of _____, 20____.
   *Month* *Year*

3. I am unable to file the transcript(s) on the date required because

   _____

   _____

   _____

   _____

   _____

   *If the transcript(s) cannot be filed by the due date because the party ordering it has not complied with the arrangements made to pay for the transcript(s), you must state what arrangements for payment of the transcript(s) were made under rule 6.803(5).*

4. I will be able to complete and file the transcript by the ____ day of _____, 20____.
   *Month* *Year*

**Wherefore**, the undersigned requests the court to grant the undersigned more time to file the transcript(s) in the above captioned matter.

or

**Wherefore**, the undersigned requests the court to enter an order requiring the person who ordered the transcript(s) to pay for the transcript(s) as previously arranged under rule 6.803(5) and set a date as to when the transcript(s) shall be filed.

_____
*Signature of court reporter*

| _____ | _____ | _____ | _____ |
|---|---|---|---|
| *Address of court reporter* | *City* | *State* | *ZIP Code* |

| (_____) _____ | (_____) _____ | _____ |
|---|---|---|
| *Court reporter's phone number* | *Fax number* | *Email address* |

**Certificate of Service**

The undersigned certifies a copy of this reporters' application for an extension of time to file a transcript was served on the_____ day of _____, 20_____, upon the following persons and upon
*Month* *Year*
the clerk of the supreme court. *List the names and addresses of the persons below and indicate the manner of service.*

_____

_____

_____

_____
*Signature of server*

*Note: Rule 6.803(3) requires that this Application be served on all counsel of record, any unrepresented parties, and the chief judge of the judicial district.*



[Court Order October 31, 2008, effective January 1, 2009; July 20, 2017]

**Rule 6.1401 — Form 10:** ***Certificate of Compliance with Typeface Requirements and Type-Volume Limitation for an Application for Further Review or a Resistance to an Application for Further Review.***

**Certificate of Compliance with Typeface Requirements and Type-Volume Limitation**

This [application or resistance] complies with the typeface and type-volume requirements of Iowa R. App. P. 6.1103(4) because:

[ ] this [application or resistance] has been prepared in a proportionally spaced typeface using [state name of typeface] in [state font size], and contains [state the number of] words, excluding the parts of the [application or resistance] exempted by Iowa R. App. P. 6.1103(4)(*a*), or

[ ] this [application or resistance] has been prepared in a monospaced typeface using [state name of typeface] in [state font size], and contains [state the number of] lines of text, excluding the parts of the [application or resistance] exempted by Iowa R. App. P. 6.1103(4)(*a*).

_____ _____

Signature Date

[Court Order February 23, 2017, effective March 1, 2017]

**Rule 6.1401 — Form 11:** ***Certificate of Confidentiality.***

**IN THE SUPREME COURT OF IOWA**

[*Insert supreme court caption*] Supreme Court No. _____

**RE: [insert name of document being filed]**

**CERTIFICATE OF CONFIDENTIALITY**
Iowa R. App. P. 6.110(2)

Pursuant to Iowa R. App. P. 6.110(2), I, [*insert attorney's or filing party's name*], hereby certify that the [*identify document being filed*] attached to this Certificate of Confidentiality contains material deemed confidential pursuant to [*cite applicable statute, rule, or date and title of order requiring matter to be filed in a confidential manner*].

Date: _____

_____
*Signature of attorney or filing party*

_____
*Printed name of attorney or filing party*

_____
*Address of attorney or filing party*

_____
*Email address of attorney or filing party*

[Court Order July 20, 2017]

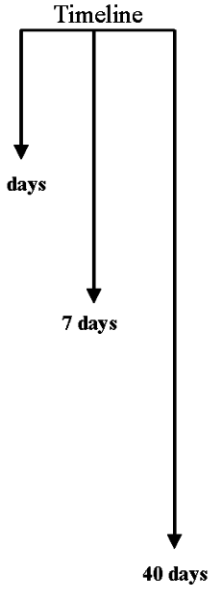
**Rules 6.1402** to **6.1500** Reserved.

## DIVISION XV
APPELLATE PROCEDURE TIMELINES

### Rule 6.1501 Appellate Procedure Timelines
### Rule 6.1501 — Timeline 1: Prebriefing Procedure.

**APPELLATE PROCEDURE TIMELINE NO. 1**
(not for use in Iowa Code chapter 232 child in need of assistance and termination of parental rights appeals)

PREBRIEFING PROCEDURE[1]




1. *Notice of appeal.* The appellant files the notice of appeal with the clerk of the district court and an informational copy with the clerk of the supreme court and must serve a copy on all parties. Iowa Rs. App. P. 6.101, 6.102(2).

2. *Transmission of certified notice of appeal.* Within 4 days after the filing of the notice of appeal, the clerk of the district court transmits a certified copy of the notice of appeal to the clerk of the supreme court and all parties. Iowa R. App. P. 6.802.

3. *Payment of filing fee, ordering transcript(s), and filing combined certificate.* Within 7 days after the filing of the notice of appeal, the appellant pays the filing fee to the clerk of the supreme court or requests a waiver of the fee, Iowa R. App. P. 6.703, and orders the transcript(s) from the court reporter(s) by completing the combined certificate and serving the certificate on the court reporter(s), Iowa Rs. App. P. 6.803(1), 6.804.[2] The appellant files the combined certificate with the clerk of the district court and the clerk of the supreme court. Iowa R. App. P. 6.804(1).

4. *Filing of transcript(s).* Within 40 days from service of the combined certificate, the court reporter files the transcript(s) with the clerk of the district court and files the reporter's certificate of filing the transcript(s) with the clerk of the supreme court.[3] Iowa R. App. P. 6.803(3)(*b*)(3).

---

[1]The Iowa Rules of Appellate Procedure govern the procedure in all appeals in Iowa and should be reviewed in full. This timeline is merely illustrative of typical appeals and may not cover every procedural situation or type of appeal.

[2]See Iowa Rule of Appellate Procedure 6.805 if the appellee wishes to designate additional parts of the transcript(s) or if a dispute arises about which parts of the proceedings are to be transcribed.

[3]The time for filing is reduced to 20 days in guilty plea and sentencing appeals. Iowa R. App. P. 6.803(3)(*b*)(1).

[Court Order October 31, 2008, effective January 1, 2009; July 20, 2017; February 29, 2024, effective April 1, 2024]

## Rule 6.1501 Appellate Procedure Timelines
## Rule 6.1501 — Timeline 2: Briefing Procedure.

**APPELLATE PROCEDURE TIMELINE NO. 2**
(not for use in Iowa Code chapter 232 child in need of assistance and termination of parental rights appeals)

BRIEFING PROCEDURE[1]

| Deadlines | |
|---|---|
| | 1. *Briefing deadline.* Briefing deadlines run from the date the clerk of the supreme court gives notice of the briefing deadline.[2] Iowa Rs. App. P. 6.803(6), 6.901(1). |
| **50 days** | 2. *Appellant's brief.* Within 50 days after the clerk of the supreme court gives notice of the briefing deadlines, the appellant must file the appellant's brief with the clerk of the supreme court. Iowa R. App. P. 6.901(1)(*a*). |
| **30 days** | 3. *Appellee's brief.* Within 30 days after service of the appellant's brief, the appellee must file the appellee's brief or a statement waiving the brief with the clerk of the supreme court. Iowa Rs. App. P. 6.901(1)(*b*), 6.903(3). |
| **21 days** | 4. *Appellant's reply brief.* If a cross-appeal has not been filed, the appellant may file a reply brief within 21 days of service of the appellee's brief. Iowa R. App. P. 6.901(1)(*c*). If a cross-appeal has been filed, the appellant/cross-appellee must respond within 21 days of service of the appellee/cross-appellant's brief by either filing a reply brief or a statement waiving any further brief. Iowa R. App. P. 6.901(1)(*c*). |
| **14 days** | 5. *Appellee/cross-appellant's reply brief.* If a cross-appeal was filed, the appellee/cross-appellant may file a reply brief within 14 days of service of the appellant/cross-appellee's reply brief. Iowa R. App. P. 6.901(1)(*c*). |
| **14 days** | 6. *Transmission of the record.* No later than 14 days after all briefs have been filed or the time for filing them has expired, the appellant must request transmission of the record from the clerk of the district court and file an informational copy of the request with the clerk of the supreme court. Iowa R. App. P. 6.802(2)(*b*). |

[1]The Iowa Rules of Appellate Procedure govern the procedure in all appeals in Iowa and should be reviewed in full. This timeline is merely illustrative of typical appeals and may not cover every procedural situation or type of appeal.

[2]The deadlines in this timeline only relate to nonexpedited cases. *See* Iowa Rs. App. P. 6.901(1), 6.902. The times for filing are reduced for expedited cases under Iowa Rule of Appellate Procedure 6.902.

Expedited cases include: child custody, adoption, termination of parental rights under Iowa Code chapter 600A, child in need of assistance and termination of parental rights under Iowa Code chapter 232 when full briefing has been granted, criminal proceedings in which an appeal is taken from a judgment and sentence entered upon a guilty plea or from a sentence or resentencing order only, juvenile proceedings affecting child placement, lawyer disciplinary matters, involuntary commitments of mentally ill persons under Iowa Code chapter 229, involuntary commitments of persons with a substance use disorder under Iowa Code chapter 125, and certified questions under Iowa Code chapter 684A. Iowa R. App. P. 6.902(1).

In expedited cases the times for filing are reduced by one-half except step 4 which is reduced to 15 days. Iowa R. App. P. 6.902(2).

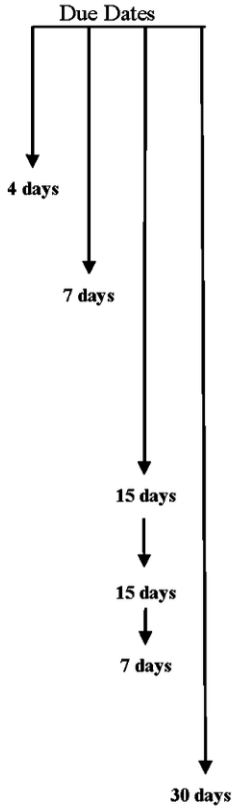
[Court Order October 31, 2008, effective January 1, 2009; July 20, 2017; February 29, 2024, effective April 1, 2024]

**Rule 6.1501 Appellate Procedure Timelines**

**Rule 6.1501 — Timeline 3: Iowa Code Chapter 232 Child in Need of Assistance and Termination of Parental Rights Appeals.**

**APPELLATE PROCEDURE TIMELINE NO. 3**

IOWA CODE CHAPTER 232 CHILD IN NEED OF ASSISTANCE AND TERMINATION OF PARENTAL RIGHTS APPEALS[1]




1. *Notice of appeal.* A notice of appeal must be filed within 15 days of the filing of the juvenile court order. Iowa R. App. P. 6.101(1)(*a*). A notice of appeal cannot be filed unless signed by both the appellant and the appellant's counsel. Iowa Rule App. P. 6.102(1)(*a*)(1).

2. *Transmission of certified notice of appeal.* Within 4 days after the filing of the notice of appeal, the clerk of the district court transmits a certified copy of the notice of appeal to the clerk of the supreme court and all parties. Iowa R. App. P. 6.802.

3. *Payment of filing fee, ordering transcript(s), and filing combined certificate.* Within 7 days after the filing of the notice of appeal, the appellant pays the filing fee to the clerk of the supreme court or requests a waiver of the fee, Iowa Rs. App. P. 6.204, 6.703, and orders the transcript(s) from the court reporter(s) by completing the combined certificate and serving the certificate on the court reporter(s), Iowa Rs. App. P. 6.803(1), 6.804.[2] The appellant files the combined certificate with the clerk of the district court and the clerk of the supreme court. Iowa R. App. P. 6.804(1).

4. *Petition on appeal.* The appellant files a petition on appeal within 15 days after the filing of the notice of appeal or the appeal will be dismissed. Iowa Rs. App. P. 6.102(1)(*e*), 6.201.

5. *Response to petition.* The appellee may file a response to a petition within 15 days of service of the petition. Iowa R. App. P. 6.202.

6. *Reply to issues raised in cross-appeal.* If a cross-appeal is filed, the appellant/cross-appellee may file a reply to the cross-appeal within 7 days after service of the appellee/cross-appellant's response. Iowa R. App. P. 6.203. The appellant may not file a reply if the appellee has not filed a cross-appeal. Iowa R. App. P. 6.203.

7. *Transmission of the record.* Within 30 days after the filing of the notice of appeal, the appellant must request transmission of the record from the clerk of the district court and file an informational copy of the request with the clerk of the supreme court. Iowa Rs. App. P. 6.204, 6.802(2)(*a*).

8. *Briefing.* Briefing is done only when directed by the appellate court. Iowa R. App. P. 6.205(1).

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[1]The Iowa Rules of Appellate Procedure govern the procedure in all appeals in Iowa and should be reviewed in full. This timeline is merely illustrative of typical appeals and may not cover every procedural situation or type of appeal.

[2]See Iowa Rule of Appellate Procedure 6.805 if the appellee wishes to designate additional parts of the transcript(s) or if a dispute arises about which parts of the proceedings are to be transcribed.

[Court Order October 31, 2008, effective January 1, 2009; July 20, 2017; February 29, 2024, effective April 1, 2024]

**Rules 6.1502** to **6.1600** Reserved.

## DIVISION XVI
APPELLATE PROCEDURE CHARTS

### Rule 6.1601 Appellate Procedure Charts
### Rule 6.1601 — Chart A: Technical Requirements of a Brief.

**APPELLATE PROCEDURE CHART A**

TECHNICAL REQUIREMENTS OF A BRIEF[1]

| Document | Time to file | Length for proportionally spaced typeface | Length for monospaced typeface | Length for handwritten |
|---|---|---|---|---|
| **Appellant's brief** | 50 days after the clerk gives notice of the briefing deadline | 13,000 words | 1,300 lines | 50 pages |
| **Appellee's brief & appellee/cross-appellant's brief** | 30 days after service of the appellant's brief | 13,000 words | 1,300 lines | 50 pages |
| **Appellant's reply brief** | 21 days after service of the appellee's brief | 6,500 words | 650 lines | 25 pages |
| **Appellant/cross-appellee's reply brief** | 21 days after service of the appellee/cross-appellant's brief | 13,000 words | 1,300 lines | 50 pages |
| **Appellee/cross-appellant's reply brief** | 14 days after service of the appellant's/cross-appellee's reply brief | 6,500 words | 650 lines | 25 pages |
| **Petition for rehearing in court of appeals[2]** | 7 days after the court of appeals decision | 2,600 words | 260 lines | 10 pages |
| **Application for further review** | 20 days after the court of appeals decision | 5,200 words | 520 lines | 20 pages |
| **Resistance to application for further review** | 10 days after service of the application for further review | 5,200 words | 520 lines | 20 pages |
| **Petition for rehearing in supreme court** | 14 days after the supreme court decision | 2,600 words | 260 lines | 10 pages |

[1]The Iowa Rules of Appellate Procedure govern the procedure in all appeals in Iowa and should be reviewed in full. This chart is merely illustrative of typical appeals and may not cover every procedural situation or type of appeal.

[2]Filing a petition for rehearing in the court of appeals does not stay the time for filing an application for further review. Iowa R. App. P. 6.1204(1).

[Court Order October 31, 2008, effective January 1, 2009; July 20, 2017; February 29, 2024, effective April 1, 2024]

**Rule 6.1601 — Chart B: Technical Requirements of a Brief When Expedited Times for Filing Apply.**

**APPELLATE PROCEDURE CHART B**

TECHNICAL REQUIREMENTS OF A BRIEF WHEN EXPEDITED TIMES FOR FILING APPLY[1]

| Document | Time to file | Length for proportionally spaced typeface | Length for monospaced typeface | Length for handwritten |
|---|---|---|---|---|
| **Appellant's brief** | 25 days after the clerk gives notice of the briefing deadline | 13,000 words | 1,300 lines | 50 pages |
| **Appellee's brief & appellee/cross-appellant's brief** | 15 days after service of the appellant's brief | 13,000 words | 1,300 lines | 50 pages |
| **Appellant's reply brief** | 15 days after service of the appellee's brief | 6,500 words | 650 lines | 25 pages |
| **Appellant/cross-appellee's reply brief** | 15 days after service of the appellee/cross-appellant's brief | 13,000 words | 1,300 lines | 50 pages |
| **Appellee/cross-appellant's reply brief** | 7 days after service of the appellant's/cross-appellee's reply brief | 6,500 words | 650 lines | 25 pages |
| **Petition for rehearing in court of appeals[2]** | 7 days after the court of appeals decision | 2,600 words | 260 lines | 10 pages |
| **Application for further review** | 20 days after the court of appeals decision[3] | 5,200 words | 520 lines | 20 pages |
| **Resistance to application for further review** | 10 days after service of the application for further review | 5,200 words | 520 lines | 20 pages |
| **Petition for rehearing in supreme court** | 14 days after the supreme court decision | 2,600 words | 260 lines | 10 pages |

[1]The Iowa Rules of Appellate Procedure govern the procedure in all appeals in Iowa and should be reviewed in full. This chart is merely illustrative of typical appeals and may not cover every procedural situation or type of appeal.

[2] Filing a petition for rehearing in the court of appeals does not stay the time for filing an application for further review. Iowa R. App. P. 6.1204(1).

[3]In Iowa Code chapter 232 child in need of assistance and termination of parental rights appeals, the time for filing is reduced to 10 days. Iowa R. App. P. 6.1103(1)(*a*)(1).

[Court Order October 31, 2008, effective January 1, 2009; July 20, 2017; February 29, 2024, effective April 1, 2024]

## Rule 6.1601 — Chart C: Contents of a Brief.

**APPELLATE PROCEDURE CHART C**

CONTENTS OF A BRIEF[1]

| Brief section | Appellant | Appellee | Reply | Counted in word, line, or page limit |
|---|---|---|---|---|
| **Caption** | Yes | Yes | Yes | No |
| **Table of contents** | Yes | Yes | Yes | No |
| **Table of authorities** | Yes | Yes | Yes | No |
| **Statement of the issues presented for review** | Yes | Yes | Yes | No |
| **Routing statement** | Yes | Yes | No | Yes |
| **Nature of the case** | Yes | Only if dissatisfied with the appellant's statements | No | Yes |
| **Statement of the facts** | Yes | Only if dissatisfied with the appellant's statements | No | Yes |
| **Jurisdictional statement** (for appeals from a final judgment of sentence following a guilty plea) | Yes | Only if dissatisfied with the appellant's statements | No | Yes |
| **Argument** | Yes | Yes | Yes | Yes |
| **Statement of error preservation** | Yes | Yes | No | Yes |
| **Statement of scope and standard of appellate review** | Yes | Yes | No | Yes |
| **Conclusion** | Yes | Yes | Yes | Yes |
| **Request for oral or nonoral submission** | Yes | Yes | No | Yes |
| **Certificate of cost**[2] | Yes | Yes | Yes | No |
| **Certificate of compliance**[3] | Yes | Yes | Yes | No |
| **Signature block** | Yes | Yes | Yes | No |

[1]The Iowa Rules of Appellate Procedure govern the procedure in all appeals in Iowa and should be reviewed in full. This chart is merely illustrative of typical appeals and may not cover every procedural situation or type of appeal.

[2]A certificate of cost is only required for briefs filed in paper form. Iowa R. App. P. 6.903(2)(*a*)(11).

[3]A certificate of compliance is not required for briefs that are handwritten. Iowa R. App. P. 6.903(1)(*i*)(4).

[Court Order October 31, 2008, effective January 1, 2009; February 29, 2024, effective April 1, 2024]

# CHAPTER 7
# RULES OF PROBATE PROCEDURE

# CHAPTER 7
# RULES OF PROBATE PROCEDURE

**Rule 7.1 Effective removal order — turnover.** When the court orders the removal of a fiduciary under Iowa Code section 633.65, such order, unless expressly providing otherwise, shall be effective as a turnover order under Iowa Code section 633.70, and without further order the fiduciary so removed shall turn over all personal property, money or securities to or for the fiduciary's successor at the clerk's office within five days after such order is filed.
[Court Order November 16, 1965; November 14, 1979; Report November 9, 2001, effective February 15, 2002]

**Rule 7.2 Fees in probate.**

**7.2(1)** Every report or application requesting an allowance of fees for personal representatives or their attorneys shall be written and verified as provided in Iowa Code section 633.35.

**7.2(2)** When fees for ordinary services are sought pursuant to Iowa Code sections 633.197 and 633.198, proof of the nature and extent of responsibilities assumed and services rendered shall be required. Unless special circumstances should be called to the court's attention, the contents of the court probate file may be relied upon as such proof. In determining the value of gross assets of the estate for purposes of Iowa Code section 633.197, the court shall not include the value of joint tenancy property excluded from the taxable estate pursuant to Iowa Code section 450.3(5) or the value of life insurance payable to a designated beneficiary.

**7.2(3)** When an allowance for extraordinary expenses or services is sought pursuant to Iowa Code section 633.199, the request shall include a written statement showing the necessity for such expenses or services, the responsibilities assumed, and the amount of extra time or expense involved. In appropriate cases, the statement shall also explain the importance of the matter to the estate and describe the results obtained. The request may be made in the final report or by separate application. It shall be set for hearing upon reasonable notice, specifying the amounts claimed, unless waivers of notice identifying the amounts claimed are filed by all interested persons. The applicant shall have the burden of proving such allowance should be made.

**7.2(4)** One half of the fees for ordinary services may be paid when the federal estate tax return, if required, and Iowa inheritance tax return, if required, are prepared. When a federal estate tax return is not required, the one-half fee may be paid when the Iowa inheritance tax return is prepared or, when it is not required, when the probate inventory required by the Iowa Probate Code is filed. The remainder of the fees may be paid when the final report is filed and the costs have been paid. The schedule for paying fees may be different when so provided by order of the court for good cause.

**7.2(5)** Every report or application requesting compensation for other fiduciaries and their attorneys pursuant to Iowa Code section 633.200 shall be written and verified.

**7.2(6)** When compensation has been allowed to a person employed by the fiduciary or attorney to assist the estate pursuant to Iowa Code section 633.84, the request for fees by the fiduciary shall disclose the identity of such person and the amount allowed, for consideration by the court in determining fees for the fiduciary pursuant to Iowa Code section 633.86.
[Court Order November 14, 1979; Report September 5, 1985, effective November 15, 1985; November 9, 2001, effective February 15, 2002; November 23, 2004, effective February 1, 2005]

**Rule 7.3 District court rules in probate.** A district court rule of probate and administration shall not be valid until it has been filed with the clerk of the supreme court and approved by that court.
[Court Order November 14, 1979; Report November 9, 2001, effective February 15, 2002]

**Rule 7.4 Report of referee.** A report of a referee in probate shall substantially comply with the form that accompanies this rule.
[Report November 9, 2001, effective February 15, 2002; Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

**Rule 7.4—Form 1:** ***Report of Referee***

| **In the Iowa District Court for _____ County** | |
|---|---|
| **In the Matter of the Estate of:**<br><br>_____<br>*Full name: first, middle, last*<br><br>**Deceased.** | Probate no._____<br><br>**Report of Referee** |

The undersigned Referee verifies that the Final Report has been filed in this estate and that the Referee has examined the Final Report and reports to the court as follows:

*All questions must be answered. If* **Yes** *or* **No** *is not appropriate, check* **N/A**.

| | | Yes | No | N/A |
|---|---|---|---|---|
| **1.** | Proof of publication filed? | ☐ | ☐ | ☐ |
| **2.** | Affidavit of Mailing Notice filed as required by: | | | |
| | A. Iowa Code sections 633.230 and 633.304? | ☐ | ☐ | ☐ |
| | B. Iowa Code sections 633.231 and 633.304A (medical assistance claims)? | ☐ | ☐ | ☐ |
| **3.** | Fiduciaries fees ordered or waived and affidavit of compensation filed? | ☐ | ☐ | ☐ |
| **4.** | Attorney fees ordered and affidavit of compensation filed? | ☐ | ☐ | ☐ |
| | A. Itemization requested and provided? | ☐ | ☐ | ☐ |
| | B. If not, statement required by Iowa Code section 633.477(11) made? | ☐ | ☐ | ☐ |
| **5.** | Income tax acquittance filed? | ☐ | ☐ | ☐ |
| **6.** | Inheritance tax clearance filed or certification required by Iowa Code section 450.58 made? *Note: This is no longer required for decedents dying on or after January 1, 2025 (Iowa Code § 450.98).* | ☐ | ☐ | ☐ |
| **7.** | Federal estate tax transcript or federal estate tax closing letter filed or certification required by Iowa Code section 633.477(10) made? | ☐ | ☐ | ☐ |
| **8.** | List of distributees shown? | ☐ | ☐ | ☐ |
| **9.** | Description of real estate shown? | ☐ | ☐ | ☐ |
| **10.** | Certificates of change of title to real estate filed or reference to the transfer of property by Court Officer Deed made, as required? | ☐ | ☐ | ☐ |
| **11.** | All claims filed have been paid, disallowed, or released, or a classification of debts and charges has been made pursuant to Iowa Code section 633.425 and approved by the Court? | ☐ | ☐ | ☐ |
| **12.** | Notice of hearings on the Final Report waived? | ☐ | ☐ | ☐ |
| | If not waived, proper proof of service of notice on file and period for filing objection(s) expired? | ☐ | ☐ | ☐ |

***Continued on next page***

*Rule 7.4—Form 1: Report of Referee*, continued

| | Yes | No | N/A |
|---|---|---|---|
| **13.** Accounting waived? | ☐ | ☐ | ☐ |
| If not waived, has accounting been provided? | ☐ | ☐ | ☐ |
| **14.** Court costs paid, including cost for final order(s)? | ☐ | ☐ | ☐ |
| **15.** Election filed by or for surviving spouse under Iowa Code section 633.236 or notice filed and time period for filing election under Iowa Code section 633.237 expired? | ☐ | ☐ | ☐ |
| **16.** Receipts for all specific bequests filed? | ☐ | ☐ | ☐ |
| **17.** Is there a statement regarding whether decedent left genetic material? | ☐ | ☐ | ☐ |

*If you checked* **No**, *check* **N/A** *for the remaining questions in section 17.*

A. Decedent:

| | | | |
|---|---|---|---|
| (1) Was unmarried. | ☐ | ☐ | ☐ |
| (2) Left no genetic material. | ☐ | ☐ | ☐ |
| (3) Left no signed writing authorizing spouse to use the genetic material. | ☐ | ☐ | ☐ |

*If you checked* **Yes** *to any question in section 17(A), check* **N/A** *for the remaining questions in section 17.*

| | | | |
|---|---|---|---|
| B. Have sufficient estate assets been reserved to fund distribution to posthumous heirs? | ☐ | ☐ | ☐ |

*If you checked* **No**, *check* **N/A** *for the remaining questions in section 17.*

| | | | |
|---|---|---|---|
| C. Does the Final Report state that final distributions will not be made until two years after the decedent's date of death? | ☐ | ☐ | ☐ |

*If you checked* **No**, *check* **N/A** *for the remaining questions in section 17.*

| | | | |
|---|---|---|---|
| D. Does the Final Report state that a supplemental report will be submitted after final distributions of the reserved assets? | ☐ | ☐ | ☐ |

**18. Remarks:**

_____

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.4—Form 1: Report of Referee,* continued

**19. Filer's information:**

_____ _____, 20_____
*Month* *Day* *Year*
*Date signed*

_____ /s/_____
*Printed name* *Referee in probate signature*

_____
*Law firm, if applicable*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*



[Court Order November 14, 1979; December 3, 1981; November 14, 1984, effective November 26, 1984; Report September 5, 1985, effective November 15, 1985; February 18, 1987, effective July 1, 1987; September 23, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; July 23, 2003, effective October 1, 2003; November 30, 2005, effective March 1, 2006; April 11, 2008, effective July 1, 2008; May 23, 2014, effective August 16, 2014; December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020; December 17, 2021; February 24, 2022, temporarily effective February 24, 2022; permanently effective April 26, 2022]

**Rule 7.5 Referees in probate.**

**7.5(1)** *Duties.*

*a. Referees as masters.* Unless otherwise directed by the court, a referee in probate appointed by the district court pursuant to Iowa Code section 633.20, and determined by the court to be qualified to serve as a master, shall have the powers to perform all the duties required of masters appointed by the court in civil actions (Iowa Rs. Civ. P. 1.935 - 1.942) and shall examine all reports, applications and petitions in probate and in trusts requiring action by the court.

*b. Other referees.* A referee in probate not determined by the court to be qualified to serve as a master shall have authority to examine probate files to make the report provided by rule 7.4.

*c. Referee reports.* The report of the referee shall be in writing on a form which substantially complies with the form that accompanies these rules and shall contain such matters as the court may request as shown by the files and reports in the clerk's office. If the referee is authorized to act as a master, the report shall also contain recommendations of the referee as to what ought to be done relative to the reports when considered by the court. No final report will be approved until the report of the referee is presented to the court, it being contemplated that such presentation shall be made expeditiously and without delay.

*d. Other duties.* In addition to the powers and duties of the referee in probate prescribed by this rule, the referee shall perform such duties as the court may require.

**7.5(2)** *Fees.*

*a.* The referee shall be paid a fee for services as permitted under a schedule established under Iowa Code section 633.21, unless a referee and any assistant are appointed for the county for all matters in probate in the county and are paid an annual compensation.

*b.* Referee fees shall be taxed and collected by the clerk as other costs, and such fees shall be in addition to all other fees charged and collected by the clerk in probate matters as required by Iowa Code section 633.31.

*c.* In such cases where a referee and any assistant are paid an annual compensation, any excess of fees remaining after payment of such other expenses as are approved by the court shall be disbursed pursuant to the Code.

[Court Order December 18, 1980, effective January 1, 1981; Report November 9, 2001, effective February 15, 2002]

**Rule 7.6 Reports of delinquent inventories or reports.**

**7.6(1)** The clerk's report to the presiding judge required by Iowa Code section 633.32, of all delinquent inventories or reports in estates, trusts, guardianships or conservatorships shall contain, in addition to the information required by Iowa Code section 633.32(3), a copy of each delinquency notice and, if they do not appear on the face of the delinquency notice, the following information for each delinquent inventory or report:

*a.* The probate number of the matter.

*b.* The title of the matter.

*c.* An indication of whether the matter is an estate, trust, guardianship, or conservatorship.

*d.* The name and address of the fiduciary.

*e.* The name and address of the attorney, if any, for the fiduciary.

*f.* The type of delinquent inventory or report.

*g.* The date notice of delinquency was given.

*h.* A statement that the required report or inventory or an order extending time for a specified period was not filed within 60 days after the giving of notice of delinquency.

*i.* The date the matter was opened.

*j.* The name of the last paper filed by the fiduciary or attorney and the date of filing such paper.

*k.* The number, including "zero" if appropriate, of previous delinquency notices given in the matter and ignored.

**7.6(2)** The clerk shall submit a copy of the report to the chief judge of the judicial district and the state court administrator in addition to the presiding judge as required by Iowa Code section 633.32(2). If an order extending time for a specified period was filed but not complied with, the clerk shall proceed as in instances in which an order is not filed.

**7.6(3)** The state court administrator shall utilize the reports in the discharge of the duties prescribed in Iowa Code section 602.1209 and, in addition, shall prepare a list of the attorneys for fiduciaries who have received and ignored a notice of delinquency. The state court administrator shall transmit

the list of attorneys, together with other relevant information, to the Iowa Supreme Court Attorney Disciplinary Board and to the Client Security Commission.

**7.6(4)** The Iowa Supreme Court Attorney Disciplinary Board, as a commission of the supreme court pursuant to Iowa Ct. R. 35.2, shall communicate with each attorney licensed to practice law in Iowa whose name appears on the list transmitted to the board pursuant to rule 7.6(3). If the board determines there is reasonable cause to believe an attorney for a fiduciary has violated Iowa R. of Prof'l Conduct 32:1.3 or 32:3.2 for failure to file a required inventory or report within 60 days after receiving notice of delinquency, or within an extension of time for a specified period granted by order, the board shall initiate appropriate disciplinary action. The board chairperson shall include the number of attorneys investigated and complaints initiated and processed pursuant to this rule, a synopsis of each such complaint, and the disposition thereof, in the annual board report to the supreme court required by Iowa Ct. R. 35.25.

**7.6(5)** The assistant court administrator of the disciplinary system is authorized to inquire into the status of any delinquent probate inventory or report.

[Court Order March 13, 1980; October 20, 1981; 1983 Iowa Acts, chapter 186, §10151; January 17, 1995, effective April 3, 1995; Report November 9, 2001, effective February 15, 2002; August 29, 2002, effective December 1, 2002; April 20, 2005, and July 1, 2005, effective July 1, 2005; February 20, 2012]

**Rule 7.7 Interlocutory report.** If the final report of the personal representative required by Iowa Code section 633.477 is not filed within 18 months after the date of the second publication of the notice to creditors, the personal representative shall at that time file an interlocutory report in accordance with Iowa Code section 633.469. The report shall identify the work remaining to be done in the estate and shall include an estimate of the period within which the work will be completed. The personal representative shall provide copies of the report to all interested parties by mailing, and proof of mailing shall be filed with the clerk. An order of the court approving the report shall not be required unless hearing on the report is held upon request of the personal representative or an interested party. The provisions of Iowa Code section 633.32 and rule 7.6 shall apply to the report required by this rule.

[Report August 22, 1985, effective November 1, 1985; November 9, 2001, effective February 15, 2002]

**Rule 7.8 Guardian and conservator filing requirements.**

**7.8(1)** The court shall not waive any guardian requirement to file an initial, annual, or final report.

**7.8(2)** The court shall not waive any conservator requirement to file an inventory, annual report and accounting, or final report.

**7.8(3)** The court may extend the time for any required filing of a guardian or conservator only upon the showing of good cause.

**7.8(4)** Upon a failure of a guardian or conservator to make any required filing, and after notice and opportunity to cure the failure, the court may impose sanctions on the guardian or conservator including removal of the guardian or conservator.

[Court Order March 7, 2018, effective January 1, 2019]

**Rules 7.9** and **7.10** Reserved.

**Rule 7.11 Adult guardianships; forms mandatory for self-represented litigants.** An individual serving as guardian for an adult guardianship without attorney representation must use forms contained in this rule for required filings. An attorney may use these forms but is not required to do so.

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

**Rule 7.11—Form 1: *Protected Information Disclosure***

- *If information is abbreviated on other rule 7.11 forms, use this form to include the protected information in full.*

**In the Iowa District Court for _____ County**

| **In the Matter of the Guardianship of:** _____ *Full name: first, middle, last* **Protected Person.** | Probate no._____ **Protected Information Disclosure** |
|---|---|

**When protected information, as defined in Iowa Court Rule 16.602, is required by law or is material to the case and is therefore included in nonconfidential documents on nonconfidential cases, a party must record the protected information on this form.**

For an explanation of a filer's responsibility and the procedures to use for protecting personal information, refer to Iowa Court Rules: Chapter 16, Rules of Electronic Procedure, Division VI, Protection of Personal Privacy. Rule 16.602 provides the list of protected information. Rule 16.604 provides a list of information that may be redacted or partially provided.

**1. Protected Person.** *The person who is the subject of the guardianship.*

*Provide the complete version of protected information and the redacted version included in documents you file.*

Name _____ _____ _____
*First* *Middle* *Last*

| **Protected information type** | **Complete information** (See rules 16.602 and 16.604) | **Redacted information** (See rule 16.605) |
|---|---|---|
| A. Social security number | - - | *Last four digits only* |
| B. Date of birth | / / *mm/dd/yyyy* | *Year only* |
| C. Personal identification numbers (if no social security number) | *Full number* | *Partial only* |
| E. Other unique identifying numbers | *Full number* | *Partial only* |
| E. *Additional protected information* | *Full information* | *Partial information* |
| F. *Additional protected information* | *Full information* | *Partial information* |
| G. *Additional protected information* | *Full information* | *Partial information* |
| H. *Additional protected information* | *Full information* | *Partial information* |

☐ *Check this box if you are attaching a separate sheet listing additional information for Protected Person.*

***Continued on next page***

*Rule 7.11—Form 1: Protected Information Disclosure,* continued

**2. Petitioner.** *The person filing the petition for appointment of a guardian.*

*Provide the complete version of protected information and the redacted version included in documents you file.*

Name _____ _____ _____
*First* *Middle* *Last*

| Protected information type | Complete information (See rules 16.602 and 16.604) | Redacted information (See rule 16.605) |
|---|---|---|
| A. Social security number | - - | *Last four digits only* |
| B. Date of birth | / / *mm/dd/yyyy* | *Year only* |
| C. Individual taxpayer identification numbers | - - | *Last four digits only* |
| D. Personal identification numbers (if no social security number) | *Full number* | *Partial only* |
| E. Other unique identifying numbers | *Full number* | *Partial only* |
| F. *Additional protected information* | *Full information* | *Partial information* |
| G. *Additional protected information* | *Full information* | *Partial information* |
| H. *Additional protected information* | *Full information* | *Partial information* |
| I. *Additional protected information* | *Full information* | *Partial information* |

☐ *Check this box if you are attaching a separate sheet listing additional information for Petitioner.*

**3. Proposed Guardian or Guardian.** *The proposed, or current, guardian of the protected person.*

*Provide the complete version of protected information and the redacted version included in documents you file.*

Name _____ _____ _____
*First* *Middle* *Last*

| Protected information type | Complete information (See rules 16.602 and 16.604) | Redacted information (See rule 16.605) |
|---|---|---|
| A. Social security number | - - | *Last four digits only* |
| B. Date of birth | / / *mm/dd/yyyy* | *Year only* |
| C. Individual taxpayer identification numbers | - - | *Last four digits only* |
| D. Personal identification numbers (if no social security number) | *Full number* | *Partial only* |
| E. Other unique identifying numbers | *Full number* | *Partial only* |

***Continued on next page***

*Rule 7.11—Form 1: Protected Information Disclosure,* continued

| | | |
|---|---|---|
| F. *Additional protected information* | *Full information* | *Partial information* |
| G. *Additional protected information* | *Full information* | *Partial information* |
| H. *Additional protected information* | *Full information* | *Partial information* |
| I. *Additional protected information* | *Full information* | *Partial information* |

☐ *Check this box if you are attaching a separate sheet listing additional information for Proposed Guardian or Guardian.*

**4. Other Persons.** *Any other person with information redacted in the documents you file.*

*Provide the complete version of protected information and the redacted version included in documents you file.*

Name _____ _____ _____
*First* *Middle* *Last*

| **Protected information type** | **Complete information** (See rules 16.602 and 16.604) | **Redacted information** (See rule 16.605) |
|---|---|---|
| A. Social security number | - - | *Last four digits only* |
| B. Date of birth | / / *mm/dd/yyyy* | *Year only* |
| C. Individual taxpayer identification numbers | - - | *Last four digits only* |
| D. Personal identification numbers (if no social security number) | *Full number* | *Partial only* |
| E. Other unique identifying numbers | *Full number* | *Partial only* |
| F. *Additional protected information* | *Full information* | *Partial information* |
| G. *Additional protected information* | *Full information* | *Partial information* |
| H. *Additional protected information* | *Full information* | *Partial information* |
| I. *Additional protected information* | *Full information* | *Partial information* |

☐ *Check this box if you are attaching a separate sheet listing additional information for Other Person.*

***Continued on next page***

*Rule 7.11—Form 1: Protected Information Disclosure,* continued

**5. Information provided by:**

_____ /s/_____
*Printed name* *Signature*

_____
*Law firm, if applicable*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

_____ _____, 20_____
*Month* *Day* *Year*
*Date signed*



[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

**Rule 7.11—Form 2:** ***Background Check Information for a Proposed Guardian of a Protected Person***

**Instructions:**

- Iowa Code section 633.564 requires the court to conduct a criminal records check and checks of the child abuse, dependent adult abuse, and sex offender registry for a proposed guardian of a protected person, and requires the proposed guardian to pay the background check fee ($15.00). *Note: The clerk of court will keep this information form* ***confidential.***
- Do not give copies of this form to anyone except the clerk of court or your attorney, if you have one.
- If there is no existing conservatorship approved by the court, file this form and a Petition to Establish a Guardianship for a Protected Person with the clerk of court.

***If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.***

**In the Iowa District Court for _____ County**

| **In the Matter of the Guardianship of:**<br><br>_____<br>*Full name: first, middle, last*<br><br>**Protected Person.** | Probate no._____<br><br>**Background Check Information for a Proposed Guardian of a Protected Person**<br><br>Iowa Code § 633.564 |
|---|---|

Guardian states as follows:

**1. Proposed Guardian's personal information**

A. Current legal name

| _____ | _____ | _____ |
|---|---|---|
| *Full first name* | *Full middle name (write "N/A" if no middle name)* | *Full last name* |

B. Personal identifying information

| ___/___/_____ | _____ | ___-___-_____ |
|---|---|---|
| *Date of birth (month/day/year)* | *Gender* | *Social security number* |

C. All other names ever used (including any other previous legal names and nicknames)

| | | | |
|---|---|---|---|
| Alternate name #1 | _____ | _____ | _____ |
| | *Full first name* | *Full middle name (write "N/A" if no middle name)* | *Full last name* |
| Alternate name #2 | _____ | _____ | _____ |
| | *Full first name* | *Full middle name (write "N/A" if no middle name)* | *Full last name* |

***Continued on next page***

*Rule 7.11—Form 2: Background Check Information for a Proposed Guardian of a Protected Person,* continued

| | Full first name | Full middle name (write "N/A" if no middle name) | Full last name |
|---|---|---|---|
| Alternate name #3 | | | |
| Alternate name #4 | | | |
| Alternate name #5 | | | |
| Alternate name #6 | | | |
| Alternate name #7 | | | |
| Alternate name #8 | | | |
| Alternate name #9 | | | |

**2. Certification and release authorization**

***Certification:*** I confirm that the information provided above is true and correct.

***Release Authorization:*** I give permission for the court to conduct an Iowa criminal history record check with the Division of Criminal Investigation (DCI). Any criminal history data concerning me maintained by the DCI may be released as allowed by law. I understand this can include information concerning cases expunged from court records, successful completion of the terms of a deferred judgment, if any, and arrests without dispositions.

| Signature of proposed guardian | Month | Day | Year |
|---|---|---|---|

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*



[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

**Rule 7.11—Form 3: *Guardian's Initial Care Plan for Protected Person***

**Instructions:**

- Guardian must complete, sign, and file this form with the court within sixty (60) days of appointment.
- Do not include protected information on this form. For protected information, complete Rule 7.11—Form 1: Protected Information Disclosure.
- The purpose of the Initial Care Plan is to provide the court with a complete picture of Protected Person's current situation, Protected Person's needs, and Guardian's plan to meet those needs.
- Provide as much detailed information as possible.

***If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.***

**In the Iowa District Court for _____ County**

| **In the Matter of the Guardianship of:**<br><br>_____<br>*Full name: first, middle, last*<br><br>**Protected Person.** | Probate no._____<br><br>**Guardian's Initial Care Plan for Protected Person**<br><br>Iowa Code § 633.669(1)(*a*) |
|---|---|

Guardian states as follows:

**1. Guardian's information**

A. Guardian's name:

_____
*Full name: first, middle, last*

B. Guardian is Protected Person's: *Check one*

☐ Spouse

☐ Adult child

☐ Parent

☐ Adult sibling

☐ Other: _____

***Continued on next page***

*Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person,* continued

**2. Protected Person's information**

A. Protected Person's age: _____.

B. Reason for guardianship:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Protected Person's highest education level attained:

☐ High school

☐ College or university

☐ Other: _____

D. Does Protected Person have a Living Will?

☐ Yes ☐ No

*If you checked* Yes, *complete* (1)–(2).

(1) Do you have a copy of Protected Person's Living Will?

☐ Yes ☐ No

(2) Where is the Living Will located?

_____
*Full name: first, middle, last / business name*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

***Continued on next page***

*Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person,* continued

E. Does Protected Person have a Healthcare Power of Attorney?

☐ Yes ☐ No

*If you checked* Yes, *complete* (1)–(2).

(1) Who is serving as the agent (attorney-in-fact)?

_____
*Full name: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

(2) Where is the Healthcare Power of Attorney located?

_____
*Full name: first, middle, last / business name*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

**3. Protected Person's residence and interaction with Guardian**

A. Does Protected Person currently live with Guardian? *Check* Yes *or* No *below.*

☐ Yes

*If you checked* Yes, *complete the next section.*

Describe Guardian's daily interaction with Protected Person:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person,* continued

☐ No

*If you checked* No, *complete* (1)–(5).

(1) Protected Person's current residence:

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(2) Date Protected Person began living at current residence:

_____ _____, 20____.
*Month* *Day* *Year*

(3) How often does Guardian plan to visit or have other contacts (e.g., by mail, email, social media, and phone) with Protected Person? *Check all that apply*

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

(4) How does Guardian plan to interact with Protected Person? *Check all that apply*

☐ In person

☐ Mail, email, or social media

☐ Phone

☐ Other: _____

(5) Describe the types of activities with or on behalf of Protected Person that Guardian plans:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

B. Does Protected Person's current living situation best meet Protected Person's future needs?

☐ Yes ☐ No

If No, describe Guardian's plan for meeting those needs:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

## 4. Protected Person's expenses

A. Estimate of Protected Person's expenses:

| **Type of expense** | **Amount estimated** *Check one* ☐ **monthly** ☐ **annual** |
|---|---|
| (1) House payment or rent | $ |
| (2) Food *At home and restaurants* | $ |
| (3) Transportation *(gas, bus fare) Not car loan payments – see (14).* | $ |
| (4) Clothing | $ |
| (5) Medical, dental *Not health insurance payments – see (10).* | $ |
| (6) Utilities *(gas, electric, water)* | $ |
| (7) Phone | $ |
| (8) Cable / satellite television / internet | $ |
| (9) Car insurance payment | $ |

***Continued on next page***

*Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person,* continued

| | |
|---|---|
| (10) Health insurance payment | $ |
| (11) Transportation | $ |
| (12) Educational or vocational training expenses | $ |
| (13) Credit card payments | $ |
| (14) Car loan payments | $ |
| (15) Other loan payments | $ |
| (16) Other expense<br>*Identify:* | $ |
| (17) Other expense<br>*Identify:* | $ |
| (18) Other expense<br>*Identify:* | $ |
| (19) Other expense<br>*Identify:* | $ |
| (20) Totals from attached sheets, if any<br>☐ *Check this box if you have attached a sheet with additional information regarding expenses.* | $ |
| **Total expenses** | $ |

B. Who will pay Protected Person's expenses? *Check all that apply*

☐ Guardian

☐ Spouse

☐ Adult sibling or siblings

☐ One or both of Protected Person's parents

☐ A court-appointed conservator

☐ Other: _____

***Continued on next page***

*Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person,* continued

C. Information regarding payer of Protected Person's expenses:

_____
*Full name: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

D. If Guardian is responsible for paying Protected Person's expenses, describe Guardian's plan for payment of Protected Person's living expenses and other expenses:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**5. Protected Person's health**

A. Protected Person's physical health

(1) Describe Protected Person's current medical health status, identifying any medical concerns:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting Protected Person's medical care needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person,* continued

B. Protected Person's dental health

(1) Describe Protected Person's current dental health status, identifying any dental health concerns:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting Protected Person's dental health care needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Protected Person's mental health

(1) Describe Protected Person's current mental health status, identifying any mental, cognitive, behavioral, or emotional concerns:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting Protected Person's mental, cognitive, behavioral, or emotional needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person,* continued

D. Other health concerns

(1) Identify any other health care concerns related to Protected Person:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting other health care concerns identified:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**6. Protected Person's education, training, and other vocational services and employment status**

A. Is Protected Person enrolled in or attending school?

☐ Yes ☐ No

*If you checked* Yes*, complete* (1)–(2).

(1) School information:

_____

*School name where Protected Person is enrolled or attending*

_____

*School mailing address*

_____ _____ _____

*City* *State* *ZIP code*

(2) Does Protected Person receive or need special education or related services?

☐ Yes ☐ No

If Yes, describe:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person,* continued

B. Is Protected Person employed?

☐ Yes ☐ No

*If you checked* Yes, *complete* (1)–(3).

(1) Protected Person is employed:

☐ Full-time

☐ Part-time

☐ Other: _____

(2) Employer's information:

_____
*Employer's name*

_____
*Employer's mailing address*

_____ _____ _____
*City* *State* *ZIP code*

_____
*Supervisor's name*

(_____) _____ _____
*Supervisor's phone number* *Supervisor's email address*

(3) Describe Protected Person's employee duties:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Does Protected Person receive or need educational, training, or other vocational assistance?

☐ Yes ☐ No

*If you checked* Yes, *complete* (1)–(2).

(1) Describe Protected Person's educational, training, and vocational needs:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

(2) Guardian's plan for meeting educational, training, and vocational needs identified:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**7. Other professional services**

A. Does Protected Person require any professional services other than those listed above?

☐ Yes ☐ No

*If you checked* Yes, *complete* B *and* C, *otherwise skip to* **8**.

B. Other professional services Protected Person requires:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Guardian's plan to provide the professional services required:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**8. Protected Person's social activities**

A. Does Protected Person require assistance with participation in social activities?

☐ Yes ☐ No

*If you checked* Yes, *complete the next section.*

***Continued on next page***

*Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person,* continued

B. Guardian's plan for assisting Protected Person's participation in social activities:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**9. Protected Person's contact with family members and other significant persons**

A. Will arrangements be made for regular contacts between Protected Person and Protected Person's family members (e.g., spouse, parents, adult children, and adult spouse)?

☐ Yes

*If you checked* Yes*, complete the following sections as appropriate.*

(1) Family member's name: _____.

Relationship to Protected Person: _____.

Describe arrangements planned for contact with this person:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person,* continued

(2) Family member's name: _____.

Relationship to Protected Person: _____.

Describe arrangements planned for contact with this person:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional family members.*

☐ No

*If you checked* No, *complete the next section.*

Explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person,* continued

B. Will arrangements be made for regular contacts between Protected Person and other significant persons (e.g., friends, former co-workers, and clergy)?

☐ Yes

*If you checked* Yes*, complete the following sections as appropriate.*

(1) Significant person's name: _____.

Relationship to Protected Person: _____.

Describe arrangements planned for contact with this person:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Significant person's name: _____.

Relationship to Protected Person: _____.

Describe arrangements planned for contact with this person:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional significant persons.*

***Continued on next page***

*Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person,* continued

☐ No

*If you checked* No, *complete the next section.*

Explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**10. Additional information**

Additional information that may be useful for the court to know in determining what is in Protected Person's best interest:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**11. Fees for Guardian**

*Check one*

☐ Fees are applied for. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are waived.

**12. Fees for Guardian's attorney**

*Check one*

☐ Fees should be set by the court. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are not requested.

☐ Fees are waived or not applicable.

***Continued on next page***

*Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person,* continued

**13. Attorney Help** *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

*If you check* B*, you must fill in the following information:*

_____
*Name of attorney or organization, if any*

_____
*Business address of attorney or organization*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____ _____
*Phone number* *Fax number*

_____ _____
*Email address* *Additional email address, if applicable*

**14. Oath and signature of Guardian**

I, _____, have read this Initial Care Plan, and I certify
*Print your name*

under penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Initial Care Plan is true and correct.

_____ _____, 20___ _____
*Month* *Day* *Year* *Signature**

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*



[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

**Rule 7.11—Form 4: *Guardian's Annual Report for Protected Person***

**Instructions:**

- Guardian must complete, sign, and file this form with the court within thirty (30) days of the close of the reporting period.
- Do not include protected information on this form. For protected information, complete Rule 7.11—Form 1: Protected Information Disclosure.
- The purpose of the Annual Report is to provide the court with a complete picture of Protected Person's current situation as well as developments that occurred during the reporting period.
- Provide as much detailed information as possible. Do not include responses such as "same as last report" or "no change since last report."

***If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.***

**In the Iowa District Court for _____ County**

| | |
|---|---|
| **In the Matter of the Guardianship of:**<br><br>_____<br>*Full name: first, middle, last*<br><br>**Protected Person.** | Probate no._____<br><br>**Guardian's Annual Report for Protected Person**<br><br>Iowa Code § 633.669(1)(*b*) |

Guardian states as follows:

**1. Reporting period**

This report is for the period from: _____/_____/_____ to _____/_____/_____.
*Month Day Year Month Day Year*

**2. Guardian's information**

A. Guardian's name:

_____
*Full name: first, middle, last*

B. Guardian is Protected Person's: *Check one*

☐ Spouse

☐ Adult child

☐ Parent

☐ Adult sibling

☐ Other: _____

***Continued on next page***

*Rule 7.11—Form 4: Guardian's Annual Report for Protected Person,* continued

**3. Protected Person's information**

A. Protected Person's age: _____.

B. Protected Person's highest education level attained:

☐ High school

☐ College or university

☐ Other: _____

C. Does Protected Person have a Living Will?

☐ Yes ☐ No

*If you checked* Yes, *complete* (1)–(2).

(1) Do you have a copy of Protected Person's Living Will?

☐ Yes ☐ No

(2) Where is the Living Will located?

_____
*Full name: first, middle, last / business name*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

D. Does Protected Person have a Healthcare Power of Attorney?

☐ Yes ☐ No

*If you checked* Yes, *complete* (1)–(2).

(1) Who is serving as the agent (attorney-in-fact)?

_____
*Full name: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

***Continued on next page***

*Rule 7.11—Form 4: Guardian's Annual Report for Protected Person,* continued

(2) Where is the Healthcare Power of Attorney located?

_____
*Full name: first, middle, last / business name*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

**4. Continuation of guardianship**

A. Guardianship is recommended to be: *Check one*

☐ Continued

☐ Terminated

*If you checked* Terminated, *provide an explanation. A court hearing may be required on the matter of termination.*

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Ability of Guardian to continue as guardian: *Check one*

☐ Guardian is able and willing to continue as Guardian.

☐ Guardian is unable or unwilling to continue as Guardian. Explain why:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 4: Guardian's Annual Report for Protected Person,* continued

C. Assistance requested:

*Identify any assistance Guardian needs in providing or arranging for care of Protected Person.*

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**5. Protected Person's residence and interaction with Guardian**

A. Does Protected Person currently live with Guardian? *Check* Yes *or* No *below.*

☐ Yes

*If you checked* Yes*, complete the next section.*

Describe Guardian's daily interaction with Protected Person during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ No

*If you checked* No*, complete sections* (1)–(4).

(1) Protected Person's current residence:

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(2) Date Protected Person began living at current residence:

_____ _____, 20____.
*Month* *Day* *Year*

***Continued on next page***

*Rule 7.11—Form 4: Guardian's Annual Report for Protected Person,* continued

(3) What types of contacts did Guardian have with Protected Person during the reporting period and how often? *Check all that apply*

☐ In person

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

☐ Mail, email, or social media

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

☐ Phone

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

☐ Other type of contact: _____

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

(4) Summarize the types of activities with or on behalf of Protected Person that Guardian performed during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

B. Does Protected Person's current living situation best meet Protected Person's future needs?

☐ Yes ☐ No

If No, describe Guardian's plan for meeting those needs:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

## 6. Protected Person's expenses

A. Estimate of Protected Person's expenses for the next reporting period:

| **Type of expense** | **Amount estimated** *Check one* ☐ **monthly** ☐ **annual** |
|---|---|
| (1) House payment or rent | $ |
| (2) Food *At home and restaurants* | $ |
| (3) Transportation *(gas, bus fare)* *Not car loan payments – see (14).* | $ |
| (4) Clothing | $ |
| (5) Medical, dental *Not health insurance payments – see (10).* | $ |
| (6) Utilities *(gas, electric, water)* | $ |
| (7) Phone | $ |
| (8) Cable / satellite television / internet | $ |
| (9) Car insurance payment | $ |

***Continued on next page***

*Rule 7.11—Form 4: Guardian's Annual Report for Protected Person,* continued

| | |
|---|---|
| (10) Health insurance payment | $ |
| (11) Transportation | $ |
| (12) Educational or vocational training expenses | $ |
| (13) Credit card payments | $ |
| (14) Car loan payments | $ |
| (15) Other loan payments | $ |
| (16) Other expense<br>*Identify:* | $ |
| (17) Other expense<br>*Identify:* | $ |
| (18) Other expense<br>*Identify:* | $ |
| (19) Other expense<br>*Identify:* | $ |
| (20) Totals from attached sheets, if any<br>☐ *Check this box if you have attached a sheet with additional information regarding expenses.* | $ |
| **Total expenses** | $ |

B. Who will pay Protected Person's expenses? *Check all that apply*

☐ Guardian

☐ Spouse

☐ Adult sibling or siblings

☐ One or both of Protected Person's natural parents

☐ A court-appointed conservator

☐ Other: _____

***Continued on next page***

*Rule 7.11—Form 4: Guardian's Annual Report for Protected Person,* continued

C. Information regarding payer of Protected Person's expenses:

_____
*Full name: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

D. If Guardian is responsible for paying Protected Person's expenses, describe Guardian's plan for payment of Protected Person's living expenses and other expenses during the next reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**7. Protected Person's health**

A. Protected Person's physical health

(1) Summarize Protected Person's medical health status during the reporting period, identifying any medical concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting Protected Person's future medical care needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 4: Guardian's Annual Report for Protected Person,* continued

B. Protected Person's dental health

(1) Summarize Protected Person's dental health status during the reporting period, identifying any dental concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting Protected Person's future dental health care needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Protected Person's mental health

(1) Summarize Protected Person's mental health status during the reporting period, identifying any mental, cognitive, behavioral, or emotional concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting Protected Person's future mental, cognitive, behavioral, or emotional needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 4: Guardian's Annual Report for Protected Person,* continued

D. Other health concerns

(1) Summarize any other health care concerns related to Protected Person that occurred during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting other health care concerns identified:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**8. Protected Person's education, training, and other vocational services and employment status**

A. Did Protected Person attend school during the reporting period?

☐ Yes ☐ No

*If you checked* Yes*, complete* (1)–(2).

(1) School information:

_____

*School name Protected Person attended*

_____

*School mailing address*

_____ _____ _____

*City* *State* *ZIP code*

(2) Did Protected Person receive special education or related services during the reporting period?

☐ Yes ☐ No

If Yes, describe what services were received:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 4: Guardian's Annual Report for Protected Person,* continued

B. Was Protected Person employed during the reporting period?

☐ Yes ☐ No

*If you checked* Yes, *complete* (1)–(3).

(1) Protected Person was employed:

☐ Full-time

☐ Part-time

☐ Other: _____

(2) Employer's information:

_____
*Employer's name*

_____
*Employer's mailing address*

_____ _____ _____
*City* *State* *ZIP code*

_____
*Supervisor's name*

(_____) _____ _____
*Supervisor's phone number* *Supervisor's email address*

(3) Describe Protected Person's employee duties:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Did Protected Person receive educational, training, or other vocational assistance during the reporting period?

☐ Yes ☐ No

*If you checked* Yes, *complete* (1)–(2).

(1) Describe the educational, training, and vocational assistance Protected Person received during the reporting period:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

(2) Guardian's plan for meeting Protected Person's future educational, training, and vocational needs, if any:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**9. Other professional services**

A. Did Protected Person receive any professional services other than those listed above during the reporting period?

☐ Yes ☐ No

If Yes, describe the other professional services Protected Person received during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Does Guardian plan to provide Protected Person with any professional services other than those listed above during the next reporting period?

☐ Yes ☐ No

If Yes, describe the other professional services Guardians plan to provide Protected Person during the next reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 4: Guardian's Annual Report for Protected Person,* continued

**10. Protected Person's social activities**

A. Did Protected Person require assistance with participation in social activities during the reporting period?

☐ Yes ☐ No

If Yes, describe how Guardian assisted Protected Person with participation in social activities:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Does Guardian plan to provide Protected Person with any assistance with participation in social activities during the next reporting period?

☐ Yes ☐ No

If Yes, describe Guardian's plan for assisting Protected Person's participation in social activities during the next reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 4: Guardian's Annual Report for Protected Person,* continued

**11. Protected Person's contact with family members and other significant persons**

A. Did Protected Person interact with any family members (e.g., spouse, natural parents, adult children, and adult spouse) during the reporting period?

☐ Yes

*If you checked* Yes*, complete the following sections as appropriate.*

(1) Family member's name: _____.

Relationship to Protected Person: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Will arrangements be made for regular contacts between Protected Person and this family member during the next reporting period?

☐ Yes ☐ No

If Yes, describe the arrangements. If No, explain why.

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 4: Guardian's Annual Report for Protected Person,* continued

(2) Family member's name: _____.

Relationship to Protected Person: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Will arrangements be made for regular contacts between Protected Person and this relative during the next reporting period?

☐ Yes ☐ No

If Yes, describe the arrangements. If No, explain why.

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional family members.*

***Continued on next page***

*Rule 7.11—Form 4: Guardian's Annual Report for Protected Person,* continued

☐ No

*If you checked* No, *complete the next section.*

Explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Did Protected Person interact with any other significant persons (e.g., friends, former co-workers, and clergy) during the reporting period?

☐ Yes

*If you checked* Yes, *complete the following sections as appropriate.*

(1) Significant person's name: _____.

Relationship to Protected Person: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 4: Guardian's Annual Report for Protected Person,* continued

Will arrangements be made for regular contacts between Protected Person and this significant person during the next reporting period?

☐ Yes ☐ No

If Yes, describe the arrangements. If No, explain why.

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Significant person's name: _____.

Relationship to Protected Person: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Will arrangements be made for regular contacts between Protected Person and this significant person during the next reporting period?

☐ Yes ☐ No

If Yes, describe the arrangements. If No, explain why.

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional significant persons.*

***Continued on next page***

*Rule 7.11—Form 4: Guardian's Annual Report for Protected Person,* continued

☐ No

*If you checked* No, *complete the next section.*

Explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**12. Additional information**

Additional information that may be useful for the court to know in determining what is in Protected Person's best interest:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**13. Fees for Guardian**

*Check one*

☐ Fees are applied for. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are waived.

**14. Fees for Guardian's attorney**

*Check one*

☐ Fees should be set by the court. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are not requested.

☐ Fees are waived or not applicable.

***Continued on next page***

*Rule 7.11—Form 4: Guardian's Annual Report for Protected Person,* continued

**15. Attorney Help** *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

*If you check* B*, you must fill in the following information:*

_____
*Name of attorney or organization, if any*

_____
*Business address of attorney or organization*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____ _____
*Phone number* *Fax number*

_____ _____
*Email address* *Additional email address, if applicable*

**16. Oath and signature of Guardian**

I, _____, have read this Annual Report, and I certify under
*Print your name*
penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Annual Report is true and correct.

_____ _____, 20____ _____
*Month* *Day* *Year* *Signature**

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*



[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

**Rule 7.11—Form 5: *Guardian's Final Report for Protected Person***

**Instructions:**

- Guardian must complete, sign, and file this form with the court within thirty (30) days of the termination of the guardianship.
- Do not include protected information on this form. For protected information, complete Rule 7.11—Form 1: Protected Information Disclosure.
- The purpose of the Final Report is to provide the court with a complete picture of Protected Person's current situation as well as developments that occurred during the reporting period prior to the termination of the guardianship.
- Provide as much detailed information as possible. Do not include responses such as "same as last report" or "no change since last report."

***If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.***

**In the Iowa District Court for _____ County**

| **In the Matter of the Guardianship of:**<br><br>_____<br>*Full name: first, middle, last*<br><br>**Protected Person.** | Probate no._____<br><br>**Guardian's Final Report for Protected Person**<br><br>Iowa Code § 633.669(1)(*c*) |
|---|---|

Guardian states as follows:

**1. Reporting period**

This report is for the period from: _____/_____/_____to_____/_____/_____.
*Month Day Year Month Day Year*

**2. Guardian's information**

A. Guardian's name:

_____
*Full name: first, middle, last*

B. Guardian is Protected Person's: *Check one*

☐ Spouse

☐ Adult child

☐ Parent

☐ Adult sibling

☐ Other: _____

***Continued on next page***

*Rule 7.11—Form 5: Guardian's Final Report for Protected Person,* continued

**3. Protected Person's information**

A. Protected Person's age: _____.

B. Protected Person's highest education level attained:

☐ High school

☐ College or university

☐ Other: _____

C. Does Protected Person have a Living Will?

☐ Yes ☐ No

*If you checked* Yes, *complete* (1)–(2).

(1) Do you have a copy of Protected Person's Living Will?

☐ Yes ☐ No

(2) Where is the Living Will located?

_____
*Full name: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

D. Does Protected Person have a Healthcare Power of Attorney?

☐ Yes ☐ No

*If you checked* Yes, *complete* (1)–(2).

(1) Who is serving as the agent (attorney-in-fact)?

_____
*Full name: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

***Continued on next page***

*Rule 7.11—Form 5: Guardian's Final Report for Protected Person,* continued

(2) Where is the Healthcare Power of Attorney located?

_____
*Full name: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

**4. Termination of guardianship**

The guardianship has been or should be terminated because: *Check one*

☐ Protected Person is deceased

☐ A different guardian was appointed

☐ Other reason:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**5. Protected Person's residence and interaction with Guardian**

Does Protected Person currently live with Guardian? *Check* Yes *or* No *below.*

☐ Yes

*If you checked* Yes*, complete the next section.*

Describe Guardian's daily interaction with Protected Person during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 5: Guardian's Final Report for Protected Person,* continued

☐ No

*If you checked* No, *complete sections* (1)–(4).

(1) Protected Person's current residence:

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(2) Date Protected Person began living at current residence:

_____ ____, 20____.
*Month* *Day* *Year*

(3) What types of contacts did Guardian have with Protected Person during the reporting period and how often? *Check all that apply*

☐ In person
- ☐ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Other: _____

☐ Mail, email, or social media
- ☐ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Other: _____

☐ Phone
- ☐ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Other: _____

☐ Other type of contact: _____
- ☐ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Other: _____

***Continued on next page***

*Rule 7.11—Form 5: Guardian's Final Report for Protected Person,* continued

(4) Summarize the types of activities with or on behalf of Protected Person that Guardian performed during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**6. Protected Person's expenses**

A. Who will be paying Protected Person's expenses after the termination of this guardianship? *Check all that apply*

☐ Guardian

☐ Another guardian

☐ Spouse

☐ Adult sibling or siblings

☐ One or both of Protected Person's natural parents

☐ A court-appointed conservator

☐ Other: _____

B. Information regarding payer of Protected Person's expenses:

_____
*Full name: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

***Continued on next page***

*Rule 7.11—Form 5: Guardian's Final Report for Protected Person,* continued

**7. Protected Person's health**

A. Protected Person's physical health

Summarize Protected Person's medical health status during the reporting period, identifying any medical concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Protected Person's dental health

Summarize Protected Person's dental health status during the reporting period, identifying any dental concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Protected Person's mental health

Summarize Protected Person's mental health status during the reporting period, identifying any mental, cognitive, behavioral, or emotional concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 5: Guardian's Final Report for Protected Person,* continued

D. Other health concerns

Summarize any other health care concerns related to Protected Person that occurred during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**8. Protected Person's education, training, and other vocational services and employment status**

A. Did Protected Person attend school during the reporting period?

☐ Yes ☐ No

*If you checked* Yes*, complete* (1)–(2).

(1) School information:

_____
*School name Protected Person attended*

_____
*School mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(2) Did Protected Person receive special education or related services during the reporting period?

☐ Yes ☐ No

If Yes, describe what services were received:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 5: Guardian's Final Report for Protected Person,* continued

B. Was Protected Person employed during the reporting period?

☐ Yes ☐ No

*If you checked* Yes, *complete* (1)–(3).

(1) Protected Person was employed:

☐ Full-time

☐ Part-time

☐ Other: _____

(2) Employer's information:

_____
*Employer's name*

_____
*Employer's mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(3) Describe Protected Person's employee duties:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Did Protected Person receive educational, training, or other vocational assistance during the reporting period?

☐ Yes ☐ No

*If you checked* Yes, *complete the next section.*

Describe the educational, training, and vocational assistance Protected Person received during the reporting period:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 5: Guardian's Final Report for Protected Person,* continued

**9. Other professional services**

Did Protected Person receive any professional services other than those listed above during the reporting period?

☐ Yes ☐ No

If Yes, describe the other professional services Protected Persons received during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**10. Protected Person's social activities**

Did Protected Person require assistance with participation in social activities during the reporting period?

☐ Yes ☐ No

If Yes, describe how Guardian assisted Protected Person with participation in social activities:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 5: Guardian's Final Report for Protected Person,* continued

**11. Protected Person's contact with family members and other significant persons**

A. Did Protected Person interact with any family members (e.g., spouse, natural parents, adult children, and adult spouse) during the reporting period?

☐ Yes

*If you checked* Yes*, complete the following sections as appropriate.*

(1) Family member's name: _____.

Relationship to Protected Person: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Family member's name: _____.

Relationship to Protected Person: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional family members.*

***Continued on next page***

*Rule 7.11—Form 5: Guardian's Final Report for Protected Person,* continued

☐ No

*If you checked* No, *complete the next section.*

Explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Did Protected Person interact with any other significant persons (e.g., friends, former co-workers, and clergy) during the reporting period?

☐ Yes

*If you checked* Yes, *complete the following sections as appropriate.*

(1) Significant person's name: _____.

Relationship to Protected Person: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 5: Guardian's Final Report for Protected Person,* continued

(2) Significant person's name: _____.

Relationship to Protected Person: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional significant persons.*

☐ No

*If you checked* No*, complete the next section.*

Explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.11—Form 5: Guardian's Final Report for Protected Person,* continued

**12. Additional information**

Additional information that may be useful for the court to know in determining what is in Protected Person's best interest:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information*

**13. Fees for Guardian**

*Check one*

☐ Fees are applied for. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are waived.

**14. Fees for Guardian's attorney**

*Check one*

☐ Fees should be set by the court. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are not requested.

☐ Fees are waived or not applicable.

**15. Attorney Help** *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

*If you check* B*, you must fill in the following information:*

_____
*Name of attorney or organization, if any*

_____
*Business address of attorney or organization*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____ _____
*Phone number* *Fax number*

_____ _____
*Email address* *Additional email address, if applicable*

***Continued on next page***

*Rule 7.11—Form 5: Guardian's Final Report for Protected Person,* continued

**16. Oath and signature of Guardian**

I, _____, have read this Final Report, and I certify under
*Print your name*

penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Final Report is true and correct.

_____ _____, 20___ _____
*Month* *Day* *Year* *Signature**

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*



[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

**Rule 7.12 Conservatorships; forms mandatory for self-represented litigants.** An individual serving as conservator for a conservatorship without attorney representation must use forms contained in this rule for required filings. An attorney may use these forms but is not required to do so.

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

**Rule 7.12—Form 1: *Protected Information Disclosure***

- *If information is abbreviated on other rule 7.12 forms, use this form to include the protected information in full.*

**In the Iowa District Court for _____ County**

| **In the Matter of the Conservatorship of:** _____ *Full name: first, middle, last* *If the protected person is a minor, use initials only.* **Protected Person.** | Probate no._____ **Protected Information Disclosure** |
|---|---|

**When protected information, as defined in Iowa Court Rule 16.602, is required by law or is material to the case and is therefore included in nonconfidential documents on nonconfidential cases, a party must record the protected information on this form.**

For an explanation of a filer's responsibility and the procedures to use for protecting personal information, refer to Iowa Court Rules: Chapter 16, Rules of Electronic Procedure, Division VI, Protection of Personal Privacy. Rule 16.602 provides the list of protected information. Rule 16.604 provides a list of information that may be redacted or partially provided.

**1. Protected Person.** *The person who is the subject of the conservatorship.*

*Provide the complete version of protected information and the redacted version included in documents you file.*

Name _____ _____ _____
*First* *Middle* *Last*

| **Protected information type** | **Complete information** (See rules 16.602 and 16.604) | **Redacted information** (See rule 16.605) |
|---|---|---|
| A. Protected Person's full name (if minor) | *Full name* | *Initials only* |
| B. Social security number | - - | *Last four digits only* |
| C. Date of birth | / / *mm/dd/yyyy* | *Year only* |
| D. Personal identification numbers (if no social security number) | *Full number* | *Partial only* |
| E. Other unique identifying numbers | *Full number* | *Partial only* |
| F. *Additional protected information* | *Full information* | *Partial information* |
| G. *Additional protected information* | *Full information* | *Partial information* |

***Continued on next page***

*Rule 7.12—Form 1: Protected Information Disclosure,* continued

| | | |
|---|---|---|
| H. *Additional protected information* | *Full information* | *Partial information* |
| I. *Additional protected information* | *Full information* | *Partial information* |

☐ *Check this box if you are attaching a separate sheet listing additional information for Protected Person.*

**2. Petitioner.** *The person filing the petition for appointment of a conservator.*

*Provide the complete version of protected information and the redacted version included in documents you file.*

Name _____ _____ _____
*First* *Middle* *Last*

| **Protected information type** | **Complete information** (See rules 16.602 and 16.604) | **Redacted information** (See rule 16.605) |
|---|---|---|
| A. Social security number | - - | *Last four digits only* |
| B. Date of birth | / / *mm/dd/yyyy* | *Year only* |
| C. Individual taxpayer identification numbers | - - | *Last four digits only* |
| D. Personal identification numbers (if no social security number) | *Full number* | *Partial only* |
| E. Other unique identifying numbers | *Full number* | *Partial only* |
| F. *Additional protected information* | *Full information* | *Partial information* |
| G. *Additional protected information* | *Full information* | *Partial information* |
| H. *Additional protected information* | *Full information* | *Partial information* |
| I. *Additional protected information* | *Full information* | *Partial information* |

☐ *Check this box if you are attaching a separate sheet listing additional information for Petitioner.*

**3. Parent.** *If requesting a conservatorship of a minor, the person who has legal custody of the minor.*

*Provide the complete version of protected information and the redacted version included in documents you file.*

Name _____ _____ _____
*First* *Middle* *Last*

| **Protected information type** | **Complete information** (See rules 16.602 and 16.604) | **Redacted information** (See rule 16.605) |
|---|---|---|
| A. Social security number | - - | *Last four digits only* |
| B. Date of birth | / / *mm/dd/yyyy* | *Year only* |

***Continued on next page***

*Rule 7.12—Form 1: Protected Information Disclosure,* continued

| | | |
|---|---|---|
| C. Individual taxpayer identification numbers | - - | *Last four digits only* |
| D. Personal identification numbers (if no social security number) | *Full number* | *Partial only* |
| E. Other unique identifying numbers | *Full number* | *Partial only* |
| F. *Additional protected information* | *Full information* | *Partial information* |
| G. *Additional protected information* | *Full information* | *Partial information* |
| H. *Additional protected information* | *Full information* | *Partial information* |
| I. *Additional protected information* | *Full information* | *Partial information* |

☐ *Check this box if you are attaching a separate sheet listing additional information for Parent.*

**4. Additional Parent.** *If requesting a conservatorship of a minor, any other person who has legal custody of the minor.*

*Provide the complete version of protected information and the redacted version included in documents you file.*

Name _____ _____ _____
*First* *Middle* *Last*

| **Protected information type** | **Complete information** (See rules 16.602 and 16.604) | **Redacted information** (See rule 16.605) |
|---|---|---|
| A. Social security number | - - | *Last four digits only* |
| B. Date of birth | / / *mm/dd/yyyy* | *Year only* |
| C. Individual taxpayer identification numbers | - - | *Last four digits only* |
| D. Personal identification numbers (if no social security number) | *Full number* | *Partial only* |
| E. Other unique identifying numbers | *Full number* | *Partial only* |
| F. *Additional protected information* | *Full information* | *Partial information* |
| G. *Additional protected information* | *Full information* | *Partial information* |
| H. *Additional protected information* | *Full information* | *Partial information* |
| I. *Additional protected information* | *Full information* | *Partial information* |

☐ *Check this box if you are attaching a separate sheet listing additional information for Additional Parent.*

***Continued on next page***

*Rule 7.12—Form 1: Protected Information Disclosure,* continued

**5. Proposed Conservator or Conservator.** *The proposed, or current, conservator of the protected person.*

*Provide the complete version of protected information and the redacted version included in documents you file.*

Name _____ _____ _____
*First* *Middle* *Last*

| **Protected information type** | **Complete information** (See rules 16.602 and 16.604) | **Redacted information** (See rule 16.605) |
|---|---|---|
| A. Social security number | - - | *Last four digits only* |
| B. Date of birth | / / *mm/dd/yyyy* | *Year only* |
| C. Individual taxpayer identification numbers | - - | *Last four digits only* |
| D. Personal identification numbers (if no social security number) | *Full number* | *Partial only* |
| E. Other unique identifying numbers | *Full number* | *Partial only* |
| F. *Additional protected information* | *Full information* | *Partial information* |
| G. *Additional protected information* | *Full information* | *Partial information* |
| H. *Additional protected information* | *Full information* | *Partial information* |
| I. *Additional protected information* | *Full information* | *Partial information* |

☐ *Check this box if you are attaching a separate sheet listing additional information for Proposed Conseravtor or Conservator.*

**6. Other Persons.** *Any other person with information redacted in the documents you file.*

*Provide the complete version of protected information and the redacted version included in documents you file.*

Name _____ _____ _____
*First* *Middle* *Last*

| **Protected information type** | **Complete information** (See rules 16.602 and 16.604) | **Redacted information** (See rule 16.605) |
|---|---|---|
| A. Social security number | - - | *Last four digits only* |
| B. Date of birth | / / *mm/dd/yyyy* | *Year only* |
| C. Individual taxpayer identification numbers | - - | *Last four digits only* |
| D. Personal identification numbers (if no social security number) | *Full number* | *Partial only* |

***Continued on next page***

*Rule 7.12—Form 1: Protected Information Disclosure,* continued

| | | |
|---|---|---|
| E. Other unique identifying numbers | *Full number* | *Partial only* |
| F. *Additional protected information* | *Full information* | *Partial information* |
| G. *Additional protected information* | *Full information* | *Partial information* |
| H. *Additional protected information* | *Full information* | *Partial information* |
| I. *Additional protected information* | *Full information* | *Partial information* |

☐ *Check this box if you are attaching a separate sheet listing additional information for Other Person.*

## 7. Information provided by:

_____ /s/_____
*Printed name* *Signature*

_____
*Law firm, if applicable*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

_____ _____, 20_____
*Month* *Day* *Year*
*Date signed*



[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

**Rule 7.12—Form 2:** ***Background Check Information for a Proposed Conservator of a Protected Person***

**Instructions:**

- Iowa Code section 633.564 requires the court to conduct a criminal records check and checks of the child abuse, dependent adult abuse, and sex offender registry for a proposed conservator of a protected person, and requires the proposed conservator to pay the background check fee ($15.00). *Note: The clerk of court will keep this information form* ***confidential****.*
- Do not give copies of this form to anyone except the clerk of court or your attorney, if you have one.
- If there is no existing conservatorship approved by the court, file this form and a Petition to Establish a Conservatorship for a Protected Person with the clerk of court.

***If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.***

**In the Iowa District Court for _____ County**

| | |
|---|---|
| **In the Matter of the Conservatorship of:**<br><br>_____<br>*Full name: first, middle, last*<br>*If the protected person is a minor, use initials only.*<br>**Protected Person.** | Probate no._____<br><br>**Background Check Information for a Proposed Conservator of a Protected Person**<br><br>Iowa Code § 633.564 |

Conservator states as follows:

**1. Proposed Conservator's personal information**

A. Current legal name

| _____ | _____ | _____ |
|---|---|---|
| *Full first name* | *Full middle name (write "N/A" if no middle name)* | *Full last name* |

B. Personal identifying information

| / / | _____ | - - |
|---|---|---|
| *Date of birth (month/day/year)* | *Gender* | *Social security number* |

C. All other names ever used (including any other previous legal names and nicknames)

| | | | |
|---|---|---|---|
| Alternate name #1 | _____ | _____ | _____ |
| | *Full first name* | *Full middle name (write "N/A" if no middle name)* | *Full last name* |
| Alternate name #2 | _____ | _____ | _____ |
| | *Full first name* | *Full middle name (write "N/A" if no middle name)* | *Full last name* |

***Continued on next page***

*Rule 7.12—Form 2: Background Check Information for a Proposed Conservator of a Protected Person,* continued

| | Full first name | Full middle name (write "N/A" if no middle name) | Full last name |
|---|---|---|---|
| Alternate name #3 | | | |
| Alternate name #4 | | | |
| Alternate name #5 | | | |
| Alternate name #6 | | | |
| Alternate name #7 | | | |
| Alternate name #8 | | | |
| Alternate name #9 | | | |

**2. Certification and release authorization**

***Certification:*** I confirm that the information provided above is true and correct.

***Release Authorization:*** I give permission for the court to conduct an Iowa criminal history record check with the Division of Criminal Investigation (DCI). Any criminal history data concerning me maintained by the DCI may be released as allowed by law. I understand this can include information concerning cases expunged from court records, successful completion of the terms of a deferred judgment, if any, and arrests without dispositions.

| Signature of proposed conservator | Month | Day | Year |
|---|---|---|---|
| | | | |

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*



[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

**Rule 7.12—Form 3:** ***Conservator's Request for Approval for Other Action on Behalf of Protected Person***

**Instructions:** Copies of this Request must be provided to Protected Person, Protected Person's attorney and court advisor, if any, and others as the court directs.

**In the Iowa District Court for _____ County**

| **In the Matter of the Conservatorship of:** _____ *Full name: first, middle, last* *If the protected person is a minor, use initials only.* **Protected Person.** | Probate no._____ **Conservator's Request for Approval for Other Action on Behalf of Protected Person** Iowa Code § 633.642 |
|---|---|

## 1. Requested actions

I, _____, as Conservator of
*Name of Conservator or financial institution*

_____, request authorization from the court to
*Name of Protected Person or Initials of Protected Minor*

take the following action on behalf of Protected Person: *Mark all that apply*

☐ Invest Protected Person's assets consistent with Iowa Code section 633.123.

☐ Make gifts on Protected Person's behalf from conservatorship assets to persons or charitable, educational, religious, scientific, or other nonprofit organizations to whom or to which such gifts were regularly made prior to Conservator's appointment.

☐ Make gifts upon a showing that such gifts would benefit Protected Person from the perspective of gift, estate, inheritance, or other taxes.

☐ Make payments consistent with Conservator's Initial Plan or Amended Plan directly to Protected Person or to others for Protected Person's education and training needs.

☐ Use Protected Person's income or assets to provide support for any person Protected Person is legally obligated to support.

☐ Compromise, adjust, arbitrate, or settle any claim by or against Protected Person or Conservator due to Conservator's reasonable actions on behalf of the conservatorship.

***Continued on next page***

If you need assistance to participate in court due to a disability, call the disability coordinator (information at www.iowacourts.gov/Administration/Directories/ADA_Access/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**

*Rule 7.12—Form 3: Conservator's Request for Approval for Other Action on Behalf of Protected Person,* continued

☐ Make elections for Protected Person who is the surviving spouse as provided in Iowa Code sections 633.236 and 633.240.

☐ Exercise the right to disclaim on behalf of Protected Person as provided in Iowa Code section 633E.5.

☐ Sell, mortgage, exchange, pledge, or lease Protected Person's real and personal property consistent with Iowa Code sections 633.383–.403 regarding sale of property from a decedent's estate.

☐ Other action. *Describe and explain below.*

**2. Explanation of actions for which Conservator is seeking court approval**

Action: _____
*Describe action for which Conservator is seeking the court's approval.*

Explain how this action benefits Protected Person:

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Action: _____
*Describe action for which Conservator is seeking the court's approval.*

Explain how this action benefits Protected Person:

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.12—Form 3: Conservator's Request for Approval for Other Action on Behalf of Protected Person,* continued

Action: _____
*Describe action for which Conservator is seeking the court's approval.*

Explain how this action benefits Protected Person:

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Action: _____
*Describe action for which Conservator is seeking the court's approval.*

Explain how this action benefits Protected Person:

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional requested actions.*

**3. Attorney Help** *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

*If you check* B*, you must fill in the following information:*

_____
*Name of attorney or organization, if any*

_____
*Business address of attorney or organization*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____ _____
*Phone number* *Fax number*

_____ _____
*Email address* *Additional email address, if applicable*

***Continued on next page***

*Rule 7.12—Form 3: Conservator's Request for Approval for Other Action on Behalf of Protected Person,* continued

**4. Oath and signature of Conservator**

I, _____, have read this Request, and I certify under
*Print Conservator's name*
penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Request is true and correct.

_____ _____, 20___ _____
*Month* *Day* *Year* *Signature**

_____ _____
*Name of financial institution, if applicable* *Conservator's title, if applicable*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*



[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

**Rule 7.12—Form 4:** ***Notice of Filing Conservator's Initial Plan or Amended Plan***

**In the Iowa District Court for _____ County**

| | |
|---|---|
| **In the Matter of the Conservatorship of:**<br><br>_____<br>*Full name: first, middle, last*<br>*If the protected person is a minor, use initials only.*<br>**Protected Person.** | Probate no._____<br><br>**Notice of Filing Conservator's**<br>☐ **Initial Plan**<br>☐ **Amended Plan**<br><br>Iowa Code § 633.670(1)(*b*) |

To: _____
*Name of Protected Person*

_____
*Name of Protected Person's Attorney (if applicable)*

_____
*Name of Court Advisor (if applicable)*

You are notified that _____,
*Name of Conservator or financial institution*

as conservator of _____,
*Name of Protected Person*

filed a Conservator's *Check one*

☐ Initial Plan

☐ Amended Plan

on _____ _____, 20___.
*Month* *Day* *Year*

All initial plans or amended plans must outline Conservator's plan for protecting, managing, investing, expending, and distributing the assets of the conservatorship. The plan must be based on the needs of Protected Person and take into account the best interest of Protected Person as well as Protected Person's preference, values, and prior directions to the extent known to, or reasonably ascertainable by, Conservator.

***Continued on next page***

If you need assistance to participate in court due to a disability, call the disability coordinator (information at www.iowacourts.gov/Administration/Directories/ADA_Access/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**

*Rule 7.12—Form 4: Notice of Filing Conservator's Initial Plan or Amended Plan,* continued

At a minimum, all initial plans or amended plans must include:

(1) A budget containing projected expenses and resources for Protected Person, including an estimate of the total amount of fees Conservator anticipates charging per year and a statement or list of the amount Conservator proposes to charge for each service Conservator anticipates providing to Protected Person.

(2) A statement as to how Conservator will involve Protected Person in decisions about management of conservatorship assets.

(3) If ordered by the court, any steps Conservator plans to take to develop or restore the ability of Protected Person to manage conservatorship assets.

(4) An estimate of the duration of the conservatorship.

A copy of the filed plan is included with this notice.

**Any person entitled to a copy of the plan must file any objections to the plan not later than fifteen days after it is filed.**

Conservator's Information:

_____ _____, 20____ _____
*Month* *Day* *Year* *Signature*

_____
*Conservator's printed name*

_____ _____
*Name of financial institution, if applicable* *Conservator's title, if applicable*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*



[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

**Rule 7.12—Form 5: *Conservator's Initial Plan or Amended Plan***

**Instructions:**

- Conservator must complete, sign, and file this form with the court within ninety (90) days of appointment, when there has been a significant change in circumstances, or when Conservator seeks to deviate significantly from an approved plan.
- Within two (2) days of filing this form, Conservator must provide notice of filing (Rule 7.12—Form 4: Notice of Filing of Conservator's Initial Plan or Amended Plan) and a copy of this form to Protected Person, Protected Person's attorney and court advisor, if any, and others as the court directs.
- Do not include protected information on this form. For protected information, complete Rule 7.12—Form 1: Protected Information Disclosure.
- The purpose of the Initial Plan is to provide the court with a complete picture of Protected Person's current situation, Protected Person's needs, and Conservator's plan to meet those needs.
- Provide as much detailed information as possible.

**In the Iowa District Court for _____ County**

| | |
|---|---|
| **In the Matter of the Conservatorship of:**<br><br>_____<br>*Full name: first, middle, last*<br>*If the protected person is a minor, use initials only.*<br>**Protected Person.** | Probate no._____<br><br>**Conservator's** *Check one*<br>☐ **Initial Plan**<br>☐ **Amended Plan**<br><br>Iowa Code § 633.670(1)(*a*), (*e*) |

Conservator states as follows:

## 1. Conservator's information

A. Conservator's name:

_____
*Name of Conservator or financial institution*

B. Conservator is Protected Person's:
*Check one*

☐ Spouse

☐ Adult child

☐ Parent

☐ Adult sibling

☐ Financial institution

☐ Other: _____

***Continued on next page***

*Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan,* continued

**2. Protected Person's information**

A. Protected Person's age: _____.

B. Reason for conservatorship:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Protected Person's residence:

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

D. Guardianship: *Check one*

☐ Protected Person does not have a guardian or guardianship.

☐ Protected Person has a natural guardian (legal parent):

_____
*Full name of natural guardian: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

☐ Protected Person has a court-appointed guardian:

_____
*Full name of court-appointed guardian: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

***Continued on next page***

*Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan,* continued

E. Does Protected Person have a valid Durable Financial Power of Attorney?

☐ Yes *File a copy of the power of attorney as an attachment to this form.*

☐ No

F. Does Protected Person have a Last Will and Testament?

☐ Yes ☐ No

*If you checked* Yes, *complete the next section.*

Has the original Last Will and Testament been filed with the clerk of court?

☐ Yes, in _____ County, _____.
*Name of county* *Name of state*

☐ No, the following person has a copy of the Last Will and Testament:

_____
*Full name: first, middle, last / business name*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

G. Does Protected Person have a prepaid funeral plan or prepaid funeral trust?

☐ Yes *File a copy of the contract plan or trust as an attachment to this form.*

☐ No

***Continued on next page***

*Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan,* continued

## 3. Annual budget

### A. Income sources

*Estimate the amount of each source of income Protected Person receives.*

**How often is income received?*
*W = Weekly B = Bi-weekly (every other week) M = Monthly T = Two times a month*

| **Income sources for Protected Person** | **Income** | |
|---|---|---|
| | **How often received?*** *W,B,M,T* | **Amount** |
| (1) Wages from employer<br>*Employer name:*<br>*Job title:* | | $ |
| (2) Wages from employer<br>*Employer name:*<br>*Job title:* | | $ |
| (3) Unemployment assistance | | $ |
| (4) Family Investment Program | | $ |
| (5) Social Security | | $ |
| (6) Other<br>*Identify:* | | $ |
| (7) Other<br>*Identify:* | | $ |
| (8) Other<br>*Identify:* | | $ |
| (9) Totals from attached sheets, if any<br>☐ *Check this box if you have attached a sheet with additional information on Protected Person's income sources.* | | $ |
| **Total**<br>*Total estimated annual income for Protected Person* | | **$** |

### B. Debts and liabilities

*Estimate the amount of each debt or liability Protected Person owes.*

**How often are debts and liabilities paid?*
*W = Weekly B = Bi-weekly (every other week) M = Monthly T = Two times a month*

| **Debts and liabilities of Protected Person** | **Debts and liabilities** | |
|---|---|---|
| | **How often paid?*** *W,B,M,T* | **Amount** |
| (1) Mortgage | | $ |
| (2) Car loan payments | | $ |

***Continued on next page***

*Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan,* continued

| | | |
|---|---|---|
| (3) Credit card debt | | $ |
| (4) Other<br>*Identify:* | | $ |
| (5) Other<br>*Identify:* | | $ |
| (6) Other<br>*Identify:* | | $ |
| (7) Totals from attached sheets, if any<br>☐ *Check this box if you have attached a sheet with additional information on Protected Person's debts and liabilities.* | | $ |
| **Total**<br>*Total estimated annual debts and liabilities for Protected Person* | | **$** |

Is any other person jointly liable for all or part of any listed debt or liability?

☐ Yes ☐ No

*If you checked* Yes, *complete the next section.*

Debt: _____
*Description of jointly owed debt or liability*

a. Person jointly liable:

_____
*Full name: first, middle, last*

b. Above person's relationship to Protected Person:_____
*Describe relationship*

c. Payment amount (if any):_____
*Identify payment amount and how often it is paid*

d. Source of payments (if any):_____
*Identify sources of payment for debt or liability*

Debt: _____
*Description of jointly owed debt or liability*

a. Person jointly liable:

_____
*Full name: first, middle, last*

b. Above person's relationship to Protected Person:_____
*Describe relationship*

c. Payment amount (if any):_____
*Identify payment amount and how often it is paid*

d. Source of payments (if any):_____
*Identify sources of payment for debt or liability*

***Continued on next page***

*Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan,* continued

Debt: _____
*Description of jointly owed debt or liability*

a. Person jointly liable:

_____
*Full name: first, middle, last*

b. Above person's relationship to Protected Person:_____
*Describe relationship*

c. Payment amount (if any):_____
*Identify payment amount and how often it is paid*

d. Source of payments (if any):_____
*Identify sources of payment for debt or liability*

☐ *Check this box if you have attached a sheet with additional debts or liabilities.*

Are any of the listed debts or liabilities owed by Protected Person to Conservator?

☐ Yes ☐ No

*If you checked* Yes*, complete the next section.*

Debt: _____
*Description of debt or liability owed by Protected Person to Conservator*

a. Amount: $_____
*Total amount of debt or liability*

b. Current balance: $_____
*Current balance owed*

c. Source of payments (if any):_____
*Identify sources of payment for debt or liability*

Debt: _____
*Description of debt or liability owed by Protected Person to Conservator*

a. Amount: $_____
*Total amount of debt or liability*

b. Current balance: $_____
*Current balance owed*

c. Source of payments (if any):_____
*Identify sources of payment for debt or liability*

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan,* continued

## C. Monthly or annual budget

*Complete a monthly or annual budget for Protected Person.*

| **Type of expense** | **Amount estimated** *Check one* ☐ **monthly** ☐ **annual** |
|---|---|
| (1) House payment or rent | $ |
| (2) Food *At home and restaurants* | $ |
| (3) Transportation *(gas, bus fare) Not car loan payments – see (14).* | $ |
| (4) Clothing | $ |
| (5) Medical, dental *Not health insurance payments – see (10).* | $ |
| (6) Utilities *(gas, electric, water)* | $ |
| (7) Phone | $ |
| (8) Cable / satellite television / internet | $ |
| (9) Car insurance payment | $ |
| (10) Health insurance payment | $ |
| (11) Transportation | $ |
| (12) Educational or vocational training expenses | $ |
| (13) Credit card payments | $ |
| (14) Car loan payments | $ |
| (15) Other loan payments | $ |
| (16) Other expense *Identify:* | $ |
| (17) Other expense *Identify:* | $ |
| (18) Other expense *Identify:* | $ |

***Continued on next page***

*Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan,* continued

| | |
|---|---|
| (19) Other expense<br>*Identify:* | $ |
| (20) Totals from attached sheets, if any<br>☐ *Check this box if you have attached a sheet with additional information regarding expenses.* | $ |
| **Total**<br>*Total monthly or annual budgeted expenditures* | **$** |

**4. Conservatorship checking and savings account**

A. Is there a conservatorship **checking** account?

☐ Yes ☐ No

*If you checked* Yes, *complete sections* (1) *and* (2), *otherwise skip to* B.

(1) Is the checking account interest-bearing?

☐ Yes ☐ No

(2) Location of conservatorship checking account:

_____
*Name of financial institution*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

The partial account number is:_____
*Last 4 digits of account number*

B. Is there a conservatorship **savings** account?

☐ Yes ☐ No

*If you checked* Yes, *complete the next section.*

Location of conservatorship savings account:

_____
*Name of financial institution*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

The partial account number is:_____
*Last 4 digits of account number*

***Continued on next page***

*Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan,* continued

## 5. Conservatorship services and fees

Will Conservator be charging for services provided to Protected Person?

☐ Yes ☐ No

*If you checked* Yes, *complete the next section, otherwise skip to* **6**.

List the services Conservator will provide to Protected Person and an estimate of the charge for each service.

| **Conservatorship service** | **Amount estimated**<br>*Check one*<br>☐ **hourly**<br>☐ **monthly**<br>☐ **annual** |
|---|---|
| (1) | $ |
| (2) | $ |
| (3) | $ |
| (4) | $ |
| (5) Totals from attached sheets, if any<br>☐ *Check this box if you have attached a sheet with additional information regarding conservatorship services.* | $ |
| **Total amount of fees Conservator anticipates charging annually for services:** | $ |

## 6. Asset management plan

Identify each of Protected Person's assets that Conservator will manage and describe Conservator's plan for management of the asset.

**Asset (1)**

Asset:_____
*Description of asset*

Plan for management of this asset:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan,* continued

**Asset (2)**

Asset:_____
*Description of asset*

Plan for management of this asset:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**Asset (3)**

Asset:_____
*Description of asset*

Plan for management of this asset:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**Asset (4)**

Asset:_____
*Description of asset*

Plan for management of this asset:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional assets.*

***Continued on next page***

*Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan,* continued

**7. Involvement of Protected Person**

State how Conservator will involve Protected Person in decisions about the management of the conservatorship's assets:

☐ *Check this box if you have attached a sheet with additional information.*

**8. Restoration of Protected Person to management of conservatorship assets**

If ordered by the court, state the steps Conservator plans to take to develop or restore the ability of Protected Person to manage the conservatorship assets:

☐ *Check this box if you have attached a sheet with additional information.*

**9. Duration of conservatorship**

How long is the conservatorship estimated to last? *Explain*

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan,* continued

**10. Additional information**

Additional information that may be useful for the court to determine what is in Protected Person's best interest:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**11. Request for approval of proposed budget and general conservatorship powers**

Conservator requests that the court approve the following: *Check only those that apply*

☐ Conservator's proposed budget for Protected Person.

☐ Authority to apply for and receive Protected Person's income (*see* **3**(A)).

☐ Authority to use conservatorship income and assets for payment of debts and liabilities (*see* **3**(B)).

☐ Authority to use conservatorship income and assets for payment of expenses in accordance with the proposed monthly or annual budget (*see* **3**(C)).

☐ Authority to use conservatorship income and assets for payment of conservatorship services and fees (*see* **5**).

☐ Authority to manage Protected Person's assets in accordance with the proposed asset management plan (*see* **6**).

☐ Authority to use conservatorship income and assets for payment of attorney fees and other professional fees related to administration of the conservatorship.

☐ Authority to use conservatorship income and assets for payment of Protected Person's miscellaneous expenses not to exceed $_____ per month without further order of the court.

☐ Authority to file Protected Person's federal and state income tax returns and pay Protected Person's income taxes and local property taxes from conservatorship income and assets.

*Note: If additional conservatorship powers are necessary, complete and file Rule 7.12—Form 3: Conservator's Request for Approval for Other Action on Behalf of Protected Person.*

**12. Fees for Conservator**

*Check one*

☐ Fees are applied for. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are waived.

***Continued on next page***

*Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan,* continued

**13. Fees for Conservator's attorney**

*Check one*

☐ Fees should be set by the court. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are not requested.

☐ Fees are waived or not applicable.

**14. Attorney Help** *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

*If you check* B*, you must fill in the following information:*

_____
*Name of attorney or organization, if any*

_____
*Business address of attorney or organization*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____ _____
*Phone number* *Fax number*

_____ _____
*Email address* *Additional email address, if applicable*

**15. Oath and signature**

I, _____, have read this Initial Plan or Amended Plan, and I
*Print Conservator's name*
certify under penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this plan is believed to be complete and accurate as far as information permits.

_____ _____, 20___ _____
*Month* *Day* *Year* *Signature**

_____ _____
*Name of financial institution, if applicable* *Conservator's title, if applicable*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*



[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

**Rule 7.12—Form 6: *Inventory of Assets of Protected Person***

**Instructions:**

- Conservators must complete, sign, and file this form with the court within ninety (90) days of appointment. Once the conservatorship is approved, Conservators must also file this form with all Conservator's Annual Reports and Final Reports, identifying Protected Person's assets at the close of the reporting period.
- The purpose of the Inventory is to provide the court with a complete picture of Protected Person's current assets.
- Copies of this Inventory must be provided to Protected Person, Protected Person's attorney and court advisor, if any, and others as the court directs.

**In the Iowa District Court for _____ County**

| **In the Matter of the Conservatorship of:**<br><br>_____<br>*Full name: first, middle, last*<br>*If the protected person is a minor, use initials only.*<br>**Protected Person.** | Probate no._____<br><br>**Inventory of Assets of Protected Person**<br><br>Iowa Code § 633.670(2) |
|---|---|

Conservator states as follows:

**1. Protected Person's assets**

Protected Person owns the following assets:

A. Real estate

| **Type of real estate** | **Jointly owned?** *Check box if jointly owned.* | **Market value** *What it would sell for* | **Debt** *Total amount owed on debt* **and to whom owed** | **Net value** *Market value minus debt owed* |
|---|---|---|---|---|
| (1) Homestead *Address* | ☐ | $ | $<br>to: | $ |
| (2) Other real estate *Address* | ☐ | $ | $<br>to: | $ |

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.12—Form 6: Inventory of Assets of Protected Person,* continued

B. Vehicles *Includes cars, trucks, motorcycles, and other motorized vehicles.*

| **Vehicles** *Make (e.g., Ford) Year* | **Jointly owned?** *Check box if jointly owned* | **Market value** *What it would sell for* | **Debt** *Total amount owed on debt* **and to whom owed** | **Net Value** *Market value minus debt owed* |
|---|---|---|---|---|
| (1) | ☐ | $ | $ to: | $ |
| (2) | ☐ | $ | $ to: | $ |
| (3) | ☐ | $ | $ to: | $ |

☐ *Check this box if you have attached a sheet with additional information.*

C. Securities, stocks, & bonds

| **Securities, stocks, & bonds** *Company name* | **Jointly owned?** *Check box if jointly owned* | **Market value** *What it would sell for* | **Debt** *Total amount owed on debt* **and to whom owed** | **Net value** *Market value minus debt owed* |
|---|---|---|---|---|
| (1) | ☐ | $ | $ to: | $ |
| (2) | ☐ | $ | $ to: | $ |
| (3) | ☐ | $ | $ to: | $ |

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.12—Form 6: Inventory of Assets of Protected Person,* continued

## D. Life insurance

| **Life insurance** *Company name* | **Jointly owned?** *Check box if jointly owned* | **Cash value** *Not death benefit* | **Loan from cash value** *Total amount still owed on loan* | **Cash value** *Minus loan owed* |
|---|---|---|---|---|
| (1) | ☐ | $ | $ | $ |
| (2) | ☐ | $ | $ | $ |
| (3) | ☐ | $ | $ | $ |

☐ *Check this box if you have attached a sheet with additional information.*

## E. Bank accounts

| **Checking & savings accounts** *Bank or Credit Union name If you do not use bank accounts, write "Cash"* | **Jointly owned?** *Check box if jointly owned* | **Cash value** | **Personal loans or overdraft accounts** *Total amount still owed, if any* | **Net value** *Cash value minus loan / overdraft owed* |
|---|---|---|---|---|
| (1) | ☐ | $ | $ | $ |
| (2) | ☐ | $ | $ | $ |
| (3) | ☐ | $ | $ | $ |

☐ *Check this box if you have attached a sheet with additional information.*

## F. Household

| **Household contents** *Describe* | **Jointly owned?** *Check box if jointly owned* | **Market value** *What it would sell for* | **Debt** *Total amount owed on debt* **and to whom owed** | **Net value** *Market value minus debt owed* |
|---|---|---|---|---|
| (1) Furniture<br>a. | ☐ | $ | $<br>to: | $ |
| b. | ☐ | $ | $<br>to: | $ |
| c. | ☐ | $ | $<br>to: | $ |
| d. | ☐ | $ | $<br>to: | $ |

*Rule 7.12—Form 6: Inventory of Assets of Protected Person,* continued

| | | | | |
|---|---|---|---|---|
| (2) Appliances / Electronics<br>a. | ☐ | $ | $<br>to: | $ |
| b. | ☐ | $ | $<br>to: | $ |
| c. | ☐ | $ | $<br>to: | $ |
| d. | ☐ | $ | $<br>to: | $ |
| (3) Other contents<br>a. | ☐ | $ | $<br>to: | $ |
| b. | ☐ | $ | $<br>to: | $ |
| c. | ☐ | $ | $<br>to: | $ |

☐ *Check this box if you have attached a sheet with additional information.*

## G. Retirement assets

| **Retirement assets**<br>*Examples: Pensions, IRAs, 401(k)s, annuities, etc.* | **Jointly owned?**<br>*Check box if jointly owned* | **Market value**<br>*What it would sell for* | **Loan from retirement account**<br>*Total amount still owed, if any*<br>**and to whom owed** | **Net value**<br>*Market value minus loan owed* |
|---|---|---|---|---|
| (1) | ☐ | $ | $<br>to: | $ |
| (2) | ☐ | $ | $<br>to: | $ |
| (3) | ☐ | $ | $<br>to: | $ |

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.12—Form 6: Inventory of Assets of Protected Person,* continued

H. Other assets *Items not listed in the other boxes should be listed here. For example: jewelry, furs, guns, sporting goods, farm animals.*

| **Other assets** *Describe* | **Jointly owned?** *Check box if jointly owned* | **Market value** *What it would sell for* | **Debt** *Total amount owed on debt* **and to whom owed** | **Net value** *Market value minus debt owed* |
|---|---|---|---|---|
| (1) | ☐ | $ | $<br>to: | $ |
| (2) | ☐ | $ | $<br>to: | $ |
| (3) | ☐ | $ | $<br>to: | $ |

☐ *Check this box if you have attached a sheet with additional information.*

I. Totals

| | |
|---|---|
| (1) Total from attached sheets *Listed in 1A-H.* | $ |
| (2) **Total net value of assets** *Listed in 1A-H.* | $ |

J. Jointly owned assets

For each jointly owned asset, identify:

Asset: _____
*Description of jointly owned asset*

a. Person responsible for management of asset:

_____
*Full name: first, middle, last*

b. Person responsible for payments (if any):

_____
*Full name: first, middle, last*

c. Payment amount (if any):_____
*Identify payment amount and how often it is paid*

d. Source of payments (if any):_____
*Identify sources of payment for asset*

***Continued on next page***

*Rule 7.12—Form 6: Inventory of Assets of Protected Person,* continued

Asset: _____
*Description of jointly owned asset*

a. Person responsible for management of asset:

_____
*Full name: first, middle, last*

b. Person responsible for payments (if any):

_____
*Full name: first, middle, last*

c. Payment amount (if any):_____
*Identify payment amount and how often it is paid*

d. Source of payments (if any):_____
*Identify sources of payment for asset*

Asset: _____
*Description of jointly owned asset*

a. Person responsible for management of asset:

_____
*Full name: first, middle, last*

b. Person responsible for payments (if any):

_____
*Full name: first, middle, last*

c. Payment amount (if any):_____
*Identify payment amount and how often it is paid*

d. Source of payments (if any):_____
*Identify sources of payment for asset*

☐ *Check this box if you have attached a sheet with additional jointly owned assets.*

***Continued on next page***

*Rule 7.12—Form 6: Inventory of Assets of Protected Person,* continued

## 2. Other assets

A. Provide a complete list of Protected Person's assets **not transferred** into conservatorship's name.

| **Other assets** *Describe* | **Jointly owned?** *Check box if jointly owned* | **Market value** *What it would sell for* | **Debt** *Total amount owed on debt* **and to whom owed** | **Net value** *Market value minus debt owed* |
|---|---|---|---|---|
| (1) | ☐ | $ | $<br>to: | $ |
| (2) | ☐ | $ | $<br>to: | $ |
| (3) | ☐ | $ | $<br>to: | $ |
| (4) | ☐ | $ | $<br>to: | $ |
| (5) | ☐ | $ | $<br>to: | $ |
| (6) | ☐ | $ | $<br>to: | $ |

☐ *Check this box if you have attached a sheet with additional information.*

For each jointly owned asset, identify:

Asset: _____
*Description of jointly owned asset*

a. Person responsible for management of asset:

_____
*Full name: first, middle, last*

b. Person responsible for payments (if any):

_____
*Full name: first, middle, last*

c. Payment amount (if any):_____
*Identify payment amount and how often it is paid*

d. Source of payments (if any):_____
*Identify sources of payment for asset*

***Continued on next page***

*Rule 7.12—Form 6: Inventory of Assets of Protected Person,* continued

Asset: _____
*Description of jointly owned asset*

a. Person responsible for management of asset:

_____
*Full name: first, middle, last*

b. Person responsible for payments (if any):

_____
*Full name: first, middle, last*

c. Payment amount (if any):_____
*Identify payment amount and how often it is paid*

d. Source of payments (if any):_____
*Identify sources of payment for asset*

Asset: _____
*Description of jointly owned asset*

a. Person responsible for management of asset:

_____
*Full name: first, middle, last*

b. Person responsible for payments (if any):

_____
*Full name: first, middle, last*

c. Payment amount (if any):_____
*Identify payment amount and how often it is paid*

d. Source of payments (if any):_____
*Identify sources of payment for asset*

☐ *Check this box if you have attached a sheet with additional jointly owned assets.*

***Continued on next page***

*Rule 7.12—Form 6: Inventory of Assets of Protected Person,* continued

B. Provide a complete list of any assets **not owned solely** by Protected Person that will be transferred into conservatorship's name.

| **Other assets** *Describe* | **Market value** *What it would sell for* | **Debt** *Total amount owed on debt* **and to whom owed** | **Net value** *Market value minus debt owed* |
|---|---|---|---|
| (1) | $ | $ to: | $ |
| (2) | $ | $ to: | $ |
| (3) | $ | $ to: | $ |
| (4) | $ | $ to: | $ |
| (5) | $ | $ to: | $ |
| (6) | $ | $ to: | $ |

☐ *Check this box if you have attached a sheet with additional information.*

**3. Attorney Help** *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

*If you check* B*, you must fill in the following information:*

_____
*Name of attorney or organization, if any*

_____
*Business address of attorney or organization*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____ _____
*Phone number* *Fax number*

_____ _____
*Email address* *Additional email address, if applicable*

***Continued on next page***

*Rule 7.12—Form 6: Inventory of Assets of Protected Person,* continued

**4. Oath and signature of Conservator**

I, _____, have read this Inventory, and I certify under
*Print Conservator's name*
penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Inventory is believed to be complete and accurate as far as information permits.

_____ _____, 20___ _____
*Month* *Day* *Year* *Signature**

_____ _____
*Name of financial institution, if applicable* *Conservator's title, if applicable*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*

**Note:** Bank statements, checks, receipts, stubs, and other items evidencing receipt of funds and payment must be available to the court on demand.



[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

**Rule 7.12—Form 7: *Conservator's Annual Report***

**Instructions:**

- Conservators must complete, sign, and file this form on an annual basis within sixty (60) days of the close of the reporting period.
- Once filed, Conservator must serve a copy of this Annual Report on Protected Person, Protected Person's attorney and court advisor, if any, and others as the court directs.
- Do not include protected information on this form. For protected information, complete Rule 7.12—Form 1: Protected Information Disclosure.
- The purpose of this Annual Report is to provide the court with the current financial situation of the conservatorship and an accounting of important transactions that occurred during the reporting period. The Annual Report is also an opportunity to advise the court of any anticipated needs of Protected Person arising during the upcoming year and obtain court approval to meet those needs.
- Provide as much detailed information as possible. Do not include responses such as "same as last report" or "no change since last report."

**In the Iowa District Court for _____ County**

| **In the Matter of the Conservatorship of:** | Probate no._____ |
|---|---|
| _____<br>*Full name: first, middle, last*<br>*If the protected person is a minor, use initials only.*<br>**Protected Person.** | **Conservator's Annual Report**<br>Iowa Code § 633.670(3) |

Conservator states as follows:

**1. Reporting period**

This report is for the period from: _____/_____/_____ to _____/_____/_____.
*Month Day Year Month Day Year*

**2. Conservator's information**

A. Conservator's name:

_____
*Name of Conservator or financial institution*

B. Conservator is Protected Person's:
*Check one*

☐ Spouse

☐ Adult child

☐ Parent

☐ Adult sibling

☐ Financial institution

☐ Other: _____

***Continued on next page***

*Rule 7.12—Form 7: Conservator's Annual Report,* continued

**3. Protected Person's information**

A. Protected Person's age: _____.

B. Reason for conservatorship:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Protected Person's residence:

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

D. Guardianship: *Check one*

☐ Protected Person does not have a guardian or guardianship.

☐ Protected Person has a natural guardian (legal parent):

_____
*Full name of natural guardian: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

☐ Protected Person has a court-appointed guardian:

_____
*Full name of court-appointed guardian: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

***Continued on next page***

*Rule 7.12—Form 7: Conservator's Annual Report,* continued

E. Does Protected Person have a valid Durable Financial Power of Attorney?

☐ Yes *File a copy of the power of attorney as an attachment to this form.*

☐ No

F. Does Protected Person have a Last Will and Testament?

☐ Yes ☐ No

*If you checked* Yes*, complete the next section.*

Has the original Last Will and Testament been filed with the clerk of court?

☐ Yes, in _____ County, _____.
*Name of county* *Name of state*

☐ No, the following person has a copy of the Last Will and Testament:

_____
*Full name: first, middle, last / business name*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

G. Does Protected Person have a prepaid funeral plan or funeral trust:

☐ Yes *File a copy of the contract plan or trust as an attachment to this form.*

☐ No

H. Protected Person's health during reporting period

(1) Summarize Protected Person's physical health during the reporting period, identifying any physical concerns that occurred and if the concern is resolved or ongoing:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.12—Form 7: Conservator's Annual Report,* continued

(2) Summarize Protected Person's mental health during the reporting period, identifying any mental, cognitive, behavioral, or emotional concerns that occurred and if the concern is resolved or ongoing:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(3) Summarize any other health care concerns related to Protected Person that occurred during the reporting period and if the concern is resolved or ongoing:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

## 4. Conservatorship assets

A. Total value of conservatorship assets at close of **prior** reporting period: $_____

B. Total value of conservatorship assets at close of **this** reporting period: $_____

*Complete and file with this form Rule 7.12—Form 6: Inventory of Assets of Protected Person detailing Protected Person's assets at the close of this reporting period.*

## 5. Conservatorship income and expenditures

**Note:** Bank statements, checks, receipts, stubs, and other items evidencing receipt of funds and payment must be available to the court on demand.

A. Total funds on hand at close of **prior** reporting period: $_____

B. Income received during reporting period:

**How often was income received?*
*W = Weekly B = Bi-weekly (every other week) M = Monthly T = Two times a month*

| **Income sources for Protected Person** | **Income** | |
|---|---|---|
| | **How often received?*** *W,B,M,T* | **Amount** |
| (1) Wages from employer<br>*Employer name:*<br>*Job title:* | | $ |

***Continued on next page***

*Rule 7.12—Form 7: Conservator's Annual Report,* continued

| | | |
|---|---|---|
| (2) Wages from employer<br>*Employer name:*<br>*Job title:* | | $ |
| (3) Unemployment assistance | | $ |
| (4) Family Investment Program | | $ |
| (5) Social Security | | $ |
| (6) Other<br>*Identify:* | | $ |
| (7) Other<br>*Identify:* | | $ |
| (8) Other<br>*Identify:* | | $ |
| (9) Totals from attached sheets, if any<br>☐ *Check this box if you have attached a sheet with additional information on Protected Person's income sources.* | | $ |
| **Total**<br>*Income received for Protected Person during reporting period* | | **$** |

C. Debts and liabilities paid during reporting period:

**How often were debts and liabilities paid?*
*W = Weekly B = Bi-weekly (every other week) M = Monthly T = Two times a month*

| **Debts and liabilities of Protected Person** | **Debts and liabilities** | |
|---|---|---|
| | **How often paid?*** *W,B,M,T* | **Amount** |
| (1) Mortgage | | $ |
| (2) Car loan payments | | $ |
| (3) Credit card debt | | $ |
| (4) Other<br>*Identify:* | | $ |
| (5) Other<br>*Identify:* | | $ |
| (6) Other<br>*Identify:* | | $ |
| (7) Totals from attached sheets, if any<br>☐ *Check this box if you have attached a sheet with additional information on Protected Person's debts and liabilities.* | | $ |
| **Total**<br>*Debts and liabilities paid for Protected Person during reporting period* | | **$** |

***Continued on next page***

*Rule 7.12—Form 7: Conservator's Annual Report,* continued

D. Expenditures during reporting period:

| **Type of expense** | **Amount** *Check one* ☐ **monthly** ☐ **annual** |
|---|---|
| (1) House payment or rent | $ |
| (2) Food *At home and restaurants* | $ |
| (3) Transportation *(gas, bus fare)* *Not car loan payments – see (14).* | $ |
| (4) Clothing | $ |
| (5) Medical, dental *Not health insurance payments – see (10).* | $ |
| (6) Utilities *(gas, electric, water)* | $ |
| (7) Phone | $ |
| (8) Cable / satellite television / internet | $ |
| (9) Car insurance payment | $ |
| (10) Health insurance payment | $ |
| (11) Transportation | $ |
| (12) Educational or vocational training expenses | $ |
| (13) Credit card payments | $ |
| (14) Car loan payments | $ |
| (15) Other loan payments | $ |
| (16) Other expense *Identify:* | $ |
| (17) Other expense *Identify:* | $ |
| (18) Other expense *Identify:* | $ |

***Continued on next page***

*Rule 7.12—Form 7: Conservator's Annual Report,* continued

| | |
|---|---|
| (19) Other expense<br>*Identify:* | $ |
| (20) Totals from attached sheets, if any<br>☐ *Check this box if you have attached a sheet with additional information regarding expenses.* | $ |
| **Total**<br>*Total expenditures during reporting period* | **$** |

E. Total funds on hand at the close of **this** reporting period: $_____

**6. Conservatorship services and fees**

Did Conservator charge fees for services provided to Protected Person during the reporting period?

☐ Yes ☐ No

*If you checked* Yes*, complete the next section, otherwise skip to* **7**.

List each service for which Conservator charged fees as well as the total amount charged for the service during the reporting period.

| **Conservatorship service** | **Amount charged during reporting** |
|---|---|
| (1) | $ |
| (2) | $ |
| (3) | $ |
| (4) | $ |
| (5) Totals from attached sheets, if any<br>☐ *Check this box if you have attached a sheet with additional information regarding conservatorship services.* | $ |
| **Total amount of fees Conservator charged for services during reporting period:** | $ |

***Continued on next page***

## 7. Annual budget for next reporting period

### A. Income sources

*Estimate the amount of each source of income Protected Person will receive during the next reporting period.*

**How often is income received?*
*W = Weekly B = Bi-weekly (every other week) M = Monthly T = Two times a month*

| **Income sources for Protected Person** | **Income** | |
|---|---|---|
| | **How often received?*** *W,B,M,T* | **Amount** |
| (1) Wages from employer<br>*Employer name:*<br>*Job title:* | | $ |
| (2) Wages from employer<br>*Employer name:*<br>*Job title:* | | $ |
| (3) Unemployment assistance | | $ |
| (4) Family Investment Program | | $ |
| (5) Social Security | | $ |
| (6) Other<br>*Identify:* | | $ |
| (7) Other<br>*Identify:* | | $ |
| (8) Other<br>*Identify:* | | $ |
| (9) Totals from attached sheets, if any<br>☐ *Check this box if you have attached a sheet with additional information on Protected Person's income sources.* | | $ |
| **Total**<br>*Total estimated income for Protected Person during the next reporting period* | | **$** |

***Continued on next page***

*Rule 7.12—Form 7: Conservator's Annual Report,* continued

B. Debts and liabilities

*Estimate the amount of each debt or liability Protected Person will pay during the next reporting period.*

**How often are debts and liabilities paid?*
*W = Weekly B = Bi-weekly (every other week) M = Monthly T = Two times a month*

| **Debts and liabilities of Protected Person** | **Debts and liabilities** | |
|---|---|---|
| | **How often paid?*** *W,B,M,T* | **Amount** |
| (1) Mortgage | | $ |
| (2) Car loan payments | | $ |
| (3) Credit card debt | | $ |
| (4) Other *Identify:* | | $ |
| (5) Other *Identify:* | | $ |
| (6) Other *Identify:* | | $ |
| (7) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information on Protected Person's debts and liabilities.* | | $ |
| **Total** *Total estimated debts and liabilities for Protected Person during the next reporting period* | | **$** |

Is any other person jointly liable for all or part of any listed debt or liability?

☐ Yes ☐ No

*If you checked* Yes*, complete the next section.*

Debt: _____
*Description of jointly owed debt or liability*

a. Person jointly liable:

_____
*Full name: first, middle, last*

b. Above person's relationship to Protected Person:_____
*Describe relationship*

c. Payment amount (if any):_____
*Identify payment amount and how often it is paid*

d. Source of payments (if any):_____
*Identify sources of payment for debt or liability*

***Continued on next page***

*Rule 7.12—Form 7: Conservator's Annual Report,* continued

Debt: _____
*Description of jointly owed debt or liability*

a. Person jointly liable:

_____
*Full name: first, middle, last*

b. Above person's relationship to Protected Person:_____
*Describe relationship*

c. Payment amount (if any):_____
*Identify payment amount and how often it is paid*

d. Source of payments (if any):_____
*Identify sources of payment for debt or liability*

Debt: _____
*Description of jointly owed debt or liability*

a. Person jointly liable:

_____
*Full name: first, middle, last*

b. Above person's relationship to Protected Person:_____
*Describe relationship*

c. Payment amount (if any):_____
*Identify payment amount and how often it is paid*

d. Source of payments (if any):_____
*Identify sources of payment for debt or liability*

☐ *Check this box if you have attached a sheet with additional debts or liabilities.*

Are any of the listed debts or liabilities owed by Protected Person to Conservator?

☐ Yes ☐ No

*If you checked* Yes*, complete the next section.*

Debt: _____
*Description of debt or liability owed by Protected Person to Conservator*

a. Amount: $_____
*Total amount of debt or liability*

b. Current balance: $_____
*Current balance owed*

c. Source of payments (if any):_____
*Identify sources of payment for debt or liability*

***Continued on next page***

Debt: _____
*Description of debt or liability owed by Protected Person to Conservator*

a. Amount: $_____
*Total amount of debt or liability*

b. Current balance: $_____
*Current balance owed*

c. Source of payments (if any):_____
*Identify sources of payment for debt or liability*

☐ *Check this box if you have attached a sheet with additional information.*

## C. Monthly or annual budget

*Complete a monthly or annual budget for Protected Person during the next reporting period.*

| **Type of expense** | **Amount estimated** *Check one* ☐ **monthly** ☐ **annual** |
|---|---|
| (1) House payment or rent | $ |
| (2) Food *At home and restaurants* | $ |
| (3) Transportation *(gas, bus fare) Not car loan payments – see (14).* | $ |
| (4) Clothing | $ |
| (5) Medical, dental *Not health insurance payments – see (10).* | $ |
| (6) Utilities *(gas, electric, water)* | $ |
| (7) Phone | $ |
| (8) Cable / satellite television / internet | $ |
| (9) Car insurance payment | $ |
| (10) Health insurance payment | $ |
| (11) Transportation | $ |
| (12) Educational or vocational training expenses | $ |
| (13) Credit card payments | $ |

***Continued on next page***

*Rule 7.12—Form 7: Conservator's Annual Report,* continued

| | |
|---|---|
| (14) Car loan payments | $ |
| (15) Other loan payments | $ |
| (16) Other expense<br>*Identify:* | $ |
| (17) Other expense<br>*Identify:* | $ |
| (18) Other expense<br>*Identify:* | $ |
| (19) Other expense<br>*Identify:* | $ |
| (20) Totals from attached sheets, if any<br>☐ *Check this box if you have attached a sheet with additional information regarding expenses.* | $ |
| **Total**<br>*Total monthly or annual budgeted expenditures for next reporting period* | **$** |

## 8. Changes in Conservator's Initial Plan or Amended Plan

A. Were changes made in investments during this reporting period?

☐ Yes ☐ No

If Yes, identify each investment and the changes made during the reporting period:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.12—Form 7: Conservator's Annual Report,* continued

B. Did the conservatorship receive any new assets during the reporting period?

☐ Yes ☐ No

If Yes, identify each new asset and its estimated value and describe Conservator's plan for management of the asset:

**New Asset (1)**

Asset:_____
*Description of asset*

Estimated value: $_____

Plan for management of this asset:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**New Asset (2)**

Asset:_____
*Description of asset*

Estimated value: $_____

Plan for management of this asset:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional assets.*

***Continued on next page***

*Rule 7.12—Form 7: Conservator's Annual Report,* continued

C. Are any modifications necessary for management of existing assets?

*Significant modifications cannot be requested with this Annual Report. Significant modifications require Conservator to file an Amended Plan using Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan.*

☐ Yes ☐ No

If Yes, identify each existing asset and describe the modification necessary for management of the asset:

**Asset (1)**

Asset:_____
*Description of asset*

Plan for management of this asset:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**Asset (2)**

Asset:_____
*Description of asset*

Plan for management of this asset:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional assets.*

***Continued on next page***

*Rule 7.12—Form 7: Conservator's Annual Report,* continued

D. Are any other modifications to Conservator's Initial Plan or Amended Plan necessary?

*Note: Significant modifications cannot be requested with this Annual Report. Significant modifications require Conservator to file an Amended Plan using Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan.*

☐ Yes ☐ No

If Yes, describe what modifications are necessary and why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**9. Conservator's bond** *See Iowa Code sections 633.169–.187.*

Is there a bond for Conservator?

☐ Yes

*If* Yes*, complete the next* (1) *and* (2).

(1) Amount of Conservator's bond: $_____.

(2) Surety's information:

_____
*Surety's name*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

***Continued on next page***

☐ No

If No, explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**10. Additional information**

Additional information that may be useful for the court to determine what is in Protected Person's best interest:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**11. Request for approval of proposed budget and general conservatorship powers**

Conservator requests that the court approve the following: *Check only those that apply.*

☐ Conservator's proposed budget for Protected Person for the next reporting period.

☐ Authority to apply for and receive Protected Person's income during the next reporting period (*see* **7**(A)).

☐ Authority to use conservatorship income and assets for payment of debts and liabilities during the next reporting period (*see* **7**(B)).

☐ Authority to use conservatorship income and assets for payment of expenses in accordance with the proposed monthly or annual budget for the next reporting period (*see* **7**(C)).

☐ Authority to manage Protected Person's assets in accordance with the proposed asset management plan (*see* **8**(B) and **8**(C)).

***Continued on next page***

*Rule 7.12—Form 7: Conservator's Annual Report,* continued

☐ Authority to use conservatorship income and assets for payment of attorney fees and other professional fees related to administration of the conservatorship.

☐ Authority to use conservatorship income and assets for payment of Protected Person's miscellaneous expenses not to exceed $_____ per month without further order of the court.

☐ Authority to file Protected Person's federal and state income tax returns and pay Protected Person's income taxes and local property taxes from conservatorship income and assets.

***Note:*** *If additional conservatorship powers are necessary, complete and file Rule 7.12—Form 3: Conservator's Request for Approval for Other Action on Behalf of Protected Person.*

**12. Fees for Conservator**

*Check one*

☐ Fees are applied for. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are waived.

**13. Fees for Conservator's attorney**

*Check one*

☐ Fees should be set by the court. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are not requested.

☐ Fees are waived or not applicable.

**14. Attorney Help** *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

*If you check* B, *you must fill in the following information:*

_____
*Name of attorney or organization, if any*

_____
*Business address of attorney or organization*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____ _____
*Phone number* *Fax number*

_____ _____
*Email address* *Additional email address, if applicable*

***Continued on next page***

*Rule 7.12—Form 7: Conservator's Annual Report,* continued

**15. Oath and signature**

I, _____, have read this Annual Report, and I certify under
*Print Conservator's name*
penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Annual Report is believed to be complete and accurate as far as information permits.

_____ _____, 20____ _____
*Month* *Day* *Year* *Signature**

_____ _____
*Name of financial institution, if applicable* *Conservator's title, if applicable*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*



[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

**Rule 7.12—Form 8: *Conservator's Final Report***

**Instructions:**

- Conservators must complete, sign, and file this form:
  - Within thirty (30) days following removal of Conservator.
  - Upon Conservator's filing of a resignation and before the court accepts the resignation.
  - Within sixty (60) days following the termination of conservatorship.
- Once filed, Conservator must serve a copy of this Final Report on Protected Person, Protected Person's attorney and court advisor, if any, and others as the court directs.
- Do not include protected information on this form. For protected information, complete Rule 7.12—Form 1: Protected Information Disclosure.
- The purpose of this Final Report is to provide the court with the current financial situation of the conservatorship and an accounting of important transactions that occurred during the reporting period.
- Provide as much detailed information as possible. Do not include responses such as "same as last report" or "no change since last report."

**In the Iowa District Court for _____ County**

| **In the Matter of the Conservatorship of:** _____ *Full name: first, middle, last* *If the protected person is a minor, use initials only.* **Protected Person.** | Probate no._____ **Conservator's Final Report** Iowa Code § 633.670(3) |
|---|---|

Conservator states as follows:

## 1. Reporting period

This report is for the period from: _____/_____/_____ to _____/_____/_____.
*Month Day Year Month Day Year*

## 2. Conservator's information

A. Conservator's name:

_____
*Name of Conservator or financial institution*

B. Conservator is Protected Person's:
*Check one*

☐ Spouse

☐ Adult child

☐ Parent

☐ Adult sibling

☐ Financial institution

☐ Other: _____

***Continued on next page***

*Rule 7.12—Form 8: Conservator's Final Report,* continued

**3. Type of report**
*Check one*

☐ Report filed within thirty (30) days following removal of Conservator.

☐ Report filed with Conservator's filing of a resignation and before the court's acceptance of the resignation.

☐ Report filed within sixty (60) days following termination of the conservatorship.

☐ Other. *Explain*

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**4. Status of the conservatorship**

Identify status of the conservatorship at close of this reporting period. *Check one*

☐ The conservatorship has been or should be terminated because Protected Person was a minor who is no longer a minor and no longer benefits from a conservatorship.

☐ The conservatorship has been or should be terminated because Protected Person is deceased.

☐ The conservatorship will continue but a different conservator has been or will be appointed.

☐ Other. *Explain*

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.12—Form 8: Conservator's Final Report,* continued

**5. Protected Person's information**

*If Protected Person is deceased, fill out only sections* F *and* G.

A. Protected Person's age: _____.

B. Reason for conservatorship:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Protected Person's residence:

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

D. Guardianship: *Check one*

☐ Protected Person does not have a guardian or guardianship.

☐ Protected Person has a natural guardian (legal parent):

_____
*Full name of natural guardian: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

☐ Protected Person has a court-appointed guardian:

_____
*Full name of court-appointed guardian: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

*Rule 7.12—Form 8: Conservator's Final Report,* continued

E. Does Protected Person have a valid Durable Financial Power of Attorney?

☐ Yes *File a copy of the power of attorney as an attachment to this form.*

☐ No

F. Does Protected Person have a Last Will and Testament?

☐ Yes ☐ No

*If you checked* Yes*, complete the next section.*

Has the original Last Will and Testament been filed with the clerk of court?

☐ Yes, in _____ County, _____.
*Name of county* *Name of state*

☐ No, the following person has a copy of the Last Will and Testament:

_____
*Full name: first, middle, last / business name*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

G. Does Protected Person have a prepaid funeral plan or trust?

☐ Yes *File a copy of the contract plan or trust as an attachment to this form.*

☐ No

H. Protected Person's health during reporting period

(1) Summarize Protected Person's physical health during the reporting period, identifying any physical concerns that occurred and if the concern is resolved or ongoing:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

(2) Summarize Protected Person's mental health during the reporting period, identifying any mental, cognitive, behavioral, or emotional concerns that occurred and if the concern is resolved or ongoing:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(3) Summarize any other health care concerns related to Protected Person that occurred during the reporting period and if the concern is resolved or ongoing:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**6. Conservatorship assets**

A. Total value of conservatorship assets at close of **prior** reporting period: $_____

B. Did the conservatorship receive any new assets during the reporting period?

☐ Yes ☐ No

If Yes, identify each new asset and its estimated value.

**Asset (1)**

Asset:_____
*Description of asset*

Estimated value: $_____

**Asset (2)**

Asset:_____
*Description of asset*

Estimated value: $_____

***Continued on next page***

*Rule 7.12—Form 8: Conservator's Final Report,* continued

**Asset (3)**

Asset:_____
*Description of asset*

Estimated value: $_____

☐ *Check this box if you have attached a sheet with additional assets.*

C. Total value of conservatorship assets at close of **this** reporting period: $_____

*Complete and file with this form Rule 7.12—Form 6: Inventory of Assets of Protected Person detailing Protected Person's assets at the close of this reporting period.*

## 7. Conservatorship income and expenditures

**Note:** Bank statements, checks, receipts, stubs, and other items evidencing receipt of funds and payment must be available to the court on demand.

A. Total funds on hand at close of **prior** reporting period: $_____

B. Income received during reporting period:

**How often was income received?*
*W = Weekly B = Bi-weekly (every other week) M = Monthly T = Two times a month*

| **Income sources for Protected Person** | **Income** | |
|---|---|---|
| | **How often received?*** *W,B,M,T* | **Amount** |
| (1) Wages from employer<br>*Employer name:*<br>*Job title:* | | $ |
| (2) Wages from employer<br>*Employer name:*<br>*Job title:* | | $ |
| (3) Unemployment assistance | | $ |
| (4) Family Investment Program | | $ |
| (5) Social Security | | $ |
| (6) Other<br>*Identify:* | | $ |
| (7) Other<br>*Identify:* | | $ |

***Continued on next page***

*Rule 7.12—Form 8: Conservator's Final Report,* continued

| | | |
|---|---|---|
| (8) Other<br>*Identify:* | | $ |
| (9) Totals from attached sheets, if any<br>☐ *Check this box if you have attached a sheet with additional information on Protected Person's income sources.* | | $ |
| **Total**<br>*Income received for Protected Person during reporting period* | | **$** |

C. Debts and liabilities paid during reporting period:

**How often were debts and liabilities paid?*
*W = Weekly B = Bi-weekly (every other week) M = Monthly T = Two times a month*

| **Debts and liabilities of Protected Person** | **Debts and liabilities** | |
|---|---|---|
| | **How often paid?*** *W,B,M,T* | **Amount** |
| (1) Mortgage | | $ |
| (2) Car loan payments | | $ |
| (3) Credit card debt | | $ |
| (4) Other<br>*Identify:* | | $ |
| (5) Other<br>*Identify:* | | $ |
| (6) Other<br>*Identify:* | | $ |
| (7) Totals from attached sheets, if any<br>☐ *Check this box if you have attached a sheet with additional information on Protected Person's debts and liabilities.* | | $ |
| **Total**<br>*Debts and liabilities paid for Protected Person during reporting period* | | **$** |

D. Expenditures during reporting period:

| **Type of expense** | **Amount** *Check one* ☐ **monthly** ☐ **annual** |
|---|---|
| (1) House payment or rent | $ |
| (2) Food<br>*At home and restaurants* | $ |
| (3) Transportation *(gas, bus fare)*<br>*Not car loan payments – see (14).* | $ |

***Continued on next page***

*Rule 7.12—Form 8: Conservator's Final Report,* continued

| | |
|---|---|
| (4) Clothing | $ |
| (5) Medical, dental<br>*Not health insurance payments – see (10).* | $ |
| (6) Utilities *(gas, electric, water)* | $ |
| (7) Phone | $ |
| (8) Cable / satellite television / internet | $ |
| (9) Car insurance payment | $ |
| (10) Health insurance payment | $ |
| (11) Transportation | $ |
| (12) Educational or vocational training expenses | $ |
| (13) Credit card payments | $ |
| (14) Car loan payments | $ |
| (15) Other loan payments | $ |
| (16) Other expense<br>*Identify:* | $ |
| (17) Other expense<br>*Identify:* | $ |
| (18) Other expense<br>*Identify:* | $ |
| (19) Other expense<br>*Identify:* | $ |
| (20) Totals from attached sheets, if any<br>☐ *Check this box if you have attached a sheet with additional information regarding expenses.* | $ |
| **Total**<br>*Total expenditures during reporting period* | **$** |

E. Total funds on hand at the close of **this** reporting period: $_____

***Continued on next page***

*Rule 7.12—Form 8: Conservator's Final Report,* continued

## 8. Conservatorship services and fees

Did Conservator charge fees for services provided to Protected Person during the reporting period?

☐ Yes ☐ No

*If you checked* Yes*, complete the next section, otherwise skip to* **9**.

List each service for which Conservator charged fees as well as the total amount charged for the service during the reporting period.

| **Conservatorship service** | **Amount charged during reporting** |
|---|---|
| (1) | $ |
| (2) | $ |
| (3) | $ |
| (4) | $ |
| (5) Totals from attached sheets, if any<br>☐ *Check this box if you have attached a sheet with additional information regarding conservatorship services.* | $ |
| **Total amount of fees Conservator charged for services during reporting period:** | $ |

## 9. Changes in investments

Were changes made in investments during this reporting period?

☐ Yes ☐ No

If Yes, identify each investment and the changes made during the reporting period:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.12—Form 8: Conservator's Final Report,* continued

**10. Proposed plan for conservatorship's assets upon termination of conservatorship**

*Complete this section if the conservatorship has been or should be terminated.*

How will the conservatorship's assets be distributed upon termination of conservatorship?

☐ Conservatorship assets will be transferred to Protected Person.

☐ Conservatorship assets will be transferred into an estate.

☐ Conservatorship assets will be transferred as follows:

**Asset (1)**

Asset:_____
*Description of asset*

Estimated value: $_____

Person or entity the asset will be transferred to:

_____
*Full name of person or name or entity*

Relationship to Protected Person (if a person):_____
*Describe relationship*

**Asset (2)**

Asset:_____
*Description of asset*

Estimated value: $_____

Person or entity the asset will be transferred to:

_____
*Full name of person or name or entity*

Relationship to Protected Person (if a person):_____
*Describe relationship*

☐ *Check this box if you have attached a sheet with additional assets.*

***Continued on next page***

*Rule 7.12—Form 8: Conservator's Final Report,* continued

**11. Conservator's bond** *See Iowa Code sections 633.169–.187.*

Is there a bond for Conservator?

☐ Yes

*If* Yes*, complete the next* (1) *and* (2).

(1) Amount of Conservator's bond: $_____.

(2) Surety's information:

_____
*Surety's name*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

☐ No

If No, explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**12. Additional information**

Additional information that may be useful for the court to determine what is in Protected Person's best interest:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 7.12—Form 8: Conservator's Final Report,* continued

**13. Request for approval of proposed budget and general conservatorship powers**

Conservator requests that the court: *Check only those that apply*

☐ Approve Conservator's final accounting as detailed in this Final Report and the accompanying Inventory.

☐ Discharge Conservator from the conservatorship.

☐ Terminate the conservatorship.

☐ Cancel Conservator's bond and exonerate the surety on Conservator's bond.

☐ Approve Conservator's proposed plan regarding the conservatorship's assets.

*Note: If additional conservatorship powers are necessary, complete and file Rule 7.12—Form 3: Conservator's Request for Approval for Other Action on Behalf of Protected Person.*

**14. Fees for Conservator**

*Check one*

☐ Fees are applied for. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are waived.

**15. Fees for Conservator's attorney**

*Check one*

☐ Fees should be set by the court. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are not requested.

☐ Fees are waived or not applicable.

**16. Attorney Help** *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

*If you check* B*, you must fill in the following information:*

_____
*Name of attorney or organization, if any*

_____
*Business address of attorney or organization*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____ _____
*Phone number* *Fax number*

_____ _____
*Email address* *Additional email address, if applicable*

***Continued on next page***

*Rule 7.12—Form 8: Conservator's Final Report,* continued

**17. Oath and signature**

I, _____, have read this Final Report, and I certify under
*Print Conservator's name*
penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Final Report is believed to be complete and accurate as far as information permits.

_____ _____, 20____ _____
*Month* *Day* *Year* *Signature**

_____ _____
*Name of financial institution, if applicable* *Conservator's title, if applicable*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*



[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

# CHAPTER 8
# RULES OF JUVENILE PROCEDURE

## DISCOVERY AND NOTICE OF DEFENSES



## MOTION PRACTICE



## PRETRIAL CONFERENCES



## SPEEDY HEARING



## DELINQUENCY PROCEEDINGS



## CINA AND TERMINATION PROCEEDINGS



## PROCEDURE FOR JUDICIAL WAIVER OF PARENTAL NOTIFICATION

# CHAPTER 8
# RULES OF JUVENILE PROCEDURE

## DISCOVERY AND NOTICE OF DEFENSES

**Rule 8.1 Scope of discovery.** In order to provide adequate information for informed decision making and to expedite trials, minimize surprise, afford opportunity for effective cross-examination and meet the requirements of due process, discovery prior to trial and other judicial hearings should be as full and free as possible consistent with protection of persons and effectuation of the goals of the juvenile justice system.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

**Rule 8.2 Delinquency proceedings.**

**8.2(1)** *Access to records.* Upon the request of counsel for a juvenile who has been referred for intake screening on a delinquency complaint, the state shall give the juvenile's counsel access to all documents, reports and records within or which come within its possession or control that concern the juvenile or the alleged offense.

**8.2(2)** *Informal discovery sufficient.* Although informal discovery methods are preferred, upon good cause shown, depositions and interrogatories by any party may be permitted by the court in delinquency proceedings except where they conflict with these rules or with statutes. Ordinarily, however, depositions and interrogatories shall not be permitted for issues arising under Iowa Code section 232.45(6)(b) after filing of a motion to waive jurisdiction.

**8.2(3)** *Affirmative defenses.* If a juvenile alleged to have committed a delinquent act intends to rely upon the affirmative defenses of insanity, diminished responsibility, intoxication, entrapment, or self-defense [justification], the juvenile shall file written notice of the intention not later than the time set by the court for said filing and in any event not less than ten calendar days prior to the adjudicatory hearing, except for good cause shown.

**8.2(4)** *State's right to expert examination.* Where a juvenile has given notice of the use of the defense of insanity or diminished responsibility and intends to call an expert witness or witnesses on that issue at trial, the juvenile shall, within the time provided for the filing of pretrial motions, file written notice of the name of such witness. Upon such notice or as otherwise appropriate the court may upon application order the examination of the juvenile by a state-named expert or experts whose names shall be disclosed to the juvenile prior to examination.

**8.2(5)** *Notice of alibi.* If a juvenile alleged to have committed a delinquent act intends to offer an alibi defense, the juvenile shall file written notice of such intention not later than the time set by the court for the filing of pretrial motions or at such later time as the court directs. The notice of alibi defense shall state the specific place or places the juvenile claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom the juvenile intends to rely to establish such alibi. In the event that a juvenile shall file such notice the prosecuting attorney shall file written notice of the names and addresses of the witnesses the state proposes to offer in rebuttal to discredit the alibi. Such notice shall be filed within ten days after the filing of the juvenile's witness list, or within such other time as the court may direct.

**8.2(6)** *Failure to comply.* If either party fails to abide with the notice requirements of rule 8.2(3), 8.2(4), or 8.2(5), such party may not offer evidence on the issue of alibi, insanity, diminished responsibility, intoxication, entrapment, or self-defense without leave of court for good cause shown. In granting leave, the court may impose terms and conditions including a delay or continuance of trial. The right of a juvenile to give evidence of alibi, insanity, diminished responsibility, intoxication, entrapment, or self-defense in his or her own testimony is not limited by this rule.

**8.2(7)** *Multiple offenses.* Two or more delinquent acts which arise from the same transaction or occurrence or from two or more transactions or occurrences constituting parts of a common scheme or plan, when alleged and prosecuted contemporaneously, shall be alleged and prosecuted as separate counts in a single delinquency petition unless, for good cause shown, the juvenile court in its discretion determines otherwise.

**8.2(8)** *Separate petition(s).* In cases not subject to rule 8.2(7), a separate delinquency petition shall be filed for each delinquent act.
[Report February 21, 1985, effective July 1, 1985; April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002; February 22, 2002, effective May 1, 2002]

**Rule 8.3 Child in need of assistance and termination proceedings.** Although informal discovery methods are preferred, Iowa R. Civ. P. divisions V and VII, governing discovery, depositions and perpetuation of testimony, shall apply to proceedings under Iowa Code chapter 232, divisions III and IV, where not otherwise inconsistent with these rules or applicable statutes.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

MOTION PRACTICE

**Rule 8.4 General rule.** Any motion filed with the juvenile court shall be promptly brought to the attention of the judge or referee by the moving party.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

**Rule 8.5 Motions for continuance in all proceedings.** A motion for continuance shall not be granted except for good cause. Any order granting a continuance shall state the grounds therefor.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

PRETRIAL CONFERENCES

**Rule 8.6 Pretrial conferences discretionary.** In all actions the juvenile court may in its discretion order all parties to the action to appear for a pretrial conference to consider such matters as will promote a fair and expeditious trial.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

SPEEDY HEARING

**Rule 8.7 General rule.** It is the public policy of the state of Iowa that proceedings involving delinquency or child in need of assistance be concluded at the earliest possible time consistent with a fair hearing to all parties.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

**Rule 8.8 Delinquency.** If a child against whom a delinquency petition has been filed has not waived the right to a speedy adjudicatory hearing, the hearing must be held within 60 days after the petition is filed or the court shall order the petition dismissed unless good cause to the contrary is shown.

**8.8(1)** Entry of a consent decree shall be deemed a waiver of the child's right to a speedy hearing.

**8.8(2)** The provisions contained herein shall be applicable notwithstanding a motion or hearing to waive jurisdiction pursuant to rule 8.9 or 8.10.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

**Rule 8.9 Motion to waive jurisdiction.** A motion under Iowa Code section 232.45 must be filed within ten days of the filing of the petition.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

**Rule 8.10 Hearings regarding waiver.** A hearing on a motion to waive jurisdiction filed pursuant to Iowa Code section 232.45 shall be held within 30 days of the filing of said motion unless good cause to the contrary is shown.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

**Rule 8.11 Child in need of assistance adjudicatory hearings.** The adjudicatory hearing on a child in need of assistance petition shall be held within 60 days of the filing of said petition unless good cause to the contrary is shown. Failure to comply with this rule shall not result in automatic dismissal, but any such failure may be urged as grounds for discretionary dismissal.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

**Rule 8.12 Temporary removal hearings.** Whenever a child has been removed pursuant to Iowa Code section 232.78 or 232.79, a hearing under Iowa Code section 232.95 shall be held within ten days of such removal.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

DELINQUENCY PROCEEDINGS

**Rule 8.13 Corroboration of accomplice or solicited person.** An adjudication of delinquency shall not be entered against a juvenile based upon the testimony of an accomplice or a solicited person unless corroborated by other evidence which tends to connect the juvenile with the commission of the offense; and the corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof. Corroboration of the testimony of victims shall not be required.
[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002]

**Rule 8.14 Suppression of evidence.** Motions to suppress evidence shall be raised by motion of the juvenile specifying the ground upon which the juvenile claims the search and seizure to be unlawful. Motions to suppress evidence shall be filed not later than the time set by the court for said filing and in any event not less than ten calendar days prior to the adjudicatory hearing, except for good cause shown.
[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002]

**Rule 8.15 Multiple juvenile defendants.** Two or more juveniles may be tried jointly if in the discretion of the court a joint trial will not result in prejudice to one or more of the parties. Otherwise, the juvenile defendants shall be tried separately. When tried jointly, the juvenile defendants shall be adjudged separately on each count.
[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002]

**Rule 8.16 Evidence at detention, shelter care, and waiver hearings.** The probable cause finding made at a shelter or detention hearing under Iowa Code section 232.44 and at waiver of jurisdiction hearings under Iowa Code section 232.45 shall be based upon substantial evidence, which may be hearsay in whole or in part, provided there is a substantial basis for believing the source of the hearsay to be credible and for believing that there is a factual basis for the information furnished. The juvenile defendant may cross-examine witnesses and may introduce evidence in his or her own behalf.
[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002]

**Rule 8.17 Venue in delinquency cases where child has been placed in another judicial district.** Where a juvenile has been placed in another judicial district and is alleged to have committed a delinquent act or acts during such placement, venue, for the purpose of conducting the adjudicatory hearing, shall be in the judicial district where the delinquent act or acts are alleged to have occurred. However, the juvenile court which originally placed the juvenile shall have the option of requesting that venue be transferred to it for the purpose of conducting the adjudicatory proceedings. If the juvenile is adjudicated of committing a delinquent act or acts in the judicial district of the juvenile's placement, venue of the matter shall be transferred to the juvenile court which previously placed the child pursuant to the original dispositional order for the purpose of conducting any dispositional and subsequent review hearings.
[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002]

CINA AND TERMINATION PROCEEDINGS

**Rule 8.18 Child abuse reports.** The juvenile court shall retain founded child protective assessment reports for ten years. Notwithstanding the foregoing, when notified by the department of health and human services that the report shall be expunged, the juvenile court shall destroy the report pursuant to Iowa Code section 235A.18. The juvenile court shall retain all other child protective assessment reports for five years from the date of intake at which time the clerk shall destroy the reports. Notwithstanding the foregoing, child protective assessment reports which are received into evidence in a juvenile proceeding shall be retained for so long as the case file is retained and shall not be destroyed pursuant to this rule.
[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002; February 22, 2002, effective May 1, 2002; June 30, 2023, temporarily effective July 1, 2023, permanently effective August 30, 2023]

**Rule 8.19 Admissibility of evidence at temporary removal hearings, hearings for removal of sexual offenders and physical abusers from the residence, and examination hearings.** The

finding of imminent risk of harm allowing for the temporary removal of a child from his or her parent, guardian or custodian under Iowa Code section 232.95, the finding that probable cause exists to believe that a sexual or physical abuse has occurred and that the presence of the alleged sexual offender or physical abuser in the child's residence presents a danger to the child's life or physical, emotional or mental health under Iowa Code section 232.82, and the finding that probable cause exists to believe a child is a child in need of assistance pursuant to section 232.2(6)(e) or (f) for purposes of establishing grounds for examination of the child pursuant to Iowa Code section 232.98 shall be made by substantial evidence, which may be hearsay in whole or in part, provided there is a substantial basis for believing the source of the hearsay to be credible and for believing that there is a factual basis for the information furnished.

[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002; February 22, 2002, effective May 1, 2002]

**Rule 8.20 Motions to vacate an order for termination of parental rights.** Any request by a biological or putative parent to vacate an order terminating parental rights pursuant to Iowa Code chapter 600A must be filed within 30 days from the entry of said order. The 30-day period for filing a motion to vacate such order shall not be waived or extended.

[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002]

**Rule 8.21 CINA and termination of parental rights orders, informational notice regarding appeal.** If a court enters an order in an Iowa Code chapter 232 CINA, termination of parental rights, or post-termination proceeding, the order shall contain a written notice that an appeal by an aggrieved party must be taken pursuant to Iowa R. App. P. 6.101(1)(*a*), the notice of appeal must be filed within 15 days of the entry of the order, and a petition on appeal must be filed within 15 days thereafter. The absence of such language from an order will not affect the time for filing a notice of appeal or a petition on appeal.

[Report August 31, 2001, effective January 1, 2002; November 9, 2001, effective February 15, 2002; April 21, 2003, effective July 1, 2003; October 31, 2008, effective January 1, 2009]

## PROCEDURE FOR JUDICIAL WAIVER OF PARENTAL NOTIFICATION

**Rule 8.22 General principles.**

**8.22(1)** These rules shall be interpreted to provide expeditious and confidential proceedings in accordance with Iowa Code chapter 135L.

**8.22(2)** All references in these rules to the clerk shall mean the clerk of the district court and shall include the clerk's designee.

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

**Rule 8.23 Petition for waiver.**

**8.23(1)** *Form.* A minor who seeks waiver of parental notification prior to obtaining an abortion shall petition the court in a manner substantially complying with the form that accompanies these rules. This form, along with other forms that accompany these rules for use in waiver proceedings, shall be available at the offices of all clerks of court. All petitions shall state the manner by which the minor desires to receive notification of the court's decision and whether a similar petition has previously been presented to and refused by any court.

**8.23(2)** *Assistance.* The clerk shall assist the minor in completing and filing the petition.

**8.23(3)** *Filing.* A petition is filed for the purposes of these rules when it is date and time stamped in the clerk's office. The clerk shall present the petition to the court immediately upon filing.

**8.23(4)** *Anonymity and confidentiality.* The minor may file a petition using a pseudonym and the petition shall not contain any information, such as social security number, address, or name of parents, by which the minor may be identified. A sworn statement containing the case number, and the minor's true name, date of birth, and address shall be filed simultaneously with the pseudonymous petition. The clerk of court shall issue to the minor a certified copy of the sworn statement, which shall identify her to the provider of abortion services as the minor for whom a petition to waive notification was granted or denied. The clerk shall then place the original sworn statement under seal. Notwithstanding

any other provision of Iowa law or these rules, the seal on the statement containing the minor's true name may not be broken except upon court order in exigent circumstances or at the minor's request.
[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

**Rule 8.24 Appointment of counsel.** The clerk shall inform the minor that she has a right to a court-appointed attorney without cost to her. The court shall appoint an attorney for the minor upon her request. The attorney shall serve as counsel on appeal.
[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

**Rule 8.25 Appointment of guardian ad litem.** The court may appoint a guardian ad litem, and shall appoint a guardian ad litem if the minor is not accompanied by a responsible adult, as that term is defined in the statute, or has not viewed the video under Iowa Code section 135L.2.
[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

**Rule 8.26 Advisory notice to minor.**

**8.26(1)** Upon the filing of any petition for waiver of parental notification, the clerk shall provide the minor a copy of the Advisory Notice to Minor form that accompanies these rules.

**8.26(2)** The clerk shall document in the court file that a copy of the advisory notice has been provided to the minor.
[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

**Rule 8.27 Scheduling.** Immediately upon filing the petition, the clerk shall set or secure the date for the hearing and so advise the minor if she is present. Otherwise, notice of hearing shall follow the procedures of rule 8.28. The hearing shall be held within 48 hours of the filing of the petition unless the minor or her attorney requests an extension of time within which a hearing shall be held. If the request for extension of time is granted, the deadline for filing any decision on appeal shall be extended for a like period of time.
[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

**Rule 8.28 Notice of hearing.** If the court determines that a guardian ad litem and/or an attorney for the minor should be appointed in accordance with Iowa Code section 135L.3(3)(b), the clerk shall notify said person(s) as well as any other person(s) designated by the minor not less than eight hours before the time fixed for a hearing, unless there is a waiver of the notice requirement by said person(s), or the time is reduced or extended by the court. Service of notice may be by acceptance of service. The only notice provided to the minor shall be by the minor making inquiry of the clerk of court following the entry of the order scheduling the hearing. Notice shall be provided by the clerk only to the above-named person(s).
[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

**Rule 8.29 Burden of proof and standard of evidence.** The minor shall have the burden of proving the allegations of her petition by a preponderance of the evidence.
[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

**Rule 8.30 Record required.** In accordance with Iowa Code section 624.9, and consistent with the confidentiality requirements of rule 8.32, stenographic notes or electronic recordings shall be taken of all hearings held pursuant to Iowa Code chapter 135L and said record shall not be waived.
[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

**Rule 8.31 Order granting or denying petition.**

**8.31(1)** *Time for granting or denying waiver.* An order either granting or denying waiver of parental notification with findings of fact and conclusions of law shall be filed immediately following

the hearing and in no event later than 48 hours from the filing of the petition or from the hearing if an extension is granted under rule 8.27.

**8.31(2)** *Procedure in default of hearing and order.* If the court fails to hold the hearing and rule on the petition within the time provided by these rules, the petition is deemed granted and the waiver is deemed authorized. In the event the petition is deemed authorized, the clerk shall immediately issue the certification form that accompanies these rules to the minor or her attorney.

**8.31(3)** *Delivery of order or certification.* The clerk shall deliver the order under rule 8.31(1), or the certification under rule 8.31(2), in the manner requested by the minor in the petition. The order or certification shall specify the person(s) to whom the clerk shall provide a copy. A copy shall be available to the minor at the clerk's office.

**8.31(4)** *Notification of appeal rights.* If the petition is denied, the order shall include notice of the right to appeal to the Iowa supreme court, the time period within which appeal must be filed and a copy of the applicable rules of appellate procedure.

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

**Rule 8.32 Confidentiality of documents and hearings.**

**8.32(1)** *Records.* In accordance with Iowa Code chapter 135L and these rules, all records of parental notification proceedings are confidential. All confidential records shall be kept sealed and opened only as necessary for the conduct of proceedings for waiver of parental notification, an appeal of the district court decision, or as ordered by a court.

**8.32(2)** *Hearings.* The hearing shall be held in a confidential manner, preferably in chambers. Only the minor, her attorney, her guardian ad litem, and the person(s) whose presence is specifically requested by the minor, her attorney, or her guardian ad litem may attend the hearing on the petition.

**8.32(3)** *Purging of files.* The clerk shall destroy all records and files in the case when one year has elapsed from any of the following, as applicable:

*a.* The date that the court issues an order waiving the notification requirement or the date the waiver is deemed authorized under rule 8.31(2).

*b.* The date after which the court denies the petition for waiver of notification and the decision is not appealed.

*c.* The date after which the court denies the petition for waiver of notification, the decision is appealed, and all appeals are exhausted.

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

**Rule 8.33 Juvenile Procedure Forms — General.** The following forms are illustrative and not mandatory, but any particular instrument shall substantially comply with the form illustrated.

**Rule 8.33 — Form 1:** ***Petition for Family in Need of Assistance.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
JUVENILE COURT

| | |
|---|---|
| IN RE THE FAMILY OF<br>_____;<br>UPON THE PETITION OF<br>_____<br>A CHILD/CHILDREN or A PARENT, GUARDIAN or CUSTODIAN | JUVENILE NO. _____<br>**PETITION FOR FAMILY IN NEED OF ASSISTANCE** |

The petitioner respectfully states to the court that _____ [child/children] and _____ [parent, guardian or custodian] are a family in need of assistance within the purview of Iowa Code sections 232.122 through 232.127, in that there has been a breakdown in the familial relationship. In support thereof, petitioner states as follows:

Petitioner has sought services from _____, a private or public agency, to maintain and improve the familial relationship, but the relationship has not improved and petitioner now requests the aid of the court.

The name(s) and residence(s) of the child/children are _____.

The age(s) of the child/children is/are _____.

The names and residences of the living parents, guardian or custodian are _____.

The name and address of the guardian ad litem are _____.

WHEREFORE, the undersigned prays that the court set a time and place for hearing on the petition, appoint counsel for the child, order that notice be directed to all parties in interest in a manner provided by law, and upon hearing adjudicate this family to be a family in need of assistance and make such order or orders as may maintain and improve the familial relationship.

**Oath and Signature**

I, _____, have read this Petition, and I certify under penalty
*Print your full name: first, middle, last*
of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Petition is true and correct.

_____ _____ _____, 20____
*Petitioner's signature** *Month* *Day* *Year*

_____ _____ _____ _____
*Mailing address* *City* *State* *ZIP code*

(_____) _____ _____ _____
*Phone number* *Email address* *Additional email address, if applicable*

** Whether filing electronically or in paper, you must handwrite your signature on this form. If you are filing electronically, scan the form after signing it and then file electronically.*

SOURCE: Iowa Code §232.125, 232.126, 232.127; 8.33, Form 1.

[Report 1983; November 9, 2001, effective February 15, 2002; Court Order March 31, 2020, temporarily effective March 31, 2020, permanently effective May 30, 2020]

**Rule 8.33 — Form 2:** ***Order Setting Hearing, Appointing Counsel and Giving Notice (Family in Need of Assistance).***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
JUVENILE COURT

| | |
|---|---|
| IN RE THE FAMILY OF<br>_____;<br>UPON THE PETITION OF<br>_____<br>A CHILD/CHILDREN or A PARENT, GUARDIAN or CUSTODIAN | JUVENILE NO. _____<br>**ORDER SETTING HEARING, APPOINTING COUNSEL AND GIVING NOTICE (FAMILY IN NEED OF ASSISTANCE)** |

To: _____

You are hereby notified that there is presently on file in this court a verified petition alleging the above-named family to be a family in need of assistance; a copy of the petition is attached. An adjudicatory hearing on the merits of the petition is set for the time and place stated below.

You are further notified that the court shall appoint counsel or a guardian ad litem to represent the interests of the child at the adjudicatory hearing unless the child already has such counsel or guardian and that the court shall appoint counsel for the parent, guardian, or custodian if that person desires but is financially unable to employ counsel.

You are further notified that if you wish to state your views, you must appear or in your absence the court may order you to comply with any other reasonable orders designed to maintain and improve the familial relationship.

The court having found that a hearing on this matter should be set, IT IS HEREBY ORDERED:

1. That the above matter is set for adjudicatory hearing at _____ o'clock _____.m., on the _____ day of _____, 20 _____, before this court at the _____ County Courthouse at _____, in the city of _____, _____ County, Iowa.

2. That _____, an attorney practicing before this court, is appointed to represent the child, _____, in this matter as guardian ad litem.*

3. That the clerk of the juvenile court is directed to send by certified mail a copy of this order with the attached petition to the above-named child, child's counsel and said child's parent, guardian or custodian no less than _____ days prior to the time set out above, said mailing to serve as notice of said hearing.

Dated this _____ day of _____, 20 _____.

_____
Judge

* Delete this paragraph if the child is already represented by counsel.

SOURCE: Iowa Code §232.126, 232.127; 8.33, Form 2.

[Report 1983; November 9, 2001, effective February 15, 2002]

**Rule 8.33 — Form 3:** ***Financial Affidavit of Parent and Application for Appointment of Counsel for ❑ Child ❑ Parent ❑ Other.***

**In the Iowa District Court for _____ County (Juvenile Division)**

| | | |
|---|---|---|
| **In the Interest of** | ) | **Juvenile No.** _____ |
| _____, | ) | |
| _____, | ) | **Financial Affidavit of Parent and Application for Appointment of Counsel for** |
| _____, | ) | **❑ Child ❑ Parent ❑ Other:** _____ |
| **Child(ren).** | ) | |

**In support of my application for appointment of counsel, and under penalty of perjury, the undersigned states:**

Name: _____ Date of birth: _____

Home phone: _____ Cell phone: _____ Email: _____

Street address: _____
Street/P.O. Box Apt # City State Zip

Case: ❑ CINA ❑ TPR ❑ Del ❑ Other: _____ Relationship to Child(ren): ❑ Parent ❑ Other: _____

Do you have a job? ❑ No job ❑ Yes, full time ❑ Yes, part time (list hours per week: _____)

Who do you work for? _____

How much money do you currently make, before taxes or deductions? _____ per ❑ hour ❑ month ❑ year

How much money have you made in the last 12 months from any source, before taxes or deductions? _____

How many family members are supported by or live with you? _____

If a spouse lives with you, how much money does your spouse make? _____ per ❑ hour ❑ month ❑ year

List all other money you, and anyone else living in your household, has coming in: _____
_____
_____
_____

List what you own, including money in banks, cars, trucks, other vehicles, land, houses, buildings, cash, or anything else worth more than $100: _____
_____
_____
_____

List amounts you pay monthly for mortgages, rent, car loans, credit cards, child support, and any other debts: _____
_____
_____
_____

**I understand I may be required to repay the state for my attorney fees and costs and those of my child, I may be required to sign a wage assignment, and I must report any changes in the information submitted on this financial affidavit. I promise under penalty of perjury that the statements I make in this application are true, and that I am unable to pay for an attorney to represent me.**

Date_____ Signature _____

[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002; November 8, 2012, effective January 7, 2013]

## Rule 8.33 — Form 3A: *Order for Appointment of Counsel for ❑ Child ❑ Parent ❑ Other.*

**In the Iowa District Court for _____ County (Juvenile Division)**

| | | |
|---|---|---|
| **In the Interest of** | ) | **Juvenile No.** _____ |
| _____, | ) | |
| _____, | ) | **Order for Appointment** |
| _____, | ) | **of Counsel for** |
| **Child(ren).** | ) | **❑ Child ❑ Parent ❑ Other:** _____ |

**Now** on this _____ day of_____, 20___, the court having received and examined the Financial Affidavit of Parent and Application for Appointment of Counsel and having considered not only Child/Applicant's income, but also the availability of any assets subject to execution and the seriousness of the charge or nature of the case, finds the following:

1. **Child/Applicant:**
   - ❑ Is eligible* for court-appointed counsel pursuant to Iowa Code section 815.9 because:
     - ❑ Child/Applicant's income is **at or below 125%** of the poverty guidelines and Child/Applicant is unable to pay for the cost of an attorney; **or**
     - ❑ Child/Applicant's income is **between 125% and 200%** of the poverty guidelines and not appointing counsel would cause Child/Applicant substantial financial hardship; **or**
     - ❑ Child/Applicant's Income is **over 200%** of the poverty guidelines, case is a felony-level delinquency, and not appointing counsel would cause Child/Applicant substantial financial hardship.
   - ❑ Is a child and is otherwise eligible for court-appointed counsel under Iowa Code chapter 232.
   - ❑ Is not eligible for court-appointed counsel.
2. **Counsel/Guardian ad litem** appointed below to represent Child/Applicant is:
   - ❑ The local public defender office, nonprofit organization, or attorney designated by the State Public Defender pursuant to Iowa Code section 13B.4(2) to represent indigent persons in this type of case in this county; **or**
   - ❑ An attorney not designated by the State Public Defender, **and** any local public defender office or other designee of the State Public Defender for this type of case in this county has been contacted and has declined the appointment or withdrawn from the case, or there is no designation for this type of case in this county, **and** the appointed attorney:
     - ❑ Has a current contract with the State Public Defender to represent indigent persons in this type of case and in this county; **or**
     - ❑ Does not have such a contract, but all attorneys with a contract to represent indigent persons in this type of case in this county have been contacted and no such attorney is available to take this case; **or**
     - ❑ Does not have such a contract, but the State Public Defender has been consulted and consents to the appointment.

**It is therefore ordered** that Child/Applicant's Application for Appointment of Counsel is

- ❑ Denied.
- ❑ Approved, and that _____ is appointed to serve as counsel/guardian ad litem in this case for _____ at state expense and may be contacted at _____.

_____
Judge, _____ Judicial District

Copy to:

* **Note**: A different standard applies for determining eligibility for appointment of respondent's counsel in a Chapter 600A TPR, and additional findings are required to determine the appropriate party/agency responsible for payment. *See* Iowa Code §§ 600A.2(11), 600A.6A(2), and 600A.6B. **Do not use this form order for 600A TPR Appointments.**

[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002; November 8, 2012, effective January 7, 2013]

**Rule 8.33 — Form 4:** ***Financial Affidavit of 600A Respondent and Application for Appointment of Counsel.***

**In the Iowa District Court for _____ County (Juvenile Division)**

| | | |
|---|---|---|
| **In the Interest of** | ) | **Juvenile No.** _____ |
| _____, | ) | |
| _____, | ) | **Financial Affidavit of 600A Respondent and Application for Appointment of Counsel** |
| _____, | ) | |
| **Child(ren).** | ) | |

**In support of my application for appointment of counsel, and under penalty of perjury, the undersigned states:**

Respondent's name: _____ Date of birth: _____

Home phone: _____ Cell phone: _____ Email: _____

Street address: _____
Street/P.O. Box Apt # City State Zip

Do you have a job? ❑ No job ❑ Yes, full time ❑ Yes, part time (list hours per week: _____)

Who do you work for? _____

How much money do you currently make, before taxes or deductions? _____ per ❑ hour ❑ month ❑ year

How much money have you made in the last 12 months from any source, before taxes or deductions? _____

How many family members are supported by or live with you? _____

If a spouse lives with you, how much money does your spouse make? _____ per ❑ hour ❑ month ❑ year

List all other money you, and anyone else living in your household, has coming in: _____
_____
_____
_____

List what you own, including money in banks, cars, trucks, other vehicles, land, houses, buildings, cash, or anything else worth more than $100: _____
_____
_____
_____

List amounts you pay monthly for mortgages, rent, car loans, credit cards, child support, and any other debts: _____
_____
_____
_____

**I understand I may be required to repay the state for my attorney fees and costs and those of my child, I may be required to sign a wage assignment, and I must report any changes in the information submitted on this financial affidavit. I promise under penalty of perjury that the statements I make in this application are true, and that I am unable to pay for an attorney to represent me.**

Date_____ Signature _____

[Report November 8, 2012, effective January 7, 2013]

## Rule 8.33 — Form 4A: *Order for Appointment of Counsel for 600A Respondent.*

**In the Iowa District Court for _____ County (Juvenile Division)**

| | | |
|---|---|---|
| **In the Interest of** | ) | **Juvenile No.** _____ |
| _____, | ) | |
| _____, | ) | **Order for Appointment** |
| _____, | ) | **of Counsel for 600A Respondent** |
| **Child(ren).** | ) | |

**Now** on this _____ day of _____, 20___, the court having received and examined the Financial Affidavit of Respondent and Application for Appointment of Counsel and having conducted an in-court colloquy and having considered not only Respondent's income, but also the availability of any assets subject to execution and the nature and complexity of the case, finds the following:

1. **Respondent:**
   - ❑ Is eligible for court-appointed counsel pursuant to Iowa Code section 600A.6A because each of the following criteria are met:
     - ❑ Respondent requested appointment of counsel; **and**
     - ❑ Respondent is indigent (at or below 100% of the poverty guidelines and Respondent is unable to pay for the cost of an attorney); **and**
     - ❑ Respondent, because of lack of skill or education, would have difficulty in presenting the person's version of the facts in dispute, particularly where the presentation of the facts requires the examination or cross-examination of witnesses or the presentation of complex documentary evidence; **and**
     - ❑ Respondent has a colorable defense to the termination of parental rights, or there are substantial reasons that make termination of parental rights inappropriate.
   - ❑ Is not eligible for court-appointed counsel.
2. **Counsel** appointed below to represent Respondent:
   - ❑ Has a current contract with the State Public Defender to represent indigent persons in this type of case and in this county; **or**
   - ❑ Does not have such a contract, but all attorneys with a contract to represent indigent persons in this type of case in this county have been contacted and no such attorney is available to take this case; **or**
   - ❑ Does not have such a contract, but the State Public Defender has been consulted and consents to the appointment.

**It is therefore ordered** that Respondent's Application for Appointment of Counsel is

- ❑ Denied.
- ❑ Approved, and that _____ is appointed to serve as counsel in this case for Respondent at state expense and may be contacted at _____.

_____
Judge, _____ Judicial District

Copy to:

[Report November 8, 2012, effective January 7, 2013]

## Rule 8.33 — Form 5: *Financial Affidavit of Petitioner Under Iowa Code Chapter 600A.*

**In the Iowa District Court for _____ County (Juvenile Division)**

| | | |
|---|---|---|
| **In the Interest of**<br>_____,<br>_____,<br>_____,<br>**Child(ren).** | )<br>)<br>)<br>)<br>)<br>)<br>) | **Juvenile No.** _____<br>**Financial Affidavit of Petitioner Under Iowa Code Chapter 600A** |

Petitioner's name: _____ Birth date: _____

Home phone: _____ Cell phone: _____ Email: _____

Street address: _____
Street/P.O. Box Apt # City State Zip

Do you have a job? ❑ No job ❑ Yes, full time ❑ Yes, part time (list hours per week: _____)

Who do you work for? _____

How much money do you currently make, before taxes or deductions? _____ per ❑ hour ❑ month ❑ year

How much money have you made in the last 12 months from any source, before taxes or deductions? _____

How many family members are supported by or live with you? _____

If a spouse lives with you, how much money does your spouse make? _____ per ❑ hour ❑ month ❑ year

List all other money you, and anyone else living in your household, has coming in: _____
_____
_____
_____

List what you own, including money in banks, cars, trucks, other vehicles, land, houses, buildings, cash, or anything else worth more than $100: _____
_____
_____
_____

List amounts you pay monthly for mortgages, rent, car loans, credit cards, child support, and any other debts: _____
_____
_____
_____

**I promise under penalty of perjury that the statements I make in this affidavit are true and that I am unable to pay for an attorney to represent Respondent in this case. I also understand that I must report any changes in the information submitted on this financial affidavit.**

Date_____ Signature _____

[Report November 8, 2012, effective January 7, 2013]

**Rule 8.33 — Form 5A:** ***Order for Payment of Respondent's Court Appointed Attorney Fees and Costs.***

**In the Iowa District Court for _____ County (Juvenile Division)**

| | | |
|---|---|---|
| **In the Interest of**<br>_____,<br>_____,<br>_____,<br>**Child(ren).** | )<br>)<br>)<br>)<br>)<br>)<br>) | **Juvenile No.** _____<br>**Order for Payment of Respondent's Court Appointed Attorney Fees and Costs** |

**Now** on this _____ day of _____, 20___, the court having received and examined the Financial Affidavit of Petitioner Under Iowa Code Chapter 600A finds as follows:

- ☐ Petitioner is **not indigent** (over 100% poverty guideline) and is responsible for payment of reasonable attorney's fees to Respondent's court-appointed attorney.

- ☐ Petitioner is **indigent** (at or under 100% poverty guideline unless able to pay attorney costs) and the State Public Defender is responsible for payment of reasonable attorney's fees to Respondent's court-appointed attorney under Iowa Code section 600A.6B(3) and Iowa Administrative Code section 493-14.

_____
Judge, _____ Judicial District

Copy to:

[Report November 8, 2012, effective January 7, 2013]

**Rule 8.34 Juvenile Procedure Forms — Judicial Waiver of Parental Notification.** The following forms are illustrative and not mandatory, but any particular instrument shall substantially comply with the form illustrated.

**Rule 8.34 — Form 1:** ***Petition for Waiver of Parental Notification of Minor's Abortion.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

| | |
|---|---|
| IN THE INTEREST OF<br><br>_____,<br>A Minor. | Juvenile No. _____<br><br>**PETITION FOR WAIVER OF PARENTAL NOTIFICATION OF MINOR'S ABORTION PURSUANT TO IOWA CODE SECTION 135L.3** |

I, the above-named minor, state:

1. I am under 18 years of age.

2. I am approximately _____ weeks pregnant and seek an abortion by a licensed physician, without notification of a parent.

3. (Check one)

_____ a. I am accompanied by a responsible adult (a responsible adult is a person who is 18 or over and who is not associated with the clinic or physician who will perform the abortion).

_____ b. I am not accompanied by a responsible adult.

4. (Check one)

_____ a. I have viewed the video prepared by the Iowa Department of Public Health that explains my options as a pregnant minor, including parenting, adoption, and abortion.

_____ b. I have not viewed the video.

5. (Check one)

_____ a. I understand that I have the right to a court-appointed attorney at no cost to me. Please appoint an attorney to represent me.

_____ b. I have an attorney to represent me. The attorney's name, address, and telephone number is _____
_____.

6. I understand that this proceeding will be kept secret from my parents and the public. The only persons who may attend any hearing on the petition are myself, my attorney, my guardian ad litem (if one is appointed) and those whose presence I, my attorney, or my guardian ad litem specifically request. I request that the following person(s) be notified of and admitted to all hearings in my case:
Name(s) and address(es): _____
_____.

7. I understand court personnel will not send any papers to my home or try to call me. I would like to be informed of the court's decision in the following way: _____
_____.

I request the following person(s), in addition to my attorney, be contacted and given papers in my case:
Name(s) and address(es): _____
_____.

Petition for Waiver of Parental Notification of Minor's Abortion *(cont'd)*

8. (Check one or both)

_____ a. I am mature and capable of providing informed consent for the performance of an abortion.

_____ b. It would not be in my best interests to notify a parent of my abortion for the following reasons: _____ _____ _____.

9. I state on oath that (check one)

_____ a. I am presenting this request to a court for the first time.

_____ b. I have made this request to a court before and was refused.

10. The name, business address, and business telephone number (if these are known) of the physician who will perform the abortion is _____ _____ _____.

**THEREFORE**, I request that the court grant my application to obtain an abortion without notifying a parent.

Signed on this _____ day of _____, 20 _____.

_____
Petitioner (You may sign a name other than your true name, such as Jane Doe)

NOTICE: If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at _____. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

**Rule 8.34 — Form 2:** ***Declaration of Minor who has Filed Pseudonymous Petition to Waive Parental Notification.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

| | |
|---|---|
| IN THE INTEREST OF<br><br>_____,<br>A Minor. | Juvenile No. _____<br><br>**DECLARATION OF MINOR WHO HAS FILED PSEUDONYMOUS PETITION TO WAIVE PARENTAL NOTIFICATION UNDER IOWA CODE CHAPTER 135L** |

NOTICE TO THE CLERK OF COURT: A CERTIFIED COPY OF THIS DECLARATION, WITH THE FILE NUMBER NOTED ON IT, SHOULD BE GIVEN TO THE MINOR AFTER SHE SIGNS IT.

THE ORIGINAL SHOULD IMMEDIATELY BE PLACED IN A SEALED ENVELOPE, WHICH SHOULD BE FILED UNDER SEAL AND KEPT UNDER SEAL AT ALL TIMES.

1. My true name is _____, and my address is
(print your name)
_____.
(print your address)
2. My date of birth is _____.
3. I have filed a petition to waive parental notification, under the name _____

_____ on _____.
(date)

I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: _____ Signed: _____
(You must sign your true name)

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

**Rule 8.34 — Form 3:** ***Order Appointing Counsel for a Minor.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

| | |
|---|---|
| IN THE INTEREST OF<br><br>_____,<br>A Minor. | Juvenile No. _____<br><br>**ORDER APPOINTING COUNSEL FOR A MINOR UNDER IOWA CODE SECTION 135L.3(3)(b)** |

**THIS MATTER** is before the court upon the minor's request to waive parental notification of an abortion under Iowa Code chapter 135L. The court finds that counsel should be appointed.

**IT IS ORDERED** that [*name*] _____, [*address*] _____, [*telephone number*] _____ is appointed counsel for the minor at public expense.

The clerk shall provide a copy of this order as specified in Iowa R. Juv. P. 8.28.

Dated this _____ day of _____, 20 _____.

_____
**JUDGE**
_____ **JUDICIAL DISTRICT OF IOWA**

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

**Rule 8.34 — Form 4:** ***Order Appointing a Guardian Ad Litem for a Minor.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

| | |
|---|---|
| IN THE INTEREST OF<br><br>_____,<br>A Minor. | Juvenile No. _____<br><br>**ORDER APPOINTING A GUARDIAN AD LITEM FOR A MINOR UNDER IOWA CODE SECTION 135L.3(3)(b)** |

**THIS MATTER** is before the court upon the minor's request to waive parental notification of an abortion under Iowa Code chapter 135L. The court finds that a guardian ad litem should be appointed.

**IT IS ORDERED** that [*name*] _____, [*address*] _____, [*telephone number*] _____ be appointed as the guardian ad litem for the minor at public expense.

The clerk shall provide a copy of this order as specified in Iowa R. Juv. P. 8.28.

Dated this _____ day of _____, 20 _____.

_____
**JUDGE**
_____ **JUDICIAL DISTRICT OF IOWA**

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

**Rule 8.34 — Form 5:** ***Advisory Notice to Minor.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

| | |
|---|---|
| IN THE INTEREST OF<br><br>_____,<br>A Minor. | Juvenile No. _____<br><br>**ADVISORY NOTICE TO MINOR** |

**YOU ARE NOTIFIED as follows:**

All information in your case is confidential. No papers will be sent to your home, and you will not be contacted by this court. Your name will not be on your court papers.

Your lawyer and your guardian ad litem (if one is appointed) will receive notices about your case. You may also name someone else to get notices. That person's name should be on your petition.

YOUR CASE NUMBER APPEARS AT THE TOP OF THIS SHEET. KEEP IT IN A SAFE PLACE. YOU CANNOT GET INFORMATION FROM THE CLERK WITHOUT YOUR CASE NUMBER.

YOU HAVE BEEN GIVEN A COPY OF THE STATEMENT YOU SIGNED WITH YOUR TRUE NAME. KEEP IT IN A SAFE PLACE. YOU MAY NEED TO SHOW IT TO YOUR DOCTOR TO OBTAIN AN ABORTION WITHOUT NOTIFYING A PARENT.

Clerk: Complete information below:

1. (a) Your hearing is scheduled for _____, at the _____ County Courthouse in _____, Iowa.

   **OR**

   (b) You must call the clerk at (_____) _____ to obtain the date of the hearing.

2. (a) Your lawyer is _____, telephone number _____.

   **OR**

   (b) You must call the clerk at the above number to get the name of your lawyer.

3. (a) Your guardian ad litem is _____, telephone number _____.

   **OR**

   (b) You may call the clerk at the above number to obtain the name of your guardian ad litem.

You may be told of the court's decision immediately after the hearing. If not, you may contact your lawyer or the clerk soon after the hearing to find out if the court has ruled on your petition.

You have a right to a hearing and a decision within 48 hours unless you or your attorney asks for an extension of time. Any extension of time granted for the hearing shall extend the deadline for filing any decision on appeal for a like period of time. If these deadlines are not met you have a right to ask the clerk for a paper that will allow your doctor to perform the abortion without notifying a parent.

If the court does not grant your petition, you will be able to appeal.

Advisory Notice to Minor *(cont'd)*

If the court does not grant your petition and you decide not to appeal, or if your appeal is not granted, you may request that the court appoint a licensed therapist to help you tell your family of your decision and deal with any family problems. The cost of the therapist will be paid for by the court.

I certify that I have given a copy of this advisory notice to the minor.

_____
Clerk of the Court
_____ County Courthouse
_____, Iowa _____

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

**Rule 8.34 — Form 6:** ***Order Setting Hearing on Petition for Waiver of Parental Notification of Minor's Abortion.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

| | |
|---|---|
| IN THE INTEREST OF<br><br>_____,<br>A Minor. | Juvenile No. _____<br><br>**ORDER SETTING HEARING ON PETITION FOR WAIVER OF PARENTAL NOTIFICATION OF MINOR'S ABORTION** |

**THIS MATTER** came before the court upon the petition of _____ that a hearing be held in this matter. The court finds that such a hearing should be scheduled and proper notice should be given in accordance with Iowa R. Juv. P. 8.28.

**IT IS THEREFORE ORDERED** that a hearing on the Petition to Waive Parental Notification of a Minor's Abortion be held pursuant to Iowa Code section 135L.3 on the _____ day of _____, 20 _____, at _____ o'clock ____. m. at the _____ County Courthouse in _____, Iowa.

The clerk shall provide a copy of this order as specified in Iowa R. Juv. P. 8.28.

Dated this _____ day of _____, 20 _____.

_____
**JUDGE**
_____ **JUDICIAL DISTRICT OF IOWA**

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

**Rule 8.34 — Form 7:** ***Findings of Fact, Conclusions of Law and Order.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

| | |
|---|---|
| IN THE INTEREST OF<br><br>_____,<br>A Minor. | Juvenile No. _____<br><br>**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER** |

This matter came before the court on _____, 20 _____, for hearing held pursuant to Iowa Code section 135L.3 on waiver of parental notification of a minor's abortion. Present for the hearing were the following:

_____, the minor;

_____, the minor's attorney;

_____, the minor's guardian ad litem; and

_____, _____.

The proceeding was reported [tape recorded]. The following exhibits and testimony were received into evidence:

_____
_____
_____

The court now makes the following **FINDINGS OF FACT**:

1. Notice of this hearing and a copy of the petition were served in accordance with Iowa R. Juv. P. 8.28.

2. The petitioner is a pregnant minor, _____ years of age. She is approximately _____ weeks pregnant and seeks an abortion but objects to the notification of a parent.

3. (Check one)

____ a. The petitioner is mature and capable of providing informed consent for the performance of an abortion. This decision is based upon the following facts: _____
_____
_____.

**OR**

____ b. The petitioner is not mature or does not claim to be mature, but notification to the petitioner's parent is not in the petitioner's best interest. This decision is based upon the following facts: _____
_____
_____.

**OR**

____ c. The petitioner has not shown she is mature and capable of providing informed consent, nor has she shown that notification to a parent is <u>not</u> in her best interest. This decision is based upon the following facts: _____
_____
_____
_____
_____.

Findings of Fact, Conclusions of Law and Order *(cont'd)*

**CONCLUSIONS OF LAW**

1. The court has jurisdiction of the petitioner and the subject matter as provided in Iowa Code chapter 135L.

2. The burden of proof is on the petitioner by a preponderance of the evidence.

3. (Check one)

____ a. A preponderance of the evidence shows that the petitioner is mature and capable of providing informed consent for the performance of the abortion within the scope and meaning of Iowa Code section 135L.3(3)(e)(1).

**OR**

____ b. A preponderance of the evidence shows that the petitioner is not mature or does not claim to be mature, but notification of the abortion to a parent is not in the best interest of the petitioner within the scope and meaning of Iowa Code section 135L.3(3)(e)(2).

**OR**

____ c. The evidence does not support a judicial waiver of parental notification.

4. The notification requirements as provided in Iowa Code section 135L.3 should [should not] be waived.

**IT IS ORDERED, ADJUDGED AND DECREED** that the petition for waiver of parental notification is granted [denied].

The clerk shall provide a copy of this order to the petitioner's attorney, guardian ad litem, if any, physician, and the following person(s) designated by the petitioner: _____
_____
_____.

The clerk shall provide notice of this decision to the petitioner as requested in the following manner: _____
_____.

Notice: (Delete if petition is granted). You have the right to appeal this ruling to the Iowa Supreme Court. You must file a notice of appeal with the district court clerk within 24 hours of this ruling. The rules you must follow for the appeal are attached to this order.

Dated this _____ day of _____, 20 _____.

_____
**JUDGE**
_____ **JUDICIAL DISTRICT OF IOWA**

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

**Rule 8.34 — Form 8:** ***Certification that Waiver of Parental Notification is Deemed Authorized.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

| | |
|---|---|
| IN THE INTEREST OF<br><br>_____,<br>A Minor. | Juvenile No. _____<br><br>**CERTIFICATION THAT WAIVER OF PARENTAL NOTIFICATION IS DEEMED AUTHORIZED** |

Pursuant to Iowa Code section 135L.3 the clerk certifies that:

1. The minor's petition for waiver of parental notification was filed on _____.

2. ____ (a) A ruling was not made within 48 hours of the filing of said petition,

   **OR**

   ____ (b) The date for the hearing was extended at the request of the minor to _____, and a ruling was not made within 48 hours of the extended hearing date.

**THEREFORE**, pursuant to Iowa Code section 135L.3(3)(l), the petition is deemed granted and the waiver of notification requirements is deemed authorized.

Dated: _____

_____
Clerk of the Court
_____ County Courthouse

_____, Iowa _____

Copies to: (Clerk, *see* Iowa R. Juv. P. 8.31(3))

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

**Rule 8.34 — Form 9:** ***Notice of Appeal.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

| | |
|---|---|
| IN THE INTEREST OF<br><br>_____,<br>A Minor. | Juvenile No. _____<br>Supreme Court No. _____<br><br>**NOTICE OF APPEAL** |

**TO THE CLERK OF THE DISTRICT COURT, _____ COUNTY, AND TO THE CLERK OF THE SUPREME COURT:**

You are notified that _____, the minor, who filed her petition for waiver of parental notification on _____, hereby appeals the order dated _____, which denied her petition.

Dated this _____ day of _____, 20 _____.

_____
Attorney for _____

Address: _____
_____
_____

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

## EMANCIPATION OF MINORS

**Rule 8.35 Emancipation orders.**

**8.35(1)** *Separate orders.* The juvenile court shall enter findings of fact and conclusions of law separately from an order granting emancipation of a minor.

**8.35(2)** *Confidentiality.* The separate findings of fact and conclusions of law shall be confidential. Notwithstanding any other confidentiality statute or rule concerning juvenile court records, orders granting emancipation of a minor under Iowa Code chapter 232C shall be considered public records subject to release by the juvenile court.

[Report June 29, 2009, effective August 28, 2009]

## PARENT REPRESENTATION

**Rule 8.36 Educational requirements for court-appointed attorneys representing parents.**

**8.36(1)** *Three-hour annual minimum.* Court-appointed attorneys representing parents in juvenile court are required to participate annually in a minimum of three hours of continuing legal education relating to juvenile court proceedings. An attorney shall not accept juvenile court appointment representing a parent unless the attorney has fulfilled this three-hour minimum requirement either in the previous calendar year or earlier in the calendar year of the appointment.

**8.36(2)** *Qualifying courses.*

*a.* For purposes of this rule, "continuing legal education relating to juvenile court proceedings" means instruction that meets all three of the following criteria:

(1) It relates to the legal, ethical, medical, psychological, or social issues arising in juvenile court proceedings.

(2) It has been approved by the Iowa Children's Justice Initiative.

(3) It has been accredited by the commission on continuing legal education.

*b.* The Iowa Children's Justice Initiative is responsible for publicizing courses that meet the criteria of rule 8.36(2). It is anticipated that these courses will be available throughout the state at little or no cost to the attorney.

**8.36(3)** *Recordkeeping.* Court-appointed attorneys representing parents in juvenile court proceedings are responsible for maintaining records of their compliance with this rule and reporting required instruction on the annual report required by Iowa Court Rule 41.4. A judge presiding over a juvenile proceeding, or the State Public Defender, may require an attorney to certify compliance with this rule and to provide the attorney's annual reports and any other records demonstrating compliance with this rule.

**8.36(4)** *Effective date.* This rule applies to court appointments that occur on or after January 1, 2015. Attorneys appointed to represent parents in juvenile court proceedings on or after January 1, 2015, must have completed three hours of continuing legal education relating to juvenile court proceedings either during calendar year 2014 or during calendar year 2015 prior to their appointment.

[Court Order October 16, 2013, effective January 1, 2015]

## MINOR GUARDIANSHIPS

**Rule 8.37 Juvenile Procedure Forms — Minor Guardianships.** An individual serving as guardian for a minor guardianship without attorney representation must use forms contained in this rule for required filings. An attorney may use these forms but is not required to do so.

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

## Rule 8.37 — Form 1: *Protected Information Disclosure*

- *If information is abbreviated on other rule 8.37 forms, use this form to include protected information in full.*

**In the Iowa District Court for _____ County (Juvenile Division)**

| **In the Matter of the Guardianship of:**<br><br>_____<br>*Initials of Protected Minor*<br><br>**Protected Minor.** | Juvenile no._____<br><br>**Protected Information Disclosure** |
|---|---|

**When protected information, as defined in Iowa Court Rule 16.602, is required by law or is material to the case and is therefore included in nonconfidential documents on nonconfidential cases, a party must record the protected information on this form.**

For an explanation of a filer's responsibility and the procedures to use for protecting personal information, refer to Iowa Court Rules: Chapter 16, Rules of Electronic Procedure, Division VI, Protection of Personal Privacy. Rule 16.602 provides the list of protected information. Rule 16.604 provides a list of information that may be redacted or partially provided.

### 1. Protected Minor. *The minor who is the subject of the guardianship.*

*Provide the complete version of protected information and the redacted version included in documents you file.*

Name _____ _____ _____
*First* *Middle* *Last*

| **Protected information type** | **Complete information** (See rules 16.602 and 16.604) | **Redacted information** (See rule 16.605) |
|---|---|---|
| A. Protected Minor's full name | *Full name* | *Initials only* |
| B. Social security number | - - | *Last four digits only* |
| C. Date of birth | / / *mm/dd/yyyy* | *Year only* |
| D. Personal identification numbers (if no social security number) | *Full number* | *Partial only* |
| E. Other unique identifying numbers | *Full number* | *Partial only* |
| F. *Additional protected information* | *Full information* | *Partial information* |
| G. *Additional protected information* | *Full information* | *Partial information* |

***Continued on next page***

*Rule 8.37—Form 1: Protected Information Disclosure,* continued

| | | |
|---|---|---|
| H. *Additional protected information* | *Full information* | *Partial information* |
| I. *Additional protected information* | *Full information* | *Partial information* |

☐ *Check this box if you are attaching a separate sheet listing additional information for Protected Minor.*

**2. Parent.** *The parent of the minor who is the subject of the guardianship.*

*Provide the complete version of protected information and the redacted version included in documents you file.*

Name _____ _____ _____
*First* *Middle* *Last*

| **Protected information type** | **Complete information** (See rules 16.602 and 16.604) | **Redacted information** (See rule 16.605) |
|---|---|---|
| A. Social security number | - - | *Last four digits only* |
| B. Date of birth | / / *mm/dd/yyyy* | *Year only* |
| C. Individual taxpayer identification numbers | - - | *Last four digits only* |
| D. Personal identification numbers (if no social security number) | *Full number* | *Partial only* |
| E. Other unique identifying numbers | *Full number* | *Partial only* |
| F. *Additional protected information* | *Full information* | *Partial information* |
| G. *Additional protected information* | *Full information* | *Partial information* |
| H. *Additional protected information* | *Full information* | *Partial information* |
| I. *Additional protected information* | *Full information* | *Partial information* |

☐ *Check this box if you are attaching a separate sheet listing additional information for Parent.*

**3. Additional Parent.** *The other parent, if applicable, of the minor who is the subject of the guardianship.*

*Provide the complete version of protected information and the redacted version included in documents you file.*

Name _____ _____ _____
*First* *Middle* *Last*

| **Protected information type** | **Complete information** (See rules 16.602 and 16.604) | **Redacted information** (See rule 16.605) |
|---|---|---|
| A. Social security number | - - | *Last four digits only* |
| B. Date of birth | / / *mm/dd/yyyy* | *Year only* |

***Continued on next page***

*Rule 8.37—Form 1: Protected Information Disclosure,* continued

| | | |
|---|---|---|
| C. Individual taxpayer identification numbers | - - | *Last four digits only* |
| D. Personal identification numbers (if no social security number) | *Full number* | *Partial only* |
| E. Other unique identifying numbers | *Full number* | *Partial only* |
| F. *Additional protected information* | *Full information* | *Partial information* |
| G. *Additional protected information* | *Full information* | *Partial information* |
| H. *Additional protected information* | *Full information* | *Partial information* |
| I. *Additional protected information* | *Full information* | *Partial information* |

☐ *Check this box if you are attaching a separate sheet listing additional information for Additional Parent.*

**4. Proposed Guardian or Guardian.** *The proposed, or current, guardian of the protected minor.*

*Provide the complete version of protected information and the redacted version included in documents you file.*

Name _____ _____ _____
*First* *Middle* *Last*

| **Protected information type** | **Complete information** (See rules 16.602 and 16.604) | **Redacted information** (See rule 16.605) |
|---|---|---|
| A. Social security number | - - | *Last four digits only* |
| B. Date of birth | / / *mm/dd/yyyy* | *Year only* |
| C. Individual taxpayer identification numbers | - - | *Last four digits only* |
| D. Personal identification numbers (if no social security number) | *Full number* | *Partial only* |
| E. Other unique identifying numbers | *Full number* | *Partial only* |
| F. *Additional protected information* | *Full information* | *Partial information* |
| G. *Additional protected information* | *Full information* | *Partial information* |
| H. *Additional protected information* | *Full information* | *Partial information* |
| I. *Additional protected information* | *Full information* | *Partial information* |

☐ *Check this box if you are attaching a separate sheet listing additional information for Proposed Guardian or Guardian.*

***Continued on next page***

*Rule 8.37—Form 1: Protected Information Disclosure,* continued

**5. Information provided by:**

_____ /s/_____
*Printed name* *Signature*

_____
*Law firm, if applicable*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

_____ _____, 20_____
*Month* *Day* *Year*
*Date signed*



[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

## Rule 8.37 — Form 2: *Background Check Information for a Proposed Guardian of a Minor*

**Instructions:**

- Iowa Code section 232D.307 requires the court to conduct a criminal records check and checks of the child abuse, dependent adult abuse, and sex offender registry for a proposed guardian of a minor, and requires the proposed guardian to pay the background check fee ($15.00). *Note: The clerk of court will keep this information form **confidential**.*
- Do not give copies of this form to anyone except the clerk of court or your attorney, if you have one.
- If there is no existing guardianship approved by the court, file this form and a Petition to Establish a Guardianship for a Minor with the clerk of court.

***If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.***

**In the Iowa District Court for _____ County (Juvenile Division)**

| | |
|---|---|
| **In the Matter of the Guardianship of:**<br><br>_____<br>*Initials of Protected Minor*<br><br>**Protected Minor.** | Juvenile no._____<br><br>**Background Check Information for a Proposed Guardian of a Minor**<br><br>Iowa Code § 232D.307 |

Guardian states as follows:

### 1. Proposed Guardian's personal information

A. Current legal name

| _____ | _____ | _____ |
|---|---|---|
| *Full first name* | *Full middle name (write "N/A" if no middle name)* | *Full last name* |

B. Personal identifying information

| ___/___/___ | _____ | ___-___-___ |
|---|---|---|
| *Date of birth (month/day/year)* | *Gender* | *Social security number* |

C. All other names ever used (including any other previous legal names and nicknames)

Alternate name #1

| _____ | _____ | _____ |
|---|---|---|
| *Full first name* | *Full middle name (write "N/A" if no middle name)* | *Full last name* |

Alternate name #2

| _____ | _____ | _____ |
|---|---|---|
| *Full first name* | *Full middle name (write "N/A" if no middle name)* | *Full last name* |

***Continued on next page***

*Rule 8.37—Form 2: Background Check Information for a Proposed Guardian of a Minor,* continued

| | | | |
|---|---|---|---|
| Alternate name #3 | *Full first name* | *Full middle name (write "N/A" if no middle name)* | *Full last name* |
| Alternate name #4 | *Full first name* | *Full middle name (write "N/A" if no middle name)* | *Full last name* |
| Alternate name #5 | *Full first name* | *Full middle name (write "N/A" if no middle name)* | *Full last name* |
| Alternate name #6 | *Full first name* | *Full middle name (write "N/A" if no middle name)* | *Full last name* |
| Alternate name #7 | *Full first name* | *Full middle name (write "N/A" if no middle name)* | *Full last name* |
| Alternate name #8 | *Full first name* | *Full middle name (write "N/A" if no middle name)* | *Full last name* |
| Alternate name #9 | *Full first name* | *Full middle name (write "N/A" if no middle name)* | *Full last name* |

## 2. Certification and release authorization

***Certification:*** I confirm that the information provided above is true and correct.

***Release Authorization:*** I give permission for the court to conduct an Iowa criminal history record check with the Division of Criminal Investigation (DCI). Any criminal history data concerning me maintained by the DCI may be released as allowed by law. I understand this can include information concerning cases expunged from court records, successful completion of the terms of a deferred judgment, if any, and arrests without dispositions.

| *Signature of Proposed Guardian* | *Month* | *Day* | *Year* |
|---|---|---|---|

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*



[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

## Rule 8.37 — Form 3: *Affidavit of Parental Consent*

**Instructions:**

- This form must be completed by each parent who has legal custody of the minor and is consenting to the guardianship of the minor.
- Each signing parent must complete and provide a separate form.

***If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.***

**In the Iowa District Court for _____ County (Juvenile Division)**

| | |
|---|---|
| **In the Matter of the Guardianship of:**<br><br>_____<br>*Initials of Protected Minor*<br><br>**Protected Minor.** | Juvenile no._____<br><br>**Affidavit of Parental Consent**<br><br>Iowa Code § 232D.203 |

I certify the following: *Read, complete, and check each item if you agree.*

☐ I, _____, am the _____
*Print your name* *Parental relationship*

of _____ (Minor).
*Initials of minor*

☐ I currently have legal custody of Minor.

☐ Minor is in need of a guardianship because *Check all that apply*

☐ I have a physical or mental illness that prevents me from providing care and supervision of Minor.

☐ I am, or soon will be, incarcerated or imprisoned.

☐ I am, or soon will be, on active military duty.

☐ Other: *Explain*

_____

_____

_____

☐ I have read the Petition for Guardianship filed with this Affidavit.

☐ I understand the nature of the guardianship proposed in the Petition for Guardianship.

☐ I knowingly and voluntarily consent to the proposed guardianship.

☐ I have had sufficient opportunity to consult with an attorney regarding this matter.

***Continued on next page***

*Rule 8.37—Form 3: Affidavit of Parental Consent,* continued

**Attorney Help** *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

*If you check B, you must fill in the following information:*

_____
*Name of attorney or organization, if any*

_____
*Business address of attorney or organization*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____ _____
*Phone number* *Fax number*

_____ _____
*Email address* *Additional email address, if applicable*

**Oath and signature of parent**

I, _____, have read this Affidavit, and I certify under
*Print your name*

penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Affidavit is true and correct.

_____ _____, 20____ _____
*Month* *Day* *Year* *Signature**

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*



[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

## Rule 8.37 — Form 4: *Guardian's Initial Care Plan for Protected Minor*

**Instructions:**

- Guardian must complete, sign, and file this form with the court within sixty (60) days of appointment.
- Do not include protected information such as Protected Minor's name. For protected information, complete Rule 8.37—Form 1: Protected Information Disclosure.
- The purpose of the Initial Care Plan is to provide the court with a complete picture of Protected Minor's current situation, Protected Minor's needs, and Guardian's plan to meet those needs.
- Provide as much detailed information as possible.

***If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.***

**In the Iowa District Court for _____ County (Juvenile Division)**

| **In the Matter of the Guardianship of:** | Juvenile no._____ |
|---|---|
| _____<br>*Initials of Protected Minor*<br>**Protected Minor.** | **Guardian's Initial Care Plan for Protected Minor**<br>Iowa Code § 232D.501(1)(*a*) |

Guardian states as follows:

### 1. Guardian's information

A. Guardian's name:

_____
*Full name: first, middle, last*

B. Guardian is Minor's: *Check one*

☐ Grandparent

☐ Adult sibling

☐ Other: _____

### 2. Minor's information

A. Minor's age: _____.

B. Reason for guardianship:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 4: Guardian's Initial Care Plan for Protected Minor,* continued

**3. Minor's residence and interaction with Guardian**

A. Does Minor currently live with Guardian? *Check* Yes *or* No *below.*

☐ Yes

*If you checked* Yes*, complete the next section.*

Describe Guardian's daily interaction with Minor:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ No

*If you checked* No*, complete* (1)–(6).

(1) Minor's current residence:

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(2) Date Minor began living at current residence:

_____ _____, 20____.
*Month* *Day* *Year*

(3) Explain why Minor does not live with Guardian:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(4) How often does Guardian plan to visit or have other contacts (e.g., by mail, email, social media, and phone) with Minor? *Check all that apply*

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

***Continued on next page***

*Rule 8.37—Form 4: Guardian's Initial Care Plan for Protected Minor,* continued

(5) How does Guardian plan to interact with Minor? *Check all that apply*

☐ In person

☐ Mail, email, or social media

☐ Phone

☐ Other: _____

(6) Describe the types of activities with or on behalf of Minor that Guardian plans:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Does Minor's current living situation best meet Minor's future needs?

☐ Yes ☐ No

If No, describe Guardian's plan for meeting those needs:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

## 4. Minor's expenses

A. Estimate of Minor's expenses:

| **Type of expense** | **Amount estimated** *Check one* ☐ **monthly** ☐ **annual** |
|---|---|
| (1) Food *At home and restaurants* | $ |
| (2) Clothing | $ |

***Continued on next page***

*Rule 8.37—Form 4: Guardian's Initial Care Plan for Protected Minor,* continued

| | |
|---|---|
| (3) Medical, dental<br>*Not health insurance payments – see (7).* | $ |
| (4) Transportation | $ |
| (5) Phone<br>*If applicable* | $ |
| (6) Internet<br>*If applicable* | $ |
| (7) Health insurance | $ |
| (8) Educational or vocational training expenses | $ |
| (9) Other expense<br>*Identify:* | $ |
| (10) Other expense<br>*Identify:* | $ |
| (11) Other expense<br>*Identify:* | $ |
| (12) Other expense<br>*Identify:* | $ |
| (13) Totals from attached sheets, if any<br>☐ *Check this box if you have attached a sheet with additional information regarding expenses.* | $ |
| **Total expenses** | $ |

***Continued on next page***

*Rule 8.37—Form 4: Guardian's Initial Care Plan for Protected Minor,* continued

B. Who will pay Minor's expenses? *Check all that apply*

☐ Guardian

☐ One or both of Minor's parents

☐ A court-appointed conservator:

_____
*Conservator's full name: first, middle, last*

_____
*Conservator's mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

☐ Other: _____

C. If Guardian is responsible for paying Minor's expenses, describe Guardian's plan for payment of Minor's living expenses and other expenses:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

## 5. Minor's health

A. Minor's physical health

(1) Describe Minor's current medical health status, identifying any medical concerns:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 4: Guardian's Initial Care Plan for Protected Minor,* continued

(2) Guardian's plan for meeting Minor's medical care needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Minor's dental health

(1) Describe Minor's current dental health status, identifying any dental health concerns:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting Minor's dental health care needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Minor's mental health

(1) Describe Minor's current mental health status, identifying any mental, cognitive, behavioral, or emotional concerns:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

(2) Guardian's plan for meeting Minor's mental, cognitive, behavioral, or emotional needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

D. Other health concerns

(1) Identify any other health care concerns related to Minor:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting other health care concerns identified:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**6. Minor's education**

A. Minor is: *Check one*

☐ Preschool age

*If you checked the above box, complete the next section.*

Is Minor receiving services from a preschool educational program (e.g., Early Access or Head Start)?

☐ Yes ☐ No

If Yes, describe the services:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 4: Guardian's Initial Care Plan for Protected Minor*, continued

☐ School age and enrolled in or attending school

*If you checked the above box, complete the next section.*

Minor's school information:

_____
*School name where Minor is enrolled or attending*

_____
*School mailing address*

_____ _____ _____
*City* *State* *ZIP code*

☐ School age but not enrolled in or attending school

*If you checked the above box, complete the next section.*

Explain how Minor's educational needs will be met:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Does Minor receive or need special education or related services?

☐ Yes ☐ No

If Yes, describe the services:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Does Minor receive or need vocational or training services?

☐ Yes ☐ No

If Yes, describe the services:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 4: Guardian's Initial Care Plan for Protected Minor,* continued

D. Guardian's plan for meeting Minor's future educational, training, and vocational needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**7. Other professional services**

A. Does Minor require any professional services other than those listed above?

☐ Yes ☐ No

*If you checked* Yes*, complete* B *and* C*, otherwise skip to* **8**.

B. Other professional services Minor requires:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Guardian's plan to provide the professional services required:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

## 8. Minor's contact with parents and other relatives

*For purposes of this section, a "legal parent" is a person who is recognized by law as a parent to the child because of a birth certificate, affidavit, child support order, or other legal document.*

A. Information regarding Minor's legal parent:

(1) Contact information:

_____
*Full name: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

(2) Will arrangements be made for regular contacts between Minor and this parent?

☐ Yes ☐ No

If Yes, describe the arrangements. If No, explain why.

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Information regarding Minor's other legal parent (if applicable):

(1) Contact information:

_____
*Full name: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

***Continued on next page***

*Rule 8.37—Form 4: Guardian's Initial Care Plan for Protected Minor,* continued

(2) Will arrangements be made for regular contacts between Minor and this parent?

☐ Yes ☐ No

If Yes, describe the arrangements. If No, explain why.

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Will arrangements be made for regular contacts between Minor and other relatives (e.g., siblings, grandparents, aunts, and uncles)?

☐ Yes

*If you checked* Yes*, complete the following sections as appropriate.*

(1) Relative's name: _____.

Relationship to Minor: _____.

Describe arrangements planned for contact with this person:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

(2) Relative's name: _____.

Relationship to Minor: _____.

Describe arrangements planned for contact with this person:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional relatives.*

☐ No

*If you checked* No, *complete the next section.*

Explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

## 9. Additional information

Additional information that may be useful for the court to know in determining what is in Minor's best interest:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 4: Guardian's Initial Care Plan for Protected Minor,* continued

**10. Fees for Guardian**

*Check one*

☐ Fees are applied for. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are waived.

**11. Fees for Guardian's attorney**

*Check one*

☐ Fees should be set by the court. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are not requested.

☐ Fees are waived or not applicable.

**12. Attorney Help** *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

*If you check* B*, you must fill in the following information:*

_____
*Name of attorney or organization, if any*

_____
*Business address of attorney or organization*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____ _____
*Phone number* *Fax number*

_____ _____
*Email address* *Additional email address, if applicable*

**13. Oath and signature of Guardian**

I, _____, have read this Initial Care Plan, and I certify
*Print your name*

under penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Initial Care Plan is true and correct.

_____ _____, 20____ _____
*Month* *Day* *Year* *Signature**

_____
*Mailing address*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*



[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

## Rule 8.37 — Form 5: *Guardian's Annual Report for Protected Minor*

**Instructions:**

- Guardian must complete, sign, and file this form with the court within thirty (30) days of the close of the reporting period.
- Do not include protected information such as Protected Minor's name. For protected information, complete Rule 8.37—Form 1: Protected Information Disclosure.
- The purpose of the Annual Report is to provide the court with a complete picture of Protected Minor's current situation as well as developments that occurred during the reporting period.
- Provide as much detailed information as possible. Do not include responses such as "same as last report" or "no change since last report."

***If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.***

**In the Iowa District Court for _____ County (Juvenile Division)**

| | |
|---|---|
| **In the Matter of the Guardianship of:**<br><br>_____<br>*Initials of Protected Minor*<br><br>**Protected Minor.** | Juvenile no._____<br><br>**Guardian's Annual Report for Protected Minor**<br><br>Iowa Code § 232D.501(1)(*b*) |

Guardian states as follows:

### 1. Reporting period

This report is for the period from: _____/_____/_____to_____/_____/_____.
*Month Day Year Month Day Year*

### 2. Guardian's information

A. Guardian's name:

_____
*Full name: first, middle, last*

B. Guardian is Minor's: *Check one*

☐ Grandparent

☐ Adult sibling

☐ Other: _____

### 3. Minor's information

Minor's age: _____.

***Continued on next page***

## 4. Continuation of guardianship

A. Guardianship is recommended to be: *Check one*

☐ Continued

☐ Terminated

*If you checked* Terminated, *provide an explanation. A court hearing may be required on the matter of termination.*

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Ability of Guardian to continue as guardian: *Check one*

☐ Guardian is able and willing to continue as Guardian.

☐ Guardian is unable or unwilling to continue as Guardian. Explain why:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Assistance requested:

*Identify any assistance Guardian needs in providing or arranging for care of Minor.*

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor,* continued

**5. Minor's residence and interaction with Guardian**

A. Does Minor currently live with Guardian? *Check* Yes *or* No *below.*

☐ Yes

*If you checked* Yes*, complete the next section.*

Describe Guardian's daily interaction with Minor during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ No

*If you checked* No*, complete sections* (1)–(5).

(1) Minor's current residence:

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(2) Date Minor began living at current residence:

_____ ____, 20____.
*Month* *Day* *Year*

(3) Explain why Minor does not live with Guardian:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(4) What types of contacts did Guardian have with Minor during the reporting period and how often? *Check all that apply*

☐ In person

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

***Continued on next page***

*Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor,* continued

☐ Mail, email, or social media

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

☐ Phone

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

☐ Other type of contact: _____

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

(5) Summarize the types of activities with or on behalf of Minor that Guardian performed during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Does Minor's current living situation best meet Minor's future needs?

☐ Yes ☐ No

If No, describe Guardian's plan for meeting those needs:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor,* continued

## 6. Minor's expenses

A. Estimate of Minor's expenses for the next reporting period:

| **Type of expense** | **Amount estimated** *Check one* ☐ **monthly** ☐ **annual** |
|---|---|
| (1) Food *At home and restaurants* | $ |
| (2) Clothing | $ |
| (3) Medical, dental *Not health insurance payments – see (7).* | $ |
| (4) Transportation | $ |
| (5) Phone *If applicable* | $ |
| (6) Internet *If applicable* | $ |
| (7) Health insurance | $ |
| (8) Educational or vocational training expenses | $ |
| (9) Other expense *Identify:* | $ |
| (10) Other expense *Identify:* | $ |
| (11) Other expense *Identify:* | $ |
| (12) Other expense *Identify:* | $ |
| (13) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information regarding expenses.* | $ |
| **Total expenses** | $ |

***Continued on next page***

*Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor,* continued

B. Who will pay Minor's expenses? *Check all that apply*

☐ Guardian

☐ One or both of Minor's parents

☐ A court-appointed conservator:

_____
*Conservator's full name: first, middle, last*

_____
*Conservator's mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

☐ Other: _____

C. If Guardian is responsible for paying Minor's expenses, describe Guardian's plan for payment of Minor's living expenses and other expenses during the next reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

## 7. Minor's health

A. Minor's physical health

(1) Summarize Minor's medical health status during the reporting period, identifying any medical concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor,* continued

(2) Guardian's plan for meeting Minor's future medical care needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Minor's dental health

(1) Summarize Minor's dental health status during the reporting period, identifying any dental concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting Minor's future dental health care needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Minor's mental health

(1) Summarize Minor's mental health status during the reporting period, identifying any mental, cognitive, behavioral, or emotional concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor,* continued

(2) Guardian's plan for meeting Minor's future mental, cognitive, behavioral, or emotional needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

D. Other health concerns

(1) Summarize any other health care concerns related to Minor that occurred during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting other health care concerns identified:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**8. Minor's education**

A. Minor is: *Check one*

☐ Preschool age

*If you checked the above box, complete the next section.*

Did Minor receive services from a preschool educational program (e.g., Early Access or Head Start) during the reporting period?

☐ Yes ☐ No

If Yes, describe the services:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor,* continued

☐ School age and enrolled in or attending school

*If you checked the above box, complete the next section.*

Minor's school information:

_____

*School name where Minor is enrolled or attending*

_____

*School mailing address*

_____ _____ _____

*City* *State* *ZIP code*

☐ School age but not enrolled in or attending school

*If you checked the above box, complete the next section.*

Explain how Minor's educational needs were met during the reporting period and how Minor's educational needs will be met in the future:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Did Minor receive special education or related services during the reporting period?

☐ Yes ☐ No

If Yes, describe the services:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Did Minor receive vocational or training services during the reporting period?

☐ Yes ☐ No

If Yes, describe the services:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor,* continued

D. Guardian's plan for meeting Minor's educational, training, and vocational needs during the next reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**9. Other professional services**

A. Did Minor receive any professional services other than those listed above during the reporting period?

☐ Yes ☐ No

If Yes, describe the other professional services Minor received during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Does Guardian plan to provide Minor with any professional services other than those listed above during the next reporting period?

☐ Yes ☐ No

If Yes, describe the other professional services Guardians plan to provide Minor during the next reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor*, continued

## 10. Minor's contact with parents and other relatives

*For purposes of this section, a "legal parent" is a person who is recognized by law as a parent to the child because of a birth certificate, affidavit, child support order, or other legal document.*

A. Information regarding Minor's legal parent:

(1) Contact information:

_____
*Full name: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

(2) How often did this parent interact with Minor during the reporting period?

☐ No visits

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

(3) If this parent interacted with Minor during the reporting period, describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor,* continued

(4) Will arrangements be made for regular contacts between Minor and this parent during the next reporting period?

☐ Yes ☐ No

If Yes, describe the arrangements. If No, explain why.

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Information regarding Minor's other legal parent (if applicable):

(1) Contact information:

_____
*Full name: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

(2) How often did this parent interact with Minor during the reporting period?

☐ No visits

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

(3) If this parent interacted with Minor during the reporting period, describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor,* continued

(4) Will arrangements be made for regular contacts between Minor and this parent during the next reporting period?

☐ Yes ☐ No

If Yes, describe the arrangements. If No, explain why.

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Did Minor interact with any other relatives during the reporting period?

☐ Yes

*If you checked* Yes*, complete the following sections as appropriate.*

(1) Relative's name: _____.

Relationship to Minor: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Will arrangements be made for regular contacts between Minor and this relative during the next reporting period?

☐ Yes ☐ No

If Yes, describe the arrangements. If No, explain why.

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor,* continued

(2) Relative's name: _____.

Relationship to Minor: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Will arrangements be made for regular contacts between Minor and this relative during the next reporting period?

☐ Yes ☐ No

If Yes, describe the arrangements. If No, explain why.

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional relatives.*

☐ No

*If you checked* No*, complete the next section.*

Explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor,* continued

**11. Additional information**

Additional information that may be useful for the court to know in determining what is in Minor's best interest:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**12. Fees for Guardian**

*Check one*

☐ Fees are applied for. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are waived.

**13. Fees for Guardian's attorney**

*Check one*

☐ Fees should be set by the court. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are not requested.

☐ Fees are waived or not applicable.

**14. Attorney Help** *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

*If you check* B*, you must fill in the following information:*

_____
*Name of attorney or organization, if any*

_____
*Business address of attorney or organization*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____ _____
*Phone number* *Fax number*

_____ _____
*Email address* *Additional email address, if applicable*

***Continued on next page***

*Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor,* continued

**15. Oath and signature of Guardian**

I, _____, have read this Annual Report, and I certify under
*Print your name*

penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Annual Report is true and correct.

_____ _____, 20____ _____
*Month* *Day* *Year* *Signature**

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*



[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

## Rule 8.37 — Form 6: *Guardian's Final Report for Protected Minor*

**Instructions:**

- Guardian must complete, sign, and file this form with the court within thirty (30) days of the termination of the guardianship.
- Do not include protected information such as Protected Minor's name. For protected information, complete Rule 8.37—Form 1: Protected Information Disclosure.
- The purpose of the Final Report is to provide the court with a complete picture of Protected Minor's current situation as well as developments that occurred during the reporting period prior to the termination of the guardianship.
- Provide as much detailed information as possible. Do not include responses such as "same as last report" or "no change since last report."

***If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.***

**In the Iowa District Court for _____ County (Juvenile Division)**

| | |
|---|---|
| **In the Matter of the Guardianship of:**<br><br>_____<br>*Initials of Protected Minor*<br><br>**Protected Minor.** | Juvenile no._____<br><br>**Guardian's Final Report for Protected Minor**<br><br>Iowa Code § 232D.501(1)(*c*) |

Guardian states as follows:

### 1. Reporting period

This report is for the period from: _____/_____/_____ to _____/_____/_____.
*Month Day Year Month Day Year*

### 2. Guardian's information

A. Guardian's name:

_____
*Full name: first, middle, last*

B. Guardian is Minor's: *Check one*

☐ Grandparent

☐ Adult sibling

☐ Other: _____

### 3. Minor's information

Minor's age: _____.

***Continued on next page***

*Rule 8.37—Form 6: Guardian's Final Report for Protected Minor,* continued

**4. Termination of guardianship**

The guardianship has been or should be terminated because: *Check one*

☐ Minor is no longer a minor

☐ Minor is deceased

☐ Minor is now adopted

☐ Minor is now emancipated

☐ A different guardian was appointed

☐ Other reason:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**5. Minor's residence and interaction with Guardian**

Does Minor currently live with Guardian? *Check* Yes *or* No *below.*

☐ Yes

*If you checked* Yes*, complete the next section.*

Describe Guardian's daily interaction with Minor during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ No

*If you checked* No*, complete sections* (1)–(5).

(1) Minor's current residence:

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(2) Date Minor began living at current residence:

_____ _____, 20____.
*Month* *Day* *Year*

***Continued on next page***

*Rule 8.37—Form 6: Guardian's Final Report for Protected Minor,* continued

(3) Explain why Minor does not live with Guardian:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(4) What types of contacts did Guardian have with Minor during the reporting period and how often? *Check all that apply*

☐ In person

- ☐ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Other: _____

☐ Mail/email

- ☐ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Other: _____

☐ Phone

- ☐ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Other: _____

☐ Other type of contact: _____

- ☐ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Other: _____

***Continued on next page***

*Rule 8.37—Form 6: Guardian's Final Report for Protected Minor,* continued

(5) Summarize the types of activities with or on behalf of Minor that Guardian performed during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

## 6. Minor's expenses

A. Who will paying Minor's expenses after the termination of this guardianship? *Check all that apply*

☐ Guardian

☐ Another guardian

☐ One or both of Minor's natural parents

☐ A court-appointed conservator

☐ Other: _____

B. Information regarding payer of Minor's expenses:

_____
*Full name: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

## 7. Minor's health

A. Minor's physical health

Summarize Minor's medical health status during the reporting period, identifying any medical concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 6: Guardian's Final Report for Protected Minor,* continued

B. Minor's dental health

Summarize Minor's dental health status during the reporting period, identifying any dental concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Minor's mental health

Summarize Minor's mental health status during the reporting period, identifying any mental, cognitive, behavioral, or emotional concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

D. Other health concerns

Summarize any other health care concerns related to Minor that occurred during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 6: Guardian's Final Report for Protected Minor,* continued

## 8. Minor's education

A. Minor is: *Check one*

☐ Preschool age

*If you checked the above box, complete the next section.*

Did Minor receive services from a preschool educational program (e.g., Early Access or Head Start) during the reporting period?

☐ Yes ☐ No

If Yes, describe the services:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ School age and enrolled in or attending school

*If you checked the above box, complete the next section.*

Minor's school information:

_____
*School name where Minor is enrolled or attending*

_____
*School mailing address*

_____ _____ _____
*City* *State* *ZIP code*

☐ School age but not enrolled in or attending school

*If you checked the above box, complete the next section.*

Explain how Minor's educational needs were met during the reporting period and how Minor's educational needs will be met in the future:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 6: Guardian's Final Report for Protected Minor,* continued

B. Did Minor receive special education or related services during the reporting period?

☐ Yes ☐ No

If Yes, describe the services:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Did Minor receive vocational or training services during the reporting period?

☐ Yes ☐ No

If Yes, describe the services:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

**9. Other professional services**

Did Minor receive any professional services other than those listed above during the reporting period?

☐ Yes ☐ No

If Yes, describe the other professional services Minor received during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 6: Guardian's Final Report for Protected Minor,* continued

## 10. Minor's contact with parents and other relatives

*For purposes of this section, a "legal parent" is a person who is recognized by law as a parent to the child because of a birth certificate, affidavit, child support order, or other legal document.*

A. Information regarding Minor's legal parent:

(1) Contact information:

_____
*Full name: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

(2) How often did this parent interact with Minor during the reporting period?

☐ No visits

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

(3) If this parent interacted with Minor during the reporting period, describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 6: Guardian's Final Report for Protected Minor,* continued

B. Information regarding Minor's other legal parent (if applicable):

(1) Contact information:

_____
*Full name: first, middle, last*

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

(2) How often did this parent interact with Minor during the reporting period?

☐ No visits

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

(3) If this parent interacted with Minor during the reporting period, describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

***Continued on next page***

*Rule 8.37—Form 6: Guardian's Final Report for Protected Minor,* continued

C. Did Minor interact with any other relatives during the reporting period?

☐ Yes

*If you checked* Yes*, complete the following sections as appropriate.*

(1) Relative's name: _____.

Relationship to Minor: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Relative's name: _____.

Relationship to Minor: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional relatives.*

***Continued on next page***

*Rule 8.37—Form 6: Guardian's Final Report for Protected Minor,* continued

☐ No

*If you checked* No*, complete the next section.*

Explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

## 11. Additional information

Additional information that may be useful for the court to know in determining what is in Minor's best interest:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information*

## 12. Fees for Guardian

*Check one*

☐ Fees are applied for. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are waived.

## 13. Fees for Guardian's attorney

*Check one*

☐ Fees should be set by the court. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are not requested.

☐ Fees are waived or not applicable.

***Continued on next page***

*Rule 8.37—Form 6: Guardian's Final Report for Protected Minor,* continued

**14. Attorney Help** *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

*If you check* B*, you must fill in the following information:*

_____
*Name of attorney or organization, if any*

_____
*Business address of attorney or organization*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____ _____
*Phone number* *Fax number*

_____ _____
*Email address* *Additional email address, if applicable*

**15. Oath and signature of Guardian**

I, _____, have read this Final Report, and I certify under
*Print your name*

penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Final Report is true and correct.

_____ _____, 20____ _____
*Month* *Day* *Year* *Signature**

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*



[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

**Rules 8.38** to **8.40** Reserved.

RESTRAINT OF JUVENILES DURING COURT PROCEEDINGS

**Rule 8.41 Routine use of restraints prohibited.**

**8.41(1)** Instruments of restraint, such as handcuffs, chains, irons, or straitjackets, cloth and leather restraints, and other similar items, will not be used on a child during a court proceeding unless the juvenile court upon the recommendation of the juvenile court officer or the county attorney makes a finding on the record that restraints are necessary due to any of the following:

*a.* Recent behavior of the child has placed others at risk of substantial physical harm.

*b.* Sufficient grounds to believe the child is a substantial flight risk.

*c.* Sufficient grounds to show restraints are necessary to prevent physical harm to the child or another person during the court proceeding.

*d.* There are no less restrictive alternatives to restraints, including the presence of a security officer. The juvenile court officer is not considered a security officer.

**8.41(2)** If the juvenile court officer or the county attorney recommends that restraints are necessary, the juvenile court officer or county attorney must provide notice to the court and the child's attorney outlining the circumstances supporting that recommendation prior to the child's appearance in each court proceeding or as soon as practicable. If notice is not given in writing, a record must be made at the court proceeding.

**8.41(3)** The child's attorney, the juvenile court officer, and the county attorney must have an opportunity to be heard before the court prior to any court proceeding for which any recommendation to restrain the child has been made.

**8.41(4)** For subsequent court proceedings in the same case, the court may rely on a previous finding if the security circumstances relating to the child have not materially changed.

**8.41(5)** Any restraint must allow the child limited movement of the hands to read and handle documents and writings necessary to the hearing. Under no circumstances should a child be restrained using fixed restraints to a wall, floor, or furniture.

**8.41(6)** Any restraint of children in the courtroom must balance legitimate security needs against the care, protection, and positive mental and physical development of the child while preserving the dignity and decorum of the courtroom and security of the court proceeding and court personnel.

[Court Order October 25, 2017, effective December 26, 2017]

# CHAPTER 9
# CHILD SUPPORT GUIDELINES

# CHAPTER 9
# CHILD SUPPORT GUIDELINES

**Rule 9.1 Guidelines adopted.** The supreme court has undertaken to prescribe uniform child support guidelines and criteria pursuant to the federal Family Support Act of 1988, Pub. L. No. 100-485 and Iowa Code section 598.21B. The child support guidelines contained in this chapter are hereby adopted, effective January 1, 2022. The guidelines apply to cases pending January 1, 2022, and thereafter.
[Court Order November 9, 2001, effective February 15, 2002; September 23, 2004, effective November 1, 2004; March 9, 2009, effective July 1, 2009; May 9, 2013, effective July 1, 2013; July 20, 2017, effective January 1, 2018; September 3, 2021, effective January 1, 2022]

**Rule 9.2 Applicability.** These guidelines are established for use by the courts of this state in determining the amount of child support. The guidelines are applicable to modification of child support orders as provided in Iowa Code section 598.21C(2).
[Court Order November 9, 2001, effective February 15, 2002; March 9, 2009, effective July 1, 2009]

**Rule 9.3 Purpose.**

**9.3(1)** *Purpose.* The purpose of the guidelines is to provide for the best interests of the children by recognizing the duty of both parents to provide adequate support for their children in proportion to their respective incomes. While the guidelines cannot take into account the specific facts of individual cases, they will normally provide reasonable support.

**9.3(2)** *Low-income adjustment.* The basic support obligation amounts have been adjusted in the shaded area of the schedule for low-income obligated (noncustodial) parents. The objective of the adjustment is to strike a balance between adequately supporting the obligated parent's children and allowing the obligated parent to live at least at a subsistence level. The adjustment is based on the following: (1) requiring a support order no matter how little the obligated parent's income is, (2) increasing the support amount for more children, (3) maintaining an incentive to work for the obligated parent, and (4) gradually phasing out the adjustment with increased income.

*a.* In accordance with this objective, except as provided in (*b*), only the obligated parent's adjusted net income is used for incomes less than $1,101 in Area A of the shaded area of the schedule. When the obligated parent's adjusted net income is $1,101 or more but is in Area B of the shaded area of the schedule, the guideline amount of support is the lesser of the support calculated using only the obligated parent's adjusted net income as compared to the support calculated using the combined adjusted net incomes of both parents. The combined adjusted net incomes of both parents are used in the remaining (nonshaded) Area C of the schedule.

*b.* In cases of joint (equally shared) physical care, the low-income adjustment is not applicable, and the parents' combined adjusted net incomes as shown in the shaded area of the schedule are used.
[Court Order November 9, 2001, effective February 15, 2002; March 9, 2009, effective July 1, 2009; May 9, 2013, effective July 1, 2013; September 3, 2021, effective January 1, 2022]

**Rule 9.4 Guidelines — rebuttable presumption.** In ordering child support, the court should determine the amount of support specified by the guidelines. There shall be a rebuttable presumption that the amount of child support which would result from the application of the guidelines prescribed by the supreme court is the correct amount of child support to be awarded. That amount may be adjusted upward or downward, however, if the court finds such adjustment necessary to provide for the needs of the children or to do justice between the parties under the special circumstances of the case. In determining the necessity of an adjustment, the custodial parent's child care expenses under rule 9.11A are to be considered. The appropriate amount of child support is zero if the noncustodial parent's only income is from Supplemental Security Income (SSI) paid pursuant to 42 U.S.C. 1381a.
[Court Order November 9, 2001, effective February 15, 2002; March 9, 2009, effective July 1, 2009; September 3, 2021, effective January 1, 2022]

**Rule 9.5 Income.**

**9.5(1)** *Gross monthly income.* In the guidelines, the term "gross monthly income" means reasonably expected income from all sources.

*a.* Gross monthly income includes spousal support payments to be received by a party in the pending matter and prior obligation spousal support payments actually received by a party pursuant to court order. For spousal support payments taxable to the payee and deductible by the payor, the

payments shall be added to or subtracted from gross monthly income prior to the computation of federal and state income taxes. For spousal support payments not taxable to the payee or deductible by the payor, the payments will be added or subtracted after the computation of federal and state income taxes in arriving at net monthly income.

(1) If spousal support is to be paid in the pending matter, whether temporary or permanent, it will be determined first and added to the payee's income and deducted from the payor's income before child support is calculated.

(2) A payor of prior obligation spousal support will receive a reduction from income for spousal support actually paid pursuant to court order.

(3) Reimbursement spousal support, whether being paid in a prior matter or to be paid in the pending matter, may not be added to a payee's income or deducted from a payor's income.

*b.* Gross monthly income does not include public assistance payments, the earned income tax credit, or child support payments a party receives.

*c.* Gross income from self-employment is self-employment gross income less reasonable business expenses.

*d.* To determine gross income, the court may not impute income under rule 9.11 except:

(1) Pursuant to agreement of the parties, or

(2) Upon request of a party, and a written determination is made by the court under rule 9.11.

**9.5(2)** *Net monthly income.* In the guidelines the term "net monthly income" means gross monthly income less deductions for the following:

*a.* Federal income tax (calculated pursuant to the guideline method).

*b.* State income tax (calculated pursuant to the guideline method).

*c.* Social Security and Medicare tax deductions, or for those employees who do not contribute to Social Security, mandatory pension deductions not to exceed the current Social Security and Medicare tax rate for employees.

*d.* Mandatory occupational license fees if paid by the individual personally, not by the employer, and if not previously deducted as a business expense on the individual's tax return in arriving at the individual's self-employment or other business income.

*e.* Union dues.

*f.* Health insurance premium costs for other children not in the pending matter when coverage is provided pursuant to court or administrative order or for children who are qualified additional dependents under rule 9.7. For purposes of this deduction, the premium cost for other children is one-half of the amount calculated for those other children utilizing the method specified in rule 9.14(5)(*b*).

*g.* Cash medical support ordered in this pending matter as determined by the medical support table in rule 9.12.

*h.* Cash medical support and prior obligation of child support actually paid pursuant to court or administrative order for other children not in the pending matter.

*i.* Qualified additional dependent deductions.

*j.* Actual child care expenses, as defined in rule 9.11A. However, this deduction is not allowed when a variance is granted under rule 9.11A.

Other items, such as credit union payments, charitable deductions, savings or thrift plans, and voluntary pension plans, are not to be deducted from a parent's income, since the needs of the children must have a higher priority than voluntary savings or payment of indebtedness.

[Court Order November 9, 2001, effective February 15, 2002; September 23, 2004, effective November 1, 2004; March 9, 2009, effective July 1, 2009; May 9, 2013, effective July 1, 2013; July 20, 2017, effective January 1, 2018; November 16, 2018, effective January 1, 2019; September 3, 2021, effective January 1, 2022; September 30, 2021, effective January 1, 2022]

**Rule 9.6 Guideline method for computing taxes.** For purposes of computing the taxes to be deducted from a parent's gross income, the following uniform rules shall be used:

**9.6(1)** An unmarried parent shall be assigned either single or head of household filing status. Head of household filing status shall be assigned if a parent is the custodial parent of one or more of the mutual children of the parents.

**9.6(2)** A married parent shall be assigned married filing separate status.

**9.6(3)** If the parents have joint (equally shared) physical care of their mutual children, an unmarried parent shall be assigned head of household filing status and a married parent shall be assigned married filing separate status.

**9.6(4)** The standard deduction applicable to the parent's filing status under rule 9.6(1), 9.6(2) or 9.6(3) shall be used.

**9.6(5)** Each parent shall be assigned one personal exemption for the parent. The custodial parent shall be assigned one additional dependent exemption for each mutual child of the parents, unless a parent provides information that the noncustodial parent has been allocated the dependent exemption for such child. In cases of joint (equally shared) or split physical care, the dependent exemption(s) for the mutual child(ren) of the parties shall be assigned according to the order or decree establishing the joint or split care arrangement.

**9.6(6)** If a parent's gross income under rule 9.5(1) is adjusted because of spousal support received or paid by the parent, applicable federal and state tax law determines whether those spousal support amounts are used to increase or decrease the parent's taxable income for computing taxes under this rule.

**9.6(7)** If the amount of federal or state income tax, or both, actually paid by a parent differs substantially from the amount(s) determined by the guideline method of computing taxes, the court may consider whether the difference is sufficient reason to adjust the child support under the criteria in rule 9.11. This rule does not preclude alternate methods of computation by Child Support Services (CSS) as authorized by Iowa Code section 252B.7A.

[Court Order September 23, 2004, effective November 1, 2004; March 9, 2009, effective July 1, 2009; May 9, 2013, effective July 1, 2013; November 16, 2018, effective January 1, 2019; September 3, 2021, effective January 1, 2022; June 30, 2023, effective July 1, 2023]

**Rule 9.7 Qualified additional dependent deduction.** To establish a qualified additional dependent deduction, the requesting parent must demonstrate a legal obligation to the child(ren) under Iowa Code section 252A.3. Ways to demonstrate a legal obligation to the child(ren) include:

**9.7(1)** By order of a court of competent jurisdiction or by administrative order when authorized by state law.

**9.7(2)** By the statement of the person admitting paternity in court and upon concurrence of the mother. If the mother was married, at the time of conception, birth, or at any time during the period between conception and birth of the child, to an individual other than the person admitting paternity, the individual to whom the mother was married at the time of conception, birth, or at any time during the period between conception and birth, must deny paternity in order to establish the paternity of the person admitting paternity upon the sole basis of the admission.

**9.7(3)** By the filing and registration by the state registrar of an affidavit of paternity executed on or after July 1, 1993, as provided in Iowa Code section 252A.3A, provided that the mother of the child was unmarried at the time of conception, birth, and at any time during the period between conception and birth of the child, or if the mother was married at the time of conception, birth, or at any time during the period between conception and birth of the child, a court of competent jurisdiction has determined that the individual to whom the mother was married at the time is not the father of the child.

**9.7(4)** By a child born during the marriage unless the paternity has been determined otherwise by a court of competent jurisdiction.

[Court Order November 9, 2001, effective February 15, 2002; September 23, 2004, effective November 1, 2004; March 9, 2009, effective July 1, 2009; May 9, 2013, effective July 1, 2013]

**Rule 9.8 Deduction amount and use.**

**9.8(1)** The monthly deduction for qualified additional dependents of a parent (custodial or noncustodial) shall be:

*a.* 8% of the parent's gross monthly income (to a maximum of $800 per month) for one (1) child.

*b.* 12% of the parent's gross monthly income (to a maximum of $1200 per month) for two (2) children.

*c.* 14% of the parent's gross monthly income (to a maximum of $1400 per month) for three (3) children.

*d.* 15% of the parent's gross monthly income (to a maximum of $1500 per month) for four (4) children.

*e.* 16% of the parent's gross monthly income (to a maximum of $1600 per month) for five (5) or more children.

**9.8(2)** The qualified additional dependent deduction can be used for the establishment of original orders or in proceedings to modify an existing order. However, the deduction cannot be used to affect

the threshold determination of eligibility for a downward modification of an existing order. After the threshold determination has been met, the deduction shall be used in the determination of the net monthly income. A deduction may be taken for a prior obligation for support actually paid (rule 9.5(2)(*h*)) or a qualified additional dependent deduction (rule 9.5(2)(*i*)), but both deductions cannot be used for the same child. A qualified additional dependent deduction cannot be claimed for a child for whom there is a prior court or administrative support order.
[Court Order November 9, 2001, effective February 15, 2002; September 23, 2004, effective November 1, 2004; March 9, 2009, effective July 1, 2009; effective March 22, 2022]

**Rule 9.9 Extraordinary visitation credit.** If the noncustodial parent's court-ordered visitation exceeds 127 days per year, the noncustodial parent will receive a credit to the noncustodial parent's share of the basic support obligation in accordance with the following table:

| Days | Credit |
|---|---|
| 128-147 | 15% |
| 148-166 | 20% |
| 167 or more but less than equally shared physical care | 25% |

For the purposes of this credit, "days" means overnights spent caring for the child(ren). Failure to exercise court-ordered visitation may be a basis for modification. The extraordinary visitation credit may not reduce support below $50 for one child, $75 for two children, or $100 for three or more children.
[Court Order September 23, 2004, effective November 1, 2004; March 9, 2009, effective July 1, 2009; May 9, 2013, effective July 1, 2013; September 3, 2021, effective January 1, 2022]

**Rule 9.10 Child support guidelines worksheet.** All parties must file a child support guidelines worksheet prior to a support hearing or the establishment of a support order. The parties must use Form 1 accompanying these rules, unless both parties agree to use Form 2. CSS must use Form 2. The parties may supplement any other required financial statements by filing Form 3.
[Court Order November 9, 2001, effective February 15, 2002; September 23, 2004, effective November 1, 2004; September 3, 2021, effective January 1, 2022; June 30, 2023, effective July 1, 2023]

**Rule 9.11 Variance from guidelines.** The court shall not vary from the amount of child support that would result from application of the guidelines without a written finding that the guidelines would be unjust or inappropriate as determined under the following criteria:

**9.11(1)** Substantial injustice would result to the payor, payee, or child(ren).

**9.11(2)** Adjustments are necessary to provide for the needs of the child(ren) or to do justice between the parties, payor, or payee under the special circumstances of the case.

**9.11(3)** Circumstances contemplated in Iowa Code section 234.39.

**9.11(4)** The court may impute income in appropriate cases subject to the requirements of rule 9.5. If the court finds that a parent is voluntarily unemployed or underemployed without just cause, child support may be calculated based on a determination of earning capacity.

*a.* Incarceration is not voluntary unemployment for purposes of establishing or modifying child support.

*b.* A determination of earning capacity must take into consideration the specific circumstances of the parent to the extent known, and may include such factors as employment potential and probable earnings level based on work and training history, occupational qualifications, prevailing job opportunities, availability of employers willing to hire the parent, and earning levels in the community.

*c.* The court may also consider the parent's assets, residence, educational attainment, literacy, age, health, criminal record and other employment barriers, record of seeking work, and other relevant factors.

*d.* The court may not use earning capacity instead of actual earnings or otherwise impute income unless a written determination is made that, if actual earnings were used, substantial injustice would

occur or adjustments would be necessary to provide for the needs of the child(ren) or to do justice between the parties.

[Court Order November 9, 2001, effective February 15, 2002; September 23, 2004, effective November 1, 2004; March 9, 2009, effective July 1, 2009; May 9, 2013, effective July 1, 2013; July 20, 2017, effective January 1, 2018; September 3, 2021, effective January 1, 2022]

**Rule 9.11A Variance for child care expenses.** Because the cost of child care is not included in the economic data used to establish the support amounts in the Schedule of Basic Support Obligations, the custodial parent's child care expenses constitute grounds for requesting an upward variance from the amount of child support that would result from application of the guidelines. If a party requests a variance under this rule, the court must first determine the amount of the custodial parent's child care expenses and then determine the amount of the variance, if any. A variance for child care expenses should be liberally granted and must be supported by written findings in accordance with rule 9.11.

**9.11A(1)** "Child care expenses" means actual, annualized child care expenses the custodial parent pays for the child(ren) in the pending matter that are reasonably necessary to enable the parent to be employed, attend education or training activities, or conduct a job search, less any third party reimbursements and any anticipated child care tax credits.

**9.11A(2)** There is a rebuttable presumption that there will be no variance for child care expenses attributable to a child who has reached the age of 13 years old.

**9.11A(3)** In determining the amount of the variance, the court may consider each parent's proportional share of income. The amount of the child care expense variance allowed should not exceed the noncustodial parent's proportional share of income. The support order must specify the amount of the basic support obligation calculated before the child care expense variance, the amount of the child care expense variance allowed, the combined amount of the basic support obligation and the child care expense variance, and when the child care expense variance will end. Absent compelling circumstances, the child care expense variance should not extend beyond the time when there are no longer any children under the age of 13 who are subject to the support order. When a child care expense variance ends pursuant to the terms of the support order, support will automatically adjust to the amount of the basic support obligation without a child care expense variance.

**9.11A(4)** When considering a variance, child care expenses are to be considered independent of any amount computed by use of the guidelines or any other grounds for variance.

**9.11A(5)** When a variance is ordered pursuant to rule 9.11A, no deduction for child care expenses under rule 9.5(2)*(j)* will be allowed in calculating either party's net monthly income to determine the amount of the basic support obligation.

**9.11A(6)** A change in the amount of child care expenses incurred by the custodial parent is a factor to be considered in determining whether a substantial change in circumstances exists to modify a support order that includes a variance under rule 9.11A.

**9.11A(7)** Rule 9.11A does not apply to:

*a.* Court-ordered joint (equally shared) physical care arrangements, as those child care expenses are to be allocated under rule 9.14(3).

*b.* Cases where the noncustodial parent's adjusted net monthly income is in the low-income Area A of the schedule in rule 9.26.

[Court Order July 20, 2017, effective January 1, 2018; September 3, 2021, effective January 1, 2022]

**Rule 9.12 Medical support order.**

**9.12(1)** The court shall enter an order for medical support as required by statute. For purposes of Iowa Code section 252E.1A, the table contained in rule 9.12(4) is established for use by the courts of this state in determining reasonable cost for a health benefit plan and a reasonable amount in lieu of a health benefit plan (cash medical support). The sum certain dollar amount determined shall be stated in the order, as an amount in addition to the child support amount.

**9.12(2)** Refer to the table in rule 9.12(4) to determine if the parent has health insurance available at "reasonable cost." Find the appropriate cell for the parent's net income (as determined by the guidelines) and for the correct number of children. Multiply the parent's gross income by the percentage in that cell. If the amount is equal to or more than the cost of the child(ren)'s portion of the health insurance premium (family cost minus single cost), it is available at "reasonable cost." For minimum orders in low-income Area A (NCPs with net incomes 0 – 1100), cash medical support is not ordered.

**9.12(3)** If neither parent has health insurance available at "reasonable cost," if appropriate according to Iowa Code section 252E.1A, the court shall order cash medical support. Refer to the table in rule 9.12(4) to determine the amount of cash medical support. Find the appropriate cell for the parent's preliminary net income (gross income minus all appropriate deductions other than cash medical support in the pending matter) and for the correct number of children. Multiply the parent's gross income by the percentage in that cell to get the cash medical support amount. For minimum orders in low-income Area A (NCPs with net incomes 0 – 1100), cash medical support is not ordered. Cash medical support is also not ordered if a parent is ordered to provide health insurance and that parent or stepparent of the child(ren) has obtained insurance coverage for the child(ren). If the child(ren)'s health care coverage is through the Healthy and Well Kids in Iowa program (Hawki) under Iowa Code chapter 514I, the ordered amount of cash medical support is the cost of the Hawki premium or the amount calculated pursuant to the table in rule 9.12(4), whichever is less.

Use the adjusted net income (preliminary net income minus the amount of cash medical support in the pending matter) for the correct number of children on the Schedule of Basic Support Obligations to find the appropriate amount of child support. Once the adjusted net income has been determined, do not allow another deduction for cash medical support.

**9.12(4)** Medical Support Table.

**Medical Support Table**

| Preliminary Net Income | One Child | Two Children | Three Children | Four Children | Five or more Children |
|---|---|---|---|---|---|
| 0-1100 | **Area A: Minimum Order** Noncustodial parent provides health insurance when it becomes available at no cost to add the child(ren). Health insurance is not an add-on cost in this area. Do not order cash medical support. | | | | |
| 1101-1600 1 child<br>1601-2000 2 children<br>2001-2350 3 children<br>2351-2400 4 children<br>2401-2650 5+ children | **Area B: Shaded area of the schedule** Provide health insurance if available at reasonable cost. Find the box for the parent's preliminary net income and number of children. Multiply the percentage in the box (1%-5%) by the parent's gross income to find reasonable cost. Health insurance is an add-on cost in this area. If neither parent has health insurance available at a reasonable cost, if appropriate according to Iowa Code section 252E.1A, the court will order cash medical support under Rule 9.12(3). | | | | |
| 1101-1150 | 2% | 2% | 1% | 1% | 1% |
| 1151-1200 | 2% | 2% | 1% | 1% | 1% |
| 1201-1250 | 2% | 2% | 2% | 1% | 1% |
| 1251-1300 | 2% | 2% | 2% | 1% | 1% |
| 1301-1350 | 3% | 2% | 2% | 2% | 1% |
| 1351-1400 | 3% | 2% | 2% | 2% | 2% |
| 1401-1450 | 4% | 2% | 2% | 2% | 2% |
| 1451-1500 | 4% | 3% | 2% | 2% | 2% |
| 1501-1550 | 4% | 3% | 2% | 2% | 2% |
| 1551-1600 | 5% | 3% | 3% | 2% | 2% |
| 1601-1650 | 5% | 3% | 3% | 2% | 2% |
| 1651-1700 | 5% | 3% | 3% | 3% | 2% |
| 1701-1750 | 5% | 3% | 3% | 3% | 2% |
| 1751-1800 | 5% | 4% | 3% | 3% | 3% |
| 1801-1850 | 5% | 4% | 3% | 3% | 3% |
| 1851-1900 | 5% | 4% | 3% | 3% | 3% |
| 1901-1950 | 5% | 4% | 4% | 3% | 3% |
| 1951-2000 | 5% | 4% | 4% | 3% | 3% |
| 2001-2050 | 5% | 5% | 4% | 3% | 3% |
| 2051-2100 | 5% | 5% | 4% | 4% | 3% |
| 2101-2150 | 5% | 5% | 4% | 4% | 3% |
| 2151-2200 | 5% | 5% | 4% | 4% | 4% |
| 2201-2250 | 5% | 5% | 4% | 4% | 4% |
| 2251-2300 | 5% | 5% | 5% | 4% | 4% |
| 2301-2350 | 5% | 5% | 5% | 4% | 4% |
| 2351-2400 | 5% | 5% | 5% | 4% | 4% |
| 2401-2450 | 5% | 5% | 5% | 5% | 4% |
| 2451-2500 | 5% | 5% | 5% | 5% | 4% |
| 2501-2550 | 5% | 5% | 5% | 5% | 4% |
| 2551-2600 | 5% | 5% | 5% | 5% | 5% |
| 2601-2650 | 5% | 5% | 5% | 5% | 5% |
| 2651-25,000 | 5% | 5% | 5% | 5% | 5% |

**Area C: Nonshaded area of the schedule**

Provide health insurance if available at reasonable cost. Find the box for the parent's preliminary net income and number of children. Multiply the percentage in the box (5%) by the parent's gross income to find reasonable cost. Health insurance is an add-on cost in this area. If neither parent has health insurance available at a reasonable cost, if appropriate according to Iowa Code section 252E.1A, the court will order cash medical support under Rule 9.12(3).

**9.12(5)** "Uncovered medical expenses" means all medical expenses for the child(ren) not paid by insurance. In cases of joint physical care, the parents will share all uncovered medical expenses in proportion to the parents' respective net incomes. In all other cases, including split or divided physical care, the custodial parent will pay the first $250 per calendar year per child of uncovered medical expenses up to a maximum of $800 per calendar year for all children. The parents will pay in proportion to their respective net incomes uncovered medical expenses in excess of $250 per child or a maximum of $800 per calendar year for all children. "Medical expenses" shall include, but not be limited to, costs for reasonably necessary medical, orthodontia, dental treatment, physical therapy, eye care (including eye glasses or contact lenses), mental health treatment, substance use disorder treatment, prescription drugs, and any other uncovered medical expense. Uncovered medical expenses are not to be deducted in arriving at net income.
[Court Order November 9, 2001, effective February 15, 2002; September 23, 2004, effective November 1, 2004; March 9, 2009, effective July 1, 2009; May 9, 2013, effective July 1, 2013; July 20, 2017, effective January 1, 2018; September 3, 2021, effective January 1, 2022; December 29, 2021, effective January 1, 2022; June 30, 2023, effective July 1, 2023; January 26, 2024]

**Rule 9.13 Stipulation for child and medical support — court review.** A stipulation of the parties establishing child support and medical support shall be reviewed by the court to determine if the amount stipulated and the medical support provisions are in substantial compliance with the guidelines. A proposed order to incorporate the stipulation shall be reviewed by the court to determine its compliance with these guidelines. If a variance from the guidelines is proposed, the court must determine whether it is justified and appropriate, and, if so, include the stated reasons for the variance in the order.
[Court Order November 9, 2001, effective February 15, 2002; September 23, 2004, effective November 1, 2004]

**Rule 9.14 Method of computation.** To compute the guideline amount of child support, first compute the adjusted net monthly income, then proceed to either the Basic Method of Child Support Computation grid or the Joint (Equally Shared) Physical Care Method of Child Support Computation grid, as appropriate. For split or divided physical care, refer to rule 9.14(4). The following grids illustrate how the worksheets are to be completed.

**9.14(1)** The steps to arrive at the adjusted net monthly income are shown below in the adjusted net monthly income computation grid.

| Adjusted Net Monthly Income Computation | | | | |
|---|---|---|---|---|
| | | | **Custodial Parent*** _____ (name) | **Noncustodial Parent*** _____ (name) |
| A. | | Gross monthly income (Does not include public assistance payments, the Earned Income Tax Credit, or child support payments.) Gross income will be adjusted to reflect receipt by the payee and payments by the payor of spousal support payments pursuant to rule 9.5(1). | $ | $ |
| | B. | Federal income tax (Calculated pursuant to rule 9.6.) | $ | $ |
| | C. | State income tax (Calculated pursuant to rule 9.6.) | $ | $ |
| | D. | Social Security and Medicare tax/mandatory pension deductions (For employees not contributing to Social Security, mandatory pension deductions may not exceed the current Social Security and Medicare tax rate for employees.) | $ | $ |
| | E. | Mandatory occupational license fees | $ | $ |
| | F. | Union dues | $ | $ |
| | G. | Health insurance premium costs for other children not in the pending matter. (*See* rule 9.5(2)(*f*).) | $ | $ |
| | H. | Cash medical support and prior obligation of child support actually paid pursuant to court or administrative order for other children not in the pending matter. | $ | $ |
| | I. | Qualified additional dependent deductions (*See* rules 9.7 and 9.8.) | $ | $ |
| | J. | Actual child care expenses, as defined in rule 9.11A, for the custodial parent* (No deduction allowed if variance granted under rule 9.11A.) | $ | $ |
| K. | | Preliminary net income for each parent (Line A minus lines B through J for each parent.) (Preliminary net income is used to determine medical support under rule 9.12.) | $ | $ |
| | L. | If ordered in this pending matter, cash medical support as determined in rule 9.12. | $ | $ |
| M. | | Adjusted net monthly income (Line K minus line L.) (Adjusted net monthly income is used to calculate the guideline amount of child support. Enter each parent's amount from line M on either line A of the Basic Method of Child Support Computation or line A of the Joint [Equally Shared] Physical Care Method of Child Support Computation as appropriate.) | $ | $ |

*(In cases of joint physical care, use names only and designate both parents as custodial parents.)

**9.14(2)** The steps of a basic child support computation are shown below in the Basic Method of Child Support Computation grid.

| Basic Method of Child Support Computation | | | | |
|---|---|---|---|---|
| | | Custodial Parent (CP) _____ (name) | Noncustodial Parent (NCP) _____ (name) | Combined |
| A. | Adjusted net monthly income | $ | $ | $ |
| B. | Proportional share of income | % | % | 100% |
| C. | Number of children for whom support is sought | | | |
| D. | **Low-Income:** Basic support obligation using only NCP's adjusted net monthly income<br>(Only if NCP's income is in shaded Area A or B.)<br>• If NCP's income is in shaded **Area A**, use only NCP's income to find the basic support amount and enter it on this line. Enter N/A on lines E and F. Enter the basic support amount on line G.<br>• If NCP's income is in shaded **Area B**, use only NCP's income to find the basic support amount. Enter it on this line. Go to line E.<br>• If the NCP's income is in nonshaded **Area C**, enter N/A on this line. Go to line E. | | $ | |
| E. | Basic support obligation when using **combined** adjusted net monthly income for NCP incomes in **Area B** or **Area C**<br>(Use the line A combined income amount to find the basic support amount from the Schedule of Basic Support Obligations.) | | | $ |
| F. | Each parent's share of the basic support obligation when using **combined** incomes<br>(Each parent's line B x line E.) | $ | $ | |
| G. | NCP's basic support obligation before health insurance<br>• If NCP's income is in shaded **Area B**, enter the lower amount from line D or NCP's line F.<br>• If NCP's income is in the nonshaded **Area C** of the schedule, use the amount from NCP's line F. | | $ | |

| | | | | |
|---|---|---|---|---|
| H. | **Allowable child(ren)'s portion of health insurance premium**<br>(Enter the amount calculated pursuant to rule 9.14(5).)<br>• If health insurance is being ordered, and the basic support obligation on line G falls in **Area B** or in nonshaded **Area C** of the schedule, enter the cost under the parent being ordered to provide it.<br>• If neither parent has health insurance available at reasonable cost, enter N/A for each parent on this line.<br>• If the basic support obligation on line G falls within low-income **Area A** of the shaded area of the schedule, enter N/A for each parent on this line.<br>• For stepparent-provided insurance, *see* rule 9.14(5). | $ | $ | |
| I. | **Health insurance add-on or deduction from NCP's obligation—calculated below in 1. and 2.** | | | |
| | 1. If the CP will be ordered to provide H.I.:<br>a. CP's H.I. cost from line H = $_____ b. NCP's line B percentage = _____%<br>c. Multiply CP's line H x NCP's line B = +$_____ (amount to add to NCP line G to get to line J) | | | |
| | 2. If the NCP will be ordered to provide H.I.:<br>a. NCP's H.I. cost from Line H = $_____ b. CP's Line B percentage = _____%<br>c. Multiply NCP's Line H x CP's Line B = - $_____ (amount to subtract from NCP line G to get to line J) | | | |
| J. | **Guideline amount of child support for NCP**<br>• If only CP provides H.I.: line G plus line I.1.<br>• If only NCP provides H.I.: line G minus line I.2.<br>• If both provide H.I.: line G plus line I.1 minus line I.2.<br>• If neither parent provides H.I.: enter the amount from line G. | | $ | |

| | | | | |
|---|---|---|---|---|
| **Extraordinary Visitation Credit**<br>(Only if court-ordered visitation exceeds 127 overnights per year.) | | | | |
| K. | NCP's basic support obligation before health insurance<br>(Amount from line G.) | | $ | |
| L. | Number of court-ordered visitation overnights with NCP | | | |
| M. | Extraordinary visitation credit percentage:<br>If line L above is 128-147 overnights: 15% credit (0.15)<br>If line L above is 148-166 overnights: 20% credit (0.20)<br>If line L above is 167 or more overnights: 25% credit (0.25)<br>(But less than joint [equally shared] physical care.) | | % | |
| N. | Extraordinary visitation credit<br>(Multiply line K by line M.) | | $ | |

| | | | | |
|---|---|---|---|---|
| O. | Guideline amount of child support (after credit for extraordinary visitation) (Line J minus line N.) (However, the guideline amount of support must not be less than $50 for one child, $75 for two children, or $100 for three or more children.) | | $ | |
| **Child Care Expense Variance under rule 9.11A** (As agreed by the parties and approved or determined by the court.) | | | | |
| P. | NCP's guideline amount of child support (Amount from line J above [or line O, if applicable].) | | $ | |
| Q. | Amount of variance for child care expenses | | $ | |
| R. | Adjusted amount of child support (Line P plus line Q.) | | $ | |

**9.14(3)** *Joint physical care.* In cases of court-ordered joint (equally shared) physical care, child support shall be calculated as shown below in the Joint (Equally Shared) Physical Care Method of Child Support Computation grid. Offset is a method of payment of each parent's guideline amount of child support and the net difference shall be paid by the party with the higher child support obligation unless variance is warranted under rule 9.11. An allocation between the parties for payment of the child(ren)'s expenses ordered pursuant to Iowa Code section 598.41(5)(a) is an obligation in addition to the child support amount calculated pursuant to this rule and is not child support.

| **Joint (Equally Shared) Physical Care Method of Child Support Computation** | | | | |
|---|---|---|---|---|
| | | **Custodial Parent 1 (CP 1)** _____ **(name)** | **Custodial Parent 2 (CP 2)** _____ **(name)** | **Combined** |
| A. | Adjusted net monthly income | $ | $ | $ |
| B. | Proportional share of income | % | % | 100% |
| C. | Number of children for whom support is sought | | | |
| D. | Basic support obligation before health insurance (Use line A combined amount to find amount from Schedule of Basic Support Obligations—use combined incomes because the low-income adjustment in the shaded area of the schedule does not apply to joint [equally shared] physical care support computations.) | | | $ |
| E. | Each parent's basic primary care amount before health insurance (Multiply line B by line D for each parent.) | $ | $ | |
| F. | Each parent's share of joint physical care support (Multiply line E by 1.5 for each parent to account for extra costs for two residences.) | $ | $ | |
| G. | Each parent's joint physical care support obligation before health insurance (Multiply line F by .5 for each parent to account for 50% of time spent with each parent.) | $ | $ | |
| H. | Allowable child(ren)'s portion of health insurance premium* (Enter the amount calculated pursuant to rule 9.14(5).) (**Area A:** *The health insurance adjustment does not apply if either parent's net income on line A falls within the low-income shaded **Area A** of the Schedule of Basic Support Obligations. Enter N/A for each parent on this line. Do not complete line I.) (**Area B or C**: If the basic support obligation on Line G falls within **Area B** or **Area C**, enter the allowable child(ren)'s portion of the health insurance premium on this line under the parent being ordered to provide it. Do not skip line I.) (For step-parent provided insurance, *see* rule 9.14(5).) | $ | $ | |
| I. | Health insurance add-on to each parent's obligation (calculated below in 1 and 2) | $ | $ | |
| | 1. If CP 1 will be ordered to provide H.I.<br>Step 1. CP 1's H.I. cost from line H = $_____<br>Step 3. Multiply CP 1's cost x CP 2's line B = | Step 2. CP 2's line B percentage = _____%<br>+ $_____ (Insert on CP 2's line I.) | | |
| | 2. If CP 2 will be ordered to provide H.I.<br>Step 1. CP 2's H.I. cost from line H = $_____<br>Step 3. Multiply CP 2's line H x CP 1's line B = | Step 2. CP 1's line B percentage = _____%<br>+ $_____ (Insert on CP 1's line I.) | | |
| J. | Guideline amount of child support (Line G plus line I for each parent.) | $ | $ | |
| K. | Net amount of child support for joint physical care after offset | | | |

| | | | | |
|---|---|---|---|---|
| | (Subtract smaller amount on line J from larger amount on line J. Parent with larger amount on line J pays the other parent the difference, as a method of payment. If either parent receives assistance through the Family Investment Program [FIP], the other parent's obligation reverts to the amount on line J.) | $ | $ | |

**9.14(4)** *Split or divided physical care.* In the cases of court-ordered split or divided physical care, child support shall be calculated in the following manner: determine the amount of child support required by these guidelines for each party based on the number of children in the physical care of the other party; offset the two amounts as a method of payment; and the net difference shall be paid by the party with the higher child support obligation unless variance is warranted under rule 9.11.

**9.14(5)** *Health insurance premium.* In calculating child support, the allowable child(ren)'s portion of the health insurance premium is prorated between the parents and used to adjust the basic support obligation as provided in this rule.

*a.* This subrule applies if the parent is ordered to provide health insurance for the child(ren) in the pending action and it is either deducted from wages of the parent or stepparent or paid by the parent or stepparent.

*b.* The allowable child(ren)'s portion of the health insurance premium will be calculated as follows:

(1) For a health benefit plan covering multiple individuals, including the child(ren) in the pending action, the allowable child(ren)'s portion is the amount of the premium cost for such coverage to the parent or stepparent that is in excess of the premium cost for single coverage, divided by the number of individuals enrolled in the health benefit plan, excluding the person providing the insurance, and then multiplied by the number of children who are the subject of the pending action.

(2) For a health benefit plan covering only the child(ren) in the pending action, the entire premium will be used as the allowable child(ren)'s portion of the health insurance premium.

*c.* However, a health insurance premium is not prorated and used to adjust the basic support obligation if the basic support obligation is in low-income (shaded) Area A of the schedule in rule 9.26 unless variance is warranted under rule 9.11.

*d.* If the child(ren) is (are) covered by the health insurance of a stepparent, the allowable child(ren)'s portion of the health insurance premium will be prorated between the parents and used to adjust the basic support obligation unless a parent objects. If a parent objects, the court will decide the issue based on its determination of whether it would be equitable to the parties and the child(ren).

**9.14(6)** *Step-down provisions.* For cases with multiple children, the support order shall include a step-down provision to automatically adjust the child support amount as the number of children entitled to support changes, unless subsequently modified by the court.

[Court Order September 23, 2004, effective November 1, 2004; March 9, 2009, effective July 1, 2009; May 9, 2013, effective July 1, 2013; July 20, 2017, effective January 1, 2018; November 16, 2018, effective January 1, 2019; September 3, 2021, effective January 1, 2022]

**Rules 9.15** to **9.25** Reserved.

**Rule 9.26 Child Support Guidelines Schedule.**

Schedule of Basic Support Obligations

**Iowa**
**Schedule of Basic Support Obligations**

1. **Area A:** Except as provided in 2, only the noncustodial parent's income is used in Area A of the shaded area ($0 to $1100) in accordance with the low-income adjustment.
   **Area B:** Two calculations are required in Area B of the low-income shaded area (between $1101 and $1600 for one child, between $1101 and $2000 for two children, between $1101 and $2350 for three children, between $1101 and $2400 for four children, and between $1101 and $2650 for five or more children).
   Calculation 1 is the same as the Area A calculation.
   Calculation 2 uses the parents' combined incomes.
   The guidelines amount is the lower of the two calculations.
   **Area C: Nonshaded area.** The parents' combined incomes are used in the remaining (nonshaded) area of the schedule.
2. In joint (equally shared) physical care cases, regardless of whether a parent is low income, use the parents' combined incomes in the shaded and nonshaded areas of the schedule.
3. For combined net monthly incomes above $25,000, the amount of the basic support obligation is deemed to be within the sound discretion of the court or the agency setting support by administrative order but may not be less than the basic support obligation for combined net monthly incomes equal to $25,000.

| Combined or Individual Adjusted Net Income (see 1 and 2 above) | One Child | Two Children | Three Children | Four Children | Five or More Children |
|---|---|---|---|---|---|
| Area A—Low-Income Adjustment | | | | | |
| 0 — 100 | 50 | 75 | 100 | 100 | 100 |
| 101 — 200 | 56 | 82 | 107 | 109 | 110 |
| 201 — 300 | 61 | 90 | 115 | 118 | 121 |
| 301 — 400 | 67 | 97 | 122 | 127 | 131 |
| 401 — 500 | 72 | 105 | 129 | 136 | 142 |
| 501 — 600 | 78 | 112 | 137 | 145 | 152 |
| 601 — 700 | 84 | 120 | 144 | 154 | 163 |
| 701 — 800 | 89 | 127 | 152 | 163 | 173 |
| 801 — 850 | 95 | 134 | 159 | 172 | 184 |
| 851 — 900 | 100 | 142 | 166 | 181 | 194 |
| 901 — 950 | 106 | 149 | 174 | 190 | 205 |
| 951 — 1000 | 111 | 157 | 181 | 199 | 215 |
| 1001 — 1050 | 117 | 164 | 188 | 208 | 226 |
| 1051 — 1100 | 123 | 171 | 196 | 217 | 236 |
| Area B—Low-Income Adjustment | | | | | |
| 1101 — 1150 | 128 | 179 | 203 | 226 | 247 |
| 1151 — 1200 | 153 | 209 | 235 | 258 | 284 |
| 1201 — 1250 | 178 | 239 | 268 | 290 | 321 |

| Combined or Individual Adjusted Net Income (see 1 and 2 above) | One Child | Two Children | Three Children | Four Children | Five or More Children |
|---|---|---|---|---|---|
| 1251 — 1300 | 203 | 269 | 300 | 323 | 359 |
| 1301 — 1350 | 228 | 299 | 333 | 355 | 396 |
| 1351 — 1400 | 253 | 329 | 365 | 388 | 434 |
| 1401 — 1450 | 278 | 359 | 398 | 420 | 471 |
| 1451 — 1500 | 303 | 389 | 430 | 453 | 509 |
| 1501 — 1550 | 328 | 419 | 463 | 485 | 546 |
| 1551 — 1600 | 353 | 449 | 495 | 518 | 584 |
| 1601 — 1650 | 375 | 479 | 528 | 550 | 621 |
| 1651 — 1700 | 386 | 509 | 560 | 583 | 659 |
| 1701 — 1750 | 398 | 539 | 593 | 615 | 696 |
| 1751 — 1800 | 409 | 569 | 625 | 648 | 734 |
| 1801 — 1850 | 421 | 599 | 658 | 680 | 771 |
| 1851 — 1900 | 432 | 629 | 690 | 713 | 809 |
| 1901 — 1950 | 444 | 659 | 723 | 745 | 846 |
| 1951 — 2000 | 455 | 689 | 755 | 778 | 869 |
| 2001 — 2050 | 467 | 711 | 788 | 810 | 891 |
| 2051 — 2100 | 478 | 728 | 820 | 843 | 913 |
| 2101 — 2150 | 490 | 746 | 853 | 875 | 935 |
| 2151 — 2200 | 501 | 763 | 885 | 908 | 957 |
| 2201 — 2250 | 513 | 781 | 918 | 940 | 979 |
| 2251 — 2300 | 524 | 798 | 950 | 973 | 1001 |
| 2301 — 2350 | 536 | 816 | 983 | 1000 | 1023 |
| 2351 — 2400 | 547 | 833 | 1008 | 1021 | 1045 |
| 2401 — 2450 | 559 | 851 | 1029 | 1043 | 1067 |
| 2451 — 2500 | 570 | 869 | 1050 | 1064 | 1089 |
| 2501 — 2550 | 582 | 886 | 1071 | 1086 | 1111 |
| 2551 — 2600 | 593 | 904 | 1092 | 1107 | 1133 |
| 2601 — 2650 | 605 | 921 | 1114 | 1129 | 1155 |
| Area C—Nonshaded Area | | | | | |
| 2651 — 2700 | 616 | 939 | 1135 | 1150 | 1177 |
| 2701 — 2750 | 628 | 956 | 1156 | 1172 | 1199 |
| 2751 — 2800 | 640 | 973 | 1175 | 1193 | 1221 |
| 2801 — 2850 | 651 | 988 | 1193 | 1215 | 1243 |
| 2851 — 2900 | 663 | 1003 | 1210 | 1236 | 1265 |
| 2901 — 2950 | 674 | 1018 | 1227 | 1258 | 1287 |
| 2951 — 3000 | 686 | 1033 | 1245 | 1279 | 1309 |
| 3001 — 3050 | 697 | 1049 | 1262 | 1301 | 1331 |
| 3051 — 3100 | 709 | 1064 | 1280 | 1322 | 1353 |
| 3101 — 3150 | 720 | 1079 | 1297 | 1344 | 1375 |
| 3151 — 3200 | 732 | 1094 | 1315 | 1365 | 1397 |

| Combined or Individual Adjusted Net Income (see 1 and 2 above) | One Child | Two Children | Three Children | Four Children | Five or More Children |
|---|---|---|---|---|---|
| 3201 — 3250 | 742 | 1111 | 1335 | 1387 | 1419 |
| 3251 — 3300 | 752 | 1128 | 1355 | 1408 | 1441 |
| 3301 — 3350 | 763 | 1145 | 1375 | 1430 | 1463 |
| 3351 — 3400 | 773 | 1162 | 1395 | 1451 | 1485 |
| 3401 — 3450 | 784 | 1179 | 1415 | 1473 | 1507 |
| 3451 — 3500 | 794 | 1196 | 1435 | 1494 | 1529 |
| 3501 — 3550 | 805 | 1213 | 1455 | 1516 | 1551 |
| 3551 — 3600 | 815 | 1230 | 1475 | 1537 | 1573 |
| 3601 — 3650 | 824 | 1245 | 1493 | 1559 | 1595 |
| 3651 — 3700 | 833 | 1257 | 1508 | 1580 | 1617 |
| 3701 — 3750 | 841 | 1270 | 1523 | 1602 | 1639 |
| 3751 — 3800 | 850 | 1283 | 1538 | 1623 | 1661 |
| 3801 — 3850 | 858 | 1295 | 1553 | 1645 | 1683 |
| 3851 — 3900 | 867 | 1308 | 1568 | 1666 | 1705 |
| 3901 — 3950 | 875 | 1321 | 1583 | 1688 | 1727 |
| 3951 — 4000 | 884 | 1333 | 1598 | 1709 | 1749 |
| 4001 — 4050 | 892 | 1345 | 1612 | 1730 | 1771 |
| 4051 — 4100 | 897 | 1353 | 1620 | 1748 | 1793 |
| 4101 — 4150 | 902 | 1360 | 1629 | 1766 | 1815 |
| 4151 — 4200 | 907 | 1368 | 1637 | 1784 | 1837 |
| 4201 — 4250 | 912 | 1375 | 1646 | 1802 | 1859 |
| 4251 — 4300 | 918 | 1383 | 1654 | 1820 | 1881 |
| 4301 — 4350 | 923 | 1390 | 1663 | 1838 | 1903 |
| 4351 — 4400 | 928 | 1398 | 1671 | 1856 | 1925 |
| 4401 — 4450 | 933 | 1405 | 1680 | 1873 | 1947 |
| 4451 — 4500 | 938 | 1411 | 1685 | 1882 | 1967 |
| 4501 — 4550 | 943 | 1417 | 1690 | 1887 | 1986 |
| 4551 — 4600 | 948 | 1422 | 1694 | 1892 | 2005 |
| 4601 — 4650 | 952 | 1428 | 1699 | 1897 | 2023 |
| 4651 — 4700 | 957 | 1433 | 1703 | 1902 | 2042 |
| 4701 — 4750 | 962 | 1438 | 1707 | 1907 | 2061 |
| 4751 — 4800 | 966 | 1444 | 1712 | 1912 | 2080 |
| 4801 — 4850 | 971 | 1449 | 1716 | 1917 | 2098 |
| 4851 — 4900 | 976 | 1456 | 1723 | 1924 | 2117 |
| 4901 — 4950 | 983 | 1467 | 1738 | 1941 | 2135 |
| 4951 — 5000 | 989 | 1478 | 1752 | 1957 | 2153 |
| 5001 — 5050 | 996 | 1489 | 1767 | 1974 | 2171 |
| 5051 — 5100 | 1003 | 1500 | 1781 | 1990 | 2189 |
| 5101 — 5150 | 1009 | 1511 | 1796 | 2006 | 2207 |
| 5151 — 5200 | 1016 | 1522 | 1811 | 2023 | 2225 |
| 5201 — 5250 | 1022 | 1533 | 1825 | 2039 | 2243 |

| Combined or Individual Adjusted Net Income (see 1 and 2 above) | One Child | Two Children | Three Children | Four Children | Five or More Children |
|---|---|---|---|---|---|
| 5251 — 5300 | 1029 | 1544 | 1840 | 2055 | 2261 |
| 5301 — 5350 | 1033 | 1550 | 1846 | 2062 | 2269 |
| 5351 — 5400 | 1037 | 1555 | 1850 | 2067 | 2273 |
| 5401 — 5450 | 1041 | 1560 | 1854 | 2071 | 2278 |
| 5451 — 5500 | 1045 | 1564 | 1858 | 2075 | 2282 |
| 5501 — 5550 | 1049 | 1569 | 1861 | 2079 | 2287 |
| 5551 — 5600 | 1053 | 1573 | 1865 | 2083 | 2291 |
| 5601 — 5650 | 1057 | 1578 | 1869 | 2087 | 2296 |
| 5651 — 5700 | 1061 | 1583 | 1872 | 2091 | 2301 |
| 5701 — 5750 | 1066 | 1588 | 1877 | 2097 | 2307 |
| 5751 — 5800 | 1071 | 1595 | 1885 | 2105 | 2316 |
| 5801 — 5850 | 1077 | 1603 | 1892 | 2113 | 2325 |
| 5851 — 5900 | 1083 | 1610 | 1899 | 2122 | 2334 |
| 5901 — 5950 | 1088 | 1617 | 1907 | 2130 | 2343 |
| 5951 — 6000 | 1094 | 1624 | 1914 | 2138 | 2352 |
| 6001 — 6050 | 1099 | 1632 | 1922 | 2146 | 2361 |
| 6051 — 6100 | 1105 | 1639 | 1929 | 2155 | 2370 |
| 6101 — 6150 | 1110 | 1646 | 1936 | 2163 | 2379 |
| 6151 — 6200 | 1118 | 1657 | 1948 | 2176 | 2394 |
| 6201 — 6250 | 1126 | 1669 | 1961 | 2191 | 2410 |
| 6251 — 6300 | 1135 | 1680 | 1974 | 2205 | 2426 |
| 6301 — 6350 | 1143 | 1692 | 1987 | 2219 | 2441 |
| 6351 — 6400 | 1151 | 1704 | 2000 | 2234 | 2457 |
| 6401 — 6450 | 1160 | 1715 | 2013 | 2248 | 2473 |
| 6451 — 6500 | 1168 | 1727 | 2026 | 2262 | 2489 |
| 6501 — 6550 | 1176 | 1738 | 2038 | 2277 | 2505 |
| 6551 — 6600 | 1184 | 1750 | 2051 | 2291 | 2520 |
| 6601 — 6650 | 1193 | 1762 | 2064 | 2306 | 2536 |
| 6651 — 6700 | 1201 | 1773 | 2077 | 2320 | 2552 |
| 6701 — 6750 | 1209 | 1785 | 2090 | 2334 | 2568 |
| 6751 — 6800 | 1217 | 1796 | 2103 | 2349 | 2583 |
| 6801 — 6850 | 1223 | 1806 | 2116 | 2363 | 2599 |
| 6851 — 6900 | 1229 | 1816 | 2128 | 2378 | 2615 |
| 6901 — 6950 | 1235 | 1826 | 2141 | 2392 | 2631 |
| 6951 — 7000 | 1241 | 1836 | 2154 | 2406 | 2647 |
| 7001 — 7050 | 1247 | 1846 | 2167 | 2421 | 2663 |
| 7051 — 7100 | 1253 | 1856 | 2180 | 2435 | 2679 |
| 7101 — 7150 | 1259 | 1866 | 2193 | 2450 | 2695 |
| 7151 — 7200 | 1265 | 1876 | 2206 | 2464 | 2711 |
| 7201 — 7250 | 1271 | 1886 | 2219 | 2479 | 2727 |
| 7251 — 7300 | 1277 | 1896 | 2232 | 2493 | 2742 |

| Combined or Individual Adjusted Net Income (see 1 and 2 above) | One Child | Two Children | Three Children | Four Children | Five or More Children |
|---|---|---|---|---|---|
| 7301 — 7350 | 1283 | 1906 | 2245 | 2508 | 2758 |
| 7351 — 7400 | 1289 | 1916 | 2258 | 2522 | 2774 |
| 7401 — 7450 | 1295 | 1924 | 2268 | 2534 | 2787 |
| 7451 — 7500 | 1300 | 1930 | 2275 | 2542 | 2796 |
| 7501 — 7550 | 1304 | 1937 | 2283 | 2550 | 2805 |
| 7551 — 7600 | 1309 | 1944 | 2290 | 2558 | 2813 |
| 7601 — 7650 | 1314 | 1950 | 2297 | 2566 | 2822 |
| 7651 — 7700 | 1318 | 1957 | 2304 | 2574 | 2831 |
| 7701 — 7750 | 1323 | 1963 | 2311 | 2582 | 2840 |
| 7751 — 7800 | 1328 | 1970 | 2318 | 2590 | 2849 |
| 7801 — 7850 | 1333 | 1976 | 2326 | 2598 | 2858 |
| 7851 — 7900 | 1337 | 1983 | 2333 | 2606 | 2866 |
| 7901 — 7950 | 1342 | 1989 | 2340 | 2614 | 2875 |
| 7951 — 8000 | 1347 | 1996 | 2347 | 2622 | 2884 |
| 8001 — 8050 | 1351 | 2003 | 2354 | 2630 | 2893 |
| 8051 — 8100 | 1357 | 2010 | 2362 | 2639 | 2903 |
| 8101 — 8150 | 1363 | 2018 | 2371 | 2648 | 2913 |
| 8151 — 8200 | 1369 | 2026 | 2379 | 2657 | 2923 |
| 8201 — 8250 | 1375 | 2034 | 2387 | 2667 | 2933 |
| 8251 — 8300 | 1381 | 2043 | 2396 | 2676 | 2943 |
| 8301 — 8350 | 1388 | 2051 | 2404 | 2685 | 2954 |
| 8351 — 8400 | 1394 | 2059 | 2412 | 2694 | 2964 |
| 8401 — 8450 | 1400 | 2067 | 2421 | 2704 | 2974 |
| 8451 — 8500 | 1406 | 2075 | 2429 | 2713 | 2984 |
| 8501 — 8550 | 1412 | 2083 | 2437 | 2722 | 2994 |
| 8551 — 8600 | 1418 | 2091 | 2445 | 2732 | 3005 |
| 8601 — 8650 | 1424 | 2099 | 2454 | 2741 | 3015 |
| 8651 — 8700 | 1430 | 2107 | 2462 | 2750 | 3025 |
| 8701 — 8750 | 1436 | 2115 | 2470 | 2759 | 3035 |
| 8751 — 8800 | 1442 | 2123 | 2479 | 2769 | 3045 |
| 8801 — 8850 | 1448 | 2131 | 2487 | 2778 | 3056 |
| 8851 — 8900 | 1454 | 2139 | 2495 | 2787 | 3066 |
| 8901 — 8950 | 1458 | 2144 | 2500 | 2793 | 3072 |
| 8951 — 9000 | 1462 | 2149 | 2505 | 2798 | 3078 |
| 9001 — 9050 | 1466 | 2154 | 2510 | 2803 | 3084 |
| 9051 — 9100 | 1470 | 2159 | 2514 | 2808 | 3089 |
| 9101 — 9150 | 1474 | 2164 | 2519 | 2814 | 3095 |
| 9151 — 9200 | 1478 | 2169 | 2524 | 2819 | 3101 |
| 9201 — 9250 | 1482 | 2174 | 2528 | 2824 | 3106 |
| 9251 — 9300 | 1485 | 2178 | 2533 | 2829 | 3112 |
| 9301 — 9350 | 1489 | 2183 | 2537 | 2834 | 3118 |

| Combined or Individual Adjusted Net Income (see 1 and 2 above) | One Child | Two Children | Three Children | Four Children | Five or More Children |
|---|---|---|---|---|---|
| 9351 — 9400 | 1493 | 2188 | 2542 | 2839 | 3123 |
| 9401 — 9450 | 1497 | 2193 | 2547 | 2845 | 3129 |
| 9451 — 9500 | 1501 | 2198 | 2551 | 2850 | 3135 |
| 9501 — 9550 | 1505 | 2203 | 2556 | 2855 | 3141 |
| 9551 — 9600 | 1509 | 2208 | 2561 | 2860 | 3146 |
| 9601 — 9650 | 1512 | 2212 | 2565 | 2865 | 3152 |
| 9651 — 9700 | 1516 | 2217 | 2570 | 2871 | 3158 |
| 9701 — 9750 | 1520 | 2222 | 2575 | 2876 | 3163 |
| 9751 — 9800 | 1527 | 2232 | 2586 | 2889 | 3178 |
| 9801 — 9850 | 1534 | 2243 | 2599 | 2903 | 3193 |
| 9851 — 9900 | 1541 | 2254 | 2611 | 2917 | 3209 |
| 9901 — 9950 | 1549 | 2264 | 2624 | 2931 | 3224 |
| 9951 — 10000 | 1556 | 2275 | 2636 | 2945 | 3239 |
| 10001 — 10050 | 1563 | 2285 | 2649 | 2959 | 3254 |
| 10051 — 10100 | 1570 | 2296 | 2661 | 2973 | 3270 |
| 10101 — 10150 | 1577 | 2306 | 2674 | 2986 | 3285 |
| 10151 — 10200 | 1584 | 2314 | 2685 | 2999 | 3299 |
| 10201 — 10250 | 1591 | 2318 | 2689 | 3004 | 3304 |
| 10251 — 10300 | 1598 | 2323 | 2694 | 3010 | 3311 |
| 10301 — 10350 | 1606 | 2329 | 2702 | 3018 | 3319 |
| 10351 — 10400 | 1613 | 2335 | 2709 | 3025 | 3328 |
| 10401 — 10450 | 1620 | 2342 | 2716 | 3033 | 3337 |
| 10451 — 10500 | 1627 | 2348 | 2723 | 3041 | 3345 |
| 10501 — 10550 | 1634 | 2355 | 2730 | 3049 | 3354 |
| 10551 — 10600 | 1641 | 2361 | 2737 | 3057 | 3363 |
| 10601 — 10650 | 1648 | 2367 | 2744 | 3065 | 3371 |
| 10651 — 10700 | 1655 | 2374 | 2751 | 3073 | 3380 |
| 10701 — 10750 | 1663 | 2380 | 2758 | 3081 | 3389 |
| 10751 — 10800 | 1670 | 2386 | 2765 | 3089 | 3397 |
| 10801 — 10850 | 1677 | 2393 | 2772 | 3097 | 3406 |
| 10851 — 10900 | 1684 | 2399 | 2779 | 3104 | 3415 |
| 10901 — 10950 | 1691 | 2405 | 2786 | 3112 | 3424 |
| 10951 — 11000 | 1698 | 2412 | 2793 | 3120 | 3432 |
| 11001 — 11050 | 1703 | 2418 | 2800 | 3128 | 3441 |
| 11051 — 11100 | 1708 | 2424 | 2807 | 3136 | 3450 |
| 11101 — 11150 | 1713 | 2431 | 2815 | 3144 | 3458 |
| 11151 — 11200 | 1718 | 2437 | 2822 | 3152 | 3467 |
| 11201 — 11250 | 1722 | 2444 | 2829 | 3160 | 3476 |
| 11251 — 11300 | 1727 | 2450 | 2836 | 3168 | 3484 |
| 11301 — 11350 | 1732 | 2456 | 2843 | 3175 | 3493 |
| 11351 — 11400 | 1736 | 2463 | 2850 | 3183 | 3502 |

| Combined or Individual Adjusted Net Income (see 1 and 2 above) | One Child | Two Children | Three Children | Four Children | Five or More Children |
|---|---|---|---|---|---|
| 11401 — 11450 | 1741 | 2469 | 2857 | 3191 | 3510 |
| 11451 — 11500 | 1746 | 2475 | 2864 | 3199 | 3519 |
| 11501 — 11550 | 1751 | 2483 | 2872 | 3208 | 3529 |
| 11551 — 11600 | 1756 | 2490 | 2881 | 3218 | 3540 |
| 11601 — 11650 | 1761 | 2497 | 2890 | 3228 | 3550 |
| 11651 — 11700 | 1766 | 2505 | 2898 | 3237 | 3561 |
| 11701 — 11750 | 1772 | 2512 | 2907 | 3247 | 3571 |
| 11751 — 11800 | 1777 | 2520 | 2915 | 3256 | 3582 |
| 11801 — 11850 | 1782 | 2527 | 2924 | 3266 | 3592 |
| 11851 — 11900 | 1787 | 2534 | 2932 | 3275 | 3603 |
| 11901 — 11950 | 1792 | 2542 | 2941 | 3285 | 3613 |
| 11951 — 12000 | 1798 | 2549 | 2949 | 3295 | 3624 |
| 12001 — 12050 | 1803 | 2557 | 2958 | 3304 | 3635 |
| 12051 — 12100 | 1808 | 2564 | 2967 | 3314 | 3645 |
| 12101 — 12150 | 1813 | 2571 | 2975 | 3323 | 3656 |
| 12151 — 12200 | 1818 | 2579 | 2984 | 3333 | 3666 |
| 12201 — 12250 | 1824 | 2586 | 2992 | 3342 | 3677 |
| 12251 — 12300 | 1829 | 2593 | 3001 | 3352 | 3687 |
| 12301 — 12350 | 1834 | 2601 | 3009 | 3362 | 3698 |
| 12351 — 12400 | 1839 | 2608 | 3018 | 3371 | 3708 |
| 12401 — 12450 | 1844 | 2616 | 3027 | 3381 | 3719 |
| 12451 — 12500 | 1850 | 2623 | 3035 | 3390 | 3729 |
| 12501 — 12550 | 1855 | 2630 | 3044 | 3400 | 3740 |
| 12551 — 12600 | 1860 | 2638 | 3052 | 3409 | 3750 |
| 12601 — 12650 | 1865 | 2645 | 3061 | 3419 | 3761 |
| 12651 — 12700 | 1870 | 2653 | 3069 | 3428 | 3771 |
| 12701 — 12750 | 1876 | 2660 | 3078 | 3438 | 3782 |
| 12751 — 12800 | 1881 | 2667 | 3086 | 3448 | 3792 |
| 12801 — 12850 | 1886 | 2675 | 3095 | 3457 | 3803 |
| 12851 — 12900 | 1891 | 2682 | 3104 | 3467 | 3813 |
| 12901 — 12950 | 1896 | 2690 | 3112 | 3476 | 3824 |
| 12951 — 13000 | 1902 | 2697 | 3121 | 3486 | 3834 |
| 13001 — 13050 | 1907 | 2704 | 3129 | 3495 | 3845 |
| 13051 — 13100 | 1912 | 2712 | 3138 | 3505 | 3855 |
| 13101 — 13150 | 1917 | 2719 | 3146 | 3515 | 3866 |
| 13151 — 13200 | 1922 | 2727 | 3155 | 3524 | 3877 |
| 13201 — 13250 | 1928 | 2734 | 3164 | 3534 | 3887 |
| 13251 — 13300 | 1933 | 2741 | 3172 | 3543 | 3898 |
| 13301 — 13350 | 1938 | 2749 | 3181 | 3553 | 3908 |
| 13351 — 13400 | 1943 | 2756 | 3189 | 3562 | 3919 |
| 13401 — 13450 | 1948 | 2764 | 3198 | 3572 | 3929 |

| Combined or Individual Adjusted Net Income (see 1 and 2 above) | One Child | Two Children | Three Children | Four Children | Five or More Children |
|---|---|---|---|---|---|
| 13451 — 13500 | 1953 | 2769 | 3204 | 3579 | 3937 |
| 13501 — 13550 | 1956 | 2775 | 3210 | 3586 | 3945 |
| 13551 — 13600 | 1960 | 2780 | 3216 | 3593 | 3952 |
| 13601 — 13650 | 1964 | 2785 | 3222 | 3599 | 3959 |
| 13651 — 13700 | 1968 | 2791 | 3228 | 3606 | 3967 |
| 13701 — 13750 | 1972 | 2796 | 3235 | 3613 | 3974 |
| 13751 — 13800 | 1976 | 2802 | 3241 | 3620 | 3982 |
| 13801 — 13850 | 1980 | 2807 | 3247 | 3626 | 3989 |
| 13851 — 13900 | 1984 | 2812 | 3253 | 3633 | 3997 |
| 13901 — 13950 | 1988 | 2818 | 3259 | 3640 | 4004 |
| 13951 — 14000 | 1991 | 2823 | 3265 | 3647 | 4011 |
| 14001 — 14050 | 1995 | 2828 | 3271 | 3653 | 4019 |
| 14051 — 14100 | 1999 | 2834 | 3277 | 3660 | 4026 |
| 14101 — 14150 | 2003 | 2839 | 3283 | 3667 | 4034 |
| 14151 — 14200 | 2007 | 2844 | 3289 | 3674 | 4041 |
| 14201 — 14250 | 2011 | 2850 | 3295 | 3681 | 4049 |
| 14251 — 14300 | 2015 | 2855 | 3301 | 3687 | 4056 |
| 14301 — 14350 | 2019 | 2861 | 3307 | 3694 | 4063 |
| 14351 — 14400 | 2023 | 2866 | 3313 | 3701 | 4071 |
| 14401 — 14450 | 2026 | 2871 | 3319 | 3708 | 4078 |
| 14451 — 14500 | 2030 | 2877 | 3325 | 3714 | 4086 |
| 14501 — 14550 | 2034 | 2882 | 3331 | 3721 | 4093 |
| 14551 — 14600 | 2038 | 2887 | 3337 | 3728 | 4101 |
| 14601 — 14650 | 2042 | 2893 | 3343 | 3735 | 4108 |
| 14651 — 14700 | 2046 | 2898 | 3349 | 3741 | 4115 |
| 14701 — 14750 | 2050 | 2904 | 3355 | 3748 | 4123 |
| 14751 — 14800 | 2054 | 2909 | 3362 | 3755 | 4130 |
| 14801 — 14850 | 2058 | 2914 | 3368 | 3762 | 4138 |
| 14851 — 14900 | 2061 | 2920 | 3374 | 3768 | 4145 |
| 14901 — 14950 | 2065 | 2925 | 3380 | 3775 | 4153 |
| 14951 — 15000 | 2069 | 2930 | 3386 | 3782 | 4160 |
| 15001 — 15050 | 2073 | 2936 | 3392 | 3789 | 4167 |
| 15051 — 15100 | 2077 | 2941 | 3398 | 3795 | 4175 |
| 15101 — 15150 | 2081 | 2947 | 3404 | 3802 | 4182 |
| 15151 — 15200 | 2085 | 2952 | 3410 | 3809 | 4190 |
| 15201 — 15250 | 2089 | 2957 | 3416 | 3816 | 4197 |
| 15251 — 15300 | 2093 | 2963 | 3422 | 3822 | 4205 |
| 15301 — 15350 | 2096 | 2968 | 3428 | 3829 | 4212 |
| 15351 — 15400 | 2100 | 2973 | 3434 | 3836 | 4219 |
| 15401 — 15450 | 2104 | 2979 | 3440 | 3843 | 4227 |
| 15451 — 15500 | 2108 | 2984 | 3446 | 3849 | 4234 |

| Combined or Individual Adjusted Net Income (see 1 and 2 above) | One Child | Two Children | Three Children | Four Children | Five or More Children |
|---|---|---|---|---|---|
| 15501 — 15550 | 2112 | 2989 | 3452 | 3856 | 4242 |
| 15551 — 15600 | 2116 | 2995 | 3458 | 3863 | 4249 |
| 15601 — 15650 | 2120 | 3000 | 3464 | 3870 | 4257 |
| 15651 — 15700 | 2124 | 3006 | 3470 | 3876 | 4264 |
| 15701 — 15750 | 2128 | 3011 | 3476 | 3883 | 4271 |
| 15751 — 15800 | 2131 | 3016 | 3482 | 3890 | 4279 |
| 15801 — 15850 | 2135 | 3022 | 3488 | 3897 | 4286 |
| 15851 — 15900 | 2139 | 3027 | 3495 | 3903 | 4294 |
| 15901 — 15950 | 2143 | 3032 | 3501 | 3910 | 4301 |
| 15951 — 16000 | 2147 | 3038 | 3507 | 3917 | 4309 |
| 16001 — 16050 | 2151 | 3043 | 3513 | 3924 | 4316 |
| 16051 — 16100 | 2155 | 3049 | 3519 | 3930 | 4323 |
| 16101 — 16150 | 2159 | 3054 | 3525 | 3937 | 4331 |
| 16151 — 16200 | 2163 | 3059 | 3531 | 3944 | 4338 |
| 16201 — 16250 | 2166 | 3065 | 3537 | 3951 | 4346 |
| 16251 — 16300 | 2170 | 3070 | 3543 | 3957 | 4353 |
| 16301 — 16350 | 2174 | 3075 | 3549 | 3964 | 4361 |
| 16351 — 16400 | 2178 | 3081 | 3555 | 3971 | 4368 |
| 16401 — 16450 | 2182 | 3086 | 3561 | 3978 | 4375 |
| 16451 — 16500 | 2186 | 3091 | 3567 | 3984 | 4383 |
| 16501 — 16550 | 2190 | 3097 | 3573 | 3991 | 4390 |
| 16551 — 16600 | 2194 | 3102 | 3579 | 3998 | 4398 |
| 16601 — 16650 | 2198 | 3108 | 3585 | 4005 | 4405 |
| 16651 — 16700 | 2201 | 3113 | 3591 | 4011 | 4413 |
| 16701 — 16750 | 2205 | 3118 | 3597 | 4018 | 4420 |
| 16751 — 16800 | 2209 | 3124 | 3603 | 4025 | 4427 |
| 16801 — 16850 | 2213 | 3129 | 3609 | 4032 | 4435 |
| 16851 — 16900 | 2217 | 3134 | 3615 | 4038 | 4442 |
| 16901 — 16950 | 2221 | 3140 | 3622 | 4045 | 4450 |
| 16951 — 17000 | 2225 | 3145 | 3628 | 4052 | 4457 |
| 17001 — 17050 | 2229 | 3151 | 3634 | 4059 | 4465 |
| 17051 — 17100 | 2233 | 3156 | 3640 | 4065 | 4472 |
| 17101 — 17150 | 2236 | 3161 | 3646 | 4072 | 4479 |
| 17151 — 17200 | 2240 | 3167 | 3652 | 4079 | 4487 |
| 17201 — 17250 | 2244 | 3172 | 3658 | 4086 | 4494 |
| 17251 — 17300 | 2248 | 3177 | 3664 | 4093 | 4502 |
| 17301 — 17350 | 2252 | 3183 | 3670 | 4099 | 4509 |
| 17351 — 17400 | 2256 | 3188 | 3676 | 4106 | 4517 |
| 17401 — 17450 | 2260 | 3194 | 3682 | 4113 | 4524 |
| 17451 — 17500 | 2264 | 3199 | 3688 | 4120 | 4531 |
| 17501 — 17550 | 2268 | 3204 | 3694 | 4126 | 4539 |

| Combined or Individual Adjusted Net Income (see 1 and 2 above) | One Child | Two Children | Three Children | Four Children | Five or More Children |
|---|---|---|---|---|---|
| 17551 — 17600 | 2271 | 3210 | 3700 | 4133 | 4546 |
| 17601 — 17650 | 2275 | 3215 | 3706 | 4140 | 4554 |
| 17651 — 17700 | 2279 | 3220 | 3712 | 4147 | 4561 |
| 17701 — 17750 | 2283 | 3226 | 3718 | 4153 | 4569 |
| 17751 — 17800 | 2287 | 3231 | 3724 | 4160 | 4576 |
| 17801 — 17850 | 2291 | 3236 | 3730 | 4167 | 4583 |
| 17851 — 17900 | 2295 | 3242 | 3736 | 4174 | 4591 |
| 17901 — 17950 | 2299 | 3247 | 3742 | 4180 | 4598 |
| 17951 — 18000 | 2303 | 3253 | 3748 | 4187 | 4606 |
| 18001 — 18050 | 2306 | 3258 | 3755 | 4194 | 4613 |
| 18051 — 18100 | 2310 | 3263 | 3761 | 4201 | 4621 |
| 18101 — 18150 | 2314 | 3269 | 3767 | 4207 | 4628 |
| 18151 — 18200 | 2318 | 3274 | 3773 | 4214 | 4635 |
| 18201 — 18250 | 2322 | 3279 | 3779 | 4221 | 4643 |
| 18251 — 18300 | 2326 | 3285 | 3785 | 4228 | 4650 |
| 18301 — 18350 | 2330 | 3290 | 3791 | 4234 | 4658 |
| 18351 — 18400 | 2334 | 3296 | 3797 | 4241 | 4665 |
| 18401 — 18450 | 2338 | 3301 | 3803 | 4248 | 4673 |
| 18451 — 18500 | 2341 | 3306 | 3809 | 4255 | 4680 |
| 18501 — 18550 | 2345 | 3312 | 3815 | 4261 | 4687 |
| 18551 — 18600 | 2349 | 3317 | 3821 | 4268 | 4695 |
| 18601 — 18650 | 2353 | 3322 | 3827 | 4275 | 4702 |
| 18651 — 18700 | 2357 | 3328 | 3833 | 4282 | 4710 |
| 18701 — 18750 | 2361 | 3333 | 3839 | 4288 | 4717 |
| 18751 — 18800 | 2365 | 3339 | 3845 | 4295 | 4725 |
| 18801 — 18850 | 2369 | 3344 | 3851 | 4302 | 4732 |
| 18851 — 18900 | 2373 | 3349 | 3857 | 4309 | 4740 |
| 18901 — 18950 | 2376 | 3355 | 3863 | 4315 | 4747 |
| 18951 — 19000 | 2380 | 3360 | 3869 | 4322 | 4754 |
| 19001 — 19050 | 2384 | 3365 | 3875 | 4329 | 4762 |
| 19051 — 19100 | 2388 | 3371 | 3882 | 4336 | 4769 |
| 19101 — 19150 | 2392 | 3376 | 3888 | 4342 | 4777 |
| 19151 — 19200 | 2396 | 3381 | 3894 | 4349 | 4784 |
| 19201 — 19250 | 2400 | 3387 | 3900 | 4356 | 4792 |
| 19251 — 19300 | 2404 | 3392 | 3906 | 4363 | 4799 |
| 19301 — 19350 | 2408 | 3398 | 3912 | 4369 | 4806 |
| 19351 — 19400 | 2411 | 3403 | 3918 | 4376 | 4814 |
| 19401 — 19450 | 2415 | 3408 | 3924 | 4383 | 4821 |
| 19451 — 19500 | 2419 | 3414 | 3930 | 4390 | 4829 |
| 19501 — 19550 | 2423 | 3419 | 3936 | 4396 | 4836 |
| 19551 — 19600 | 2427 | 3424 | 3942 | 4403 | 4844 |

| Combined or Individual Adjusted Net Income (see 1 and 2 above) | One Child | Two Children | Three Children | Four Children | Five or More Children |
|---|---|---|---|---|---|
| 19601 — 19650 | 2431 | 3430 | 3948 | 4410 | 4851 |
| 19651 — 19700 | 2435 | 3435 | 3954 | 4417 | 4858 |
| 19701 — 19750 | 2439 | 3441 | 3960 | 4423 | 4866 |
| 19751 — 19800 | 2443 | 3446 | 3966 | 4430 | 4873 |
| 19801 — 19850 | 2446 | 3451 | 3972 | 4437 | 4881 |
| 19851 — 19900 | 2450 | 3457 | 3978 | 4444 | 4888 |
| 19901 — 19950 | 2454 | 3462 | 3984 | 4450 | 4896 |
| 19951 — 20000 | 2458 | 3467 | 3990 | 4457 | 4903 |
| 20001 — 20050 | 2462 | 3473 | 3996 | 4464 | 4910 |
| 20051 — 20100 | 2466 | 3478 | 4002 | 4471 | 4918 |
| 20101 — 20150 | 2470 | 3483 | 4009 | 4477 | 4925 |
| 20151 — 20200 | 2474 | 3489 | 4015 | 4484 | 4933 |
| 20201 — 20250 | 2478 | 3494 | 4021 | 4491 | 4940 |
| 20251 — 20300 | 2481 | 3500 | 4027 | 4498 | 4948 |
| 20301 — 20350 | 2485 | 3505 | 4033 | 4505 | 4955 |
| 20351 — 20400 | 2489 | 3510 | 4039 | 4511 | 4962 |
| 20401 — 20450 | 2493 | 3516 | 4045 | 4518 | 4970 |
| 20451 — 20500 | 2497 | 3521 | 4051 | 4525 | 4977 |
| 20501 — 20550 | 2501 | 3526 | 4057 | 4532 | 4985 |
| 20551 — 20600 | 2505 | 3532 | 4063 | 4538 | 4992 |
| 20601 — 20650 | 2509 | 3537 | 4069 | 4545 | 5000 |
| 20651 — 20700 | 2513 | 3543 | 4075 | 4552 | 5007 |
| 20701 — 20750 | 2516 | 3548 | 4081 | 4559 | 5014 |
| 20751 — 20800 | 2520 | 3553 | 4087 | 4565 | 5022 |
| 20801 — 20850 | 2524 | 3559 | 4093 | 4572 | 5029 |
| 20851 — 20900 | 2528 | 3564 | 4099 | 4579 | 5037 |
| 20901 — 20950 | 2532 | 3569 | 4105 | 4586 | 5044 |
| 20951 — 21000 | 2536 | 3575 | 4111 | 4592 | 5052 |
| 21001 — 21050 | 2540 | 3580 | 4117 | 4599 | 5059 |
| 21051 — 21100 | 2544 | 3586 | 4123 | 4606 | 5066 |
| 21101 — 21150 | 2548 | 3591 | 4129 | 4613 | 5074 |
| 21151 — 21200 | 2551 | 3596 | 4135 | 4619 | 5081 |
| 21201 — 21250 | 2555 | 3602 | 4142 | 4626 | 5089 |
| 21251 — 21300 | 2559 | 3607 | 4148 | 4633 | 5096 |
| 21301 — 21350 | 2563 | 3612 | 4154 | 4640 | 5104 |
| 21351 — 21400 | 2567 | 3618 | 4160 | 4646 | 5111 |
| 21401 — 21450 | 2571 | 3623 | 4166 | 4653 | 5118 |
| 21451 — 21500 | 2575 | 3628 | 4172 | 4660 | 5126 |
| 21501 — 21550 | 2579 | 3634 | 4178 | 4667 | 5133 |
| 21551 — 21600 | 2583 | 3639 | 4184 | 4673 | 5141 |
| 21601 — 21650 | 2586 | 3645 | 4190 | 4680 | 5148 |

| Combined or Individual Adjusted Net Income (see 1 and 2 above) | One Child | Two Children | Three Children | Four Children | Five or More Children |
|---|---|---|---|---|---|
| 21651 — 21700 | 2590 | 3650 | 4196 | 4687 | 5156 |
| 21701 — 21750 | 2594 | 3655 | 4202 | 4694 | 5163 |
| 21751 — 21800 | 2598 | 3661 | 4208 | 4700 | 5170 |
| 21801 — 21850 | 2602 | 3666 | 4214 | 4707 | 5178 |
| 21851 — 21900 | 2606 | 3671 | 4219 | 4712 | 5183 |
| 21901 — 21950 | 2610 | 3676 | 4224 | 4717 | 5188 |
| 21951 — 22000 | 2614 | 3681 | 4228 | 4722 | 5193 |
| 22001 — 22050 | 2617 | 3685 | 4233 | 4726 | 5197 |
| 22051 — 22100 | 2621 | 3690 | 4238 | 4731 | 5202 |
| 22101 — 22150 | 2625 | 3695 | 4242 | 4736 | 5207 |
| 22151 — 22200 | 2629 | 3700 | 4247 | 4741 | 5212 |
| 22201 — 22250 | 2633 | 3705 | 4252 | 4745 | 5216 |
| 22251 — 22300 | 2637 | 3709 | 4257 | 4750 | 5221 |
| 22301 — 22350 | 2641 | 3714 | 4261 | 4755 | 5226 |
| 22351 — 22400 | 2644 | 3719 | 4266 | 4759 | 5231 |
| 22401 — 22450 | 2648 | 3724 | 4271 | 4764 | 5235 |
| 22451 — 22500 | 2652 | 3729 | 4275 | 4769 | 5240 |
| 22501 — 22550 | 2656 | 3733 | 4280 | 4774 | 5245 |
| 22551 — 22600 | 2660 | 3738 | 4285 | 4778 | 5250 |
| 22601 — 22650 | 2664 | 3743 | 4289 | 4783 | 5254 |
| 22651 — 22700 | 2668 | 3748 | 4294 | 4788 | 5259 |
| 22701 — 22750 | 2671 | 3753 | 4299 | 4792 | 5264 |
| 22751 — 22800 | 2675 | 3757 | 4303 | 4797 | 5269 |
| 22801 — 22850 | 2679 | 3762 | 4308 | 4802 | 5273 |
| 22851 — 22900 | 2683 | 3767 | 4313 | 4807 | 5278 |
| 22901 — 22950 | 2687 | 3772 | 4317 | 4811 | 5283 |
| 22951 — 23000 | 2691 | 3777 | 4322 | 4816 | 5288 |
| 23001 — 23050 | 2695 | 3781 | 4327 | 4821 | 5292 |
| 23051 — 23100 | 2698 | 3786 | 4332 | 4825 | 5297 |
| 23101 — 23150 | 2702 | 3791 | 4336 | 4830 | 5302 |
| 23151 — 23200 | 2706 | 3796 | 4341 | 4835 | 5307 |
| 23201 — 23250 | 2710 | 3801 | 4346 | 4840 | 5311 |
| 23251 — 23300 | 2714 | 3805 | 4350 | 4844 | 5316 |
| 23301 — 23350 | 2718 | 3810 | 4355 | 4849 | 5321 |
| 23351 — 23400 | 2722 | 3815 | 4360 | 4854 | 5326 |
| 23401 — 23450 | 2725 | 3820 | 4364 | 4859 | 5330 |
| 23451 — 23500 | 2729 | 3825 | 4369 | 4863 | 5335 |
| 23501 — 23550 | 2733 | 3829 | 4374 | 4868 | 5340 |
| 23551 — 23600 | 2737 | 3834 | 4378 | 4873 | 5345 |
| 23601 — 23650 | 2741 | 3839 | 4383 | 4877 | 5349 |
| 23651 — 23700 | 2745 | 3844 | 4388 | 4882 | 5354 |

| Combined or Individual Adjusted Net Income (see 1 and 2 above) | One Child | Two Children | Three Children | Four Children | Five or More Children |
|---|---|---|---|---|---|
| 23701 — 23750 | 2749 | 3849 | 4392 | 4887 | 5359 |
| 23751 — 23800 | 2752 | 3853 | 4397 | 4892 | 5364 |
| 23801 — 23850 | 2756 | 3858 | 4402 | 4896 | 5369 |
| 23851 — 23900 | 2760 | 3863 | 4407 | 4901 | 5373 |
| 23901 — 23950 | 2764 | 3868 | 4411 | 4906 | 5378 |
| 23951 — 24000 | 2768 | 3873 | 4416 | 4910 | 5383 |
| 24001 — 24050 | 2772 | 3877 | 4421 | 4915 | 5388 |
| 24051 — 24100 | 2776 | 3882 | 4425 | 4920 | 5392 |
| 24101 — 24150 | 2779 | 3887 | 4430 | 4925 | 5397 |
| 24151 — 24200 | 2783 | 3892 | 4435 | 4929 | 5402 |
| 24201 — 24250 | 2787 | 3897 | 4439 | 4934 | 5407 |
| 24251 — 24300 | 2791 | 3901 | 4444 | 4939 | 5411 |
| 24301 — 24350 | 2795 | 3906 | 4449 | 4943 | 5416 |
| 24351 — 24400 | 2799 | 3911 | 4453 | 4948 | 5421 |
| 24401 — 24450 | 2803 | 3916 | 4458 | 4953 | 5426 |
| 24451 — 24500 | 2806 | 3921 | 4463 | 4958 | 5430 |
| 24501 — 24550 | 2810 | 3925 | 4467 | 4962 | 5435 |
| 24551 — 24600 | 2814 | 3930 | 4472 | 4967 | 5440 |
| 24601 — 24650 | 2818 | 3935 | 4477 | 4972 | 5445 |
| 24651 — 24700 | 2822 | 3940 | 4482 | 4976 | 5449 |
| 24701 — 24750 | 2826 | 3945 | 4486 | 4981 | 5454 |
| 24751 — 24800 | 2830 | 3949 | 4491 | 4986 | 5459 |
| 24801 — 24850 | 2833 | 3954 | 4496 | 4991 | 5464 |
| 24851 — 24900 | 2837 | 3959 | 4500 | 4995 | 5468 |
| 24901 — 24950 | 2841 | 3964 | 4505 | 5000 | 5473 |
| 24951 — 25000 | 2845 | 3969 | 4510 | 5005 | 5478 |

[Court Order March 9, 2009, effective July 1, 2009; May 9, 2013, effective July 1, 2013; September 3, 2021, effective January 1, 2022]

## Rule 9.27 Child Support Guidelines Worksheets.
## Rule 9.27 — Form 1: *Child Support Guidelines Worksheet.*

**Form 1**

***Child Support Guidelines Worksheet***

Docket no: _____

**I. Net Monthly Income of Petitioner** (Name) _____

Select one: [ ] Custodial Parent [ ] Noncustodial Parent [ ] Joint Physical Care

Petitioner claims _____child/children as tax dependents (list number claimed).

**A. Sources and Amounts of Annual Income:**

| | | |
|---|---|---|
| _____ | $_____ | |
| _____ | $_____ | |
| plus/minus spousal support payments per rule 9.5(1) _____ | $_____ | |
| Total: | | $_____ |

**B. Federal Tax Deduction:**

| | | |
|---|---|---|
| Gross annual taxable income ($_____ untaxed) | $_____ | |
| less ½ self employment (FICA) tax | <_____> | |
| less federal adjustments to income | <_____> | |
| less personal exemptions: self + _____ (list number of dependents claimed) | <_____> | |
| less standard deduction | | |
| single [ ] head of household [ ] married filing separate [ ] | <_____> | |
| Net taxable income – federal | $_____ | |
| Federal tax liability (from tax table) | <_____> | |
| Federal tax credit for dependent children | +_____ | |
| Final federal tax liability | | <_____> |

**C. State Tax Deduction:**

| | | |
|---|---|---|
| Gross annual taxable income | $_____ | |
| less ½ self employment (FICA) tax | <_____> | |
| less state adjustments to income | <_____> | |
| less federal tax liability (adjusted for dependent tax credit) | <_____> | |
| less standard deduction | | |
| single [ ] head of household [ ] married filing separate [ ] | <_____> | |
| Net taxable income – state | $_____ | |
| State tax liability (from tax table) $ _____ | | |
| less personal and dependent credits < _____ > | | |
| plus school district surtax ( _____%) | | |
| Final state tax liability | | <_____> |

**D. Social Security and Medicare Tax / Mandatory Pension Deduction:**

| | | |
|---|---|---|
| Annual earned income | $_____ | |
| Applicable rate (7.65% or 15.3%, as adjusted) | x_____% | |
| Annual Social Security and Medicare tax liability or mandatory pension (For employees not contributing to Social Security, mandatory pension deduction not to exceed the current Social Security and Medicare rate for employees.) | | <_____> |

**E. Other Deductions (Annual):**

| | |
|---|---|
| 1. Mandatory occupational license fees | <_____> |
| 2. Union dues | <_____> |
| 3. Health insurance premium costs for other children not in the pending matter (*See* rule 9.5(2)(*f*).) | <_____> |
| 4. Cash medical support and prior obligation of child support actually paid pursuant to court or administrative order for other children not in the pending matter. | <_____> |
| 5. Deduction for _____ additional qualified dependents | <_____> |

| | | |
|---|---|---|
| 6. If a custodial parent, Petitioner's child care expenses (No deduction allowed if variance granted under rule 9.11A.) | $_____ | |
| less federal child care tax credit | <_____> | |
| less state child care tax credit | <_____> | |
| less third party reimbursements | <_____> | |

Actual child care expenses, as defined in rule 9.11A. <_____>
**Preliminary Net Annual Income** $_____
**Preliminary Average Monthly Income of Petitioner** $_____
7. Monthly cash medical support ordered in this pending action <_____>
**Adjusted Net Monthly Income of Petitioner** (Preliminary Average Monthly Income minus Monthly Cash Medical Support ordered in this action.) $_____

**II. Net Monthly Income of Respondent** (Name) _____
Select one: [ ] Custodial Parent [ ] Noncustodial Parent [ ] Joint Physical Care
Respondent claims _____ child/children as tax dependents (list number claimed).

**A. Sources and Amounts of Annual Income:**

_____ $_____
_____ $_____
plus/minus spousal support payments per rule 9.5(1) $_____
Total: <_____>

**B. Federal Tax Deduction:**

Gross annual taxable income (_____ untaxed) $_____
less ½ self employment (FICA) tax <_____>
less federal adjustments to income <_____>
less personal exemptions: self + ____ (list number of dependents claimed) <_____>
less standard deduction
single [ ] head of household [ ] married filing separate [ ] <_____>
Net taxable income – federal $_____
Federal tax liability (from tax table) <_____>
Federal tax credit for dependent children +_____
Final federal tax liability <_____>

**C. State Tax Deduction:**

Gross annual taxable income $_____
less ½ self employment (FICA) tax <_____>
less state adjustments to income <_____>
less federal tax liability (adjusted for dependent tax credit) <_____>
less standard deduction
single [ ] head of household [ ] married filing separate [ ] <_____>
Net taxable income – state $_____
State tax liability (from tax table) $ _____
less personal and dependent credits < _____ >
plus school district surtax ( %)
Final state tax liability <_____>

**D. Social Security and Medicare Tax / Mandatory Pension Deduction:**

Annual earned income $_____
Applicable rate (7.65% or 15.3%, as adjusted) x____%
Annual Social Security and Medicare tax liability or mandatory pension
(For employees not contributing to Social Security, mandatory pension deduction not to exceed the current Social Security and Medicare rate for employees.) <_____>

**E. Other Deductions (Annual):**

1. Mandatory occupational license fees <_____>
2. Union dues <_____>
3. Health insurance premium costs for other children not in the pending matter (*See* rule 9.5(2)(*f*).) <_____>
4. Cash medical support and prior obligation of child support actually paid pursuant to court or administrative order for other children not in the pending matter. <_____>
5. Deduction for _____ additional qualified dependents <_____>
6. If a custodial parent, Respondent's child care expenses $_____
(No deduction allowed if variance granted under rule 9.11A.)

less federal child care tax credit < >
less state child care tax credit < >
Actual child care expenses, as defined in rule 9.11A < >
**Preliminary Net Annual Income** $
**Preliminary Average Monthly Income of Respondent** $
7. Monthly cash medical support ordered in this pending action < >
**Adjusted Net Monthly Income of Respondent** (Preliminary average monthly income minus monthly cash medical support ordered in this action.) $

**III. Calculation of the Guideline Amount of Support** (If applicable.)

| | | **Custodial Parent (CP)** [ ] Petitioner [ ] Respondent | | **Noncustodial Parent (NCP)** [ ] Petitioner [ ] Respondent | | **Combined** |
|---|---|---|---|---|---|---|
| A. | Adjusted net monthly income | $ | + | $ | = | $ |
| B. | Proportional share of income (Also used for uncovered medical expenses.) | % | + | % | = | 100% |
| C. | Number of children for whom support is sought | | | | | |
| D. | Basic support obligation using only NCP's adjusted net monthly income (If low-income adjustment does not apply, enter N/A.) | | | $ | | |
| E. | Basic support obligation using combined adjusted net monthly income (If low-income adjustment applies, enter N/A; *see* rule 9.3(2) and grid in rule 9.14(2).) | | | | | $ |
| F. | Each parent's share of the basic support obligation using combined incomes (If low-income adjustment applies, enter N/A.) | $ | | $ | | |
| G. | NCP's basic support obligation before health insurance (NCP's amount from line F or low-income adjustment amount line D.) | | | $ | | |
| H. | Allowable child(ren)'s portion of health insurance premium (Calculated pursuant to rule 9.14(5).) | $ | | $ | | |
| I. | Health insurance add-on or deduction from NCP's obligation | | +/- | $ | | |
| J. | Guideline amount of child support for NCP (NCP's line G plus or minus NCP's line I.) | | | $ | | |
| | Guideline amount of cash medical support (if ordered) | | | $ | | |

**III. a. Extraordinary Visitation Credit**
(Complete only if noncustodial parent's court-ordered visitation exceeds 127 overnights per year.)

| | | |
|---|---|---|
| K. | NCP's basic support obligation before health insurance (Amount from NCP's line G.) | $ |
| L. | Number of court-ordered visitation overnights with the noncustodial parent | |
| M. | Extraordinary visitation credit percentage | % |
| N. | Extraordinary visitation credit (Line K multiplied by line M.) | $ |
| O. | Guideline amount of child support after credit for extraordinary visitation (Line J minus line N; not less than $50 for one child, $75 for two children, or $100 for three or more children.) | $ |

**III. b. Child Care Expense Variance under rule 9.11A**
(As agreed by the parties and approved or determined by the court.)

| | | |
|---|---|---|
| P. | NCP's guideline amount of child support (Amount from line J above [or line O, if applicable].) | $ _____ |
| Q. | Amount of variance for child care expenses | $ _____ |
| R. | Adjusted amount of child support (Line P plus line Q.) | $ _____ |

**IV. Calculation of the Joint (Equally Shared) Physical Care Guideline Amount of Child Support** (If applicable.)

| | | Petitioner CP 1 | | Respondent CP 2 | | Combined |
|---|---|---|---|---|---|---|
| A. | Adjusted net monthly income | $ _____ | + | $ _____ | = | $ _____ |
| B. | Proportional share of income (Also used for uncovered medical expenses.) | _____ % | | _____ % | = | 100% |
| C. | Number of children for whom support is sought | | | | | _____ |
| D. | Basic support obligation before health insurance (Use line A combined amount to find amount from Schedule of Basic Support Obligations. The low-income adjustment in the shaded area of the schedule does not apply to joint [equally shared] physical care support computations.) | | | | | $ _____ |
| E. | Each parent's basic primary care amount before health insurance (Line B multiplied by line D for each parent.) | $ _____ | | $ _____ | | |
| F. | Each parent's share of joint physical care support (Line E multiplied by 1.5 for each parent to account for extra costs for two residences.) | $ _____ | | $ _____ | | |
| G. | Each parent's joint physical care support obligation before health insurance (Line F multiplied by .5 for each parent to account for 50% of time spent with each parent.) | $ _____ | | $ _____ | | |
| H. | Allowable child(ren)'s portion of health insurance premium* (Calculated pursuant to rule 9.14(5).) *If either parent's net income on line A falls within low-income shaded Area A of the Schedule of Basic Support Obligations, enter N/A. The health insurance adjustment does not apply. | $ _____ | | $ _____ | | |
| I. | Health insurance add-on to each parent's obligation (*see* rule 9.14(3).) | $ _____ | | $ _____ | | |
| J. | Guideline amount of child support (Each parent's line G plus each parent's line I.) | $ _____ | | $ _____ | | |

K. Net amount of child support for joint physical care after offset (Subtract smaller amount on line J from larger amount on line J. Parent with larger amount on line J pays the other parent the difference, as a method of payment. If either parent receives assistance through the Family Investment Program [FIP], the other parent's obligation reverts to the amount on line J.) $ _____ $ _____

**V. Special Findings**

A. Income imputed to Petitioner
Income imputed to Respondent

B. Estimated income of Petitioner
Estimated income of Respondent

C. Deviations made from Child Support Guidelines

D. Requested amount of child support $_____ per month

E. Split or divided physical care summary and offset

| Guideline amount of child support Petitioner | Guideline amount of child support Respondent | Net amount of child support after offset |
|---|---|---|
| $ _____ | $ _____ | $ _____ |

**VI. Changes in Child Support Obligation as Number of Children Entitled to Support Changes**
(For cases with multiple children based on present income and applicable guidelines calculation method.)

**VI. a. Basic Obligation** (If applicable.)

| Number of children | NCP's basic support obligation (NCP's line G)* | Health insurance add-on or deduction (NCP's line I)* | Extraordinary visitation credit (If applicable) (line N)* | Guideline amount of child support (line J or O)* |
|---|---|---|---|---|
| _____ | $ _____ | $ _____ | $ _____ | $ _____ |
| _____ | $ _____ | $ _____ | $ _____ | $ _____ |
| _____ | $ _____ | $ _____ | $ _____ | $ _____ |
| _____ | $ _____ | $ _____ | $ _____ | $ _____ |
| _____ | $ _____ | $ _____ | $ _____ | $ _____ |

*(All line references are to Division III, Calculation of the Guideline Amount of Child Support section of the worksheet.)

**VI. b. Joint (Equally Shared) Physical Care Obligation** (If applicable.)

| Number of children | Guideline amount of child support Petitioner (CP 1 Line J)* | Guideline amount of child support Respondent (CP 2 Line J)* | Net amount of child support for joint physical care after offset (Line K)* |
|---|---|---|---|
| _____ | $ _____ | $ _____ | $ _____ |
| _____ | $ _____ | $ _____ | $ _____ |
| _____ | $ _____ | $ _____ | $ _____ |
| _____ | $ _____ | $ _____ | $ _____ |
| _____ | $ _____ | $ _____ | $ _____ |

*(All line references are to Division IV, Calculation of the Joint [Equally Shared] Physical Care Guideline Amount of Child Support section of the worksheet.)

**State of Iowa**
**ss:**
**County of** _____

I certify under the penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

Date: _____ _____
(Signature)

_____
(Printed name)

The undersigned attorney for (Petitioner/Respondent) hereby certifies that this Child Support Guidelines Worksheet was prepared by me or at my direction in good faith reliance upon information available to me at this time.

Date: _____ _____
(Attorney signature)

[Report November 9, 2001, effective February 15, 2002; September 23, 2004, effective November 1, 2004; March 9, 2009, effective July 1, 2009; May 9, 2013, effective July 1, 2013; July 20, 2017, effective January 1, 2018; November 16, 2018, effective January 1, 2019; September 3, 2021, effective January 1, 2022]

## Rule 9.27 — Form 2: *Child Support Guidelines Worksheet.*

**Form 2**
***Child Support Guidelines Worksheet***

Date:_____

Case no.: _____ Dependents: _____

Docket no.: _____

| | |
|---|---|
| Name: | Name: |
| ( ) Noncustodial Parent [NCP] ( ) Custodial Parent [CP] | ( ) Noncustodial Parent [NCP] ( ) Custodial Parent [CP] |
| Method(s) used to determine income: | Method(s) used to determine income: |
| ( ) Parent's financial statement/verified income | ( ) Parent's financial statement/verified income |
| ( ) Other sources | ( ) Other sources |
| ( ) CSS median income | ( ) CSS median income |

**I. Adjusted Net Monthly Income Computation**

| | | **Custodial Parent*** _____ (name) | **Noncustodial Parent*** _____ (name) |
|---|---|---|---|
| A. | Gross monthly income | $ | $ |
| B. | Federal income tax | $ | $ |
| C. | State income tax | $ | $ |
| D. | Social Security and Medicare tax / mandatory pension deduction | $ | $ |
| E. | Mandatory occupational license fees deduction | $ | $ |
| F. | Union dues | $ | $ |
| G. | Health insurance premium costs for other children not in the pending matter (*See* rule 9.5(2)(*f*).) | $ | $ |
| H. | Cash medical support and prior obligation of child support actually paid pursuant to court or administrative order for other children not in the pending matter | $ | $ |
| I. | Qualified additional dependent deductions | $ | $ |
| J. | Actual child care expenses, as defined in rule 9.11A, for the custodial parent* (No deduction allowed if variance granted under rule 9.11A.) | $ | $ |
| K. | Preliminary net income for each parent (Line A minus lines B through J for each parent.) | $ | $ |
| L. | Cash medical support, if ordered in this pending matter | $ | $ |
| M. | Adjusted net monthly income (Line K minus line L.) (Amount used to calculate the guideline amount of child support.) | **$** | **$** |

*(In cases of joint physical care, use names only and designate both parents as custodial parents.)

**II. Calculation of the Guideline Amount of Support** (If applicable.)

| | | Custodial Parent (CP) _____ (name) | | Noncustodial Parent (NCP) _____ (name) | | Combined |
|---|---|---|---|---|---|---|
| A. | Adjusted net monthly income | $ _____ | + | $ _____ | = | $ _____ |
| B. | Proportional share of income (Also used for uncovered medical expenses.) | _____ % | + | _____ % | = | 100% |
| C. | Number of children for whom support is sought | | | | | _____ |
| D. | Basic support obligation using only NCP's adjusted net monthly income (If low-income adjustment does not apply, enter N/A.) | | | $ _____ | | |
| E. | Basic support obligation using combined adjusted net monthly income (If low-income adjustment applies enter N/A; *see* rule 9.3(2) and grid in rule 9.14(2).) | | | | | $ _____ |
| F. | Each parent's share of the basic support obligation using combined incomes (If low-income adjustment applies enter N/A.) | $ _____ | | $ _____ | | |
| G. | NCP's basic support obligation before health insurance (NCP's amount from line F or low-income adjustment amount from line D.) | | | $ _____ | | |
| H. | Allowable child(ren)'s portion of health insurance premium (Calculated pursuant to rule 9.14(5).) | $ _____ | | $ _____ | | |
| I. | Health insurance add-on or deduction from NCP's obligation | +/- | | $ _____ | | |
| J. | Guideline amount of child support for NCP (NCP's line G plus or minus NCP's line I.) | | | $ _____ | | |

**II. a. Extraordinary Visitation Credit**

Complete only if noncustodial parent's court-ordered visitation exceeds 127 overnights per year.

| | | |
|---|---|---|
| K. | NCP's basic support obligation before health insurance (Amount from NCP's line G.) | $ _____ |
| L. | Number of court-ordered visitation overnights with the noncustodial parent | _____ |
| M. | Extraordinary visitation credit percentage | _____ % |
| N. | Extraordinary visitation credit (Line K multiplied by line M.) | $ _____ |
| O. | Guideline amount of child support (after credit for extraordinary visitation) (Line J minus line N; not less than $50 for one child, $75 for two children, or $100 for three or more children.) | $ _____ |

**II. b. Child Care Expense Variance under rule 9.11A**
As agreed by the parties and approved or determined by the court.

| | | |
|---|---|---|
| P. | NCP's guideline amount of child support (Amount from line J above [or line O, if applicable].) | $ _____ |
| Q. | Amount of variance for child care expenses | $ _____ |
| R. | Adjusted amount of child support (Line P plus line Q.) | $ _____ |

**III. Calculation of the Joint (Equally Shared) Physical Care Guideline Amount of Child Support** (If applicable.)

| | | CP 1 _____ (name) | | CP 2 _____ (name) | | Combined |
|---|---|---|---|---|---|---|
| A. | Adjusted net monthly income | $ _____ | + | $ _____ | = | $ _____ |
| B. | Proportional share of income (Also used for uncovered medical expenses.) | _____ % | | _____ % | = | 100% |
| C. | Number of children for whom support is sought | | | | | _____ |
| D. | Basic support obligation before health insurance (Use line A combined amount to find amount from Schedule of Basic Support Obligations. The low-income adjustment in the shaded area of the schedule does not apply to joint [equally shared] physical care support computations.) | | | | | $ _____ |
| E. | Each parent's basic primary care amount before health insurance (Line B multiplied by line D for each parent.) | $ _____ | | $ _____ | | |
| F. | Each parent's share of joint physical care support (Line E multiplied by 1.5 for each parent to account for extra costs for two residences.) | $ _____ | | $ _____ | | |
| G. | Each parent's joint physical care support obligation before health insurance (Line F multiplied by .5 for each parent to account for 50% of time spent with each parent.) | $ _____ | | $ _____ | | |
| H. | Allowable child(ren)'s portion of health insurance premium* (Calculated pursuant to rule 9.14(5).) (If either parent's net income on line A falls within low-income shaded Area A of the Schedule of Basic Support Obligations, enter N/A. The health insurance adjustment does not apply.) | $ _____ | | $ _____ | | |
| I. | Health insurance add-on to each parent's obligation (*See* rule 9.14(3).) | $ _____ | | $ _____ | | |
| J. | Guideline amount of child support (Each parent's line G plus each parent's line I.) | $ _____ | | $ _____ | | |

| | | | |
|---|---|---|---|
| K. | Net amount of child support for joint physical care after offset (Subtract smaller amount on line J from larger amount on line J. Parent with larger amount on line J pays the other parent the difference, as a method of payment. If either parent receives assistance through the Family Investment Program [FIP], the other parent's obligation reverts to the amount on line J.) | $ _____ | $ _____ |

**IV. Deviations** (*See* attachment.)

**V. a. Recommended Amount of Support** $_____ per _____

**V. b. Recommended Amount of Accrued Support** $_____ (*See* attachment.)

**VI. Changes in Child Support Obligation as Number of Children Entitled to Support Changes**
(For cases with multiple children based on present income and applicable guidelines calculation method.)

**VI. a. Basic Obligation** (If applicable.)

| Number of children | NCP's basic support obligation (NCP's line G)* | Health insurance add-on or deduction (NCP's line I)* | Extraordinary visitation credit (If applicable.) (Line N)* | Guideline amount of child support (Line J or O)* |
|---|---|---|---|---|
| _____ | $ _____ | $ _____ | $ _____ | $ _____ |
| _____ | $ _____ | $ _____ | $ _____ | $ _____ |
| _____ | $ _____ | $ _____ | $ _____ | $ _____ |
| _____ | $ _____ | $ _____ | $ _____ | $ _____ |
| _____ | $ _____ | $ _____ | $ _____ | $ _____ |

*(All line references are to Division II, Calculation of the Guideline Amount of Support section of the worksheet.)

**VI. b. Joint (Equally Shared) Physical Care Obligation** (If applicable.)

| Number of children | Guideline amount of child support _____ (name) (CP 1 line J)* | Guideline amount of child support _____ (name) (CP 2 line J)* | Net amount of child support for joint physical care after offset (line K)* |
|---|---|---|---|
| _____ | $ _____ | $ _____ | $ _____ |
| _____ | $ _____ | $ _____ | $ _____ |
| _____ | $ _____ | $ _____ | $ _____ |
| _____ | $ _____ | $ _____ | $ _____ |
| _____ | $ _____ | $ _____ | $ _____ |

*(All line references are to Division III, Calculation of the Joint (Equally Shared) Physical Care Guideline Amount of Child Support section of the worksheet.)

**VII. Qualified Additional Dependent Deduction** (*See* guidelines for the definition of this term.)

| | | | Paternity Establishment Method | | | |
|---|---|---|---|---|---|---|
| Child's name | Whose child | Date of birth | Court/ admin. order | In court stmt. & consent | Paternity affidavit | Child born during marriage |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

**State of Iowa**
**ss:**
**County of** _____
I certify under the penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

Date: _____ _____
(Signature)

_____
(Printed name)

The undersigned attorney for_____hereby certifies that this Child Support Guidelines Worksheet was prepared by me or at my direction in good faith reliance upon information available to me at this time.

Date: _____ _____
(Attorney signature)

If Child Support Services prepared this form, CSS is not required to obtain signatures. This Child Support Guidelines Worksheet was prepared by:

_____
(CSS Printed name)

Date: _____

[Court Order November 9, 2001, effective February 15, 2002; September 23, 2004, effective November 1, 2004; March 9, 2009, effective July 1, 2009; May 9, 2013, effective July 1, 2013; July 20, 2017, effective January 1, 2018; September 3, 2021, effective January 1, 2022; October 26, 2023]

## Rule 9.27 — Form 3: *Child Support Guidelines Financial Information Statement.*

**Form 3**
***Child Support Financial Information Statement***

| **Case Identifying Information** | | |
|---|---|---|
| Full name (first, middle, last) | | |
| County and court docket number | County, | No. |
| Children on this case (attach additional page if needed) | *Initials* | *Birth year* |
| Child 1 | | |
| Child 2 | | |
| Your marital status: | Single | Married |

| **Income** | | |
|---|---|---|
| Are you now employed? | Yes | No |
| Are you self-employed? | Yes | No |
| Are you full- or part-time? | Full-time | Part-time |
| Are you salaried or hourly? | Salaried | Hourly |
| What is your pay rate? | $ | per hour / week / month / year |
| How many hours do you work? | | per week / month / year |
| Do you earn overtime? | Yes | No |
| What is your overtime pay rate? | $ | per hour |
| How many overtime hours do you work? | | per week / month / year |
| Do you receive regular bonuses or commissions? | Yes | No |
| In what amounts and how often? | $ | per week / month / year |
| Do you have any second or part-time jobs? | Yes | No |
| What is your pay rate? | $ | per hour / week / month / year |
| How many hours do you work? | | per week / month / year |
| Do you *receive* spousal support? | Yes | No |
| In what amounts and how often? | $ | per week / month / year |
| Under what county and state court order? | County, | No. |
| Do you regularly receive any other monetary amounts? | Yes | No |
| From what sources? | | |
| In what amounts and how often? | $ | per week / month / year |

| **Deductions** | | |
|---|---|---|
| Do you *pay* spousal support? | Yes | No |
| In what amounts and how often? | $ | per week / month / year |
| Under what county and state court order? | County, | No. |
| Do you make mandatory pension contributions? | Yes | No |
| In what amounts and how often? | $ | per week / bi-week / month / year |
| Do you pay mandatory occupational license fees? | Yes | No |
| In what amounts and how often? | $ | per week / bi-week / month / year |

| Deductions (continued) | | |
|---|---|---|
| Do you pay union dues? | Yes | No |
| In what amounts and how often? | $ per week / bi-week / month / year | |
| Do you pay *ongoing* medical support for other minor children? | Yes | No |
| Which children? (initials and birth year only) | | |
| In what amounts and how often? | $ per week / month / year | |
| Under what county and state court order? | County, | No. |
| How much have you actually paid in last year? | $ | |
| Do you pay *ongoing* child support for other minor children? | Yes | No |
| Which children? (initials and birth year only) | | |
| In what amounts and how often? | per week / month / year | |
| Under what county and state court order? | County, | No. |
| When was the order originally entered? | | |
| How much have you actually paid in last year? | $ | |
| Do you pay child care expenses for this case's children? | Yes | No |
| In what amounts and how often? | $ per week / month / year | |

| Other Children | | |
|---|---|---|
| Do you have other minor children (not stepchildren)? | Yes | No |
| *Child's Initials* (attach additional page if needed) | *Child's birth year* | *Are you legally responsible?* * |
| Child 1: | | |
| Child 2: | | |

** To be legally responsible means that you either (1) gave birth to the child, (2) adopted the child, (3) were married to the birth mother when the child was conceived or born, (4) executed a paternity affidavit, or (5) were found and ordered responsible in an administrative or judicial order.*

| Health Insurance and Health Care Coverage Plans | | |
|---|---|---|
| Do you have a health care coverage plan available? | Yes | No |
| What is the cost for just you? (*single plan*) | $ per week / bi-week / month | |
| What is the cost to cover additional people? (*family plan*) | $ per week / bi-week / month | |
| Does your plan cover other people? | Yes | No |
| *Including you*, how many people does your plan cover? | | |
| Do you have the children enrolled in Hawki? | Yes | No |
| What is your total monthly Hawki premium? | $ | |
| Do you have the children enrolled in Medicaid? | Yes | No |
| Do you receive FIP or Medicaid? | Yes | No |
| Do you live with a child receiving FIP, Medicaid, or Hawki? | Yes | No |

Pursuant to Iowa Code §622.1, I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the information provided on this form is true and correct to the best of my information and belief.

Signed:_____ Date: _____

[Court Order September 3, 2021, effective January 1, 2022; October 26, 2023]

# CHAPTER 10

# GUIDELINES FOR THE FORFEITURE AND RESTORATION OF A BOND POSTED PURSUANT TO IOWA CODE SECTION 598.21(8A)

# CHAPTER 10
# GUIDELINES FOR THE FORFEITURE AND RESTORATION OF A BOND POSTED PURSUANT TO IOWA CODE SECTION 598.21(8A)

**Rule 10.1 Cash bond.** If, during a modification action subject to the provisions of Iowa Code section 598.21(8A), the district court makes a finding that the parent awarded physical care of the child has previously interfered with the minor child's access to the other parent, the court may order the posting of a cash bond to assure future compliance with the visitation provisions of the decree.
[Court Order November 9, 2001, effective February 15, 2002]

**Rule 10.2 Return of bond.** The court's order requiring the bond may include terms upon which the parent might apply for return of the bond after a reasonable period of compliance with the decree's visitation provisions.
[Court Order November 9, 2001, effective February 15, 2002]

**Rule 10.3 Hearing.** Upon application of the parent in whose favor the bond was posted, the court may schedule a hearing to determine whether the parent with physical care has continued to interfere with visitation and if the bond should be forfeited. Reasonable notice and an opportunity to be heard shall be given to all parties.
[Court Order November 9, 2001, effective February 15, 2002]

**Rule 10.4 Forfeiture of bond.** If the court finds the parent with the physical care of the child has continued to interfere with visitation, it may order the bond forfeited to the other parent and a new cash bond posted. [Court Order October 27, 1999]
[Court Order November 9, 2001, effective February 15, 2002]

# CHAPTER 11
# STANDARDS OF CONDUCT FOR MEDIATORS

**PREAMBLE**

**CONSTRUCTION**

# CHAPTER 11
# STANDARDS OF CONDUCT FOR MEDIATORS

### PREAMBLE

[1] Mediation is used to resolve a broad range of conflicts within a variety of settings. These standards are designed to serve as fundamental ethical guidelines for persons mediating in all practice contexts. The standards serve three primary goals: to guide the conduct of mediators; to inform the mediating parties; and to promote public confidence in mediation as a process for resolving disputes.

[2] Mediation is a process in which an impartial third party facilitates communication and negotiation and promotes voluntary decision making by the parties to the dispute.

[3] Mediation serves various purposes, including providing the opportunity for parties to define and clarify issues, understand different perspectives, identify interests, explore and assess possible solutions, and reach mutually satisfactory agreements, when desired.

### CONSTRUCTION

[1] These standards are to be read and construed in their entirety. There is no priority significance attached to the sequence in which the standards appear. The use of the term "shall" in a standard indicates that the mediator must follow the practice described. The use of the term "should" indicates that the practice described in the standard is highly desirable but not required, is to be departed from only for very strong reasons, and requires careful use of judgment and discretion.

[2] The use of the term "mediator" is inclusive and applies to co-mediator models.

[3] These standards do not include specific temporal parameters when referencing a mediation, and therefore, do not define the exact beginning or ending of a mediation.

[4] Various aspects of a mediation, including some matters covered by these standards, may also be affected by applicable law, court rules, regulations, other applicable professional rules, mediation rules to which the parties have agreed, and other agreements of the parties. These sources may create conflicts with, and may take precedence over, these standards. A mediator, however, should make every effort to comply with the spirit and intent of these standards in resolving such conflicts. This effort should include honoring all remaining standards not in conflict with these other sources.

**Rule 11.1 Scope.** These standards apply to mediators who are lawyers licensed to practice law in Iowa, mediators who participate in any mediation program approved by a court of this state, and mediators in any matter an Iowa court order or rule requires to be mediated.
[Court Order November 10, 2011, effective January 1, 2012]

**Rule 11.2 Self-determination.**

**11.2(1)** A mediator shall conduct a mediation based on the principle of party self-determination. Self-determination is the act of coming to a voluntary, uncoerced decision in which each party makes free and informed choices as to process and outcome. Parties may exercise self-determination at any stage of mediation, including mediator selection, process design, participation in or withdrawal from the process, and outcomes.

*a.* Although party self-determination for process design is a fundamental principle of mediation practice, a mediator may need to balance such party self-determination with a mediator's duty to conduct a quality process in accordance with these standards.

*b.* A mediator cannot personally ensure that each party has made free and informed choices to reach particular decisions, but where appropriate, a mediator should make the parties aware of the importance of consulting other professionals to help the parties make informed choices.

**11.2(2)** A mediator shall not undermine any party's self-determination for reasons such as higher settlement rates, egos, increased fees, or outside pressures from court personnel, program administrators, provider organizations, the media, or others.
[Court Order November 10, 2011, effective January 1, 2012]

**Rule 11.3 Impartiality.**

**11.3(1)** A mediator shall decline a mediation if the mediator cannot conduct it in an impartial manner. Impartiality means freedom from favoritism, bias, or prejudice.

**11.3(2)** A mediator shall conduct a mediation in an impartial manner and avoid conduct that gives the appearance of partiality.

*a.* A mediator should not act with partiality or prejudice based on any participant's personal characteristics, background, values and beliefs, or performance at a mediation, or any other reason.

*b.* A mediator should neither give nor accept a gift, favor, loan, or other item of value that raises a question as to the mediator's actual or perceived impartiality.

*c.* A mediator may accept or give de minimis gifts or incidental items or services that are provided to facilitate mediation or respect cultural norms so long as such practices do not raise questions as to a mediator's actual or perceived impartiality.

**11.3(3)** If at any time a mediator is unable to conduct a mediation in an impartial manner, the mediator shall withdraw.

[Court Order November 10, 2011, effective January 1, 2012]

**Rule 11.4 Conflicts of interest.**

**11.4(1)** A mediator shall avoid a conflict of interest or the appearance of a conflict of interest during and after a mediation. A conflict of interest that reasonably raises a question of a mediator's impartiality can arise from a mediator's involvement with the subject matter of the dispute or from any relationship between a mediator and any mediation participant, whether past or present, personal or professional.

**11.4(2)** A mediator shall make a reasonable inquiry to determine whether there are any facts that a reasonable individual would consider likely to create a potential or actual conflict of interest for a mediator. A mediator's actions necessary to accomplish a reasonable inquiry into potential conflicts of interest may vary based on practice context.

**11.4(3)** A mediator shall disclose, as soon as practicable, all actual and potential conflicts of interest that are reasonably known to the mediator and could reasonably be seen as raising a question about the mediator's impartiality. After disclosure, if all parties agree, the mediator may proceed with the mediation.

**11.4(4)** If a mediator learns any fact after accepting a mediation that raises a question with respect to that mediator's service creating a potential or actual conflict of interest, the mediator shall disclose it to all parties as quickly as practicable. After disclosure, if all parties agree, the mediator may proceed with the mediation.

**11.4(5)** If a mediator's conflict of interest might reasonably be viewed as undermining the integrity of the mediation, a mediator shall withdraw from or decline to proceed with the mediation regardless of the expressed desire or agreement of the parties to the contrary.

**11.4(6)** Subsequent to a mediation, a mediator shall not establish another relationship with any of the participants in any matter that would raise questions about the integrity of the mediation. When a mediator develops personal or professional relationships with parties, other individuals, or organizations following a mediation in which the parties, individuals, or organizations were involved, the mediator should consider factors such as time elapsed following the mediation, the nature of the relationships established, and services offered when determining whether the relationships might create a perceived or actual conflict of interest.

[Court Order November 10, 2011, effective January 1, 2012]

**Rule 11.5 Competence.**

**11.5(1)** A mediator shall mediate only when the mediator has the necessary competence to satisfy the reasonable expectations of the parties.

*a.* Any person may be selected as a mediator, provided that the parties are satisfied with the mediator's competence and qualifications. Training, experience in mediation, skills, cultural understandings, and other qualities are often necessary for mediator competence. A person who offers to serve as a mediator creates the expectation that the person is competent to mediate effectively.

*b.* A mediator should attend educational programs and related activities to maintain and enhance the mediator's knowledge and skills related to mediation.

*c.* A mediator should have available for the parties information relevant to the mediator's training, education, experience, and approach to conducting a mediation.

**11.5(2)** If a mediator, during the course of a mediation, determines that the mediator cannot conduct the mediation competently, the mediator shall discuss that determination with the parties as soon as is practicable and take appropriate steps to address the situation, including, but not limited to, withdrawing or requesting appropriate assistance.

**11.5(3)** If a mediator's ability to conduct a mediation is impaired by drugs, alcohol, or medication, or is otherwise impaired, the mediator shall not conduct the mediation.

[Court Order November 10, 2011, effective January 1, 2012]

**Rule 11.6 Confidentiality.**

**11.6(1)** A mediator shall maintain the confidentiality of all information the mediator obtains in mediation, unless the parties otherwise agree or as required by applicable law.

*a.* If the parties to a mediation agree, the mediator may disclose information obtained during the mediation.

*b.* A mediator should not communicate to any non-participant information about how the parties acted in the mediation. A mediator may report, if required, whether parties appeared at a scheduled mediation and whether or not the parties reached a resolution.

*c.* If a mediator participates in teaching, research, or evaluation of mediation, the mediator should protect the anonymity of the parties and abide by their reasonable expectations regarding confidentiality.

**11.6(2)** A mediator who meets with any persons in private session during a mediation shall not convey directly or indirectly to any other person any information that was obtained during that private session without the consent of the disclosing person.

**11.6(3)** A mediator shall promote understanding among the parties of the extent to which the parties will maintain confidentiality of information they obtain in a mediation.

**11.6(4)** Depending on the circumstance of a mediation, the parties may have varying expectations regarding confidentiality that a mediator should address. The parties may make their own rules with respect to confidentiality, or the accepted practice of an individual mediator or institution may dictate a particular set of expectations.

[Court Order November 10, 2011, effective January 1, 2012]

**Rule 11.7 Quality of the process.**

**11.7(1)** A mediator shall conduct a mediation in accordance with these standards and in a manner that promotes diligence, timeliness, safety, presence of the appropriate participants, party participation, procedural fairness, party competency, and mutual respect among all participants.

*a.* A mediator should agree to mediate only when the mediator is prepared to commit the attention essential to an effective mediation.

*b.* A mediator should only accept cases when the mediator can satisfy the reasonable expectations of the parties concerning the timing of a mediation.

*c.* The presence or absence of persons at a mediation depends on the agreement of the parties and the mediator. The parties and mediator may agree that others may be excluded from particular sessions or from all sessions.

*d.* A mediator should promote honesty and candor between and among all participants, and a mediator shall not knowingly misrepresent any material fact or circumstance in the course of a mediation.

*e.* The role of a mediator differs substantially from other professional roles. Mixing the role of a mediator and the role of another profession is problematic and thus, a mediator should distinguish between the roles. A mediator may provide information that the mediator is qualified by training or experience to provide only if the mediator can do so consistent with these standards.

*f.* A mediator shall not conduct a dispute resolution procedure other than mediation but label it mediation in an effort to gain the protection of rules, statutes, or other governing authorities pertaining to mediation.

*g.* A mediator may recommend, when appropriate, that parties consider resolving their dispute through arbitration, counseling, neutral evaluation, or other processes.

*h.* A mediator shall not undertake an additional dispute resolution role in the same matter without the consent of the parties. Before providing such service, a mediator shall inform the parties of the implications of the change in process and obtain their consent to the change. A mediator who undertakes such role assumes different duties and responsibilities that may be governed by other standards.

*i.* If a mediation is being used to further criminal conduct, a mediator should take appropriate steps including, if necessary, postponing, withdrawing from, or terminating the mediation.

*j.* If a party appears to have difficulty comprehending the process, issues, or settlement options, or difficulty participating in a mediation, the mediator should explore the circumstances and potential accommodations, modifications, or adjustments that would make possible the party's capacity to comprehend, participate, and exercise self-determination.

**11.7(2)** If a mediator is made aware of domestic abuse or violence among the parties, the mediator shall take appropriate steps including, if necessary, postponing, withdrawing from, or terminating the mediation.

**11.7(3)** If a mediator believes that participant conduct, including that of the mediator, jeopardizes conducting a mediation consistent with these standards, a mediator shall take appropriate steps including, if necessary, postponing, withdrawing from, or terminating the mediation.

[Court Order November 10, 2011, effective January 1, 2012]

**Rule 11.8 Advertising and solicitation.**

**11.8(1)** A mediator shall be truthful and not misleading when advertising, soliciting, or otherwise communicating the mediator's qualifications, experience, services, and fees.

*a.* A mediator should not include any promises as to outcome in communications, including business cards, stationery, or computer-based communications.

*b.* A mediator should only claim to meet the mediator qualifications of a governmental entity or private organization if that entity or organization has a recognized procedure for qualifying mediators and it grants such status to the mediator.

**11.8(2)** A mediator shall not solicit in a manner that gives an appearance of partiality for or against a party or otherwise undermines the integrity of the process.

**11.8(3)** A mediator shall not communicate to others, in promotional materials or through other forms of communication, the names of persons served without their permission.

[Court Order November 10, 2011, effective January 1, 2012]

**Rule 11.9 Fees and other charges.**

**11.9(1)** A mediator shall provide each party or each party's representative true and complete information about mediation fees, expenses, and any other actual or potential charges that may be incurred in connection with a mediation.

*a.* If a mediator charges fees, the mediator should develop them in light of all relevant factors, including the type and complexity of the matter, the qualifications of the mediator, the time required, and the rates customary for such mediation services.

*b.* A mediator's fee arrangement should be in writing unless the parties request otherwise.

**11.9(2)** A mediator shall not charge fees in a manner that impairs a mediator's impartiality.

*a.* A mediator should not enter into a fee agreement that is contingent upon the result of the mediation or amount of the settlement.

*b.* While a mediator may accept unequal fee payments from the parties, a mediator should not allow such a fee arrangement to impact adversely the mediator's ability to conduct a mediation in an impartial manner.

[Court Order November 10, 2011, effective January 1, 2012]

**Rule 11.10 Advancement of mediation practice.**

**11.10(1)** A mediator should act in a manner that advances the practice of mediation. A mediator promotes this standard by engaging in some or all of the following:

*a.* Fostering diversity within the field of mediation.

*b.* Striving to make mediation accessible to those who elect to use it, including providing services at a reduced rate or on a pro bono basis as appropriate.

*c.* Participating in research when given the opportunity, including obtaining participant feedback when appropriate.

*d.* Participating in outreach and education efforts to assist the public in developing an improved understanding of, and appreciation for, mediation.

*e.* Assisting newer mediators through training, mentoring, and networking.

**11.10(2)** A mediator should demonstrate respect for differing points of view within the field, seek to learn from other mediators, and work with other mediators to improve the profession and better serve people in conflict.
[Court Order November 10, 2011, effective January 1, 2012]

# CHAPTER 12

# RULES FOR INVOLUNTARY HOSPITALIZATION OF MENTALLY ILL PERSONS

# CHAPTER 12
# RULES FOR INVOLUNTARY HOSPITALIZATION OF MENTALLY ILL PERSONS

[Forms included at rule 12.36]
*See* Iowa Code section 229.40

**Rule 12.1 Application — forms obtained from clerk.** A form for application seeking the involuntary hospitalization or treatment of any person on grounds of serious mental impairment may be obtained from the clerk of court in a county in which the person whose hospitalization is sought resides or is presently located. Such application may be filled out and presented to the clerk by any person who has an interest in the treatment of another for serious mental impairment and who has sufficient contact with or knowledge about that person to provide the information required on the face of the application and by Iowa Code section 229.6. The clerk or clerk's designee shall provide the forms required by Iowa Code section 229.6 to the person who desires to file the application for involuntary commitment. The clerk shall see that all the necessary information required by Iowa Code section 229.6 accompanies the application.
[Supreme Court Report 1979; November 9, 2001, effective February 15, 2002]

**Rule 12.2 Termination of proceedings — insufficient grounds.** If the judge or referee determines that insufficient grounds to warrant a hearing on the respondent's serious mental impairment appear on the face of the application and supporting documentation, the judge or referee shall order the proceedings terminated, so notify the applicant, and all papers and records pertaining thereto shall be confidential and subject to the provisions of Iowa Code section 229.24.
[Supreme Court Report 1979; November 9, 2001, effective February 15, 2002]

**Rule 12.3 Notice to respondent — requirements.**

**12.3(1)** If the judge or referee determines that sufficient grounds to warrant a hearing on the respondent's serious mental impairment appear on the face of the application and supporting documentation, the sheriff or sheriff's deputy shall immediately serve notice, personally and not by substitution, on the respondent. Pursuant to Iowa Code section 229.9, notice shall also be served on respondent's attorney as soon as the attorney is identified or appointed by the judge or referee.

**12.3(2)** If the respondent is being taken into immediate custody pursuant to Iowa Code section 229.11, the notice shall include a copy of the order required by section 229.11 and rule 12.14.

**12.3(3)** The notice of procedures required under Iowa Code section 229.7 shall inform the respondent of the following:

*a.* The respondent's immediate right to counsel, at county expense if necessary.

*b.* The right to request an examination by a physician of the respondent's choosing, at county expense if necessary.

*c.* The right to be present at the hearing.

*d.* The right to a hearing within five days if the respondent is taken into immediate custody pursuant to Iowa Code section 229.11.

*e.* The right not to be forced to hearing sooner than forty-eight hours after notice, unless respondent waives such minimum prior notice requirement.

*f.* The respondent's duty to remain in the jurisdiction and the consequences of an attempt to leave.

*g.* The respondent's duty to submit to examination by a physician appointed by the court.
[Supreme Court Report 1979; amendment 1982; November 9, 2001, effective February 15, 2002]

**Rule 12.4 Notice requirement — waiver.** The respondent may waive the minimum prior notice requirement only in writing and only if the judge or referee determines that the respondent's best interests will not be harmed by such waiver.
[Supreme Court Report 1979; November 9, 2001, effective February 15, 2002]

**Rule 12.5 Hearings — continuance.** At the request of the respondent or the respondent's attorney, the hearing provided in Iowa Code section 229.12 may be continued beyond the statutory limit in order that the respondent's attorney has adequate time to prepare for the case, and in such instances custody pursuant to Iowa Code section 229.11 may be extended by court order until the hearing is

held. The continuance shall be no longer than five days beyond the statutory limit, unless respondent gives written consent to the longer continuance.
[Supreme Court Report 1979; amendment 1980; November 9, 2001, effective February 15, 2002]

**Rule 12.6 Attorney conference with respondent — location — transportation.** If the respondent is involuntarily confined prior to the hearing pursuant to a determination under Iowa Code section 229.11, the respondent's attorney may apply to the judge or referee for an opportunity to confer with the respondent, in a place other than the place of confinement, in advance of the hearing provided for in Iowa Code section 229.12. The order shall provide for transportation and the type of custody and responsibility therefor during the period the respondent is away from the place of confinement under this rule.
[Supreme Court Report 1979; amendment 1980; November 9, 2001, effective February 15, 2002]

**Rule 12.7 Service, other than personal.** If personal service as defined in rule 12.3 cannot be made, any respondent may be served as provided by court order, consistent with due process of law.
[Supreme Court Report 1979; November 9, 2001, effective February 15, 2002]

**Rule 12.8 Return of service.** Returns of service of notice shall be made as provided in Iowa R. Civ. P. 1.308.
[Supreme Court Report 1979; November 9, 2001, effective February 15, 2002]

**Rule 12.9 Amendment of proof of service.** Amendment of process or proof of service shall be allowed in the manner provided in Iowa R. Civ. P. 1.309.
[Supreme Court Report 1979; November 9, 2001, effective February 15, 2002]

**Rule 12.10 Attorney evidence and argument — predetermination.** If practicable the court should allow the respondent's attorney to present evidence and argument prior to the judge's determination under Iowa Code section 229.11.
[Supreme Court Report 1979; November 9, 2001, effective February 15, 2002]

**Rule 12.11 Attorney evidence and argument — after confinement.** If the respondent's attorney is afforded no opportunity to present evidence and argument prior to the determination under Iowa Code section 229.11, the attorney shall be entitled to do so after the determination during the course of respondent's confinement pursuant to an order issued under that section.
[Supreme Court Report 1979; November 9, 2001, effective February 15, 2002]

**Rule 12.12 Examination report to attorney.** The clerk shall furnish the respondent's attorney with a copy of the examination report filed pursuant to Iowa Code section 229.10(2), as soon as possible after receipt. In ruling on any request for an extension of time under Iowa Code section 229.10(4), the court shall consider the time available to the respondent's attorney after receipt of the examination report to prepare for the hearing and to prepare responses from physicians engaged by the respondent, where relevant. Respondent's attorney shall promptly file a copy of a report of any physician who has examined respondent and whose evidence the attorney expects to use at the hearing. The clerk shall provide the court and the county attorney with a copy thereof when filed.
[Supreme Court Report 1979; amendment 1980; November 9, 2001, effective February 15, 2002]

**Rule 12.13 Physician's report.** The court-designated physician shall submit a written report of the examination as required by Iowa Code section 229.10(2) on the form designated for use by the supreme court. The report shall contain the following information, or as much thereof as is available to the physician making the report:

(1) Respondent's name;
(2) Address;
(3) Date of birth;
(4) Place of birth;
(5) Sex;
(6) Occupation;
(7) Marital status;
(8) Number of children, and names;

(9) Nearest relative's name, relationship, and address; and

(10) The physician's diagnosis and recommendations with a detailed statement of the facts, symptoms and overt acts observed or described to the physician, which led to the diagnosis.

[Supreme Court Report 1979; amendment 1980; November 9, 2001, effective February 15, 2002]

**Rule 12.14 Probable cause.** The judge's or referee's immediate custody order under Iowa Code section 229.11 shall include a finding of probable cause to believe that the respondent is seriously mentally impaired and is likely to inflict self-injury or injure others if allowed to remain at liberty.

[Supreme Court Report 1979; November 9, 2001, effective February 15, 2002]

**Rule 12.15 Hearing — county location.** The hearing provided in Iowa Code section 229.12 shall be held in the county where the application was filed unless the judge or referee finds that the best interests of the respondent would be served by transferring the proceedings to a different location.

[Supreme Court Report 1979; November 9, 2001, effective February 15, 2002]

**Rule 12.16 Hearing — location at hospital or treatment facility.** The hearing required by Iowa Code section 229.12 may be held at a hospital or other treatment facility, provided a proper room is available and provided such a location would not be detrimental to the best interests of the respondent.

[Supreme Court Report 1979; November 9, 2001, effective February 15, 2002]

**Rule 12.17 Respondent's rights explained before hearing.** The respondent's rights as set out in rule 12.3(3) and the possible consequences of the procedures shall be explained to the respondent by the respondent's attorney to the extent possible. Prior to the commencement of the hearing under Iowa Code section 229.12, the judge or referee shall ascertain whether the respondent has been so informed.

[Supreme Court Report 1979; amendment 1980; November 9, 2001, effective February 15, 2002]

**Rule 12.18 Subpoenas.** Subpoena power shall be available to all parties participating in the proceedings, and subpoenas or other investigative demands may be enforced by the judge or referee.

[Supreme Court Report 1979; November 9, 2001, effective February 15, 2002]

**Rule 12.19 Presence at hearing — exceptions.**

**12.19(1)** The person(s) filing the application and any physician or mental health professionals who have examined respondent and have submitted a written examination of the respondent in connection with the hospitalization proceedings must be present at the hearing conducted under Iowa Code section 229.12 unless their presence is waived by the respondent's attorney, the judge or referee finds their presence is not necessary, or their testimony can be taken through telephonic means and the respondent's attorney does not object.

**12.19(2)** The respondent must be present at the hearing unless prior to the hearing the respondent's attorney stipulates in writing to respondent's absence, such stipulation to state that the attorney has conversed with the respondent, that in the attorney's judgment the respondent can make no meaningful contribution to the hearing, and the basis for such conclusions. A stipulation to the respondent's absence shall be reviewed by the judge or referee before the hearing, and may be rejected if it appears that insufficient grounds are stated or that the respondent's interests would not be served by respondent's absence.

[Supreme Court Report 1979; amendment 1980; October 11, 1991, effective January 2, 1992; November 9, 2001, effective February 15, 2002]

**Rule 12.20 Hearing — electronic recording.** An electronic recording or other verbatim record of the hearing provided in Iowa Code section 229.12 shall be made and retained for three years or until the respondent has been discharged from involuntary custody for 90 days, whichever is longer.

[Supreme Court Report 1979; November 9, 2001, effective February 15, 2002]

**Rule 12.21 Transfer from county of confinement.** If the respondent is in custody in another county prior to the hearing provided in Iowa Code section 229.12, respondent's attorney may request that the respondent be delivered to the county in which the hearing will be held prior thereto in order to facilitate preparation by respondent's attorney. Such requests should be denied only if they are unreasonable and if the denial would not harm respondent's interests in representation by counsel.

This rule is not intended to authorize permanent transfer of the respondent to another facility without conformance to appropriate statutory procedures.
[Supreme Court Report 1979; amendment 1980; November 9, 2001, effective February 15, 2002]

**Rule 12.22 Evaluation and treatment.** If the respondent is found by the court to be seriously mentally impaired following a hearing under Iowa Code section 229.12, evaluation and treatment shall proceed as set out in Iowa Code section 229.13.
[Supreme Court Report 1979; amendment 1980; November 9, 2001, effective February 15, 2002]

**Rule 12.23 Evaluation — time extension.** If, pursuant to Iowa Code section 229.13, the chief medical officer requests an extension of time for evaluation beyond 15 days, the chief medical officer shall file application in the form prescribed by this chapter with the clerk of court in the county in which the hearing was held. The application shall contain a statement by the chief medical officer or the officer's designee identifying with reasonable particularity the facts and reasons in support of the request for extension. The clerk shall immediately notify the respondent's attorney of the request and shall furnish a copy of the application to the attorney. The clerk shall also immediately furnish a copy of the application to the respondent's advocate, if one has been appointed.
[Supreme Court Report 1979; November 9, 2001, effective February 15, 2002]

**Rule 12.24 Evaluation report.** The findings of the chief medical officer pursuant to Iowa Code section 229.14 must state with reasonable particularity on the form prescribed by this chapter the facts and basis for the diagnostic conclusions concerning the respondent's serious mental impairment and recommended treatment, including but not limited to: The basis for the chief medical officer's conclusion as to respondent's mental illness, judgmental capacity concerning need for treatment, treatability, and dangerousness; and the basis for the chief medical officer's conclusions concerning recommended treatment including the basis for the judgment that the chief medical officer's treatment recommendation is the least restrictive alternative treatment pursuant to options (*a*), (*b*), (*c*), or (*d*) of Iowa Code section 229.14(1).
[Supreme Court Report 1979; November 9, 2001, effective February 15, 2002; October 1, 2008, effective December 15, 2008]

**Rule 12.25 Reports issued by clerk.** The clerk shall promptly furnish copies of all reports issued under Iowa Code section 229.15 to the patient's attorney or advocate or to both if they both are serving in their respective capacities at the same time, and such reports shall comply substantially with the requirements of rule 12.24.
[Supreme Court Report 1979; November 9, 2001, effective February 15, 2002]

**Rule 12.26 Clerk's filing system.** The clerk shall institute an orderly system for filing periodic reports required under Iowa Code section 229.15 and shall in timely fashion ascertain when a report is overdue. In the event a report is not filed, the clerk shall contact the chief medical officer of the treatment facility and obtain a report.
[Supreme Court Report 1979; November 9, 2001, effective February 15, 2002]

**Rule 12.27 Emergency detention — magistrate's approval.** If the magistrate does not immediately proceed to the facility where a person is detained pursuant to Iowa Code section 229.22, the magistrate shall verbally communicate approval or disapproval of the detention and such communication shall be duly noted by the chief medical officer of the facility on the form prescribed by this chapter.
[Supreme Court Report 1979; November 9, 2001, effective February 15, 2002]

**Rule 12.28 Emergency detention — medical officer absent from facility.** If the facility to which the respondent is delivered pursuant to Iowa Code section 229.22 lacks a chief medical officer, the person then in charge of the facility shall, if treatment appears necessary to protect the respondent, immediately notify a physician. The person in charge of the facility shall then immediately notify the magistrate.
[Supreme Court Report 1979; November 9, 2001, effective February 15, 2002]

**Rule 12.29 Attorney appointed.** As soon as practicable after the respondent's delivery to a facility under Iowa Code section 229.22, the magistrate shall identify or appoint an attorney for the respondent and shall immediately notify such attorney of respondent's emergency detention. If counsel can be identified at the time of respondent's arrival at a facility, or if legal services are available through a legal aid or public defender office, the magistrate must immediately notify such counsel and such counsel shall be afforded an opportunity to see the respondent and to make such preparation as is appropriate before or after the magistrate's order is issued.
[Supreme Court Report 1979; November 9, 2001, effective February 15, 2002]

**Rule 12.30 Chemotherapy procedure.** When chemotherapy has been instituted prior to a hearing under Iowa Code section 229.12, the chief medical officer of the facility where the respondent is hospitalized shall, prior to the hearing, submit to the clerk of the district court where the hearing is to be held, a report in writing listing all types of chemotherapy given for purposes of affecting the respondent's behavior or mental state during any period of custody authorized by Iowa Code section 229.4(3), 229.11 or 229.22. For each type of chemotherapy the report shall indicate either the chemotherapy was given with the consent of the patient or the patient's next of kin or guardian or the way the chemotherapy was "necessary to preserve the patient's life or to appropriately control behavior by the person which is likely to result in physical injury to that person or others if allowed to continue." The report shall also include the effect of the chemotherapy on the respondent's behavior or mental state. The clerk shall file the original report in the court file, advise the judge or referee and the respondent's attorney accordingly and provide a copy of the report to respondent's attorney if so requested.
[Supreme Court Report 1979; amendment 1980; November 9, 2001, effective February 15, 2002]

**Rule 12.31 Outpatient treatment plan.** If, pursuant to Iowa Code section 229.14(3), the chief medical officer determines that the patient is suited for outpatient care, the chief medical officer (or a designee) shall determine the specific care and treatment guidelines upon which the outpatient status will be based and shall discuss these guidelines with the patient. These written guidelines shall be known as the Outpatient Treatment Plan (O.T.P.). If the chief medical officer (or a designee) alleges that the O.T.P. has been breached, the judge or a judicial hospitalization referee shall hold a hearing as provided by Iowa Code sections 229.14(3) and 229.12 to determine whether the patient should be rehospitalized, whether the O.T.P. should be revised, or whether some other remedy should be ordered. The patient shall be given reasonable notice of such a hearing.
[Supreme Court Report 1982; amendment 1983; November 9, 2001, effective February 15, 2002]

**Rules 12.32** to **12.35** Reserved.

## Rule 12.36 Forms for involuntary hospitalization of mentally ill persons.

**Rule 12.36—Form 1:** ***Application Alleging Serious Mental Impairment***

**In the Iowa District Court for _____ County**
*County where Application is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be Seriously Mentally Impaired** | No._____<br><br>**Application Alleging Serious Mental Impairment**<br><br>Iowa Code § 229.6 |

**1.** I, _____, allege Respondent is suffering from
*Full name: first, middle, last*
serious mental impairment.

**2.** In support of this Application, I state:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**3.** Based on the above facts, I believe Respondent is a danger to self or others and lacks judgmental capacity due to serious mental impairment. ☐ Yes ☐ No

**4.** I request that:
*Check one*

A. ☐ Respondent be taken into immediate custody.

B. ☐ Respondent not be taken into immediate custody.

**5.** In support of this Application, I have attached:
*Check all that apply*

A. ☐ A written statement of a licensed physician or mental health professional.

B. ☐ One or more Affidavits corroborating these allegations. *See Rule 12.36—Form 2.*

C. ☐ Corroborative information obtained and reduced to writing by the clerk or the clerk's designee. ***NOTE:*** *This option is only available when circumstances make it infeasible to obtain, or when the clerk considers it appropriate to supplement, the information under either subparagraph* ***5****(A) or* ***5****(B).*

***Continued on next page***

Rule 12.36—Form 1: *Application Alleging Serious Mental Impairment*, continued

**6. Attorney Help**

*Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper *If you check* B, *you must fill in the following information*:

_____ _____
*Name of attorney or organization, if any* *Attorney's PIN – Ask the attorney*

_____ _____ _____ _____
*Business address of attorney or organization* *City* *State* *ZIP code*

(____) _____ _____
*Attorney's phone number* *Attorney's email address – optional*

**7. Oath and signature of applicant**

I, _____, have read this Application, and I certify under
*Print your full name: first, middle, last*

penalty of perjury and pursuant to the laws of the State of Iowa that the information provided in this Application is true and correct.

_____ _____, 20____ _____
*Month* *Day* *Year* *Applicant's signature**

_____ _____, _____ _____
*Mailing address* *City* *State* *ZIP code*

(____) _____ _____ _____
*Phone number* *Email address* *Additional email address, if applicable*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 12.36—Form 2:** ***Affidavit in Support of Application Alleging Serious Mental Impairment***

**In the Iowa District Court for _____ County**
*County where Affidavit is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be Seriously Mentally Impaired** | No._____<br><br>**Affidavit in Support of Application Alleging Serious Mental Impairment**<br><br>Iowa Code § 229.6 |

I, _____, state that I am acquainted with Respondent who resides at
*Full name: first, middle, last*

_____ _____, _____, _____ _____,
*Street address* *City* *County* *State* *ZIP code*

and I believe Respondent is seriously mentally impaired. In support of this belief, I state:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**Oath and signature**

I, _____, have read this Affidavit, and I certify under
*Print your full name: first, middle, last*

penalty of perjury and pursuant to the laws of the State of Iowa that the information in this Affidavit is true and correct.

_____ _____, 20___ _____
*Month* *Day* *Year* *Affiant's signature**

_____ _____, _____ _____
*Mailing address* *City* *State* *ZIP code*

(_____) _____ _____ _____
*Phone number* *Email address* *Additional email address, if applicable*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 12.36—Form 3:** ***Application for Appointment of Counsel and Financial Statement***

**In the Iowa District Court for _____ County**
*County where Application is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be Seriously Mentally Impaired** | No._____<br><br>**Application for Appointment of Counsel and Financial Statement** |

**1.** I, _____, state that I am:
*Print your full name: first, middle, last*

*Check one*

☐ Respondent

☐ Respondent's spouse

☐ Next friend of Respondent

☐ Guardian of Respondent

I request the court appoint counsel to represent Respondent at public expense because Respondent is financially unable to employ counsel.

**2. Respondent's information**

A. _____
*Respondent's full name: first, middle, last*

_____ _____, ____ _____
*Street address* *City* *State* *ZIP code*

_____ _____
*Marital status* *Number of dependents*

B. Respondent's age: _____.

C. Is Respondent currently in custody? ☐ Yes ☐ No

D. Respondent's employment status:

☐ Full-time

☐ Part-time (approximate hours per week:_____)

☐ Unemployed

***Continued on next page***

## 3. Respondent's income

A. Income Respondent currently receives before taxes and deductions:

**How often received?*
*W = Weekly B = Bi-weekly (every other week) M = Monthly Y = Yearly*

| **Average current income for Respondent** | **Income** | |
|---|---|---|
| | **How often received?*** *W, B, M, Y* | **Amount** |
| (1) Wages from employer<br>*Employer name:*<br>*Job title:* | | $ |
| (2) Wages from employer<br>*Employer name:*<br>*Job title:* | | $ |
| (3) Unemployment assistance | | $ |
| (4) Family Investment Program | | $ |
| (5) Social Security | | $ |
| (6) Other<br>*Identify:* | | $ |
| (7) Other<br>*Identify:* | | $ |
| (8) Other<br>*Identify:* | | $ |
| (9) Totals from attached pages, if any<br>☐ *Check this box if you attached additional pages regarding income sources.* | | $ |
| **Total**<br>*Total income received by Respondent* | | **$** |

B. Total income from the past 12 months from any source, before taxes and deductions:
$_____

C. Is Respondent's spouse working? ☐ Yes ☐ No
If yes, spouse's wages before taxes and deductions: $_____
per: ☐ hour ☐ month ☐ year

***Continued on next page***

## 4. Respondent's assets

A. Real estate

| **Type of real estate** | **Jointly owned?** | **Market value** *What it would sell for* | **Debt** *Total amount owed on debt* **and to whom owed** | **Net value** *Market value minus debt owed* |
|---|---|---|---|---|
| (1) Homestead *Address* | ☐ | $ | $ to: | $ |
| (2) Other real estate *Address* | ☐ | $ | $ to: | $ |

☐ *Check this box if you have attached additional pages.*

B. Vehicles (includes cars, trucks, motorcycles, boats, and other motorized vehicles)

| **Vehicle** *Make (e.g., Ford), model, year* | **Jointly owned?** | **Market value** *What it would sell for* | **Debt** *Total amount owed on debt* **and to whom owed** | **Net Value** *Market value minus debt owed* |
|---|---|---|---|---|
| (1) | ☐ | $ | $ to: | $ |
| (2) | ☐ | $ | $ to: | $ |
| (3) | ☐ | $ | $ to: | $ |

☐ *Check this box if you have attached additional pages.*

C. Other assets, if any:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

## 5. Respondent's debts

| Debts and liabilities of Respondent | Debts and liabilities<br>Amount |
|---|---|
| (1) Mortgage | $ |
| (2) Car loan | $ |
| (3) Credit card debt | $ |
| (4) Other<br>*Identify:* | $ |
| (5) Other<br>*Identify:* | $ |
| (6) Other<br>*Identify:* | $ |
| (7) Totals from attached pages, if any<br>☐ *Check this box if you attached additional pages regarding debts and liabilities.* | $ |
| **Total** | **$** |

## 6. Respondent's expenditures

| Type of expense | Amount<br>*Check one*<br>☐ monthly ☐ annual |
|---|---|
| (1) House payment or rent | $ |
| (2) Food | $ |
| (3) Insurance *(health, dental, auto, etc.)* | $ |
| (4) Utilities *(gas, electric, water, internet, etc.)* | $ |
| (5) Phone | $ |
| (6) Child support payments | $ |
| (7) Car payment | $ |

***Continued on next page***

| | |
|---|---|
| (8) Credit card payments | $ |
| (9) Other expense<br>*Identify:* | $ |
| (10) Other expense<br>*Identify:* | $ |
| (11) Other expense<br>*Identify:* | $ |
| (11) Totals from attached pages, if any<br>☐ *Check this box if you attached additional pages regarding expenses.* | $ |
| **Total**<br>*Total expenditures* | **$** |

## 7. Oath and signature

I, _____, have read this Application, and I certify under
*Print your full name: first, middle, last*

penalty of perjury and pursuant to the laws of the State of Iowa that the information provided in this Application is true and correct.

_____ _____, 20___ _____
*Month* *Day* *Year* *Applicant's signature**

_____ _____, _____ _____
*Mailing address* *City* *State* *ZIP code*

(____) _____ _____ _____
*Phone number* *Email address* *Additional email address, if applicable*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 12.36—Form 4:** ***Physician or Mental Health Professional's Report of Examination***

**In the Iowa District Court for _____ County**
*County where Report is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be Seriously Mentally Impaired** | No._____<br><br>**Physician or Mental Health Professional's Report of Examination**<br><br>Iowa Code § 229.10<br>Iowa Ct. R. 12.13 |

**1.** Date and time of examination: _____ ____, 20___ at ____:____ ☐a.m. ☐p.m.
*Month Day Year Time*

**2.** Respondent's information:

A. Name: _____
*Full name: first, middle, last*

B. Address: _____ _____, _____ _____
*Street address City State ZIP code*

C. Date of birth: _____ _____, _____
*Month Day Year*

D. Place of birth: _____

E. Sex: _____

F. Occupation: _____

G. Marital status: _____

H. Number of children: _____. Name(s): _____

_____

I. Nearest relative: _____ _____
*Name: first, last Relationship*

_____ _____, ____ _____
*Street address City State ZIP code*

**3.** Is this an examination under Iowa Code section 229.11? ☐Yes ☐No

**4.** Did a qualified mental health professional assist with this exam? ☐Yes ☐No

If yes, provide that person's name: _____
*Mental health professional's name*

_____ _____ _____, _____ _____
*Business name Address City State ZIP code*

*Attach the mental health professional's report, if written*

***Continued on next page***

**5.** In your judgment, is Respondent mentally ill? ☐ Yes ☐ No
*If yes, state diagnosis including supporting facts, symptoms, and overt acts*

☐ *Check this box if you have attached additional pages.*

**6.** In your judgment, is Respondent treatable and would likely benefit from treatment? ☐ Yes ☐ No
*If yes, state recommendations and basis for recommendations*

☐ *Check this box if you have attached additional pages.*

**7.** In your judgment, is Respondent capable of making responsible decisions with respect to hospitalization or treatment? ☐ Yes ☐ No
*If no, state basis for answer*

☐ *Check this box if you have attached additional pages.*

**8.** In your judgment, is Respondent likely to physically injure self or others if allowed to remain at liberty without treatment? ☐ Yes ☐ No
*If yes, state what recent overt acts by Respondent lead you to this conclusion, including approximate date(s) and other relevant facts*

☐ *Check this box if you have attached additional pages.*

**9.** In your judgment, is Respondent likely to inflict serious emotional injury on those unable to avoid contact with Respondent if allowed to remain at liberty without treatment? ☐ Yes ☐ No
*If yes, state what recent overt acts by Respondent lead you to this conclusion, including approximate date(s) and other relevant facts*

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

**10.** In your judgment, is Respondent unable to satisfy needs for nourishment, clothing, essential medical care, or shelter so that it is likely Respondent will suffer physical injury, debilitation, or death? ☐ Yes ☐ No
*If yes, state basis for answer*

☐ *Check this box if you have attached additional pages.*

**11.** Does Respondent have a prior history of noncompliance with treatment that has been a significant factor in the need for emergency hospitalization or has resulted in acts causing serious physical injury to Respondent's self or others or an attempt to cause physical injury to Respondent's self or others? ☐ Yes ☐ No
*If yes, state basis for answer*

☐ *Check this box if you have attached additional pages.*

**12.** Can Respondent be evaluated on an outpatient basis? ☐ Yes ☐ No
*State basis for answer*

☐ *Check this box if you have attached additional pages.*

**13.** Can Respondent, without danger to self or others, be released to the custody of a relative or friend during the course of evaluation? ☐ Yes ☐ No
*State basis for answer*

☐ *Check this box if you have attached additional pages.*

**14.** Is full-time hospitalization necessary for evaluation? ☐ Yes ☐ No

**15.** Does Respondent have a prior history of other physical or mental illness? ☐ Yes ☐ No
*If yes, specify*

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

Rule 12.36—Form 4: *Physician or Mental Health Professional's Report of Examination*, continued

**16.** Was Respondent medicated at the time of examination? ☐ Yes ☐ No

*If yes, provide name(s) of the medication, dosage, approximate date and time administered, and probable effects on Respondent*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**17. Physician or mental health professional's signature**

_____ _____
*Printed name* *Signature**

_____ _____
*Title* *Name of facility*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

_____ _____, 20_____
*Month* *Day* *Year*

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[Court Order August 17, 2022, effective November 1, 2022]

**Rule 12.36—Form 5:** ***Stipulation Regarding Respondent's Presence***

**In the Iowa District Court for _____ County**
*County where Stipulation is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be Seriously Mentally Impaired** | No._____<br><br>**Stipulation Regarding Respondent's Presence**<br><br>Iowa Code § 229.12<br>Iowa Ct. R. 12.19(2) |

**1.** I, _____, am an attorney representing Respondent in this matter
*Full name: first, middle, last*

and stipulate that Respondent need not be present at the hearing to determine whether Respondent has a serious mental impairment.

**2.** On, _____ ____, 20___, I conversed with Respondent about the
*Month* *Day* *Year*

hearing and Respondent's absence from the hearing.

**3.** In my judgment,

A. ☐ Respondent can make no meaningful contribution to the hearing.

B. ☐ Respondent has waived the right to be present at the hearing.

I base this judgment on the following grounds:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**4. Attorney's signature**

_____ /s/_____
*Printed name* *Signature*

_____
*Law firm, if applicable*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(____) _____ _____
*Phone number* *Attorney PIN number*

_____ _____
*Email address* *Additional email address, if applicable*

_____ _____, 20____
*Month* *Day* *Year*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 12.36—Form 6:** ***Notice of Medication***

**In the Iowa District Court for _____ County**
*County where Notice is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be Seriously Mentally Impaired** | No._____<br><br>**Notice of Medication**<br><br>Iowa Code § 229.12(1) |

**1.** I, _____, physician, inform the court that Respondent was
*Physician's name*

medicated with the following: *Include the name(s) of the medication (including chemotherapy), dosage, and approximate date and time administered.*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**2.** This medication may cause the following effects on Respondent:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**3. Physician's signature**

_____ _____
*Printed name* *Signature**

_____
*Name of hospital or facility*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

_____ _____, 20_____
*Month* *Day* *Year*

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[Court Order August 17, 2022, effective November 1, 2022]

**Rule 12.36—Form 7:** ***Application for Extension of Time for Psychiatric Evaluation***

**In the Iowa District Court for _____ County**
*County where Application is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be Seriously Mentally Impaired** | No._____<br><br>**Application for Extension of Time for Psychiatric Evaluation**<br><br>Iowa Code § 229.13 |

**1.** I,_____, chief medical officer of _____,
*Name of chief medical officer* *Hospital or facility*
request an extension of time not to exceed seven days in order to complete the psychiatric evaluation of Respondent.

**2.** I request this extension because:

_____
_____
_____
_____
_____
_____

☐ *Check this box if you have attached additional pages.*

**3.** It is my opinion that this extension is in Respondent's best interests.

**4. Chief medical officer's signature**

_____ _____
*Printed name* *Signature**

_____
*Name of hospital or facility*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

_____ _____, 20_____
*Month* *Day* *Year*

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[Court Order August 17, 2022, effective November 1, 2022]

**Rule 12.36—Form 8:** ***Chief Medical Officer's Report of Psychiatric Evaluation***

**In the Iowa District Court for** _____ **County**
*County where Report is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be Seriously Mentally Impaired** | No._____<br><br>**Chief Medical Officer's Report of Psychiatric Evaluation**<br><br>Iowa Code § 229.14 |

**1.** I,_____, chief medical officer of _____,
*Name of chief medical officer* *Hospital or facility*
and for the Report of Psychiatric Evaluation of Respondent, state the following.

**2.** Date and time of evaluation: _____ ____, 20___ at ____:____ ☐ a.m. ☐ p.m.
*Month* *Day* *Year* *Time*

**3.** State treatment Respondent received during the present evaluation period:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**4.** Was Respondent medicated at the time of evaluation? ☐ Yes ☐ No
*If yes, provide name(s) of the medication, dosage, approximate date and time administered, and probable effects on Respondent*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**5.** Have there been previous psychiatric illnesses? ☐ Yes ☐ No
*If yes, complete the following:*

A. Approximate date(s) of illness:_____

B. Was hospitalization or treatment necessary? ☐ Yes ☐ No
*If yes, provide place, date, length of stay, and condition on discharge*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

**6.** Does Respondent have any other disease or injury at present? ☐ Yes ☐ No
*If yes, specify*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**7.** Respondent's past medical history:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**8.** Is Respondent suffering from any transmissible disease within the past three weeks or has Respondent been exposed to such a disease within the past three weeks?
*If yes, specify* ☐ Yes ☐ No

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**9.** Is there a family history of mental illness, mental deficiency, or convulsive disorder? ☐ Yes ☐ No
*If yes, give name(s), relationship, and type of disorder*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**10.** In your opinion, is Respondent mentally ill? ☐ Yes ☐ No
*If yes, state diagnosis including supporting facts, symptoms, and overt acts*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

Rule 12.36—Form 8: *Chief Medical Officer's Report of Psychiatric Evaluation*, continued

**11.** In your opinion, is Respondent treatable and would likely benefit from treatment? ☐ Yes ☐ No

*If yes, state recommendations and basis for recommendations*

☐ *Check this box if you have attached additional pages.*

**12.** In your opinion, is Respondent capable of making responsible decisions with respect to hospitalization or treatment? ☐ Yes ☐ No

*If no, state basis for answer*

☐ *Check this box if you have attached additional pages.*

**13.** In your opinion, is Respondent likely to physically injure self or others if allowed to remain at liberty without treatment? ☐ Yes ☐ No

*If yes, state what recent overt acts by Respondent lead you to this conclusion, including approximate date(s) and other relevant facts*

☐ *Check this box if you have attached additional pages.*

**14.** In your opinion, is Respondent likely to inflict serious emotional injury on those unable to avoid contact with Respondent if Respondent is allowed to remain at liberty without treatment? ☐ Yes ☐ No

*If yes, state what recent overt acts by Respondent lead you to this conclusion, including approximate date(s) and other relevant facts*

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

**15.** In your opinion, is Respondent unable to satisfy needs for nourishment, clothing, essential medical care, or shelter so that it is likely Respondent will suffer physical injury, debilitation, or death? ☐ Yes ☐ No

*If yes, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**16.** Does Respondent have a prior history of noncompliance with treatment and the noncompliance has either (1) been a significant factor in the need for emergency hospitalization or (2) has resulted in acts causing serious physical injury to Respondent's self or others or an attempt to cause physical injury to Respondent's self or others? ☐ Yes ☐ No

*If yes, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**17. Proposed treatment and placement**

In your opinion,

*Check one*

A. ☐ Respondent does not, as of the date of this Report, require further treatment for serious mental impairment. Iowa Code § 229.14(1)(*a*).

B. ☐ Respondent is seriously mentally impaired and is in need of full-time custody, care, and inpatient treatment in a hospital, and is likely to benefit from treatment. Iowa Code § 229.14(1)(*b*).

Recommended further treatment:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

C. ☐ Respondent is seriously mentally impaired and in need of treatment, but does not require full-time hospitalization. Iowa Code § 229.14(1)(*c*).

Recommended treatment on an outpatient or other appropriate basis:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

D. ☐ Respondent is seriously mentally impaired and in need of full-time custody and care, but is unlikely to benefit from further inpatient treatment in a hospital. Iowa Code § 229.14(1)(*d*).

Recommended alternative placement:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**18.** State facts and reasons supporting your recommended treatment and that the treatment is the least restrictive and effective for Respondent:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**19. Chief medical officer's signature**

_____ _____
*Printed name* *Signature**

_____
*Name of hospital or facility*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

_____ _____, 20_____
*Month* *Day* *Year*

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[Court Order August 17, 2022, effective November 1, 2022]

**Rule 12.36—Form 9:** ***Chief Medical Officer's Periodic Report (Respondent Inpatient)***

**In the Iowa District Court for _____ County**
*County where Report is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be Seriously Mentally Impaired** | No._____<br><br>**Chief Medical Officer's Periodic Report (Respondent Inpatient)**<br><br>Iowa Code § 229.15(1) |

**1.** I,_____, chief medical officer of _____,
*Name of chief medical officer* *Hospital or facility*
and for the Periodic Report of Respondent, state the following.

**2.** An order for continued hospitalization of Respondent at this facility was entered _____ ____, 20____.
*Month* *Day* *Year*

**3.** In your opinion, Respondent's condition:

A. ☐ Has improved.

B. ☐ Remains unchanged.

C. ☐ Has deteriorated.

*Explanation*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**4.** In your opinion, is Respondent mentally ill? ☐ Yes ☐ No
*If yes, state diagnosis including supporting facts and symptoms*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**5.** In your opinion, is Respondent capable of making responsible decisions with respect to hospitalization or treatment? ☐ Yes ☐ No
*If no, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

**6.** In your opinion, is Respondent likely to physically injure self or others if allowed to remain at liberty without treatment? ☐ Yes ☐ No
*If yes, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**7.** In your opinion, is Respondent likely to inflict serious emotional injury on those unable to avoid contact with Respondent if Respondent is allowed to remain at liberty without treatment? ☐ Yes ☐ No
*If yes, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**8.** In your opinion, is Respondent unable to satisfy needs for nourishment, clothing, essential medical care, or shelter so that it is likely Respondent will suffer physical injury, debilitation, or death? ☐ Yes ☐ No
*If yes, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**9.** Does Respondent have a prior history of noncompliance with treatment and the noncompliance has either (1) been a significant factor in the need for emergency hospitalization or (2) has resulted in acts causing serious physical injury to Respondent's self or others or an attempt to cause physical injury to Respondent's self or others? ☐ Yes ☐ No
*If yes, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

Rule 12.36—Form 9: *Chief Medical Officer's Periodic Report (Respondent Inpatient)*, continued

**10. Respondent's placement** *Check one*

A. ☐ Respondent was tentatively discharged on _____ ____, 20____,
*Month* *Day* *Year*

pursuant to Iowa Code section 229.16, because, in your opinion, Respondent no longer requires further treatment or care for serious mental impairment.
*Explanation*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

STOP *If you checked **10**(A), stop and sign below.*

B. ☐ Respondent continues to be hospitalized in this hospital.

C. ☐ Respondent was transferred to _____
*Location*

on _____ _____, 20_____, pursuant to Iowa Code section
*Month* *Day* *Year*

229.15(5), because in your opinion it was in the best interests of Respondent.

D. ☐ Respondent was placed on leave on _____ ____, 20____,
*Month* *Day* *Year*

pursuant to Iowa Code section 229.15(5), because in your opinion it was in the best interests of Respondent.

Respondent was instructed to return on _____ ____, 20____,
*Month* *Day* *Year*

**11. Proposed treatment and placement**

In your opinion,
*Check one*

A. ☐ Respondent does not, as of the date of this Report, require further treatment for serious mental impairment. Iowa Code § 229.14(1)(*a*).
*Explanation*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

STOP *If you checked **11**(A), stop and sign below.*

B. ☐ Respondent is seriously mentally impaired and in need of full-time custody, care, and inpatient treatment in a hospital, and is considered likely to benefit from treatment. Iowa Code § 229.14(1)(*b*).

***Continued on next page***

(1) Estimated further length of time that Respondent will require treatment in a hospital:
*Check one*

a. ☐ Is _____.

b. ☐ Cannot be determined at this time.

(2) Recommendation:
*Check one*

a. ☐ Respondent remain in this hospital.

b. ☐ Respondent be transferred to _____.

c. ☐ Respondent be placed or remain on leave until _____ ____, 20____.
*Month* *Day* *Year*

(3) Recommended further treatment:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

C. ☐ Respondent is seriously mentally impaired and in need of treatment but does not require full-time hospitalization. Iowa Code § 229.14(1)(*c*).

Recommended treatment on an outpatient or other appropriate basis:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

D. ☐ Respondent is seriously mentally impaired and in need of full-time custody and care, but is unlikely to benefit from further inpatient treatment in a hospital. Iowa Code § 229.14(1)(*d*).

Recommended alternative placement:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**12.** State facts and reasons supporting your recommended treatment and that the treatment is the least restrictive and effective for Respondent:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

Rule 12.36—Form 9: *Chief Medical Officer's Periodic Report (Respondent Inpatient)*, continued

## 13. Chief medical officer's signature

_____ _____
*Printed name* *Signature**

_____
*Name of hospital or facility*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

_____ _____, 20_____
*Month* *Day* *Year*

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[Court Order August 17, 2022, effective November 1, 2022]

**Rule 12.36—Form 10:** ***Periodic Report (Respondent Outpatient)***

**In the Iowa District Court for _____ County**
*County where Report is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be Seriously Mentally Impaired** | No._____<br><br>**Periodic Report (Respondent Outpatient)**<br><br>Iowa Code § 229.15(2) |

**1.** I,_____, of _____,
*Full name* *Hospital or facility*
and for the Periodic Report of Respondent, state the following.

**2.** An order for treatment of Respondent on an outpatient or other appropriate basis at this facility was entered _____ ____, 20____.
*Month* *Day* *Year*

**3.** In your opinion, Respondent's condition:

A. ☐ Has improved.

B. ☐ Remains unchanged.

C. ☐ Has deteriorated.

*Explanation*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**4.** In your opinion, is Respondent mentally ill? ☐ Yes ☐ No
*If yes, state diagnosis including supporting facts and symptoms*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**5.** In your opinion, is Respondent capable of making responsible decisions with respect to hospitalization or treatment? ☐ Yes ☐ No
*If no, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

**6.** In your opinion, is Respondent likely to physically injure self or others if allowed to remain at liberty without treatment? ☐ Yes ☐ No

*If yes, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**7.** In your opinion, is Respondent likely to inflict serious emotional injury on those unable to avoid contact with Respondent if allowed to remain at liberty without treatment? ☐ Yes ☐ No

*If yes, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**8.** In your opinion, is Respondent unable to satisfy needs for nourishment, clothing, essential medical care, or shelter so that it is likely Respondent will suffer physical injury, debilitation, or death? ☐ Yes ☐ No

*If yes, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**9.** Does Respondent have a prior history of noncompliance with treatment and the noncompliance has either (1) been a significant factor in the need for emergency hospitalization or (2) has resulted in acts causing serious physical injury to Respondent's self or others or an attempt to cause physical injury to Respondent's self or others? ☐ Yes ☐ No

*If yes, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

Rule 12.36—Form 10: *Periodic Report (Respondent Outpatient)*, continued

**10. Respondent's treatment** *Check one*

A. ☐ Respondent was tentatively discharged on _____ ____, 20____.
*Month* *Day* *Year*

*Explanation:*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

STOP *If you checked **10**(A), stop and sign below*

B. ☐ Respondent is in treatment in accordance with the court's order.

C. ☐ Respondent is failing or refusing to submit to treatment as the court ordered and, in your opinion, has not shown good cause.

**11. Proposed treatment and placement**

In your opinion,
*Check one*

A. ☐ Respondent does not, as of the date of this Report, require further treatment for serious mental impairment. Iowa Code § 229.14(1)(*a*).
*Explanation*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

STOP *If you checked **11**(A), stop and sign below.*

B. ☐ Respondent is seriously mentally impaired and in need of full-time custody, care, and inpatient treatment in a hospital and is considered likely to benefit from treatment. Iowa Code § 229.14(1)(*b*).

Recommended inpatient treatment:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

C. ☐ Respondent is seriously mentally impaired and in need of treatment but does not require full-time hospitalization and can continue on an outpatient or other appropriate basis. Iowa Code § 229.14(1)(*c*).

(1) Estimated further length of time that Respondent will require outpatient or other appropriate treatment at this facility:
*Check one*

a. ☐ Is _____.

b. ☐ Cannot be determined at this time.

(2) Recommended further treatment on an outpatient or other appropriate basis:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

D. ☐ Respondent is seriously mentally impaired and in need of full-time custody and care but is unlikely to benefit from inpatient treatment in a hospital. Iowa Code § 229.14(1)(*d*).

Recommended alternative placement:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**12.** State facts and reasons supporting your recommended treatment and that the treatment is the least restrictive and effective for Respondent:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

Rule 12.36—Form 10: *Periodic Report (Respondent Outpatient)*, continued

## 13. Signature

_____ _____
*Signature** *Printed name*

_____ _____
*Title*** *Name of facility*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

_____ _____, 20_____
*Month* *Day* *Year*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*

***The **medical director** of the facility or the **psychiatrist** or **psychiatric advanced registered nurse practitioner** treating Respondent may complete this Periodic Report. Iowa Code § 229.15(3)(a).*

*An **advanced registered nurse practitioner** who is not certified as a psychiatric advanced registered nurse practitioner but who meets the qualifications set forth in the definition of a mental health professional in Iowa Code section 228.1 may complete this Periodic Report. Iowa Code § 229.15(3)(b).*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 12.36—Form 11:** ***Periodic Report (Alternative Facility Placement)***

**In the Iowa District Court for _____ County**
*County where Report is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be Seriously Mentally Impaired** | No._____<br><br>**Periodic Report (Alternative Facility Placement)**<br><br>Iowa Code § 229.15(4) |

**1.** I,_____, chief medical officer of _____,
*Name of chief medical officer* *Hospital or facility*
and for the Periodic Report of Respondent, state the following.

**2.** An order for continued placement of Respondent at this facility was entered
_____ _____, 20_____.
*Month* *Day* *Year*

**3.** In your opinion, Respondent's condition:

A. ☐ Has improved.

B. ☐ Remains unchanged.

C. ☐ Has deteriorated.

*Explanation*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**4.** In your opinion, is Respondent mentally ill? ☐ Yes ☐ No
*If yes, state diagnosis including supporting facts and symptoms*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**5.** In your opinion, is Respondent capable of making responsible decisions with respect to hospitalization or treatment? ☐ Yes ☐ No
*If no, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

**6.** In your opinion, is Respondent likely to physically injure self or others if allowed to remain at liberty without treatment? ☐ Yes ☐ No

*If yes, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**7.** In your opinion, is Respondent likely to inflict serious emotional injury on those unable to avoid contact with Respondent if allowed to remain at liberty without treatment? ☐ Yes ☐ No

*If yes, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**8.** In your opinion, is Respondent unable to satisfy needs for nourishment, clothing, essential medical care, or shelter so that it is likely Respondent will suffer physical injury, debilitation, or death? ☐ Yes ☐ No

*If yes, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**9.** Does Respondent have a prior history of noncompliance with treatment and the noncompliance has either (1) been a significant factor in the need for emergency hospitalization or (2) has resulted in acts causing serious physical injury to Respondent's self or others or an attempt to cause physical injury to Respondent's self or others? ☐ Yes ☐ No

*If yes, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

Rule 12.36—Form 11: *Periodic Report (Alternative Facility Placement)*, continued

**10. Respondent's placement** *Check one*

A. ☐ Respondent was tentatively discharged on _____ ____, 20____.
*Month* *Day* *Year*

*Explanation*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

STOP *If you checked **10**(A), stop and sign below.*

B. ☐ Respondent continues to be placed at this facility.

**11. Proposed treatment and placement**

In my opinion,
*Check one*

A. ☐ Respondent does not, as of the date of this Report, require further treatment for serious mental impairment. Iowa Code § 229.14(1)(*a*).
*Explanation*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

STOP *If you checked **11**(A), stop and sign below.*

B. ☐ Respondent is seriously mentally impaired and in need of full-time custody, care, and inpatient treatment in a hospital, and is considered likely to benefit from treatment. Iowa Code § 229.14(1)(*b*).

Recommended inpatient treatment:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

C. ☐ Respondent is seriously mentally impaired and in need of treatment but does not require full-time hospitalization. Iowa Code § 229.14(1)(*c*).

Recommended treatment on an outpatient or other appropriate basis:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

Rule 12.36—Form 11: *Periodic Report (Alternative Facility Placement)*, continued

D. ☐ Respondent is seriously mentally impaired and in need of full-time custody and care, but is unlikely to benefit from further inpatient treatment in a hospital. Iowa Code § 229.14(1)(*d*).

(1) Estimated further length of time Respondent will require treatment in this facility:
*Check one*

a. ☐ Is _____.

b. ☐ Cannot be determined at this time.

(2) Recommendation:
*Check one*

a. ☐ Respondent remain in this facility.

b. ☐ Respondent be transferred to _____.

(3) Recommended further treatment:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**12.** State facts and reasons supporting your recommended treatment and that the treatment is the least restrictive and effective for Respondent:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**13. Signature**

_____ _____
*Signature** *Printed name*

_____ _____
*Title* *Name of facility*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

_____ _____, 20_____
*Month* *Day* *Year*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 12.36—Form 12:** ***Notice of Appeal from Findings of Magistrate or Judicial Hospitalization Referee***

**In the Iowa District Court for** _____ **County**
*County where Notice is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be Seriously Mentally Impaired** | No._____<br><br>**Notice of Appeal from Findings of Magistrate or Judicial Hospitalization Referee**<br><br>Iowa Code § 229.21(3) |

**1.** To: The clerk of the district court for _____ County.
*County where Notice is filed*

**2.** Respondent appeals to the district court the findings of the magistrate or judicial hospitalization referee that Respondent is seriously mentally impaired, made on

_____ ____, 20____.
*Month* *Day* *Year*

**3.** Respondent requests a review of this matter by a judge of the district court in accordance with Iowa Code section 229.21(3).

**4. Signature**

_____ _____
*Printed name* *Signature**

Date: _____ ____, 20____.
*Month* *Day* *Year*

Signed by:
*Check one*

☐ Respondent
☐ Attorney
☐ Next friend of Respondent
☐ Guardian of Respondent

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 12.36—Form 13:** ***Attorney's Motion to Withdraw***

**In the Iowa District Court for _____ County**
*County where Motion is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be Seriously Mentally Impaired** | No._____<br><br>**Attorney's Motion to Withdraw**<br><br>Iowa Code § 229.19(1)(*c*) |

1. The court appointed the undersigned attorney to represent Respondent in this matter.
2. After hearing on the matter, the court found Respondent was seriously mentally impaired.
3. In my opinion there is no further need of legal services at this time.
4. Pursuant to Iowa Code section 229.19(1)(*c*), I request that the court appoint a Mental Health Advocate for Respondent, if one has not been appointed already, and that I be relieved from further representation of Respondent in this matter and be allowed to withdraw.
5. **Attorney's signature**

_____ /s/_____
*Printed name* *Signature*

_____
*Law firm, if applicable*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(____) _____ _____
*Phone number* *Attorney PIN number*

_____ _____
*Email address* *Additional email address, if applicable*

_____ _____, 20____
*Month* *Day* *Year*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 12.36—Form 14a: *Claim for Attorney Fees***

**In the Iowa District Court for _____ County**
*County where Claim is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be Seriously Mentally Impaired** | No._____<br><br>**Claim for Attorney Fees**<br><br>Iowa Code § 229.8 |

1. I, the undersigned attorney, state that the court appointed me to represent Respondent, alleged to be seriously mentally impaired, pursuant to Iowa Code section 229.8, and that I have completed representation of Respondent in this matter as set forth in the itemized statement provided with this Claim and that I have not directly or indirectly received or entered into a contract to receive any compensation for such services from any sources.
2. I request an order to be compensated in accordance with the provisions of Iowa Code section 229.8.
3. **Oath and signature**

   I, _____, have read this Claim, and certify under
   *Print your full name: first, middle, last*

   penalty of perjury and pursuant to the laws of the State of Iowa that the information provided in this Claim is true and correct.

   _____ _____, 20___ /s/_____
   *Month* *Day* *Year* *Claimant's signature*

   _____ _____, _____ _____
   *Mailing address* *City* *State* *ZIP code*

   (___) _____ _____
   *Phone number* *Email address*

   _____ _____
   *Additional email address, if applicable* *Attorney PIN number*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 12.36—Form 14b:** ***Claim for Physician Fees***

**In the Iowa District Court for** _____ **County**
*County where Claim is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be Seriously Mentally Impaired** | No._____<br><br>**Claim for Physician Fees**<br><br>Iowa Code § 229.10 |

1. I, the undersigned physician, state that pursuant to Iowa Code section 229.10, I examined Respondent, alleged to be seriously mentally impaired, and that services have been completed as set forth in the itemized statement provided with this Claim and that I have not directly or indirectly received or entered into a contract to receive any compensation for such services from any sources.
2. I request an order to be compensated in accordance with the provisions of Iowa Code section 229.10.
3. **Oath and signature**

   I, _____, have read this Claim, and certify under
   *Print your full name: first, middle, last*

   penalty of perjury and pursuant to the laws of the State of Iowa that the information provided in this Claim is true and correct.

   _____ _____, 20___ _____
   *Month* *Day* *Year* *Claimant's signature**

   _____
   *Name of hospital or facility*

   _____
   *Mailing address*

   _____, _____ _____
   *City* *State* *ZIP code*

   (____) _____
   *Phone number*

   _____ _____
   *Email address* *Additional email address, if applicable*

   **This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 12.36—Form 15:** ***Notice of Appointment of Mental Health Advocate***

**In the Iowa District Court for _____ County**
*County where Notice is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be Seriously Mentally Impaired** | No._____<br><br>**Notice of Appointment of Mental Health Advocate**<br><br>Iowa Code § 229.19(1)(*c*) |

**To:** _____,
*Name of Respondent*

You are notified that _____ has been appointed
*Name of Mental Health Advocate*

your Mental Health Advocate. Your Advocate will be communicating with you and representing your interests in this proceeding relating to your hospitalization and treatment.

**Signature**

_____ _____, 20___ /s/_____
*Month* *Day* *Year* *Clerk's signature*



[Court Order August 17, 2022, effective November 1, 2022]

# CHAPTER 13

# RULES FOR INVOLUNTARY COMMITMENT OR TREATMENT OF PERSONS WITH SUBSTANCE-RELATED DISORDERS

# CHAPTER 13
# RULES FOR INVOLUNTARY COMMITMENT OR TREATMENT OF PERSONS WITH SUBSTANCE-RELATED DISORDERS

**Rule 13.1 Application — forms obtained from clerk.** A form for application seeking the involuntary commitment or treatment of any person on grounds of substance-related disorder may be obtained from the clerk of court in the county in which the person whose commitment is sought resides or is presently located. Such application may be filled out and presented to the clerk by any person who has an interest in the treatment of another for substance-related disorder and who has sufficient association with or knowledge about that person to provide the information required on the face of the application and under Iowa Code section 125.75. The clerk or clerk's designee shall provide the forms required by Iowa Code section 125.75 to the person who desires to file the application for involuntary commitment. The clerk shall see that all the information required by Iowa Code section 125.75 accompanies the application.
[Report 1984; 1995; November 9, 2001, effective February 15, 2002; June 29, 2012, effective September 4, 2012]

**Rule 13.2 Termination of proceedings — insufficient grounds.** If the judge or referee determines that insufficient grounds to warrant a hearing on the respondent's substance misuse appear on the face of the application and supporting documentation, the judge or referee shall order the proceedings terminated and so notify the applicant. All papers and records pertaining to terminated proceedings shall be confidential and subject to the provisions of Iowa Code section 125.93.
[Report 1984; November 9, 2001, effective February 15, 2002; June 29, 2012, effective September 4, 2012]

**Rule 13.3 Notice to respondent — requirements.**

**13.3(1)** If the judge or referee determines that sufficient grounds to warrant a hearing on the respondent's substance misuse appear on the face of the application and supporting documentation, the sheriff or sheriff's deputy shall immediately serve notice, personally and not by substitution, on the respondent. Pursuant to Iowa Code section 125.79, notice also shall be served on respondent's attorney as soon as the attorney is identified or appointed by the judge or referee.

**13.3(2)** If the respondent is to be taken into immediate custody pursuant to Iowa Code section 125.81, the notice shall include a copy of the order required by Iowa Code section 125.81 and rule 13.14.

**13.3(3)** The notice of procedures required under Iowa Code section 125.77 shall inform the respondent of the following:

*a.* Respondent's immediate right to counsel, at public expense if necessary.

*b.* Respondent's right to request an examination by a physician of the respondent's choosing, at public expense if necessary.

*c.* Respondent's right to be present at the hearing.

*d.* Respondent's right to a hearing within five days if the respondent is taken into immediate custody pursuant to Iowa Code section 125.81.

*e.* Respondent's right not to be forced to hearing sooner than 48 hours after notice, unless respondent waives such minimum prior notice requirement.

*f.* Respondent's duty to remain in the jurisdiction and the consequences of an attempt to leave.

*g.* Respondent's duty to submit to examination by a physician appointed by the court.
[Report 1984; November 9, 2001, effective February 15, 2002; June 29, 2012, effective September 4, 2012]

**Rule 13.4 Notice requirement — waiver.** The respondent may waive the minimum prior notice requirement only in writing and only if the judge or referee determines that the respondent's best interests will not be harmed by such waiver.
[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.5 Hearings — continuance.** At the request of the respondent or respondent's attorney, the hearing provided in Iowa Code section 125.82 may be continued beyond the statutory limit so that the respondent's attorney has adequate time to prepare respondent's case. In such instances custody pursuant to Iowa Code section 125.81 may be extended by court order until the hearing is held. The continuance shall be no longer than five days beyond the statutory limit. The granting of a

continuance shall not prevent the facility from making application to the court for an earlier release of the respondent from custody.
[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.6 Attorney conference with respondent — location — transportation.** If the respondent is involuntarily confined prior to the hearing pursuant to a determination under Iowa Code section 125.81, the respondent's attorney may apply to the judge or referee for an opportunity to confer with the respondent, in a place other than the place of confinement, in advance of the hearing provided for in Iowa Code section 125.82. The order shall provide for transportation and the type of custody and responsibility therefor during the period the respondent is away from the place of confinement under this rule.
[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.7 Service, other than personal.** If personal service as defined in rule 13.3 cannot be made, any respondent may be served as provided by court order, consistent with due process of law.
[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.8 Return of service.** Returns of service of notice shall be made as provided in Iowa R. Civ. P. 1.308.
[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.9 Amendment of proof of service.** Amendment of process or proof of service shall be allowed in the manner provided in Iowa R. Civ. P. 1.309.
[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.10 Attorney evidence and argument — predetermination.** If practicable the court should allow the respondent's attorney to present evidence and argument prior to the court's determination under Iowa Code section 125.81.
[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.11 Attorney evidence and argument — after confinement.** If the respondent's attorney is not afforded an opportunity to present evidence and argument prior to the court's determination under Iowa Code section 125.81, the attorney shall be entitled to do so after the determination during the course of respondent's confinement pursuant to an order issued under that section.
[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.12 Examination report to attorney.** The clerk shall furnish the respondent's attorney with a copy of the examination report filed pursuant to Iowa Code section 125.80(2), as soon as possible after receipt. In ruling on any request for an extension of time under Iowa Code section 125.80(4), the court shall consider the time available to the respondent's attorney after receipt of the examination report to prepare for the hearing and to prepare responses from physicians engaged by respondent, where relevant. Respondent's attorney shall promptly file a copy of a report of any physician who has examined respondent and whose evidence the attorney expects to use at the hearing. The clerk shall provide the court and the county attorney with a copy thereof when filed.
[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.13 Physician's report.** The court-designated physician shall submit a written report of the examination as required by Iowa Code section 125.80(2) on the form designated for use by the supreme court. The report shall contain the following information, or as much thereof as is available to the physician making the report:

(1) Respondent's name;
(2) Address;
(3) Date of birth;
(4) Place of birth;
(5) Sex;
(6) Occupation;
(7) Marital status;
(8) Number of children, and names;

(9) Nearest relative's name, relationship, and address; and

(10) The physician's diagnosis and recommendations, with a detailed statement of the observations or medical history which led to the diagnosis.

[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.14 Probable cause to injure.** The judge's or referee's order for respondent's immediate custody under Iowa Code section 125.81 shall include a finding of probable cause to believe that the respondent is a person with a substance-related disorder and is likely to inflict self-injury or injure others if allowed to remain at liberty.

[Report 1984; 1995; November 9, 2001, effective February 15, 2002; June 29, 2012, effective September 4, 2012]

**Rule 13.15 Hearing — county location.** The hearing provided in Iowa Code section 125.82 shall be held in the county where the application was filed, unless the judge or referee finds that the best interests of the respondent would be served by transferring the proceedings to a different location.

[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.16 Hearing — location at hospital or treatment facility.** The hearing required by Iowa Code section 125.82 may be held at a hospital or other treatment facility, provided that a proper room is available and that such a location would not be detrimental to the best interests of respondent.

[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.17 Respondent's rights explained before hearing.** Respondent's attorney shall explain to respondent the respondent's rights and the possible consequences of the proceedings. Prior to the commencement of the hearing under Iowa Code section 125.82, the judge or referee shall ascertain whether the respondent has been so informed.

[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.18 Subpoenas.** Subpoena power shall be available to all parties participating in the proceedings, and subpoenas or other investigative demands may be enforced by the judge or referee.

[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.19 Presence at hearing — exceptions.**

**13.19(1)** The applicant and any physician or mental health professional who has examined respondent in connection with the commitment proceedings must be present at the hearing conducted under Iowa Code section 125.82, unless their presence is waived by the respondent's attorney, the judge or referee finds that their presence is not necessary, or their testimony can be taken through telephonic means and the respondent's attorney does not object.

**13.19(2)** The respondent must be present at the hearing unless prior to the hearing the respondent's attorney stipulates in writing to respondent's absence. Such stipulation shall state that the attorney has conversed with the respondent, that in the attorney's judgment the respondent can make no meaningful contribution to the hearing or has waived the right to be present, and the basis for such conclusions. A stipulation to the respondent's absence shall be reviewed by the judge or referee before the hearing, and shall be rejected if it appears that insufficient grounds are stated or that the respondent's interests would not be served by respondent's absence.

[Report 1984; October 11, 1991, effective January 2, 1992; November 9, 2001, effective February 15, 2002]

**Rule 13.20 Hearing — electronic recording.** An electronic recording or other verbatim record of the hearing provided in Iowa Code section 125.82 shall be made and retained for three years or until the respondent has been discharged from involuntary custody for 90 days, whichever is longer.

[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.21 Transfer from county of confinement.** If the respondent is in custody in another county prior to the hearing provided in Iowa Code section 125.82, respondent's attorney may request that the respondent be delivered to the county in which the hearing will be held sufficiently prior thereto to facilitate preparation by respondent's attorney. Such requests shall not be denied unless they are unreasonable and the denial would not harm respondent's interests in representation by counsel. This

rule does not authorize permanent transfer of the respondent to another facility without conformance to appropriate statutory procedures.
[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.22 Evaluation and treatment.** If, upon hearing, the court finds respondent to be a person with a substance-related disorder, evaluation and treatment shall proceed as set out in Iowa Code section 125.83.
[Report 1984; 1995; November 9, 2001, effective February 15, 2002; June 29, 2012, effective September 4, 2012]

**Rule 13.23 Evaluation — time extension.** Pursuant to Iowa Code section 125.83, the facility administrator may request a seven-day extension of time for further evaluation by filing a written application with the clerk of court in the county in which the hearing was held. The application shall contain a statement by the facility administrator or the administrator's designee identifying with reasonable particularity the basis of the request for extension. The clerk shall immediately notify the respondent's attorney of the request by furnishing a copy of the application.
[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.24 Evaluation report.** The facility administrator's report under Iowa Code section 125.84 shall include a written evaluation of the respondent by the attending physician or the physician's designee. The evaluation must state with reasonable particularity the basis for the diagnostic conclusions concerning the respondent's substance misuse and recommended treatment. The evaluation shall specify the basis for the attending physician's conclusions regarding respondent's substance misuse, capacity to understand the need for treatment, and dangerousness. The evaluation also shall specify the basis for the attending physician's conclusions concerning recommended treatment and the basis for the judgment that the recommended treatment is the least restrictive alternative possible for the respondent pursuant to options (1), (2), (3), or (4) of Iowa Code section 125.84.
[Report 1984; November 9, 2001, effective February 15, 2002; June 29, 2012, effective September 4, 2012]

**Rule 13.25 Reports issued by clerk.** The clerk shall promptly furnish to the respondent's attorney copies of all reports issued under Iowa Code section 125.86. Such reports shall comply substantially with the requirements of rule 13.24.
[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.26 Clerk's filing system.** The clerk shall institute an orderly system for filing periodic reports required under Iowa Code section 125.86 and shall monitor the reports to ascertain when a report is overdue. If a report is not filed when due, the clerk shall notify the administrator of the treatment facility.
[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.27 Emergency detention — magistrate's approval.** If the magistrate cannot immediately proceed to the facility where a person is detained pursuant to Iowa Code section 125.91, the magistrate shall verbally communicate approval or disapproval of the detention. Such communication shall be duly noted by the administrator of the facility on the form prescribed by this chapter.
[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.28 Emergency detention — attending physician absent from facility.** If the facility to which the respondent is delivered pursuant to Iowa Code section 125.91 lacks an attending physician, the person then in charge of the facility shall immediately notify a physician whenever treatment appears necessary to protect the respondent. The person in charge of the facility shall then immediately notify the magistrate.
[Report 1984; November 9, 2001, effective February 15, 2002; June 29, 2012, effective September 4, 2012]

**Rule 13.29 Attorney appointed.** As soon as practicable after the respondent's delivery to a facility under Iowa Code section 125.91, the magistrate shall identify or appoint an attorney for the respondent and shall immediately notify such attorney of respondent's emergency detention. If counsel can be identified at the time of respondent's arrival at a facility, or if legal services are available through

a legal aid or public defender office, the magistrate must immediately notify such counsel. Such counsel shall be afforded an opportunity to interview the respondent before or after the magistrate's order is issued.
[Report 1984; November 9, 2001, effective February 15, 2002]

**Rule 13.30 Chemotherapy procedure.** When chemotherapy has been instituted prior to a hearing under Iowa Code section 125.82, the attending physician of the facility where the respondent is hospitalized shall, prior to the hearing, submit to the clerk of the district court where the hearing is to be held, a report in writing. The report shall identify all types of chemotherapy given and shall specify which were administered to affect the respondent's behavior or mental state during any period of custody authorized by Iowa Code section 125.81 or 125.91. For each type of chemotherapy the report shall indicate that the chemotherapy was given with the consent of the respondent or the respondent's next of kin or guardian or, if not, that the chemotherapy was necessary to preserve the respondent's life or to appropriately control respondent's behavior in order to avoid physical injury to the respondent or others. The report shall also include the effect of the chemotherapy on the respondent's behavior or mental state. The clerk shall file the original report in the court file, advise the judge or referee and the respondent's attorney accordingly, and provide a copy of the report to respondent's attorney.
[Report 1984; November 9, 2001, effective February 15, 2002; June 29, 2012, effective September 4, 2012]

**Rules 13.31** to **13.34** Reserved.

**Rule 13.35 Forms for Involuntary Commitment or Treatment of Persons with Substance-Related Disorders.**

**Rule 13.35—Form 1:** ***Application Alleging Substance-Related Disorder***

**In the Iowa District Court for _____ County**
*County where Application is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be a Person with a Substance-Related Disorder** | No._____<br><br>**Application Alleging Substance-Related Disorder**<br><br>Iowa Code § 125.75 |

**1.** I, _____, allege Respondent is suffering from
*Full name: first, middle, last*
a substance-related disorder.

**2.** In support of this Application, I state:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**3.** Based on the above facts, I believe Respondent is a danger to self or others and lacks judgmental capacity due to a substance-related disorder. ☐ Yes ☐ No

**4.** I request that:
*Check one*

A. ☐ Respondent be taken into immediate custody.

B. ☐ Respondent not be taken into immediate custody.

**5.** In support of this Application, I have attached:
*Check all that apply*

A. ☐ A written statement of a licensed physician and surgeon or osteopathic physician and surgeon or mental health processional.

B. ☐ One or more Affidavits corroborating these allegations. *See Rule 13.35—Form 2.*

C. ☐ Corroborative information obtained and reduced to writing by the clerk or the clerk's designee. ***NOTE:*** *This option is only available when circumstances make it infeasible to obtain, or when the clerk considers it appropriate to supplement, the information under either subparagraph* ***5****(A) or* ***5****(B).*

***Continued on next page***

Rule 13.35—Form 1: *Application Alleging Substance-Related Disorder*, continued

## 6. Attorney Help

*Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper *If you check* B, *you must fill in the following information*:

_____ _____
*Name of attorney or organization, if any* *Attorney's PIN – Ask the attorney*

_____ _____ _____ _____
*Business address of attorney or organization* *City* *State* *ZIP code*

(____) _____ _____
*Attorney's phone number* *Attorney's email address – optional*

## 7. Oath and signature of applicant

I, _____, have read this Application, and I certify under
*Print your full name: first, middle, last*

penalty of perjury and pursuant to the laws of the State of Iowa that the information provided in this Application is true and correct.

_____ _____, 20____ _____
*Month* *Day* *Year* *Applicant's signature**

_____ _____, _____ _____
*Mailing address* *City* *State* *ZIP code*

(____) _____ _____ _____
*Phone number* *Email address* *Additional email address, if applicable*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 13.35—Form 2:** ***Affidavit in Support of Application Alleging Substance-Related Disorder***

**In the Iowa District Court for** _____ **County**
*County where Affidavit is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be a Person with a Substance-Related Disorder** | No._____<br><br>**Affidavit in Support of Application Alleging Substance-Related Disorder**<br><br>Iowa Code § 125.75 |

I, _____, state that I am acquainted with Respondent who resides at
*Full name: first, middle, last*

_____ _____, _____, _____ _____,
*Street address* *City* *County* *State* *ZIP code*

and I believe Respondent is a person with a substance-related disorder. In support of this belief, I state:

_____

_____

_____

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**Oath and signature**

I, _____, have read this Affidavit, and I certify under
*Print your full name: first, middle, last*

penalty of perjury and pursuant to the laws of the State of Iowa that the information in this Affidavit is true and correct.

_____ _____, 20___ _____
*Month* *Day* *Year* *Affiant's signature**

_____ _____, _____ _____
*Mailing address* *City* *State* *ZIP code*

(_____) _____ _____ _____
*Phone number* *Email address* *Additional email address, if applicable*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 13.35—Form 3:** ***Application for Appointment of Counsel for Respondent and Financial Statement***

**In the Iowa District Court for _____ County**
*County where Application is filed*

| | |
|---|---|
| **In the Matter of**<br><br>**_____,**<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be a Person with a Substance-Related Disorder** | No._____<br><br>**Application for Appointment of Counsel for Respondent and Financial Statement**<br><br>Iowa Code § 125.78 |

**1.** I, _____, state that I am:
*Print your full name: first, middle, last*

*Check one*

☐ Respondent
☐ Respondent's spouse
☐ Next friend of Respondent
☐ Guardian of Respondent

and I request the court appoint counsel to represent Respondent at public expense because Respondent is financially unable to employ counsel.

**2. Respondent's information**

A. _____
*Respondent's full name: first, middle, last*

_____ _____, ____ _____
*Street address* *City* *State* *ZIP code*

_____ _____
*Marital status* *Number of dependents*

B. Respondent's age: _____.

C. Is Respondent currently in custody? ☐ Yes ☐ No

D. Respondent's employment status:

☐ Full-time
☐ Part-time (approximate hours per week:_____)
☐ Unemployed

***Continued on next page***

## 3. Respondent's income

A. Income Respondent currently receives before taxes and deductions:

**How often received?*
*W = Weekly B = Bi-weekly (every other week) M = Monthly Y = Yearly*

| **Average current income for Respondent** | **Income** | |
|---|---|---|
| | **How often received?*** *W, B, M, Y* | **Amount** |
| (1) Wages from employer<br>*Employer name:*<br>*Job title:* | | $ |
| (2) Wages from employer<br>*Employer name:*<br>*Job title:* | | $ |
| (3) Unemployment assistance | | $ |
| (4) Family Investment Program | | $ |
| (5) Social Security | | $ |
| (6) Other<br>*Identify:* | | $ |
| (7) Other<br>*Identify:* | | $ |
| (8) Other<br>*Identify:* | | $ |
| (9) Totals from attached pages, if any<br>☐ *Check this box if you have attached additional pages regarding income sources.* | | $ |
| **Total**<br>*Total income received by Respondent* | | **$** |

B. Total income from the past 12 months from any source, before taxes and deductions:
$_____

C. Is Respondent's spouse working? ☐ Yes ☐ No
If yes, average wages before taxes and deductions: $_____
per: ☐ hour ☐ month ☐ year

***Continued on next page***

## 4. Respondent's assets

A. Real estate

| **Type of real estate** | **Jointly owned?** | **Market value** *What it would sell for* | **Debt** *Total amount owed on debt* **and to whom owed** | **Net value** *Market value minus debt owed* |
|---|---|---|---|---|
| (1) Homestead *Address* | ☐ | $ | $ to: | $ |
| (2) Other real estate *Address* | ☐ | $ | $ to: | $ |

☐ *Check this box if you have attached additional pages.*

B. Vehicles (includes cars, trucks, motorcycles, boats, and other motorized vehicles)

| **Vehicle** *Make (e.g., Ford), model, year* | **Jointly owned?** | **Market value** *What it would sell for* | **Debt** *Total amount owed on debt* **and to whom owed** | **Net Value** *Market value minus debt owed* |
|---|---|---|---|---|
| (1) | ☐ | $ | $ to: | $ |
| (2) | ☐ | $ | $ to: | $ |
| (3) | ☐ | $ | $ to: | $ |

☐ *Check this box if you have attached additional pages.*

C. Other assets, if any:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

## 5. Respondent's debts

| Debts and liabilities of Respondent | Debts and liabilities<br>Amount |
|---|---|
| (1) Mortgage | $ |
| (2) Car loan | $ |
| (3) Credit card debt | $ |
| (4) Other<br>*Identify:* | $ |
| (5) Other<br>*Identify:* | $ |
| (6) Other<br>*Identify:* | $ |
| (7) Totals from attached pages, if any<br>☐ *Check this box if you attached additional pages regarding debts and liabilities.* | $ |
| **Total** | **$** |

## 6. Respondent's expenditures

| Type of expense | Amount<br>*Check one*<br>☐ monthly ☐ annual |
|---|---|
| (1) House payment or rent | $ |
| (2) Food | $ |
| (3) Insurance *(health, dental, auto, etc.)* | $ |
| (4) Utilities *(gas, electric, water, internet, etc.)* | $ |
| (5) Phone | $ |
| (6) Child support payments | $ |
| (7) Car payment | $ |

***Continued on next page***

| | |
|---|---|
| (8) Credit card payments | $ |
| (9) Other expense<br>*Identify:* | $ |
| (10) Other expense<br>*Identify:* | $ |
| (11) Other expense<br>*Identify:* | $ |
| (12) Totals from attached pages, if any<br>☐ *Check this box if you have attached additional pages regarding expenses.* | $ |
| **Total**<br>*Total expenditures* | **$** |

## 7. Oath and signature

I, _____, have read this Application, and I certify under
*Print your full name: first, middle, last*

penalty of perjury and pursuant to the laws of the State of Iowa that the information provided in this Application is true and correct.

_____ _____, 20___ _____
*Month* *Day* *Year* *Applicant's signature**

_____ _____, _____ _____
*Mailing address* *City* *State* *ZIP code*

(____) _____ _____ _____
*Phone number* *Email address* *Additional email address, if applicable*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 13.35—Form 4:** ***Application for Appointment of Counsel for Applicant and Financial Statement***

**In the Iowa District Court for _____ County**
*County where Application is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be a Person with a Substance-Related Disorder** | No._____<br><br>**Application for Appointment of Counsel for Applicant and Financial Statement**<br><br>Iowa Code §§ 125.76, .78 |

**1.** I, _____, state that I am
*Print your full name: first, middle, last*

the Applicant in this case, and pursuant to Iowa Code sections 125.76 and 125.78(2), I request the court appoint counsel to represent me at public expense because I am financially unable to employ counsel.

**2. Applicant's information**

A. _____
*Applicant's full name: first, middle, last*

_____ _____, ____ _____
*Street address* *City* *State* *ZIP code*

_____ _____
*Marital status* *Number of dependents*

B. Applicant's age: _____.

C. Applicant's employment status:

☐ Full-time

☐ Part-time (approximate hours per week:_____)

☐ Unemployed

**3. Applicant's income**

A. Income currently received by Applicant, before taxes and deductions:

**How often received?*
*W = Weekly B = Bi-weekly (every other week) M = Monthly Y = Yearly*

| **Average current income for Applicant** | **Income** | |
|---|---|---|
| | **How often received?*** *W, B, M, Y* | **Amount** |
| (1) Wages from employer<br>*Employer name:*<br>*Job title:* | | $ |

***Continued on next page***

| | | |
|---|---|---|
| (1)Wages from employer<br>*Employer name:*<br>*Job title:* | | $ |
| (2) Wages from employer<br>*Employer name:*<br>*Job title:* | | $ |
| (3) Unemployment assistance | | $ |
| (4) Family Investment Program | | $ |
| (5) Social Security | | $ |
| (6) Other<br>*Identify:* | | $ |
| (7) Other<br>*Identify:* | | $ |
| (8) Other<br>*Identify:* | | $ |
| (9) Totals from attached sheets, if any<br>☐ *Check this box if you have attached additional pages regarding income sources.* | | $ |
| **Total**<br>*Total income received by Applicant* | | **$** |

B. Total income from the past 12 months from any source, before taxes and deductions:
$_____

C. Is Applicant's spouse working? ☐ Yes ☐ No
If yes, average wages before taxes and deductions: $_____
per: ☐ hour ☐ month ☐ year

***Continued on next page***

## 4. Applicant's assets

A. Real estate

| **Type of real estate** | **Jointly owned?** | **Market value** *What it would sell for* | **Debt** *Total amount owed on debt* **and to whom owed** | **Net value** *Market value minus debt owed* |
|---|---|---|---|---|
| (1) Homestead *Address* | ☐ | $ | $ to: | $ |
| (2) Other real estate *Address* | ☐ | $ | $ to: | $ |

☐ *Check this box if you have attached additional pages.*

B. Vehicles (includes cars, trucks, motorcycles, boats, and other motorized vehicles)

| **Vehicle** *Make (e.g., Ford), model, year* | **Jointly owned?** | **Market value** *What it would sell for* | **Debt** *Total amount owed on debt* **and to whom owed** | **Net Value** *Market value minus debt owed* |
|---|---|---|---|---|
| (1) | ☐ | $ | $ to: | $ |
| (2) | ☐ | $ | $ to: | $ |
| (3) | ☐ | $ | $ to: | $ |

☐ *Check this box if you have attached additional pages.*

C. Other assets, if any:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

## 5. Applicant's debts

| Debts and liabilities of Applicant | Debts and liabilities<br>Amount |
|---|---|
| (1) Mortgage | $ |
| (2) Car loan | $ |
| (3) Credit card debt | $ |
| (4) Other<br>*Identify:* | $ |
| (5) Other<br>*Identify:* | $ |
| (6) Other<br>*Identify:* | $ |
| (7) Totals from attached sheets, if any<br>☐ *Check this box if you attached additional pages regarding debts and liabilities.* | $ |
| **Total** | **$** |

## 6. Applicant's expenditures

| Type of expense | Amount<br>*Check one*<br>☐ monthly ☐ annual |
|---|---|
| (1) House payment or rent | $ |
| (2) Food | $ |
| (3) Insurance *(health, dental, auto, etc.)* | $ |
| (4) Utilities *(gas, electric, water, internet, etc.)* | $ |
| (5) Phone | $ |
| (6) Child support payments | $ |
| (7) Car payment | $ |

***Continued on next page***

| | |
|---|---|
| (8) Credit card payments | $ |
| (9) Other expense<br>*Identify:* | $ |
| (10) Other expense<br>*Identify:* | $ |
| (11) Other expense<br>*Identify:* | $ |
| (12) Totals from attached pages, if any<br>☐ *Check this box if you have attached additional pages regarding expenses.* | $ |
| **Total**<br>*Total expenditures* | **$** |

## 7. Oath and signature

I, _____, have read this Application, and I certify under
*Print your full name: first, middle, last*

penalty of perjury and pursuant to the laws of the State of Iowa that the information provided in this Application is true and correct.

_____ _____, 20___ _____
*Month* *Day* *Year* *Applicant's signature**

_____ _____, _____ _____
*Mailing address* *City* *State* *ZIP code*

(____) _____ _____ _____
*Phone number* *Email address* *Additional email address, if applicable*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 13.35—Form 5:** ***Physician's Report of Examination***

**In the Iowa District Court for** _____ **County**
*County where Report is filed*

| | |
|---|---|
| **In the Matter of** | No._____ |
| _____, | **Physician's Report of Examination** |
| **Respondent** *Full name: first, middle, last* | |
| **Alleged to be a Person with a Substance-Related Disorder** | Iowa Code § 125.80<br>Iowa Ct. R. 13.13 |

**1.** Date and time of examination: _____ ____, 20___ at ____:____ ☐a.m. ☐p.m.
*Month Day Year Time*

**2.** Respondent's information:

A. Name: _____
*Full name: first, middle, last*

B. Address: _____ _____, _____ _____
*Street address City State ZIP code*

C. Date of birth: _____ _____, _____
*Month Day Year*

D. Place of birth: _____

E. Sex: _____

F. Occupation: _____

G. Marital status: _____

H. Number of children: _____. Name(s): _____

_____

I. Nearest relative: _____ _____
*Name: first, last Relationship*

_____ _____, ____ _____
*Street address City State ZIP code*

**3.** Is this an examination under Iowa Code section 125.80? ☐Yes ☐No

**4.** Did facility personnel assist with this exam? ☐Yes ☐No

If yes, provide that person's name: _____
*Facility personnel's name*

_____ _____. _____ _____
*Business address City State ZIP code*

*Attach the facility personnel's report, if written*

***Continued on next page***

Rule 13.35—Form 5: *Physician's Report of Examination*, continued

**5.** In your judgment, is Respondent a person with a substance-related disorder as defined by the American Psychiatric Association? ☐ Yes ☐ No
*If yes, state diagnosis including supporting facts, symptoms, and overt acts*

☐ *Check this box if you have attached additional pages.*

**6.** In your judgment, is Respondent a danger to self or others and lacks judgmental capacity due to a substance-related disorder? ☐ Yes ☐ No
*If yes, state what recent overt acts by Respondent lead you to this conclusion, including approximate date(s) and other relevant facts*

☐ *Check this box if you have attached additional pages.*

**7.** In your judgment, is Respondent treatable and would likely benefit from treatment? ☐ Yes ☐ No
*If yes, state recommendations and basis for recommendations*

☐ *Check this box if you have attached additional pages.*

**8.** Can Respondent be evaluated on an outpatient basis? ☐ Yes ☐ No
*Basis for answer*

☐ *Check this box if you have attached additional pages.*

**9.** Can Respondent, without danger to self or others, be released to the custody of a relative or friend during the course of evaluation? ☐ Yes ☐ No
*Basis for answer*

☐ *Check this box if you have attached additional pages.*

**10.** Is full-time hospitalization necessary for evaluation? ☐ Yes ☐ No

***Continued on next page***

Rule 13.35—Form 5: *Physician's Report of Examination*, continued

**11.** Does Respondent have a prior history of other substance-related disorders or physical or mental illness? ☐ Yes ☐ No

*If yes, specify*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**12.** Was Respondent medicated at the time of examination? ☐ Yes ☐ No

*If yes, provide name(s) of the medication, dosage, approximate date and time administered, and probable effects on Respondent*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**13. Signature**

_____ _____

*Signature** *Printed name*

_____ _____

*Title*** *Name of facility*

_____

*Mailing address*

_____, _____ _____

*City* *State* *ZIP code*

(_____) _____

*Phone number*

_____ _____

*Email address* *Additional email address, if applicable*

_____ _____, 20_____

*Month* *Day* *Year*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*

***The Report of Examination must be filled out by a court-designated licensed physician and surgeon or osteopathic physician and surgeon or mental health professional. Iowa Code § 125.80(2).*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 13.35—Form 6:** ***Stipulation Regarding Respondent's Presence***

**In the Iowa District Court for _____ County**
*County where Stipulation is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be a Person with a Substance-Related Disorder** | No._____<br><br>**Stipulation Regarding Respondent's Presence**<br><br>Iowa Code § 125.82<br>Iowa Ct. R. 13.19(2) |

**1.** I, _____, I am an attorney representing Respondent in this
*Full name: first, middle, last*
matter and stipulate that Respondent need not be present at the hearing to determine whether Respondent is a person with a substance-related disorder.

**2.** On, _____ ____, 20___, I conversed with Respondent about the
*Month* *Day* *Year*
hearing and Respondent's absence from the hearing.

**3.** In my judgment,

A. ☐ Respondent can make no meaningful contribution to the hearing.

B. ☐ Respondent has waived the right to be present at the hearing.

I base this judgment on the following grounds:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**4. Attorney's signature**

_____ /s/_____
*Printed name* *Signature*

_____
*Law firm, if applicable*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(____) _____ _____
*Phone number* *Attorney PIN number*

_____ _____
*Email address* *Additional email address, if applicable*

_____ _____, 20_____
*Month* *Day* *Year*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 13.35—Form 7:** ***Notice of Medication***

**In the Iowa District Court for** _____ **County**
*County where Notice is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be a Person with a Substance-Related Disorder** | No._____<br><br>**Notice of Medication**<br><br>Iowa Code § 125.82(1) |

**1.** I, _____, physician, inform the court that Respondent was
*Physician's name*
medicated with the following: *Include the name(s) of the medication (including chemotherapy), dosage, and approximate date and time administered.*

_____
_____
_____

☐ *Check this box if you have attached additional pages.*

**2.** This medication may cause the following effects on Respondent:

_____
_____
_____

☐ *Check this box if you have attached additional pages.*

**3. Physician's signature**

_____ _____
*Printed name* *Signature**

_____
*Name of facility*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

_____ _____, 20_____
*Month* *Day* *Year*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 13.35—Form 8:** ***Application for Extension of Time for Evaluation***

**In the Iowa District Court for** _____ **County**
*County where Application is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be a Person with a Substance-Related Disorder** | No._____<br><br>**Application for Extension of Time for Evaluation**<br><br>Iowa Code § 125.83 |

**1.** I,_____, chief medical officer of _____,
*Name of chief medical officer* *Hospital or facility*
request an extension of time not to exceed seven days in order to complete the evaluation of Respondent.

**2.** I request this extension because:

_____
_____
_____
_____
_____
_____

☐ *Check this box if you have attached additional pages.*

**3.** It is my opinion that this extension is in Respondent's best interests.

**4. Chief medical officer's signature**

_____ _____
*Printed name* *Signature**

_____
*Name of facility*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

_____ _____, 20_____
*Month* *Day* *Year*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 13.35—Form 9:** ***Report of Substance Abuse Evaluation***

**In the Iowa District Court for _____ County**
*County where Report is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be a Person with a Substance-Related Disorder** | No._____<br><br>**Report of Substance Abuse Evaluation**<br><br>Iowa Code § 125.84<br>Iowa Ct. R. 13.24 |

**1.** I,_____, of _____.
*Full name* *Hospital or facility*

and for the Report of Substance Abuse Evaluation of Respondent, state the following.

**2.** Date and time of evaluation: _____ ____, 20___ at ____:____ ☐ a.m. ☐ p.m.
*Month* *Day* *Year* *Time*

**3.** State treatment Respondent received during the present evaluation period:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**4.** Was Respondent medicated at the time of evaluation? ☐ Yes ☐ No
*If yes, provide name(s) of the medication, dosage, approximate date and time administered, and probable effects on Respondent*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**5.** In your opinion, is Respondent a person with a substance-related disorder as defined by the American Psychiatric Association? ☐ Yes ☐ No
*If yes, state diagnosis including supporting facts, symptoms, and overt acts*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

**6.** In your opinion, is Respondent treatable and would likely benefit from treatment? ☐ Yes ☐ No

*If yes, state recommendations and basis for recommendations*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**7.** In your opinion, does Respondent have the capacity to understand the need for treatment? ☐ Yes ☐ No

*If no, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**8.** In your opinion, is Respondent a danger to self or others and lacks judgmental capacity due to a substance-related disorder? ☐ Yes ☐ No

*If yes, state what recent overt acts by Respondent lead you to this conclusion, including approximate date(s) and other relevant facts*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**9. Proposed treatment and placement**

In your opinion,

*Check one*

A. ☐ Respondent does not, as of the date of this Report, require further treatment for substance abuse. Iowa Code § 125.84(1).

B. ☐ Respondent is a person with a substance-related disorder and in need of full-time custody, care, and treatment in a facility and is likely to benefit from treatment. Iowa Code § 125.84(2).

Recommended further treatment:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

Rule 13.35—Form 9: *Report of Substance Abuse Evaluation*, continued

C. ☐ Respondent is a person with a substance-related disorder and in need of treatment but does not require full-time placement in a facility. Iowa Code § 125.84(3).

Recommended treatment on an outpatient or other appropriate basis:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

D. ☐ Respondent is a person with a substance-related disorder and in need of treatment but is not responding to the treatment provided. Iowa Code § 125.84(4).

Recommended alternative placement:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**10.** State facts and reasons supporting your recommended treatment and that the treatment is the least restrictive and effective for Respondent:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**11. Signature**

_____ _____
*Printed name* *Signature**

_____ _____
*Title* *Name of facility*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

_____ _____, 20_____
*Month* *Day* *Year*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 13.35—Form 10:** ***Periodic Report (Respondent Inpatient)***

**In the Iowa District Court for _____ County**
*County where Report is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be a Person with a Substance-Related Disorder** | No._____<br><br>**Periodic Report (Respondent Inpatient)**<br><br>Iowa Code § 125.86(1) |

**1.** I,_____, of _____,
*Full name* *Hospital or facility*
and for the Periodic Report of Respondent, state the following.

**2.** An order for continued treatment of Respondent at this facility was entered _____ ____, 20____.
*Month* *Day* *Year*

**3.** State treatment Respondent received during the present evaluation period:

_____
_____
_____

☐ *Check this box if you have attached additional pages.*

**4.** In the opinion of the chief medical officer, Respondent's condition:

A. ☐ Has improved.
B. ☐ Remains unchanged.
C. ☐ Has deteriorated.

*Explanation*

_____
_____
_____

☐ *Check this box if you have attached additional pages.*

**5.** In your opinion, is Respondent a person with a substance-related disorder as defined by the American Psychiatric Association? ☐ Yes ☐ No
*If yes, state diagnosis including supporting facts and symptoms*

_____
_____
_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

Rule 13.35—Form 10: *Periodic Report (Respondent Inpatient)*, continued

**6.** In your opinion, is Respondent treatable and would likely benefit from treatment? ☐ Yes ☐ No

*If yes, state recommendations and basis for recommendations*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**7.** In your opinion, does Respondent have the capacity to understand the need for treatment? ☐ Yes ☐ No

*If no, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**8.** In your opinion, is Respondent a danger to self or others and lacks judgmental capacity due to a substance-related disorder? ☐ Yes ☐ No

*If yes, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**9. Proposed treatment and placement**

In your opinion,

*Check one*

A. ☐ Respondent does not, as of the date of this Report, require further treatment for substance abuse. Iowa Code § 125.84(1).

*Explanation*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

STOP *If you checked **9**(A), stop and sign below.*

***Continued on next page***

B. ☐ Respondent is a person with a substance-related disorder and in need of full-time custody, care, and treatment in a facility and is considered likely to benefit from treatment. Iowa Code § 125.84(2).

(1) Estimated further length of time that Respondent will require treatment in a facility: *Check one*

a. ☐ Is _____.

b. ☐ Cannot be determined at this time.

(2) Recommended further treatment:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

C. ☐ Respondent is a person with a substance-related disorder and in need of treatment but does not require full-time placement in a facility. Iowa Code § 125.84(3).

Recommended treatment on an outpatient or other appropriate basis:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

D. ☐ Respondent is a person with a substance-related disorder and in need of treatment but is not responding to the treatment provided. Iowa Code § 125.84(4).

Recommended alternative placement:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**10.** State facts and reasons supporting your recommended treatment and that the treatment is the least restrictive and effective for Respondent:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

Rule 13.35—Form 10: *Periodic Report (Respondent Inpatient)*, continued

## 11. Signature

_____ _____
*Printed name* *Signature**

_____ _____
*Title* *Name of facility*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

_____ _____, 20_____
*Month* *Day* *Year*

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[Court Order August 17, 2022, effective November 1, 2022]

**Rule 13.35—Form 11:** ***Periodic Report (Respondent Outpatient)***

**In the Iowa District Court for _____ County**
*County where Report is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be a Person with a Substance-Related Disorder** | No._____<br><br>**Periodic Report (Respondent Outpatient)**<br><br>Iowa Code § 125.86(2) |

**1.** I,_____, of _____,
*Full name* *Hospital or facility*
and for the Periodic Report of Respondent, state the following.

**2.** An order for continued treatment of Respondent at this facility was entered _____ ____, 20____.
*Month* *Day* *Year*

**3.** State treatment Respondent received during the present evaluation period:

_____
_____
_____

☐ *Check this box if you have attached additional pages.*

**4.** In the opinion of the chief medical officer, Respondent's condition:

A. ☐ Has improved.

B. ☐ Remains unchanged.

C. ☐ Has deteriorated.

*Explanation*

_____
_____
_____

☐ *Check this box if you have attached additional pages.*

**5.** In your opinion, is Respondent a person with a substance-related disorder as defined by the American Psychiatric Association? ☐ Yes ☐ No
*If yes, state diagnosis including supporting facts and symptoms*

_____
_____
_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

**6.** In your opinion, is Respondent treatable and would likely benefit from treatment? ☐ Yes ☐ No

*If yes, state recommendations and basis for recommendations*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**7.** In your opinion, does Respondent have the capacity to understand the need for treatment? ☐ Yes ☐ No

*If no, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**8.** In your opinion, is Respondent a danger to self or others and lacks judgmental capacity due to a substance-related disorder? ☐ Yes ☐ No

*If yes, state basis for answer*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**9. Proposed treatment and placement**

In your opinion,

*Check one*

A. ☐ Respondent does not, as of the date of this Report, require further treatment for substance abuse. Iowa Code § 125.84(1).

*Explanation*

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

STOP *If you checked **9**(A), stop and sign below.*

***Continued on next page***

Rule 13.35—Form 11: *Periodic Report (Respondent Outpatient)*, continued

B. ☐ Respondent is a person with a substance-related disorder and in need of full-time custody, care, and treatment in a facility and is considered likely to benefit from treatment. Iowa Code § 125.84(2).

Recommended further treatment:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

C. ☐ Respondent is a person with a substance-related disorder and in need of treatment but does not require full-time placement in a facility. Iowa Code § 125.84(3).

(1) Estimated further length of time Respondent will require treatment on an outpatient or other appropriate basis:
*Check one*

a. ☐ Is _____.

b. ☐ Cannot be determined at this time.

(2) Recommended further treatment:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

D. ☐ Respondent is a person with a substance-related disorder and in need of treatment but is not responding to the treatment provided. Iowa Code § 125.84(4).

Recommended alternative placement:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

**10.** State facts and reasons supporting your recommended treatment and that the treatment is the least restrictive and effective for Respondent:

_____

_____

_____

☐ *Check this box if you have attached additional pages.*

***Continued on next page***

Rule 13.35—Form 11: *Periodic Report (Respondent Outpatient)*, continued

## 11. Signature

_____ _____
*Printed name* *Signature**

_____ _____
*Title*** *Name of facility*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

_____ _____, 20_____
*Month* *Day* *Year*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*

***A **psychiatric advanced registered nurse practitioner** treating Respondent may complete this Periodic Report. Iowa Code § 125.86(3)(a).*

*An **advanced registered nurse practitioner** who is not certified as a psychiatric advanced registered nurse practitioner but who meets the qualifications of a mental health professional may complete this Periodic Report. Iowa Code § 125.86(3)(b).*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 13.35—Form 12:** ***Report of Respondent's Discharge***

**In the Iowa District Court for _____ County**
*County where Report is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be a Person with a Substance-Related Disorder** | No._____<br><br>**Report of Respondent's Discharge**<br><br>Iowa Code § 125.85(4) |

I, _____, administer of _____,
*Name* *Facility*

inform the court that Respondent was discharged from this facility or treatment on

_____ _____, 20_____.
*Month* *Day* *Year*

**Signature**

_____ _____
*Printed name* *Signature**

_____ _____
*Title* *Name of facility*

_____
*Mailing address*

_____, _____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____ _____
*Email address* *Additional email address, if applicable*

_____ _____, 20_____
*Month* *Day* *Year*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 13.35—Form 13:** ***Notice of Appeal from Findings of Magistrate or Judicial Hospitalization Referee***

**In the Iowa District Court for _____ County**
*County where Notice is filed*

| | |
|---|---|
| **In the Matter of**<br><br>**_____,**<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be a Person with a Substance-Related Disorder** | No._____<br><br>**Notice of Appeal from Findings of Magistrate or Judicial Hospitalization Referee**<br><br>Iowa Code § 229.21(3) |

**1.** To: The clerk of the district court for _____ County.
*County where Notice is filed*

**2.** Respondent appeals to the district court the findings of the magistrate or judicial hospitalization referee that Respondent is a person with a substance-related disorder, made on _____ ____, 20____.
*Month* *Day* *Year*

**3.** Respondent requests a review of this matter by a judge of the district court in accordance with Iowa Code section 229.21(3).

**4. Signature**

_____ _____
*Printed name* *Signature**

Date: _____ ____, 20____.
*Month* *Day* *Year*

Signed by:
*Check one*

☐ Respondent
☐ Attorney
☐ Next friend of Respondent
☐ Guardian of Respondent

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 13.35—Form 14a: *Claim for Attorney Fees***

**In the Iowa District Court for _____ County**
*County this Claim is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be a Person with a Substance-Related Disorder** | No._____<br><br>**Claim for Attorney Fees**<br><br>Iowa Code § 125.78(1) |

1. I, the undersigned attorney, state that the court appointed me to represent Respondent, alleged to be a person with a substance-related disorder, pursuant to Iowa Code section 125.78(1), and that I have completed representation of Respondent in this matter as set forth in the itemized statement provided with this Claim and that I have not directly or indirectly received or entered into a contract to receive any compensation for such services from any sources.
2. I request an order to be compensated in accordance with the provisions of Iowa Code section 125.78(1).
3. **Oath and signature**

   I, _____, have read this Claim, and certify under
   *Print your full name: first, middle, last*

   penalty of perjury and pursuant to the laws of the State of Iowa that the information provided in this Claim is true and correct.

   _____ _____, 20___ /s/_____
   *Month* *Day* *Year* *Claimant's signature*

   _____ _____, _____ _____
   *Mailing address* *City* *State* *ZIP code*

   (___) _____ _____
   *Phone number* *Email address*

   _____ _____
   *Additional email address, if applicable* *Attorney PIN number*



[Court Order August 17, 2022, effective November 1, 2022]

**Rule 13.35—Form 14b: *Claim for Physician Fees***

**In the Iowa District Court for _____ County**
*County where Claim is filed*

| | |
|---|---|
| **In the Matter of**<br><br>_____,<br>**Respondent** *Full name: first, middle, last*<br><br>**Alleged to be a Person with a Substance-Related Disorder** | No._____<br><br>**Claim for Physician Fees**<br><br>Iowa Code § 125.80(1) |

**1.** I, the undersigned physician, state that pursuant to Iowa Code section 125.80(1), I examined Respondent, alleged to be a person with a substance-related disorder, and that services have been completed as set forth in the itemized statement provided with this Claim and that I have not directly or indirectly received or entered into a contract to receive any compensation for such services from any sources.

**2.** I request an order to be compensated in accordance with the provisions of Iowa Code section 125.80(1).

**3. Oath and signature**

I, _____, have read this Claim, and certify under
*Print your full name: first, middle, last*

penalty of perjury and pursuant to the laws of the State of Iowa that the information provided in this Claim is true and correct.

_____ _____, 20___ _____
*Month* *Day* *Year* *Claimant's signature**

_____ _____, _____ _____
*Mailing address* *City* *State* *ZIP code*

(___) _____ _____ _____
*Phone number* *Email address* *Additional email address, if applicable*

**This form may be signed either by using a digitized signature, see instructions at https://www.iowacourts.gov/for-the-public/court-forms/, or by printing and hand-signing.*



[Court Order August 17, 2022, effective November 1, 2022]

# CHAPTER 14

Reserved

# CHAPTER 15
# IOWA RULES OF REMOTE PROCEDURE

## DIVISION I
## SCOPE AND APPLICABILITY



## DIVISION II
## DEFINITIONS



## DIVISION III
## GENERAL PROVISIONS



## DIVISION IV
## CRIMINAL PROCEEDINGS



## DIVISION V
## JUVENILE PROCEEDINGS



## DIVISION VI
## FAMILY LAW PROCEEDINGS

# CHAPTER 15
# IOWA RULES OF REMOTE PROCEDURE

## DIVISION I
SCOPE AND APPLICABILITY

**Rule 15.101 Scope and applicability.** The rules in this chapter govern all remote and hybrid court proceedings unless another rule specifies otherwise or unless a statute provides different procedures for certain courts or cases.

**Rule 15.102 In-person proceeding presumption.** Except as provided by statute or the rules of this chapter, all court proceedings are presumed to be held in person.

## DIVISION II
DEFINITIONS

**Rule 15.201 Definitions.** In this chapter:

**15.201(1)** *Participant.* "Participant" means judges, attorneys, parties, witnesses, court reporters, victims as defined by Iowa Code section 915.10(3), and any other persons who may have an active role in a court proceeding.

**15.201(2)** *In-person appearance.* "In-person appearance" means participating in a court proceeding by being physically present in the courtroom.

**15.201(3)** *In-person proceeding.* "In-person proceeding" means a court proceeding in which all participants are physically present in the courtroom.

**15.201(4)** *Remote appearance.* "Remote appearance" means participating in a court proceeding using an Iowa Judicial Branch approved communications service.

**15.201(5)** *Remote proceeding.* "Remote proceeding" means a court proceeding in which all participants appear using an Iowa Judicial Branch approved communications service.

**15.201(6)** *Hybrid proceeding.* "Hybrid proceeding" means a court proceeding in which one or more but fewer than all participants appear using an Iowa Judicial Branch approved communications service and others are physically present in the courtroom.

## DIVISION III
GENERAL PROVISIONS

**Rule 15.301 Remote proceeding requirements.**

**15.301(1)** *Remote proceeding decorum.* The inherent power of the court to regulate the courtroom applies to remote and hybrid proceedings. Participants and persons observing remotely must conduct themselves as if they were in the courtroom in person.

**15.301(2)** *Judge's location for remote and hybrid proceedings.* A judge may participate in a proceeding by remote appearance subject to the requirements of Iowa Code section 602.6105.

**15.301(3)** *Iowa Judicial Branch Remote Proceedings Toolkits.* Participants in remote or hybrid proceedings must comply with directives contained in the Iowa Judicial Branch Remote Proceeding Toolkits, available from the Iowa Judicial Branch website at www.iowacourts.gov.

**15.301(4)** *Represented party's in-person attendance.* If a represented party appears in person at a proceeding, the party's attorney must also appear in person at the proceeding unless the party consents to the attorney's remote appearance or unless the court finds good cause exists for the attorney to appear remotely.

**Rule 15.302 Motion for remote, hybrid, or in-person appearance or proceeding.**

**15.302(1)** *Motions for remote, hybrid, or in-person appearance or proceeding.* Any party may request by motion to appear remotely at a proceeding or to appear in person at a previously ordered remote or hybrid proceeding. Any party may also request by motion that an entire proceeding be conducted remotely or that a previously ordered remote or hybrid proceeding be conducted in person.

**15.302(2)** *Contents of the motion.* The motion must include specific grounds supporting the party's request. It must also certify that the filer of the motion has in good faith communicated or attempted to communicate with all other affected parties to determine whether the motion is unresisted, that such communication was not feasible under the circumstances, or that such communication is prohibited by prior court order.

**15.302(3)** *On court's own motion.* The court on its own motion may order that one or more participants appear remotely or in person.

**15.302(4)** *Court's consideration of motion.* In ruling on a motion under rule 15.302, the court must on a case-by-case basis consider the following factors:

*a.* Ability of participants to appear remotely and fully participate in the proceeding.

*b.* Timeliness of the motion and resistance, if any, including whether there is sufficient time to provide all parties with reasonable notice of the court's decision.

*c.* Case type and type of court proceeding.

*d.* The court's schedule.

*e.* Number and location of participants and anticipated length of proceeding.

*f.* Complexity of legal and factual issues.

*g.* Whether the proceeding requires a formal record or whether any party has requested the proceeding to be reported.

*h.* Nature and amount of evidence to be submitted during the proceeding.

*i.* Agreement among or objection by parties.

*j.* Parties' and nonparty participants' English proficiency or need for interpreter or translator assistance.

*k.* Whether use of remote or hybrid technology will undermine the dignity, solemnity, decorum, integrity, fairness, or effectiveness of the proceeding.

*l.* A participant's previous abuse of a method of appearance.

*m.* Public access to the proceeding and potential increase in access to the courts.

*n.* Any other factor or combination of factors that establishes good cause to grant or deny the motion.

**15.302(5)** *Court's consideration of motion in criminal proceedings.* In ruling on a 15.302 motion in criminal proceedings, the court must also consider the factors in Division IV of this chapter.

**15.302(6)** *Court's consideration of motion in juvenile proceedings.* In ruling on a 15.302 motion in juvenile proceedings, the court must also consider the factors in Division V of this chapter.

**15.302(7)** *Court's consideration of motion in family law proceedings.* In ruling on a rule 15.302 motion in family law proceedings, the court must also consider the factors in Division VI of this chapter.

**15.302(8)** *Court's order.*

*a.* The court must consider a rule 15.302 motion based on the filings and without a hearing unless the court finds good cause for holding a hearing on the motion.

*b.* If the court permits or requires a participant to appear remotely, the court must provide reasonable notice of the remote or hybrid proceeding.

*c.* If the court permits or requires a participant to appear remotely or determines that the entire proceeding will be held remotely, the court must include in its order:

(1) A list of all participants permitted or directed to appear remotely if the proceeding will be a hybrid proceeding.

(2) Instructions for joining the remote proceeding.

**15.302(9)** *Public access.*

*a.* If the court orders a public proceeding to be held remotely, the proceeding remains open to the public.

*b.* If a proceeding open to the public is held as a hybrid proceeding, members of the public who wish to view the proceeding may do so in person, and the court may permit members of the public to view the proceeding remotely.

*c.* Participants may not share with any member of the public the means to participate in a remote or hybrid proceeding that is closed to the public.

## DIVISION IV
## CRIMINAL PROCEEDINGS

**Rule 15.401 Criminal proceedings generally.** The rules in this division apply to all criminal proceedings.

**Rule 15.402 Defendant request to be excused from remote appearance.** A defendant may file a request to be excused from appearing remotely for a proceeding or the entirety of the case if the defendant will not be able to participate remotely. A request must state with specificity why the defendant is unable to participate remotely. If granted, the defendant must appear in person subject to Iowa Rule of Criminal Procedure 2.27.

**Rule 15.403 Defendant's attorney's in-person attendance.** If the defendant is appearing in person at a guilty plea, trial, or sentencing proceeding, the defendant's attorney must also appear in person.

**Rule 15.404 Specific criminal proceedings.**

**15.404(1)** *Defendant's appearance.* In all criminal proceedings, the defendant must appear as required by Iowa Rule of Criminal Procedure 2.27.

**15.404(2)** *Trial and sentencing.* Trial and sentencing must occur pursuant to Iowa Rules of Criminal Procedure 2.17 and 2.27.

**15.404(3)** *In-person proceedings.* The following proceedings are presumed to be in person:

*a.* Arraignment.
*b.* Pretrial conference.
*c.* Status conference.
*d.* Case conference.
*e.* Guilty plea.
*f.* Restitution hearing.

**15.404(4)** *Proceedings where testimony is not expected.* Except as provided by rules 15.404(2)–(3), proceedings where testimony is not expected are presumed to be remote.

**Rule 15.405 Court's consideration of rule 15.302 motion in criminal proceedings.**

**15.405(1)** *Waiver required.* If a participant has a constitutional or statutory right to an in-person proceeding, the proceeding must occur in person unless the participant has waived any such right.

**15.405(2)** *Additional factors.* In ruling on a rule 15.302 motion, the court must also consider the following factors:

*a.* Whether the defendant has a constitutional or statutory right requiring any other participant to appear in person.
*b.* Whether the defendant has waived speedy trial.
*c.* Whether the court has excused the defendant from remote participation.

## DIVISION V
JUVENILE PROCEEDINGS

**Rule 15.501 Juvenile proceedings generally.** The rules in this division apply to all juvenile proceedings.

**Rule 15.502 Delinquency adjudication.** Delinquency adjudication must occur in person.

**Rule 15.503 Court's consideration of rule 15.302 motion in juvenile proceedings.**

**15.503(1)** *In-person preference.* In ruling on a rule 15.302 motion, the court should favor conducting the following proceedings in person:

*a.* Contested or evidentiary proceeding.
*b.* Removal hearing.
*c.* Child in need of assistance adjudication.
*d.* Disposition hearing.
*e.* Permanency hearing.
*f.* Detention hearing.
*g.* Modification hearing.
*h.* Termination of parental rights hearing.

**15.503(2)** *Remote proceeding preference.* In ruling on a rule 15.302 motion, the court should favor conducting the following proceedings remotely:

*a.* Uncontested hearing.

*b.* Detention hearing in which the juvenile has waived in-person appearance.

*c.* Review hearing.

*d.* Status conference.

**15.503(3)** *Additional factors.* In ruling on a rule 15.302 motion, the court must also consider the following factors:

*a.* Location of any out-of-home placement of the juvenile.

*b.* Availability and location of families.

*c.* Safety of any person.

*d.* The juvenile's preference.

*e.* Whether the juvenile has a constitutional or statutory right to an in-person proceeding or in-person appearance.

## DIVISION VI
FAMILY LAW PROCEEDINGS

**Rule 15.601 Family law proceedings generally.** The rules in this division apply to all family law proceedings.

**Rule 15.602 Court's consideration of rule 15.302 motion in family law proceedings.** In ruling on a rule 15.302 motion, the court should favor conducting a contested or evidentiary proceeding in person.

# CHAPTER 16
# IOWA RULES OF ELECTRONIC PROCEDURE

## DIVISION I
## SCOPE AND AUTHORITY



## DIVISION II
## DEFINITIONS



## DIVISION III
## GENERAL PROVISIONS



## DIVISION IV
## FILING PROCESSES

**DIVISION V**
**PUBLIC ACCESS**



**DIVISION VI**
**PERSONAL PRIVACY PROTECTION**



**DIVISION VII**
**CRIMINAL CASES**



**DIVISION VIII**
**JUVENILE CASES**

# CHAPTER 16
# IOWA RULES OF ELECTRONIC PROCEDURE

## DIVISION I
SCOPE AND AUTHORITY

**Rule 16.101 Scope and applicability.**

**16.101(1)** The rules in this chapter govern the filing of all documents in the Iowa Judicial Branch electronic document management system (EDMS) in cases commenced on or after the initiation of electronic filing in an Iowa county or in the Iowa appellate courts. The rules of this chapter also govern the electronic filing of documents in cases converted to electronic cases.

**16.101(2)** Chapter 16 comments serve solely as explanation of the Iowa Rules of Electronic Procedure and are not a part of the rules.

**16.101(3)** The Iowa Rules of Electronic Procedure will be cited as "Iowa R. Elec. P."

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**COMMENT:**

**Rule 16.101.** EDMS is designed to provide more efficient and less costly access to the Iowa court system for parties, attorneys, and other users by enabling access to their cases 24 hours per day, 7 days per week from anywhere with Internet access. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.102 Cases pending prior to electronic filing.**

**16.102(1)** A case pending prior to the initiation of electronic filing in a particular county is not subject to the requirements of this chapter. A party, however, may apply to convert a case not subject to the requirements of this chapter to an electronic case.

**16.102(2)** If the court approves an application to convert a case to electronic filing, the rules of this chapter govern the electronically converted portion of the case. The court will determine how the case will be converted to an electronic file and which party, if any, should bear the costs of such conversion.

**16.102(3)** For efficiency in court operations, the chief judge of the judicial district may order the electronic conversion of any case not already subject to the requirements of this chapter.

**16.102(4)** Any electronically converted document is subject to the redaction requirements related to protected information in division VI of this chapter. Documents filed prior to the conversion order may be scanned for the convenience of the court, but the electronic documents will be set at a security level available only to the court. The original paper portion of any converted file is not subject to the Iowa Rules of Electronic Procedure unless the court orders otherwise.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.103 Relationship to other court rules.** To the extent these rules are inconsistent with any other Iowa court rule, the rules in this chapter govern electronically filed cases and cases converted to electronic filing.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.104 Authority.** These rules are adopted under the authority granted to the Iowa Supreme Court by article V, section 4, of the Iowa Constitution and by Iowa Code section 602.1614 (judicial branch acceptance, distribution, and retention of electronic records).

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rules 16.105** to **16.200** Reserved.

## DIVISION II
DEFINITIONS

**Rule 16.201 Definitions.** The following terms, as used in this chapter, are defined as follows:

**16.201(1)** *Confidential.* "Confidential" means court files, documents, or information excluded from public access by federal or state law or administrative rule, court rule, court order, or case law.

**16.201(2)** *Court-generated document.* "Court-generated document" means a document that is created and signed by court personnel, including judges, magistrates, court administrators, clerks of court and any designees of each.

**16.201(3)** *Court record.* "Court record" means for all cases the electronic files maintained in EDMS, filings the clerk of court maintains in paper form when permitted by these rules, and exhibits and other materials filed with or delivered to the court that the clerk maintains.

**16.201(4)** *Document.* "Document" means an instrument on which is recorded, by means of letters, figures, or marks, the original, official, or legal form of something, which may be used in evidence. A document is any physical embodiment of information or ideas, which may be in electronic or paper form.

**16.201(5)** *EDMS.* "EDMS" means the electronic document management system, the Iowa Judicial Branch electronic filing and case management system.

**16.201(6)** *Electronic.* "Electronic" means technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

**16.201(7)** *Electronic cover sheet.* "Electronic cover sheet" means the information that registered filers type into EDMS when they create a new case or electronically file or present documents to the court. The cover sheet enables EDMS to correctly route the filing.

**16.201(8)** *Electronic filing.* "Electronic filing" means the EDMS receipt of a document submitted to EDMS for filing. The posting of "received," "awaiting approval," or "filed" status in the filer's EDMS account serves as confirmation that EDMS has received the filer's submission.

**16.201(9)** *Electronic presentation.* "Electronic presentation" means the process by which a party or filer may electronically deliver a document to the court for review or other court action. A document is not filed when electronically presented to the court through EDMS.

**COMMENT:**

**"Electronic presentation."** Formerly, parties and attorneys could physically hand a judge an unfiled document or draft order for consideration. With the implementation of EDMS, this process must now be done electronically. Electronic presentation is initiated through the selection of the "Document Type" on the electronic cover sheet. Most document types that are electronically presented are "Proposed Document" types (proposed orders, proposed dissolution decrees, or documents proposed for restricted access, for example). Other document types, however, such as trial informations and accompanying minutes of testimony, are also presented electronically to the court. A document that is electronically presented is available for the court to view, and is not a part of the court file unless the court or a party or attorney later files the document. The electronic presentation of a document has no impact on whether a party or attorney should or must be present when the court reviews the document. In addition, electronic presentation does not modify the ethical obligations or requirements of the parties, attorneys, and court regarding ex parte communications. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**16.201(10)** *Electronic record.* "Electronic record" means a record, file, or document created, generated, sent, communicated, received, or stored by electronic means.

**16.201(11)** *Electronic service.* "Electronic service" means the EDMS electronic posting of a notice of electronic filing or presentation into the registered parties' or attorneys' EDMS accounts, along with a link to the document presented or filed. Although a courtesy copy of the notice of electronic filing or service may be sent by email, service is considered complete when the notice is electronically posted to the user's EDMS account. The registered party may view and download the presented or filed document. *See* rule 16.315(1)(*f*) (electronic service of documents).

**16.201(12)** *File stamp.* "File stamp" means in the district court the date, time, and county information that is affixed at the top of the first page of a document when it is filed in EDMS. "File stamp" means in the appellate courts the date of filing with the clerk of the supreme court affixed along the left margin of a document's first page when it is filed in EDMS.

**16.201(13)** *Filing agent.* "Filing agent" means an officer, employee, or nonattorney representative of an entity—such as a partnership, association, corporation, or tribe—or representative of an individual property owner in a landlord-tenant matter, who is authorized by Iowa law to appear on behalf of that entity or individual property owner because of the nature of the proceeding. *See* rule 16.201(34) (definition of "self-represented").

**16.201(14)** *Governmental agency.* "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government, the state, or a county, municipality, or other political subdivision of the state, including a court-approved nonprofit designee of such governmental agency.

**16.201(15)** *Hyperlink.* "Hyperlink" means an electronic connection or reference to another place in the document or other cited authority which, when selected, shows the portion of the document or the cited authority to which the hyperlink refers.

**16.201(16)** *In camera.* "In camera" means in the judge's chambers, or in private, out of public view.

**16.201(17)** *Information.* "Information" means documents, text, images, sounds, codes, computer programs, software, databases, or the like.

**16.201(18)** *Judicial branch.* "Judicial branch" means the Iowa Judicial Branch of government and all courts, judicial officers, clerks of court, and offices of the courts of the State of Iowa.

**16.201(19)** *Jurisdictional deadline.* "Jurisdictional deadline" means a deadline set by rule or statute that the court may not extend or change.

**16.201(20)** *Nonelectronic filing.* "Nonelectronic filing" means a process by which a paper document or other nonelectronic item is filed with the court and retained in nonelectronic form. *See* rule 16.313 (nonelectronic filings). "Nonelectronic filing" means, for parties with an exception from the electronic filing registration requirement, submitting a paper document to the clerk for scanning and electronic filing. *See* rule 16.303 (submission of paper documents).

**16.201(21)** *Nonregistered filer.* "Nonregistered filer" means a party who has received an exception from the Iowa Judicial Branch electronic registration requirement and is authorized to submit nonelectronic documents in a case. *See* rule 16.302(2) (exceptions from electronic filing requirements).

**16.201(22)** *Notice of case association.* "Notice of case association" means an electronic submission by a party or filing agent to obtain access to the case and receive notifications of filings after the party or filing agent has registered in EDMS.

**16.201(23)** *Notice of electronic filing or presentation.* "Notice of electronic filing or presentation" means the notice EDMS generates when a document is electronically filed or electronically presented to the court. The notice of electronic filing or presentation indicates the official file-stamp date and time of the electronic filing of the document in local time for the State of Iowa. *See* rule 16.307 (electronic file stamp). When a document or proposed document is electronically filed or presented to the court, EDMS will post a notice of electronic filing or presentation to the EDMS account of all parties who are registered filers in the case. Such parties may view and download the document or proposed document by logging in to their accounts.

**COMMENT:**

**"Notice of electronic filing or presentation."** EDMS sends a courtesy notice of electronic filing or presentation by email to the filer and to any other registered party who has entered an appearance or answer in the case, filed a notice of case association, or filed an appearance as a court-approved intervenor. However, parties are cautioned that such emails are provided only as a *courtesy* service and should not be relied upon as a party's source for obtaining notifications. A courtesy email message is not an official notification of the filing of a document and is not official service of any document listed in the message. Due to the unique features and settings of individual email accounts, EDMS cannot ensure that emailed notices of electronic filing or presentation will actually be received by a party or that such notices will be received in a timely manner. Parties receive *official* notifications through their EDMS accounts and they should rely solely upon those accounts to obtain notices of electronic filing or presentation. EDMS sends additional courtesy email messages to the filer when the status of a filing is updated to "received," "approved," "filed" (for presented documents only), or "returned not filed." The official update to the status of a filing is posted to the filer's EDMS account under My Filings. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**16.201(24)** *Party.* "Party" means a person or entity by or against whom a case or part of a case is brought, including a plaintiff, petitioner, defendant, third-party defendant, or respondent. "Party" also includes a court-approved intervenor, or any other person or entity defined as a party to a case by a statute, rule, or court order. When a party appears, the clerk of court will index that party to the case, providing case access and receipt of notifications. When one or more attorneys have entered an appearance on a party's behalf, references in these rules to service upon or filings by a party mean service upon or filings by that attorney or those attorneys. When a rule or statute requires a criminal defendant to be served with a document, service on the defendant must be made personally or electronically.

**16.201(25)** *Proposed document.* "Proposed document" means a document electronically presented to the court for review or other court action. A proposed document, other than a proposed exhibit, is not filed until the court takes action on it. *See* rule 16.412(2) (electronic submission of proposed exhibits).

**16.201(26)** *Protected information.* "Protected information" means the types of information referenced in rule 16.602.

**16.201(27)** *Public.* "Public" refers to court files, documents, or information that is not confidential or protected.

**16.201(28)** *Public access terminal.* "Public access terminal" means a computer located in a courthouse through which the public may view, print, and electronically file documents.

**16.201(29)** *Redact.* "Redact" means to delete, white out, black out, or otherwise hide text or images on a copy of an original document. The original document becomes confidential and the redacted version becomes the public version of the document.

**16.201(30)** *Registered filer.* "Registered filer" means a person or entity that has registered with EDMS and uses a login and password to file documents electronically in the Iowa court system. In cases in which the registered filer is a party and has entered an appearance or filed an answer, filed a notice of case association, or filed an appearance as a court-approved intervenor, the registered filer will electronically serve and receive notice of most filed or presented documents. A registered filer, other than a registered specialized nonparty filer, can also electronically view and download files. *See* rules 16.304 (registration, logins, and passwords) and 16.315 (service of documents subsequent to original notice). *But see* rule 16.314(3) (service of original notices).

**16.201(31)** *Remote access.* "Remote access" means the ability to electronically search, view, copy, or download electronic court documents without visiting a courthouse. Remote access to documents is available to registered filers and specialized nonparty users. The status of the registered filer or specialized nonparty user determines the filer's or user's level of remote access to restricted access documents. *See* rule 16.502 (access to electronic court files).

**16.201(32)** *Restricted access.* "Restricted access" means a case, docket entry, or document, including physical or digital exhibits, which the court has placed at a nonpublic security level or that EDMS has automatically placed at a nonpublic security level based on federal or state law or by court rule or administrative rule. *See* rule 16.405 (restricting access to filings).

**16.201(33)** *Scanned document.* "Scanned document" means an electronic version of a paper document created by scanning the document.

**16.201(34)** *Self-represented.* "Self-represented" means persons or parties who represent themselves without the assistance of an attorney. An entity such as a partnership, association, corporation, or tribe, or an individual property owner in a landlord-tenant matter, may be self-represented when otherwise authorized by law to be represented by an officer, employee, or nonattorney representative. *See, e.g.*, Iowa Code § 631.14(1), (2)*(a)*; *In re N.N.E.*, 752 N.W.2d 1, 12-13 (Iowa 2008). Except where this chapter specifically indicates otherwise, "attorney" includes self-represented litigants. *See* rule 16.201(13) (definition of "filing agent").

**16.201(35)** *Signature.* "Signature" means, for the purpose of electronically filing a document in EDMS, one of three formats.

*a.* For a registered filer electronically filing a document, *"signature"*means the registered filer's login and password, accompanied by one of the following approved signature representations and a block of identifying information as described in rule 16.305(4) (signature block):

1. *"Digitized signature"* means an electronically applied, accurate, and unaltered image of a person's handwritten signature.

2. *"Electronic signature"* means an electronic symbol, either "/s/" or "/efiler's name/," that a person has executed or adopted with the intent to sign the document.

3. *"Nonelectronic signature"* means a handwritten signature applied to an original document that is then scanned and electronically filed.

*b.* For a nonregistered filer or party signing a document, or for a registered filer signing a document that another filer will electronically file, *"signature"* means the filer's or party's name affixed to the document as a digitized or nonelectronic signature, along with a block of identifying information as described in rule 16.305(4).

**COMMENT:**

**"Signature."** For EDMS filing, a "digital signature" must be treated like a nonelectronic signature. *"Digital signature"* means a complex string of electronic data that is embedded in an electronic document for the purposes of verifying document integrity and signer identity. It can also be used to ensure that the original content of the message or document that has been delivered is unchanged. When a document is filed in EDMS, it is modified by the electronic file stamp. This causes digitally signed documents to display as altered in EDMS. The filer should print the digitally signed document showing a representation of the signature and the verifying codes, then scan and electronically file the resulting document. If the digitally signed document is an original document as described in rule 16.411, the filer must retain the original document. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**16.201(36)** *Specialized nonparty filer.* "Specialized nonparty filer" means a filer who may file documents in multiple cases without being a party, such as a bail bond agent or a service provider. *See* rule 16.304(1)(*b*)(3) (specialized nonparty filer registration).

**16.201(37)** *Specialized nonparty user.* "Specialized nonparty user" means a nonparty other than an attorney registered to electronically view and download information from electronic files that are not confidential or protected. A specialized nonparty user may view or download documents in

multiple cases and may have access to restricted information. A qualified abstractor is a specialized nonparty user who may have access to birth dates and names of children. A court interpreter on Iowa's roster of court interpreters is a specialized nonparty user but does not have access to birth dates or names of children. *See* rules 16.304(1)(*d*) (requirements for specialized nonparty user registration) and 16.502(2) (abstractor remote access).
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017; August 26, 2020, effective January 1, 2021; August 30, 2021]

**Rules 16.202** to **16.300** Reserved.

## DIVISION III
GENERAL PROVISIONS

**Rule 16.301 Electronic document management system (EDMS).** The clerk of court is responsible for maintaining an electronic court file in EDMS for all cases filed under this chapter, receiving case filings into EDMS by electronic transmission and scanning documents into EDMS for nonregistered parties.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.302 Electronic filing mandatory.**

**16.302(1)** *Electronic registration and filing requirements.* All attorneys authorized to practice law in Iowa, all attorneys admitted pro hac vice, and all self-represented persons, except as this chapter provides, must register to use EDMS as provided in rule 16.304(1). Registered filers must electronically submit all documents to be filed with the court unless this chapter or the court otherwise requires or authorizes.

**16.302(2)** *Exceptions from electronic filing requirements.*

*a. One-time exceptions.* For good cause, the court at any time, or the clerk of court while the clerk of court office is open, will authorize any filer to submit a document on a one-time basis nonelectronically to the clerk for filing.

*b. Self-represented defendants.* A self-represented individual defendant who is not yet a registered filer is permitted to make that defendant's initial filing, such as an answer, in paper.

*c. Duration of case exceptions.* For good cause, the chief judge of the judicial district in which a case is pending, or the chief judge's designee, will excuse a self-represented individual party from registering to file electronically and from filing electronically throughout the case. For purposes of this paragraph, good cause includes lack of regular access to the Internet through a device suitable for reading documents maintained at the party's residence or on the party's person.

*d. Court order requirement.* Grants and denials of requests for exceptions from registering to file electronically throughout the case will be made by court order.

**COMMENT:**

**Rule 16.302(2).** Implementation of electronic filing in Iowa courts should not impede any person's access to justice. When there are legitimate reasons preventing a person from electronic filing, the court should grant that person an exception. A self-represented individual party not only needs to be able to make electronic filings, but also needs to be able to receive and read new electronic filings in a timely manner. Thus, if a party's only access to the Internet is through a public access terminal at a courthouse or through a public library, this should constitute good cause for an exception, if requested, from the requirements for electronic participation in a case. Other grounds may also constitute good cause for an exception from the EDMS registration requirement in a particular case. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**16.302(3)** *Exceptions by rule.* The following persons are excused from the EDMS registration and electronic filing requirements without the necessity of a court order:

*a. Self-represented criminal defendants.* A self-represented criminal defendant is not required to be but may choose to be a registered filer.

*b. Confined parties.* A party who is confined pursuant to governmental authority, including but not limited to a person who is incarcerated or civilly committed, is excused from registering to file electronically.

*c. Self-represented parents.* Self-represented parents of a minor who are parties in a juvenile case are excused from registering to file electronically.

*d. Excused persons may become registered filers.* If a person excused under this rule chooses to register, the person waives the exception from registering to file electronically and is governed by

these rules in the same manner as any registered filer. If the person later desires to be excused from registration, the person must apply for and receive an exception pursuant to the rules of this chapter.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.303 Submission of paper documents.**

**16.303(1)** *Submission of paper documents for scanning.*

*a. Delivery to clerk of court.* If a court authorizes the clerk of court to scan a paper document, the document must be printed on only one side and delivered to the clerk with no tabs, staples, or permanent clips, but it may be organized with paperclips, clamps, or some other type of temporary fastener, or it may be delivered to the clerk in an appropriate file folder.

*b. Redacted versions of paper documents containing protected information.* If a paper document contains protected information, the filer must make the same redactions that rule 16.605 requires for electronic filings before filing the document in paper. For original documents that the filer has not created, the filer must deliver both a redacted version and the original version of the document to the clerk of court unless rule 16.605(2)(*c*) applies.

*c. Civil cover sheets and confidential information forms.* When a filing requires it under the Iowa Rules of Civil Procedure, a filer who is excused from registering to file electronically must complete a civil cover sheet and confidential information form in paper.

**16.303(2)** *Return of documents by mail.* If a filer wants the clerk to return an original document that was submitted in paper, the filer must provide the clerk of court a self-addressed, stamped envelope large enough to accommodate the document.

**16.303(3)** *Court retention of paper documents.* Except as otherwise provided in these rules, the court will not retain paper documents submitted to it. *See, e.g.*, rule 16.313(1) (items that may be filed nonelectronically).

**16.303(4)** *Paper court files.* Except as otherwise provided in these rules or as the court directs, the clerk of court will not maintain paper court files in cases commenced on or after the initiation of electronic filing in a particular county or in the appellate courts. *See, e.g.*, rule 16.313(1) (items that may be filed nonelectronically).

**16.303(5)** *Application of redaction rules for personal privacy protection.* The redaction rules for personal privacy protection in division VI of this chapter apply to paper documents submitted for scanning and electronic filing.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.304 Registration; logins; passwords.**

**16.304(1)** *Registration.*

*a. Registration requirement.* Registration is required to file documents electronically in any case this chapter governs and to remotely access and download electronically filed documents. *See* rules 16.302(1) (electronic registration and filing requirements) and 16.502 (access to electronic court files).

*b. Filer registration.* To file documents with the court electronically, filers, self-represented litigants, and specialized nonparty filers must complete the EDMS registration process. Filers can request an account and obtain a login and password for EDMS in the electronic filing section of the Iowa Judicial Branch website. Filers can access the registration process with personal computers or by using public access terminals at county courthouses.

(1) *Requirements for pro hac vice registration.* Before registering to use EDMS, an out-of-state attorney must first make application for and be admitted pro hac vice pursuant to chapter 31 of the Iowa Court Rules, Admission to the Bar. The in-state attorney appearing with the out-of-state attorney in the proceeding must file the application for admission pro hac vice. If the court grants the application, the out-of-state attorney must complete the registration process in the electronic filing section of the Iowa Judicial Branch website and enter an appearance in the case.

(2) *Requirements for filing agent registration.* An officer, employee, or other nonattorney representative electronically filing for an entity such as a partnership, association, corporation, or tribe, or filing for an individual property owner in a landlord-tenant matter, must register as a filing agent. If the filing agent appears on behalf of multiple entities or individual property owners under the rules of this chapter, the agent must register separately for each entity or individual property owner the agent represents. *See* rule 16.201(13) (definition of "filing agent").

(3) *Requirements for specialized nonparty filer registration.* Specialized nonparty filers must register to file electronically. Specialized nonparty filers may include bail bond agents, process servers, and other persons who generally are not considered parties but who need to file documents in multiple cases.

*c. Law student and law graduate registration requirements.*

(1) To use EDMS, a law student or law graduate qualified to engage in the practice of law or appear as counsel must contact EDMS Support at the number or email address located on the electronic filing login page of the Iowa Judicial Branch website to obtain an application for registration. The student or graduate must submit a completed application, signed by a supervising attorney, to obtain a login and password.

(2) The student or graduate must enter an appearance in each case in which the student or graduate is practicing and must file to withdraw from each case when the student's or graduate's practice is completed.

(3) Upon termination of the supervision of the student's or graduate's practice, the supervising attorney must notify EDMS Support to have the student's or graduate's registration inactivated.

(4) A law student or law graduate in good standing who resumes practice before admittance to the bar must reinstate his or her former registration by submitting a new application for registration signed by a current supervising attorney.

(5) Once the student or graduate is licensed to practice law in Iowa, the new attorney must withdraw from the law student account and register with the attorney identification number (AT PIN) assigned by the office of professional regulation.

*d. Registration requirements for specialized nonparty users and abstractors.*

(1) To register, specialized nonparty users must request an application through EDMS Support at the telephone number or email address located on the electronic filing login page of the Iowa Judicial Branch website.

(2) Abstractors are specialized nonparty users. For the purpose of remote access to court documents and otherwise restricted information, an abstractor must either qualify as a "participating abstractor" as recognized by the Title Guaranty Division of the Iowa Finance Authority, be a licensed abstractor at such time that abstractors are licensed in the State of Iowa, or be substantially equivalent to a "participating abstractor" as determined by the state court administrator or the state court administrator's designee.

(3) Court interpreters are specialized nonparty users . For the purpose of remote access to court documents and other restricted information, a court interpreter must be listed on Iowa's roster of court interpreters maintained by the Iowa Judicial Branch's Office of Professional Regulation.

*e. Changing passwords.* Once registered, a registered filer must change the filer's password. If a registered person or entity believes the security of an existing password has been compromised, the person or entity must change the password immediately. The court may require password changes periodically.

*f. Changes in filers' contact information.* If a registered filer's email address, mailing address, or telephone number changes, the filer must promptly make the necessary changes to the registered filer's account information on the My Profile page in the filer's EDMS account. The filer must provide appropriate notice of changes in contact information to any nonregistered filer in every active case.

*g. Duties of registered filers.*

(1) *To update email.* Registered filers must maintain current registered email account information.

(2) *To monitor account.* Registered filers must monitor their accounts regularly and ensure that notifications sent to the account are timely opened.

(3) *To notify the court when no longer able to participate.* Registered filers who can no longer participate electronically in their cases must notify the court and request an exception from electronic filing in each case. *See* rule 16.302(2). When the registered filer has received an exception in each of the filer's open cases, the registered filer must withdraw from participation in electronic filing before the exceptions become effective.

*h. Withdrawal from electronic filing.* Registered filers may withdraw from participation in EDMS by logging in to the My Profile page of the filer's EDMS account or by contacting the clerk of court. Upon the withdrawal from electronic filing, the person's or entity's registration, login, and password are canceled and the filer's name is deleted from any applicable electronic service list. A registered filer's withdrawal from participation in EDMS is not authorization to file cases or documents nonelectronically. To file nonelectronically, the filer must obtain an exception from

the electronic filing requirement from the chief judge of each judicial district where the filer has a case pending. The filer should obtain an exception from electronic filing before withdrawing from EDMS. A registered filer's withdrawal from participation in EDMS is not a withdrawal from a case.

**16.304(2)** *Logins and passwords.* Filers must use logins and passwords to file documents electronically.

*a.* Any electronic filing, downloading, or viewing of an electronic file or document is deemed to be made with the authorization of the person registered to use the login and password unless and until clear and convincing evidence proves otherwise.

*b.* A registered filer must not knowingly permit the filer's login and password to be used by any other person except:

(1) A registered attorney may permit the attorney's login and password to be used by an authorized member or staff of the attorney's law office.

(2) A registered filer for an entity or governmental agency may permit the filer's login and password to be used by an authorized member or staff of the entity or governmental agency.

*c.* If a login or password is lost, misappropriated, misused, or compromised in any way, the person registered to use that login or password must promptly contact EDMS Support at the number or email address located on the electronic filing login page of the Iowa Judicial Branch website. If a login or password is lost, misappropriated, misused, or compromised in any way, the court may cancel the registration. The registered person or entity may be required to apply for a new password and login by completing a new registration.

*d.* For good cause, the court may refuse to allow a user or a filer to electronically file or download information in EDMS. The affected user or filer may apply with the court to reregister. Improper use of electronic filing, such as an intentional misuse or reckless use of a password or login, may subject a person to court sanctions. A person prohibited from electronic filing is not excluded from using the court system, but the person must obtain authorization under rule 16.302(2) to submit paper documents to the clerk for filing.

*e.* For system security reasons, a registration may be immediately suspended.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017; August 26, 2020, effective January 1, 2021; August 30, 2021]

**Rule 16.305 Signatures.**

**16.305(1)** *Registered filers.* A registered filer's login and password required for submission of documents to EDMS, accompanied by a digitized, electronic, or nonelectronic signature representation and a signature block as described in rule 16.305(4)(*a*), serve as the registered filer's signature on all electronic documents filed with the court. These also serve as a signature for purposes of the Iowa Rules of Civil Procedure, any other applicable Iowa Court Rules, and for any other purpose for which a signature is required in connection with proceedings before the court.

**16.305(2)** *Nonelectronic signatures.* If a document contains a nonelectronic signature, the signed document must be scanned for electronic filing.

**16.305(3)** *Documents requiring oaths, affirmations, verifications, acknowledgements, or notarization.* Any document requiring that a signature be made under oath or affirmation or with verification or acknowledgement, or any document being notarized, must be either signed by the subscriber nonelectronically and scanned for electronic filing or signed by the subscriber with a digitized signature. The same requirements apply to any oath giver's or witness's signature.

**COMMENT:**

**Rule 16.305(3).** A notary signature cannot be an electronic /s/ signature; it must be a digitized or nonelectronic signature. The notary seal may be electronic pursuant to Iowa Code chapter 9B. If the law requires the document to be signed in the notary's presence, the oath giver's and witness's signatures must be either nonelectronic or digitized (applied by a mechanism such as a signature pad that captures an unaltered image of the signer's signature). *See* Iowa Secretary of State website for additional information on notarization. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**16.305(4)** *Signature blocks.* Any filing requiring a signature must be signed with a signature representation authorized by these rules and accompanied by a block of identifying information.

*a.* The following identifying information about the person signing the filing, to the extent applicable, must be typewritten or printed under the person's signature representation:

1. Name.

2. Law firm or name of partnership, association, corporation, tribe, or individual property owner in a landlord-tenant matter on whose behalf the filing agent is signing.

3. Mailing address.

4. Telephone number.

5. Email address.

6. The email addresses of any other persons at the law firm who are to be notified of additions or corrections to the electronic file.

*b.* Victims and protected persons may omit mailing addresses, telephone numbers, and email addresses from their signature block when necessary for their protection.

*c.* Registered filers are responsible for promptly updating the information in (1) through (6) of rule 16.305(4)(*a*) in their EDMS account. Nonregistered filers are responsible for informing the court of any changes in this information with respect to all cases in which they have appeared.

**COMMENT:**

**Rule 16.305(4).** Under the signature rules of chapter 16, the following signature blocks are valid:

/s/ Judith Attorney
Attorney Law Firm
1111 Court Ave., Des Moines, IA 50209
515–555–5555
JAttorney@Law.gov

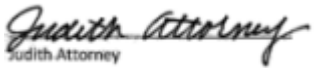
Or,

/s/ with name typed beside symbol as follows:
/s/ Judith Attorney
Judith Attorney
Attorney Law Firm
1111 Court Ave., Des Moines, IA 50209
515–555–5555
JAttorney@Law.gov

Or,

/ Judith Attorney /
Judith Attorney
Attorney Law Firm
1111 Court Ave., Des Moines, IA 50209
515–555–5555
JAttorney@Law.gov

Or,

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If the attorney logged in is not the attorney signing, the document must be signed by both, including a signature block for each attorney.

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[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**16.305(5)** *Multiple signatures.*

*a.* By filing a document containing two or more signatures, the registered filer confirms that the content of the document is acceptable to all persons signing the document and that all such persons consent to having their signatures appear on the document.

*b.* To receive notice of the filing of subsequent documents in the case, any persons signing the document must be registered filers.

*c.* After following the requirements of this rule, the registered filer must either:

(1) Scan the original document, with all of the signatures attached, and file the document electronically; or

(2) Electronically file the document in a portable document format (.pdf) using a signature format set out in the comment to rule 16.305(4).

**16.305(6)** *Signatures presumed valid.*

*a.* A signature on an electronically filed document is presumed valid and authentic until established otherwise by clear and convincing evidence.

*b.* A digitized or nonelectronic signature on a document that a governmental agency electronically files for the purpose of obtaining court action or any other signature the court has approved is presumed valid even if the signature is not from a registered filer.

**COMMENT:**

**Rule 16.305(6).** This rule does not supersede any foundation or proof requirements contained in the Iowa Code or the Iowa Court Rules.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**16.305(7)** *Disputing authenticity or validity of signatures.* An attorney or a party who disputes the authenticity or validity of any digitized, nonelectronic, or electronic signature on an electronically filed document must file an objection to the signature within 30 days after the attorney or party knew or should have known the signature was not authentic or valid.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017; August 30, 2021]

## Rule 16.306 Electronic filing.

**16.306(1)** *Electronic cover sheets.*

*a.* A registered filer must complete an electronic cover sheet for each filing by entering the proper information into EDMS.

*b.* Governmental agencies may obtain state court administration approval to use alternative software to exchange electronic records with EDMS. The alternative method for filing or presenting documents must enable correct routing and docket entry of the documents to permit an exception to the electronic cover sheet requirement. The alternative method must also accommodate requests for expedited relief and requests to restrict access to documents.

**COMMENT:**

**Rule 16.306(1).** A filer must complete the electronic equivalent of a cover sheet when initiating a case or filing or presenting a document or group of documents for electronic filing. The electronic cover sheet is a series of web pages on which the filer enters information. These web pages differ depending on whether the document is related to a criminal or civil case or whether the document is being filed in a new case or an existing case. A properly completed electronic cover sheet will route the document to the correct electronic file and will create a correct docket entry for the document. The electronic cover sheet may also notify the court of a request for expedited relief or ensure that access to a document is properly restricted. An electronic cover sheet for a new civil case replaces the paper civil cover sheet required by Iowa Rule of Civil Procedure 1.301(2). Only parties excused from registration will file the paper form of the civil cover sheet and the confidential information form. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**16.306(2)** *Filing.* A document is considered filed or presented at the time EDMS has received it, unless the clerk of court returns it.

**COMMENT:**

**Rule 16.306(2).** When EDMS receives a district court document, the file stamp records the date and time and generates a status update in the filer's EDMS account. The document is not considered received until the status of "received," "awaiting approval," or "filed" is displayed in the filer's EDMS account. EDMS will generate a status update upon case initiation or a notice of electronic filing or presentation in all other instances that confirms EDMS has received the document. Subject to security and jurisdictional rules, the system also generates a notice of electronic filing or presentation to indexed case parties. When the clerk of court reviews and approves the submission, the system generates a date and time stamp on the document that is the same as the date and time the system noted in the status update—the time EDMS first received the filer's submission in the system. This is the date and time of the official filing of the document with the court system. For example, a filer submits a document to the system at 9:58 p.m. on Thursday, March 30, 2016. Soon after, the status message on the filer's My Filings page will read "Received" and then "Awaiting approval" (for presented documents, the status will be "Filed"). The filer then knows the date and time that the court has received the filing. The following Monday morning the clerk reviews and approves the filing. The system will place a file stamp on the document of 9:58 p.m., March 30, 2016. The clerk of court may also return an incorrect submission with instructions to correct the filing. *See* rule 16.308(2)(*d*)(2). In this circumstance, the document is not filed and the date and time of filing that the system tracked are not retained. Upon resubmission of the document, a new

date and time of filing are assigned and a new status update and notice of electronic filing or presentation are generated. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**16.306(3)** *Emailing or faxing documents does not constitute electronic filing.* Emailing or faxing a document to the clerk of court or to the court will not generate a file stamp or a notice of electronic filing or presentation and will not result in the filing of the document.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.307 Electronic file stamp.**

**16.307(1)** Each document electronically filed with the clerk of court receives a file stamp reflecting the date and time that it was initially received by EDMS.

**16.307(2)** Each document electronically filed with the clerk of the supreme court receives a file stamp reflecting the date that it was received by EDMS.

**16.307(3)** The date and time on the file stamp will be consistent with the notice of electronic filing or presentation on the filer's status update. The electronic file stamp becomes a part of the electronic document and is visible when the document is printed or viewed online. Electronic documents are not officially filed unless they have an electronic file stamp. Electronic file stamps have the same force and effect for electronic submissions as nonelectronic file stamps for nonelectronic submissions. *See* rule 16.201(12) (definition of "file stamp").
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.308 Docket entries.**

**16.308(1)** *Selecting document types.* For each electronically filed document, a filer must choose an accurate document type from the options listed on the electronic cover sheet.

**16.308(2)** *Correcting document types.*

*a. Clerk of court to correct document types.* Once a document is submitted into EDMS, only the clerk of court may make corrections to the document type the filer has chosen.

*b. Clerk of court to correct docket entries.* If a docket entry is incorrect, only a clerk of court can correct the docket entry. The docket will reflect that the clerk made a change to a docket entry.

*c. Errors that filers discover.*

(1) If a filer discovers an error in the electronic filing or docketing of a document, the filer must contact the clerk of court as soon as possible. When contacting the clerk, the filer must have available the case number of the document that was filed or docketed erroneously.

(2) A filer may not refile or attempt to refile a document that has been erroneously filed or docketed unless the clerk of court specifically directs the filer to do so.

(3) To meet a deadline, a filer who discovers an error in the electronic filing or docketing of a document but who cannot immediately contact the clerk of court may resubmit a corrected document.

*d. Errors that clerks of court discover.*

(1) If the clerk of court discovers an error in the filing or docketing of a document, the clerk will ordinarily notify the filer of the error and advise the filer of what further action the filer must take, if any, to address the error.

(2) The clerk of court may return the submission to the filer with an explanation of the error and instructions to correct the filing. In such instances, it is the responsibility of the filer to keep a record of the notice EDMS generated to verify the date and time of the original submission. The rules of this chapter are not intended to address whether a filer who submits a corrected filing after return of the original submission may have the date and time of the corrected filing relate back to the date and time of the original submission.

(3) If the error is minor, the clerk of court may, with or without notifying the parties, either correct or disregard the error.

(4) An error in the filing or docketing of a document may be an error that adversely affects the proper processing of the document by EDMS, such as a document that is filed in the wrong case, a document that is filed with the wrong event code, or a document that is scanned incorrectly. It may also be an omission of information necessary to properly identify the parties initiating a new case or the subjects of a warrant, a failure to pay a required filing fee, an error that prevents the correct filing fee from being charged, or the omission of a signature from a filing that must be signed.

**COMMENT:**

**Rule 16.308(2).** This rule addresses instances when a filer selects an incorrect document type or submits documents that cannot be correctly filed or docketed. The clerk of court may return a submission to the filer for correction when, for example,

a document is scanned upside down or sideways, is scanned in such a way that the file stamp cannot be applied, is improperly attached to other documents, or is submitted under the wrong docket entry such that EDMS cannot process the document correctly. It is the filer's responsibility to keep a record of the original submission date and time, as well as the reason for the return of the filing, contained in the Filing Status Reports available through the filer's EDMS account under My Filings. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.309 Date and time of filing; deadlines; technical difficulties.**

**16.309(1)** *Date and time of filing; deadlines.*

*a.* An electronic filing may be made whenever EDMS is available, including holidays, weekends, and evenings. The availability of electronic filing, however, does not affect deadlines or the provisions for extension of deadlines in the Iowa Code or Iowa Court Rules. When a document is filed electronically, EDMS applies an electronic file stamp to the document reflecting the date or the date and time that the document was actually received by EDMS. *See* rule 16.306(2) and comment and rule 16.307.

(1) *Exceptions for trial informations and minutes of testimony.* Trial informations and accompanying minutes of testimony are not file stamped until the court approves them.

(2) *Submissions that the clerk of court returns.* A submission that the clerk of court returns unfiled because of an error is given a file stamp when the filer submits the corrected version.

*b.* The date and time of the electronic file stamp are considered the official filing date and time for purposes of computing relevant deadlines.

*c.* A document is timely filed if it is filed before midnight on the date the filing is due.

*d.* If a deadline established in these rules is different from a deadline established in a court order in a particular case, the deadline established in the court order controls.

**16.309(2)** *Technical difficulties.*

*a.* A party's technical difficulty or the unavailability of EDMS does not excuse a party from complying with a jurisdictional deadline.

*b.* If a registered filer is unable to meet a nonjurisdictional deadline due to a technical difficulty, the filer must file the document using the soonest available electronic or nonelectronic means. The filing is not timely unless the court determines it to be timely after the filer has had an opportunity to be heard on the matter.

**16.309(3)** *Notices of system unavailability.*

*a. Scheduled maintenance.* When EDMS will not be available due to scheduled maintenance, a notice of the date, time, and anticipated length of the unavailability will be posted on the Iowa Judicial Branch website and to other authorized social media.

*b. Unexpected unavailability.* When EDMS is unexpectedly unavailable, a notice of the problem will be posted on the Iowa Judicial Branch website and other authorized social media.

**16.309(4)** *Extended system unavailability; filing and service.* In the event of an extended period when EDMS is not available, the filer may take a paper document to the clerk of court during regular business hours for filing. In such instances, the filer is responsible for service of the document on case parties entitled to service.

**16.309(5)** *Court-generated documents; computation of deadlines.* Electronic filings by the court, such as court orders, may be made at any time. They will receive a file stamp reflecting the date and time when EDMS received the filing. The clerk of court will process such filings with reasonable promptness during regular weekday hours before the filing is served electronically on all registered filers. Regardless of when a party receives notice of electronic filing of a court-generated document, the date and time of the file stamp are the official filing date and time for purposes of computing all relevant deadlines.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**COMMENT:**

**Rule 16.309.** Electronic filing enables the filing of documents outside of normal business hours. A document filed before midnight on the date the filing is due is considered timely filed. Filers are cautioned, however, not to wait until the last moment to file documents electronically as EDMS may not always be available. Just as a jurisdictional deadline cannot be extended for a filer, who— due to vehicle or traffic problems, for example—arrives at the courthouse moments after the clerk of court office has closed, jurisdictional deadlines cannot be extended for the filer who encounters system or other technical difficulties between the time of close of business and a midnight filing deadline. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.310 Format of electronic documents.** All documents filed electronically must be formatted according to applicable rules governing formatting of paper documents in the Iowa Rules of Civil Procedure and the Iowa Rules of Appellate Procedure. A document must be converted to a portable document format (.pdf) and must not be password protected before the document is filed electronically. The filer must ensure that the filing is an accurate, complete, and readable reproduction of the document.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.311 Attachments to electronic documents.**

**16.311(1)** The following documents must be attached electronically to a filed electronic document without a separate electronic cover sheet:

*a.* When a court order is required to amend a previously filed document, the proposed amendment must be attached to a motion for leave to file that document.

*b.* Any item that is included as an exhibit to a document must be attached to the electronic document.

*c.* Any additional pages required to complete a court form must be attached to the electronic court form.

**COMMENT:**

**Rule 16.311(1).** Supporting materials attached to an application, motion, court form, or verification of account, etc., were called "exhibits" prior to electronic filing. In EDMS, those supporting materials are called "attachments," and the term "exhibit" is reserved for evidence entered into the record at a hearing or trial. Examples of documents that are attached to other documents include supporting documents that are attached to an adoption petition, a written notice of intention to file an application for default that must be attached to a request for default, additional pages completing a court form, and evidence or affidavits used to support an application or a motion. The filer uploads the application, form, or motion into EDMS, and then selects "Attachment" as the document type for the supporting materials. When the filer picks the "Attachment" document type, the system prompts the filer to pick the document to attach to. The document and attachment are then electronically linked and will show on the case docket as related. *See* rule 16.412(5) (exhibits to pleadings).

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**16.311(2)** Separate documents may be submitted at the same time but must be uploaded separately, with an individual document type selected for each document.

**COMMENT:**

**Rule 16.311(2).** Examples of such submissions are a petition for dissolution of marriage, a motion for temporary support, and a financial affidavit. There are, however, some documents that should not have other documents attached to them. For example, nothing should be attached to a proposed document. Also, a proposed order should not be attached to any other document, including the motion or application regarding that order. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.312 Hyperlinks and other electronic navigational aids.**

**16.312(1)** Hyperlinks and other electronic navigational aids may be included in an electronically filed document as an aid to the court and the parties. Each hyperlink must contain a complete text reference to the target of the link. This text reference, when copied, must enable a user to reach the same target that would be reached by activating the hyperlink.

**16.312(2)** If an electronically filed document contains hyperlinks, the filer is responsible for creating and embedding the links in the document.

**16.312(3)** Material that can be reached through a hyperlink in an electronic filing is not considered part of the official record or filing unless already part of the record in the case.

**16.312(4)** Hyperlinks to cited authority may not replace standard citation format for constitutional citations, statutes, cases, rules, or other similarly cited materials.

**16.312(5)** Hyperlinks may provide an electronic link to other portions of the same document. It is not possible, however, to hyperlink from one document in the electronic court file to another document in the electronic court file.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**COMMENT:**

**Rule 16.312.** Use of hyperlinks for cited legal authorities is encouraged. Hyperlinks may also be used to refer the court to other information. Hyperlinks are not part of the filed document, so the filed document must comply with traditional citation requirements. Filers are cautioned, however, that links to external documents or websites may become invalid over time. Additionally, the functionality of hyperlinks will depend on the web browser or computer application used to view the document. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.313 Nonelectronic filings.**

**16.313(1)** *Items that may be filed nonelectronically.* The following documents and other items may be filed nonelectronically and need not be maintained in the electronic court file unless these rules, the clerk of court, or the court otherwise require or authorize electronic filing:

*a.* The administrative record in cases in which the court is asked to rule based on that record, but all other documents, including the petition, answer, briefs, and motions, in the judicial review proceedings must be filed electronically and maintained in the electronic court file.

*b.* Transcripts of proceedings before the court that are not available in electronic format.

*c.* Any item that is not capable of being filed in an electronic format.

**COMMENT:**

**Rule 16.313(1)(*a*).** This rule addresses the cost and time concerns in administrative review cases by allowing the administrative record to be filed in a nonelectronic format. Besides their size, these records often contain sensitive information, such as information protected by federal HIPAA laws. This rule does not encompass cases covered by Iowa Code chapters 252C, 252F, and 252H. The documents generated in those cases should be filed electronically. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**16.313(2)** *Service of notice of items filed nonelectronically.* For items filed nonelectronically pursuant to rule 16.313(1), the filer must file an electronic notice of filing the item.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.314 Original notice.**

**16.314(1)** *Form of original notice.* When a party electronically files a new case, the party must submit an original notice as a separate document type along with the petition in the form the Iowa Rules of Civil Procedure require. In addition, the original notice—except in small claims actions—must:

*a.* State that the case has been filed electronically.

*b.* Direct the other party to this chapter of the Iowa Court Rules for general rules and information on electronic filing.

*c.* Refer the other party to division VI of this chapter of the Iowa Court Rules regarding the protection of personal or confidential information in court filings.

**16.314(2)** *Clerks of court affixing seal to original notice.* After a petition is filed, the clerk of court will electronically affix the clerk's seal to the original notice and electronically return a sealed and signed original notice to the registered filer.

**16.314(3)** *Service of original notices.* Original notices must be served upon the party against whom an action is brought in accordance with the Iowa Code and the Iowa Rules of Civil Procedure.

**COMMENT:**

**Rule 16.314(3).** Electronic service cannot be used to serve an original notice or any other document that is used to confer personal jurisdiction. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**16.314(4)** *Return of service.* After the original notice is served, the filer must scan and electronically file the return of service. The return of service must contain a listing identifying the documents served.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017; Court Order February 15, 2017, temporarily effective February 15, 2017, permanently effective April 17, 2017]

**Rule 16.315 Electronic service of documents subsequent to original notice.**

**16.315(1)** *Electronic service of documents filed by registered filers.*

*a.* Completing the registration process, *see* rule 16.304(1), constitutes a request for, and consent to, electronic service of court-generated documents and documents other parties file electronically.

*b.* When a document is electronically filed, EDMS serves the document on all parties who are registered filers. *See* rule 16.201(11) (definition of "electronic service"). Service occurs by the posting of a notice of electronic filing or presentation into the filer's EDMS account along with a link to the document or documents presented or filed. The posting of the notice of electronic filing or presentation constitutes service of the document for purposes of the Iowa Court Rules. No other service on those parties is required.

*c.* Notice of electronic filing or presentation will only be provided to registered filers and registered case parties who have filed an entry of appearance or filed an answer, filed a notice of case association, or filed an appearance as a court-approved intervenor.

*d.* Notices of electronic filing or presentation will continue to be provided to a registered filer until the filer has filed a withdrawal from the case and, if applicable, obtained an order allowing the withdrawal.

*e.* Electronic service is not effective if the filer learns the notice of electronic filing or presentation was not transmitted to a party.

*f.* EDMS will not provide notices of electronic filing or presentation for documents filed pursuant to rule 16.405(4), 16.702, 16.703, or 16.802, or on documents that require personal service to confer jurisdiction. The filer is responsible for service of documents that must be personally served to confer jurisdiction in accordance with rule 16.315(2) on service to nonregistered filers.

**COMMENT:**

**Rule 16.315(1)(*e*).** Subject to the exceptions in rule 16.315(1)(*f*), when EDMS receives a filing covered by this rule, EDMS will automatically generate a notice of electronic filing or presentation, which contains a list of the parties who were served electronically and a list of the parties who must be served by other means. It is the responsibility of the filer to review the notice of electronic filing or presentation to ensure that all parties that require service have received it. If the filer learns of a delivery failure, the filer must provide service to that person by other means. A notice of electronic filing or presentation will not be generated on case initiation, on applications for warrants, on emergency applications (such as emergency removals or emergency detention in juvenile cases), or on documents proposed for restricted access or filed under an order restricting access. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**16.315(2)** *Service of paper copies on parties.* Parties must serve a paper copy of any filed document on a party who is not a registered filer in a manner authorized by the Iowa Code or the Iowa Court Rules, unless the parties agree to another method of service. When serving paper copies of electronically filed documents in cases with multiple nonregistered filers other than criminal defendants, the filer must include a copy of the notice of electronic filing or presentation. The clerk of court will provide a copy of the notice of electronic filing or presentation upon a nonregistered filer's request.

**16.315(3)** *Service of documents that nonregistered filers file or present.*

*a.* Service on registered filers of documents that nonregistered filers file or present will be made by the clerk electronically through EDMS, except for service of restricted access documents filed under rule 16.405. *See* rule 16.201(11) (definition of "electronic service").

*b.* When a nonregistered filer submits a document to the clerk of court, the clerk will process the filing or presentation with reasonable promptness during regular weekday business hours before the filing is served electronically on all registered filers. In such event, the date and time on the file stamp are considered the official date and time of service for purposes of computing all relevant deadlines.

*c.* Nonregistered filers must serve a paper copy of documents they file with or present to the court on all persons entitled to service who are nonregistered filers in the manner the Iowa Rules of Civil Procedure or the Iowa Rules of Criminal Procedure require.

*d.* If a party receives a one-time exception to electronic filing pursuant to rule 16.302(2)(*a*), the procedures and requirements of rule 16.315(3) apply.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017; Court Order February 15, 2017, temporarily effective February 15, 2017, permanently effective April 17, 2017]

**Rule 16.316 Certificate of service.** A certificate of service must be filed for all documents EDMS does not serve. These include documents that must be served on parties who are nonregistered filers, documents that must be served on persons or entities seeking to intervene in a confidential case, documents that persons or entities file pursuant to rule 16.319(2), and discovery materials. *See, e.g.*, rules 16.315(1)(*b*), 16.319(1)(*c*), and 16.401(1)(*a*). The certificate must be filed promptly and show the date and manner of service. The certificate of service may be included on the last page of the document.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.317 Additional time after electronic service.** When service of a document is made electronically, the time to respond is computed in the same manner as the Iowa Rules of Civil Procedure and the Iowa Rules of Appellate Procedure require for service by mail, fax, or email.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.318 Service of court-generated documents.**

**16.318(1)** *Electronic notice and service for registered filers.* EDMS will electronically serve any court-generated document on all registered filers entitled to service. *See* rule 16.201(11) (definition of "electronic service"). Posting the notice of electronic filing or presentation in the registered filer's EDMS account constitutes service or notice of the document. Notice of electronic filing or presentation will only be provided to registered parties who have entered an appearance or filed an answer, filed a notice of case association, or filed an appearance as a court-approved intervenor. Notices of electronic filing or presentation will continue to be provided to a registered filer until the filer has filed a proper withdrawal of appearance in a case and, if applicable, obtained an order allowing the withdrawal.

**16.318(2)** *Nonelectronic notice and service for nonregistered filers.* The clerk of court will mail paper copies of electronically filed court-generated documents to nonregistered filers entitled to service. In cases with additional nonregistered filers, the clerk may include a copy of the notice of electronic filing or presentation with the paper copy of the document. The clerk will not mail paper copies to registered parties who have not properly filed an entry of appearance or filed an answer, filed a notice of case association, or filed an appearance as a court-approved intervenor. The clerk will not mail paper copies of court-generated documents to nonregistered parties represented by counsel unless the rules or a court order otherwise require it.

**16.318(3)** *Certificate of service.* For court-generated documents that EDMS does not electronically serve, the clerk of court may note on the docket the parties served and the method of service instead of filing a certificate of service.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.319 Filing by potential intervenors or by nonparties.**

**16.319(1)** *Potential intervenor filers.*

*a. Manner in which to intervene.* A person or entity seeking to intervene to become a party to a case must electronically file the application to intervene and all related documents unless excused from EDMS registration under rule 16.302(2).

*b. Access to court file.*

(1) Until the court grants the application to intervene, the person or entity seeking to intervene cannot download or view any confidential part of the court file, and the person or entity will not receive a notice of electronic filing or presentation of any document filed in the case.

(2) If the court grants the application to intervene, the person or entity must promptly file an entry of appearance or a notice of case association.

(3) An entry of appearance or a notice of case association must be filed before the person or entity can receive a notice of electronic filing or presentation.

*c. Service.*

(1) The documents a person or entity seeking to intervene files must be served pursuant to rules 16.315(1)(*b*) and 16.315(2).

(2) The person or entity seeking to intervene is required to serve a paper copy of the document on parties who are nonregistered filers. *See* rule 16.315(2).

(3) If the court or a party files a document related to the application to intervene, a paper copy of the document must be served on the potential intervenor in the same manner as a nonregistered filer. *See* rules 16.315(2) and 16.318(1).

(4) If the application to intervene is granted, the intervenor will subsequently be served copies of filed documents pursuant to rules 16.315 and 16.318(2).

**COMMENT:**

**Rule 16.319(1).** Examples of a party seeking to intervene in a case include a grandparent or relative seeking to become a party in a chapter 232 Child-in-Need-of-Assistance case or an attorney for an interested party in an estate. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**16.319(2)** *Nonparty filers.*

*a. Filing.* Nonparty persons or entities entitled to file documents in a case without becoming a party need not appear in order to file documents. However, a nonparty filer must use electronic filing unless excused from EDMS registration under rule 16.302(2).

*b. Access to court files.* A nonparty cannot access the case remotely or download or view any confidential part of the court file. Additionally, a nonparty will not receive a notice of electronic filing or presentation of any document filed in the case.

*c. Service.* EDMS will serve on registered parties any documents a nonparty files. *See* rule 16.315(1)(*b*). The nonparty, however, must serve a paper copy of the document on parties who are nonregistered filers. *See* rule 16.315(2). If service of a document on the nonparty is required, a paper copy of the document must be served on the nonparty in the same manner as on a nonregistered filer. *See* rules 16.315(2) and 16.318(2).

**COMMENT:**

**Rule 16.319(2).** This rule describes the filing and serving of documents when the filer does not intend to intervene to become a party to the case and will not enter an appearance or file an answer or a notice of case association in order to be indexed to the case by the clerk of court. An example of a nonparty filer who wishes to file on a case but not become a party to the case is a person who seeks to quash a subpoena. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.320 Limited appearances.**

**16.320(1)** *Entry of appearance.* An attorney whose role in a case is limited to one or more individual proceedings in the case must file a notice of limited appearance before or at the time of the proceeding. Upon the filing of this document, the attorney will receive electronic service of filed documents.

**COMMENT:**

**Rule 16.320(1).** An entry of limited appearance is made on behalf of a case party and gives the attorney full case access and electronic notifications on the case. If an attorney is not filing on behalf of an existing party, the attorney should file an application to intervene pursuant to rule 16.319(1) or file as a nonparty filer (rule 16.319(2)). Access to some confidential files or documents may require a court order. An example of an attorney filing an entry of limited appearance is an attorney hired by a petitioner in a dissolution case to represent that petitioner at a hearing on temporary custody. This rule is consistent with the Iowa Rules of Civil Procedure on limited appearances in that electronically filing the notice of limited appearance will cause EDMS to serve the notice on all registered parties. If there is a nonregistered party in the case, the filer must serve the notice on that party by other means. *See* chapter 32:1.2 Rules of Professional Conduct. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**16.320(2)** *Termination of limited appearance.* At the conclusion of the matters covered by the limited appearance, the attorney must file a notice of completion of limited appearance. Upon the filing of this document, the attorney will no longer receive electronic service of documents filed in the case.

**16.320(3)** *Service on party.* During a limited appearance, the party on whose behalf the attorney has entered the appearance will continue to receive service of all documents.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rules 16.321** to **16.400** Reserved.

## DIVISION IV
FILING PROCESS

**Rule 16.401 Discovery.**

**16.401(1)** *Service of discovery materials.*

*a. Service.* Parties may serve requests for discovery, responses to discovery, and notices of deposition by email on registered filers.

*b. Time service occurs.* When service is made by email, the time to respond is computed according to the Iowa Rules of Civil Procedure.

**16.401(2)** *Filing notice of discovery requests and responses.* Parties must file a notice with the court when serving a request for discovery, a response to discovery, or a notice of deposition on another party. The notice must identify the document served and include the date, manner of service, and the names and addresses of the persons served. This rule only requires the filing of a notice of deposition or a notice indicating that a discovery request or response was made. Parties should continue to follow the Iowa Rules of Civil Procedure with respect to the filing of discovery materials.

**COMMENT:**

**Rule 16.401(2).** This rule adds a layer of protection for parties. Registered filers' computer filters may occasionally filter out an emailed discovery request or response. Rule 16.401(2) ensures that registered filers will at least know they should have received a discovery document. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.402 Transcripts.** Transcripts must be filed electronically in a secure format in accordance with rule 16.601(2), any administrative directive from the state court administrator, and the formatting requirements of Iowa Rule of Appellate Procedure 6.803(2). Transcripts of court proceedings on appeal from the district court must be electronically filed as searchable .pdf documents into the district court case file.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.403 Expedited relief.** Requests for expedited relief must be noted on the electronic cover sheet.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.404 Briefs.** Legal briefs and memoranda must be electronically filed.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.405 Restricting access to filings.**

**16.405(1)** *Scope.* This rule covers restricting access to filings in the court system, including documents, exhibits, docket entries, cases, and other items or materials.

**16.405(2)** *Applications to restrict access.*

*a.* A filer seeking to restrict access to materials that are not deemed confidential by statute or rule must file an application to restrict access.

*b.* If a filer seeks to restrict access to a document or exhibit, the document or exhibit must not be attached to the application or the document or exhibit will become part of the public court file.

*c.* Documents or exhibits proposed for restricted access must be electronically presented to the court for review when reasonably practicable.

*d.* Either in the application to restrict access or in a proposed order presented with the application, the filer must clearly state who should have access to the materials.

*e.* If the court grants the application, restricted access will be placed on the materials at the security level specified in the order. If a document or exhibit is electronically presented with the application, the document or exhibit will be filed with the access specified in the order.

*f.* Rules governing electronic filing of restricted access documents in appeals to the Iowa Supreme Court are included in the Iowa Rules of Appellate Procedure.

**COMMENT:**

**Rule 16.405(2)(*d*).** For example: "Only attorneys and case parties should have access to this document." [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**COMMENT:**

**Rule 16.405(2)(*e*).** The court may approve the application and restrict access to the material to a specific level, or the court may deny the application and either order that the material be filed with public access or order that the material not be filed. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**16.405(3)** *Documents or exhibits filed subsequent to order to restrict access.* If the court enters a protective order or an order directing or permitting the filing of documents or exhibits with restricted access, the parties must, without further order from the court, designate any document or exhibit filed under this rule as "Filed under order to restrict access" on the electronic cover sheet. All parties to the case must comply with any order restricting access. Any document or exhibit disclosing information that is subject to an order restricting access must also be filed with restricted access.

**16.405(4)** *Service of documents or exhibits proposed for restricted access or filed under order restricting access.* EDMS will not serve documents or exhibits that are proposed for restricted access or that are filed under an order restricting access. The filer is responsible for service under rule 16.315.

**16.405(5)** *System-restricted documents, exhibits, or cases.* Access to certain categories of documents, exhibits, or cases is restricted based on statutory or court rule requirements. Within EDMS, access is restricted automatically without application or an order of the court. A current list of system-restricted documents, exhibits, and cases is available from the clerk of court and is available on the Iowa Judicial Branch website.

**16.405(6)** *Access to restricted documents and docket entries.* EDMS restricts access to documents in three ways:

*a.* Some documents available only to certain parties and the court may be referenced in a docket entry available to the public. In civil cases, most restricted access documents are referenced in a

docket entry available to the public, but only certain parties and the court may view the documents themselves.

*b.* Some documents available only to certain parties and the court may not be referenced in a docket entry available to the public.

*c.* Some documents available only to the court are not referenced in a docket entry available to the parties or the public.

**COMMENT:**

**Rule 16.405(6)(*a*).** Examples of these documents include presentence investigation reports, minutes of testimony, and documents filed under restricted access pursuant to this rule. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**COMMENT:**

**Rule 16.405(6)(*c*).** Examples of these documents include applications for search warrants and search warrants that have not been executed. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**16.405(7)** *Nonelectronic filings.* All nonelectronic filings with the court must conform to the personal privacy rules that apply to electronic documents.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.406 In camera inspection.** When the court orders in camera inspection of material, such material may be electronically presented to the court. After the court has examined the material and has entered an order concerning the issues raised by the material, if the court does not order the material to be produced in whole or in part, the court will file the presented material and restrict access to the level of security available to clerks of court and judges only.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.407 Subpoenas.** The clerk of court may electronically make subpoenas available to registered filers in accordance with the Iowa Rules of Civil Procedure and the Iowa Rules of Criminal Procedure.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.408 Clerk of court certification of documents.** Certified copies of electronically filed documents may be obtained from the clerk of court electronically or nonelectronically. The fee for a certified copy is established in the Iowa Code and the Iowa Court Rules. The clerk may certify documents by digitized or electronic signature and seal.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.409 Proposed orders.** A proposed order may be electronically presented with a motion or without a motion. The proposed order must be submitted in an editable format capable of being read by Microsoft Word. Acceptable fonts are: Arial, Times New Roman/Times, Courier New, Tahoma/Geneva, Helvetica, Calibri, and Cambria. The document must not be password protected.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.410 Court reporter notes.** Court reporters who have computer-aided transcription capability must electronically file court reporter notes.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.411 Original documents.**

**16.411(1)** *Generally.*

*a.* When the law requires the filing of an original document, such as a will, codicil, mortgage document, note payable, birth certificate, foreign judgment, or other certified or verified document, the filer must scan the original document and electronically file the scanned document.

*b.* The filer must retain the original document for a period of no less than two years or until the conclusion of the case, conclusion of the appeal, conclusion of the estate, or as required by other applicable law.

*c.* The filer must immediately deliver the original document to the court upon request of the court or a party for inspection and nonelectronic preservation.

*d.* When the document is an original will, codicil, or a document having physical characteristics that must be present for the document to be valid or enforceable, the filer may, after filing the document electronically, submit it to the clerk of court for nonelectronic preservation.

**16.411(2)** *Exceptions for authorized governmental agencies.* A governmental agency with statutory authority to destroy an original document after making an unaltered image or electronic reproduction of the original document must retain and, upon request of the court or other party, immediately deliver an unaltered image or electronic reproduction of the original document to the court or other party for inspection and reproduction, if necessary.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.412 Exhibits.**

**16.412(1)** *Maintenance of hearing and trial exhibits.*

*a.* Exhibits offered at a hearing or a trial must be maintained electronically for purposes of the record.

*b.* Exhibits offered at a hearing or a trial that cannot reasonably be maintained electronically may be maintained nonelectronically for purposes of the record.

*c.* Prior to offering an exhibit, the submitting party must redact the exhibit pursuant to division VI of this chapter (Personal Privacy Protection), except as provided in rule 16.601(3) (exhibits).

*d.* If the court requires a party to bring paper copies to trial for the court and jury, the paper copies must be marked as a copy.

**16.412(2)** *Electronic submission of proposed exhibits prior to hearing or trial.*

*a. Mandatory.* A party must submit proposed exhibits to the court prior to the hearing or trial in which the party intends to offer the proposed exhibits for admission into evidence. Upon submission through EDMS, each proposed exhibit will receive a file stamp. Case attorneys and self-represented case parties will have access to proposed exhibits. Exhibits offered or admitted into evidence are subject to the public access and personal privacy rules of divisions V and VI of this chapter.

*b. Exceptions.* The following exceptions apply to the requirement of submitting proposed exhibits electronically prior to hearing or trial.

(1) Prosecutors in a criminal case must submit proposed exhibits pursuant to this rule only if the exhibit has been disclosed to the opposing party through the discovery process.

(2) Criminal defendants may submit proposed exhibits prior to the hearing or trial but are not required to. The clerk of court will ensure criminal defense exhibits are maintained electronically. This rule does not supersede a defendant's obligations under Iowa Rule of Criminal Procedure 2.14.

(3) When a party could not reasonably anticipate use of an exhibit or when the exhibit is used as rebutting evidence, a party may be excused from electronically submitting the exhibit as a proposed exhibit prior to the hearing or trial.

(4) A party is excused from electronically submitting proposed exhibits prior to a hearing or trial if the party is excused from electronic filing under rule 16.302(2), 16.302(3), 16.701(3), or 16.801(2)(*b*).

*c. Method.*

(1) Each proposed exhibit must be a separate document.

(2) The filer must include the exhibit number and provide a description of the proposed exhibit in the "Exhibit Description" field. When an individual exhibit is filed in multiple parts, the filer must repeat the exhibit number and insert a description for each part into the "Exhibit Description" field.

(3) An exhibit that exceeds the required size limit for a submission as posted in the electronic filing section of the Iowa Judicial Branch website must be separated into parts of an acceptable size, and each part must be filed separately.

*d. Digital admission of exhibits and filing of exhibit maintenance order.* Within 7 days of the conclusion of the hearing or trial, the court must digitally admit all exhibits admitted into evidence during the hearing or trial and enter an exhibit maintenance order that states which proposed exhibits were offered and which were admitted into evidence. If no party files an objection to the exhibit maintenance order within 10 business days after the order's filing, the clerk of court may delete proposed exhibits that are not listed in the order.

*e. Sanctions.* If a party fails to submit a proposed exhibit as this rule requires, the court, upon its own motion or the motion of any party, may impose sanctions. A sanction imposed under this rule must be limited to that which will deter repetition of the conduct or comparable conduct by others.

A sanction for violating this mandatory electronic submission rule may not include exclusion of the exhibits from the hearing or trial.

**COMMENT:**

**Rule 16.412(2).** Access to proposed exhibits filed before trial is restricted to self-represented case parties, attorneys indexed to the case, and the court. If an exhibit in a public case contains protected information, the party offering it, or the party filing it as proposed, must redact the protected information before the exhibit becomes public. Rule 16.601(3) allows the submitting party 14 days to redact the exhibit before it becomes public. Admitted exhibits that a party has not identified as containing protected information generally become public. Exhibits submitted in paper in all proceedings, including proceedings listed in rules 16.412(3) and 16.412(6), may remain in paper unless the matter is appealed, at which time the clerk of court will scan the exhibits. Examples of descriptions in the "Exhibit Description" field for proposed exhibits include "Letter from Jane Doe" or "Photo of red car." Examples of "Exhibit Description" field entries for exhibits filed in multiple parts include "Contract (Part 1)" and "Contract (Part 2)." An exhibit description submission in EDMS would appear as follows:

| Exhibit # | Exhibit Description |
|---|---|
| Def. Ex. A | Photo of red car |

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017; August 27, 2019, effective January 1, 2020]

**16.412(3)** *Exhibits offered at a hearing or a trial that were not submitted as proposed exhibits.* When offered or admitted at hearing or trial, an exhibit that can reasonably be maintained electronically, but that was not previously submitted as a proposed exhibit, will remain nonelectronic unless the court orders otherwise. Upon an appeal in the case, the clerk of court will electronically file the exhibit.

**16.412(4)** *Index of nonelectronic exhibits.* When a party offers one or more exhibits that will be maintained nonelectronically under rule 16.412(1)(*b*), the party must electronically file an index of the exhibits. The index should list and briefly describe the nonelectronic exhibits.

**16.412(5)** *Exhibits to pleadings.* Under rule 16.311(1), evidentiary material that is submitted with or attached to a motion or other pleading must be filed as an attachment and should not be submitted as a proposed exhibit.

**16.412(6)** *Submission of proposed exhibits in small claim, simple misdemeanor, traffic, and municipal infraction cases.* Proposed exhibits may be but are not required to be submitted electronically in small claim, simple misdemeanor, traffic, and municipal infraction cases. The submitting party must redact proposed exhibits, whether electronic or nonelectronic, pursuant to division VI of this chapter prior to submitting the proposed exhibits. Upon initiation of an appeal in the case types included in this rule, the clerk of court will convert exhibits admitted in nonelectronic form to an electronic form when possible.

**16.412(7)** *Submission of video and audio exhibits.*

*a. Video exhibits.* Video exhibits must be submitted in the following format: .avi, .flv, .mpeg, .mp4, .wms, or .mov; or the video exhibit must be submitted with a player application that allows the exhibit to be viewed. Video exhibits cannot be electronically filed but may be submitted to the court on a media storage device such as a CD, DVD, or flash drive. The media storage device must contain only the exhibit or exhibits and any required player application and no other files or applications. Upon initiation of an appeal, the clerk of court will provide any video exhibits to the appellate court.

*b. Audio exhibits.* Audio exhibits must be submitted in the following format: .wav, .mp3, or .wma; or the audio exhibit must be submitted with a player application that allows the exhibit to be heard. Audio exhibits cannot be electronically filed but may be submitted to the court on a media storage device such as a CD, DVD, or flash drive. The media storage device must contain only the exhibit or exhibits and any required player application and no other files or applications. Upon initiation of an appeal, the clerk of court will provide any audio exhibits to the appellate court.

*c. Video and audio exhibits in an appeal to district court.* Transcribed portions of a video or audio exhibit may be included in documents filed in an appeal to the district court, provided the transcribed material was properly admitted in the underlying court case. The parties must not embed or include actual audio or video in any documents filed in an appeal to the district court.

**16.412(8)** *Submission of potentially dangerous exhibits.* All potentially dangerous exhibits, including but not limited to weapons such as knives and guns; toxic substances such as narcotics; biohazardous material and bodily fluids such as bloody clothing; and sharps such as hypodermic needles, razors, and syringes; must be submitted to the court or district court clerk's office in a container that protects persons who handle the exhibits from being harmed by them. Specifically, toxic substances and biohazardous material must be placed in clear heavy-duty plastic bags or other types of transparent nonbreakable containers and other types of potentially dangerous exhibits must be placed in rigid puncture-resistant containers. All containers must be completely closed and

display a label identifying the contents of the container and indicating the appropriate hazardous warnings such as "contains bodily fluids" or "contains toxic substances."

**16.412(9)** *Disposition of scanned exhibits.* Exhibits for which the clerk of court is responsible for scanning will be disposed of according to the requirements of the Iowa Rules of Civil Procedure and Iowa Rules of Criminal Procedure.

**16.412(10)** *Mistrial.* In the event of mistrial, the parties, the court, and the clerk of court must comply with all of the following:

*a. Digital admission of exhibits and filing of exhibit maintenance order.* Within 7 days of the conclusion of the trial, the court must digitally admit all exhibits admitted into evidence during the trial and enter an exhibit maintenance order that states which proposed exhibits were offered and which were admitted into evidence. If no party files an objection to the exhibit maintenance order within 10 business days after the order's filing, the clerk of court may delete proposed exhibits that are not listed in the order.

*b. Index of nonelectronic exhibits.* When a party offers one or more exhibits that will be maintained nonelectronically under rule 16.412(1)(*b*), the party must within 10 business days after the offer electronically file an index of the exhibits. The index must list and briefly describe the nonelectronic exhibits.

*c. Clerk of court to retain custody of exhibits.* The clerk of court will retain custody of all exhibits offered or admitted during the trial, whether the exhibits are maintained electronically or nonelectronically.

*d. Release of nonelectronic exhibits for use during retrial.* Nonelectronic exhibits offered or admitted during the trial may not be released for use in a retrial except upon order of the court. The order must identify each nonelectronic exhibit to be released by number or letter and by a brief description, and the order shall specify to whose custody the exhibit is released.

*e. Nonelectronic exhibits not offered or admitted during retrial.* For nonelectronic exhibits released pursuant to this rule that are not offered or admitted during the retrial, the party to whom the exhibits were released must immediately return the exhibits to the clerk of court.

**16.412(11)** *Criminal codefendant's trial.* In the event nonelectronic exhibits are offered or admitted during a trial and then are needed for use in a codefendant's trial, the parties, the court, and the clerk of court must comply with the following provisions:

*a. Clerk of court to retain custody of exhibits.* The clerk of court will retain custody of all exhibits offered or admitted during the first defendant's trial, whether the exhibits are maintained electronically or nonelectronically.

*b. Release of nonelectronic exhibits for use during codefendant's trial.* Nonelectronic exhibits offered or admitted during the first defendant's trial may not be released for use in a codefendant's trial except upon order of the court. The order must identify each nonelectronic exhibit to be released by number or letter and by a brief description, and the order must specify to whose custody the exhibits are released.

*c. Nonelectronic exhibits not offered or admitted during codefendant trial.* For nonelectronic exhibits released pursuant to this rule that are not offered or admitted during the codefendant's trial, the party to whom the exhibits were released must immediately return the exhibits to the clerk of court.

**16.412(12)** *New trial.* If nonelectronic exhibits are offered or admitted during trial, and the district or appellate court has ordered a new trial, the parties and the court must comply with the following provisions:

*a. Clerk of court to retain custody of exhibits.* The clerk of court will retain custody of all exhibits offered or admitted during the prior trial, whether the exhibits are maintained electronically or nonelectronically.

*b. Release of nonelectronic exhibits for use during new trial.* Nonelectronic exhibits offered or admitted during the prior trial may not be released for use in the new trial except upon order of the court. The order must identify each nonelectronic exhibit to be released by number or letter and by a brief description, and the order must specify to whose custody the exhibits are released.

*c. Nonelectronic exhibits not offered or admitted during new trial.* If any nonelectronic exhibits released pursuant to this rule are not offered or admitted during the new trial, the party to whom the exhibits were released must immediately return the exhibits to the clerk of court.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017; August 27, 2019, effective January 1, 2020; December 16, 2019, effective January 1, 2020; April 12, 2021; October 11, 2021, effective November 1, 2021; September 19, 2022, effective October 3, 2022]

**Rules 16.413** to **16.500** Reserved.

## DIVISION V
PUBLIC ACCESS

**Rule 16.501 General rule.** All filings in the Iowa court system are public unless system restricted or filed with restricted access. Electronic filing does not affect public access to court files.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**COMMENT:**

**Rule 16.501.** Electronic filing does not affect which documents or court files the public may access or which documents or files are deemed confidential. Any member of the general public may view a nonconfidential file or document from public access terminals located at the courthouse in which the case is pending. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.502 Access to electronic court files.**

**16.502(1)** *Registered filers.*

*a. Attorneys licensed to practice law in Iowa.* Registered attorneys licensed to practice law in Iowa have remote access to all public documents in public court files except in juvenile delinquency cases prior to the child's being adjudicated delinquent. Registered attorneys who are licensed to practice law in Iowa have limited access to birth dates and names of children, which are normally considered protected information under rule 16.602, in public court files. Access to the birth dates and names of children in cases in which an attorney has not entered an appearance is limited to confirmation of the information the attorney supplies regarding the birth date or child's name in a particular case.

*b. Attorneys admitted pro hac vice.* Registered attorneys admitted pro hac vice have remote access only to the documents filed in the cases in which the attorneys are admitted pro hac vice.

*c. Self-represented litigants and parties to a case.* Registered self-litigants and parties to a case who have obtained a login and password have remote access only to documents filed in the cases in which they are a party.

**16.502(2)** *Abstractors.* Abstractors have remote access to all public documents in public court files. *See* rule 16.304(1)(*d*). Abstractors have limited access in public court files to birth dates and names of children, which are normally considered protected information under rule 16.602. Access to birth dates and names of children is limited to confirmation of information that the abstractor supplies regarding the birth date or child's name in a particular case.

**16.502(3)** *Specialized nonparty filers.* Specialized nonparty filers, *see* rule 16.304(1)(*b*), may file documents in cases in which they are not a party, but specialized nonparty filers do not have remote access to electronic court files.

**16.502(4)** *Members of the general public.*

*a.* Members of the general public may view electronic documents in public cases at public access terminals in the county courthouse in which the case is pending.

*b.* To view electronic documents in public cases on appeal to the Iowa Supreme Court, members of the general public may use a public access terminal located in the Judicial Branch Building in Des Moines, Iowa, or a public access terminal located in the county courthouse in which the underlying case originated.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.503 Public access terminals.** The Iowa Judicial Branch will maintain at least one public access terminal in each county courthouse and in the Judicial Branch Building.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.504 Bulk distribution.** The Iowa Judicial Branch may fulfill requests for copies or reproductions of public electronic documents or records filed in more than a single electronic case if fulfilling such requests will not impair or interrupt the regular operation and efficiency of EDMS and complies with administrative directives or approvals from the state court administrator.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**COMMENT:**

**Rule 16.504.** Such state court administrator directives or approvals may take into consideration the system, staffing, and equipment

capacity of EDMS. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rules 16.505** to **16.600** Reserved.

## DIVISION VI
PERSONAL PRIVACY PROTECTION

**Rule 16.601 Responsibility to redact or mask protected or confidential information.**

**16.601(1)** *Responsibility of filers generally.*

*a.* It is the responsibility of the filer to ensure that protected information is omitted or redacted from documents before the documents are filed. This responsibility exists even when the filer did not create the document.

*b.* The clerk of court will not review filings to determine whether appropriate omissions or redactions have been made. The clerk will not, on the clerk's own initiative, redact or restrict access to documents containing protected information.

*c.* A filer waives the protections of the rules in division VI of this chapter as to the filer's own information by filing the information without redaction.

**16.601(2)** *Transcripts.*

*a.* When a transcript is filed that contains protected information, the court reporter must also file a notice of transcript redaction along with a redacted version of the transcript in accordance with administrative directives from the state court administrator.

*b.* The parties to the action are also responsible for ensuring the appropriate information in the transcript is redacted. After the court reporter has filed a notice of transcript redaction, each party must within 21 days from the date of the filing of the notice of transcript redaction review the designated material and, if necessary, request additional designation of protected information or note where information was improperly redacted. To stipulate to additional redactions or corrected redactions, the parties must file the Stipulation Re: Transcript Redaction form found in the electronic filing section of the Iowa Judicial Branch website.

*c.* The court will resolve any disagreement on the designation of protected information.

*d.* The redacted transcript will not be available to the public until all requests for additional designation or claims of improper redaction are resolved.

*e.* A party's failure to file a response within 21 days from the date the notice of transcript redaction is filed is deemed the party's agreement that the transcript is properly redacted.

**16.601(3)** *Exhibits.*

*a. Electronically submitted exhibits.* If protected information must be included in an exhibit pursuant to rules 16.603(2) and 16.603(4), the submitting party must redact the proposed exhibit.

*b. Nonelectronic exhibits offered at hearing or trial.* If protected information is included in a nonelectronic exhibit that was offered at a hearing or trial, the offering party must inform the court of the inclusion of protected information and request that the exhibit be treated as a confidential document. Within 14 days of offering the nonelectronic exhibit identified as containing protected information, the offering party must electronically file a redacted copy of the exhibit that will be available to the public.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**COMMENT:**

**Rule 16.601.** The redaction rules in division VI apply to all documents filed electronically as well as to filings submitted to the court in paper on electronic cases, such as exhibits that are offered in paper at a hearing or trial or filings an excused filer submits in paper for the clerk of court to scan. The personal privacy protection rules, 16.601 through 16.609, assist in protecting certain identifying information from widespread dissemination and possible misuse. To provide greater protection, parties should not put this information in documents filed with the court unless it is required by law or is material to the proceedings. If the information is required by law or material to the proceedings, parties should carefully follow the redaction rules in division VI. Disclosure of protected information in orders and other court-generated documents that require enforcement or action by someone outside the court falls under rule 16.603(4). [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.602 Protected information.** Protected information includes the following:

1. Social security numbers.
2. Financial account numbers.
3. Dates of birth.
4. Names of minor children.

5. Individual taxpayer identification numbers.
6. Personal identification numbers.
7. Other unique identifying numbers.
8. Confidential information as defined in rule 16.201.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.603 Omission and redaction requirements.**

**16.603(1)** *Protected information that is not required by law or is not material to the proceedings.* A filer may omit protected information from documents filed with the court when the information is not required by law or is not material to the proceedings.

**16.603(2)** *Protected information that is required by law or is material to the proceedings.* When protected information is required by law to be included or is material to the proceedings, a filer may record the protected information on a separate protected information form. *See* rule 16.606. The filer must ensure that the protected information is redacted from any other document before filing the document with the court. *See* rule 16.605 (manner in which to redact protected information).

**16.603(3)** *Restricted access documents.* Parties are not required to redact protected information from documents that are confidential by statute, rule, or court order. Redaction is required, however, for materials that are initially confidential but which later become public, such as documents in dissolution proceedings.

**16.603(4)** *Disclosure allowed.* A filer may disclose protected information only when that information is an essential or required part of the document or the court file. Disclosure of protected information must be as narrow as reasonably practicable.

*a.* All orders and other court-generated documents containing protected information that require enforcement or action by someone outside the court fall under rule 16.603(4).

*b.* Judicial officers may include protected information in a nonpublic court order to obtain required enforcement or action with a redacted public version of that order.

**COMMENT:**

**Rule 16.603(4)(*a*).** Such documents include, but are not limited to, the following: writs of execution that require a full financial account number; juvenile transportation orders and placement orders containing a child's full name and identifying information; letters of appointment with full names of minors in guardianship and conservatorship cases; qualified domestic relation orders; protective orders and other orders containing full names of juveniles; and applications, orders, and resulting arrest warrants, juvenile summons, and writs of mittimus containing a defendant's full name, date of birth, and social security number. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**16.603(5)** *Full disclosure of the names of minor children.* The name of a minor child may be case information that is an essential or material part of the court record. *See* rule 16.801(2)(*a*) (regarding use of the full name of minors in juvenile delinquency cases).

**COMMENT:**

**Rule 16.603(5).** Examples of when the name of a minor child is essential to the court record include: the name of a minor child who is the ward in a guardianship or conservatorship case or who is the subject of a civil name change petition; or the name of a minor child who is a criminal defendant, defendant on a traffic citation or municipal infraction, or defendant in a domestic abuse or elder abuse case or other such case. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**16.603(6)** *Redaction in cases after disposition.* A party must apply to the court to file a redaction of a document in a case in which judgment is final. The application must state the reasons for and manner of redaction. When the court has approved the application, the filer must electronically file the redaction.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.604 Information that may be redacted.** A filer may redact the following information from documents available to the public unless the information is required by law or is material to the proceedings:

1. Driver's license numbers.
2. Information concerning medical treatment or diagnosis.
3. Employment history.
4. Personal financial information.
5. Proprietary or trade secret information.
6. Information concerning a person's cooperation with the government.
7. Information concerning crime victims.

8. Sensitive security information.
9. Home addresses.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.605 Manner in which to redact protected information.**

**16.605(1)** *Documents created for filing with the court.* When protected information that is required by law or that is material to the proceedings must be included in a document that a filer is creating specifically for filing with the court, when reasonably practicable only a portion of the protected information should be used.

**COMMENT:**

**Rule 16.605(1).** Examples of portions of protected information include: if a Social Security number must be included in a document, only the last digit of that number is used; if financial account numbers are relevant, only incomplete numbers are recited in the document; if a person's date of birth is necessary, only the year is used; if a minor child's name must be mentioned, only the child's initials are used.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**16.605(2)** *Original documents that are required to be filed with the court.*

*a.* When an original document contains protected information that is required by law or is material to the proceedings as specified in rule 16.602, the filer must redact that information.

*b.* The unredacted version of the original document must be filed if such filing is required by law or the redacted information may be material to the proceeding.

*c.* If an original document has multiple pages that contain entirely protected information, a single page may be submitted in the public version of the document.

*d.* If a paper document contains protected information, the filer is responsible for making the same redactions on paper before filing the document that are required for electronic filings in rule 16.605. For original documents that have not been created by the filer, the filer must deliver both a redacted version and the original version of the document to the clerk of court unless rule 16.605(2)(*c*) applies.

**COMMENT:**

**Rule 16.605(2)(*a*) and (*b*).** If the unredacted version must be filed, the filer must scan in and file the unredacted version. The filer then must scan and file the redacted version, selecting "Redaction" as the document type on the electronic cover sheet. The filer must then relate the redaction to the original document. EDMS will file the unredacted version as restricted access and the redacted version as the public version of the document. For example, when filing an original birth certificate into a change of name case, the filer makes a copy of the birth certificate, using a permanent marker to black out the date of birth on the copy. The filer then scans and files the original birth certificate as an exhibit or attachment, then scans and files the redacted copy as a redaction. Only the redacted copy will be available to the public. A filer should not rely on software to redact protected information as the information may in fact be retrievable. Documents redacted in this way may be alterable and the protected information revealed. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.606 Protected information form.**

**16.606(1)** *Protected information form required.* When a filer is required to include protected information in a filed document, the filer may file a protected information form. The electronic filing section of the Iowa Judicial Branch website provides the form. The protected information form must contain the protected information in its entirety as well as the redacted version of the information used in the filed document. All references in the case to the redacted information included in the protected information form will be construed to refer to the corresponding complete protected information. The protected information form is not available to the public but is available to case parties.

**16.606(2)** *Supplementing protected information form.* When new information is needed to supplement the record or if information already contained in the protected information form needs to be updated or corrected, the parties must file an updated protected information form including all previously disclosed protected information plus any additions, changes, or corrections.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.607 Orders and other court-generated documents.** All orders and other court-generated documents will follow the omission and redaction requirements in rule 16.603. Orders and other court-generated documents will use the redacted version of the protected information found in the protected information form that the parties file. *See* rule 16.606. Orders and other court-generated

documents containing protected information that require enforcement or action by someone outside the court are governed by rule 16.603(4).
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.608 Improperly included protected information.**

**16.608(1)** A party may apply to the court to redact improperly included protected information from a filed document or court file and may request an immediate order to temporarily restrict access to the document or court file pending notice and opportunity to be heard by all parties.

**16.608(2)** If, after all parties have been provided an opportunity to be heard, the court finds protected information was improperly included in a filed document, the court may restrict access to the document and may order a properly redacted document to be filed.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.609 Sanctions.** If a filer incorrectly files documents containing unredacted protected information, the court, upon its own motion or upon the motion of any party, may impose sanctions. A sanction imposed under this rule must be limited to that which will deter repetition of the conduct or comparable conduct by others. The sanction may include nonmonetary directives or an order to pay a penalty into court. If a party is required to file a motion to address a violation of division VI of this chapter, the court may award to the moving party reasonable attorney's fees and other expenses directly resulting from the violation.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rules 16.610** to **16.700** Reserved.

## DIVISION VII
CRIMINAL CASES

**Rule 16.701 Criminal cases generally.**

**16.701(1)** *EDMS in criminal cases.* All criminal cases will be opened using EDMS.

**16.701(2)** *Applicability of other chapter 16 rules to criminal cases.* The rules in divisions I through VI of the Iowa Rules of Electronic Procedure, including rules on the protection of personal privacy, apply in criminal cases except as stated in this division.

**16.701(3)** *Self-represented criminal defendants.* A self-represented criminal defendant is not required to register but may choose to register for electronic filing. If a person excused from electronic filing chooses to register, the person waives the exception and is governed by these rules in the same manner as any registered filer. A person who subsequently desires to be excused must apply for and receive an exception pursuant to these rules.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.702 Warrants and other similar applications.** When made during regular court hours, applications for search warrants, applications for arrest warrants, and other similar applications may be electronically presented to the court. Applications made when the courthouse is closed may be electronically presented to the court in the same manner as proposed orders are presented pursuant to rule 16.409. If the applicant or the court does not have immediate access to such technology, the application must be presented to the court in paper form and later scanned into EDMS.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.703 Documents initiating criminal cases.**

**16.703(1)** *Trial informations and indictments.*

*a. Trial informations.* Trial informations must be electronically presented to the court for approval. If the court approves the trial information, the information is electronically file stamped and filed. If the court refuses to approve the trial information, the prosecuting attorney is electronically notified.

*b. Indictments.* Indictments containing a nonelectronic signature of a foreperson of a grand jury must be scanned before being electronically filed in EDMS.

**16.703(2)** *Complaints, traffic tickets, and similar citations.* Complaints, traffic tickets, or similar citations containing the electronic signature of an arresting officer or other person must be transmitted to EDMS in such a manner as to legibly reproduce an unaltered image of the required signature or display a realistic image of the signature.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.704 Signatures of criminal defendants.** When a criminal defendant's signature is required on a document, the signature may be placed on the document in the following ways.

**16.704(1)** *Nonelectronic signature.* A criminal defendant may sign a document nonelectronically, and the document must be scanned for electronic filing.

**16.704(2)** *Computer tablet signature.* A criminal defendant may electronically sign a document using a computer tablet or similar technology.

**16.704(3)** *Login and password.* A criminal defendant who is a registered filer may sign the document using the defendant's login and password accompanied by a digitized or electronic signature. *See* rule 16.705 (documents requiring oaths, affirmations, or verifications).

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.705 Documents requiring oaths, affirmations, or verifications.** Any document requiring a signature to be made under oath or affirmation or with verification may be signed either nonelectronically and scanned into EDMS or may be signed with a digitized signature.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**COMMENT:**

**Rule 16.705.** Uniform citations and complaints are examples of documents under rule 16.705. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.706 Copies of documents for self-represented defendants.** The court will provide self-represented criminal defendants who have not registered for electronic filing paper copies of all documents submitted to the court or filed by the court.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.707 Written plea agreements.** Written plea agreements may be electronically presented to the court but need not be filed prior to a plea proceeding. If the plea is accepted, the electronically presented plea agreement is filed.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rules 16.708** to **16.800** Reserved.

## DIVISION VIII
JUVENILE CASES

**Rule 16.801 Juvenile cases generally.**

**16.801(1)** *EDMS in juvenile cases.* All juvenile cases, with the exception of waivers of parental notification, will be opened using EDMS.

**16.801(2)** *Applicability of other chapter 16 rules to juvenile cases.* The rules in divisions I through VI of the Iowa Rules of Electronic Procedure, including rules on the protection of personal privacy, apply in all juvenile cases except as stated in this division.

*a. Exception to protected information rule 16.602 for the name of a minor child.* The name of a minor child who is the subject of a petition or complaint alleging delinquency will not be disclosed and is considered protected information unless exempted under Iowa Code section 232.147.

*b. Exception for nonregistered self-represented parents, guardians, or legal custodians.* Nonregistered self-represented parents, guardians, or legal custodians of a minor child in a juvenile case are excused from registration and electronic filing.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017; September 19, 2022, effective October 3, 2022]

**Rule 16.802 Emergency applications.** When made during regular court hours, applications for emergency orders may be electronically presented to the court. Applications made when the courthouse is closed may be electronically presented to the court in the same manner as proposed orders are presented pursuant to rule 16.409. If the applicant or the court does not have immediate access to such technology, the application may be presented to the court in paper form and later scanned into EDMS.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**COMMENT:**

**Rule 16.802.** Examples of emergency applications include applications for placement in shelter care, placement in detention, requests for emergency medical care, and removal from parental custody. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.803 Signatures.** When the signature of a parent, guardian, custodian, child as defined in the Iowa Code, or adult within the jurisdiction of the juvenile court is required on a document, the signature may be placed on the document in one of the following ways:

**16.803(1)** *Nonelectronic signature.* The person may sign a document nonelectronically and the document must be scanned for electronic filing.

**16.803(2)** *Computer tablet signature.* The person may electronically sign a document using a computer tablet or similar technology.

**16.803(3)** *Login and password.* If the person is a registered filer, the person may sign the document using the person's login and password, accompanied by a digitized or electronic signature. *See* rule 16.804 (documents requiring oaths, affirmations, or verifications).

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

**Rule 16.804 Documents requiring oaths, affirmations, or verifications.** Any document requiring a signature to be made under oath or affirmation or with verification may be signed either nonelectronically and scanned into the electronic document management system or may be signed with a digitized signature.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

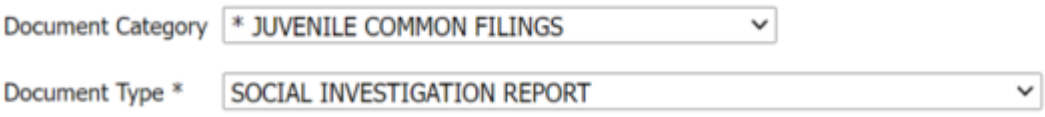
**Rule 16.805 Filing of social records and social reports.** A filer electronically filing a social record, as defined by Iowa Code section 232.2(31), or a social report, as defined by Iowa Code section 232.2(54), must choose an accurate document type corresponding to the type of document being filed from the options listed on the electronic cover sheet.

[Court Order September 19, 2022, effective October 3, 2022]

**COMMENT:**

**Rule 16.805.** The EDMS document type should correspond to the type of document being filed. For example, a social report, permanency reports, or predisposition report should be filed as such. If there is no corresponding document type, a filer should select "SOCIAL RECORD OTHER" and enter a description of the filing in the "Additional Text" field.

Example of how to file a social report:




[Court Order September 19, 2022, effective October 3, 2022]

**Rules 16.806** to **16.900** Reserved.

# CHAPTER 17
# FORMS FOR SELF-REPRESENTED LITIGANTS

# CHAPTER 17
# FORMS FOR SELF-REPRESENTED LITIGANTS

**Rule 17.1 Use of forms; mandatory for self-represented litigants.** Persons without attorney representation in legal actions covered under this chapter must use the forms listed in this chapter and available on the Iowa Judicial Branch website at: www.iowacourts.gov. Attorneys may use these forms but are not required to do so.
[Court Order May 16, 2007; December 19, 2013; November 7, 2022, effective December 1, 2022]

**Rules 17.2** to **17.9** Reserved.

**Rule 17.10 Forms for relief from domestic abuse.** Persons without attorney representation in legal actions seeking protection from domestic abuse under Iowa Code chapter 236 must use the forms listed in this rule. The forms are available on the Iowa Judicial Branch website at: www.iowacourts.gov.

| | |
|---|---|
| Form 11: | Petition for Relief from Domestic Abuse |
| Form 12: | Petition for Relief from Domestic Abuse on Behalf of a Minor Child |
| Form 13: | Petition for Relief from Domestic Abuse on Behalf of a Ward or Protected Person |
| Form 14: | Protected Information Disclosure |
| Form 15: | Information Sheet for Protective Order Registry and Service of Protective Orders |
| Form 16: | Affidavit to Start Contempt Proceedings for Violation of a Domestic Abuse Protective Order |
| Form 17: | Request to Modify, Cancel, or Extend a Domestic Abuse Final Protective Order |
| Form 18: | Firearms Compliance Affidavit |
| Form 19: | Firearms Transfer Affidavit |

[Court Order November 7, 2022, effective December 1, 2022]

**Rules 17.11** to **17.19** Reserved.

**Rule 17.20 Forms for relief from elder abuse.** Persons without attorney representation in legal actions seeking protection from elder abuse under Iowa Code chapter 235F must use the forms listed in this rule. The forms are available on the Iowa Judicial Branch website at: www.iowacourts.gov.

| | |
|---|---|
| Form 11: | Petition for Relief from Elder Abuse |
| Form 12: | Protected Information Disclosure |
| Form 13: | Information Sheet for Protective Order Registry and Service of Protective Orders |
| Form 14: | Affidavit to Start Contempt Proceedings for Violation of an Elder Abuse Protective Order |
| Form 15: | Request to Modify, Cancel, or Extend an Elder Abuse Final Protective Order |
| Form 16: | Firearms Compliance Affidavit |
| Form 17: | Firearms Transfer Affidavit |

[Court Order November 7, 2022, effective December 1, 2022]

**Rules 17.21** to **17.29** Reserved.

**Rule 17.30 Forms for relief from sexual abuse.** Persons without attorney representation in legal actions seeking protection from sexual abuse under Iowa Code chapter 236A must use the forms listed in this rule. The forms are available on the Iowa Judicial Branch website at: www.iowacourts.gov.

| | |
|---|---|
| Form 11: | Petition for Relief from Sexual Abuse |
| Form 12: | Petition for Relief from Sexual Abuse on Behalf of Minor Child |
| Form 13: | Petition for Relief from Sexual Abuse on Behalf of Ward or Protected Person |
| Form 14: | Protected Information Disclosure |
| Form 15: | Information Sheet for Protective Order Registry & Service of Protective Orders |
| Form 16: | Affidavit to Start Contempt Proceedings for Violation of a Sexual Abuse Protective Order |
| Form 17: | Request to Modify, Cancel, or Extend a Sexual Abuse Final Protective Order |
| Form 18: | Firearms Compliance Affidavit |
| Form 19: | Firearms Transfer Affidavit |

[Court Order November 7, 2022, effective December 1, 2022]

**Rules 17.31** to **17.99** Reserved.

**Rule 17.100 Family law forms for dissolution of marriage with no minor or dependent adult children.** Persons without attorney representation in dissolution of marriage (divorce) actions without children under the age of 18 who are children of both spouses to the marriage, or children under the age of 18 who were adopted or born during the marriage, or children 18 years of age or older who are children of both spouses to the marriage and still need support must use the forms listed in this rule. These forms cannot be used if a spouse of the marriage is pregnant. These forms are available at no cost on the Iowa Judicial Branch website at: www.iowacourts.gov.

| | |
|---|---|
| Form 101: | Petition for Dissolution of Marriage with no Minor or Dependent Adult Children |
| Forms 102 and 103: | Reserved |
| Form 104: | Original Notice for Personal Service |
| Form 104a: | Original Notice for Personal Service |
| Form 105: | Acceptance of Service |
| Form 106: | Directions for Service of Original Notice |
| Form 107: | Motion and Affidavit to Serve by Publication |
| Form 108: | Original Notice by Publication |
| Form 109: | Application and Affidavit to Defer Payment of Costs |
| Form 110: | Affidavit of Service of Original Notice and Petition for Dissolution of Marriage |
| Form 111: | Protected Information Disclosure |
| Forms 112 to 114: | Reserved |
| Form 115: | Answer to Petition for Dissolution of Marriage with no Minor or Dependent Adult Children |
| Form 116: | General Answer to a Petition |
| Forms 117 to 121: | Reserved |
| Form 122: | Motion in a Dissolution of Marriage with no Minor or Dependent Adult Children |
| Form 123: | Response to a Motion |

| | |
|---|---|
| Form 124: | Financial Affidavit for a Dissolution of Marriage with no Minor or Dependent Adult Children |
| Form 125: | Affidavit of Mailing Notice |
| Form 126: | Notice of Intent to File Written Application for Default Decree |
| Form 127: | Request for Relief in a Dissolution of Marriage with no Minor or Dependent Adult Children |
| Form 128: | Settlement Agreement for a Dissolution of Marriage with no Minor or Dependent Adult Children |
| Forms 129 to 200: | Reserved |

[Court Order December 19, 2013; November 7, 2022, effective December 1, 2022; March 16, 2023; October 31, 2023]

**Rules 17.101** to **17.199** Reserved.

**Rule 17.200 Family law forms for dissolution of marriage with dependent children.** Persons without attorney representation in dissolution of marriage (divorce) actions with children under the age of 18 who are children of both spouses to the marriage, or children under the age of 18 who were adopted or born during the marriage, or children 18 years of age or older who are children of both spouses to the marriage and are dependent or still need support must use the forms listed in this rule. These forms must also be used if a spouse of the marriage is pregnant. These forms are available on the Iowa Judicial Branch website at: www.iowacourts.gov.

| | |
|---|---|
| Form 201: | Petition for Dissolution of Marriage with Children |
| Form 202: | Petition Cover Sheet for a Dissolution of Marriage with Children |
| Form 203: | Confidential Information Form |
| Form 204: | Original Notice for Personal Service |
| Form 204a: | Original Notice for Personal Service |
| Form 205: | Acceptance of Service |
| Form 206: | Directions for Service of Original Notice |
| Form 207: | Motion and Affidavit to Serve by Publication |
| Form 208: | Original Notice by Publication |
| Form 209: | Application and Affidavit to Defer Payment of Costs |
| Form 210: | Affidavit of Service of Original Notice and Petition for Dissolution of Marriage |
| Form 211: | Protected Information Disclosure |
| Form 212: | Joint Statement on Legal Parent |
| Form 213: | Motion to Disestablish Legal Parent |
| Form 214: | Reserved |
| Form 215: | Answer to Petition for Dissolution of Marriage with Children |
| Form 216: | General Answer to a Petition for Dissolution of Marriage with Children |
| Forms 217 to 220: | Reserved |
| Form 221: | Affidavit for Temporary Custody and Visitation |
| Form 222: | Motion in a Dissolution of Marriage with Children |
| Form 223: | Response to a Motion |
| Form 224: | Financial Affidavit for a Dissolution of Marriage with Children |
| Form 225: | Affidavit of Mailing Notice |

| | |
|---|---|
| Form 226: | Notice of Intent to File Written Application for Default Decree |
| Form 227: | Request for Relief in a Dissolution of Marriage with Children |
| Form 228: | Settlement Agreement for a Dissolution of Marriage with Children |
| Form 229: | Agreed Parenting Plan |
| Form 230: | Proposed Parenting Plan |
| Forms 231 to 300: | Reserved |

[Court Order December 19, 2013; March 26, 2014; November 7, 2022, effective December 1, 2022]

**Rules 17.201** to **17.299** Reserved.

**Rule 17.300 Forms for modifying child support.** Persons without attorney representation in legal actions to modify a current child support order from an Iowa court must use the forms listed in this rule. These forms are available on the Iowa Judicial Branch website at: www.iowacourts.gov.

| | |
|---|---|
| Form 301: | Application to Modify Child Support |
| Form 302: | Cover Sheet for an Application to Modify Child Support |
| Form 303: | Confidential Information Form |
| Form 304: | Original Notice for Personal Service |
| Form 304a: | Original Notice for Personal Service |
| Form 305: | Acceptance of Service |
| Form 306: | Directions for Service of Original Notice |
| Forms 307 and 308: | Reserved |
| Form 309: | Application and Affidavit to Defer Payment of Costs |
| Form 310: | Affidavit of Service of Original Notice and Application to Modify Child Support |
| Form 311: | Protected Information Disclosure |
| Forms 312 to 314: | Reserved |
| Form 315: | Answer to Application to Modify Child Support |
| Form 316: | General Answer to Application to Modify Child Support |
| Forms 317 to 321: | Reserved |
| Form 322: | Motion in a Child Support Modification |
| Form 323: | Response to a Motion in a Child Support Modification |
| Form 324: | Child Support Modification Financial Statement |
| Form 325: | Affidavit of Mailing Notice |
| Form 326: | Notice of Intent to File Written Application for Default Decree |
| Form 327: | Request for Relief in a Child Support Modification |
| Form 328: | Settlement Agreement on an Application to Modify Child Support |
| Forms 329 to 400: | Reserved |

[Court Order December 19, 2013; March 6, 2014; November 7, 2022, effective December 1, 2022]

**Rules 17.301** to **17.399** Reserved.

**Rule 17.400 Child custody and visitation forms for unmarried parents.** Persons without attorney representation in legal actions determining child custody and visitation terms for unmarried parents of children under the age of 18 who are children of both parties, or children under age 18 whom the parties have adopted, or children 18 years of age or older who are children of both parties and are

dependent or still need support must use the forms listed in this rule. Parties also must use these forms if a party is pregnant with the other party's child. Parties cannot use these forms if the parties were ever married to each other. These forms are available on the Iowa Judicial Branch website at: www.iowacourts.gov.

| | |
|---|---|
| Form 401: | Petition for Custody and Visitation (Parents not Married) |
| Form 402: | Petition Cover Sheet for Custody and Visitation |
| Form 403: | Confidential Information Form |
| Form 404: | Original Notice for Personal Service |
| Form 404a: | Original Notice for Personal Service |
| Form 405: | Acceptance of Service |
| Form 406: | Directions for Service of Original Notice |
| Form 407: | Motion and Affidavit to Serve by Publication |
| Form 408: | Original Notice by Publication |
| Form 408a: | Proof of Service by Publication |
| Form 409: | Application and Affidavit to Defer Payment of Costs |
| Form 410: | Affidavit of Service of Original Notice and Petition for Custody and Visitation |
| Form 411: | Protected Information Disclosure |
| Form 412: | Joint Statement to Disestablish Legal Parent |
| Form 413: | Motion to Disestablish Legal Parent |
| Form 414: | Reserved |
| Form 415: | Answer to Petition for Custody and Visitation |
| Form 416: | General Answer to a Petition for Custody and Visitation |
| Forms 417 to 420: | Reserved |
| Form 421: | Affidavit for Temporary Custody and Visitation |
| Form 422: | Motion in a Custody and Visitation Case |
| Form 423: | Response to a Motion in a Custody and Visitation Case |
| Form 424: | Custody and Visitation Financial Statement |
| Form 425: | Affidavit of Mailing Notice |
| Form 426: | Notice of Intent to File Written Application for Default Decree |
| Form 427: | Request for Relief in a Custody and Visitation Case |
| Form 428: | Settlement Agreement for Custody and Visitation |
| Form 429: | Agreed Parenting Plan |
| Form 430: | Proposed Parenting Plan |
| Forms 431 to 500: | Reserved |

[Court Order July 19, 2019, effective September 1, 2019; November 7, 2022, effective December 1, 2022]

**Rules 17.401** to **17.499** Reserved.

# CHAPTERS 18 TO 19

Reserved

# CHAPTER 20
# COURT RECORDS

# CHAPTER 20
# COURT RECORDS

**Rule 20.1 Court records.** The rules in this chapter govern the creation, storage, retention, duplication, reproduction, disposition, destruction of, and public access to records of the judicial branch of government.

**20.1(1)** "Records of the judicial branch of government" are all records, regardless of physical form, characteristics, or means of transmission, made or received in connection with the transaction of official business of the judicial branch of government and consist of court records and administrative records.

**20.1(2)** "Court records" are the contents of the court file, including the docket and other similar records generated to document activity in a case, transcripts filed with the clerk, documentary exhibits in the custody of the clerk, and any record of court proceedings produced by means authorized by the supreme court.

**20.1(3)** "Administrative records" are all records other than court records made or received by the judicial branch pursuant to court rule or state law, or in connection with the transaction of official business of any judicial branch entity.

[Court Order January 6, 2010]

**Rule 20.2 Reports and transcripts of court proceedings.** The supreme court shall designate the types of court proceedings that must be reported and prescribe the manner, procedures and equipment to be used for creating, retaining, duplicating, reproducing and destroying a report of any proceeding in any court in this state.

[Court Order January 6, 2010]

**Rule 20.3 Records of the Supreme Court and Court of Appeals.** The clerk of the supreme court may:

**20.3(1)** Reproduce original records of the supreme court and of the court of appeals by any reasonably permanent legible means including, but not limited to, reproduction by photographing, photostating, microfilming, computer cards, and electronic digital format. The reproduced record has the same authenticity as the original record.

**20.3(2)** After the original record is reproduced, the clerk of the supreme court may destroy the original records.

[Court Order October 26, 2017]

**Rule 20.4 Purging of case files.**

**20.4(1)** Each clerk of the district court may purge civil case files ten years after final disposition. For purposes of this rule and rule 20.5, civil case files do not include juvenile, mental health, probate, or adoption proceedings. Each district court clerk may purge criminal case files ten years after dismissal of all charges, or ten years after the expiration of all sentences imposed or the date probation is granted, whichever later occurs. For purposes of this rule and rule 20.5, "purging" means the removal and destruction of documents in the case file which have no legal, administrative or historical value. The documents are to be retained or discarded in accordance with the purging lists in rule 20.5.

**20.4(2)** Purging shall be done prior to reproduction of an entire court file in preparation for destruction under Iowa Code section 602.8103. A file shall be purged only once, pursuant to the provisions of this rule in effect at the time of purging.

**20.4(3)** Each clerk of the district court shall designate either the clerk or a deputy as the "Records Management Specialist." The records management specialist shall be responsible for implementing office procedures for records management and retention, including the implementation of this rule. The records management specialist shall be the local supervisor who will answer questions about purging any documents not on the lists provided in rule 20.5. Any question not answerable by the records management specialist shall be referred to the district court administrator, who may refer questions to the state court administrator.

**20.4(4)** The district court clerk need not give notice to any agency, attorney, party, or other group before purging any files under this rule and rule 20.5. Any government agency, historical society, group, or person may request and obtain any or all purged documents upon making written request

to the local district court clerk, and tendering payment therefor. District court clerks shall cooperate with reasonable requests of local and state historical societies when implementing purging operations.

**20.4(5)** Case files will be excepted from this rule only upon court order signed by a majority of the district judges of that district. The order may prohibit purging specific court files in whole or part, and must state the reason for the prohibition.

**20.4(6)** Purging of case files in proceedings involving parental notification of a minor's abortion under Iowa Code chapter 135L shall be in accordance with Iowa Ct. R. 8.32(3).

**20.4(7)** Orders appointing condemnation commissioners shall be retained for five years and then destroyed without reproduction.

**20.4(8)** One year after filing, district court clerks may destroy, without reproduction, "Confidential Information Forms" filed pursuant to Iowa Code section 602.6111.

[Court Order November 9, 2001, effective February 15, 2002; October 26, 2017]

**COMMENT:** Rule 20.4 formerly appeared as Iowa Court Rule 22.37. [Court Order October 26, 2017]

**Rule 20.5 Purging of case files—lists.**

**20.5(1)** Civil case files.

*a.* Retain in files:

(1) Original notice.
(2) Petition.
(3) Return of service—affidavit of publication, certificate of state official (long arm/nonresident motorist, foreign corporations).
(4) Answer.
(5) Cross-petition.
(6) Answer to cross-petition.
(7) Counterclaim.
(8) Signed orders (original signed by judge).
(9) Decisions or decrees of court opinions.
(10) Amended pleadings (see nos. 2, 4, 5, 6, or 7).
(11) Writs issued (return of service).
(12) Entry of judgment.
(13) Dismissal.
(14) Jury verdict form (signed).
(15) Notice of appeal.
(16) Procedendo from clerk of supreme court.
(17) Agreement for judgment.
(18) Offer to confess judgment.
(19) Acceptance of offer to confess judgment.
(20) Execution/special execution.
(21) Return on execution/sheriff's sale.
(22) Stipulations.
(23) Partial satisfactions.
(24) Special appearance.
(25) Claim for return of seized property.
(26) Application for forfeiture of seized property.
(27) Release and/or satisfaction.

*b.* Discard from files (EXCEPT in those cases excluded in rule 20.4(1)):

(1) All duplicates of original documents.
(2) Bonds.
(3) Motions/Applications:
    1. Amend
    2. Change venue
    3. Dismiss/demurrer

4. Strike
5. Quash
6. More specific statement
7. Summary judgment
8. Consolidation
9. Stay
10. Compel
11. Sanctions
12. New trial
13. Reconsideration
14. Enlarge and amend
15. Continuance
16. Consolidate or sever
17. Judgment notwithstanding verdict
18. Examinations of judgment debtor
19. Substitute party
20. Withdrawal of attorney
21. Condemn funds
22. Citation for contempt

(4) Response to any motion.
(5) Briefs.
(6) Notice of deposition.
(7) Deposition transcripts.
(8) Interrogatories and answers.
(9) Notice of interrogatories.
(10) Request for production.
(11) Response to request for production.
(12) Request for admissions and responses.
(13) Pretrial compliance reports.
(14) Trial certificates.
(15) Objections to trial certificate.
(16) Subpoenas.
(17) Proposed jury instructions.
(18) Witness lists; exhibits lists.
(19) Correspondence.
(20) Directions to sheriff for service.
(21) Demand for jury trial.
(22) Certificate of reporters re: costs of or taking deposition.
(23) Order condemning funds.
(24) Scheduling order or notices.
(25) Orders that only set hearings.
(26) Strike list notices.
(27) Warrant for arrest of contemnor.
(28) Entry of default.
(29) Jury instructions.
(30) Receipts for exhibits.
(31) Praecipe.
(32) Affidavit of amount due.
(33) Affidavit of payments made.

**20.5(2)** Criminal case files.

*a.* Retain in files:

(1) Trial information and minutes of testimony.
(2) Indictment.
(3) Amended trial information.
(4) Written plea of guilty.
(5) Opinion or decision of court.
(6) All orders of court, except those only setting a hearing.
(7) Jury instructions.
(8) Jury verdict (signed).
(9) Notice of appeal.
(10) Procedendo from clerk of supreme court.
(11) Notice of dismissal of appeal.
(12) Judgment entry.
(13) Sentencing entry.
(14) Presentence investigation report and associated reports.

*b.* Discard from files (EXCEPT in those cases excluded in rule 20.4(1)):

(1) All duplicates of original documents.
(2) All copies and originals of jail booking forms and receipts.
(3) All subpoenas issued and returned.
(4) Written stipulations.
(5) Warrant for arrest.
(6) Return on warrant.
(7) Bail bonds.
(8) Recognizance agreements to appear.
(9) Written arraignment.
(10) Motions:
1. To suppress and response
2. Change of venue and response
3. Limine and response
4. To dismiss and response
5. To sever trial and response
6. Bill of particulars and response
7. To amend trial information
8. For appointment of counsel
9. For withdrawal of counsel
10. To determine competency
11. To consolidate trial
12. For continuance
13. To correct sentence
14. Reduction of bail or review conditions of release
15. To revoke bail or pretrial release
16. To forfeit bail
17. To compel
(11) Orders that only set hearings.
(12) Briefs.
(13) Proposed or requested jury instructions.
(14) Pretrial conference reports, minutes, or orders.
(15) Notices of depositions.
(16) Scheduling notices.

(17) Requests for transcripts.
(18) Registered mail receipt cards or letters returned.
(19) Receipts for evidence.
(20) Correspondence from attorneys.
(21) Nonsubstantive correspondence from defendants.
(22) Application to revoke probation, or to adjudicate guilt, or to revoke deferred judgment.
(23) Magistrate's transcript.
(24) Complaint forms.
(25) Media coordinator requests.
(26) Appearance of attorney.
(27) Witness lists.
(28) Notice of special defense, (i.e., insanity, intoxication, alibi, duress, etc.).
(29) Iowa R. Crim. P. 2.14(2)(*a*), disclosure required upon receipt (Notice).
(30) Application for search warrant.
(31) Return on search warrant.

**20.5(3)** Divorce/Dissolution of Marriage/Separate Maintenance/Child Support and Paternity case files.

*a.* Retain in files:

(1) Original notice.
(2) Petition for divorce, separate maintenance, dissolution of marriage, child support, or to determine paternity.
(3) Return of service—affidavit of publication.
(4) Acceptance of service.
(5) Answer.
(6) Cross-petition.
(7) Answer to cross-petition.
(8) Signed orders (original signed by judge).
(9) Decrees or decisions of court.
(10) Amended pleadings (see nos. 2, 5, 6, or 7).
(11) Writs issued (return of service).
(12) Entry of default.
(13) Dismissal.
(14) Notice of appeal.
(15) Procedendo from clerk of supreme court.
(16) Paternity test results.
(17) Petition or application for modification.
(18) Answer to petition or application for modification.
(19) Order for temporary support or temporary custody.
(20) Stipulations.
(21) Execution/special execution.
(22) Satisfaction/partial satisfaction.
(23) Appearance by attorney or party.
(24) Assignments of judgments and terminations of assignments.
(25) Financial affidavits.
(26) Child support worksheets.
(27) Confidential information required under Iowa Code section 598.22B.

*b.* Discard from files:

(1) All duplicates of original documents.
(2) Bonds.

(3) Motions/applications:
1. Amend
2. Change venue
3. Dismiss/demurrer
4. Strike
5. Quash
6. More specific statement
7. Stay
8. Compel
9. Sanctions
10. New trial
11. Reconsideration
12. Enlarge and amend (Iowa R. Civ.P. 1.904(2))
13. Continuance
14. Examinations of judgment debtor
15. Withdrawal of attorney
16. Condemn funds
17. Citation for contempt

(4) Response to any motion.
(5) Briefs.
(6) Notice of deposition.
(7) Depositions transcripts.
(8) Interrogatories and answers to interrogatories.
(9) Notice of interrogatories.
(10) Requests for production.
(11) Response to requests for production.
(12) Requests for admissions and responses.
(13) Trial certificates.
(14) Objections to trial certificates.
(15) Subpoenas.
(16) Correspondence.
(17) Directions to sheriff for service.
(18) Certificate of reporters re: costs of or taking depositions.
(19) Order condemning funds.
(20) Scheduling order or notices.
(21) Orders that only set hearings.
(22) Warrant for arrest of contemnor.
(23) Strike list notices.
(24) Receipts for exhibits.
(25) Proof of service by Child Support Services.
(26) Certificate of completion of parent education program.

[Court Order February 17, 1989, effective April 15, 1989; July 26, 1996; October 3, 1997; November 25, 1998; October 27, 1999; November 9, 2001, effective February 15, 2002; October 26, 2017; June 30, 2023, effective July 1, 2023]

**COMMENT:** Rule 20.5 formerly appeared as Iowa Court Rule 22.38. Rule 20.5 conforms to standard court rule numbering. [Court Order October 26, 2017]

# CHAPTER 21
# ORGANIZATION AND PROCEDURES OF APPELLATE COURTS

## ORGANIZATION OF THE SUPREME COURT



## ORGANIZATION OF THE COURT OF APPEALS



## APPELLATE OPERATING PROCEDURES

# CHAPTER 21
# ORGANIZATION AND PROCEDURES OF APPELLATE COURTS

## ORGANIZATION OF THE SUPREME COURT

**Rule 21.1 Submission to the court.** Cases shall ordinarily be submitted en banc; however, the chief justice may provide for submission and consideration by less than the entire court.
[Court Order September 19, 1979; November 9, 2001, effective February 15, 2002; March 5, 2013, effective May 3, 2013]

**Rule 21.2 Absence of chief justice.** If the chief justice is absent or ill or from any other disability is unable to act and does not select some other member of the supreme court to act as chief justice during an absence or disability, the court shall select one of its other members to act during such time.
[Court Order September 19, 1979; November 9, 2001, effective February 15, 2002; March 5, 2013, effective May 3, 2013]

**Rules 21.3** to **21.10** Reserved.

## ORGANIZATION OF THE COURT OF APPEALS

**Rule 21.11 Policy.** The principal role of the court of appeals is to dispose justly of a high volume of cases.
[Court Order March 5, 2013, effective May 3, 2013]

**Rule 21.12 Sitting en banc or in panels.** The court of appeals may sit in panels. The chief judge of the court of appeals shall determine whether a case will be submitted with or without oral argument and whether it will be submitted to a panel of the court of appeals. A case first assigned to a panel may be submitted en banc upon the approval of the court.
[Court Order September 19, 1979; October 7, 1981; February 1, 1982; May 16, 1984; November 9, 2001, effective February 15, 2002; March 5, 2013, effective May 3, 2013]

**Rule 21.13 Panel composition.** Composition of panels shall be changed periodically. A chief judge sitting on any panel shall be the presiding judge. When the chief judge is not a member of the panel, the active judge with the most seniority shall preside.
[Court Order February 1, 1982; May 16, 1984; July 19, 1999; November 9, 2001, effective February 15, 2002; March 5, 2013, effective May 3, 2013]

**Rules 21.14** to **21.20** Reserved.

## APPELLATE OPERATING PROCEDURES

**Rule 21.21 Allocation of proceedings (cases).** Screening and evaluation of cases filed with the supreme court clerk shall be undertaken by the supreme court for purposes of routing to the appropriate appellate court. The supreme court shall make all routing decisions. Decisions concerning the necessity and scheduling of oral argument shall be made in the appropriate appellate court.
[Court Order September 19, 1979; May 27, 1988, effective July 1, 1988; November 9, 2001, effective February 15, 2002; February 27, 2008; March 5, 2013, effective May 3, 2013]

**Rule 21.22 Participation in and publication of opinions.**

**21.22(1)** *Participation in opinions.* Each opinion of the supreme court and court of appeals shall show the justices or judges who participated in the opinion.

**21.22(2)** *Publication of supreme court opinions.* All opinions of the supreme court, other than those issued per curiam, shall be published as provided in this rule. A list indicating the disposition of all opinions rendered by the supreme court per curiam or under Iowa R. App. P. 6.1203 shall be published quarterly in West's North Western Reporter, except for those opinions the supreme court specially orders to be published in the regular manner.

**21.22(3)** *Publication of court of appeals opinions.* The court of appeals, by majority vote of its members en banc, shall decide which of its opinions shall be published. Its decision to publish an opinion shall be reflected in an order filed with the clerk. An opinion may be published only after it is final. When further review is granted, the opinion of the court of appeals shall not be published unless the supreme court otherwise directs.

**21.22(4)** *Official reporter.* Opinions of the supreme court and opinions of the court of appeals to be published shall be published in West's North Western Reporter commencing with and subsequent to 158 N.W. 2d.

**21.22(5)** *Table of court of appeals opinions not otherwise published.* A table of the opinions of the court of appeals not approved for publication shall be published regularly in West's North Western Reporter. The table shall consist of the title, docket number, date of decision, and disposition of each case.

[Court Order September 19, 1979; December 20, 1989, effective February 15, 1990; February 19, 2001, effective July 1, 2001; November 9, 2001, effective February 15, 2002; March 5, 2013, effective May 3, 2013]

**Rule 21.23 Correction of opinions.**

**21.23(1)** *Correction notice.* The author of an opinion or the appropriate appellate court may correct typographical, grammatical, or other formal errors in the opinion by filing a correction notice with the clerk of the supreme court. The correction notice shall be filed and kept with the opinion, and the author or appropriate appellate court shall cause a corrected opinion to be filed with the clerk. The corrected opinion shall reflect the original date of filing as well as the date of the filing of the corrected opinion. The original opinion shall remain on file with the clerk. If the opinion is to be published in the West's North Western Reporter and has not yet been published in a bound volume, and if the correction did not originate with the publishing company, the author or appropriate appellate court shall cause a copy of the correction notice to be transmitted immediately to the publishing company for insertion of the correction in the published opinion.

**21.23(2)** *Substantive changes to opinion.* Changes in the substance of a supreme court opinion may be made only by action of that court before procedendo has been issued. Changes in the substance of an opinion by the court of appeals may be made only before supreme court rules on any application for further review or, when no such application is filed, before issuance of procedendo. Such changes shall be made only by the filing of an order amending the opinion together with a substituted opinion. The substituted opinion shall reflect the original date of filing as well as the date of the filing of the substituted opinion. The original opinion shall remain on file with the clerk.

[Court Order December 5, 1979, effective January 1, 1980; May 16, 1984; November 9, 2001, effective February 15, 2002; March 5, 2013, effective May 3, 2013]

**Rule 21.24 Consideration of petitions for rehearing.** All petitions for rehearing shall be considered by the justices and judges who participated in the original opinion.

[Court Order June 27, 1980; November 9, 2001, effective February 15, 2002; March 5, 2013, effective May 3, 2013]

**Rule 21.25 Opinions dealing with confidential material.** In an appeal in a juvenile case in which the juvenile court record is confidential under Iowa Code section 232.147, the supreme court or court of appeals shall refer to the parties in the caption and body of the opinion and other public court documents by first name, initials, or pseudonym. The same method of designation shall be used in any situation in which revealing a person's identity would have the effect of disclosing material which is required by statute or rule of the supreme court to be confidential.

[Court Order November 19, 1981; November 9, 2001, effective February 15, 2002; March 5, 2013, effective May 3, 2013]

**Rule 21.26 Memorandum opinions.**

**21.26(1)** *When appropriate.* Memorandum opinions may be used by the court of appeals and supreme court when any of the following occur:

*a.* The issues involve only the application of well-settled rules of law to a recurring fact situation.

*b.* The issue is whether the evidence is sufficient to support a jury verdict, a trial judge's finding of fact, or an administrative agency's finding, and the evidence is sufficient.

*c.* Disposition of the proceeding is clearly controlled by a prior published holding of the court deciding the case or of a higher court.

*d.* The record of the proceeding includes an opinion of the court or agency whose decision is being reviewed, the opinion identifies and considers all the issues presented, and the appellate court approves of the reasons and conclusions in the opinion.

*e.* A full opinion would not augment or clarify existing case law.

**21.26(2)** *Contents.* Memorandum opinions should contain all of the following information:

*a.* The name and number of the case.

*b.* The contentions of the Appellant or Appellants when appropriate.

*c.* The reasons for the result, briefly stated.

*d.* The disposition.

[Court Order September 19, 1979; November 9, 2001, effective February 15, 2002; March 5, 2013, effective May 3, 2013]

**Rule 21.27 Application to supreme court for further review.**

**21.27(1)** *When deemed submitted.* An application for further review shall be deemed submitted for consideration by the supreme court when the time for filing a resistance to the application has expired. In those cases in which a resistance is not allowed unless ordered by the court, and no resistance has been ordered, an application for further review shall be deemed submitted when the time for filing an application has expired.

**21.27(2)** *Supreme court consideration.* The supreme court en banc shall consider each application for further review and resistance. The affirmative vote of at least one-half of justices voting on the application shall be required to grant an application for further review. If an application is granted, the supreme court shall determine the scope and manner of submission.

**21.27(3)** Denial of further review shall have no precedential value.

[Court Order September 19, 1979; June 1, 2000, effective November 11, 2000; November 9, 2001, effective February 15, 2002; January 24, 2003; November 23, 2004; March 5, 2013, effective May 3, 2013]

**Rule 21.28 Posting opinions on the Internet.** The appropriate appellate court will make its opinions available on the judicial branch web page, www.iowacourts.gov, shortly after the court files the opinion in the clerk's office. If a court corrects an opinion under rule 21.23, the appropriate appellate court will make the corrected opinion available on the judicial branch web page shortly after the court files the corrected opinion in the clerk's office.

[Court Order March 5, 2013, effective May 3, 2013]

**Rule 21.29 Controlling versions of opinions.** The latest version of an opinion on file in the office of the clerk of the supreme court is the controlling version of the opinion. Opinions posted on the judicial branch web page may contain computer-generated errors or other deviations from the official opinion filed in the clerk's office. Moreover, a slip opinion is replaced within a few months by a paginated version of the opinion in the West's North Western Reporter preliminary print, and by the final version of the opinion in the reporter's bound volume. In case of discrepancies between the opinion posted on the judicial branch web page and the reporter's printed slip opinion, the latest opinion filed in the clerk's office is the controlling opinion. In case of discrepancies between the slip opinion and any later version in the reporter's bound volume, the latest version as filed in the clerk's office is the controlling opinion. In case of discrepancies between any online version of the opinion and the reporter's bound volume, the latest version of the opinion on file in the clerk's office is the controlling opinion.

[Court Order March 5, 2013, effective May 3, 2013]

**Rule 21.30 Petitions, applications, requests, and motions.**

**21.30(1)** *Clerk's review of filings.* The clerk of the supreme court or designee shall examine each petition, application, request, motion or similar document (called "motions" in this rule) filed to determine:

*a.* If the motion should be considered by a single judge, justice, or panel of the appropriate appellate court, or whether it may be ruled upon by the clerk or deputy pursuant to rule 6.1002(7);

*b.* If the motion should be ruled upon without awaiting a resistance pursuant to rule 6.1002(4); or

*c.* If the motion demands the immediate attention of the court pursuant to rule 6.1002(1)(*a*).

**21.30(2)** *Consideration of motions.*

*a. Motions not requiring a resistance.* Motions not requiring a resistance shall be promptly submitted to a judge, justice, panel, or the clerk or deputy for consideration.

*b. Motions demanding immediate attention.* Motions demanding the immediate attention of the court shall be immediately delivered to the appropriate appellate court.

*c. Other motions.* All other motions shall be submitted to a judge, justice, panel, or clerk or deputy for consideration after expiration of the deadline to file a resistance.

**21.30(3)** *Motions considered by more than one judge or justice.* Orders on motions considered by a panel of judges or justices shall be signed by one judge or justice, but shall include the names of the judges or justices who considered the motion. An order on a motion the entire court considered, however, may be signed by a single judge or justice with a notation that the motion was considered en banc.

**21.30(4)** *Assignment of motions.* Motions shall ordinarily be assigned to a judge, justice, or panel for consideration on a rotating basis.

[Court Order September 19, 1979; October 1, 1979; July 19, 1984; May 7, 1986, effective June 2, 1986; November 9, 2001, effective February 15, 2002; March 5, 2013, effective May 3, 2013]

# CHAPTER 22
# JUDICIAL ADMINISTRATION

# CHAPTER 22
# JUDICIAL ADMINISTRATION

**Rule 22.1 Supervision of courts.** The supreme court, by and through the chief justice, shall exercise supervisory and administrative control over all trial courts in the state, and over the judges and other personnel thereof, including but not limited to authority to make and issue any order a chief judge may make under rule 22.5, or to modify, amend or revoke any such order or court schedule.
[Report 1969; Court Order November 9, 2001, effective February 15, 2002]

**Rule 22.2 Recall and transfer of judges.** The supreme court by and through the chief justice may at any time order the recall of eligible retired judges for active service, and the transfer of active judges and other court personnel from one judicial district to another to provide a sufficient number of judges to handle the judicial business in all districts promptly and efficiently.
[Report 1969; Court Order November 9, 2001, effective February 15, 2002]

**Rule 22.3 Selection of chief judges.** Not later than December 15 in each odd-numbered year the chief justice, with the approval of the supreme court, shall appoint from the district judges of each district one of their number to serve as chief judge. The judge so appointed shall serve for a two-year term and shall be eligible for reappointment. Vacancies in the office of chief judge shall be filled in the same manner within 30 days after the vacancy occurs. During any period of vacancy the judge of longest service in the district shall be the acting chief judge.
[Report 1969; Court Order October 31, 1997, effective January 24, 1998; October 27, 1999, effective January 3, 2000; November 9, 2001, effective February 15, 2002]

**Rule 22.4 Order appointing chief judge.** An order appointing a chief judge shall be filed with the clerk of the supreme court who shall mail a copy to the clerk of the district court in each county in the judicial district. The clerk of the supreme court may mail the copies of the order electronically.
[Report 1969; Court Order November 9, 2001, effective February 15, 2002; April 11, 2007]

**Rule 22.5 Duties and powers of chief judges.** In addition to their ordinary judicial duties, chief judges shall exercise continuing administrative supervision within their respective districts over all district courts, judges, magistrates, officials and employees thereof for the purposes stated in Iowa R. Civ. P. 1.1807. They shall by order fix times and places of holding court and designate the respective presiding judges and magistrates; they shall supervise and direct the performance of all administrative business of their district courts; they may conduct judicial conferences of their district judges, district associate judges, and magistrates to consider, study and plan for improvement of the administration of justice; and may make such administrative orders as necessary. No chief judge shall at any time direct or influence any judge or magistrate in any ruling or decision in any proceeding or matter whatsoever.

The chief judge of a judicial district may appoint from the other district judges an assistant or assistants to serve on a judicial district-wide basis and at the chief judge's pleasure. When so acting, such an assistant shall have those powers and duties given to the chief judge by statute or rule of court which are specified in the order of appointment. Such appointment shall by general order be made a matter of record in each county in the judicial district.
[Report 1969; amendment 1972; amendment 1979; Court Order October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

**Rule 22.6 Court and trial sessions.** Chief judges shall by order provide for the following:

**22.6(1)** A court session by a district judge at least once each week in each county of the district, announced in advance in the form of a written schedule, unless a different schedule is approved by the supreme court.

**22.6(2)** Additional sessions in each county for the trial of cases, and other judicial matters, of such duration and frequency as will best serve to expeditiously dispose of pending cases ready for trial, and other pending judicial matters.
[Report 1969; Court Order November 9, 2001, effective February 15, 2002]

**Rule 22.7 Case assignment.** The chief judge may assign and monitor cases within the district and may delegate this authority to the district court administrator by general supervisory order or on

a case-by-case basis. District judges, district associate judges, associate juvenile judges, associate probate judges, and magistrates shall attend to any matter within their statutory jurisdiction assigned to them by the chief judge.
[Court Order May 30, 1986; February 14, 1996; July 26, 1996; November 9, 2001, effective February 15, 2002]

**Rule 22.8 Judicial district scheduling.**

**22.8(1)** The chief judge of each judicial district shall by annual written order set the times and places of holding court within the judicial district and designate the respective presiding judges. The order shall provide for a court session at least once a week in each county of the judicial district, unless otherwise approved by the supreme court. The order shall provide for a scheduled trial session in each county of the judicial district at least four times each year, to be presided over by a different judge. In determining the schedule ordered, the chief judge shall rotate trial judges without regard to judicial election district lines to facilitate the administration of justice, integrate the district bench and promote the ideal of district administration.

**22.8(2)** An order of the chief judge demonstrating compliance with this rule for the next calendar year shall be filed by October 15 of the preceding calendar year with the clerk of the supreme court. Following supreme court approval, the chief judge shall file a copy of the order with the clerk of the district court in each county of the respective judicial district.
[Court Order October 15, 1985; November 9, 2001, effective February 15, 2002]

**Rule 22.9 Change of venue to another judicial district.**

**22.9(1)** *Definitions.* As used in this rule:

*a. "Receiving county"* means the county to which a change of venue is ordered.

*b. "Sending county"* means the county from which a change of venue is ordered.

**22.9(2)** *Communication prior to ordering a change of venue.* Before ordering a change of venue to another judicial district for trial, a judge shall communicate with the office of the chief judge of the judicial district in which the intended receiving county is located. The judge shall determine from inquiry of the chief judge or the chief judge's designee the availability of a courtroom, a jury panel if required, and any necessary court personnel in the receiving county. Subject to the approval of the chief justice, the judicial district in which the sending county is located shall provide the trial judge and court reporter for the transferred proceeding.

**22.9(3)** *Transmission of copies of order changing venue.* Copies of an order changing venue shall be promptly transmitted to all of the following:

*a.* The chief judge of the judicial district in which the receiving county is located.

*b.* The court administrator for the judicial district in which the receiving county is located.

*c.* The clerk of the district court for the receiving county.

*d.* The state court administrator, Iowa Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa 50319.

*e.* Any other persons required by law to receive copies of such an order.

**22.9(4)** *Action brought in wrong county.* This rule does not apply where the action was brought in the wrong county.
[Court Order October 20, 1981; November 9, 2001, effective February 15, 2002; April 9, 2003]
*See* also rule 2.11 and rule 2.65.

**Rule 22.10 Judges — monthly report.**

**22.10(1)** Each senior judge, district judge, district associate judge, full-time associate juvenile judge, full-time associate probate judge, and judicial magistrate shall report monthly to the supreme court, through the office of the state court administrator, all matters taken under advisement in any case for longer than 60 days, together with an explanation of the reasons for the delay and an expected date of decision. If no matters have been taken under advisement over 60 days, the report shall state "none." Senior judges need only file reports for those months during which they perform judicial duties or have matters under advisement.

**22.10(2)** Any submission shall be reported when all hearings have been completed and the matter awaits decision without further appearance of the parties or their attorney. A matter shall be deemed submitted even though briefs or transcripts have been ordered but have not yet been filed.

**22.10(3)** The report shall be due on the tenth day of each calendar month for the period ending with the last day of the preceding calendar month. The report shall be signed by the judge or magistrate and submitted on a form prescribed by the state court administrator.

**22.10(4)** A judge who is reporting a matter or matters taken under advisement for longer than 60 days shall send to the district court administrator a copy of the report forwarded to the state court administrator. The chief judge of the district shall review the copies filed in the district court administrator's office and take such action as shall be appropriate. A chief judge may elect whether to report any action taken to the supreme court. A district chief judge reporting such matters to the supreme court shall forward a copy to the liaison justice for the chief judge's judicial district.

**22.10(5)** The state court administrator shall promptly cause all reports received to be filed in the office of the clerk of the supreme court as records available for public inspection.

[Court Order December 15, 1977; February 20, 1981; July 16, 1984 — received for publication October 25, 1984; June 28, 1985, effective July 1, 1985; July 26, 1996; November 9, 2001, effective February 15, 2002]

**Rule 22.11 Practice of law by judges.**

**22.11(1)** A newly appointed full-time associate juvenile judge, full-time associate probate judge, district associate judge, district judge, court of appeals judge, or supreme court justice (hereinafter, judge) may have 30 days from the date of qualifying for office pursuant to Iowa Code section 63.6, or until the vacancy in the office actually occurs, whichever is later, in which to terminate any private law practice before assuming judicial duties. No newly appointed judge shall be placed on the state payroll or assume judicial duties until such private practice is concluded.

**22.11(2)** In terminating a law practice, the newly appointed judge shall undertake no new matters, shall conclude those matters which can be completed within the time provided in rule 22.11(1) and shall transfer those matters which cannot be so concluded or which require trial. While in the process of terminating a private practice, the newly appointed judge shall keep court appearances to a minimum.

**22.11(3)** Upon good cause shown, the supreme court may extend the time in which a newly appointed judge shall comply with this rule.

**22.11(4)** After assuming judicial duties and being placed on the payroll, a judge shall not engage in the practice of law. The practice of law includes but is not limited to the examination of abstracts, consummation of real estate transactions, preparation of legal briefs, deeds, buy and sell agreements, contracts, wills and tax returns.

[Court Order April 29, 1980; June 28, 1985, effective July 1, 1985; July 26, 1996; December 17, 1996, effective January 2, 1997; November 9, 2001, effective February 15, 2002; April 4, 2002]

**Rule 22.12 Senior judges.**

**22.12(1)** The supreme court will accept applications from judges for the senior judge program for judges who will be 62 years of age or older at the time the judge assumes senior status. The 62-years-of-age requirement in this rule is effective January 1, 2018, but it will not apply to judges who have 20 years of service prior to the effective date of this rule.

**22.12(2)** A senior judge must be a resident of the State of Iowa to serve as a senior judge.

**22.12(3)** In order for senior judges to provide the most effective service to the judicial branch, the supreme court may assign a senior judge:

*a.* Within the district the judge served before taking senior status.

*b.* To a district other than the judge served before taking senior status.

*c.* To more than one district.

*d.* To cross district lines, when necessary.

*e.* To conduct court-sanctioned alternative dispute resolution.

*f.* To the state court administrator to perform non-adjudicative duties such as working on special projects involving technology or education, mentoring other judges, or assisting the supreme court in its administrative or rule-making functions.

*g.* To the court of appeals to assist it in its adjudicative duties.

*h.* To serve in the capacity of an administrative law judge pursuant to Iowa Code section 602.9206.

*i.* To any other duties the supreme court may approve.

**22.12(4)** Prior to submitting an application to become a senior judge, the judge, the chief judge of the district, the district court administrator, and the state court administrator may meet and discuss the judge's potential assignment together with the scope and parameters of the senior judge's service. If

the judge decides to apply for senior status, the judge can request the supreme court to give that judge a preliminary determination as to whether the supreme court will approve the judge's application.

**22.12(5)** The supreme court, in ruling on an application for senior status, including reappointment of an applicant to an additional term, may consider the following factors:

*a.* The applicant's demonstration of a willingness and ability to undertake and complete all assigned work during the applicant's service as a judge or a senior judge.

*b.* The recommendation of the chief judge and court administrator made in consultation with other judges from the district, in the district where the judge has served.

*c.* The result of the most recent Iowa State Bar Association judicial performance evaluation.

*d.* The applicant's monthly rule 22.10 reports.

*e.* The applicant's agreement to perform duties as scheduled and assigned by the chief judge of the district, by an appellate court where the senior judge is assigned, or by the state court administrator.

*f.* The applicant's plans, if any, to regularly spend time or reside out-of-state.

*g.* The applicant's work or plans to work as a mediator, arbitrator, or provider of other alternative dispute resolution services.

**22.12(6)** A person who files an election to become a senior judge any time after the date of retirement, pursuant to Iowa Code section 602.9203, shall file written evidence with the clerk of the supreme court that the person has not engaged in the practice of law between the person's date of retirement and date of senior judge election.

**22.12(7)** An applicant for appointment to become a senior judge or a senior judge who applies for reappointment to an additional term shall provide evidence to the satisfaction of the supreme court that the applicant or senior judge does not suffer from a physical or mental disability or an illness that would substantially interfere with the performance of duties agreed to under this rule. Evidence shall include:

*a.* A statement of ability to serve by the applicant and a written opinion of a doctor of medicine or doctor of osteopathic medicine and surgery.

*b.* Prior to or following appointment or reappointment, a judge or senior judge must provide the court with additional information about the senior judge's physical and mental health and authorization for the release of medical information upon request.

**22.12(8)** A senior judge may only serve for a total period of six years. In any event, a senior judge shall cease holding office when the senior judge reaches 78 years of age. To be eligible for consideration, a senior judge must file an application for reappointment within 30 days prior to the expiration of the senior judge's term. The six-year-term-of-service limitation is effective January 1, 2018, but it will not apply to judges who have 20 years of service prior to January 1, 2018.

**22.12(9)** At the end of each calendar quarter, a senior judge shall file a report with the clerk of the supreme court indicating the dates on which the senior judge performed judicial or other assigned duties and the nature of the duties performed or the name of the cases over which the judge presided on each date of service. A senior judge assigned to a judicial district shall provide a copy of the report to the chief judge and the district court administrator. A senior judge assigned to an appellate court shall provide a copy of the report to the chief judge of the court of appeals or the chief justice, whichever is appropriate, and to the state court administrator. For purposes of this rule, a calendar quarter is a three-month period in the one-year period that commences on the date a retired judge becomes a senior judge and continues for each successive one-year period while the judge continues to be a senior judge.

**22.12(10)** Senior judges and applicants for appointment and reappointment to the senior judge program must provide information and reports required by this section on forms approved by the supreme court. The court administrator may require a senior judge to submit a statement of ability to serve by the senior judge and a written opinion of a doctor of medicine or doctor of osteopathic medicine and surgery.

**22.12(11)** The following rules shall apply to senior judges, retired judges assigned to temporary judicial duties pursuant to Iowa Code section 602.1612, and retired senior judges assigned to temporary judicial duties pursuant to section 602.1612 who wish to engage in mediation, arbitration, or other forms of alternate dispute resolution:

*a.* A judge covered by this rule shall not act as an arbitrator, mediator, or provider of other forms of alternate dispute resolution while assigned to judicial service or when such action will interfere with an assignment to judicial service. A judge covered by this rule shall not use the title "senior judge" or the title "judge" in any form while acting as an arbitrator or mediator.

*b.* A senior judge shall disclose to the parties if the senior judge has mediated a dispute involving any party or any party's insurer, lawyer, or law firm involved in a case before the senior judge, and any negotiations or agreements for the provision of mediation services between the senior judge and any party or any party's insurer, lawyer, or law firm to a case before the senior judge. A senior judge shall not preside over any case involving a party or a party's insurer, lawyer, or law firm that is using or negotiating to use the senior judge as a mediator, or has used or agreed to use the senior judge as a mediator in the past two years. A senior judge shall not serve as a mediator in any case in which the judge is currently presiding. A senior judge shall not mediate any dispute that is filed in or could be venued or filed in the judicial district or appellate court in which the judge serves. These restrictions cannot be waived by consent of the parties or lawyers. For purposes of this section, mediation includes arbitration and other forms of alternate dispute resolution.

*c.* At the end of each calendar quarter, a senior judge who has engaged in private mediation or dispute resolution activities during the quarter shall file a report with the clerk of the supreme court. The senior judge shall report the date or time period when the mediation occurred, the county where the mediation occurred, the county in which the dispute arose, the names of the parties, and the names of the lawyers and insurers, if any, involved in the mediation. A senior judge assigned to a judicial district shall provide a copy of the report to the chief judge and to the district court administrator. A senior judge assigned to an appellate court shall provide a copy of the report to the chief judge of the court of appeals or the chief justice, whichever is appropriate, and to the state court administrator. For purposes of this rule, a calendar quarter is a three-month period in the one-year period that commences on the date a retired judge becomes a senior judge and continues for each successive one-year period while the judge continues to be a senior judge.

[Court Order December 17, 1996, effective January 2, 1997; November 9, 2001, effective February 15, 2002; February 27, 2008; October 31, 2008, effective January 1, 2009; April 30, 2010, effective May 3, 2010; November 18, 2016, effective March 1, 2017]

**Rule 22.13 Service by retired judges.** No retired judge or retired senior judge shall be eligible for temporary service under the provisions of Iowa Code section 602.1612 after reaching the age of 78.

[Court Order September 30, 1987; November 9, 2001, effective February 15, 2002]

**Rule 22.14 Judicial vacation.**

**22.14(1)** Supreme court justices, court of appeals judges, district judges, district associate judges, full-time associate juvenile judges, and full-time associate probate judges are entitled to 27 working days of vacation per calendar year. After 15 years of service with the judicial branch, supreme court justices, court of appeals judges, district judges, district associate judges, full-time associate juvenile judges, and full-time associate probate judges are entitled to 32 working days of vacation per calendar year.

Vacation schedules of district judges, district associate judges, full-time associate juvenile judges, and full-time associate probate judges shall be coordinated through the office of the chief judge of the district. The chief judge shall cause a record to be kept of the amount of vacation taken by each judicial officer in the district. The number of vacation days shall be prorated during the calendar years a judicial officer begins and separates from judicial service.

No more than 32 working days of accrued, unused vacation from a prior year may be carried into a calendar year. Separation from judicial office shall cancel all unused vacation time. No compensation shall be granted for unused vacation time remaining at the time of separation.

**22.14(2)** Schedules for judicial magistrates should be arranged by the chief judge of each district to accommodate a reasonable vacation period; however, a judicial magistrate shall not be entitled to any specific vacation days for which compensation may be granted, nor may compensation be granted for days not taken prior to separation from judicial service.

[Court Order May 20, 1980; May 23, 1985, effective August 1, 1985; September 18, 1992, effective January 2, 1993; July 26, 1996; November 9, 2001, effective February 15, 2002; August 29, 2002; November 22, 2004, effective January 1, 2005; June 2, 2023]

**Rule 22.15 Quasi-judicial business.**

**22.15(1)** Each supreme court justice, court of appeals judge, district judge, district associate judge, full-time associate juvenile judge, and full-time associate probate judge may take up to ten working days per calendar year for the purpose of quasi-judicial business. This right is subject to the ability of the chief judge of each district to make necessary scheduling adjustments to accommodate requests.

The ten days shall be prorated during the calendar years a judicial officer begins and separates from judicial service. The chief justice of the supreme court may authorize exceptions to this rule.

**22.15(2)** "Quasi-judicial business" includes teaching, speaking, attending related educational programs, courses or seminars, and those duties specified in rule 22.16(5)(*b*)(8) and rule 22.16(5)(*b*)(13) but does not include time spent on other "official duties" enumerated in rule 22.16(5)(*b*), or teaching judicial branch educational programs when prior approval is obtained from the chief judge of the appropriate judicial district and chief justice of the supreme court.

[Court Order May 20, 1980; May 23, 1985, effective August 1, 1985; June 28, 1985, effective July 1, 1985; October 24, 1985, effective November 1, 1985; July 26, 1996; November 9, 2001, effective February 15, 2002; August 29, 2002]

**Rule 22.16 Preaudit travel claims of judiciary — definitions.** As used in this rule and rules 22.17 through 22.21:

**22.16(1)** *"Court employee"* or *"employee of the judicial branch"* means an officer or employee of the judicial branch except for a judicial officer or a court reporter.

**22.16(2)** *"Court reporter"* means every full-time or temporary court reporter compensated by the judicial branch pursuant to Iowa Code section 602.1502.

**22.16(3)** *"Judicial officer"* means every justice, judge, district associate judge, senior judge, associate juvenile judge, associate probate judge, judicial hospitalization referee, and magistrate, appointed to serve in the state of Iowa.

**22.16(4)** *Official domicile.*

*a.* "Court employee's official domicile" means the work location to which that court employee is assigned. Transportation costs between any such employee's permanent home and that employee's official domicile are not reimbursable.

*b.* "Judicial officer and court reporter's official domicile." By December 15 of each year, the chief judge of the judicial district and the district court administrator shall designate a courthouse as an official domicile for each judicial officer and court reporter. The official domicile of a judicial officer and a court reporter shall be the courthouse in the county in which the judicial officer or court reporter resides unless the chief judge of the judicial district and the district court administrator agree to another location based on factors such as the percent of time spent working at another courthouse, court scheduling, or any other factor that should influence the selection of the domicile. Court reporters may reside outside of the judicial district in which they serve. If a court reporter resides outside of the judicial district in which the court reporter serves, the chief judge of the judicial district and the district court administrator shall designate the court reporter's official domicile in a county adjacent to the judicial district in which the court reporter resides. If there is a change in any of the factors that affect the court reporter's domicile location during the fiscal year, the chief judge of the judicial district and the district court administrator may change the court reporter's official domicile. Notification of official domicile must be filed by the district court administrator with the state court administrator's office by December 15 of each year.

**22.16(5)** *"Official duties"* means the following:

*a. "Official duties"* of a court reporter or court employee are the responsibilities and functions contained in the judicial branch job description for the position the individual holds.

*b. "Official duties"* of a judicial officer are the responsibilities and functions customarily and usually pertaining to the office of judge or referee. Subject to Iowa Code section 602.1509, and this rule and rules 22.17 through 22.21, official duties include the following:

(1) Attendance at court sittings and performance of the other work of the court.

(2) Attendance at judicial conferences called under Iowa Code section 602.1203.

(3) Attendance by district judges, district associate judges, associate juvenile judges, associate probate judges, and judicial magistrates at district judicial conferences called by chief judges of the district court.

(4) Attendance to give testimony before committees of the general assembly, at the committees' request.

(5) Attendance at meetings of judicial nominating commissions as the judicial member of the commission.

(6) Performance of functions as a member of committees or commissions appointed by the supreme court, the chief justice, or a chief judge of the district court on court procedure, administration, or structure.

(7) Attendance at meetings when designated by the chief justice to represent the judicial branch.

(8) If approved in advance by the chief justice: attendance to serve as judge at moot court proceedings for Iowa Law School and Drake Law School not to exceed one attendance per calendar year by any one attending judge; attendance at legal or judicial educational and training sessions and courses outside the state; and attendance at meetings of national associations of chief justices, appellate court justices and judges, trial court judges, and judicial officers of limited jurisdiction.

(9) Performance by chief judges of the district court of their administrative functions.

(10) Attendance by members of the judicial council at meetings of the council and of its committees.

(11) Performance by liaison justices of their functions as such within their assigned judicial districts.

(12) Attendance by district associate judges and judicial magistrates at the Iowa judicial magistrates schools of instruction and traffic court conferences.

(13) Performance of functions for which reimbursement of travel expense is authorized by any other Iowa statute or rule of the supreme court.

[Court Order November 9, 2001, effective February 15, 2002; August 29, 2002; Supervisory Order August 10, 2004; Court Order August 31, 2020, effective September 1, 2020]

**Rule 22.17 Reimbursable travel.**

**22.17(1)** *In-state.*

*a.* Expenses incurred for in-state travel outside the judicial district, except expenses incurred by juvenile court officers in the discharge of their official duties, are not reimbursable unless prior approval for the travel has been given by the chief justice or the chief justice's designee on a prescribed form. In-state travel for juvenile court officers shall include travel within a 100-mile radius outside the borders of the state of Iowa. Expenses incurred for in-state travel outside the judicial district by juvenile court officers in the discharge of their official duties are not reimbursable unless approval for the travel has been given by the chief juvenile court officer of the judicial district.

*b.* Reimbursement under this chapter for in-state travel expenses incurred by juvenile court officers in the discharge of their official duties shall be provided from funds administered by the judicial branch or pursuant to Iowa Code section 232.141, as applicable.

**22.17(2)** *Out-of-state.*

*a.* Requests to attend conferences, meetings, training courses, programs, and similar gatherings which require out-of-state travel shall be submitted to the chief justice or the chief justice's designee on a prescribed form at least two weeks prior to the proposed departure date. No reimbursement of out-of-state expenses shall be made unless the trip has received prior approval of the chief justice or the chief justice's designee except as otherwise provided in this rule.

*b.* Reimbursement for expenses incurred for out-of-state travel by juvenile court officers in the discharge of their official duties relating to court-ordered transportation and placement shall be allowed if oral or written approval is given by the chief juvenile court officer of the judicial district and the chief justice or the chief justice's designee at any time prior to the proposed departure.

*c.* Reimbursement under this chapter for out-of-state travel expenses incurred by juvenile court officers in the discharge of their official duties shall be provided from funds administered by the judicial branch or pursuant to Iowa Code section 232.141, as applicable.

[Court Order November 9, 2001, effective February 15, 2002; August 29, 2002]

**Rule 22.18 Transportation.**

**22.18(1)** *Route and conveyance.* Transportation shall be by the usually traveled route. Mileage shall be based on mileage published by the department of transportation. Reimbursement shall be limited to the most economical means of conveyance available.

**22.18(2)** *Mileage — personal car.* Judicial officers and court employees shall be reimbursed their mileage expense when required in the discharge of official duties to travel outside their official domicile. Reimbursement shall be for the miles driven from the official domicile or employee's residence, whichever is less, to the work location. In no instance shall employees and judicial officers be reimbursed for more than actual miles driven. Carpooling is recommended whenever possible. The allowance for use of a private automobile on official judicial branch business shall be established by order of the supreme court and shall be presumed to include all automobile expenses. Additionally, judicial officers and court employees shall be reimbursed their mileage expense for travel required in the discharge of official duties within the continuous metropolitan area of their

official domicile. Travel directly between employees' and judicial officers' residences and their official domiciles will not be reimbursed.

**22.18(3)** *Transportation other than private automobile.* Expenses for transportation other than private automobile are reimbursed on an actual incurred cost basis and must be claimed accompanied by an original receipt.

**22.18(4)** *Reimbursement of parking.* Reimbursement for parking expense is allowable when mileage is claimed. Receipts for parking, taxi and/or other transportation expenses, are not required when the total amount, per day, does not exceed $15. Receipts must be attached to the travel voucher for employees to receive reimbursement for the above expenses in excess of $15 per day.

[Court Order November 9, 2001, effective February 15, 2002; August 29, 2002; Supervisory Order August 10, 2004; Court Order August 31, 2020, effective September 1, 2020]

**Rule 22.19 Lodging.**

**22.19(1)** *In-state.*

*a.* Lodging expense is reimbursed as incurred when a judicial officer, court reporter, or court employee is required, in the discharge of official duties, to leave the county of that person's official domicile. The name of the establishment where the expense is incurred shall be indicated on the claim form and the original receipt shall be attached. The single room rate is to be noted on the receipt when other than a single room was charged. Special rates for judicial officers, court reporters, and court employees are available at many motels and hotels in the state. An identification card identifying the holder as a judicial officer, court reporter, or court employee is usually necessary. Identification cards are available upon request from the office of the state court administrator. The allowance for lodging shall be the actual cost, but not exceeding $80, plus applicable taxes, per day.

*b.* Judicial officers and court employees are to seek lodging facilities whose rates are within those prescribed in this rule or a reasonable explanation must be noted in the expense claim in order to be considered for reimbursement over the defined maximum rates. (*See* rule 22.21(6)). When seeking overnight lodging judicial officers and court employees should request the lowest of "state," "government," or "commercial" rates, as many facilities offer these "special" rates which a state employee can and should obtain.

**22.19(2)** *Out-of-state.* Lodging expense is not limited outside the state, but the incurred expenditures are to be reasonable. Lodging for approved out-of-state travel shall be reimbursed for the night preceding and the night of the ending date of the authorized meeting.

[Court Order November 9, 2001, effective February 15, 2002; June 16, 2006, effective July 1, 2006; January 4, 2012; July 19, 2021, effective August 1, 2021]

**Rule 22.20 Meals.**

**22.20(1)** *In-state.* Incurred meal expense shall be reimbursed at "reasonable and necessary" cost when a judicial officer, court reporter, or court employee is required, in the discharge of official duties, to leave the county of that person's official domicile. A maximum of $37 per day may be reimbursed for meals, as outlined below; however, if departure from the official domicile is before 6 a.m., a notation must be included on the Travel Voucher. At the return of the trip, if arrival back at the official domicile is after 7 p.m., a notation to this effect must be included on the Travel Voucher. Meal allowance for travel will be as follows:

*a.* Departure before 6 a.m. and return to official domicile after 7 p.m. may be reimbursed the actual cost for breakfast, lunch, and dinner up to a maximum of $37.

*b.* Departure before 6 a.m. and return to official domicile before 7 p.m. may be reimbursed the actual cost for breakfast and lunch up to a maximum of $18.

*c.* Departure after 6 a.m. and return to official domicile after 7 p.m. may be reimbursed the actual cost for lunch and dinner up to a maximum of $29.

*d.* Departure after 6 a.m. and return to official domicile before 7 p.m. may be reimbursed the actual cost for lunch up to a maximum of $10.

**22.20(2)** *Out-of-state.* Meal expenses are not limited out-of-state, but the incurred expenses are to be reasonable. When in travel status, lunch and dinner the day preceding the meeting, and breakfast and lunch the day after a meeting, are reimbursable expenditures.

**22.20(3)** *Overnight lodging required.* The provisions for meal reimbursement in rules 22.20(1) and 22.20(2) apply only when the travel includes overnight lodging.

[Court Order November 9, 2001, effective February 15, 2002, May 8, 2006; July 18, 2007, effective August 1, 2007; February 21, 2019, effective March 1, 2019]

**Rule 22.21 Miscellaneous travel provisions.**

**22.21(1)** *Continuing education expenses.* Provisions relating to "Official duties," "Travel," "Transportation," "Lodging" and "Meals" as used in rules 22.16 through 22.21 shall not be applicable to expenses for continuing education requirements for court reporters or court employees, unless otherwise ordered by the chief justice or the chief justice's designee.

**22.21(2)** *Examining Board expenses.* Board of Law Examiners and Shorthand Reporters Examiners will be reimbursed actual and necessary expenses not to exceed one and one-half times the reimbursement allowances provided in rules 22.19 and 22.20.

**22.21(3)** *Living outside official domicile.* When additional expense is incurred by reason of a court employee maintaining a permanent home in a city, town, or metropolitan area other than that person's official domicile, unless otherwise determined by the state court administrator, the additional expense is not reimbursable.

**22.21(4)** *Registration fees.* Registration fees for authorized meetings and conferences are an allowable expense when accompanied by receipt.

**22.21(5)** *Claim preparation.*

*a.* All claims shall be typewritten, or printed in ink, and signed by the claimant. Receipts for lodging, public transportation, and any authorized miscellaneous expenses shall be attached to the upper left-hand corner of the form. Claim for reimbursement for out-of-state travel shall be submitted for payment upon completion of the trip.

*b.* Beginning March 1, 2019, any request for reimbursement of travel expenses must be submitted within 60 days of completion of travel.

*c.* If reimbursement is sought pursuant to Iowa Code section 232.141, the district court administrator shall process the claim per rules and procedures of the applicable county and the department of health and human services.

**22.21(6)** *Exceptions.* The chief justice or the chief justice's designee may grant exceptions to rules 22.16 through 22.21 as necessitated by unusual circumstances.

**22.21(7)** *Refreshments.* The cost of refreshments served at meetings will not be reimbursed, except for educational programs sponsored and authorized by the chief justice or the chief justice's designee.

**22.21(8)** *Form.* A written request for travel authority from the chief justice or the chief justice's designee pursuant to rules 22.16 through 22.21 shall be in substantially the following form:

JUDICIAL BRANCH
REQUEST FOR TRAVEL AUTHORITY

_____ Outside of Iowa
_____ In-state, out of Judicial District

Date _____

Name _____
Title _____
Judicial District _____

Form to be submitted to Chief Justice of the Supreme Court or the Chief Justice's designee prior to proposed departure date. See rules 22.16 to 22.21 for applicable travel and time for submission.

DEPARTURE FROM:

DESTINATION:

TRAVEL DATES (ROUND TRIP):

MODE OF TRAVEL:

PURPOSE OF TRAVEL: (INCLUDE NATURE AND DATES OF MEETING OR OTHER PURPOSE OF TRAVEL AND JUSTIFICATION FOR PROFESSIONAL PURPOSES)

ESTIMATED COST:
Transportation:
Lodging:
Meals:
Other (Please Specify):
Total:

Anticipated Funding Source(s):

Approved as to form:

_____
District Court Administrator
(initials)

_____
Person requesting approval

_____
Supervising authority (when applicable)

Request Approved/Denied:

_____
Chief Judge Date

Request Approved/Denied:

_____
Chief Justice Date
Supreme Court of Iowa
(or Chief Justice's designee)

[Court Order June 11, 1981; November 30, 1981 (Received for publication January 5, 1983); June 28, 1984; June 28, 1985, effective July 1, 1985; October 3, 1985, effective October 15, 1985; May 15, 1986, effective July 1, 1986; November 20, 1986, effective December 1, 1986; July 21, 1988, effective August 1, 1988; October 12, 1989, effective November 1, 1989; November 13, 1990, effective January 2, 1991; January 17, 1991; July 12, 1991, effective July 12, 1991, for expenses on or after January 2, 1991; December 16, 1994, effective December 16, 1994; December 16, 1994, effective January 2, 1995; January 3, 1996; March 21, 1996; July 26, 1996; November 5, 1996; December 21, 1999, effective January 1, 2000; May 26, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002; February 21, 2019, effective March 1, 2019; June 30, 2023, effective July 1, 2023]

**Rule 22.22 Gifts.**

**22.22(1)** Judicial officers are not subject to the provisions of this rule, but shall be subject to the gift provisions of the Iowa Code of Judicial Conduct.

**22.22(2)** Except as otherwise provided in this rule, an employee of the judicial branch or a member of that person's immediate family shall not, directly or indirectly, accept, receive or solicit any gift or series of gifts.

**22.22(3)** As used in this rule:

*a. "Employee"* means any employee of the judicial branch other than a judicial officer subject to the gift provisions of the Iowa Code of Judicial Conduct.

*b. "Gift"* means a rendering of anything of value in return for which legal consideration of equal or greater value is not given or received, if the donor is:

(1) A party or other person involved in a case pending before the donee.

(2) A party or a person seeking to be a party to any sale, purchase, lease or contract involving the judicial branch or any of its offices, if the donee has authority to approve the sale, purchase, lease or contract, or if the donee assists or advises the person with authority to approve the sale, purchase, lease or contract.

(3) A person who will be directly or substantially affected by the performance or nonperformance of the donee's official duties in a way that is greater than the effect on the public generally or on a substantial class of persons to which the donor belongs as a member of a profession, occupation, industry or region.

*c. "Gift"* does not include:

(1) Informational material relevant to the employee's duties, such as books, pamphlets, reports, documents or periodicals, or the cost of registration for an education conference or seminar which is relevant to the employee's duties.

(2) Anything received from a person related within the fourth degree of kinship or marriage, unless the donor is acting as an agent or intermediary for another person not so related.

(3) An inheritance or bequest.

(4) Anything available or distributed to the public generally without regard to the official status of the recipient.

(5) Actual expenses of a donee for food, beverages, travel, and lodging, which is given in return for participation at a meeting as a speaker, panel member or facilitator, when the expenses relate directly to the day or days on which the donee participates at the meeting, including necessary travel time.

(6) Plaques or items of negligible resale value given as recognition for public service.

(7) Nonmonetary items with a value of $3 or less that are received from any one donor during one calendar day.

(8) Items or services solicited by or given to a state, national or regional organization in which the state of Iowa or a political subdivision of the state is a member.

(9) Items or services received as part of a regularly scheduled event that is part of a conference, seminar or other meeting that is sponsored and directed by any state, national or regional organization in which the judicial branch is a member.

(10) Funeral flowers or memorials to a church or nonprofit organization.

(11) Gifts which are given to an employee for the employee's wedding or twenty-fifth or fiftieth wedding anniversary.

*d. "Immediate family"* means the spouse and minor children of an employee of the judicial branch.

**22.22(4)** For purposes of determining the value of an item, an individual who gives an item on behalf of more than one person shall not divide the value of the item by the number of persons on whose behalf the item is given and the value shall be the value actually received by the donee.

**22.22(5)** An employee of the judicial branch or the person's immediate family member, may accept a nonmonetary gift or a series of nonmonetary gifts and not be in violation of this rule if the nonmonetary gift or series of nonmonetary gifts is donated within 30 days to a public body, the state court administrator, the department of general services, or a bona fide educational or charitable organization, if no part of the net earnings of the educational or charitable organization inures to the benefit of any private stockholder or other individual.

[Court Order June 30, 1980; July 31, 1987, effective August 3, 1987; December 29, 1992, effective January 1, 1993; August 19, 1993; November 9, 2001, effective February 15, 2002; April 30, 2010, effective May 3, 2010]

**Rule 22.23 Honoraria.**

**22.23(1)** An official or employee of the judicial branch shall not seek or accept an honorarium.

**22.23(2)** As used in this rule:

*a. "Honorarium"* means anything of value that is accepted by, or on behalf of, an official or employee of the judicial branch as consideration for an appearance, speech or article if the donor is:

(1) A party or other person involved in a case pending before the donee.

(2) A party or person seeking to be a party to any sale, lease, or contract involving the judicial branch or any of its offices, if the donee has authority to approve the sale, lease, or contract or if the donee assists or advises the person with authority to approve the sale, lease, or contract.

(3) A person who will be directly and substantially affected by the performance or nonperformance of the donee's official duties in a way that is greater than the effect on the public generally or on a substantial class of persons to which the donor belongs as a member of a profession, occupation, industry or region.

*b. "Honorarium"* does not include:

(1) Actual expenses of a donee for food, beverages, travel, lodging and registration which is given in return for participation at a meeting as a speaker, panel member or facilitator when the expenses relate directly to the day or days on which the donee participates at the meeting, including necessary travel time.

(2) Payment to an employee for services rendered as part of outside employment which has been approved pursuant to the department's personnel policies, if the payment is commensurate with the actual activity or services rendered and not based upon the employee's position within the department, but, rather, because of some special expertise or other qualification.

(3) Payment to a judge or magistrate for officiating and making return for a marriage pursuant to rule 22.29.

(4) Payment to a judge or senior judge for instruction at an accredited education institution, if the payment is commensurate with the actual activity or services rendered and not based upon the judge's official position.

(5) Payment to a part-time judge for services rendered as part of a bona fide business or profession in which the judge is engaged, if the payment is commensurate with the actual activity or services rendered and not based upon the judge's official position.

(6) Payment to a senior judge for services rendered as an arbitrator or mediator, if the payment is commensurate with the actual activity or services rendered and not based upon the senior judge's official position. [Court Order December 29, 1992, effective January 1, 1993; November 9, 2001, effective February 15, 2002]

**Rule 22.24 Interests in public contracts.**

**22.24(1)** A full-time official or employee of the judicial branch shall not sell any goods or services to any state agency.

**22.24(2)** As used in this rule, "services" does not include any of the following:

*a.* Instruction at an accredited education institution by a judge, senior judge or magistrate if permitted as a quasi-judicial or extrajudicial activity pursuant to the Code of Judicial Conduct or by an employee as part of outside employment which has been approved pursuant to the judicial branch's personnel policies.

*b.* The preparation of a transcript by an official court reporter.

[Court Order December 29, 1992, effective January 1, 1993; November 9, 2001, effective February 15, 2002; August 29, 2002]

**Rule 22.25 Services against the state.**

**22.25(1)** No official or employee of the judicial branch shall receive, directly or indirectly, or enter into an agreement, express or implied, for any compensation, in whatever form, for the appearance or rendition of services against the interest of the state in relation to any case, proceeding, application, or other matter before any state agency, any court of the state of Iowa, any federal court, or any federal bureau, agency, commission or department.

**22.25(2)** As used in this rule, "appearance or service against the interest of the state" means an appearance or service which conflicts with a person's duties or employment obligations owed to the state.

[Court Order December 29, 1992, effective January 1, 1993; November 9, 2001, effective February 15, 2002]

**Rule 22.26 Personal disclosure.**

**22.26(1)** Each official shall file a statement of personal financial disclosure in the manner provided in this rule. The disclosure must be filed even if there is no financial information to report. The disclosure must contain:

*a.* A list of each business, occupation, or profession (other than employment by the judicial branch) in which the person is engaged and the nature of that business, occupation, or profession, unless already apparent.

*b.* A list of any sources of income (other than income from employment by the judicial branch) if the source produces more than one thousand dollars annually in gross income. "Sources of income" includes those sources which are held jointly with one or more persons and which in total generate more than $1000 of income. "Jointly" means the ownership of the income source is undivided among the owners and all owners have one and the same interest in an undivided possession, each with full rights of use and enjoyment of the total income. Sources of income that are co-owned but with ownership interests that are legally divisible, without full rights of use of enjoyment of the total income, need not be reported unless the person's portion of the income from that source exceeds $1000. For purposes of this rule, income earned solely by the spouse of a person subject to reporting is not income to that person and need not be reported as a source of income.

Sources of income listed pursuant to this rule may be listed under any of the following categories:

(1) Securities.
(2) Instruments of financial institutions.
(3) Trusts.
(4) Real estate.
(5) Retirement systems.
(6) Other income categories specified in state and federal income tax regulations.

**22.26(2)** The statement of personal financial disclosure shall be reported on forms prescribed by the state court administrator and shall be filed with the clerk of the supreme court on or by the first day of April each year or no later than 30 days after assuming office. The statement of personal financial disclosure forms shall be retained for a period of two years.

[Court Order December 29, 1992, effective January 1, 1993; Statement required April 1, 1994; November 9, 2001, effective February 15, 2002; November 22, 2004; December 22, 2022]

**Rule 22.27 Definitions.** As used in rules 22.22 to 22.26:

**22.27(1)** *"Employee"* means a paid employee of the state of Iowa, including independent contractors, and does not include a member of a board, commission, or committee.

**22.27(2)** *"Official"* means an officer of the judicial branch performing judicial functions, including an associate juvenile judge, a magistrate or referee, an associate probate judge, and the state court administrator, and does not include a member of a board, commission, or committee.

[Court Order December 29, 1992, effective January 1, 1993; July 26, 1996; November 9, 2001, effective February 15, 2002]

**Rule 22.28 Transcripts — rates for transcribing a court reporter's official notes.**

**22.28(1)** Pursuant to Iowa Code section 602.3202, the maximum compensation of shorthand reporters for transcribing their official notes shall be as follows:

*a.* Ordinary transcript (a transcript of all or part of the proceedings) - $3.50 per page for the original and one copy to the party ordering the original and 50 cents per page for each additional copy.

*b.* Expedited transcript (a transcript of all or part of the proceedings to be delivered within seven calendar days after receipt of an order) - $4.50 per page for the original and one copy to the party ordering the original and 75 cents per page for each additional copy.

*c.* Daily transcript (a transcript of all or part of the proceedings to be delivered following adjournment for the day and prior to the normal opening hour of the court on the following morning whether or not it actually is a court day) - $5.50 per page for the original and one copy to the party ordering the original and $1.00 per page for each additional copy.

*d.* Unedited transcript (an unedited draft transcript produced as a byproduct of realtime or computer aided transcription software to be delivered on electronic media or paper) - $2.25 per page for the original and 25 cents per page for each copy. The unedited disk or printed draft transcript shall not be certified and may not be used to contradict the official district court transcript.

*e.* Realtime transcript (an unedited draft transcript produced by a certified realtime reporter as a byproduct of realtime to be delivered electronically during proceedings for viewing and retention) -

$2.75 per page for the original and $1.00 per page for each copy. The unedited text of the proceedings shall not be certified and may not be used to contradict the official district court transcript. Litigants who order realtime services, and subsequently order an original certified transcript of the same proceeding, will not receive credit toward the purchase cost of the certified transcript. Only certified realtime reporters may be compensated for such transcripts.

**22.28(2)** These rates of compensation shall apply to each separate page of transcript even if they are produced in a condensed transcript format.

**22.28(3)** These rates of compensation shall be the same whether the transcript is produced in an electronic or paper format. A certified transcript may be sold in an electronic format only if a paper transcript is produced, certified, and filed with the clerk of court for the records of the court or delivered to the custodial attorney. No additional charge is permitted for an ASCII disk or other form of electronic media when it accompanies a paper transcript.

**22.28(4)** Court reporters are only required to prepare ordinary transcripts. They may, but are not required to, produce the types of transcripts described in rule 22.28(1)(*b*-*e*).

[Court Order March 15, 2007; November 9, 2009; May 27, 2010; April 4, 2012]

**Rule 22.29 Marriage fees received by a judicial officer.**

**22.29(1)** A judge or magistrate may charge a fee for officiating and making return for each marriage solemnized at a time other than regular judicial working hours and at a place other than a court facility. This fee shall not exceed the sum of $200.

**22.29(2)** A judge or magistrate may charge the parties to the marriage for expenses incurred in solemnizing the marriage. In no event shall the expenses charged exceed the maximum amounts set by rules 22.16 through 22.21.

**22.29(3)** The phrase "regular judicial working hours," for purposes of this rule, shall mean 8 a.m. to 5 p.m. Monday through Friday (except for legal holidays) for all judicial officers except magistrates, and for them the schedule fixed by the chief judge of the judicial district.

[Court Order July 1, 1983; received for publication April 2, 1984; September 17, 1984; Court Order July 7, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; March 16, 2006]

**Rule 22.30 Use of signature facsimile.**

**22.30(1)** In all instances where a law of this state requires a written signature by a justice of the supreme court, judge of the court of appeals, district judge, district associate judge, judicial magistrate, clerk of the district court, county attorney, court reporter, associate juvenile judge, associate probate judge, judicial hospitalization referee, probate referee, or law enforcement officer, any such officer may use, or direct and authorize a designee to possess and use, a facsimile signature stamp bearing that officer's signature or an electronically scanned signature of the officer pursuant to the provisions of this rule.

**22.30(2)** Whether used personally by the officer whose signature it bears or by a designee of that officer, a facsimile signature stamp or electronically scanned signature must contain a true facsimile of the actual signature of that officer. The stamp or electronically scanned signature shall be kept in the secure possession of the officer or that officer's designee at all times, accessible only to the officer or the officer's designee.

**22.30(3)** An officer directing and authorizing a designee to possess and use a facsimile signature stamp or electronically scanned signature bearing that officer's signature shall execute a written designation of the authorization. The designation shall be addressed to the designee, by name or title, and shall specifically identify each category of documents to which the designee is authorized to affix the stamp or electronically scanned signature. The original of the written designation shall be filed with the district court administrator in the judicial district within which the officer is located; appellate judges and justices shall file their original designations with the clerk of the supreme court. A copy of the written designation shall be retained by the officer and by the designee.

**22.30(4)** A written designation made by an officer pursuant to rule 22.30(3) may be revoked, in writing, at any time by the officer who executed it, and shall stand automatically revoked upon that officer's ceasing to hold the office for any reason. A written revocation of designation shall be addressed to the former designee, in the same manner as the original designation. A copy of the written revocation shall be retained by the officer and by the former designee. A facsimile signature stamp in the possession of a former designee shall be forthwith returned to the officer who issued it, if available, or shall be destroyed by the former designee. A revoked electronically scanned signature shall be deleted.

**22.30(5)** Nothing contained in this rule shall abrogate any provision of Iowa Code section 4.1(39).
[Court Order May 17, 1984; July 25, 1986, effective September 2, 1986; June 22, 1987, effective August 3, 1987; July 26, 1996; November 9, 2001, effective February 15, 2002; June 3, 2009; March 9, 2010]

**Rule 22.31 Juror compensation.**

**22.31(1)** Compensation for a juror's first seven days of attendance and service on a case shall be $30 per day, including attendance required for the purpose of being considered for service.

**22.31(2)** When a juror's attendance and service on a case exceed seven days, the rate of compensation shall be $50 for each day after the seventh day.

**22.31(3)** For purposes of juror compensation, the days of attendance and service do not have to be consecutive.
[Court Order September 25, 2006; October 22, 2007]

**Rule 22.32 Magistrates — annual school of instruction.** Each magistrate shall be required to attend a judicial branch school of instruction prior to taking office and annually thereafter unless excused by the chief justice for good cause. A magistrate appointed to fill a vacancy shall attend the first school of instruction that is held following the appointment, unless excused by the chief justice for good cause.
[Court Order September 23, 1985, effective October 15, 1985; November 9, 2001, effective February 15, 2002; August 29, 2002]

**Rule 22.33 Nepotism.** No judicial officer or employee of the judicial branch shall appoint, or continue to employ any person related by consanguinity or affinity within the third degree. This prohibition shall apply to any employment where a direct supervisory relationship exists between the judicial officer or employee and the person supervised.

In the event an employment situation exists within the judicial branch which is consistent with Iowa Code chapter 71 but inconsistent with this rule, the supervisor shall terminate the employment relationship prior to March 15, 1986. Every effort shall be made by the judicial branch to relocate within the branch any individual who is dismissed as a result of this rule.
[Court Order January 22, 1986, effective February 3, 1986; November 9, 2001, effective February 15, 2002; August 29, 2002]

**Rule 22.34 Judicial branch appointments.** It is a policy of the judicial branch that all boards, commissions, and committees to which appointments are made or confirmed by any part of the judicial branch shall reflect, as much as possible, a gender balance. If there are multiple appointing authorities for a board, commission, or committee, they shall consult with each other to avoid contravention of this policy.
[Court Order June 30, 1986, effective July 1, 1986; November 9, 2001, effective February 15, 2002]

**Rule 22.35 Service copies.**

**22.35(1)** After April 1, 1988, the clerk of court shall not make a part of the court file, or otherwise retain in the clerk's office, service copies of pleadings, orders, or writs.

**22.35(2)** "Service copy" means the copy of the pleading, order, or writ attached to either the return of service or the document proving service.

**22.35(3)** All returns of service shall specify what pleading, order, or writ was served. Returns of service of an original notice shall certify that a copy of the petition was served with the notice pursuant to Iowa R. Civ. P. 1.302.
[Court Order January 29, 1988, effective March 1, 1988; November 9, 2001, effective February 15, 2002]

**Rule 22.36 Paper size and requested copies.**

**22.36(1)** *Paper size.* All pleadings and other papers filed in the Iowa district courts and their small claims divisions shall be on 8½ inch by 11 inch size white paper of standard weight, with a margin of at least one inch at the top of each page. Exhibits attached to pleadings shall be of the same size as pleadings, reduced from their original size if necessary. Original documents, including wills, bonds, notes, foreclosed mortgages, and real estate contracts, may be filed on longer paper. Uniform Citation forms and other court forms smaller than 8½ by 11 inches shall be accepted for filing. The clerks of court shall not accept filings which do not substantially comply with this rule.

**22.36(2)** *Requested copies.* If counsel or any party requests file-stamped copies of pleadings or other papers to be returned by mail, an extra copy and a self-addressed, postage prepaid envelope, large enough to accommodate the copy being returned, must be included with the filing. No copy shall be returned by mail unless this rule is followed.
[Court Order May 12, 1989, effective July 3, 1989; March 20, 1991, effective July 1, 1991; November 9, 2001, effective February 15, 2002]

**Rules 22.37** and **22.38** Reserved.

**Rule 22.39 Staffing offices of clerks of court.** The supreme court shall allocate staff to the clerk of court office in each county. The court shall take into account workload and availability of funds for state court operations. The court shall set the business hours of each office. To facilitate case processing, the court may allow each office of the clerk of court to operate without being open to the public for a portion of each day the office is open for business to enable an office to process its work without interruption.
[Court Order November 12, 2009]

**Rule 22.40 Public business hours of offices of clerks of court.** For purposes of Iowa Code section 4.1(34), the word "day" means the period of time defined by the public business hours of an office of the clerk of court as established by order of the supreme court. If the supreme court has by order closed an office of the clerk of court for an entire day, that day shall be treated as a holiday or a weekend. Nothing in this rule shall prevent a party from filing with the court pursuant to Iowa Rule of Civil Procedure 1.442(5).
[Court Order November 12, 2009]

**Rule 22.41 Treatment courts.**

**22.41(1)** *Definitions.*

*a. Treatment court.* "Treatment court" is a court program that uses a collaborative multidisciplinary and therapeutic approach to address underlying factors such as a substance use disorder or mental health disorder that may be contributing to a person's involvement in the judicial system. Procedures used include treatment; community supervision; appropriate incentives, sanctions, and therapeutic responses to address behavior; and periodic random testing for prohibited substances.

*b. Treatment court team.* "Treatment court team" includes the judicial officer, prosecuting attorney, defendant's attorney, treatment provider representative, probation officer, case manager, court coordinator, law enforcement officer, peer support specialist, and other appropriate community representatives.

**22.41(2)** *Establishment of treatment courts.* An application to establish a treatment court must be submitted to the local district court administrator and state treatment court coordinator.

**22.41(3)** *Ex parte communications allowed.* A judge presiding over a treatment court may assume a more interactive role with the parties, attorneys, treatment providers, probation officers, social workers, and others. In this capacity, judges may initiate, permit, and consider ex parte communications. Substantive ex parte communications should be shared with the treatment court team as soon as practicable. To avoid the appearance of impropriety, judges should take care to limit ex parte communications with an active treatment court participant outside of treatment court related activities.

**22.41(4)** *Fairness and impartiality.* A judge who receives ex parte communications under rule 22.41(3) may preside over any subsequent proceeding involving the relevant treatment court participant so long as disqualification is not required under rule 51:2.11.
[Court Order July 27, 2023]

# CHAPTER 23
# TIME STANDARDS FOR CASE PROCESSING

# CHAPTER 23
# TIME STANDARDS FOR CASE PROCESSING

**Rule 23.1 Time standards — considerations.** The time standards contained in this chapter are subject to statutes and rules affecting the same proceedings.
[Court Order August 22, 1985, effective October 1, 1985; February 26, 1988, effective April 1, 1988; July 29, 1988, effective September 1, 1988; November 9, 2001, effective February 15, 2002; June 27, 2008, effective September 1, 2008]

**Rule 23.2 Trial scheduling time standards.** The time standards commence from the time a case is filed except in indictable criminal cases where the time shall be measured from date the trial information or indictment is filed.

**23.2(1)** Court administration shall schedule cases to commence trial within the following time standards:

| | |
|---|---|
| *a.* Indictable Criminal | 6 months |
| *b.* Simple Misdemeanors | 4 months |
| *c.* Expedited Civil Actions | 12 months |
| *d.* Torts (all except "complex civil") | 18 months |
| *e.* Complex Civil | 24 months |
| *f.* Other Law & Equity | 12 months |
| *g.* Domestic—Dissolution & Modification | 9 months |
| *h.* Domestic Abuse | 2 months |
| *i.* Domestic—All Other | 6 months |
| *j.* Small Claims & Infractions | 4 months |

**23.2(2)** If a party shows good cause for exceeding the trial time standards in rule 23.2(1), a court may order an extension of the time for trial to commence using the standards below as guidelines:

| | |
|---|---|
| *a.* Indictable Criminal | 12 months |
| *b.* Simple Misdemeanors | 6 months |
| *c.* Expedited Civil Actions | 15 months |
| *d.* Torts (all except "complex civil") | 24 months |
| *e.* Complex Civil | 36 months |
| *f.* Other Law & Equity | 18 months |
| *g.* Domestic—Dissolution & Modification | 15 months |
| *h.* Domestic Abuse | 4 months |
| *i.* Domestic—All Other | 12 months |
| *j.* Small Claims & Infractions | 8 months |

[Court Order June 27, 2008, effective September 1, 2008; August 28, 2014, effective January 1, 2015]

**Rule 23.3 Estate time standards.** Except for good cause shown, estates opened shall be closed within the following time standards:

| | |
|---|---|
| *a.* Estates w/o admin. & small | 100% in 6 months |
| *b.* Estates with full admin. | 85% in 24 months |
| | 100% in 36 months |

[Court Order June 27, 2008, effective September 1, 2008]

**Rule 23.4 Juvenile standards.**

**23.4(1)** Detention and shelter hearings:

| | |
|---|---|
| *a.* From detention facility admission to hearing | 24 hours[1] |
| *b.* From admission to shelter care facility pursuant to Iowa Code section 232.21 court order to hearing | 48 hours[1] |

1. Excluding Saturday, Sunday, and legal holidays

**23.4(2)** Pre-adjudicatory hearings for physical and mental health examinations:

| | |
|---|---|
| *a.* From court ordered admission to detention or shelter care facility to hearing | 15 days |
| *b.* From filing, if juvenile is not in detention or shelter care facility, to hearing | 30 days |

**23.4(3)** Adjudicatory hearings:

| | |
|---|---|
| *a.* From court ordered admission to detention or shelter care facility to hearing | 15 days |
| *b.* From filing, if juvenile is not in detention or shelter care facility, to hearing | 30 days |
| *c.* From entry of order for physical or mental examination to hearing | 45 days |

**23.4(4)** Dispositional hearings:

| | |
|---|---|
| *a.* From entry of adjudicatory order to hearing, if juvenile is: | |
| In a detention or shelter care facility | 30 days |
| Not in a detention or shelter care facility | 40 days |
| *b.* From court ordered placement for physical or mental examination, following a delinquency or CINA adjudication, to hearing | 60 days |

**23.4(5)** Termination of parental rights (Iowa Code chapter 232):

| | |
|---|---|
| *a.* From filing to hearing | 60 days |
| *b.* From filing to disposition | 5 months |

[Court Order June 27, 2008, effective September 1, 2008]

**Rule 23.5 Forms for implementing time standards.**
**Rule 23.5 — Form 1:** ***Notice of Civil Trial-Setting Conference***

**In the Iowa District Court for _____ County**

| | |
|---|---|
| _____ | No._____ |
| **Plaintiff(s) / Petitioner(s)**<br>*Full name: first, middle, last*<br>vs.<br>_____<br>**Defendant(s) / Respondent(s).**<br>*Full name: first, middle, last* | **Notice of Civil Trial-Setting Conference**<br>*Use of this form is mandatory* |

To the parties or their attorneys of record:

In accordance with Iowa Rule of Civil Procedure 1.906, notice is hereby given that this case has been set

for trial-setting conference on *_____ _____, 20____, at ____:____ ☐ a.m. ☐ p.m.
*Month* *Day* *Year* *Time*

before _____ at _____.
*Person* *Location*

**This date shall be no earlier than 35 days after and no later than 50 days after any defendant has answered or appeared unless set sooner by special order on application of one or more parties.*

This conference shall be held: *Check one*

☐ By telephone with the conference call to be initiated by _____.
*Person who will initiate the call*

The court administrator will be connected to the call at (_____) _____.
*Phone number of court administrator*

☐ In person.

Attorneys for all parties appearing in the case shall participate at this conference. A party will participate in person if the party does not have an attorney.

At this trial-setting conference, every case will be set for trial within the time periods provided by Iowa Court Rules Chapter 23, Time Standards for Case Processing.

Prior to the trial-setting conference, the parties must file a Trial Scheduling and Discovery Plan, Iowa Court Rule 23.5—Form 2 (Form 3 for Expedited Civil Actions).

In judicial districts that allow it, the parties may, in lieu of holding a trial-setting conference, first file their Trial Scheduling and Discovery Plan and then, prior to the date scheduled for the trial-setting conference, obtain a trial date from court administration that complies with the provisions of chapter 23.

The trial date that is agreed upon at this conference will be a firm date. Continuances will not be granted, even if all parties agree, unless for a crucial cause that could not have been foreseen.

The clerk of court will notify all counsel of record and parties not represented by counsel.

Dated this _____ day of_____, 20_____. _____
*Day* *Month* *Year* *Clerk of Court or District Court Administrator*

January 2015 Rule 23.5—Form 1 Page 1 of 1

[Administrative Directive June 16, 1987, effective September 1, 1987; Court Order November 9, 2001, effective February 15, 2002; June 27, 2008, effective September 1, 2008; August 28, 2014, October 30, 2014, effective January 1, 2015]

## Rule 23.5 — Form 2: *Trial Scheduling and Discovery Plan*

**Do not** file this form in an Expedited Civil Action case, instead use Form 3.

- This form is to be filed within 7 days after the parties' discovery conference and before the trial-setting conference with the court.
- The parties should complete the entire form except as otherwise indicated.

**In the Iowa District Court for _____ County**

_____

**Plaintiff(s) / Petitioner(s)**
*Full name: first, middle, last*

vs.

_____

**Defendant(s) / Respondent(s).**
*Full name: first, middle, last*

No. _____

**Trial Scheduling and Discovery Plan**

*Use of this form is mandatory*

Date Petition filed: _____/_____/_____
*mm dd yyyy*

Case type: ☐ Law ☐ Equity ☐ Other ☐ PCR ☐ Judicial Review

Trial type: ☐ Jury ☐ Nonjury

Expected trial length: _____ days

The amount in controversy exceeds $10,000. ☐ Yes ☐ No

**Appearances:**
**Plaintiff(s) / Petitioner(s)**

_____

_____

**Defendant(s) / Respondent(s)**

_____

_____

**It is ordered:**

**1. Trial** *Note to parties: Unless you have obtained a trial date from court administration, leave this date blank; the court will enter the date after the trial-setting conference.*

Trial of this case is set for _____ _____, 20 _____, at _____:_____ ☐ a.m. ☐ p.m.
*Month Day Year Time*

in the district court in the courthouse of the county named above.

**2. Pretrial conference** *Check one. Note to parties: If box A is checked, leave the date blank unless you have obtained a pretrial conference date from court administration. If you do not have a pretrial conference date and check box A, the court will enter the date, by order, after the trial-setting conference.*

A. ☐ A pretrial conference will be held on _____ ___, 20____, at _____:_____ ☐ a.m. ☐ p.m.
*Month Day Year Time*

The conference may be held telephonically with prior approval of the court.

B. ☐ A pretrial conference will be held upon request.

If you need assistance to participate in court due to a disability, call the disability coordinator (information at https://www.iowacourts.gov/for-the-public/ada/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**

Rule 23.5—Form 2: *Trial Scheduling and Discovery Plan*, continued

**3. New parties** *List the time period or date when no new parties may be added.*

No new parties may be added later than 180 days before trial or by _____.

**4. Transcripts and records**

All required agency records or prior criminal transcripts will be filed within 30 days of the date of this Plan or by _____.

**5. Pleadings** *List the time period or date pleadings will be closed.*

Pleadings will be closed 60 days before trial or by_____.

**6. Initial disclosures** *Check all that apply*

A. ☐ The parties have exchanged initial disclosures.

B. ☐ The parties will provide initial disclosures no later than _____.

C. ☐ The parties have stipulated that the following will not be included in initial disclosures:

_____

*List items not included*

_____

D. ☐ The parties have stipulated not to provide any initial disclosures.

E. ☐ The following party objects to providing initial disclosures on the following grounds:

_____

*Identify the party and state all applicable grounds*

_____

**7. Discovery**

The parties have held a discovery conference as required by Iowa Rule of Civil Procedure 1.507.

All written discovery will be served no later than 90 days before trial. All depositions will be completed no later than 60 days before trial. Or, all discovery will be completed by

_____.

*Check all that apply*

A. ☐ No discovery of electronically stored information is expected in this case.

B. ☐ The parties have conferred about discovery of electronically stored information and reached agreement as set out in Attachment ____.

C. ☐ The parties have conferred about discovery of electronically stored information and have been unable to reach an agreement. *Note to parties: If box C is checked, leave the following information blank unless the parties have obtained a hearing date, time, and location from court administration.*

A hearing is set for _____ /_____ /_____, at: _____:_____ ☐ a.m. ☐ p.m.
*mm* *dd* *yyyy* *Time*

☐ at the _____ County Courthouse, courtroom _____, or
*County* *Courtroom number*

☐ at the following location: _____.

D. ☐ The parties have agreed to a discovery plan, and their agreement is set forth in Attachment ___.

E. ☐ The parties have agreed to deviate from the limits on discovery otherwise applicable to this action, and their agreement is set forth in Attachment ___.

Rule 23.5—Form 2: *Trial Scheduling and Discovery Plan*, continued

F. ☐ The parties have agreed to conduct discovery in phases, and their agreement is set forth in Attachment ____.

G. ☐ The parties have reached an agreement under Iowa Rule of Evidence 5.502 as set forth in Attachment ____.

H. ☐ The parties have reached an agreement under Iowa Rule of Civil Procedure 1.504 as set forth in Attachment____.

I. ☐ The parties have conferred about a discovery plan and have been unable to reach agreement on the issues set forth in Attachment ____. *Note to parties: If box* I *is checked, leave the following information blank unless the parties have obtained a hearing date, time, and location from court administration.*

A hearing is set for _____ /_____ /_____, at: _____:_____ ☐ a.m. ☐ p.m.
*mm* *dd* *yyyy* *Time*

☐ at the _____ County Courthouse, courtroom _____, or
*County* *Courtroom number*

☐ at the following location: _____.

## 8. Expert witnesses

A. A party who intends to call an expert witness, including rebuttal expert witnesses, shall certify to the court and all other parties the expert's name, subject matter of expertise, and qualifications, within the following time period, unless the Iowa Code requires an earlier designation date (*see, e.g.*, Iowa Code section 668.11):

(1) Plaintiff: 210 days before trial or by _____.

(2) Defendant/Third Party Plaintiff: 150 days before trial or by _____.

(3) Third Party Defendant/Others/Rebuttal: 90 days before trial or by _____.

B. Any disclosures required by Iowa Rule of Civil Procedure 1.500(2)(*b*) will be provided: *Check each that applies*

(1) ☐ At the same time the expert is certified.

(2) ☐ According to the following schedule:

a. Plaintiff:____ days before trial or by _____.

b. Defendant/Third Party Plaintiff:____ days before trial or by _____.

c. Third Party Defendant/Others/Rebuttal:____ days before trial or by _____.

C. This section does not apply to court-appointed experts.

*The deadlines listed in paragraphs* 5, 6, 7, *and* 8 *may be amended, without further leave of court, by filing a Stipulated Amendment to this Plan listing the dates agreed upon and signed by all attorneys and self-represented litigants. Such Stipulated Amendment may not override any requirement of the Iowa Court Rules and cannot serve as a basis for a continuance of the trial date or affect the date for pretrial submissions.*

## 9. Pretrial submissions

At least **14 or ___** (the parties may enter another number but not less than **7**) **days before trial**, counsel for the parties and self-represented litigants must:

A. File a **witness and exhibit** list with the clerk of court, serve a copy on opposing counsel and self-represented litigants, and exchange exhibits. In electronic cases, witness and exhibit lists must be electronically filed, and the EDMS system will serve copies on all registered parties. Exhibits must be electronically submitted in lieu of exchanging them. These disclosures must include the following information about the evidence that the disclosing party may present at trial other than solely for impeachment:

(1) The name and, if not previously provided, the address, telephone numbers, and electronic mail address of each witness, separately identifying those the party expects to present and those the party may call if the need arises.

(2) The page and line designation of those witnesses whose testimony the party expects to present by deposition and, if not taken stenographically, a transcript of the pertinent parts of the deposition.

(3) An identification of each document or other exhibit, including summaries of other evidence, separately identifying those items the party expects to offer and those it may offer if the need arises. The following rules govern exhibits and exhibit lists:

a. Plaintiff will use numbers and Defendant will use letters. Pretrial exhibit lists will identify each exhibit by letter or number and description. Exhibits must be marked before trial.

b. Immediately before commencement of trial, the court must be provided with a bench copy, and the court reporter with a second copy, of the final exhibit list for use in recording the admission of evidence.

c. In nonjury cases, immediately before commencement of trial, parties must provide the court with a bench copy of all exhibits identified on the exhibit lists.

d. Within 7 days after the filing of an exhibit list, or within 4 days if the deadline for filing of the list is less than 10 days before trial, counsel and self-represented litigants must file with the clerk of court, and serve on each party, any objections to the exhibits listed. In electronic cases, any objections will be electronically filed, and the EDMS system will serve copies on all registered parties. Electronic filing of these objections must be done within 7 days of the filing of an exhibit list, or within 4 days if the deadline for filing of the list is less than 10 days before trial. An objection not so made, except for one under Iowa Rules of Evidence 5.402 or 5.403, is **waived** unless excused by the court for good cause.

B. File and serve **motions in limine**, with supporting legal authority.

C. File and serve **all proposed jury instructions** in a form to be presented to the jury, including a statement of the case, the stock jury instruction numbers, and verdict forms. The court must be provided the instructions in written form and electronically.

D. Deliver to the judge and serve a concise **trial brief** addressing factual, legal, and evidentiary issues, with citation to legal authorities.

## 10. Motions

All motions including motions for summary judgment and except motions in limine, must be filed with the clerk of court's office or electronically filed at https://www.iowacourts.state.ia.us/EFile/ at least 60 days before trial, with copies to the assigned judge.

## 11. Settlement conference

*Note to parties: If* A *or* B *is checked, leave any date blank; the court will fill in the settlement conference date after the trial-setting conference.*

A. ☐ A settlement conference will be held on _____ ____, 20____, at _____:____ ☐ a.m. ☐ p.m.
*Month* *Day* *Year* *Time*

at the _____ County Courthouse.

All parties with authority to settle must be present.

B. ☐ A settlement conference will be held on _____ ____, 20____, at _____:____ ☐ a.m. ☐ p.m.
*Month* *Day* *Year* *Time*

at the following location _____.

All parties with authority to settle must be present.

C. ☐ A settlement conference will occur at a date, time, and location arranged by the parties.

All parties with authority to settle must be present.

Rule 23.5—Form 2: *Trial Scheduling and Discovery Plan*, continued

D. ☐ A settlement conference will be held upon request.

The parties are encouraged to consider alternative dispute resolution including private mediation or arbitration.

**12. Settlements**

The parties are responsible for immediately notifying the court administrator of settlement.

**13. Late settlement fees**

Late settlement fees under Iowa Rule of Civil Procedure 1.909 are applicable.

**14. Continuances**

Continuances are discouraged and will only be granted for good cause. Motions to continue are governed by Iowa Rule of Civil Procedure 1.910. In the event the trial date is continued, all time deadlines in this Plan and any Stipulated Amendments remain in effect relative to the new trial date unless the court approves new deadlines.

**15. Notice**

Failure to comply with any of the provisions of this Plan or Stipulated Amendments to this Plan may result in the court imposing sanctions pursuant to Iowa Rule of Civil Procedure 1.602(5), including limitation and exclusion of evidence and witnesses and payment of costs or attorney fees. The court will resolve disputes regarding oral agreements on scheduling by reference to this Plan or any Stipulated Amendments to this Plan.

**16. Other** *List additional agreements of the parties for the Trial Scheduling and Discovery Plan*

*At least one signature to the Trial Scheduling and Discovery Plan is required. The signer certifies that all listed parties have joined in this Trial Scheduling and Discovery Plan, subject to any objections noted.*

**I certify that all parties and attorneys to this action have agreed to this Trial Scheduling and Discovery Plan and have been served with a copy.**

_____ _____, 20_____ /s_____

*Signed: Month Day Year Party's or attorney's signature*

_____ _____

*Printed name Attorney's law firm, if applicable*

_____ _____ _____ _____

*Mailing address City State ZIP code*

(_____) _____ _____ _____

*Phone number Email address Additional email address, if available*

Original filed with the clerk of court or electronically filed at https://www.iowacourts.state.ia.us/EFile/.

Copies to: counsel of record, self-represented litigants, and court administration.

For questions regarding documents filed with the court in this case, please see https://www.iowacourts.state.ia.us/ESAWebApp/SelectFrame or call the clerk of court.

[Administrative Directive June 16, 1987, effective September 1, 1987; Court Order November 9, 2001, effective February 15, 2002; June 27, 2008, effective September 1, 2008; August 28, 2014, October 30, 2014, effective January 1, 2015; April 1, 2015; September 25, 2015, effective November 25, 2015; March 7, 2018, effective January 1, 2019]

## Rule 23.5 — Form 3: *Trial Scheduling and Discovery Plan for Expedited Civil Action*

**Use of this form is mandatory** in Expedited Civil Actions under Iowa Rule of Civil Procedure 1.281.

- This form is to be filed within 7 days after the parties' discovery conference and before the trial-setting conference with the court.
- The parties should complete the entire form except as otherwise indicated.

**In the Iowa District Court for _____ County**

_____

_____

**Plaintiff(s) / Petitioner(s)**
*Full name: first, middle, last*

vs.

_____

_____

**Defendant(s) / Respondent(s)**.
*Full name: first, middle, last*

No._____

**Trial Scheduling and Discovery Plan for Expedited Civil Action**

Date Petition filed:_____/ _____/ _____
*mm* *dd* *yyyy*

Case type: ☐ Law ☐ Equity ☐ Other
☐ PCR ☐ Judicial Review

Trial type: ☐ Jury ☐ Nonjury

Expected trial length: 2 days

The amount in controversy exceeds $10,000. ☐ Yes ☐ No

**Appearances:**
**Plaintiff(s) / Petitioner(s)**

_____

_____

**Defendant(s) / Respondent(s)**

_____

_____

**1. Trial** *Note to parties: Unless you have obtained a date from court administration, leave this date blank; the court will enter the date after the trial-setting conference.*

Trial of this case is set for _____ _____, 20 ___, at _____:_____ ☐ a.m. ☐ p.m.
*Month* *Day* *Year* *Time*

in the district court in the courthouse of the above-named county.

**2. Pretrial conference** *Check one. Note to parties: If box* A *is checked, leave the date blank unless you have obtained a pretrial conference date from court administration. If you do not have a pretrial conference date and check box* A*, the court will enter the date, by order, after the trial-setting conference.*

A. ☐ A pretrial conference will be held on _____ _____, 20___, at _____:_____ ☐ a.m. ☐ p.m.
*Month* *Day* *Year* *Time*

The conference may be held telephonically with prior approval of the court.

B. ☐ A pretrial conference will be held upon request.

**3. New parties** *List the time period or date when no new parties may be added.*

No new parties may be added later than 180 days before trial or by _____.

If you need assistance to participate in court due to a disability, call the disability coordinator (information at https://www.iowacourts.gov/for-the-public/ada/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**

Rule 23.5—Form 3: *Trial Scheduling and Discovery Plan for Expedited Civil Action*, continued

**4. Pleadings** *List the time period or date pleadings will be closed.*

Pleadings will be closed 60 days before trial or by _____.

**5. Initial disclosures.** *Check all that apply*

A. ☐ The parties have exchanged initial disclosures.

B. ☐ The parties will provide initial disclosures no later than _____.

C. ☐ The parties have stipulated that the following will not be included in initial disclosures:
*List items not included*

_____

_____

D. ☐ The parties have stipulated not to provide any initial disclosures.

E. ☐ The following party objects to providing initial disclosures on the following grounds:
*Identify the party and state all applicable grounds*

_____

_____

**6. Discovery**

The parties have held a discovery conference as required by Iowa Rule of Civil Procedure 1.507.

All written discovery will be served no later than 90 days before trial. All depositions will be completed no later than 60 days before trial. Or, all discovery will be completed by

_____.

*Check all that apply and attach any appropriate exhibits*

A. ☐ No discovery of electronically stored information is expected in this case.

B. ☐ The parties have conferred about discovery of electronically stored information and reached agreement as set out in Attachment ____.

C. ☐ The parties have conferred about discovery of electronically stored information and have been unable to reach an agreement. *Note to parties: If box* C *is checked, leave the following information blank unless the parties have obtained a hearing date, time, and location from court administration.*

A hearing is set for _____ /_____ /_____, at: _____:_____ ☐ a.m. ☐ p.m.
*mm* *dd* *yyyy* *Time*

☐ at the _____ County Courthouse, courtroom _____, or
*County* *Courtroom number*

☐ at the following location: _____.

D. ☐ The parties have agreed to a discovery plan, and their agreement is set forth in Attachment ____.

E. ☐ The parties have agreed to deviate from the limits on discovery otherwise applicable to this action, and their agreement is set forth in Attachment ___.

F. ☐ The parties have agreed to conduct discovery in phases, and their agreement is set forth in Attachment ____.

G. ☐ The parties have reached an agreement under Iowa Rule of Evidence 5.502 as set forth in Attachment ____.

H. ☐ The parties have reached an agreement under Iowa Rule of Civil Procedure 1.504 as set forth in Attachment ____.

I. ☐ The parties have conferred about a discovery plan and have been unable to reach agreement on the issues set forth in Attachment ____. *Note to parties: If box* I *is checked, leave the following information blank unless the parties have obtained a hearing date, time, and location from court administration.*

A hearing is set for _____ /_____ /_____, at: _____:_____ ☐ a.m. ☐ p.m.
*mm* *dd* *yyyy* *Time*

☐ at the _____ County Courthouse, courtroom _____, or
*County* *Courtroom number*

☐ at the following location:_____.

## 7. Health care provider statement

Unless otherwise stipulated or ordered by the court, a copy of any completed Health Care Provider Statement in Lieu of Testimony, Iowa Rule of Civil Procedure 1.281(4)(*g*)(3), must be served on all parties at least 150 days before trial. Any objection to the Health Care Provider Statement must be filed with the court, together with a copy of the statement, within 30 days after receipt of the statement.

## 8. Expert witnesses

A. A party who intends to call an expert witness, including rebuttal expert witnesses, must certify to the court and all other parties the expert's name, subject matter of expertise, and qualifications, within the following time period, unless the Iowa Code requires an earlier designation date (*see, e.g.,* Iowa Code section 668.11):

(1) Plaintiff: 210 days before trial or by _____.

(2) Defendant/Third Party Plaintiff: 150 days before trial or by _____.

(3) Third Party Defendant/Others/Rebuttal: 90 days before trial or by _____.

B. Any disclosures required by Iowa Rule of Civil Procedure 1.500(2)(*b*) will be provided:
*Check each that applies*

(1) ☐ At the same time the expert is certified.

(2) ☐ According to the following schedule:

a. Plaintiff:____ days before trial or by _____.

b. Defendant/Third Party Plaintiff:____ days before trial or by _____.

c. Third Party Defendant/Others/Rebuttal:____ days before trial or by

_____.

C. This section does not apply to court-appointed experts.

*The deadlines listed in paragraphs* 4, 5, 6, 7, *and* 8 *may be amended, without further leave of court, by filing a Stipulated Amendment to this Plan listing the dates agreed upon and signed by all counsel and self-represented litigants. Such Stipulated Amendment may not override any requirement of the Iowa Court Rules and cannot serve as a basis for a continuance of the trial date or affect the date for pretrial submissions.*

## 9. Pretrial submissions

At least **14 or ____** (the parties may enter another number but not less than **7**) **days before trial**, counsel for the parties and self-represented litigants must:

A. File a **witness and exhibit** list with the clerk of court, serve a copy on opposing counsel and self-represented litigants, and exchange exhibits. In electronic cases, witness and exhibit lists must be electronically filed, and the EDMS system will serve copies on all registered parties. Exhibits must be electronically submitted in lieu of exchanging them. These disclosures must include the following information about the evidence that the disclosing party may present at trial other than solely for impeachment:

(1) The name and, if not previously provided, the address, telephone numbers, and electronic mail address of each witness, separately identifying those the party expects to present and those the party may call if the need arises.

(2) The page and line designation of those witnesses whose testimony the party expects to present by deposition and, if not taken stenographically, a transcript of the pertinent parts of the deposition.

(3) An identification of each document or other exhibit, including summaries of other evidence, separately identifying those items the party expects to offer and those it may offer if the need arises. The following rules govern exhibits and exhibit lists:

a. Plaintiff will use numbers and Defendant will use letters. Pretrial exhibit lists will identify each exhibit by letter or number and description. Exhibits must be marked before trial.

b. Immediately before commencement of trial, the court must be provided with a bench copy, and the court reporter with a second copy, of the final exhibit list for use in recording the admission of evidence.

c. In nonjury cases, immediately before commencement of trial, parties must provide the court with a bench copy of all exhibits identified on the exhibit lists.

d. Within 7 days after the filing of an exhibit list, or within 4 days if the deadline for filing of the list is less than 10 days before trial, counsel and self-represented litigants must file with the clerk of court, and serve on each party, any objections to the exhibits listed. In electronic cases, any objections must be electronically filed, and the EDMS system will serve copies on all registered parties. Electronic filing of these objections must be done within 7 days of the filing of an exhibit list, or within 4 days if the deadline for filing of the list is less than 10 days before trial. An objection not so made, except for one under Iowa Rules of Evidence 5.402 or 5.403, is **waived** unless excused by the court for good cause.

B. File and serve **motions in limine**, with supporting legal authority.

C. File and serve a complete set of **joint jury instructions and verdict forms**, in a form to be presented to the jury or judge, including a statement of the case and any stock jury instruction numbers. If there is any disagreement about an instruction or verdict form, each side must include its specific objections, supporting authority, and a proposed alternative instruction or verdict form for the court's approval. The court must be provided the instructions in written form and electronically.

D. Deliver to the judge and serve a concise **trial brief** addressing factual, legal, and evidentiary issues, with citation to legal authorities.

## 10. Motions

All motions including motions for summary judgment and except motions in limine, must be filed with the clerk of court's office or electronically filed at https://www.iowacourts.state.ia.us/EFile/ at least 90 days before trial, with copies to the assigned judge.

Rule 23.5—Form 3: *Trial Scheduling and Discovery Plan for Expedited Civil Action*, continued

**11. Settlements**

The parties are responsible for immediately notifying the court administrator of settlement.

**12. Late settlement fees**

Late settlement fees under Iowa Rule of Civil Procedure 1.909 are applicable.

**13. Continuances**

Continuances are discouraged and will only be granted for good cause. Motions to continue are governed by Iowa Rule of Civil Procedure 1.910. In the event the trial date is continued, all time deadlines in this Plan and any Stipulated Amendments remain in effect relative to the new trial date unless the court approves new deadlines.

**14. Notice**

Failure to comply with any of the provisions of this Plan or Stipulated Amendments to this Plan may result in the court imposing sanctions pursuant to Iowa Rule of Civil Procedure 1.602(5), including limitation and exclusion of evidence and witnesses and payment of costs or attorney fees. The court will resolve disputes regarding oral agreements on scheduling by reference to this Plan or any Stipulated Amendments to this Plan.

**15. Other** *List additional agreements of the parties for the Trial Scheduling and Discovery Plan for Expedited Civil Action*

| |
|---|
| |

*At least one signature to the Trial Scheduling and Discovery Plan for Expedited Civil Action is required. The signer certifies that all listed parties have joined in this Trial Scheduling and Discovery Plan for Expedited Civil Action, subject to any objections noted.*

I certify that all parties and attorneys to this action have agreed to this Trial Scheduling and Discovery Plan and have been served with a copy.

_____ _____, 20_____ /s_____

*Signed: Month Day Year Party's or attorney's signature*

_____ _____

*Printed name Attorney's law firm, if applicable*

_____ _____ _____ _____

*Mailing address City State ZIP code*

(_____) _____ _____ _____

*Phone number Email address Additional email address, if available*

Original filed with the clerk of court or electronically filed at https://www.iowacourts.state.ia.us/EFile/.

Copies to: counsel of record, self-represented litigants, and court administration.

For questions regarding documents filed with the court in this case, please see https://www.iowacourts.state.ia.us/ESAWebApp//SelectFrame or call the clerk of court.



[Court Order August 28, 2014, October 30, 2014, effective January 1, 2015; April 1, 2015; September 25, 2015, effective November 25, 2015; March 7, 2018, effective January 1, 2019]

# CHAPTER 24

Reserved

# CHAPTER 25
# RULES FOR EXPANDED NEWS MEDIA COVERAGE

# CHAPTER 25
# RULES FOR EXPANDED NEWS MEDIA COVERAGE

**Rule 25.1 Definitions.** As used in this chapter:

**25.1(1)** *"Expanded news media coverage"* includes broadcasting, recording, photographing, and live electronic reporting of judicial proceedings by the news media for gathering and disseminating news in any medium. Expanded news media coverage is limited to the news media unless otherwise ordered by the judicial officer.

**25.1(2)** *"Good cause"* for purposes of exclusion under this chapter means that coverage will have a substantial effect upon the objector that would be qualitatively different from the effect on members of the public in general.

**25.1(3)** *"Judicial officer"* means the magistrate, district associate judge, or district judge presiding in a trial court proceeding, or the presiding judge or justice in an appellate proceeding.

**25.1(4)** *"Judicial proceedings"* or *"proceedings"* includes all public trials, hearings, or other proceedings in a trial or appellate court, including those occurring in person or remotely by video or teleconference, for which expanded news media coverage is requested, except those specifically excluded by this chapter.

**25.1(5)** *"News media"* includes any person who regularly gathers, prepares, photographs, records, writes, edits, reports, or publishes news or information about matters of public interest in any medium and who successfully applies to the news media coordinator to participate in expanded news media coverage and agrees to comply with all court rules.

**25.1(6)** *"News media coordinator"* includes news media coordinating councils as well as the designees of such coordinators or councils.

[Court Order November 9, 2001, effective February 15, 2002; April 2, 2014, effective May 1, 2014; January 14, 2022]

**Rule 25.2 General.** Expanded news media coverage of judicial proceedings will be permitted under the following conditions:

**25.2(1)** *Prior authorization.* No expanded news media coverage shall occur without prior express authorization from the judicial officer, who may prescribe conditions of coverage as provided in this chapter.

**25.2(2)** *Rights to a fair trial.* Expanded news media coverage of a proceeding is permitted, unless the judicial officer concludes, for reasons stated on the record, that under the circumstances of the particular proceeding, such coverage would materially interfere with the rights of the parties to a fair trial.

**25.2(3)** *Coverage of witnesses.*

*a.* Expanded news media coverage of a witness may be refused by the judicial officer upon objection and showing of good cause by the witness.

*b.* In prosecutions for sexual abuse, or for charges in which sexual abuse is an included offense or an essential element of the charge, no expanded news media coverage of the testimony of a victim witness is permitted unless such victim witness consents.

*c.* Objection by a victim or witness in any other forcible felony prosecution, and by police informants, undercover agents, and relocated witnesses, shall enjoy a rebuttable presumption of validity. The presumption is rebutted by a showing that expanded news media coverage will not have a substantial effect upon the particular individual objecting to such coverage that would be qualitatively different from the effect on members of the public in general.

**25.2(4)** *Initial appearances in criminal proceedings.*

*a.* Oral or written requests for expanded news media coverage of initial appearances in criminal proceedings must be made to the judicial officer presiding over the proceeding. Such expanded news media coverage, if authorized by the judicial officer, is subject to objection by the prosecutor, defendant, or defendant's attorney.

*b.* The defendant shall be advised by the judicial officer of the defendant's right to orally object to expanded news media coverage prior to the commencement of the proceeding, and any such objection will be heard and determined by the judicial officer prior to the commencement of the proceeding. The judicial officer may rule on the basis of the oral objection alone.

*c.* A judicial officer's authorization of expanded news media coverage of an initial appearance applies only to the particular initial appearance. Authorization for expanded news media coverage of proceedings subsequent to the initial appearance must be requested separately under rule 25.3(2)(*b*).

**25.2(5)** *Private court proceedings.* Expanded news media coverage is prohibited for any court proceeding which, under Iowa law, is required to be held in private. Coverage is prohibited in any juvenile, dissolution, adoption, child custody, or trade secret cases unless consent on the record is obtained from all parties, including a parent or guardian of a minor child.

**25.2(6)** *Jury selection.* Expanded news media coverage of jury selection is prohibited. Expanded news media coverage of the return of the jury's verdict shall be permitted. In all other circumstances, however, expanded news media coverage of jurors is prohibited except to the extent it is unavoidable in the coverage of other trial participants or courtroom proceedings. The policy of the rules in this chapter is to prevent unnecessary or prolonged photographic or video coverage of individual jurors.

**25.2(7)** *Court conferences.* There shall be no audio pickup or broadcast of conferences in a court proceeding between attorneys and their clients, between co-attorneys, between attorneys and the judicial officer held at the bench or in chambers, or between judicial officers in an appellate proceeding.

**25.2(8)** *Equipment.* The quantity and types of equipment permitted in the courtroom are subject to the discretion of the judicial officer within the guidelines set out in this chapter.

**25.2(9)** *Variance application.* Notwithstanding the provisions of any of the procedural or technical rules in this chapter, the judicial officer, upon application of the news media coordinator, may permit the use of equipment or techniques at variance with the rules, provided the application for variance is included in the advance notice of coverage provided for in rule 25.3(2). Objections, if any, shall be made as provided in rule 25.3(3). Ruling upon such a variance application is in the sole discretion of the judicial officer, who may allow such variances without advance application or notice if all attorneys and parties consent to the variance.

**25.2(10)** *Limiting coverage during proceeding.* The judicial officer may, as to any or all news media participants, limit or terminate expanded news media coverage at any time during the proceedings in the event the judicial officer finds that rules established under this chapter, or additional rules imposed by the judicial officer, have been violated or that substantial rights of individual participants or rights to a fair trial will be prejudiced by such manner of expanded news media coverage if it is allowed to continue.

**25.2(11)** *Limited to news media.* The privileges of expanded news media coverage provided for in these rules may be exercised only by persons or organizations that are part of the news media.

**25.2(12)** *Identification.* All news media personnel authorized to conduct expanded news media coverage during judicial proceedings must clearly identify the person's name and media affiliation at all times during the proceeding, and physical identification must be worn for all in-person proceedings.

**25.2(13)** *Ceremonial proceedings.* A judicial officer may authorize expanded news media coverage of investitive or ceremonial proceedings at variance with the procedural and technical rules of this chapter as the judicial officer sees fit.

**25.2(14)** *Broadcasting or livestreaming by judicial officers.* Judicial officers may broadcast or livestream a judicial proceeding to alternative locations outside the courtroom to accommodate overflow crowds or for other purposes at the presiding judge's discretion. Unless otherwise provided, the rules in this chapter apply equally to any judicial proceeding being broadcast or livestreamed pursuant to this rule.

[Amended by Court Order September 26, 1984, effective October 10, 1984; November 9, 2001, effective February 15, 2002; April 2, 2014, effective May 1, 2014; January 14, 2022]

**Rule 25.3 Procedural.**

**25.3(1)** *News media coordinator and coordinating councils.* News media coordinators will be appointed by the supreme court from a list of nominees provided by a representative of the news media whom the supreme court designates. The judicial officer and all interested members of the news media will work, whenever possible, with and through the appropriate news media coordinator regarding all arrangements for expanded news media coverage. The supreme court will designate the jurisdiction of each news media coordinator. In the event a news media coordinator has not been nominated or is not available for a particular proceeding, the judicial officer may deny expanded news media coverage or may appoint an individual from among local working representatives of the news media to serve as the coordinator for the proceeding.

**25.3(2)** *Advance notice of coverage.*

*a.* All requests for expanded news media coverage in all proceedings, except initial appearances in criminal cases, shall be made to the news media coordinator. The news media coordinator, in turn, shall inform the attorneys for all parties and the judicial officer at least seven days in advance of the time the proceeding is scheduled to begin, but these times may be extended or reduced by court order. When the proceeding is not scheduled at least seven days in advance, the news media coordinator or news media coordinating council must give notice of the request as soon as practicable after the proceeding is scheduled.

*b.* Notice must be filed electronically or by paper copy with the appropriate clerk of court. A copy of the notice shall be sent electronically, delivered by ordinary mail, or delivered in person to the last known contact of all attorneys of record, parties appearing without attorney representation, the appropriate court administrator, and the judicial officer expected to preside at the proceeding for which expanded news media coverage is requested.

*c.* Only one request for expanded news media coverage is required for all district court proceedings in the same case or trial, except that initial appearances in criminal cases require a separate request pursuant to rule 25.2(4).

*d.* A separate request for expanded news media coverage must be made for Iowa Supreme Court and Iowa Court of Appeals oral arguments, pursuant to rule 25.5.

*e.* Form 1 in rule 25.10 is the notice form for the news media coordinator to use to inform the attorneys for all parties and the judicial officer of a request for expanded news media coverage of the proceeding.

**25.3(3)** *Objections.*

*a.* A party to any proceeding, except an initial appearance in a criminal case, objecting to expanded news media coverage under rule 25.2(2) must file a written objection, stating the grounds for objection, at least three days before commencement of the proceeding.

*b.* All witnesses must be advised by the attorney proposing to introduce their testimony of their right to object to expanded news media coverage, and all objections by witnesses under rule 25.2(3) must be filed prior to commencement of the proceeding.

*c.* Witnesses shall be entitled to the assistance of the clerk of court in providing copies of this objection to all attorneys of record, parties appearing without attorney representation, the news media coordinator for the judicial district, the district court administrator for the judicial district, and the judicial officer expected to preside in the proceeding.

*d.* All objections shall be heard and determined by the judicial officer prior to the commencement of the proceedings. The judicial officer may rule on the basis of the written objection alone.

*e.* The objecting party or witness, and all other parties, may be afforded an opportunity to present additional evidence by affidavit or by such other means as the judicial officer directs. The judicial officer in absolute discretion may permit presentation of such evidence by the news media coordinator in the same manner.

*f.* Time for filing of objections may be extended or reduced in the discretion of the judicial officer, who also, in appropriate circumstances, may extend the right of objection to persons not specifically provided for in this chapter.

*g.* Form 2 in rule 25.10 is the form for parties and Form 3 is the form for witnesses to use to object to expanded news media coverage of the proceeding.

[Court Order November 9, 2001, effective February 15, 2002; May 27, 2010; April 2, 2014, effective May 1, 2014; April 29, 2014, effective May 1, 2014; July 22, 2016]

**Rule 25.4 Technical.**

**25.4(1)** *Equipment specifications.* Equipment used by the news media in courtrooms during judicial proceedings must be unobtrusive and must not produce distracting sound. In addition, such equipment must satisfy the following criteria, where applicable:

*a. Still cameras.* Still cameras and lenses must be unobtrusive and not cause distracting light or sound.

*b. Television cameras and related equipment.* Television cameras, together with any related equipment to be located in the courtroom, must be unobtrusive in both size and appearance, without distracting sound or light. Television cameras are to be designed or modified so that participants in the judicial proceedings are unable to determine when recording is occurring.

*c. Audio equipment.* Microphones, wiring, and audio recording equipment must be unobtrusive and of adequate technical quality to prevent interference with the judicial proceeding being covered.

The judicial officer must approve any changes in existing audio systems. No modifications of existing systems shall be made at public expense. Microphones for attorneys and judicial officers to use must be equipped with off/on switches to facilitate compliance with rule 25.2(7).

*d. Electronic devices.* All electronic devices used for recording audio, video, or still images must adhere to rule 25.4(3)(*a*). All other electronic devices not used for recording audio, video, or still images must be unobtrusive and not cause distracting light or sound, and are not subject to the limitations of rule 25.4(3)(*a*). Electronic devices include, but are not limited to, laptop computers, cellular telephones, personal digital assistants, smart phones, and tablet computers.

*e. Advance approval.* It is the duty of news media personnel to demonstrate to the judicial officer reasonably in advance of the proceeding that the equipment sought to be utilized meets the criteria set forth in this rule. Failure to obtain advance judicial approval for equipment may preclude its use in the proceeding. All news media equipment and personnel must be in place at least fifteen minutes prior to the scheduled time of commencement of the proceeding.

**25.4(2)** *Lighting.* Other than light sources already existing in the courtroom, no flashbulbs or other artificial light device of any kind shall be employed in the courtroom. With authorization from the judicial officer modifications may be made in light sources existing in the courtroom (e.g., higher wattage lightbulbs), provided such modifications are installed and maintained without public expense.

**25.4(3)** *Equipment and pooling.* The following limitations on the amount of equipment and number of photographic and broadcast news media personnel in the courtroom apply:

*a. Video recording, audio recording, and still photography.* Not more than five total members of the news media using still cameras, television cameras, audio recorders, and electronic devices, or any combination of the four, to photograph, video, or record audio are permitted in the courtroom during a judicial proceeding. Each still photographer may use two camera bodies each with a fixed lens or one camera body and two lenses. Where possible, all recording and broadcasting equipment that is not a component part of a camera or an electronic device and any operating personnel shall be located outside of the courtroom. Audio pickup for broadcast coverage must be accomplished from any existing audio system present in the courtroom if such pickup would be technically suitable for broadcast.

*b. Electronic devices not used for recording audio, video, or still images.* The devices defined in rule 25.4(1)(*d*) may be used in the courtroom by members of the news media for live electronic reporting with advance approval from the judicial officer, provided the equipment does not make any disruptive noise or interfere with court equipment. Electronic devices may not be used for telephone calls by anyone in the courtroom. Electronic devices for photography, video recording, audio recording, or streaming video may not be used by anyone in the courtroom unless approved by the judicial officer in advance of the proceeding as defined in rule 25.4(3)(*a*). The rule applies to news media only as defined in rule 25.1. Use of electronic devices for purposes other than expanded news media coverage is at the discretion of the court.

*c. Pooling.* Where the above limitations on equipment and personnel make it necessary, the news media shall be required to pool equipment and personnel. Pooling arrangements are the sole responsibility of the news media coordinator, and the judicial officer will not mediate any dispute as to the appropriate news media representatives authorized to cover a particular judicial proceeding. Representatives of news media are responsible for contributing to electronic pool coverage of judicial proceedings when necessary. If a news organization is incapable of contributing to pool coverage, the news media coordinator may allow the news organization to share the pool coverage or may restrict the news organization's coverage.

**25.4(4)** *Location of equipment and personnel.* Equipment and operating personnel, including news media using electronic devices to transmit and receive data communication, must be located in, and coverage of the proceedings must take place from, an area or areas the judicial officer designates within the courtroom. The area or areas designated shall provide reasonable access to the proceeding to be covered.

**25.4(5)** *Movement during proceedings.* Television cameras and audio equipment may be installed in or removed from the courtroom only when the court is not in session. In addition, such equipment shall at all times be operated from a fixed position. News media personnel are prohibited from moving about the courtroom while proceedings are in session and from engaging in any movement that attracts undue attention.

**25.4(6)** *Decorum.* All news media personnel shall be properly attired and shall maintain proper courtroom decorum at all times while covering a judicial proceeding.

[Court Order October 9, 1975; December 22, 1981 — received and published May 1982; July 19, 1989; March 9, 1994, effective April 1, 1994; November 9, 2001, effective February 15, 2002; April 2, 2014, effective May 1, 2014; January 14, 2022]

**Rule 25.5 Supreme court and court of appeals expanded news media coverage.**

**25.5(1)** The rules in this chapter pertaining to expanded news media coverage apply to any in-person news media coverage occurring within any space, room, or auditorium in which the supreme court or court of appeals conducts oral arguments or other hearings.

**25.5(2)** The rules in this chapter pertaining to expanded news media coverage do not apply to remote viewing of any appellate court oral argument or other hearing being livestreamed or broadcast.

**25.5(3)** The prohibitions in rule 25.2(5) on the types of cases subject to expanded news media coverage do not apply to appellate court oral arguments or other hearings.

**25.5(4)** The rules in this chapter allowing objections to expanded news media coverage do not apply to appellate court oral arguments or other hearings.

**25.5(5)** The news media coordinator for the appellate courts must file a written request for expanded news media coverage of a supreme court or court of appeals oral argument or other hearing with the clerk of the supreme court no later than the Friday immediately preceding the week in which the oral argument or other hearing is to be held.

**25.5(6)** The news media coordinator for the appellate courts must use rule 25.10—Form 4: *News Media Coordinator's Notice of Request for Expanded News Media Coverage of Appellate Court Proceeding* to inform the attorneys for all parties and the presiding justice or judge of a request for expanded news media coverage of an oral argument or other hearing.

[Court Order February 17, 2006; April 9, 2009; April 2, 2014, effective May 1, 2014; April 29, 2014, effective May 1, 2014; July 22, 2016; January 14, 2022]

**Rules 25.6** to **25.9** Reserved.

## Rule 25.10 Forms.

### Rule 25.10—Form 1: *News Media Coordinator's Notice of Request for Expanded News Media Coverage of Trial or Proceeding*

- The expanded news media coordinator uses this form to give notice of a request for expanded news media coverage to the attorneys for all parties and the judicial officer at least seven days before the proceeding begins.
- A separate request for expanded news media coverage must be made for appellate court arguments.

**In the Iowa District Court for_____County**
*County where you are filing this form*

| | |
|---|---|
| _____<br>**Plaintiff** *Full name: first, middle, last*<br>vs.<br>_____<br>**Defendant** *Full name: first, middle, last* | No._____<br>**News Media Coordinator's Notice of Request for Expanded News Media Coverage of Trial or Proceeding** |

The undersigned news media coordinator states as follows:

1. Certain representatives of the news media want to use: *Check each that applies*
   - A. ☐ Photographic equipment,
   - B. ☐ Television cameras,
   - C. ☐ Electronic sound recording equipment, or
   - D. ☐ Other electronic devices,

   in courtroom coverage of the above proceeding.

2. The case, trial, or proceeding to be covered by expanded news media coverage is scheduled for the _____ day of _____, 20 _____, at _____ ☐ a.m. ☐ p.m. at the _____ County Courthouse, _____, Iowa. The request for expanded news media coverage includes every part of such case, trial, or proceeding as allowed under Chapter 25 of the Iowa Court Rules.
   *Day* *Month* *Year* *Time* *County* *City*

3. The request for expanded news media coverage is described as follows (for example, the number of photographers with still cameras):

   _____
   _____
   _____
   _____

***Continued on next page***

Rule 25.10—Form 1: *News Media Coordinator's Notice of Request for Expanded News Media Coverage of Trial or Proceeding,* continued

**4.** This notice of request for expanded news media coverage is filed: *Check one*

A. ☐ At least seven days in advance of the case, trial, or proceeding for which expanded news media coverage is requested; or

B. ☐ This notice cannot be filed within seven days of the case, trial, or proceeding because of the following reasons:

_____

_____

_____

**5.** A copy of this notice will be sent electronically, delivered by ordinary mail, or delivered in person to the last known address of all attorneys of record, parties appearing without attorney representation, the district court administrator for this judicial district, and the judicial officer expected to preside at the trial or proceeding for which expanded news media coverage is requested, as follows:

Attorneys: _____

_____

_____

Parties appearing without attorney representation: _____

_____

_____

District court administrator: _____

Presiding judge: _____

**6.** The undersigned news media coordinator requests expanded news media coverage of this proceeding as described in this notice.

/s/_____
*News media coordinator's signature*

_____
*News media coordinator's printed name*

_____ Judicial District of Iowa

_____
*Mailing address*

_____ ____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____
*Email address*

_____
*Additional email address, if available*



[Court Order December 22, 1981 — received and published May 1982; April 16, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; February 17, 2006; April 2, 2014, effective May 1, 2014; April 29, 2014, effective May 1, 2014; July 22, 2016]

**Rule 25.10—Form 2*: Objection of Party to Expanded News Media Coverage of Trial or Proceeding***

- This form is used when a party to the proceeding objects to expanded news media coverage of a trial or proceeding.
- The party's objection must be filed three days before the start of the proceeding in the court in which the proceeding will be held.

**In the Iowa District Court for** _____ **County**

*County where you are filing this form*

_____

**Plaintiff** *Full name: first, middle, last*

vs.

_____

**Defendant** *Full name: first, middle, last*

No._____

**Objection of Party to Expanded News Media Coverage of Trial or Proceeding**

The undersigned party, or the party identified below, in this proceeding states as follows:

1. There is a request for expanded news media coverage of this proceeding.
2. There is good cause to believe that expanded news media coverage, under the particular circumstances of this proceeding, would materially interfere with the right of the party to a fair trial. The following specific facts and circumstances support this objection:

_____

_____

_____

_____

3. This objection is filed at least three days before the start of the proceeding for which expanded news media coverage is requested.
4. A copy of this objection has been sent electronically, delivered by ordinary mail, or delivered in person to the last known address of all attorneys of record, parties appearing without attorney representation, the district court administrator for this judicial district, and the judicial officer expected to preside at the trial or proceeding for which expanded news media coverage is requested.
5. The party objects to expanded news media coverage of this proceeding for the reasons stated above.

_____
*Print full name of party*

*/s/*_____
*Filing party (or attorney, if applicable)*

_____
*Law firm, or entity for which filing is made, if applicable*

_____
*Mailing address*

_____ ____ _____
*City* *State* *ZIP code*

(_____) _____
*Phone number*

_____
*Email address*

_____
*Additional email address, if available*



[Court Order December 22, 1981 — received and published May 1982; November 9, 2001, effective February 15, 2002; February 17, 2006; April 2, 2014, effective May 1, 2014; April 29, 2014, effective May 1, 2014]

**Rule 25.10—Form 3:** ***Objection of Witness to Expanded News Media Coverage of Testimony***

- A witness called to testify in a proceeding uses this form to object to expanded news media coverage of the testimony of the witness.
- An objection of the witness to expanded news media coverage of the testimony of the witness must be filed with the court at least three days before commencement of the proceeding.

**In the Iowa District Court for** _____ **County**

*County where you are filing this form*

_____

**Plaintiff** *Name*

vs.

_____

**Defendant** *Name*

No._____

**Objection of Witness to Expanded News Media Coverage of Testimony**

The undersigned witness, or witness identified below, in this proceeding states as follows:

1. Expanded news media coverage is requested for this proceeding, which is scheduled to begin in the near future.
2. The witness expects to be called to testify in this case.
3. The witness objects to expanded news media coverage of testimony of the witness for the following specific reasons:

_____

_____

_____

_____

4. The witness understands this objection must be filed with the clerk of court at least three days before commencement of the proceeding.
5. The witness asks the clerk of court for assistance in providing copies of this objection to all attorneys of record, parties appearing without attorneys, the media coordinator for this judicial district, the district court administrator for this judicial district, and the judicial officer expected to preside in this proceeding.
6. The witness objects to expanded news media coverage of testimony of the witness for the reasons stated above.

_____

*Print full name of witness*

/s/_____

*Filing witness (or attorney if applicable)*

_____

*Law firm, or entity for which filing is made, if applicable*

_____

*Mailing address (optional for witness)*

_____ _____ _____

*City* *State* *ZIP code*

(_____) _____

*Phone number (optional for witness)*

_____

*Email address (optional for witness)*

**Note:** A witness may file this form in paper with the clerk of court under Iowa Court Rule 16.302(2), providing exceptions from electronic filing.

If you need assistance to participate in court due to a disability, call the disability coordinator (information at www.iowacourts.gov/Representing_Yourself/ADAAccess). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**



[Court Order December 22, 1981 — received and published May 1982; July 19, 1989; November 9, 2001, effective February 15, 2002; February 17, 2006; April 2, 2014, effective May 1, 2014; April 29, 2014, effective May 1, 2014]

**Rule 25.10—Form 4:** ***News Media Coordinator's Notice of Request for Expanded News Media Coverage of Appellate Court Proceeding***

- A separate request for expanded news media coverage must be made for appellate court oral arguments.
- A written request for expanded news media coverage within the supreme court and court of appeals courtrooms must be filed with the clerk of the supreme court no later than the Friday immediately preceding the week in which the argument is to be held.

## In the Iowa Appellate Courts

| | |
|---|---|
| _____<br>*List Appellant or Appellee as captioned in the appeal*<br>vs.<br>_____<br>*List Appellant or Appellee as captioned in the appeal* | Appellate Case No. _____<br>**News Media Coordinator's Notice of Request for Expanded News Media Coverage of Appellate Court Proceeding** |

The undersigned news media coordinator states as follows:

1. Certain representatives of the news media want to use: *Check each that applies*
   - A. ☐ Photographic equipment,
   - B. ☐ Television cameras,
   - C. ☐ Electronic sound recording equipment, or
   - D. ☐ Other electronic devices,

   in courtroom coverage of appellate proceedings in the case identified above.

2. The proceeding to be covered by expanded news media coverage is scheduled for the _____ day of _____, 20 _____, at _____ ☐ a.m. ☐ p.m. at the
   *Day* *Month* *Year* *Time*

   ☐ Iowa Judicial Branch Building in Des Moines, Iowa; or

   ☐ _____
   *Specific location of oral argument*

   The oral argument will be held before the

   ☐ Iowa Supreme Court; or

   ☐ Iowa Court of Appeals

   The request for expanded news media coverage includes every part of such proceeding as allowed under Chapter 25 of the Iowa Court Rules.

3. The request for expanded news media coverage is described as follows (for example, the number of photographers with still cameras):

   _____

   _____

   _____

   _____

Rule 25.10—Form 4: *News Media Coordinator's Notice of Request for Expanded News Media Coverage of Appellate Court Proceeding,* continued

4. **This notice of request for expanded news media coverage is filed:** *Check one*

   A. ☐ No later than the Friday immediately preceding the week in which the argument is to be held; or

   B. ☐ This notice cannot be filed on or before the Friday immediately preceding the week in which the argument is to be held because of the following reasons:

   _____

   _____

   _____

5. **A copy of this notice will be sent electronically, delivered by ordinary mail, or delivered in person to the last known address of all attorneys of record, parties appearing without attorney representation, the state court administrator, and the justice or judge expected to preside at the oral argument for which expanded news media coverage is requested, as follows:**

   **Attorneys:** _____

   _____

   _____

   **Parties appearing without attorney representation:** _____

   _____

   _____

   **State Court Administrator:** _____

   **Presiding Justice or Judge:** _____

6. **The undersigned news media coordinator requests expanded news media coverage of this proceeding as described in this notice.**

   */s/*_____
   *News media coordinator's signature*

   _____
   *News media coordinator's printed name*

   _____
   *Mailing address*

   _____ _____ _____
   *City* *State* *ZIP code*

   (_____) _____
   *Phone number*

   _____
   *Email address*

   _____
   *Additional email address, if available*



[Court Order April 29, 2014, effective May 1, 2014; July 22, 2016]

# CHAPTER 26
# RULES FOR INSTALLMENT PAYMENT PLANS AND OTHER COURT COLLECTION ACTIVITIES

# CHAPTER 26
# RULES FOR INSTALLMENT PAYMENT PLANS AND OTHER COURT COLLECTION ACTIVITIES

**Rule 26.1 Scope.** The following provisions govern installment payment plans and other collection activities of the judicial branch. These procedures shall apply to all court debt as defined in Iowa Code section 602.8107(1), and provide for the efficient and expeditious collection of court debt.
[Court Order June 4, 2013, effective July 1, 2013]

**Rule 26.2 Installment payment plans.**

**26.2(1)** A person shall be instructed to pay the court debt with the office of the clerk of court on the date of imposition of the court debt.

**26.2(2)** At sentencing or upon imposition of a fine, if a person establishes that the person does not have the financial means to pay the court debt in full on the date it is imposed, the judicial officer may order the person to pay the court debt in full within 30 days from the date it is imposed.

**26.2(3)** At sentencing or upon imposition of a fine, if a person establishes that the person does not have the financial means to pay the court debt in full within 30 days from the date it is imposed, the judicial officer may:

*a.* Instruct the person to contact the Centralized Collection Unit (CCU) to request a payment plan; or

*b.* Establish an installment payment plan pursuant to the rules contained in this chapter.

**26.2(4)** If the total amount of court debt due at the time of imposition is $300 or less, a judicial officer shall not order an installment payment plan.

**26.2(5)** When ordering an installment payment plan, the judicial officer has discretion to require a down payment.

**26.2(6)** Except in cases involving a restitution plan of payment pursuant to Iowa Code section 907.8 or 910.7, a judicial officer shall:

*a.* Require the first payment to be due no later than 30 days from the date of imposition;

*b.* Structure the payments to be due once a month; and

*c.* Require the payments to be at least $50 each month.

**26.2(7)** A judicial officer shall not order an installment payment plan for any court debt that is already deemed delinquent pursuant to Iowa Code section 602.8107(2)(d).

**26.2(8)** A judicial officer shall not waive or forgive any installment payments or continue or extend the due date for any installment payment.

**26.2(9)** If a person fails to make an installment payment within 30 days after the due date, the entire remaining debt shall be deemed delinquent and the judicial branch will immediately assign the entire remaining debt to CCU for additional collection procedures.

**26.2(10)** If a person is granted a court-appointed attorney, the person shall be required to reimburse the state for the total cost of legal assistance provided to the person. Legal assistance shall include not only the expense of the public defender or an appointed attorney, but also the expense of transcripts, witness fees, expenses, and any other goods or services required by law to be provided to an indigent person entitled to an appointed attorney.

*a.* If the person receiving legal assistance is convicted in a criminal case, the court shall order the payment of the total costs and fees for legal assistance as restitution to the extent the person is reasonably able to pay, or the court shall order the performance of community service in lieu of such payments, in accordance with Iowa Code chapter 910.

*b.* If the person receiving legal assistance is acquitted in a criminal case or is a party in a case other than a criminal case, the court shall order payment of all or a portion of the total costs and fees incurred for legal assistance, to the extent the person is reasonably able to pay, after an inquiry that includes notice and reasonable opportunity to be heard.

*c.* After the judicial officer makes a rule 26.2(10)(a) or (b) determination, the judicial officer shall set forth in the sentencing order the amount the person is required to pay for legal assistance.

**26.2(11)** A judicial officer may modify an existing, nondelinquent installment payment plan to correct an error or omission regarding the amount of court debt defendant owes.

**26.2(12)** A judicial officer may combine a person's nondelinquent installment payment plans into a single installment payment plan or modify or restructure an existing, nondelinquent installment

payment plan to include new court debts if the combined, modified, or restructured installment payment is at least $50 a month.

**26.2(13)** A judicial officer shall not initiate court proceedings sua sponte as a means of collecting court debt. Once the court debt becomes delinquent 30 days after imposition or 30 days after an installment payment is due, the statutory procedures set forth in Iowa Code section 602.8107 govern.
[Court Order June 4, 2013, effective July 1, 2013]

**Rule 26.3 Court debt collection procedures.** Judicial officers shall comply with the following procedures with regard to court debt, whether or not subject to an installment payment plan: Except for collection orders, procedures, and arrangements that are the subject of a petition for judicial review, or a notice of bankruptcy from a federal court, a judicial officer shall not block, rescind, waive, modify, void, or stay any installment payment plan or other court debt collection agreement or procedure arranged, initiated, or enforced by a county attorney pursuant to Iowa Code section 602.8107(4) and Iowa Code section 321.210B, by CCU pursuant to Iowa Code section 602.8107(3), by a county treasurer pursuant to Iowa Code section 321.40(9), by the department of transportation pursuant to Iowa Code section 321.210A, by the department of revenue pursuant to Iowa Code section 8A.504, by the clerk of court pursuant to Iowa Code section 602.8103(6), or by a private collection agency approved by the state court administrator pursuant to Iowa Code section 602.8107(5). As used in this rule, court debt collection agreements and procedures include but are not limited to garnishments, administrative levies, wage assignments, installment payment plans, executions, income tax offsets, driver's license suspensions, vehicle registration holds, professional licensure suspensions, and other procedures authorized by law.
[Court Order June 4, 2013, effective July 1, 2013]

**Rule 26.4 Community service.** A judicial officer shall not order community service in lieu of monetary payment of court debt unless the judicial officer determines that community service will be prudent and effective for defendant and that the community service can be administered within existing court resources.

**26.4(1)** A judicial officer shall not order community service if defendant's total court debt is $300 or less.

**26.4(2)** When defendant is not reasonably able to pay all or part of defendant's court debt, community service may be substituted in lieu of the following: monetary payment for fines; crime victim compensation program reimbursement; public agency restitution; court costs, including correctional fees approved pursuant to Iowa Code section 356.7; court-appointed attorney fees ordered pursuant to Iowa Code section 815.9, including the expense of a public defender; contribution to a local anticrime organization; or medical assistance program restitution.

**26.4(3)** A judicial officer shall not order community service in lieu of victim restitution.

**26.4(4)** All orders for community service in lieu of monetary payment of court debt shall require defendant to perform the number of hours of community service that are equal to the total amount of the court debt divided by the current minimum State of Iowa wage rate.

**26.4(5)** A judicial officer shall order a date by which defendant is to have completed the community service.

**26.4(6)** A judicial officer shall not order community service in lieu of monetary payment of court debt that is already deemed delinquent pursuant to Iowa Code section 602.8107(2)(d) because it has not been paid within 30 days after it was assessed or within 30 days after the payment due date of an installment payment plan.
[Court Order June 4, 2013, effective July 1, 2013]

**Rule 26.5 Supervised probation.** If the judicial officer orders probation under Iowa Code chapter 907, defendant is subject to the conditions established by the judicial district department of correctional services subject to the approval of the court, including a restitution plan of payment. The probation plan of payment shall not incorporate any delinquent court debt obligations of defendant.
[Court Order June 4, 2013, effective July 1, 2013]

**Rule 26.6 Form for installment payment plan order.** A court-ordered installment payment plan shall be in substantially the following form.

**Rule 26.6 — Form 1:** ***Installment Payment Plan Order.***

In the Iowa District Court for _____ County

| | |
|---|---|
| ☐ State of Iowa,<br>☐ City of _____,<br>Plaintiff,<br>vs.<br>_____,<br>Defendant. | No. _____<br>**Installment Payment Plan Order**<br>(Not to be used for court debt of $300 or less.) |

Upon sentencing, **it is ordered** that Defendant shall pay any and all fines, surcharges, court costs, fees, victim restitution, and attorney fees as ordered in Defendant's Judgment and Sentence dated the _____ day of _____, 20___.

***Note:*** *Attorney fees and other costs, if unavailable at the time of sentencing, may be more than the record reflects in the clerk's office. Those amounts will be added to Defendant's total amount of court debt when they become available and are subject to the same terms as specified below. Sheriff room and board fees, which are not included in the Installment Payment Plan Order, will be charged as a civil judgment for which Defendant is separately responsible.*

**Terms of Installment Payment Plan:**

Defendant ___ (is) ___ (is not) required to make a down payment of $_____ to the clerk of court's office.

Defendant shall make a minimum payment of $_____ per month (must be at least $50), beginning the _____ day of _____, 20___ (no later than 30 days from the date of imposition), and on the same day of each month thereafter, to the clerk of court office.

**Failure to Make Installment Payments:**

Defendant is **notified** that if he or she fails to pay any monthly payment on the date and in the amount as listed above within 30 days of the date the installment payment is due, action regarding Defendant's motor vehicle registration or suspension of Defendant's driver's license, or both, may be initiated. In addition, the total remaining court debt will be considered delinquent and sent to collection, and up to 25% may be added to the delinquent amount.

_____ _____

Order dated Judicial Officer

***Please notify the clerk of court of any change of address.***

***Note:*** *This installment payment plan does not affect the State of Iowa's procedure to intercept any state income tax refund or any vendor amounts due Defendant, or the clerk of court's ability to intercept monetary amounts held by the clerk of court and payable to Defendant.*

[Court Order June 4, 2013, effective July 1, 2013]

# CHAPTERS 27 TO 30

Reserved

# CHAPTER 31
# ADMISSION TO THE BAR

# CHAPTER 31
# ADMISSION TO THE BAR

**Rule 31.1 Board of law examiners.**

**31.1(1)** *Composition.*

*a.* The board of law examiners consists of five persons admitted to practice law in this state and two persons not admitted to practice law in this state. Members are appointed by the supreme court. A member admitted to practice law must be actively engaged in the practice of law in this state.

*b.* Appointments are for three-year terms that commence on July 1 of the year in which the appointment is made. Vacancies must be filled for the unexpired term by supreme court appointment. Members may serve no more than three terms or nine years, whichever is less.

*c.* Members must sign a written oath to faithfully and impartially discharge the duties of the office and must file the oath in the office of professional regulation. They will be compensated for their services in accordance with the provisions of Iowa Code section 602.10106.

*d.* The supreme court may appoint temporary examiners to assist the board, who will receive their actual and necessary expenses to be paid from funds appropriated to the board.

*e.* Members of the board of law examiners and the temporary examiners will be paid a per diem in an amount the supreme court sets for each day spent in conducting or grading the examinations of the applicants for admission to the bar and in performing administrative and character and fitness investigation duties. They will also be reimbursed for additional expenses necessarily incurred in the performance of such duties.

*f.* The executive director of the office of professional regulation will designate a director of admissions of the office of professional regulation to serve as the principal administrator for the board of law examiners. Wherever in this chapter a reference to the "director" appears, it will refer to the director of admissions of the office of professional regulation.

*g.* The executive director of the office of professional regulation must, at least 60 days prior to the start of each fiscal year, submit to the court for consideration and approval a budget covering the board's operations for the upcoming fiscal year. Approval of the budget by the court authorizes payment as provided in the budget. A separate bank account designated as the admissions operating account must be maintained for payment of authorized expenditures as provided in the approved budget. Fees or other funds received or collected as directed in this chapter or in accordance with an approved interagency agreement must be deposited in the admissions operating account for payment of the board's authorized expenditures.

*h.* Claims against members of the board and the executive director, directors, and the staff of the office of professional regulation are subject to the Iowa Tort Claims Act set forth in Iowa Code chapter 669.

*i.* The board of law examiners and its members, employees, and agents; temporary law examiners; and the executive director, directors, and the staff of the office of professional regulation are immune from all civil liability for damages for conduct, communications, and omissions occurring in the performance of and within the scope of their official duties relating to the examination, character and fitness qualification, and licensing of persons seeking to be admitted to the practice of law.

*j.* Records, statements of opinion, and other information regarding an applicant for admission to the bar communicated by any entity, including any person, firm, or institution, without malice, to the board of law examiners, its members, employees, or agents, or to the executive director, director, and the staff of the office of professional regulation are privileged, and civil suits for damages predicated thereon may not be instituted.

**31.1(2)** *Duties.*

*a.* The board may adopt rules to govern the method of conducting the bar examination. Such rules must be consistent with these rules and are subject to supreme court approval.

*b.* The authority to pass on the sufficiency of applications for permission to take the bar examination is vested in the board of law examiners, subject to supreme court review.

*c.* The members of the board authorized to grade examinations will make the final decision on passage or failure of each applicant, subject to the rules of the supreme court. The board must also recommend to the supreme court for admission to practice law in this state all applicants who pass the bar examination and the Multistate Professional Responsibility Examination, and who meet the requisite character and fitness requirements. The board, in its discretion, may permit an applicant to take the bar examination prior to finally approving that person as to character and fitness. It

may impose specific conditions for admission based on its evaluation of character and fitness and must withhold recommendation of admission until those conditions are satisfied. An applicant who passes the bar examination must satisfy such character and fitness conditions and any other conditions imposed by the board within one year of the date of the applicant's passage of the examination. This period may be extended by the board upon the applicant's showing of good cause. If any conditions imposed are not satisfied within the applicable period of time, the applicant's passage of the examination is null and void and the applicant must retake the bar examination in order to gain admission. The supreme court will make the final determination as to those persons who are admitted to practice in this state.

*d.* An applicant who has passed the examination and is eligible for admission must be administered the lawyer's oath or affirmation within one year of the date the bar examination score was posted or the date of fulfilling all eligibility requirements, whichever is later. An applicant who fails to be administered the oath within this deadline will no longer be eligible for admission and the applicant's passage of the examination will be null and void. This deadline may only be extended by the board upon a showing of exceptional circumstances.

*e.* An applicant who has passed the examination and is eligible for admission must appear for admission by oath or affirmation before an Iowa Supreme Court justice, unless the supreme court orders otherwise based upon the applicant's satisfactory showing of exceptional circumstances.

*f.* An applicant may file a petition seeking permission to file a written lawyer's oath or affirmation. The petition must set forth in detail the exceptional circumstances that render the applicant unable to appear for admission before an Iowa Supreme Court justice. If the supreme court grants the petition, the office of professional regulation will forward all documents required for executing the oath or affirmation to the applicant. The supreme court will deem the applicant admitted to the Iowa bar on the date the completed documents are filed with the office of professional regulation.

[Court Order July 2, 1975; September 20, 1976; April 17, 1990, effective June 1, 1990; January 17, 1995, effective March 1, 1995; June 5, 1996, effective July 1, 1996; November 9, 2001, effective February 15, 2002; February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008; February 20, 2012; December 10, 2012; November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021; March 11, 2022, effective April 1, 2022]

**Rule 31.2 Registration by law students.**

**31.2(1)** The law student registration requirement is removed. Applicants who have a law student registration on file with the board under the prior version of this rule on or before January 15, 2021, and who wish to apply to take the bar examination must still make application under rule 31.5 and must pay a fee equivalent to the fee specified in rule 31.6(3).

**31.2(2)** Registration as a law student under this rule is not deemed an application for permission to take the bar examination.

[Court Order July 2, 1975; September 20, 1976; December 16, 1983—received for publication May 30, 1984; February 16, 1990, effective March 15, 1990; April 16, 1992, effective July 1, 1992; March 26, 1993, effective July 1, 1993; December 2, 1993; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 112); November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008; April 9, 2009; December 10, 2012; August 21, 2013; April 25, 2014; September 14, 2017, effective November 2, 2017; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; December 18, 2020, effective January 1, 2021]

**Rule 31.3 Required examinations.**

**31.3(1)** *Iowa bar examination.* The provisions of this rule apply to the dates and content of the Iowa bar examination beginning with the February 2016, examination administration.

*a.* Written examinations for admission to the bar will be held in Polk County, Iowa, commencing with a mandatory orientation session on the Monday preceding the last Wednesday in February and on the Monday preceding the last Wednesday in July.

*b.* The Iowa bar examination will be the Uniform Bar Examination (UBE) prepared and coordinated by the National Conference of Bar Examiners (NCBE). The UBE is given and graded according to standards agreed upon by all UBE jurisdictions and consists of three components: the Multistate Essay Examination (MEE), the Multistate Bar Examination (MBE), and the Multistate Performance Test (MPT). Applicants must take all three components in the same examination administration to earn a UBE score that is transferable to other UBE jurisdictions. The three-hour MEE component consists of six essay questions, the three-hour MPT component consists of

two performance tests, and the MBE component consists of two three-hour sessions of 100 multiple-choice questions each. The schedule may vary for applicants who are granted testing accommodations. Transferred or banked MBE scores are no longer accepted.

*c.* The MEE portion of the examination consists of questions from subjects the NCBE designates. Some MEE questions may include issues from more than one area of law. Subject matter outlines for the MEE are available on the NCBE website.

*d.* Applicants must achieve a combined, scaled score of 266 or above to pass the examination. The bar examination results require a vote of at least four members of the board of law examiners admitted to practice law in Iowa.

**31.3(2)** *Multistate Professional Responsibility Examination.*

*a.* Each applicant for admission by examination must earn a scaled score of at least 80 on the Multistate Professional Responsibility Examination (MPRE) administered by the NCBE. The applicant's MPRE score must be on file with the board no later than April 1 preceding the July examination or November 1 preceding the February examination.

*b.* It is the responsibility of the applicant to ensure that a score report from the NCBE is sent to the board by the date indicated above. An applicant who cannot meet the deadline for posting a passing MPRE score must file a petition asking for permission to post a passing score after the deadline. The petition must state why the score could not be timely posted and indicate when the applicant will take the MPRE. A petition to post the score prior to the bar examination may be addressed by the board, but a petition to post a score after the bar examination must be addressed by the supreme court.

[Court Order July 2, 1975; September 17, 1984; October 23, 1985, effective November 1, 1985; January 3, 1996; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 101); July 26, 1996; September 12, 1996; October 3, 1997; July 11, 2000; November 9, 2001, effective February 15, 2002; August 28, 2006; June 5, 2008, effective July 1, 2008; September 17, 2008; December 10, 2012; December 16, 2014; October 15, 2015; December 13, 2017, effective January 1, 2018; September 19, 2022, effective October 1, 2022]

**Rule 31.4 Admission by transferred UBE score.**

**31.4(1)** *UBE score transferability.* An applicant who has earned a UBE score in another jurisdiction may transfer the UBE score and file an application for admission by transferred UBE score at any time on or after December 1, 2015, provided:

*a.* The transferred UBE score is NCBE-certified and is a combined, scaled score of 266 or above.

*b.* The application includes a nonrefundable administrative fee of $900. The applicant must pay the applicable fee charged by any electronic application vendor.

*c.* The applicant causes the NCBE to transfer the UBE score no later than three months after the application is filed.

*d.* The applicant has received an LL.B. or a J.D. degree from a reputable law school fully or provisionally approved by the American Bar Association at the time the applicant graduated. Proof of this requirement will be by affidavit of the law school's dean on the board's dean's affidavit form. The affidavit must be made before an officer authorized to administer oaths and having a seal.

*e.* The applicant has earned a scaled score of at least 80 on the MPRE administered by the NCBE.

*f.* The applicant has not been denied admission or permission to sit for a bar examination by any jurisdiction on character and fitness grounds.

**31.4(2)** *Time limits for transferring a UBE score.* A UBE score can be transferred to Iowa subject to the following time limits:

*a.* Any applicant may transfer a qualifying UBE score without a showing of prior legal practice if the score was from a UBE administered within two years immediately preceding the transfer application filing date.

*b.* An attorney applicant may transfer a qualifying UBE score up to five years after the examination was taken upon proof that the applicant regularly engaged in the practice of law for at least two years of the last three years immediately preceding the transfer application filing date. For the purposes of this rule, "regularly engaged in the practice of law" means the applicant has practiced law for at least 1000 hours per year. The board may require the applicant to provide a certificate of regular practice required for motion applicants under Iowa Court Rule 31.13(1)(*b*) that addresses the period of practice this rule requires.

**31.4(3)** *Character and fitness investigation.*

*a.* The board will investigate the moral character and fitness of any applicant for admission by transferred UBE score and may procure the services of any bar association, agency, organization, or individual qualified to make a moral character or fitness report on the applicant. The board may

require that an applicant obtain, at applicant's expense, an investigative report from the NCBE if, in the board's judgment, the application reveals substantial questions regarding the applicant's character or fitness to practice law. Any applicant obtaining an NCBE investigative report must pay the NCBE required fee in addition to the administrative fee. The board's decision to require an NCBE report is not subject to review.

*b.* The board may impose specific character and fitness or other conditions for admission on the applicant and will withhold recommendation of admission until those conditions are satisfied.

**31.4(4)** *Time for satisfying admission requirements.* Applicants for admission by transferred UBE score must satisfy all requirements for admission to the bar of this state within one year after the date of written notification to the applicant that the transfer application has been granted or of the conditions the board has imposed. The one-year period may be extended by the board upon the applicant's showing of good cause. The supreme court will make the final determination as to those persons who will be admitted to the practice in this state.

**31.4(5)** *Only certified UBE scores will be accepted.* The board will not accept transferred scores unless they are certified as UBE scores by the NCBE and will not address petitions to treat a noncertified score as a UBE score.

**31.4(6)** *Oath or affirmation before Iowa Supreme Court; exceptions.*

*a.* An applicant who is granted admission by transferred UBE score must appear for admission by oath or affirmation before an Iowa Supreme Court justice, unless the supreme court orders otherwise based upon the applicant's satisfactory showing of exceptional circumstances.

*b.* An applicant may file a petition seeking permission to file a written lawyer's oath or affirmation. The petition must set forth in detail the exceptional circumstances that render the applicant unable to appear for admission before an Iowa Supreme Court justice.

*c.* If the supreme court grants the petition, the office of professional regulation will forward all documents required for executing the oath or affirmation to the applicant. The supreme court will deem the applicant to be admitted to the Iowa bar on the date the completed documents are filed with the office of professional regulation.

*d.* Within one year after the supreme court grants the petition, the applicant must take the lawyer's oath or affirmation from an Iowa Supreme Court justice or file the written oath or affirmation. If the applicant's oath or affirmation is not completed within one year, the supreme court will deem the application to be denied.

**31.4(7)** *Stale applications.* An application for admission by transferred UBE score that the board has not granted will be deemed administratively withdrawn one year from the date the application was filed with the office of professional regulation, except when the board has imposed specific character and fitness or other conditions for admission on the applicant under rule 31.4(3).

*a.* Before the one-year withdrawal date, an applicant may request an extension. If the board finds that administrative withdrawal of the application would work a hardship on the applicant and that sufficient cause exists, the board may extend the application beyond the one-year withdrawal date for a period of time not exceeding an additional six months.

*b.* The board's denial of an application to extend the withdrawal date is subject to supreme court review upon the applicant's request.

[Court Order June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 102); November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008; September 17, 2008; October 15, 2015; September 14, 2017, effective November 2, 2017; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; October 24, 2019, effective January 1, 2020; December 18, 2020, effective January 1, 2021; March 11, 2022, effective April 1, 2022]

**Rule 31.5 Bar examination application; contents and deadlines.**

**31.5(1)** The board of law examiners and the director will designate such forms as may be necessary for application for examination. The application must require the applicant to demonstrate the applicant is a person of honesty, integrity, and trustworthiness, and one who appreciates and will adhere to the Iowa Rules of Professional Conduct as adopted by the supreme court, together with such other information as the board and the director determine to be necessary and proper.

**31.5(2)** Every applicant for admission to the bar must make application, under oath, and upon a form designated by the director. The applicant must file the application with the director no later than April 1 preceding the July examination or November 1 preceding the February examination. An applicant who fails the Iowa bar examination and wants to take the next examination must file a new application within the above deadlines or within 30 days of the date the applicant's score is posted in

the office of professional regulation, whichever is later. There will be no waiver of these deadlines. If any changes occur after the application is filed that affect the applicant's answers, the applicant must amend the application. A new and complete application must be filed for each examination for admission.

**31.5(3)** The board may designate portions of the data submitted for this purpose by the applicant or third parties as a confidential record. The board and the director must segregate that portion of the application data deemed confidential from the portion that is filed as a public record. In the event of a request for a hearing on character or fitness under rule 31.9(2) following an initial determination by the board, it may designate any additional information received at the hearing and all proceedings before the board as a confidential record.

[Court Order October 14, 1968; July 2, 1975; November 21, 1977; March 20, 1987, effective June 1, 1987; February 16, 1990, effective March 15, 1990; March 26, 1993, effective July 1, 1993; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 103); November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; June 20, 2007, effective July 1, 2007; June 5, 2008, effective July 1, 2008; September 17, 2008; December 10, 2012; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; December 18, 2020, effective January 1, 2021; September 14, 2021, effective October 1, 2021]

**Rule 31.6 Fee.**

**31.6(1)** *Payment of application fee.* Every applicant for admission to the bar upon examination must, as a part of the application, pay to the Iowa board of law examiners an application fee. This fee is not refundable. The full fee must be paid within the deadline for filing the bar application under rule 31.5(2). The applicant must pay the applicable fee charged by any electronic application vendor.

**31.6(2)** *First Iowa bar exam application.* The fee is $800 for every applicant's first application to take the Iowa bar examination.

**31.6(3)** *Subsequent Iowa bar exam applications.* The following fees are applicable for those submitting a second or subsequent application to take the Iowa bar examination. For applicants not previously admitted to practice law in any other state, the District of Columbia, or a territory of the United States, the fee is $550. For applicants previously admitted to practice law in another state, the District of Columbia, or a territory of the United States, the fee is $800.

**31.6(4)** An applicant who is unable to take the bar examination after filing an application and fee may submit a written request to the director to defer the fee to the next scheduled bar examination date, provided:

*a.* The deferral request must be received by the director before the start of the first day of the currently scheduled bar examination. No deferral is permitted after the bar examination begins.

*b.* An applicant who has been denied permission to take the Iowa bar examination or who has been denied recommendation for admission to practice law in Iowa under rule 31.9(2) is not eligible to defer the examination fee.

*c.* The applicant must submit a new, complete bar application as prescribed by rule 31.5(2) on or before the deadline for the next scheduled bar examination. The new application must be accompanied by a $100 deferred application filing fee. There will be no waiver of the deadlines.

*d.* The fee deferral under this rule is only valid for the next scheduled bar examination. An applicant who elects to defer the application fee under this rule but who fails to take the next scheduled Iowa bar examination for any reason is not eligible to defer the application fee to any subsequent exam.

*e.* Deferral applicants are subject to the good moral character and fitness provisions contained in rule 31.9.

[Court Order July 2, 1975; December 16, 1983—received for publication May 30, 1984; April 16, 1992, effective July 1, 1992; March 26, 1993, effective July 1, 1993; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 113); October 11, 2001; November 9, 2001, effective February 15, 2002; August 21, 2013; October 15, 2015; September 14, 2017, effective November 2, 2017; October 24, 2019, effective January 1, 2020; December 18, 2020, effective January 1, 2021; July 7, 2023]

**Rule 31.7 Affidavit of intent to practice.**

**31.7(1)** All applicants for the Iowa bar examination must demonstrate a bona fide intention to practice law in Iowa or another UBE jurisdiction. This showing must be by affidavit made before an officer authorized to administer oaths and having a seal.

**31.7(2)** The affidavit must include the applicant's designation of the clerk of the supreme court as the applicant's agent for service of process in Iowa for all purposes.

[Court Order July 2, 1975; November 21, 1977; October 28, 1982; December 30, 1983; April 25, 1985; March 23, 1994, effective July 1, 1994; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 105); November 9, 2001, effective February 15, 2002; October 15, 2015]

**Rule 31.8 Degree requirement.**

**31.8(1)** No person will be permitted to take the examination for admission without proof that the person has received the degree of LL.B. or J.D. from a reputable law school fully or provisionally approved by the American Bar Association at the time the applicant graduated from the school. Proof of this requirement must be by affidavit of the dean of such law school, and must show that the applicant has actually and in good faith pursued the study of law resulting in the degree required by this rule. The affidavit must be made before an officer authorized to administer oaths and having a seal.

**31.8(2)** If an applicant is a student in such a law school and expects to receive the degree of LL.B. or J.D. within 45 days from the first day of the July or February examination, the applicant may be permitted to take the examination upon the filing of an affidavit by the dean of said school stating that the dean expects the applicant to receive such a degree within this time. No certificate of admission or license to practice law can be issued until the applicant has received the required degree. If the applicant fails to obtain the degree within the 45-day period, the results of the applicant's examination will be null and void.

[Court Order July 15, 1963; February 9, 1967; December 30, 1971; February 15, 1973; July 2, 1975; November 21, 1977; June 13, 1983; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 106); May 2, 1997; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020]

**Rule 31.9 Moral character and fitness.**

**31.9(1)** The Iowa board of law examiners may make an investigation of the moral character and fitness of any applicant and may procure the services of any bar association, agency, organization, or individual qualified to make a moral character or fitness report. The Iowa board of law examiners will, subject to supreme court review, determine whether or not the applicant is of good moral character and fitness. In making its determination, the board may consider the applicant's candor in the application process and in any interactions with the board or its staff.

**31.9(2)** *Denial of permission to take bar examination; denial of recommendation for admission.* When the board of law examiners determines that any person who registers or makes application should not be permitted to take a bar examination, or that an applicant who has passed a bar examination should not be recommended for admission to practice law in Iowa, the board must notify the applicant in writing of its determination.

*a.* The notice must provide that the applicant is entitled to a hearing to challenge the determination upon filing a written request for hearing with the director within 10 days after service of the notice.

*b.* The director must serve the notice on the applicant by mail to the address shown on the applicant's application.

*c.* If no request for hearing is filed, the board's determination will be final and not subject to review.

*d.* If a request for hearing is filed, the chair of the board must appoint an attorney member of the board to act as a hearing officer. The hearing officer must promptly set a hearing, and the director must notify the applicant by mail at least 10 days before the hearing date of the time and place of hearing.

*e.* Not less than 10 days before the hearing date, the board must furnish the applicant with copies of all documents and summaries of all other information the board relied on in making its determination.

*f.* The clerk of court in the county where the hearing is held has authority to issue any necessary subpoenas for the hearing.

*g.* At the hearing, the applicant has the right to appear in person and by counsel. The board may be represented by the attorney general of the State of Iowa or a duly appointed assistant attorney general. The hearing must be reported. The hearing officer may take judicial notice of the information the board considered in the case and may consider such additional evidence and arguments as may be presented at the hearing. At the hearing, the board may first present any additional evidence or information that it deems necessary to the proceeding. Thereafter the applicant may present evidence. The attorney for the board may offer rebuttal evidence at the discretion of the hearing officer. In

presiding at the hearing, the hearing officer will have the power and authority administrative hearing officers possess generally.

*h.* Within 30 days after completion of the hearing, the hearing officer must provide the board with a hearing transcript, exhibits, and findings of fact and conclusions of law. Based on this information, the board will prepare and file its final determination with the director. The director must, by mail, promptly notify the applicant of the board's final determination.

**31.9(3)** *Supreme court review.* Any applicant aggrieved by a final determination of the board made pursuant to rule 31.9(2) may file a petition requesting review of the determination in the supreme court within 20 days of the mailing of notice of final determination. The petition must be accompanied by a $150 fee. If no such petition is filed within the 20-day period, the board's determination is not subject to review. A petition for review must state all claims of error and reasons for challenging the board's determination. The board must transmit to the supreme court its files and the complete record in the case. Unless the court orders otherwise, the petition is deemed submitted for the court's review on the record previously made. After consideration of the record, the court may enter its order sustaining or denying the petition. The order of the court will be conclusive. No subsequent application for admission by a person denied under rule 31.9(2) will be considered by the board unless authorized by the court upon the applicant's motion accompanied by a prima facie showing of a substantial change of circumstances.

**31.9(4)** *Costs of review.* In the event an applicant or person who is registered petitions for review under rule 31.9(3) and is unsuccessful, the costs of the review will be taxed against the unsuccessful applicant and judgment therefor may be entered in the district court of that person's county of residence, if an Iowa resident, or in the district court for Polk County if a nonresident.

**31.9(5)** *Failure to comply with support order.* The supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who fails to comply with a support order.

*a. Procedure.* Child Support Services (CSS) may file any certificate of noncompliance that involves an applicant with the office of professional regulation. The procedure, including notice to the applicant, will be governed by Iowa Court Rule 34.20(1), except that the notice must refer to a refusal to issue a license to practice law to the applicant instead of a suspension of the attorney's license.

*b. District court hearing.* Upon receipt of an application for hearing from the applicant, the clerk of district court must schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing will be governed by Iowa Court Rule 34.20(2).

*c. Noncompliance certificate withdrawn.* If a withdrawal of a certificate of noncompliance is filed, the supreme court will curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, may immediately take such steps as are necessary to issue a license to the applicant if the applicant is otherwise eligible under rules of the supreme court.

*d. Sharing information.* Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the office of professional regulation is authorized to share information with CSS for the sole purpose of allowing CSS to identify applicants subject to enforcement under Iowa Code chapter 252J or 598.

**31.9(6)** The supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who defaults on an obligation owed to or collected by the Iowa College Student Aid Commission.

*a. Procedure.* The Iowa College Student Aid Commission may file any certificate of noncompliance that involves an applicant with the office of professional regulation. The procedure, including notice to the applicant, will be governed by Iowa Court Rule 34.21(1), except that the notice must refer to a refusal to issue a license to practice law to the applicant instead of a suspension of the attorney's license.

*b. District court hearing.* Upon receipt of an application for hearing from the applicant, the clerk of district court must schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing will be governed by Iowa Court Rule 34.21(2).

*c. Noncompliance certificate withdrawn.* If a withdrawal of certificate of noncompliance is filed, the supreme court may curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, may immediately take such steps as are necessary to issue a license to the applicant if the applicant is otherwise eligible under rules of the court.

*d. Sharing information.* Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the office of professional regulation is authorized to share information with the aid commission for the sole purpose of allowing the aid commission to identify attorneys subject to enforcement under Iowa Code chapter 261.

**31.9(7)** The supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who defaults on an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue (CCU).

*a. Procedure.* The CCU may file any certificate of noncompliance that involves an applicant with the office of professional regulation. The procedure, including notice to the applicant, will be governed by Iowa Court Rule 34.22(1), except that the notice must refer to a refusal to issue a license to practice law to the applicant instead of a suspension of the attorney's license.

*b. District court hearing.* Upon receipt of an application for hearing from the applicant, the clerk of the district court must schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing will be governed by Iowa Court Rule 34.22(2).

*c. Noncompliance certificate withdrawn.* If a withdrawal of a certificate of noncompliance is filed, the supreme court may curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, may immediately take such steps as are necessary to issue a license to the applicant if the applicant is otherwise eligible under rules of the supreme court.

*d. Sharing information.* Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the office of professional regulation is authorized to share information with the CCU for the sole purpose of allowing the CCU to identify applicants subject to enforcement under Iowa Code chapter 272D.

[Court Order July 2, 1975; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 104); December 20, 1996; November 25, 1998; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; June 5, 2008, effective July 1, 2008; February 20, 2012; December 10, 2012; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021; September 19, 2022, effective October 1, 2022; June 30, 2023, effective July 1, 2023]

**Rule 31.10 Preservation of anonymity.** Each applicant permitted to take the bar examination will be randomly assigned a number prior to the examination, by which number the applicant will be known throughout the examination and grading process.

[Court Order July 2, 1975; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 107); November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020]

**Rule 31.11 Supreme court review.**

**31.11(1)** *Extraordinary circumstances.* An unsuccessful applicant whose combined, scaled score on the bar examination is at least 260, but less than 266, may file a petition in the supreme court requesting review of the board's determination. However, the board's decision regarding an applicant's score is final and will not be reviewed by the court absent extraordinary circumstances. "Extraordinary circumstances" would include issues such as the board's refusal to correct a clear mathematical error, but would not include a claim that the board erred in the grade assigned to a particular answer.

**31.11(2)** *Petition for review.* The petition must be filed with the clerk of the supreme court and served upon the board. The petition must be filed within 20 days of the date the applicant's score is posted in the office of professional regulation and must be accompanied by a $150 fee. The petition must identify in detail the extraordinary circumstances requiring supreme court review of the board's determination. If a petition is not filed within the 20-day period, the board's determination is not subject to review.

**31.11(3)** *Supreme court order.* Upon request of the court, the board will transmit to the supreme court the complete record in the case. All documents submitted for the court's review, other than the applicant's petition, are confidential. Unless the court orders otherwise, the court will review the petition on the record previously made. After consideration of the record, the court will enter its order sustaining or denying the petition. The order of the court is conclusive.

[Court Order July 2, 1975; September 20, 1976; April 25, 1985; March 31, 1986, effective May 1, 1986; April 17, 1990, effective June 1, 1990; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 117.1) July 19, 1999; November 9, 2001, effective February 15, 2002; June 20, 2007, effective July 1,

2007; June 5, 2008, effective July 1, 2008; February 20, 2012; July 13, 2012; October 15, 2015; November 16, 2018, effective December 15, 2018]

**Rule 31.12 Admission of attorneys from other jurisdictions; requirements and fees.**

**31.12(1)** An applicant who meets the requirements of this rule and rule 31.13 may, in the discretion of the court, be admitted to the practice of law in this state without examination.

**31.12(2)** The applicant must file the application with the National Conference of Bar Examiners through its online character and fitness application process. The applicant must pay a nonrefundable administrative fee of $900 to the office of professional regulation at the time of filing the application. The character investigation services of the National Conference of Bar Examiners will be procured in all cases where application for admission on motion is made. The applicant must pay the investigative fee required by the National Conference of Bar Examiners at the time of filing the application.

**31.12(3)** The application and supporting documents must contain specific facts and details as opposed to conclusions and must demonstrate the following:

*a.* The applicant has been admitted to the bar of any other state of the United States, the District of Columbia, or a territory of the United States; has regularly engaged in the practice of law for at least five of the last seven years immediately preceding the date of the application; and still holds a license. For the purposes of this rule, "regularly engaged in the practice of law" means the applicant has practiced law for at least 1000 hours in that year.

*b.* The applicant is a person of honesty, integrity, and trustworthiness, and one who will adhere to the Iowa Rules of Professional Conduct. In evaluating this factor the court may consider any findings filed with the office of professional regulation by the Commission on the Unauthorized Practice of Law pursuant to Iowa Court Rule 37.3.

*c.* The applicant is not currently subject to lawyer discipline in any other jurisdiction.

**31.12(4)** The applicant must provide such information as the court deems necessary and proper in connection with the application. If any changes occur that affect the applicant's answers, the applicant must immediately amend the application.

**31.12(5)** The applicant must designate the supreme court clerk for service of process.

**31.12(6)** For purposes of this rule, the practice of law includes the following activities:

*a.* Representation of one or more clients in the practice of law.

*b.* Service as a lawyer with a local, state, or federal agency.

*c.* The teaching of law as a full-time instructor in a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association in this state or some other state.

*d.* The discharge of actual legal duties as a member of one of the armed services of the United States, if certified as the practice of law by the judge advocate general of such service.

*e.* Service as a judge in a federal, state, or local court of record.

*f.* Service as a judicial law clerk.

*g.* Service as corporate counsel.

*h.* Service as an employee or officer of any business, but only if such service would ordinarily constitute the practice of law and was performed in a jurisdiction in which the applicant has been admitted to practice.

**31.12(7)** For purposes of this rule, the practice of law does not include work that, as undertaken, constituted the unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which the clients receiving the unauthorized services were located.

**31.12(8)** The following applicants are not eligible for admission on motion:

*a.* An applicant who has failed a bar examination administered in this state within five years of the date of filing of the application under this rule.

*b.* An applicant who has failed five or more bar examinations.

*c.* An applicant whose Iowa license is in exempt or inactive status under the provisions of Iowa Court Rule 39.7 or 41.7.

*d.* An applicant who has been disbarred and not reinstated or whose license is currently suspended in any other jurisdiction.

**31.12(9)** An application for admission without examination that has not been granted will be deemed administratively withdrawn one year from the date the application was filed with the office of professional regulation. Before the one-year withdrawal date, an applicant may request an extension. If the court finds that administrative withdrawal of the application would work a hardship on the

applicant and that sufficient cause exists, the court may extend the application beyond the one-year withdrawal date for a period of time not exceeding an additional six months.

[Court Order July 2, 1975; September 20, 1976; February 12, 1981; Note September 30, 1981; Court Order December 17, 1982; December 30, 1983; April 23, 1985; November 8, 1985; March 31, 1986, effective May 1, 1986; November 21, 1991, effective January 2, 1992; November 30, 1994, effective January 3, 1995; January 17, 1995, effective March 1, 1995; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 114); May 2, 1997; October 11, 2001; November 9, 2001, effective February 15, 2002; February 22, 2002; April 20, 2005, effective July 1, 2005; August 6, 2007; February 14, 2008, effective April 1, 2008; October 15, 2008; August 10, 2009; January 19, 2010; July 13, 2012; December 10, 2012; August 21, 2013; September 14, 2017, effective November 2, 2017; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; October 24, 2019, effective January 1, 2020; July 7, 2023]

**Rule 31.13 Proofs of qualifications; oath or affirmation.**

**31.13(1)** *Required certificates.* To qualify for admission under rule 31.12, an applicant must file the following with the office of professional regulation:

*a.* A certificate of admission in the applicant's state of licensure.

*b.* A certificate from one or more of the following individuals establishing that the applicant was regularly engaged in the practice of law in the applicant's state or states of licensure for at least five of the last seven years immediately preceding the date of the application: a clerk or judge of a court of record, a judge advocate general, or an administrative law judge. If, due to the nature of the applicant's practice, the applicant cannot obtain a certificate from a clerk, judge, judge advocate general, or an administrative law judge, the applicant must file a petition seeking leave to file an alternative certificate demonstrating good cause why the certificate cannot be obtained. If the supreme court grants the petition, the applicant must file an affidavit detailing the nature, dates, and locations of the applicant's practice, along with an affidavit of a supervising attorney or another lawyer attesting to the applicant's practice over that period.

**31.13(2)** *Oath or affirmation.*

*a.* An applicant whose application for admission without examination is granted must appear for admission before a supreme court justice, unless the supreme court orders otherwise based upon a satisfactory showing of exceptional circumstances.

*b.* An applicant may file a petition seeking permission to file a written lawyer's oath or affirmation. The petition must set forth in detail the exceptional circumstances that render the applicant unable to appear for admission before an Iowa Supreme Court justice.

*c.* If the supreme court grants the petition, the office of professional regulation will forward all required documents to the applicant. The supreme court will deem the applicant to be admitted to the Iowa bar on the date the completed documents are filed with the office of professional regulation.

*d.* Within six months after the date the application for admission on motion is granted, the applicant must take the lawyer's oath or affirmation from an Iowa Supreme Court justice or file the written oath or affirmation. If the applicant's oath or affirmation is not completed within six months, the supreme court will deem the application to be denied.

[Court Order July 2, 1975; December 30, 1982; December 30, 1983; April 23, 1985; November 8, 1985; January 17, 1995, effective March 1, 1995; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 115); November 9, 2001, effective February 15, 2002; May 31, 2006; October 31, 2006; February 14, 2008, effective April 1, 2008; October 15, 2008; January 19, 2010; December 10, 2012; October 15, 2015; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; October 24, 2019, effective January 1, 2020; September 14, 2021, effective October 1, 2021; March 11, 2022, effective April 1, 2022]

**Rule 31.14 Admission pro hac vice before Iowa courts and administrative agencies.**

**31.14(1)** *Definitions.*

*a.* An "out-of-state" lawyer is a person who:

(1) Is not admitted to practice law in this state but who is admitted in another state or territory of the United States or of the District of Columbia, or is licensed to practice as a foreign legal consultant in any state or territory of the United States or of the District of Columbia.

(2) Is not disbarred or suspended from practice in any jurisdiction.

*b.* An out-of-state lawyer is "eligible" for admission pro hac vice if any of the following conditions are satisfied:

(1) The lawyer lawfully practices solely on behalf of the lawyer's employer and its commonly owned organizational affiliates, regardless of where such lawyer may reside or work.

(2) The lawyer neither resides nor is regularly employed at an office in this state.

(3) The lawyer resides in this state but (i) lawfully practices from offices in one or more other states and (ii) practices no more than temporarily in this state, whether pursuant to admission pro hac vice or in other lawful ways.

*c.* An "in-state" lawyer is a person admitted to practice law in this state and is not disbarred or suspended from practice in this state.

*d.* A "client" is a person or entity for whom the out-of-state lawyer has rendered services or by whom the lawyer has been retained prior to the lawyer's performance of services in this state.

*e.* "This state" refers to Iowa. This rule does not govern proceedings before a federal court or federal agency located in this state unless that body adopts or incorporates this rule.

**31.14(2)** *Authority of court or agency to permit appearance by out-of-state lawyer.*

*a. Court proceeding.* A court of this state may, in its discretion, admit an eligible out-of-state lawyer, who is retained to appear as attorney of record in a particular proceeding, only if the out-of-state lawyer appears with an in-state lawyer in that proceeding.

*b. Administrative agency proceeding.* Regardless of whether practice before an agency is limited to lawyers, an out-of-state lawyer must apply for admission pro hac vice to appear as attorney of record in an agency proceeding. The agency may, using the same standards and procedures as a court, admit an eligible out-of-state lawyer who has been retained to appear in a particular agency proceeding as counsel in that proceeding pro hac vice, only if the out-of-state lawyer appears with an in-state lawyer in that proceeding.

*c. Subsequent proceedings.* Admission pro hac vice is limited to the particular court or agency proceeding for which admission was granted. An out-of-state lawyer must separately seek admission pro hac vice in any subsequent district or appellate court proceeding.

**31.14(3)** *In-state lawyer's duties.* When an out-of-state lawyer appears for a client in a proceeding pending in this state, either in the role of co-counsel of record with the in-state lawyer, or in an advisory or consultative role, the in-state lawyer who is co-counsel or counsel of record for that client in the proceeding remains responsible to the client and responsible for the conduct of the proceeding before the court or agency. It is the duty of the in-state lawyer to do all of the following:

*a.* Appear of record together with the out-of-state lawyer in the proceeding.

*b.* Actively participate in the proceeding. *See* Iowa R. of Prof'l Conduct 32:5.5(c)(1).

*c.* Accept service on behalf of the out-of-state lawyer as required by Iowa Code section 602.10111.

*d.* Advise the client of the in-state lawyer's independent judgment on contemplated actions in the proceeding if that judgment differs from that of the out-of-state lawyer.

**31.14(4)** *Application procedure.* An eligible out-of-state lawyer seeking to appear in a proceeding pending in this state as counsel pro hac vice must file a verified application with the court or agency where the litigation is filed. The out-of-state lawyer must serve the application on all parties who have appeared in the proceeding, and must include proof of service. Application forms for admission pro hac vice can be found in rule 31.25.

**31.14(5)** *Required information for application.* An application filed by the out-of-state lawyer must contain all of the following information:

*a.* The out-of-state lawyer's residence and business addresses.

*b.* The name, address, and phone number of each client sought to be represented.

*c.* The courts before which the out-of-state lawyer has been admitted to practice and the respective period of admission and any jurisdiction in which the out-of-state lawyer has been licensed to practice as a foreign legal consultant and the respective period of licensure.

*d.* Whether the out-of-state lawyer has been denied admission pro hac vice in this state. If so, specify the caption of the proceedings, the date of the denial, and what findings were made.

*e.* Whether the out-of-state lawyer has had admission pro hac vice revoked in this state. If so, specify the caption of the proceedings, the date of the revocation, and what findings were made.

*f.* Whether the out-of-state lawyer has been denied admission in any jurisdiction for reasons other than failure of a bar examination. If so, specify the jurisdiction, caption of the proceedings, the date of the denial, and what findings were made.

*g.* Whether the out-of-state lawyer has been formally disciplined or sanctioned by any court in this state. If so, specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings.

*h.* Whether the out-of-state lawyer has been the subject of any injunction, cease-and-desist letter, or other action arising from a finding that the out-of-state lawyer engaged in the unauthorized practice of law in this state or elsewhere. If so, specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings.

*i.* Whether any formal, written disciplinary proceeding has been brought against the out-of-state lawyer by a disciplinary authority or unauthorized practice of law commission in any other jurisdiction within the last five years, and as to each such proceeding: the nature of the allegations, the name of the person or authority bringing such proceedings, the date the proceedings were initiated and finally concluded, the style of the proceedings, and the findings made and actions taken in connection with those proceedings.

*j.* Whether the out-of-state lawyer has been placed on probation by a disciplinary authority in any other jurisdiction. If so, specify the jurisdiction, caption of the proceedings, the terms of the probation, and what findings were made.

*k.* Whether the out-of-state lawyer has been held formally in contempt or otherwise sanctioned by any court in a written order in the last five years for disobedience to its rules or orders, and, if so: the nature of the allegations, the name of the court before which such proceedings were conducted, the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings. A copy of the written order or transcript of the oral rulings must be attached to the application.

*l.* The name and address of each court or agency and a full identification of each proceeding in which the out-of-state lawyer has filed an application to appear pro hac vice in this state within the preceding two years, the date of each application, and the outcome of the application.

*m.* An averment as to the out-of-state lawyer's familiarity with the rules of professional conduct, the disciplinary procedures of this state, the standards for professional conduct, the applicable local rules, and the procedures of the court or agency before which the out-of-state lawyer seeks to practice.

*n.* The name, address, telephone number, and personal identification number of an in-state lawyer in good standing of the bar of this state who will sponsor the out-of-state lawyer's pro hac vice request.

*o.* An acknowledgement that service upon the in-state lawyer in all matters connected with the proceedings has the same effect as if personally made upon the out-of-state lawyer.

*p.* If the out-of-state lawyer has appeared pro hac vice in this state in five proceedings within the preceding two years, the application must contain a statement showing good cause why the out-of-state attorney should be admitted in the present proceeding.

*q.* Any other information the out-of-state lawyer deems necessary to support the application for admission pro hac vice.

*r.* A statement that the out-of-state lawyer has registered with the office of professional regulation and paid the fee as required by rule 31.14(11).

**31.14(6)** *Objection to application.* A party to the proceeding may file an objection to the application or seek the court's or agency's imposition of conditions to its being granted. The objecting party must file with its objection a verified affidavit containing or describing information establishing a factual basis for the objection. The objecting party may seek denial of the application or modification of it. If the application has already been granted, the objecting party may move that the pro hac vice admission be revoked.

**31.14(7)** *Standard for admission.* The courts and agencies of this state have discretion as to whether to grant applications for admission pro hac vice. If there is no opposition, the court or agency has the discretion to grant or deny the application summarily. An application ordinarily should be granted unless the court or agency finds one of the following:

*a.* The admission of the out-of-state attorney pro hac vice may be detrimental to the prompt, fair, and efficient administration of justice.

*b.* The admission of the out-of-state attorney pro hac vice may be detrimental to legitimate interests of parties to the proceedings other than a client the out-of-state lawyer proposes to represent.

*c.* One or more of the clients the out-of-state lawyer proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk.

*d.* The out-of-state lawyer has appeared pro hac vice in this state in five proceedings within the preceding two years, unless the out-of-state lawyer can show good cause exists for admission.

**31.14(8)** *Revocation of admission.* Admission to appear as counsel pro hac vice in a proceeding may be revoked for any of the reasons listed in rule 31.14(7).

**31.14(9)** *Discipline, contempt, and sanction authority over the out-of-state lawyer.*

*a.* During the pendency of an application for admission pro hac vice and upon the granting of such application, an out-of-state lawyer submits to the authority of the courts of this state, the agencies of this state, and the Iowa Supreme Court Attorney Disciplinary Board for all conduct relating in any way to the proceeding in which the out-of-state lawyer seeks to appear. The out-of-state lawyer submits to these authorities for all of the lawyer's conduct (i) within the state while the proceeding is pending or (ii) arising out of or relating to the application or the proceeding. An out-of-state lawyer who has pro hac vice authority for a proceeding may be disciplined in the same manner as an in-state lawyer. *See* Iowa R. Prof'l Conduct 32:8.5.

*b.* The authority to which an out-of-state lawyer submits includes, but is not limited to, the enforcement of the rules of professional conduct, the rules of procedure of the Iowa Supreme Court Attorney Disciplinary Board, contempt and sanction procedures, applicable local rules, and court, agency, and board policies and procedures.

*c.* An out-of-state lawyer who appears before a court of this state or before an agency of this state when practice is limited to lawyers and who does not obtain admission pro hac vice is engaged in the unauthorized practice of law. *See* Iowa R. Prof'l Conduct 32:5.5 cmt. 9. If an out-of-state lawyer reasonably expects to be admitted pro hac vice, the lawyer may provide legal services that are in or reasonably related to a pending or potential proceeding before a court or agency in this state. *See* Iowa R. Prof'l Conduct 32:5.5(c)(2).

**31.14(10)** *Familiarity with rules.* An out-of-state lawyer must become familiar with the rules of professional conduct, the rules of procedure of the Iowa Supreme Court Attorney Disciplinary Board, the standards for professional conduct, local court or agency rules, and the policies and procedures of the court or agency before which the out-of-state lawyer seeks to practice.

**31.14(11)** *Periodic fee.* An applicant for admission to appear pro hac vice in any Iowa Court or before any Iowa agency must first register with the office of professional regulation and pay a fee of $250 to the client security trust fund. The office of professional regulation may prescribe an electronic format for the registration and require submission of the registration and payment in that form.

*a.* Registration and payment of the fee required by this rule qualify the out-of-state lawyer to file applications for admission pro hac vice in any Iowa court or before any Iowa agency for a period of five years commencing with the date of registration. Upon expiration of the five-year period, the out-of-state lawyer becomes ineligible to file an application for admission pro hac vice in any Iowa court or before any Iowa agency without first registering and paying another fee as required by this rule.

*b.* An out-of-state lawyer admitted pro hac vice after registration and payment of the fee as required by this rule who later is fully admitted to the bar of Iowa must pay initial, special, and regular assessments to the client security trust fund as required by Iowa Court Rule 39.6.

[Court Order July 2, 1975; June 22, 1976; December 2, 1993; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 116); April 1, 1999; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; September 27, 2006; March 15, 2007; June 3, 2009; February 19, 2016, effective January 1, 2017; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018]

**Rule 31.15 Permitted practice by law students and recent graduates.**

**31.15(1)** Law students enrolled in a reputable law school as defined by rule 31.8 and Iowa Code section 602.10102 and certified to the office of professional regulation by the dean of the school to have completed satisfactorily not less than the equivalent of three semesters of the work required by the school to qualify for the J.D. or LL.B. degree, may, under the following conditions, engage in the practice of law or appear as counsel in the trial or appellate courts of this state:

*a.* Appearance by students as defense counsel in a criminal matter in any trial court must be confined to misdemeanors, and the student must be under the direct supervision of licensed Iowa counsel who must be personally present.

*b.* Appearance by students in matters before the Iowa Supreme Court or the Iowa Court of Appeals must be under the direct supervision of licensed Iowa counsel who must be personally present. A student presenting an oral argument before the supreme court or the court of appeals must file with the clerk of the supreme court an appearance with proof of compliance with rule 31.15(1). The appearance must be filed no less than seven days prior to the argument and must be served upon all counsel of record and parties not represented by counsel.

*c.* Appearance or assistance by students in other matters must be under the general supervision of licensed Iowa counsel, but such counsel need not be personally present in court unless required by order of the court.

**31.15(2)** Students who the dean of a reputable law school certifies have completed not less than the equivalent of two semesters of work required to qualify for the J.D. or LL.B. degree may appear in a representative capacity in a contested case proceeding before an administrative agency.

*a.* Appearance by students who have completed only two semesters of work must be under the direct supervision of licensed Iowa counsel who must be personally present.

*b.* Students who have completed at least three semesters may appear in a representative capacity in a contested case proceeding before an administrative agency under the general supervision of licensed Iowa counsel, but such counsel need not be personally present unless required by order of the tribunal.

**31.15(3)** Except as allowed by rule 31.15(4), students may not engage in the practice of law or appear as counsel in any court of this state or before an administrative agency unless such practice or appearance is part of an educational program approved by the faculty of the students' law school and not disapproved by the Iowa Supreme Court, and such program is supervised by at least one member of the law school's faculty. Students may continue to practice before courts or administrative agencies of this state after completion of an educational program so long as the placement is substantially the same as it was during the educational program, approved by the law school, and performed with the supervision required under rules 31.15(1) and 31.15(2).

**31.15(4)** Law students may assist licensed Iowa counsel to the same extent as a non-attorney without being part of an educational program or being certified to the office of professional regulation, but the students must be under the general supervision of licensed Iowa counsel who need not be personally present. Law students may not appear in representative capacities in contested case proceedings before administrative agencies without complying with rules 31.15(2) and 31.15(3), or before trial or appellate courts without complying with rule 31.15(1).

**31.15(5)** Law students must not receive compensation other than general compensation from an employer-attorney or from a law-school-administered fund.

**31.15(6)** Graduates of reputable law schools who have applied to take the Iowa bar examination are authorized to perform all activities described in this rule on behalf of the public defender's office, the attorney general's office, county attorney offices, or approved legal aid organizations under the following conditions:

*a.* Supervision of graduates must be the same as supervision of law students under rules 31.15(1) and 31.15(2), but graduates do not need to meet the requirements of rule 31.15(3).

*b.* Graduates may perform under this rule beginning with the receipt of a law school dean's certification of graduation and terminating either upon the withdrawal or denial of their application to take the Iowa bar examination, their failure of the next administration of the Iowa bar examination, or upon the date of the admissions ceremony for those who pass that examination.

*c.* Graduates may practice up to 25 hours per week from receipt of a J.D. or LL.B. degree until the administration of the next Iowa bar examination.

*d.* Graduates are not limited in hours of practice under this rule from administration of the bar examination until the date the bar examination results are posted for those who fail or the date of the admissions ceremony for those who pass.

*e.* Graduates who have failed any state bar examination in the past are not eligible to practice under this provision.

*f.* The supervising organizations listed in rule 31.15(6) must file a certificate with the office of professional regulation listing the starting dates for all graduates practicing under rule 31.15(6) and must file a second certificate indicating when the practice under this rule has terminated.

**31.15(7)** For purposes of this rule, an "approved legal aid organization" includes a program sponsored by a bar association, law school, or a not-for-profit legal aid organization, approved by the Iowa Supreme Court, whose primary purpose is to provide legal representation to low-income persons in Iowa.

*a.* A legal aid organization seeking approval from the court for the purposes of this rule must file a petition with the office of professional regulation certifying that it is a not-for-profit organization and reciting with specificity the following:

(1) The structure of the organization and whether it accepts funds from its clients.

(2) The major sources of funds the organization uses.

(3) The criteria used to determine potential clients' eligibility for legal services the organization performs.

(4) The types of legal and nonlegal services the organization performs.

(5) The names of all members of the Iowa bar who are employed by the organization or who regularly perform legal work for the organization.

(6) The existence and extent of malpractice insurance that will cover the law student or graduate.

*b.* An organization designated as an approved legal aid organization under the provisions of rule 31.19(2)(*c*) is an approved legal aid organization for purposes of this rule.

**31.15(8)** A law student or law graduate practicing under this rule must be identified by the title "Law Student" or "Law Graduate" in any filing made in the courts of this state.

[Court Order April 4, 1967; May 15, 1972; January 14, 1974; April 8, 1975 [withdrawn]; April 9, 1975; April 8, 1980; April 28, 1987; June 5, 1996, effective July 1, 1996 (Prior to July 1, 1996, Court Rule 120); January 9, 1998, effective February 2, 1998; November 9, 2001, effective February 15, 2002; June 4, 2008, effective July 1, 2008; March 21, 2014; November 20, 2015, effective January 1, 2016; November 18, 2016, effective March 1, 2017; December 13, 2017, effective January 1, 2018]

**Rule 31.16 Registration of house counsel.**

**31.16(1)** *Who must register.* A lawyer who is not admitted to practice law in Iowa, but who is admitted to practice law in another United States jurisdiction or is a foreign lawyer, and who has a continuous presence in this jurisdiction and is employed as a lawyer by an organization as permitted pursuant to rule 32:5.5(d)(1) of the Iowa Rules of Professional Conduct, the business of which is lawful and consists of activities other than the practice of law or the provision of legal services, must register as house counsel within 90 days of the commencement of employment as a lawyer or, if currently so employed, then within 90 days of the effective date of this rule. For purposes of rule 31.16:

*a.* "United States jurisdiction" includes the District of Columbia and any state, territory, or commonwealth of the United States.

*b.* A "domestic lawyer" is a lawyer admitted to practice law in the District of Columbia or in any state, territory, or commonwealth of the United States.

*c.* A "foreign jurisdiction" is any jurisdiction that is not a United States jurisdiction.

*d.* A "foreign lawyer" is a member in good standing of a recognized legal profession in a foreign jurisdiction, the members of which are admitted to practice as lawyers or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority.

**31.16(2)** *Procedure for registering.* The lawyer must submit to the office of professional regulation the following:

*a.* If a domestic lawyer, a completed application in the form the office of professional regulation prescribes.

*b.* If a foreign lawyer, a foreign-licensed attorney application with the National Conference of Bar Examiners through its online character and fitness application process. The applicant must pay the investigative fee that the National Conference of Bar Examiners requires at the time of filing the application.

*c.* A nonrefundable application fee in the amount of $800 payable to the Iowa board of law examiners.

*d.* Documents proving admission to practice law, current active status, and current good standing in all jurisdictions, United States and foreign, in which the lawyer is admitted to practice law.

*e.* A certificate from the disciplinary authority of each jurisdiction of admission, United States and foreign, stating that the lawyer has not been suspended, disbarred, or disciplined and that no charges of professional misconduct are pending; or a certificate that identifies any suspensions, disbarments, or other disciplinary sanctions that have been imposed upon the lawyer, and any pending charges, complaints, or grievances.

*f.* If the jurisdiction is foreign and the documents are not in English, the lawyer must submit an English translation and satisfactory proof of the accuracy of the translation.

*g.* An affidavit from an officer, director, or general counsel of the employing entity attesting as follows:

(1) The entity will be employing the lawyer.

(2) To the best of its knowledge the lawyer has been lawfully admitted to practice and is a lawyer in good standing in another United States or foreign jurisdiction.

(3) To the best of its knowledge the lawyer has not been disbarred or suspended from practice in any jurisdiction, United States or foreign, and has never been convicted of a felony.

(4) While serving as counsel, the lawyer will perform legal services solely for the corporation, association, or other business, educational, or governmental entity, including its subsidiaries and affiliates.

(5) While serving as counsel, the lawyer will not provide personal legal services to the entity's officers or employees, except regarding matters directly related to their work for the entity and only to the extent consistent with rule 32:1.7 of the Iowa Rules of Professional Conduct. Foreign lawyers may not provide any legal services to the entity's officers or employees.

(6) The corporation, association, or other business, educational, or governmental entity is not engaged in the practice of law or provision of legal services.

(7) The entity will promptly notify the Client Security Commission of the termination of the lawyer's employment.

*h.* An affidavit from the lawyer attesting as follows:

(1) The name of the entity that will be employing the lawyer.

(2) The lawyer has been lawfully admitted to practice and is a lawyer in good standing in another United States or foreign jurisdiction.

(3) The lawyer has not been disbarred or suspended from practice in any jurisdiction, United States or foreign, and has never been convicted of a felony.

(4) While serving as counsel, the lawyer will perform legal services solely for the corporation, association, or other business, educational, or governmental entity, including its subsidiaries and affiliates.

(5) While serving as counsel, the lawyer will not provide personal legal services to the entity's officers or employees, except regarding matters directly related to the lawyer's work for the entity and to the extent consistent with rule 32:1.7 of the Iowa Rules of Professional Conduct. Foreign lawyers may not provide any legal services to the entity's officers or employees.

(6) The corporation, association, or other business, educational, or governmental entity is not engaged in the practice of law or provision of legal services.

(7) The lawyer will promptly notify the Client Security Commission of the termination of the lawyer's employment.

*i.* Any other document the supreme court requires to be submitted.

**31.16(3)** *Scope of authority of registered lawyer.*

*a.* A lawyer registered under this rule has the rights and privileges otherwise applicable to members of the bar of this state with the following restrictions:

(1) The registered lawyer is authorized to provide legal services to the entity client or its organizational affiliates, including entities that control, are controlled by, or are under common control with the employer, and, except for foreign lawyers, to employees, officers, and directors of such entities, but only on matters directly related to their work for the entity and only to the extent consistent with rule 32:1.7 of the Iowa Rules of Professional Conduct.

(2) The registered lawyer may not:

1. Except as otherwise permitted by the rules of this state, appear before a court or any other tribunal as defined in rule 32:1.0(m) of the Iowa Rules of Professional Conduct. Registration under this rule does not authorize a lawyer to provide services to the employing entity for which pro hac vice admission is required. A lawyer registered under this rule must therefore comply with the requirements for pro hac vice admission under rule 31.14 for any appearances before a court or any administrative agency.

2. Offer or provide legal services or advice to any person other than as described in rule 31.16(3)(*a*)(1), or hold himself or herself out as being authorized to practice law in this state other than as described in rule 31.16(3)(*a*)(1).

3. If a foreign lawyer, provide advice on the law of this state or another United States jurisdiction or of the United States except on the basis of advice from a lawyer who is duly licensed and authorized to provide such advice.

*b.* Notwithstanding the provisions of rule 31.16(3)(*a*), a lawyer registered under this rule is authorized to provide pro bono legal services through an established not-for-profit bar association, pro bono program or legal services program, or through such organization(s) specifically authorized in this state. This provision does not apply to foreign lawyers registered under this rule.

*c.* A lawyer registered under this rule must:

(1) File an annual statement and pay the annual disciplinary fee as Iowa Court Rules 39.5 and 39.8 require. Beginning calendar year 2021, the lawyer must pay the regular assessment as required by Iowa Court Rule 39.6(2) as well as any special assessments required by Iowa Court Rule 39.6(4).

(2) Fulfill the continuing legal education attendance, reporting, and fee payment requirements set forth in Iowa Court Rules 41.3 and 41.4. However, a lawyer is not required to comply with the continuing legal education attendance requirements set forth in rule 41.3 for the calendar year in which the lawyer first registered as house counsel under this rule.

(3) Report to the office of professional regulation within 90 days the following:

1. Termination of the lawyer's employment as described in rule 31.16(2)(*h*).

2. Whether or not public, any change in the lawyer's license status in another jurisdiction, United States or foreign.

3. Whether or not public, any disciplinary charge, finding, or sanction concerning the lawyer by any disciplinary authority, court, or other tribunal in any jurisdiction, United States or foreign.

**31.16(4)** *Local discipline.* A registered lawyer under this section is subject to the Iowa Rules of Professional Conduct and all other laws and rules governing lawyers admitted to the active practice of law in this state. The Iowa Supreme Court Attorney Disciplinary Board has and will retain jurisdiction over the registered lawyer with respect to the conduct of the lawyer in this state or another jurisdiction to the same extent as it has over lawyers generally admitted in this jurisdiction.

**31.16(5)** *Automatic termination.* A registered lawyer's rights and privileges under this rule automatically terminate when:

*a.* The lawyer's employment terminates;

*b.* The lawyer is suspended or disbarred from practice in any jurisdiction, United States or foreign, or any court or agency before which the lawyer is admitted; or

*c.* The lawyer no longer maintains active status in at least one jurisdiction, United States or foreign.

**31.16(6)** *Reinstatement.* A registered lawyer whose registration is terminated under rule 31.16(5)(*a*) may be reinstated within 180 days of termination upon submission to the office of professional regulation all of the following:

*a.* An application for reinstatement in a form the office of professional regulation prescribes.

*b.* A reinstatement fee in the amount of $100.

*c.* Affidavits from the current employing entity and the lawyer as prescribed in rules 31.16(2)(*g*) and (*h*).

*d.* Current versions of the documents and certificates required in rules 31.16(2)(*d*)-(*f*).

**31.16(7)** *Reapplication.* Any lawyer seeking to register as house counsel who has previously been registered under this rule and who has not sought timely reinstatement under rule 31.16(6) must submit everything contained within rule 31.16(2) for each subsequent registration.

**31.16(8)** *Sanctions.* A lawyer under this rule who fails to register will be:

*a.* Subject to professional discipline in this state.

*b.* Ineligible for admission on motion in this state.

*c.* Referred by the office of professional regulation to the Iowa Supreme Court Attorney Disciplinary Board.

*d.* Referred by the office of professional regulation to the disciplinary authority of the jurisdictions of licensure, United States or foreign.

**31.16(9)** *Court's discretion.* The supreme court has the discretion to grant or deny an application or to revoke a registration. The court may procure the character investigation services of the National Conference of Bar Examiners, at the lawyer's expense, in any matter in which substantial questions regarding the lawyer's character or fitness to practice law are implicated. The character investigation services will be procured for all foreign lawyer applicants at the applicants' expense. The office of professional regulation must issue a certificate of registration upon the supreme court's approval of the application.

**31.16(10)** *Duration of registration—credit toward admission on motion.*

*a. Domestic lawyer.* A domestic lawyer registered under this rule may remain in house counsel status subject to rule 31.16(5), withdrawal of the registration, or admission following successful completion of the Iowa bar examination, by transferred UBE score pursuant to rule 31.4, or without examination pursuant to rules 31.12 and 31.13. The period of time the lawyer practices law in Iowa under the registration provisions of this rule may be used to satisfy the duration-of-practice requirement under rule 31.12(3)(*a*).

*b. Foreign lawyer.* A foreign lawyer registered under this rule may remain in house counsel status subject to rule 31.16(5), withdrawal of the registration, or admission following successful completion of the Iowa bar examination. The foreign lawyer is not eligible for admission on motion based on practice while registered in Iowa. The foreign lawyer may either remain as house counsel or may attempt to establish academic equivalency allowing the lawyer to sit for the Iowa bar examination. A foreign lawyer seeking to take the bar examination must:

(1) Obtain a scaled score of at least 80 on the MPRE before seeking permission to take the bar examination. The MPRE score must be from an examination taken within three years immediately preceding the filing date of the application.

(2) Provide an affidavit giving a detailed description of the lawyer's practice while registered as house counsel and an estimate of how many hours per year the lawyer engaged in the practice of law during that period.

(3) Provide an affidavit from an officer, partner, director, or general counsel of the employing entity attesting that the foreign lawyer's affidavit is accurate and that the foreign lawyer possesses the character and fitness to practice law in Iowa.

(4) Submit the lawyer's credentials to an ABA-approved law school in this state for a recommendation of what schedule of courses, if any, would render the applicant educationally qualified to sit for the examination. The foreign lawyer may then petition the court to approve the proposed course of study. If the court approves the petition, the foreign lawyer must attach to the bar application a copy of the law school dean's affidavit stating the foreign lawyer successfully completed the approved course of study and is believed to be educationally qualified to sit for the examination. The foreign lawyer will be allowed to sit for the examination provided all other requirements are met.

**31.16(11)** *Lawyers registered under prior version of this rule.* A lawyer registered under the prior version of this rule is not required to register again or pay the registration fee. Any lawyer who is currently registered under a prior version of this rule is no longer subject to the five-year period for terminating registration as house counsel. All other provisions of this rule apply.

**31.16(12)** *Denial of application or suspension of registration for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue.* The supreme court may deny a lawyer's application for registration or suspend a lawyer's registration under this rule for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue. Rule 31.9(7) governs this procedure.

**31.16(13)** *Denial of application or suspension of registration for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission.* The supreme court may deny a lawyer's application for registration or suspend a lawyer's registration under this rule for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission. Rule 31.9(6) governs this procedure.

**31.16(14)** *Denial of application or suspension of registration for failure to comply with a support order.* The supreme court may deny a lawyer's application for registration or suspend a lawyer's registration under this rule for failure to comply with a support order. Rule 31.9(5) governs this procedure.

[Court Orders April 20, 2005, and July 1, 2005, effective July 1, 2005; September 1, 2005; June 16, 2006; February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008; September 12, 2012; August 21, 2013; May 18, 2015, effective July 1, 2015; September 14, 2017, effective November 2, 2017; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; August 28, 2020; September 14, 2021, effective October 1, 2021; September 19, 2022, effective October 1, 2022]

**Rule 31.17 Provision of legal services following determination of major disaster.**

**31.17(1)** *Determination of existence of major disaster.* Solely for purposes of this rule, the supreme court will determine when an emergency affecting the justice system, as a result of a natural or other major disaster, has occurred in:

*a.* This state and whether the emergency caused by the major disaster affects the entirety or only a part of the state; or

*b.* Another jurisdiction but only after such a determination and its geographical scope have been made by the highest court of that jurisdiction. The authority to engage in the temporary practice of law in this state pursuant to rule 31.17(3) will extend only to lawyers who principally practice in the area of such other jurisdiction determined to have suffered a major disaster causing an emergency affecting the justice system and the provision of legal services.

**31.17(2)** *Temporary practice—pro bono services.* Following the determination of an emergency affecting the justice system in this state pursuant to rule 31.17(1), or a determination that persons displaced by a major disaster in another jurisdiction and residing in this state are in need of pro bono services and the assistance of lawyers from outside of this state is required to help provide such assistance, a lawyer authorized to practice law in another United States jurisdiction, and not disbarred, suspended from practice, or otherwise restricted from practice in any jurisdiction, may provide legal services in this state on a temporary basis. Such legal services must be provided on a pro bono basis without compensation, expectation of compensation, or other direct or indirect pecuniary gain to the lawyer. Such legal services must be assigned and supervised through an established not-for-profit bar association, pro bono program or legal services program, or through such organization(s) specifically designated by the supreme court.

**31.17(3)** *Temporary practice—legal services arising out of and reasonably related to a lawyer's practice of law in another jurisdiction, or area of such other jurisdiction, where the disaster occurred.* Following the determination of a major disaster in another United States jurisdiction, a lawyer who is authorized to practice law and principally practices in that affected jurisdiction, and who is not disbarred, suspended from practice, or otherwise restricted from practice in any jurisdiction may provide legal services in this state on a temporary basis. Those legal services must arise out of and be reasonably related to that lawyer's practice of law in the jurisdiction, or area of such other jurisdiction, where the major disaster occurred.

**31.17(4)** *Duration of authority for temporary practice.* The authority to practice law in this state granted by rule 31.17(2) will end when the supreme court determines that the conditions caused by the major disaster have ended except that a lawyer then representing clients in this state pursuant to rule 31.17(2) is authorized to continue the provision of legal services for such time as is reasonably necessary to complete the representation, but the lawyer may not thereafter accept new clients. The authority to practice law in this state granted by rule 31.17(3) will end 60 days after the supreme court declares that the conditions caused by the major disaster in the affected jurisdiction have ended.

**31.17(5)** *Court appearances.* The authority granted by this rule does not include appearances in court except:

*a.* Pursuant to the supreme court's pro hac vice admission rule; or

*b.* If the supreme court, in any determination made under rule 31.17(1), grants blanket permission to appear in all or designated courts of this state to lawyers providing legal services pursuant to rule 31.17(2).

**31.17(6)** *Disciplinary authority and registration requirement.* Lawyers providing legal services in this state pursuant to rule 31.17(2) or 31.17(3) are subject to the supreme court's disciplinary authority and the Iowa Rules of Professional Conduct as provided in Iowa Rule of Professional Conduct 8.5. Lawyers providing legal services in this state under rule 31.17(2) or 31.17(3) must, within 30 days from the commencement of the provision of legal services, file a registration statement with the office of professional regulation. A form for the registration statement can be found in rule 31.25. Any lawyer who provides legal services pursuant to this rule will not be considered to be engaged in the unlawful practice of law in this state.

**31.17(7)** *Notification to clients.* Lawyers authorized to practice law in another United States jurisdiction who provide legal services pursuant to this rule must inform clients in this state of the jurisdiction in which they are authorized to practice law, any limits of that authorization, and that they are not authorized to practice law in this state except as permitted by this rule. They must not state or imply to any person that they are otherwise authorized to practice law in this state.

*The comment accompanying this rule explains and illustrates the meaning and purpose of the rule. The comment is intended as a guide to interpretation, but the text of the rule is authoritative.*

**COMMENT**

[1] A major disaster in this state or another jurisdiction may cause an emergency affecting the justice system with respect to the provision of legal services for a sustained period of time interfering with the ability of lawyers admitted and practicing in the affected jurisdiction to continue to represent clients until the disaster has ended. When this happens, lawyers from the affected jurisdiction may need to provide legal services to their clients, on a temporary basis, from an office outside their home jurisdiction. In addition, lawyers in an unaffected jurisdiction may be willing to serve residents of the affected jurisdiction who have unmet legal needs as a result of the disaster or, though independent of the disaster, whose legal needs temporarily are unmet because of disruption to the practices of local lawyers. Lawyers from unaffected jurisdictions may offer to provide these legal services either by traveling to the affected jurisdiction or from their own offices or both, provided the legal services are provided on a pro bono basis through an authorized not-for-profit entity or such other organization(s) specifically designated by the supreme court. A major disaster includes, for example, a hurricane, earthquake, flood, wildfire, tornado, public health emergency, or an event caused by terrorists or acts of war.

[2] Under rule 31.17(1)(*a*), the supreme court will determine whether a major disaster causing an emergency affecting the justice system has occurred in this state, or in a part of this state, for purposes of triggering rule 31.17(2). The supreme court

may, for example, determine that the entirety of this state has suffered a disruption in the provision of legal services or that only certain areas have suffered such an event. The authority granted by rule 31.17(2) will extend only to lawyers authorized to practice law and not disbarred, suspended from practice, or otherwise restricted from practice in any other manner in any other jurisdiction.

[3] Rule 31.17(2) permits lawyers authorized to practice law in another jurisdiction, and not disbarred, suspended from practice, or otherwise restricted from practicing law in any other manner in any other jurisdiction, to provide pro bono legal services to residents of this state following a determination of an emergency caused by a major disaster, notwithstanding that they are not otherwise authorized to practice law in this state. Other restrictions on a lawyer's license to practice law that would prohibit that lawyer from providing legal services pursuant to this rule include, but are not limited to, probation, inactive status, disability inactive status, or a nondisciplinary administrative suspension for failure to complete continuing legal education or other requirements. Lawyers on probation may be subject to monitoring and specific limitations on their practices. Lawyers on inactive status, despite being characterized in many jurisdictions as being "in good standing," and lawyers on disability inactive status are not permitted to practice law. Public protection warrants exclusion of these lawyers from the authority to provide legal services as defined in this rule. Lawyers permitted to provide legal services pursuant to this rule must do so without fee or other compensation, or expectation thereof. Their service must be provided through an established not-for-profit organization that is authorized to provide legal services either in its own name or that provides representation of clients through employed or cooperating lawyers. Alternatively, the supreme court may instead designate other specific organization(s) through which these legal services may be rendered. Under rule 31.17(2), an emeritus lawyer from another United States jurisdiction may provide pro bono legal services on a temporary basis in this state provided that the emeritus lawyer is authorized to provide pro bono legal services in that jurisdiction pursuant to that jurisdiction's emeritus or pro bono practice rule. Lawyers may also be authorized to provide legal services in this state on a temporary basis under Iowa R. of Prof'l Conduct 32:5.5(c).

[4] Lawyers authorized to practice law in another jurisdiction, who principally practice in the area of such other jurisdiction determined by the supreme court to have suffered a major disaster, and whose practices are disrupted by a major disaster there, and who are not disbarred, suspended from practice or otherwise restricted from practicing law in any other manner in any other jurisdiction, are authorized under rule 31.17(3) to provide legal services on a temporary basis in this state. Those legal services must arise out of and be reasonably related to the lawyer's practice of law in the affected jurisdiction. For purposes of this rule, the determination of a major disaster in another jurisdiction should first be made by the highest court of appellate jurisdiction in that jurisdiction. For the meaning of "arise out of and reasonably related to," see Iowa R. of Prof'l Conduct 32:5.5, cmt. [14].

[5] Emergency conditions created by major disasters end, and when they do, the authority created by rules 31.17(2) and 31.17(3) also ends with appropriate notice to enable lawyers to plan and to complete pending legal matters. Under rule 31.17(4), the supreme court determines when those conditions end only for purposes of this rule. The authority granted under rule 31.17(2) will end upon such determination, except that lawyers assisting residents of this state under rule 31.17(2) may continue to do so for such longer period as is reasonably necessary to complete the representation. The authority created by rule 31.17(3) will end 60 days after the supreme court makes such a determination with regard to an affected jurisdiction.

[6] Rules 31.17(2) and 31.17(3) do not authorize lawyers to appear in the courts of this state. Court appearances are subject to the pro hac vice admission rules of the supreme court. The supreme court may, in a determination made under rule 31.17(5)(*b*), include authorization for lawyers who provide legal services in this state under rule 31.17(2) to appear in all or designated courts of this state without need for such pro hac vice admission. A lawyer who has appeared in the courts of this state pursuant to rule 31.17(5) may continue to appear in any such matter notwithstanding a declaration under rule 31.17(4) that the conditions created by major disaster have ended. Furthermore, withdrawal from a court appearance is subject to Iowa R. of Prof'l Conduct 32:1.16.

[7] Authorization to practice law as a foreign legal consultant or in-house counsel in a United States jurisdiction offers lawyers a limited scope of permitted practice and may therefore restrict that person's ability to provide legal services under this rule.

[8] The ABA National Lawyer Regulatory Data Bank is available to help determine whether any lawyer seeking to practice in this state pursuant to rule 31.17(2) or 31.17(3) is disbarred, suspended from practice, or otherwise subject to a public disciplinary sanction that would restrict the lawyer's ability to practice law in any other jurisdiction. [Court Order December 13, 2017, effective January 1, 2018]

[Court Order May 14, 2007; February 14, 2008, effective April 1, 2008; December 13, 2017, effective January 1, 2018]

## Rule 31.18 Licensing and practice of foreign legal consultants.

**31.18(1)** *General regulation as to licensing.* In its discretion, the supreme court may license to practice in the State of Iowa as a foreign legal consultant, without examination, an applicant who:

*a.* Is, and for at least five years has been, a member in good standing of a recognized legal profession in a foreign country, the members of which are admitted to practice as lawyers or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority.

*b.* For at least five years preceding his or her application has been a member in good standing of such legal profession and has been lawfully engaged in the practice of law in the foreign country or elsewhere substantially involving or relating to the rendering of advice or the provision of legal services concerning the law of the foreign country.

*c.* Possesses the good moral character and general fitness requisite for a member of the bar of this state.

*d.* Intends to practice as a foreign legal consultant in this state and to maintain an office in this state for that purpose.

**31.18(2)** *Application and fee.*

*a.* The applicant must file an application for a foreign legal consultant license with the National Conference of Bar Examiners through its online character and fitness application process, unless an exception is granted by the office of professional regulation. The applicant must pay the investigative fee required by the National Conference of Bar Examiners at the time of filing the application.

*b.* In addition, the applicant must file the following documents and fee with the office of professional regulation:

(1) A certificate from the professional body or public authority having final jurisdiction over professional discipline in the foreign country in which the applicant is admitted, certifying the applicant's admission to practice, date of admission, and good standing as a lawyer or counselor at law or the equivalent, and certifying that the applicant has not been disciplined and no charges of professional misconduct are pending or identifying any disciplinary sanctions that have been imposed upon the applicant or any pending charges, complaints, or grievances.

(2) A letter of recommendation from one of the members of the executive body of such professional body or public authority or from one of the judges of the highest law court or court of original jurisdiction in the foreign country in which the applicant is admitted.

(3) Duly authenticated English translations of the certificate required by rule 31.18(2)(*b*)(1) and the letter required by rule 31.18(2)(*b*)(2) if they are not in English.

(4) The requisite documentation establishing the applicant's compliance with the immigration laws of the United States.

(5) Other evidence as the supreme court may require regarding the applicant's educational and professional qualifications, good moral character and general fitness, and compliance with the requirements of rule 31.18(1).

(6) An administrative fee of $800 payable to the office of professional regulation at the time the application is filed.

**31.18(3)** *Scope of practice.* A person licensed to practice as a foreign legal consultant under this rule may render legal services in this state but will not be considered admitted to practice law here, may not in any way hold himself or herself out as a member of the bar of this state, and may not do any of the following:

*a.* Appear as a lawyer on behalf of another person in any court or before any magistrate or other judicial officer in this state, except when admitted pro hac vice pursuant to Iowa rule 31.14.

*b.* Prepare any instrument effecting the transfer or registration of title to real estate located in the United States of America.

*c.* Prepare:

(1) Any will or trust instrument effecting the disposition on death of any property located in the United States of America and owned by a resident thereof.

(2) Any instrument relating to the administration of a decedent's estate in the United States of America.

*d.* Prepare any instrument in respect of the marital or parental relations, rights, or duties of a resident of the United States of America, or the custody or care of the children of such a resident.

*e.* Render professional legal advice on the law of this state or of the United States of America, whether rendered incident to the preparation of legal instruments or otherwise.

*f.* Carry on a practice under, or utilize in connection with such practice, any name, title, or designation other than one or more of the following:

(1) The foreign legal consultant's own name.

(2) The name of the law firm with which the foreign legal consultant is affiliated.

(3) The foreign legal consultant's authorized title in the foreign country of his or her admission to practice, which may be used in conjunction with the name of that country.

(4) The title "foreign legal consultant," which may be used in conjunction with the words "admitted to the practice of law in [name of the foreign country of his or her admission to practice]."

**31.18(4)** *Rights and obligations.* Subject to the limitations listed in rule 31.18(3), a person licensed under this rule will be considered a foreign legal consultant affiliated with the bar of this state and will be entitled and subject to:

*a.* The rights and obligations set forth in the Iowa Rules of Professional Conduct or arising from the other conditions and requirements that apply to a member of the bar of this state under the Iowa Court Rules.

*b.* The rights and obligations of a member of the bar of this state with respect to:

(1) Affiliation in the same law firm with one or more members of the bar of this state, including by:

1. Employing one or more members of the bar of this state.

2. Being employed by one or more members of the bar of this state or by any partnership or professional corporation that includes members of the bar of this state or that maintains an office in this state.

3. Being a partner in any partnership or shareholder in any professional corporation that includes members of the bar of this state or that maintains an office in this state.

(2) Attorney-client privilege, work-product privilege, and similar professional privileges.

**31.18(5)** *Discipline.* A person licensed to practice as a foreign legal consultant under this rule will be subject to professional discipline in the same manner and to the same extent as members of the bar of this state. To this end:

*a.* Every person licensed to practice as a foreign legal consultant under this rule:

(1) Will be subject to the jurisdiction of the supreme court and the Iowa Supreme Court Attorney Disciplinary Board and to reprimand, suspension, removal, or revocation of his or her license to practice by the supreme court and will otherwise be governed by the Iowa Rules of Professional Conduct and the Iowa Court Rules.

(2) Must execute and file with the clerk of the supreme court, in the form and manner as the court may prescribe:

1. A commitment to observe the Iowa Rules of Professional Conduct and the Iowa Court Rules to the extent applicable to the legal services authorized under rule 31.18(3);

2. A written undertaking to notify the court of any change in the foreign legal consultant's good standing as a member of the foreign legal profession referred to in rule 31.18(1)(*a*) and of any final action of the professional body or public authority referred to in rule 31.18(2)(*b*)(1) imposing any disciplinary reprimand, suspension, or other sanction upon the foreign legal consultant.

3. A duly acknowledged instrument in writing, providing the foreign legal consultant's address in this state and designating the clerk of the supreme court as his or her agent for service of process. The foreign legal consultant must keep the office of professional regulation advised in writing of any changes of address in this jurisdiction. In any action or proceeding brought against the foreign legal consultant and arising out of or based upon any legal services rendered or offered to be rendered by the foreign legal consultant within this state or to residents of this state, service will first be attempted upon the foreign legal consultant at the most recent address filed with the clerk. Whenever after due diligence service cannot be made upon the foreign legal consultant at that address, service may be made upon the clerk. Service made upon the clerk in accordance with this provision is effective as if service had been made personally upon the foreign legal consultant.

*b.* Service of process on the clerk under rule 31.18(5)(*a*)(2)(3) must be made by personally delivering to the clerk's office, and leaving with the clerk, or with a deputy or assistant authorized by the clerk to receive service, duplicate copies of the process. The clerk must promptly send one copy of the process to the foreign legal consultant to whom the process is directed, by certified mail, return receipt requested, addressed to the foreign legal consultant at the most recent address provided in accordance with rule 31.18(5)(*a*)(2)(3).

**31.18(6)** *Required fees and annual statements.* A person licensed as a foreign legal consultant must pay a $200 registration fee to the Client Security Commission. The person licensed under this rule must file an annual statement and pay the annual disciplinary fee as required by Iowa Court Rules 39.5 and 39.8.

**31.18(7)** *Revocation of license.* If the supreme court determines that a person licensed as a foreign legal consultant under this rule no longer meets the requirements for licensure set forth in rule 31.18(1)(*a*) or (*b*), it will revoke the foreign legal consultant's license.

**31.18(8)** *Admission to bar.* If a person licensed as a foreign legal consultant under this rule is subsequently admitted as a member of the bar of this state under the rules governing admission, that person's foreign legal consultant license will be deemed superseded by the license to practice law as a member of the bar of this state.

[Court Order June 3, 2009; January 19, 2010; August 21, 2013; September 14, 2017, effective November 2, 2017; December 13, 2017, effective January 1, 2018]

**Rule 31.19 Certification and pro bono participation of emeritus attorneys.**

**31.19(1)** *Purpose.* This rule establishes the emeritus attorneys pro bono participation program.

**31.19(2)** *Definitions.*

*a. Emeritus attorney.* An "emeritus attorney" is any person who is admitted to practice law in Iowa and is on inactive, active, or retired status at the time of application, or who is or was admitted to practice law before the highest court of any other state or territory of the United States or the District of Columbia, and:

(1) Does not have a pending disciplinary proceeding.

(2) Has never been disbarred or had a license to practice law revoked in any jurisdiction.

(3) Agrees to abide by the Iowa Rules of Professional Conduct and submit to the jurisdiction of the Iowa Supreme Court, the Iowa Supreme Court Attorney Disciplinary Board, and the Iowa Supreme Court Grievance Commission for disciplinary purposes.

(4) Neither requests nor accepts compensation of any kind for the legal services to be rendered under this chapter.

(5) Is certified under this rule.

*b. Active.* For purposes of this rule, "active" describes lawyers with the status of corporate, full-time, part-time, government, judge, or military service for purposes of the Client Security Commission.

*c. Approved legal aid organization.* For purposes of this rule, an "approved legal aid organization" includes a program sponsored by a bar association, law school, or a not-for-profit legal aid organization, approved by the Iowa Supreme Court, whose primary purpose is to provide legal representation to low-income persons in Iowa. A legal aid organization seeking approval from the court for the purposes of this rule must file a petition with the office of professional regulation certifying that it is a not-for-profit organization and reciting with specificity:

(1) The structure of the organization and whether it accepts funds from its clients.

(2) The major sources of funds the organization uses.

(3) The criteria used to determine potential clients' eligibility for legal services the organization performs.

(4) The types of legal and nonlegal services the organization performs.

(5) The names of all members of the Iowa bar the organization employs or who regularly perform legal work for the organization.

(6) The existence and extent of malpractice insurance that will cover the emeritus attorney.

(7) The number of attorneys on the organization's board of directors.

(8) The availability of in-house continuing legal education.

**31.19(3)** *Activities.*

*a. Permissible activities.* An emeritus attorney, in association with an approved legal aid organization, may perform the following activities:

(1) The emeritus attorney may appear in any court or before any administrative tribunal in this state on behalf of a client of an approved legal aid organization.

(2) The emeritus attorney may prepare pleadings and other documents to be filed in any court or before any administrative tribunal in this state in any matter in which the emeritus attorney is involved. Such pleadings must include the attorney's status as emeritus attorney and the name of the approved legal aid organization, except as permitted by Iowa Rule of Civil Procedure 1.423.

(3) The emeritus attorney may provide advice, screening, transactional, and other activities for clients of approved legal aid organizations.

*b. Determination of nature of participation.* The presiding judge or hearing officer may, in the judge's or officer's discretion, determine the extent of the emeritus attorney's participation in any proceedings before the court.

**31.19(4)** *Supervision and limitations.*

*a. Supervision by attorney.* An emeritus attorney providing legal advice through the COVID-19 Legal Information Hotline program may do so without supervision. An emeritus attorney must perform all other activities authorized by this chapter under the general supervision of the approved legal aid organization.

*b. Representation of status.* Attorneys permitted to perform services under this chapter may only hold themselves out as emeritus attorneys.

*c. Payment of expenses and award of fees.* The prohibition against compensation for the emeritus attorney contained in rule 31.19(2)(*a*)(4) does not prevent the approved legal aid organization from reimbursing the emeritus attorney for actual expenses incurred while rendering services under this chapter or from paying continuing legal education attendance fees on behalf of the emeritus attorneys, nor does it prevent the approved legal aid organization from making such charges for its services

as it may otherwise properly charge. The approved legal aid organization is entitled to receive all court-awarded attorneys' fees for any representation rendered by the emeritus attorney.

**31.19(5)** *Certification.* Permission for an emeritus attorney to perform services under this chapter is effective upon filing with and approval by the office of professional regulation of:

*a.* A certification from an approved legal aid organization stating that the emeritus attorney is currently associated with that legal aid organization and that all activities of the emeritus attorney will be under the general supervision of the legal aid organization or a certification from the attorney that the attorney has completed the training provided by the COVID-19 Legal Information Hotline and will limit the attorney's activities to the pro bono provision of legal advice only to individuals referred through the COVID-19 Legal Information Hotline.

*b.* A certificate from the highest court or agency in the state, territory, or district in which the emeritus attorney previously has been licensed to practice law, certifying that the emeritus attorney is in good standing, does not have a pending disciplinary proceeding, and has never been disbarred or had the license to practice law revoked.

*c.* A sworn statement from the emeritus attorney that the emeritus attorney:

(1) Relinquishes status as an inactive, active, or retired lawyer and requests placement in emeritus status for purposes of the Client Security Commission and Commission on Continuing Legal Education.

(2) Understands and will abide by the provisions of the Iowa Rules of Professional Conduct.

(3) Submits to the jurisdiction of the Iowa Supreme Court, the Iowa Supreme Court Attorney Disciplinary Board, and the Iowa Supreme Court Grievance Commission for disciplinary purposes.

(4) Will neither request nor accept compensation of any kind for the legal services authorized under this chapter.

**31.19(6)** *Withdrawal of certification.*

*a. Withdrawal of permission to perform services.* Permission to perform services under this chapter must cease immediately upon the filing with the office of professional regulation of a notice either:

(1) From the approved legal aid organization stating that the emeritus attorney has ceased to be associated with the organization, which notice must be filed within 30 days after such association has ceased; or

(2) From the Iowa Supreme Court, in its discretion, at any time, stating that permission to perform services under this chapter has been revoked. A copy of such notice must be mailed by the office of professional regulation to the emeritus attorney involved and to the approved legal aid organization.

*b. Notice of withdrawal.* If an emeritus attorney's certification is withdrawn for any reason, the approved legal aid organization must immediately file a notice of such action in the official file of each matter pending before any court or tribunal in which the emeritus attorney was involved.

**31.19(7)** *Discipline.* In addition to any appropriate proceedings and discipline that may be imposed upon the emeritus attorney by the Iowa Supreme Court under the court's disciplinary rules, the Iowa Rules of Professional Conduct, or the Code of Iowa, the Iowa Supreme Court may, at any time, with or without cause, withdraw certification under this rule.

**31.19(8)** *Fees and annual statements.*

*a. Annual report to Client Security Commission.* A lawyer certified under this rule must file the annual questionnaire required by Iowa Court Rule 39.11 and the annual statement required by Iowa Court Rule 39.8(1) but is exempt from the annual disciplinary fee and fund assessment provided in Iowa Court Rules 39.5 and 39.6.

*b. Annual report to Commission on Continuing Legal Education.* A lawyer certified under this rule must fulfill the continuing legal education attendance, reporting, and fee payment requirements set forth in Iowa Court Rules 41.3 and 41.4. However, a lawyer is not required to comply with the continuing legal education requirements set forth in Iowa Court Rule 41.3 for the calendar year in which the lawyer is first certified under this rule. The approved legal aid organization may pay the continuing legal education reporting fee on behalf of the emeritus attorney.

[Court Order March 1, 2013; December 13, 2017, effective January 1, 2018; April 17, 2020]

**Rules 31.20** to **31.24** Reserved.

**Rule 31.25 Forms.**
**Rule 31.25 — Form 1:** ***Application for Admission Pro Hac Vice—District Court***

**Iowa District Court for_____ County**
*County where your case is filed*

_____
_____
**Plaintiff(s)**
*Full name: first, middle, last*

vs.

_____
_____
**Defendant(s)**
*Full name: first, middle, last*

Case no._____

**Application for Admission Pro Hac Vice--District Court**
Iowa Court Rule 31.14

## 1. Application

The undersigned seeks permission to appear pro hac vice in the above-captioned proceeding.
*Applicant must complete all of the following:*
If this matter involves review of an agency action, did the applicant seek admission pro hac vice in the proceedings below? ☐ Yes ☐ No
*If yes, attach copies of all related documents.*

a. Applicant's full name, residential address, email address, and business address.

| *Full name: first, middle, last* | *Email address* | | |
|---|---|---|---|
| *Mailing address* | *City* | *State* | *ZIP code* |
| *Business address* | *City* | *State* | *ZIP code* |

b. The name, address, and telephone number of each client to be represented.

c. The courts before which the applicant has been admitted to practice and the respective periods of admission and any jurisdiction in which the out-of-state lawyer has been licensed to practice as a foreign legal consultant and the respective period of licensure.

d. Has the applicant ever been denied admission pro hac vice in this state?
☐ Yes ☐ No

*If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.*

e. Has the applicant ever had admission pro hac vice revoked in this state?

☐ Yes ☐ No

*If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.*

f. Has the applicant ever been denied admission in any jurisdiction for reasons other than failure of a bar examination? ☐ Yes ☐ No

*If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.*

g. Has the applicant ever been formally disciplined or sanctioned by any court in this state? ☐ Yes ☐ No

*If yes, on a separate page specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings. Attach copies of all related documents.*

h. Has the applicant ever been the subject of any injunction, cease-and-desist letter, or other action arising from a finding that the applicant engaged in the unauthorized practice of law in this state or elsewhere? ☐ Yes ☐ No

*If yes, on a separate page specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings. Attach copies of all related documents.*

i. Has any formal, written disciplinary proceeding ever been brought against the applicant by a disciplinary authority or unauthorized practice of law commission in any other jurisdiction within the last five years? ☐ Yes ☐ No

*If yes, on a separate page specify as to each such proceeding: the nature of the allegations, the name of the person or authority bringing such proceedings, the date the proceedings were initiated and finally concluded, the style of the proceedings, and the findings made and actions taken in connection with those proceedings. Attach copies of all related documents.*

j. Has the applicant ever been placed on probation by a disciplinary authority in any other jurisdiction? ☐ Yes ☐ No

*If yes, on a separate page specify the jurisdiction, caption of the proceedings, the terms of the probation, and what findings were made. Attach copies of all related documents.*

k. Has the applicant ever been held formally in contempt or otherwise sanctioned by any court in a written order in the last five years for disobedience to the court's rules or orders? ☐ Yes ☐ No

*If yes, on a separate page specify the nature of the allegations, the name of the court before which such proceedings were conducted, the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings. Attach to this application a copy of the written order or a transcript of the oral ruling and other related documents.*

l. Has the applicant filed an application to appear pro hac vice in this state within the preceding two years? ☐ Yes ☐ No

*If yes, on a separate page list the name and address of each court or agency and a full identification of each proceeding in which an application was filed, including the date and outcome of the application. Attach copies of all related documents.*

m. The applicant acknowledges familiarity with the rules of professional conduct, the disciplinary procedures of this state, the standards for professional conduct, the applicable local rules, and the procedures of the court before which the applicant seeks to practice. ☐ Yes ☐ No

n. List the name, address, telephone number, email address, and personal identification number of an in-state lawyer in good standing of the bar of this state who will sponsor the applicant's pro hac vice request.

| *Lawyer's name* | *PIN* | *Email address* |
|---|---|---|

| *Lawyer's address* | *City* | *State* | *ZIP code* |
|---|---|---|---|

o. The applicant acknowledges that service upon the in-state attorney in all matters connected with the proceedings will have the same effect as if personally made upon the applicant. ☐ Yes ☐ No

p. If the applicant has appeared pro hac vice in this state in five proceedings within the preceding two years, the applicant must, on a separate attached page, provide a statement showing good cause why the applicant should be admitted in the present proceeding.

q. On a separate attached page the applicant must provide any other information the applicant deems necessary to support the application for admission pro hac vice.

r. Has the applicant registered with the office of professional regulation and paid the fee as required by Iowa Court Rule 31.14(11) within five years of the date of this application? ☐ Yes ☐ No

**Lawyer's Oath and Signature and Certificate of Service on next page**

Rule 31.25—Form 1: *Application for Admission Pro Hac Vice--District Court*, continued

**2. Oath and Signature**

I, _____, have read this Application, and I certify under
*Print your name*

penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct.

_____, 20_____ _____
*Signed on: Month Day Year* *Your signature**

_____ _____ _____ _____
*Mailing address* *City* *State* *ZIP code*

(_____) _____ _____ _____
*Telephone number* *Email address* *Additional email address, if applicable*

* *If filing in paper, you must handwrite your signature on this form. If filing electronically, you may handwrite your signature on the form, scan the form, and then file it electronically, or, you may affix a digitized signature and file the form electronically.*

**Certificate of Service**

The undersigned certifies a copy of this application was served on the following parties:

_____

_____

_____

on the _____ day of _____, 20_____
*Month* *Year*

by ☐ Personal delivery ☐ Deposit in the U.S. mail

_____
*Signature of server*



[Court Order March 15, 2007; June 3, 2009; December 16, 2016, effective January 1, 2017]

**Rule 31.25 — Form 2:** ***Application for Admission Pro Hac Vice—Iowa Supreme Court***

**In the Iowa Supreme Court**

| | |
|---|---|
| _____ | Case no._____ |
| _____<br>**Plaintiff(s)**<br>*Full name: first, middle, last*<br><br>vs.<br><br>_____<br>_____<br>**Defendant(s)**<br>*Full name: first, middle, last* | **Application for Admission**<br>**Pro Hac Vice--Iowa Supreme Court**<br>Iowa Court Rule 31.14 |

## 1. Application

The undersigned seeks permission to appear pro hac vice in the above-captioned proceeding. Applicant shall complete all of the following:

Did the applicant seek admission pro hac vice in the proceedings below? ☐ Yes ☐ No
*If yes, attach copies of all related documents.*

a. Applicant's full name, residential address, email address, and business address.

_____ _____
*Full name: first, middle, last* *Email address*

_____ _____ _____ _____
*Mailing address* *City* *State* *ZIP code*

_____ _____ _____ _____
*Business address* *City* *State* *ZIP code*

b. The name, address, and phone number of each client sought to be represented.

_____

_____

c. The courts before which the applicant has been admitted to practice and the respective periods of admission and any jurisdiction in which the out-of-state lawyer has been licensed to practice as a foreign legal consultant and the respective period of licensure.

_____

_____

_____

d. Has the applicant ever been denied admission pro hac vice in this state?

☐ Yes ☐ No

*If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.*

e. Has the applicant ever had admission pro hac vice revoked in this state?

☐ Yes ☐ No

*If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.*

f. Has the applicant ever been denied admission in any jurisdiction for reasons other than failure of a bar examination? ☐ Yes ☐ No

*If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.*

g. Has the applicant ever been formally disciplined or sanctioned by any court in this state? ☐ Yes ☐ No

*If yes, on a separate page specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings. Attach copies of all related documents.*

h. Has the applicant ever been the subject of any injunction, cease-and-desist letter, or other action arising from a finding that the applicant engaged in the unauthorized practice of law in this state or elsewhere? ☐ Yes ☐ No

*If yes, on a separate page specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings. Attach copies of all related documents.*

i. Has any formal, written disciplinary proceeding ever been brought against the applicant by a disciplinary authority or unauthorized practice of law commission in any other jurisdiction within the last five years? ☐ Yes ☐ No

*If yes, on a separate page specify as to each such proceeding: the nature of the allegations, the name of the person or authority bringing such proceedings, the date the proceedings were initiated and finally concluded, the style of the proceedings, and the findings made and actions taken in connection with those proceedings. Attach copies of all related documents.*

j. Has the applicant ever been placed on probation by a disciplinary authority in any other jurisdiction? ☐ Yes ☐ No

*If yes, on a separate page specify the jurisdiction, caption of the proceedings, the terms of the probation, and what findings were made. Attach copies of all related documents.*

k. Has the applicant ever been held formally in contempt or otherwise sanctioned by any court in a written order in the last five years for disobedience to the court's rules or orders? ☐ Yes ☐ No

*If yes, on a separate page specify the nature of the allegations, the name of the court before which such proceedings were conducted, the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings. Attach to this application a copy of the written order or a transcript of the oral ruling and other related documents.*

l. Has the applicant filed an application to appear pro hac vice in this state within the preceding two years? ☐ Yes ☐ No

*If yes, on a separate page list the name and address of each court or agency and a full identification of each proceeding in which an application was filed, including the date and outcome of the application. Attach copies of all related documents.*

m. The applicant acknowledges familiarity with the rules of professional conduct, the disciplinary procedures of this state, the standards for professional conduct, the applicable local rules, and the procedures of the court before which the applicant seeks to practice. ☐ Yes ☐ No

n. List the name, address, telephone number, and personal identification number of an in-state lawyer in good standing of the bar of this state who will sponsor the applicant's pro hac vice request.

| *Lawyer's name* | *PIN* | *Email address* |
|---|---|---|

| *Lawyer's address* | *City* | *State* | *ZIP code* |
|---|---|---|---|

o. The applicant acknowledges that service upon the in-state lawyer in all matters connected with the proceedings will have the same effect as if personally made upon the applicant. ☐ Yes ☐ No

p. If the applicant has appeared pro hac vice in this state in five proceedings within the preceding two years, the applicant must, on a separate page, provide a statement showing good cause why the applicant should be admitted in the present proceeding.

q. On a separate attached page, the applicant must provide any other information the applicant deems necessary to support the application for admission pro hac vice.

r. Has the applicant registered with the office of professional regulation and paid the fee as required by Iowa Court Rule 31.14(11) within five years of the date of this application? ☐ Yes ☐ No

**2. Oath and Signature**

I, _____, have read this Application, and I certify under
*Print your name*

penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct.

| _____, 20 | |
|---|---|
| *Signed on: Month Day Year* | *Your signature** |

| *Mailing address* | *City* | *State* | *ZIP code* |
|---|---|---|---|

| (_____) _____ | | |
|---|---|---|
| *Telephone number* | *Email address* | *Additional email address, if applicable* |

**If filing in paper, you must handwrite your signature on this form. If filing electronically, you may handwrite your signature on the form, scan the form, and then file it electronically, or, you may affix a digitized signature and file the form electronically.*

**Certificate of Service on next page**

Rule 31.25—Form 2: *Application for Admission Pro Hac Vice--Iowa Supreme Court*, continued

**Certificate of Service**

The undersigned certifies a copy of this application was served on the following parties

_____

_____

_____

on the _____ day of _____, 20_____
*Month* *Year*

by ☐ Personal delivery ☐ Deposit in the U.S. mail

_____
*Signature of server*



[Court Order March 15, 2007; June 3, 2009; December 16, 2016, effective January 1, 2017]

**Rule 31.25 — Form 3:** ***Registration Statement for Lawyer Engaging in Temporary Practice Following Determination of Major Disaster***

| In the Iowa Supreme Court | |
|---|---|
| | **Registration Statement for Lawyer Engaging in Temporary Practice Following Determination of Major Disaster**<br>Iowa Court Rule 31.17 |

*Pursuant to Iowa Court Rule 31.17(6) the undersigned must complete the following:*

**1. Name**

_____ _____

*Lawyer's full name: first, middle, last* *Name of Lawyer's firm*

**2. Home state information**

Residential address in lawyer's home state:

_____

Business address in lawyer's home state:

_____

Telephone numbers in lawyer's home state:

_____

Email addresses:

_____

_____

**3. Iowa information**

Residential address in Iowa:

_____

Business address in Iowa:

_____

Telephone numbers in Iowa:

_____

Email addresses:

_____

_____

Rule 31.25—Form 3: *Registration Statement for Lawyer Engaging in Temporary Practice Following Determination of Major Disaster,* continued

## 4. Bar admission

*List the courts before which you have been admitted to practice, the respective periods of admission, and your registration or bar numbers.*

_____

_____

_____

Is your license to practice currently subject to disbarment, suspension, or restrictions in any jurisdiction? ☐ Yes ☐ No

*If yes, on a separate page specify the proceedings and attach copies of all related documents.*

## 5. Temporary Practice Following Determination of Major Disaster

Specify whether you will engage in temporary practice pursuant to:

*Check all that apply*

☐ Iowa Court Rule 31.17(2) (pro bono legal services).

☐ Iowa Court Rule 31.17(3) (legal services reasonably related to lawyer's practice of law in the other jurisdiction, or area of such other jurisdiction, where the disaster occurred).

I agree that I am subject to the disciplinary procedures and authority of this court and the Iowa Rules of Professional Conduct, the Standards for Professional Conduct, and any applicable local rules and procedures. ☐ Yes ☐ No

## Oath and Signature

I, _____, have read this Registration Statement, and
*Print your name*

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct and that I am licensed and in good standing and authorized to practice law in each jurisdiction listed above and my license is not subject to suspension or restriction in any jurisdiction.

_____, 20_____ _____
*Signed on: Month Day Year* *Your signature**

_____ _____ _____ _____
*Mailing address* *City* *State* *ZIP code*

(_____) _____ _____ _____
*Telephone number* *Email address* *Additional email address, if applicable*

**If filing in paper, you must handwrite your signature on this form. If filing electronically, you may handwrite your signature on the form, scan the form, and then file it electronically, or, you may affix a digitized signature and file the form electronically.*



[Court Order May 14, 2007; December 16, 2016, effective January 1, 2017]

# CHAPTER 32
# IOWA RULES OF PROFESSIONAL CONDUCT

# CHAPTER 32
# IOWA RULES OF PROFESSIONAL CONDUCT

## *PREAMBLE AND SCOPE*

### PREAMBLE: A LAWYER'S RESPONSIBILITIES

[1] A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system, and a public citizen having special responsibility for the quality of justice.

[2] As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealings with others. As an evaluator, a lawyer acts by examining a client's legal affairs and reporting about them to the client or to others.

[3] In addition to these representational functions, a lawyer may serve as a third-party neutral, a nonrepresentational role helping the parties to resolve a dispute or other matter. Some of these rules apply directly to lawyers who are or have served as third-party neutrals. *See, e.g.,* rules 32:1.12 and 32:2.4. In addition, there are rules that apply to lawyers who are not active in the practice of law or to practicing lawyers even when they are acting in a nonprofessional capacity. For example, a lawyer who commits fraud in the conduct of a business is subject to discipline for engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation. *See* rule 32:8.4.

[4] In all professional functions a lawyer should be competent, prompt, and diligent. A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Iowa Rules of Professional Conduct or other law.

[5] A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers, and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

[6] As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice, and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law, and work to strengthen legal education. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.

[7] Many of a lawyer's professional responsibilities are prescribed in the Iowa Rules of Professional Conduct, as well as substantive and procedural law. However, a lawyer is also guided by personal conscience and the approbation of professional peers. A lawyer should strive to attain the highest level of skill, to improve the law and the legal profession, and to exemplify the legal profession's ideals of public service.

[8] A lawyer's responsibilities as a representative of clients, an officer of the legal system, and a public citizen are usually harmonious. Thus, when an opposing party is well represented, a lawyer can be a zealous advocate on behalf of a client and at the same time assume that justice is being done. So also, a lawyer can be sure that preserving client confidences ordinarily serves the public interest

because people are more likely to seek legal advice, and thereby heed their legal obligations, when they know their communications will be private.

[9] In the nature of law practice, however, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system, and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living. The Iowa Rules of Professional Conduct often prescribe terms for resolving such conflicts. Within the framework of these rules, however, many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the rules. These principles include the lawyer's obligation zealously to protect and pursue a client's legitimate interests, within the bounds of the law, while maintaining a professional, courteous, and civil attitude toward all persons involved in the legal system.

[10] The legal profession is largely self-governing. Although other professions also have been granted powers of self-government, the legal profession is unique in this respect because of the close relationship between the profession and the processes of government and law enforcement. This connection is manifested in the fact that ultimate authority over the legal profession is vested largely in the courts.

[11] To the extent that lawyers meet the obligations of their professional calling, the occasion for government regulation is obviated. Self-regulation also helps maintain the legal profession's independence from government domination. An independent legal profession is an important force in preserving government under law, for abuse of legal authority is more readily challenged by a profession whose members are not dependent on government for the right to practice.

[12] The legal profession's relative autonomy carries with it special responsibilities of self-government. The profession has a responsibility to ensure that its regulations are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the bar. Every lawyer is responsible for observance of the Iowa Rules of Professional Conduct. A lawyer should also aid in securing their observance by other lawyers. Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves.

[13] Lawyers play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship to our legal system. The Iowa Rules of Professional Conduct, when properly applied, serve to define that relationship.

## SCOPE

[14] The Iowa Rules of Professional Conduct are rules of reason. They should be interpreted with reference to the purposes of legal representation and of the law itself. Some of the rules are imperatives, cast in the terms "shall" or "shall not." These define proper conduct for purposes of professional discipline. Others, generally cast in the term "may," are permissive and define areas under the rules in which the lawyer has discretion to exercise professional judgment. No disciplinary action should be taken when the lawyer chooses not to act or acts within the bounds of such discretion. Other rules define the nature of relationships between the lawyer and others. The rules are thus partly obligatory and disciplinary and partly constitutive and descriptive in that they define a lawyer's professional role. Many of the comments use the term "should." Comments do not add obligations to the rules but provide guidance for practicing in compliance with the rules.

[15] The rules presuppose a larger legal context shaping the lawyer's role. That context includes court rules and statutes relating to matters of licensure, laws defining specific obligations of lawyers, and substantive and procedural law in general. The comments are sometimes used to alert lawyers to their responsibilities under such other law.

[16] Compliance with the rules, as with all law in an open society, depends primarily upon understanding and voluntary compliance, secondarily upon reinforcement by peer and public opinion, and finally, when necessary, upon enforcement through disciplinary proceedings. The rules do not, however, exhaust the moral and ethical considerations that should inform a lawyer, for no worthwhile human activity can be completely defined by legal rules. The rules simply provide a framework for the ethical practice of law.

[17] Furthermore, for purposes of determining the lawyer's authority and responsibility, principles of substantive law external to these rules determine whether a client-lawyer relationship exists. Most of the duties flowing from the client-lawyer relationship attach only after the client has requested the lawyer to render legal services and the lawyer has agreed to do so. But there are some duties, such as that of confidentiality under rule 32:1.6, that attach when the lawyer agrees to consider whether a client-lawyer relationship shall be established. *See* rule 32:1.18. Whether a client-lawyer relationship exists for any specific purpose can depend on the circumstances and may be a question of fact.

[18] Under various legal provisions, including constitutional, statutory, and common law, the responsibilities of government lawyers may include authority concerning legal matters that ordinarily reposes in the client in private client-lawyer relationships. For example, a lawyer for a government agency may have authority on behalf of the government to decide upon settlement or whether to appeal from an adverse judgment. Such authority in various respects is generally vested in the attorney general and the state's attorney in state government, and their federal counterparts, and the same may be true of other government law officers. Also, lawyers under the supervision of these officers may be authorized to represent several government agencies in intragovernmental legal controversies in circumstances where a private lawyer could not represent multiple private clients. These rules do not abrogate any such authority.

[19] Failure to comply with an obligation or prohibition imposed by a rule is a basis for invoking the disciplinary process. The rules presuppose that disciplinary assessment of a lawyer's conduct will be made on the basis of the facts and circumstances as they existed at the time of the conduct in question and in recognition of the fact that a lawyer often has to act upon uncertain or incomplete evidence of the situation. Moreover, the rules presuppose that whether or not discipline should be imposed for a violation, and the severity of a sanction, depend on all the circumstances, such as the willfulness and seriousness of the violation, extenuating factors, and whether there have been previous violations.

[20] Violation of a rule should not itself give rise to a cause of action against a lawyer nor should it create any presumption in such a case that a legal duty has been breached. In addition, violation of a rule does not necessarily warrant any other nondisciplinary remedy, such as disqualification of a lawyer in pending litigation. The rules are designed to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies. They are not designed to be a basis for civil liability. Furthermore, the purpose of the rules can be subverted when they are invoked by opposing parties as procedural weapons. The fact that a rule is a just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the rule. Nevertheless, since the rules do establish standards of conduct by lawyers, a lawyer's violation of a rule may be evidence of breach of the applicable standard of conduct.

[21] The comment accompanying each rule explains and illustrates the meaning and purpose of the rule. The Preamble and this note on Scope provide general orientation. The comments are intended as guides to interpretation, but the text of each rule is authoritative.

**Rule 32:1.0 TERMINOLOGY**

(a) *"Belief"* or *"believes"* denotes that the person involved actually supposed the fact in question to be true. A person's belief may be inferred from circumstances.

(b) *"Confirmed in writing,"* when used in reference to the informed consent of a person, denotes informed consent that is given in writing by the person or a writing that a lawyer promptly transmits to the person confirming an oral informed consent. See paragraph (e) for the definition of "informed consent." If it is not feasible to obtain or transmit the writing at the time the person gives informed consent, then the lawyer must obtain or transmit it within a reasonable time thereafter.

(c) *"Firm"* or *"law firm"* denotes a lawyer or lawyers in a law partnership, professional corporation, sole proprietorship, or other association authorized to practice law; or lawyers employed in a legal services organization or the legal department of a corporation or other organization.

(d) *"Fraud"* or *"fraudulent"* denotes conduct that is fraudulent under the substantive or procedural law of the applicable jurisdiction and has a purpose to deceive.

(e) *"Informed consent"* denotes the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and

reasonably available alternatives to the proposed course of conduct.

(f) *"Knowingly," "known,"* or *"knows"* denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

(g) *"Partner"* denotes a member of a partnership, a shareholder in a law firm organized as a professional corporation, or a member of an association authorized to practice law.

(h) *"Reasonable"* or *"reasonably"* when used in relation to conduct by a lawyer denotes the conduct of a reasonably prudent and competent lawyer.

(i) *"Reasonable belief"* or *"reasonably believes"* when used in reference to a lawyer denotes that the lawyer believes the matter in question and that the circumstances are such that the belief is reasonable.

(j) *"Reasonably should know"* when used in reference to a lawyer denotes that a lawyer of reasonable prudence and competence would ascertain the matter in question.

(k) *"Screened"* denotes the isolation of a lawyer from any participation in a matter through the timely imposition of procedures within a firm that are reasonably adequate under the circumstances to protect information that the isolated lawyer is obligated to protect under these rules or other law.

(l) *"Substantial"* when used in reference to degree or extent denotes a material matter of clear and weighty importance.

(m) *"Tribunal"* denotes a court, an arbitrator in a binding arbitration proceeding, or a legislative body, administrative agency, or other body acting in an adjudicative capacity. A legislative body, administrative agency, or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding legal judgment directly affecting a party's interests in a particular matter.

(n) *"Writing"* or *"written"* denotes a tangible or electronic record of a communication or representation, including handwriting, typewriting, printing, photostating, photography, audio or videorecording, and electronic communications. A "signed" writing includes an electronic sound, symbol, or process attached to or logically associated with a writing and executed or adopted by a person with the intent to sign the writing.

**Comment**

*Confirmed in Writing*

[1] If it is not feasible to obtain or transmit a written confirmation at the time the client gives informed consent, then the lawyer must obtain or transmit it within a reasonable time thereafter. If a lawyer has obtained a client's informed consent, the lawyer may act in reliance on that consent so long as it is confirmed in writing within a reasonable time thereafter.

*Firm*

[2] Whether two or more lawyers constitute a firm within paragraph (c) can depend on the specific facts. For example, two practitioners who share office space and occasionally consult or assist each other ordinarily would not be regarded as constituting a firm. However, if they present themselves to the public in a way that suggests that they are a firm or conduct themselves as a firm, they should be regarded as a firm for purposes of the rules. The terms of any formal agreement between associated lawyers are relevant in determining whether they are a firm, as is the fact that they have mutual access to information concerning the clients they serve. Furthermore, it is relevant in doubtful cases to consider the underlying purpose of the rule that is involved. A group of lawyers could be regarded as a firm for purposes of the rule that the same lawyer should not represent opposing parties in litigation, while it might not be so regarded for purposes of the rule that information acquired by one lawyer is attributed to another.

[3] With respect to the law department of an organization, including the government, there is ordinarily no question that the members of the department constitute a firm within the meaning of the Iowa Rules of Professional Conduct. There can be uncertainty, however, as to the identity of the client. For example, it may not be clear whether the law department of a corporation represents a subsidiary or an affiliated corporation, as well as the corporation by which the members of the department are directly employed. A similar question can arise concerning an unincorporated association and its local affiliates.

[4] Similar questions can also arise with respect to lawyers in legal aid and legal services organizations. Depending upon the structure of the organization, the entire organization or different components of it may constitute a firm or firms for purposes of these rules.

*Fraud*

[5] When used in these rules, the terms "fraud" or "fraudulent" refer to conduct that is characterized as such under the substantive or procedural law of the applicable jurisdiction and has a purpose to deceive. This does not include merely negligent misrepresentation or negligent failure to apprise another of relevant information. For purposes of these rules, it is not necessary that anyone has suffered damages or relied on the misrepresentation or failure to inform.

*Informed Consent*

[6] Many of the Iowa Rules of Professional Conduct require the lawyer to obtain the informed consent of a client or other person (e.g., a former client or, under certain circumstances, a prospective client) before accepting or continuing representation or pursuing a course of conduct. *See, e.g.,* rules 32:1.2(c), 32:1.6(a), 32:1.7(b), 32:1.9(a), 32:1.11(a), 32:1.12(a), and 32:1.18(d). The communication necessary to obtain such consent will vary according to the rule involved and the circumstances giving rise to the need to obtain informed consent. The lawyer must make reasonable efforts to ensure that the client or other person possesses information reasonably adequate to make an informed decision. Ordinarily, this will require communication that includes a disclosure of the facts and circumstances giving rise to the situation, any explanation reasonably necessary to inform the client or other person of the material advantages and disadvantages of the proposed course of conduct, and a discussion of the client's or other person's options and alternatives. In some circumstances it may be appropriate for a lawyer to advise a client or other person to seek the advice of other counsel. A lawyer need not inform a client or other person of facts or implications already known to the client or other person; nevertheless, a lawyer who does not personally inform the client or other person assumes the risk that the client or other person is inadequately informed and the consent is invalid. In determining whether the information and explanation provided are reasonably adequate, relevant factors include whether the client or other person is experienced in legal matters generally and in making decisions of the type involved, and whether the client or other person is independently represented by other counsel in giving the consent. Normally, such persons need less information and explanation than others, and generally a client or other person who is independently represented by other counsel in giving the consent should be assumed to have given informed consent.

[7] Obtaining informed consent will usually require an affirmative response by the client or other person. In general, a lawyer may not assume consent from a client's or other person's silence. Consent may be inferred, however, from the conduct of a client or other person who has reasonably adequate information about the matter. A number of rules require that a person's consent be confirmed in writing. *See* rules 32:1.7(b), 32:1.9(a), 32:1.11(a), 32:1.12(a), and 32:1.18(d). For a definition of "writing" and "confirmed in writing," see paragraphs (n) and (b). Other rules require that a client's consent be obtained in a writing signed by the client. *See, e.g.,* rules 32:1.8(a) and (g). For a definition of "signed," see paragraph (n).

*Screened*

[8] This definition applies to situations where screening of a personally disqualified lawyer is permitted to remove imputation of a conflict of interest under rule 32:1.10, 32:1.11, 32:1.12, or 32:1.18.

[9] The purpose of screening is to assure the affected parties that confidential information known by the personally disqualified lawyer remains protected. The personally disqualified lawyer should acknowledge the obligation not to communicate with any of the other lawyers in the firm with respect to the matter. Similarly, other lawyers in the firm who are working on the matter should be informed that the screening is in place and that they may not communicate with the personally disqualified lawyer with respect to the matter. Additional screening measures that are appropriate for the particular matter will depend on the circumstances. To implement, reinforce, and remind all affected lawyers of the presence of the screening, it may be appropriate for the firm to undertake

such procedures as a written undertaking by the screened lawyer to avoid any communication with other firm personnel and any contact with any firm files or other information, including information in electronic form, relating to the matter, written notice and instructions to all other firm personnel forbidding any communication with the screened lawyer relating to the matter, denial of access by the screened lawyer to firm files or other information, including information in electronic form, relating to the matter, and periodic reminders of the screen to the screened lawyer and all other firm personnel.

[10] In order to be effective, screening measures must be implemented as soon as practical after a lawyer or law firm knows or reasonably should know that there is a need for screening.

[Court Order April 20, 2005, effective July 1, 2005; October 15, 2015]

## *CLIENT-LAWYER RELATIONSHIP*

### Rule 32:1.1 COMPETENCE

**A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.**

**Comment**

*Legal Knowledge and Skill*

[1] In determining whether a lawyer employs the requisite knowledge and skill in a particular matter, relevant factors include the relative complexity and specialized nature of the matter, the lawyer's general experience, the lawyer's training and experience in the field in question, the preparation and study the lawyer is able to give the matter, and whether it is feasible to refer the matter to, or associate or consult with, a lawyer of established competence in the field in question. In many instances, the required proficiency is that of a general practitioner. Expertise in a particular field of law may be required in some circumstances.

[2] A lawyer need not necessarily have special training or prior experience to handle legal problems of a type with which the lawyer is unfamiliar. A newly admitted lawyer can be as competent as a practitioner with long experience. Some important legal skills, such as the analysis of precedent, the evaluation of evidence, and legal drafting, are required in all legal problems. Perhaps the most fundamental legal skill consists of determining what kind of legal problems a situation may involve, a skill that necessarily transcends any particular specialized knowledge. A lawyer can provide adequate representation in a wholly novel field through necessary study. Competent representation can also be provided through the association of a lawyer of established competence in the field in question.

[3] In an emergency a lawyer may give advice or assistance in a matter in which the lawyer does not have the skill ordinarily required where referral to or consultation or association with another lawyer would be impractical. Even in an emergency, however, assistance should be limited to that reasonably necessary in the circumstances, for ill-considered action under emergency conditions can jeopardize the client's interest.

[4] A lawyer may accept representation where the requisite level of competence can be achieved by reasonable preparation. This applies as well to a lawyer who is appointed as counsel for an unrepresented person. *See also* rule 32:6.2.

*Thoroughness and Preparation*

[5] Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more extensive treatment than matters of lesser complexity and consequence. An agreement between the lawyer and the client regarding the scope of the representation may limit the matters for which the lawyer is responsible. *See* rule 32:1.2(c).

*Retaining or Contracting With Other Lawyers*

[6] Before a lawyer retains or contracts with other lawyers outside the lawyer's own firm to provide or assist in the provision of legal services to a client, the lawyer should ordinarily obtain informed consent from the client and must reasonably believe that the other lawyers' services will contribute to the competent and ethical representation of the client. *See also* rules 32:1.2 (allocation of authority), 32:1.4 (communication with client), 32:1.5(e) (fee sharing), 32:1.6 (confidentiality), and 32:5.5(a) (unauthorized practice of law). The reasonableness of the decision to retain or contract with other lawyers outside the lawyer's own firm will depend upon the circumstances, including the education, experience, and reputation of the nonfirm lawyers; the nature of the services assigned to the nonfirm lawyers; and the legal protections, professional conduct rules, and ethical environments of the jurisdictions in which the services will be performed, particularly relating to confidential information.

[7] When lawyers from more than one law firm are providing legal services to the client on a particular matter, the lawyers ordinarily should consult with each other and the client about the scope of their respective representations and the allocation of responsibility among them. *See* rule 32:1.2. When making allocations of responsibility in a matter pending before a tribunal, lawyers and parties may have additional obligations that are a matter of law beyond the scope of these rules.

*Maintaining Competence*

[8] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education, and comply with all continuing legal education requirements to which the lawyer is subject.

[Court Order April 20, 2005, effective July 1, 2005; October 15, 2015; August 28, 2020, effective January 1, 2021]

**Rule 32:1.2 SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY BETWEEN CLIENT AND LAWYER**

**(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by rule 32:1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial, and whether the client will testify.**

**(b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social, or moral views or activities.**

**(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.**

**(1) The client's informed consent must be confirmed in writing unless:**

**(i) the representation of the client consists solely of telephone consultation;**

**(ii) the representation is provided by a lawyer employed by a nonprofit legal services program or participating in a nonprofit or court-annexed legal services program and the lawyer's representation consists solely of providing information and advice or the preparation of court-approved legal forms; or**

**(iii) the court appoints the attorney for a limited purpose that is set forth in the appointment order.**

**(2) If the client gives informed consent in a writing signed by the client, there shall be a presumption that:**

**(i) the representation is limited to the attorney and the services described in the writing; and**

**(ii) the attorney does not represent the client generally or in any matters other than those identified in the writing.**

**(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good**

**faith effort to determine the validity, scope, meaning, or application of the law.**

**Comment**

*Allocation of Authority between Client and Lawyer*

[1] Paragraph (a) confers upon the client the ultimate authority to determine the purposes to be served by legal representation, within the limits imposed by law and the lawyer's professional obligations. The decisions specified in paragraph (a), such as whether to settle a civil matter, must also be made by the client. See rule 32:1.4(a)(1) for the lawyer's duty to communicate with the client about such decisions. With respect to the means by which the client's objectives are to be pursued, the lawyer shall consult with the client as required by rule 32:1.4(a)(2) and may take such action as is impliedly authorized to carry out the representation.

[2] On occasion, however, a lawyer and a client may disagree about the means to be used to accomplish the client's objectives. Clients normally defer to the special knowledge and skill of their lawyer with respect to the means to be used to accomplish their objectives, particularly with respect to technical, legal, and tactical matters. Conversely, lawyers usually defer to the client regarding such questions as the expense to be incurred and concern for third persons who might be adversely affected. Because of the varied nature of the matters about which a lawyer and client might disagree and because the actions in question may implicate the interests of a tribunal or other persons, this rule does not prescribe how such disagreements are to be resolved. Other law, however, may be applicable and should be consulted by the lawyer. The lawyer should also consult with the client and seek a mutually acceptable resolution of the disagreement. If such efforts are unavailing and the lawyer has a fundamental disagreement with the client, the lawyer may withdraw from the representation. *See* rule 32:1.16(b)(4). Conversely, the client may resolve the disagreement by discharging the lawyer. *See* rule 32:1.16(a)(3).

[3] At the outset of a representation, the client may authorize the lawyer to take specific action on the client's behalf without further consultation. Absent a material change in circumstances and subject to rule 32:1.4, a lawyer may rely on such an advance authorization. The client may, however, revoke such authority at any time.

[4] In a case in which the client appears to be suffering diminished capacity, the lawyer's duty to abide by the client's decisions is to be guided by reference to rule 32:1.14.

*Independence from Client's Views or Activities*

[5] Legal representation should not be denied to people who are unable to afford legal services, or whose cause is controversial or the subject of popular disapproval. By the same token, representing a client does not constitute approval of the client's views or activities.

*Agreements Limiting Scope of Representation*

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the

legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. *See* rule 32:1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Iowa Rules of Professional Conduct and other law. *See, e.g.,* rules 32:1.1, 32:1.8, and 32:5.6.

*Criminal, Fraudulent, and Prohibited Transactions*

[9] Paragraph (d) prohibits a lawyer from knowingly counseling or assisting a client to commit a crime or fraud. This prohibition, however, does not preclude the lawyer from giving an honest opinion about the actual consequences that appear likely to result from a client's conduct. Nor does the fact that a client uses advice in a course of action that is criminal or fraudulent of itself make a lawyer a party to the course of action. There is a critical distinction between presenting an analysis of legal aspects of questionable conduct and recommending the means by which a crime or fraud might be committed with impunity.

[10] When the client's course of action has already begun and is continuing, the lawyer's responsibility is especially delicate. The lawyer is required to avoid assisting the client, for example, by drafting or delivering documents that the lawyer knows are fraudulent or by suggesting how the wrongdoing might be concealed. A lawyer may not continue assisting a client in conduct that the lawyer originally supposed was legally proper but then discovers is criminal or fraudulent. The lawyer must, therefore, withdraw from the representation of the client in the matter. *See* rule 32:1.16(a). In some cases, withdrawal alone might be insufficient. It may be necessary for the lawyer to give notice of the fact of withdrawal and to disaffirm any opinion, document, affirmation, or the like. *See* rule 32:4.1.

[11] Where the client is a fiduciary, the lawyer may be charged with special obligations in dealings with a beneficiary.

[12] Paragraph (d) applies whether or not the defrauded party is a party to the transaction. Hence, a lawyer must not participate in a transaction to effectuate criminal or fraudulent avoidance of tax liability. Paragraph (d) does not preclude undertaking a criminal defense incident to a general retainer for legal services to a lawful enterprise. The last clause of paragraph (d) recognizes that determining the validity or interpretation of a statute or regulation may require a course of action involving disobedience of the statute or regulation or of the interpretation placed upon it by governmental authorities.

[13] If a lawyer comes to know or reasonably should know that a client expects assistance not permitted by the Iowa Rules of Professional Conduct or other law or if the lawyer intends to act contrary to the client's instructions, the lawyer must consult with the client regarding the limitations on the lawyer's conduct. *See* rule 32:1.4(a)(5).

[Court Order April 20, 2005, effective July 1, 2005; March 12, 2007]

**Rule 32:1.3 DILIGENCE**

**A lawyer shall act with reasonable diligence and promptness in representing a client.**

**Comment**

[1] A lawyer should pursue a matter on behalf of a client despite opposition, obstruction, or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. A lawyer is not bound, however, to press for every advantage that might be realized for a client. For example, a lawyer may have authority to exercise professional discretion in determining the means by which a matter should be pursued. *See* rule 32:1.2. The lawyer's duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect. *See* Iowa Ct. R. ch. 33.

[2] A lawyer's work load must be controlled so that each matter can be handled competently.

[3] Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable

delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.

[4] Unless the relationship is terminated as provided in rule 32:1.16, a lawyer should carry through to conclusion all matters undertaken for a client. If a lawyer's employment is limited to a specific matter, the relationship terminates when the matter has been resolved. If a lawyer has served a client over a substantial period in a variety of matters, the client sometimes may assume that the lawyer will continue to serve on a continuing basis unless the lawyer gives notice of withdrawal. Doubt about whether a client-lawyer relationship still exists should be clarified by the lawyer, preferably in writing, so that the client will not mistakenly suppose the lawyer is looking after the client's affairs when the lawyer has ceased to do so. For example, if a lawyer has handled a judicial or administrative proceeding that produced a result adverse to the client and the lawyer and the client have not agreed that the lawyer will handle the matter on appeal, the lawyer must consult with the client about the possibility of appeal before relinquishing responsibility for the matter. *See* rule 32:1.4(a)(2). Whether the lawyer is obligated to prosecute the appeal for the client depends on the scope of the representation the lawyer has agreed to provide to the client or other applicable law. *See* rule 32:1.2. *See, e.g.,* Iowa R. Crim. P. 2.29(6); Iowa Rs. App. P. 6.102(1)(*b*) and 6.201, 6.109(4) and 6.109(5).

[5] To prevent neglect of client matters in the event of a sole practitioner's death or disability, the duty of diligence may require that each sole practitioner prepare a plan, in conformity with applicable rules, that designates another competent lawyer to review client files, notify each client of the lawyer's death or disability, and determine whether there is a need for immediate protective action. *See* Iowa Ct. R. 39.18; *see also id.* rs. 34.17(6), .18 (where reasonable necessity exists, the local chief judge shall appoint a lawyer to serve as trustee to inventory files, sequester client funds, and take any other appropriate action to protect the interests of the clients and other affected persons of a deceased, suspended, or disabled lawyer).

[Court Order April 20, 2005, effective July 1, 2005; February 20, 2012; August 28, 2020, effective January 1, 2021]

## Rule 32:1.4 COMMUNICATIONS

**(a) A lawyer shall:**

**(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in rule 32:1.0(e), is required by these rules;**

**(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;**

**(3) keep the client reasonably informed about the status of the matter;**

**(4) promptly comply with reasonable requests for information; and**

**(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Iowa Rules of Professional Conduct or other law.**

**(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.**

### Comment

[1] Reasonable communication between the lawyer and the client is necessary for the client effectively to participate in the representation.

*Communicating with Client*

[2] If these rules require that a particular decision about the representation be made by the client, paragraph (a)(1) requires that the lawyer promptly consult with and secure the client's consent prior to taking action unless prior discussions with the client have resolved what action the client wants the lawyer to take. For example, a lawyer who receives from opposing counsel an offer of settlement in a civil controversy or a proffered plea bargain in a criminal case must promptly inform the client of its substance unless the client has previously indicated that the proposal will be acceptable or unacceptable or has authorized the lawyer to accept or to reject the offer. *See* rule 32:1.2(a).

[3] Paragraph (a)(2) requires the lawyer to reasonably consult with the client about the means to

be used to accomplish the client's objectives. The lawyer should also discuss relevant provisions of the Standards for Professional Conduct and indicate the lawyer's intent to follow those Standards whenever possible. *See* Iowa Ct. R. ch. 33. In some situations–depending on both the importance of the action under consideration and the feasibility of consulting with the client–this duty will require consultation prior to taking action. In other circumstances, such as during a trial when an immediate decision must be made, the exigency of the situation may require the lawyer to act without prior consultation. In such cases the lawyer must nonetheless act reasonably to inform the client of actions the lawyer has taken on the client's behalf. Additionally, paragraph (a)(3) requires that the lawyer keep the client reasonably informed about the status of the matter, such as significant developments affecting the timing or the substance of the representation.

[4] A lawyer's regular communication with clients will minimize the occasions on which a client will need to request information concerning the representation. When a client makes a reasonable request for information, however, paragraph (a)(4) requires prompt compliance with the request, or if a prompt response is not feasible, that the lawyer, or a member of the lawyer's staff, acknowledge receipt of the request and advise the client when a response may be expected. A lawyer should promptly respond to or acknowledge client communications.

*Explaining Matters*

[5] The client should have sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued, to the extent the client is willing and able to do so. Adequacy of communication depends in part on the kind of advice or assistance that is involved. For example, when there is time to explain a proposal made in a negotiation, the lawyer should review all important provisions with the client before proceeding to an agreement. In litigation a lawyer should explain the general strategy and prospects of success and ordinarily should consult the client on tactics that are likely to result in significant expense or to injure or coerce others. On the other hand, a lawyer ordinarily will not be expected to describe trial or negotiation strategy in detail. The guiding principle is that the lawyer should fulfill reasonable client expectations for information consistent with the duty to act in the client's best interests, and the client's overall requirements as to the character of representation. In certain circumstances, such as when a lawyer asks a client to consent to a representation affected by a conflict of interest, the client must give informed consent, as defined in rule 32:1.0(e).

[6] Ordinarily, the information to be provided is that appropriate for a client who is a comprehending and responsible adult. However, fully informing the client according to this standard may be impracticable, for example, where the client is a child or suffers from diminished capacity. *See* rule 32:1.14. When the client is an organization or group, it is often impossible or inappropriate to inform every one of its members about its legal affairs; ordinarily, the lawyer should address communications to the appropriate officials of the organization. *See* rule 32:1.13. Where many routine matters are involved, a system of limited or occasional reporting may be arranged with the client.

*Withholding Information*

[7] In some circumstances, a lawyer may be justified in delaying transmission of information when the client would be likely to react imprudently to an immediate communication. Thus, a lawyer might withhold a psychiatric diagnosis of a client when the examining psychiatrist indicates that disclosure would harm the client. A lawyer may not withhold information to serve the lawyer's own interest or convenience or the interests or convenience of another person. Rules or court orders governing litigation may provide that information supplied to a lawyer may not be disclosed to the client. Rule 32:3.4(c) directs compliance with such rules or orders.

[Court Order April 20, 2005, effective July 1, 2005; October 15, 2015; August 28, 2020, effective January 1, 2021]

**Rule 32:1.5 FEES**

**(a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses, or violate any restrictions imposed by law. The factors to be considered in determining the reasonableness of a fee include the following:**

**(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;**

**(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;**

**(3) the fee customarily charged in the locality for similar legal services;**

**(4) the amount involved and the results obtained;**

**(5) the time limitations imposed by the client or by the circumstances;**

**(6) the nature and length of the professional relationship with the client;**

**(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and**

**(8) whether the fee is fixed or contingent.**

**(b) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client.**

**(c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. A contingent fee agreement shall be in a writing signed by the client and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial, or appeal; litigation and other expenses to be deducted from the recovery; and whether such expenses are to be deducted before or after the contingent fee is calculated. The agreement must clearly notify the client of any expenses for which the client will be liable whether or not the client is the prevailing party. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.**

**(d) A lawyer shall not enter into an arrangement for, charge, or collect:**

**(1) any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of alimony or support, or property settlement in lieu thereof; or**

**(2) a contingent fee for representing a defendant in a criminal case.**

**(e) A division of a fee between lawyers who are not in the same firm may be made only if:**

**(1) the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;**

**(2) the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and**

**(3) the total fee is reasonable.**

**Comment**

*Reasonableness and Legality of Fee and Expenses*

[1] Paragraph (a) requires that lawyers charge fees that are reasonable under the circumstances. The factors specified in (1) through (8) are not exclusive. Nor will each factor be relevant in each instance. Paragraph (a) also requires that expenses for which the client will be charged must be reasonable. A lawyer may seek reimbursement for the cost of services performed in-house, such as copying, or for other expenses incurred in-house, such as telephone charges, either by charging a reasonable amount to which the client has agreed in advance or by charging an amount that reasonably reflects the cost incurred by the lawyer. A fee that is otherwise reasonable may be subject to legal limitations, of which the lawyer should be aware. For example, a lawyer must comply with restrictions imposed by statute or court rule on the timing and amount of fees in probate.

*Basis or Rate of Fee*

[2] When the lawyer has regularly represented a client, they ordinarily will have evolved an understanding concerning the basis or rate of the fee and the expenses for which the client will be

responsible. In a new client-lawyer relationship, however, an understanding as to fees and expenses must be promptly established. Generally, it is desirable to furnish the client with at least a simple memorandum or copy of the lawyer's customary fee arrangements that states the general nature of the legal services to be provided, the basis, rate, or total amount of the fee, and whether and to what extent the client will be responsible for any costs, expenses, or disbursements in the course of the representation. A written statement concerning the terms of the engagement reduces the possibility of misunderstanding.

[3] Contingent fees, like any other fees, are subject to the reasonableness standard of paragraph (a) of this rule. In determining whether a particular contingent fee is reasonable, or whether it is reasonable to charge any form of contingent fee, a lawyer must consider the factors that are relevant under the circumstances. Applicable law may impose limitations on contingent fees, such as a ceiling on the percentage allowable, or may require a lawyer to offer clients an alternative basis for the fee. Applicable law also may apply to situations other than a contingent fee, for example, government regulations regarding fees in certain tax matters.

*Terms of Payment*

[4] A lawyer may require advance payment of a fee, but is obliged to return any unearned portion. *See* rule 32:1.16(d). A lawyer may accept property in payment for services, such as an ownership interest in an enterprise, providing this does not involve acquisition of a proprietary interest in the cause of action or subject matter of the litigation contrary to rule 32:1.8(i). However, a fee paid in property instead of money may be subject to the requirements of rule 32:1.8(a) because such fees often have the essential qualities of a business transaction with the client.

[5] An agreement may not be made whose terms might induce the lawyer improperly to curtail services for the client or perform them in a way contrary to the client's interest. For example, a lawyer should not enter into an agreement whereby services are to be provided only up to a stated amount when it is foreseeable that more extensive services probably will be required, unless the situation is adequately explained to the client. Otherwise, the client might have to bargain for further assistance in the midst of a proceeding or transaction. However, it is proper to define the extent of services in light of the client's ability to pay. A lawyer should not exploit a fee arrangement based primarily on hourly charges by using wasteful procedures.

*Prohibited Contingent Fees*

[6] Paragraph (d) prohibits a lawyer from charging a contingent fee in a domestic relations matter when payment is contingent upon the securing of a divorce or upon the amount of alimony or support or property settlement to be obtained. This provision does not preclude a contract for a contingent fee for legal representation in connection with the recovery of post-judgment balances due under support, alimony, or other financial orders because such contracts do not implicate the same policy concerns.

*Division of Fee*

[7] A division of fee is a single billing to a client covering the fee of two or more lawyers who are not in the same firm. A division of fee facilitates association of more than one lawyer in a matter in which neither alone could serve the client as well, and most often is used when the fee is contingent and the division is between a referring lawyer and a trial specialist. Paragraph (e) permits the lawyers to divide a fee either on the basis of the proportion of services they render or if each lawyer assumes responsibility for the representation as a whole. In addition, the client must agree to the arrangement, including the share that each lawyer is to receive, and the agreement must be confirmed in writing. Contingent fee agreements must be in a writing signed by the client and must otherwise comply with paragraph (c) of this rule. Joint responsibility for the representation entails financial and ethical responsibility for the representation as if the lawyers were associated in a partnership. A lawyer should only refer a matter to a lawyer whom the referring lawyer reasonably believes is competent to handle the matter. *See* rule 32:1.1.

[8] Paragraph (e) does not prohibit or regulate division of fees to be received in the future for work done when lawyers were previously associated in a law firm.

*Disputes over Fees*

[9] If a procedure has been established for resolution of fee disputes, such as an arbitration or mediation procedure established by the bar, the lawyer must comply with the procedure when it is mandatory, and, even when it is voluntary, the lawyer should conscientiously consider submitting to it. Law may prescribe a procedure for determining a lawyer's fee, for example, in representation of an executor or administrator, a class or a person entitled to a reasonable fee as part of the measure of damages. The lawyer entitled to such a fee and a lawyer representing another party concerned with the fee should comply with the prescribed procedure.
[Court Order April 20, 2005, effective July 1, 2005]

**Rule 32:1.6 CONFIDENTIALITY OF INFORMATION**

**(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by paragraph (b) or required by paragraph (c).**

**(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:**

**(1) to prevent reasonably certain death or substantial bodily harm;**

**(2) to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;**

**(3) to prevent, mitigate, or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;**

**(4) to secure legal advice about the lawyer's compliance with these rules;**

**(5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client; or**

**(6) to comply with other law or a court order; or**

**(7) to detect and resolve conflicts of interest arising from the lawyer's change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client.**

**(c) A lawyer shall reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary to prevent imminent death or substantial bodily harm.**

**(d) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.**

**Comment**

[1] This rule governs the disclosure by a lawyer of information relating to the representation of a client during the lawyer's representation of the client. See rule 32:1.18 for the lawyer's duties with respect to information provided to the lawyer by a prospective client, rule 32:1.9(c)(2) for the lawyer's duty not to reveal information relating to the lawyer's prior representation of a former client, and rules 32:1.8(b) and 32:1.9(c)(1) for the lawyer's duties with respect to the use of such information to the disadvantage of clients and former clients.

[2] A fundamental principle in the client-lawyer relationship is that, in the absence of the client's informed consent, the lawyer must not reveal information relating to the representation. See rule 32:1.0(e) for the definition of informed consent. This contributes to the trust that is the hallmark of the client-lawyer relationship. The client is thereby encouraged to seek legal assistance and to communicate fully and frankly with the lawyer even as to embarrassing or legally damaging subject matter. The lawyer needs this information to represent the client effectively and, if necessary, to advise the client to refrain from wrongful conduct. Almost without exception, clients come to lawyers in order to determine their rights and what is, in the complex of laws and regulations, deemed to be legal and correct. Based upon experience, lawyers know that almost all clients follow the advice given, and the law is upheld.

[3] The principle of client-lawyer confidentiality is given effect by related bodies of law: the attorney-client privilege, the work product doctrine, and the rule of confidentiality established in professional ethics. The attorney-client privilege and work-product doctrine apply in judicial and other proceedings in which a lawyer may be called as a witness or otherwise required to produce evidence concerning a client. The rule of client-lawyer confidentiality applies in situations other than those where evidence is sought from the lawyer through compulsion of law. The confidentiality rule, for example, applies not only to matters communicated in confidence by the client but also to all information relating to the representation, whatever its source. A lawyer may not disclose such information except as authorized or required by the Iowa Rules of Professional Conduct or other law. *See also* Scope.

[4] Paragraph (a) prohibits a lawyer from revealing information relating to the representation of a client. This prohibition also applies to disclosures by a lawyer that do not in themselves reveal protected information but could reasonably lead to the discovery of such information by a third person. A lawyer's use of a hypothetical to discuss issues relating to the representation is permissible so long as there is no reasonable likelihood that the listener will be able to ascertain the identity of the client or the situation involved.

*Authorized Disclosure*

[5] Except to the extent that the client's instructions or special circumstances limit that authority, a lawyer is impliedly authorized to make disclosures about a client when appropriate in carrying out the representation. In some situations, for example, a lawyer may be impliedly authorized to admit a fact that cannot properly be disputed or to make a disclosure that facilitates a satisfactory conclusion to a matter. Lawyers in a firm may, in the course of the firm's practice, disclose to each other information relating to a client of the firm, unless the client has instructed that particular information be confined to specified lawyers.

*Permissive Disclosure Adverse to Client*

[6] Although the public interest is usually best served by a strict rule requiring lawyers to preserve the confidentiality of information relating to the representation of their clients, the confidentiality rule is subject to limited exceptions. Paragraph (b)(1) recognizes the overriding value of life and physical integrity and permits disclosure reasonably necessary to prevent reasonably certain death or substantial bodily harm. Such harm is reasonably certain to occur if it will be suffered in the near future or if there is a present and substantial threat that a person will suffer such harm at a later date if the lawyer fails to take action necessary to eliminate the threat. Thus, a lawyer who knows that a client has accidentally discharged toxic waste into a town's water supply may reveal this information to the authorities if there is a present and substantial risk that a person who drinks the water will contract a life-threatening or debilitating disease and the lawyer's disclosure is necessary to eliminate the threat or reduce the number of victims.

[7] Paragraph (b)(2) is a limited exception to the rule of confidentiality that permits the lawyer to reveal information to the extent necessary to enable affected persons or appropriate authorities to prevent the client from committing a crime or fraud, as defined in rule 32:1.0(d), that is reasonably certain to result in substantial injury to the financial or property interests of another and in furtherance of which the client has used or is using the lawyer's services. Such a serious abuse of the client-lawyer relationship by the client forfeits the protection of this rule. The client can, of course, prevent such disclosure by refraining from the wrongful conduct. Although paragraph (b)(2) does not require the lawyer to reveal the client's misconduct, the lawyer may not counsel or assist the client in conduct the lawyer knows is criminal or fraudulent. *See* rule 32:1.2(d). See also rule 32:1.16 with respect to the lawyer's obligation or right to withdraw from the representation of the client in such circumstances, and rule 32:1.13(c), which permits the lawyer, where the client is an organization, to reveal information relating to the representation in limited circumstances.

[8] Paragraph (b)(3) addresses the situation in which the lawyer does not learn of the client's crime or fraud until after it has been consummated. Although the client no longer has the option of preventing disclosure by refraining from the wrongful conduct, there will be situations in which the loss suffered by the affected person can be prevented, rectified, or mitigated. In such situations, the lawyer may disclose information relating to the representation to the extent necessary to enable the

affected persons to prevent or mitigate reasonably certain losses or to attempt to recoup their losses. Paragraph (b)(3) does not apply when a person who has committed a crime or fraud thereafter employs a lawyer for representation concerning that offense.

[9] A lawyer's confidentiality obligations do not preclude a lawyer from securing confidential legal advice about the lawyer's personal responsibility to comply with these rules. In most situations, disclosing information to secure such advice will be impliedly authorized for the lawyer to carry out the representation. Even when the disclosure is not impliedly authorized, paragraph (b)(4) permits such disclosure because of the importance of a lawyer's compliance with the Iowa Rules of Professional Conduct.

[10] Where a legal claim or disciplinary charge alleges complicity of the lawyer in a client's conduct or other misconduct of the lawyer involving representation of the client, the lawyer may respond to the extent the lawyer reasonably believes necessary to establish a defense. The same is true with respect to a claim involving the conduct or representation of a former client. Such a charge can arise in a civil, criminal, disciplinary, or other proceeding and can be based on a wrong allegedly committed by the lawyer against the client or on a wrong alleged by a third person, for example, a person claiming to have been defrauded by the lawyer and client acting together. The lawyer's right to respond arises when an assertion of such complicity has been made. Paragraph (b)(5) does not require the lawyer to await the commencement of an action or proceeding that charges such complicity, so that the defense may be established by responding directly to a third party who has made such an assertion. The right to defend also applies, of course, where a proceeding has been commenced.

[11] A lawyer entitled to a fee is permitted by paragraph (b)(5) to prove the services rendered in an action to collect it. This aspect of the rule expresses the principle that the beneficiary of a fiduciary relationship may not exploit it to the detriment of the fiduciary.

[12] Other law may require that a lawyer disclose information about a client. Whether such a law supersedes rule 32:1.6 is a question of law beyond the scope of these rules. When disclosure of information relating to the representation appears to be required by other law, the lawyer must discuss the matter with the client to the extent required by rule 32:1.4. If, however, the other law supersedes this rule and requires disclosure, paragraph (b)(6) permits the lawyer to make such disclosures as are necessary to comply with the law.

*Detection of Conflicts of Interest*

[13] Paragraph (b)(7) recognizes that lawyers in different firms may need to disclose limited information to each other to detect and resolve conflicts of interest, such as when a lawyer is considering an association with another firm, two or more firms are considering a merger, or a lawyer is considering the purchase of a law practice. *See* rule 32:1.17, comment [7]. Under these circumstances, lawyers and law firms are permitted to disclose limited information, but only once substantive discussions regarding the new relationship have occurred. Any such disclosure should ordinarily include no more than the identity of the persons and entities involved in a matter, a brief summary of the general issues involved, and information about whether the matter has terminated. Even this limited information, however, should be disclosed only to the extent reasonably necessary to detect and resolve conflicts of interest that might arise from the possible new relationship. Moreover, the disclosure of any information is prohibited if it would compromise the attorney-client privilege or otherwise prejudice the client (e.g., the fact that a corporate client is seeking advice on a corporate takeover that has not been publicly announced; that a person has consulted a lawyer about the possibility of divorce before the person's intentions are known to the person's spouse; or that a person has consulted a lawyer about a criminal investigation that has not led to a public charge). Under those circumstances, paragraph (a) prohibits disclosure unless the client or former client gives informed consent. A lawyer's fiduciary duty to the lawyer's firm may also govern a lawyer's conduct when exploring an association with another firm and is beyond the scope of these rules.

[14] Any information disclosed pursuant to paragraph (b)(7) may be used or further disclosed only to the extent necessary to detect and resolve conflicts of interest. Paragraph (b)(7) does not restrict the use of information acquired by means independent of any disclosure pursuant to paragraph (b)(7). Paragraph (b)(7) also does not affect the disclosure of information within a law firm when the disclosure is otherwise authorized, *see* comment [5], such as when a lawyer in a firm discloses information to another lawyer in the same firm to detect and resolve conflicts of interest that could

arise in connection with undertaking a new representation.

[15] A lawyer may be ordered to reveal information relating to the representation of a client by a court or by another tribunal or governmental entity claiming authority pursuant to other law to compel the disclosure. Absent informed consent of the client to do otherwise, the lawyer should assert on behalf of the client all nonfrivolous claims that the order is not authorized by other law or that the information sought is protected against disclosure by the attorney-client privilege or other applicable law. In the event of an adverse ruling, the lawyer must consult with the client about the possibility of appeal to the extent required by rule 32:1.4. Unless review is sought, however, paragraph (b)(6) permits the lawyer to comply with the court's order.

[16] Paragraph (b) permits disclosure only to the extent the lawyer reasonably believes the disclosure is necessary to accomplish one of the purposes specified. Where practicable, the lawyer should first seek to persuade the client to take suitable action to obviate the need for disclosure. In any case, a disclosure adverse to the client's interest should be no greater than the lawyer reasonably believes necessary to accomplish the purpose. If the disclosure will be made in connection with a judicial proceeding, the disclosure should be made in a manner that limits access to the information to the tribunal or other persons having a need to know it and appropriate protective orders or other arrangements should be sought by the lawyer to the fullest extent practicable.

[17] Paragraph (b) permits but does not require the disclosure of information relating to a client's representation to accomplish the purposes specified in paragraphs (b)(1) through (b)(6). In exercising the discretion conferred by this rule, the lawyer may consider such factors as the nature of the lawyer's relationship with the client and with those who might be injured by the client, the lawyer's own involvement in the transaction, and factors that may extenuate the conduct in question. A lawyer's decision not to disclose as permitted by paragraph (b) does not violate this rule. Disclosure may be required, however, by other rules. Some rules require disclosure only if such disclosure would be permitted by paragraph (b). *See* rules 32:1.2(d), 32:4.1(b), 32:8.1, and 32:8.3. Rule 32:3.3, on the other hand, requires disclosure in some circumstances regardless of whether such disclosure is permitted by this rule. *See* rule 32:3.3(c).

*Acting Competently to Preserve Confidentiality*

[18] Paragraph (c) requires a lawyer to act competently to safeguard information relating to the representation of a client against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. *See* rules 32:1.1, 32:5.1, and 32:5.3. The unauthorized access to, or the inadvertent or unauthorized disclosure of, information relating to the representation of a client does not constitute a violation of paragraph (c) if the lawyer has made reasonable efforts to prevent the access or disclosure. Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use). A client may require the lawyer to implement special security measures not required by this rule or may give informed consent to forgo security measures that would otherwise be required by this rule. Whether a lawyer may be required to take additional steps to safeguard a client's information in order to comply with other law, such as state and federal laws that govern data privacy or that impose notification requirements upon the loss of, or unauthorized access to, electronic information, is beyond the scope of these rules. For a lawyer's duties when sharing information with nonlawyers outside the lawyer's own firm, see rule 32:5.3, comments [3]-[4].

[19] When transmitting a communication that includes information relating to the representation of a client, the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement. A client may require the lawyer to implement special security measures

not required by this rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this rule. Whether a lawyer may be required to take additional steps in order to comply with other laws, such as state and federal laws that govern data privacy, is beyond the scope of these rules.

*Former Client*

[20] The duty of confidentiality continues after the client-lawyer relationship has terminated. *See* rule 32:1.9(c)(2). See rule 32:1.9(c)(1) for the prohibition against using such information to the disadvantage of the former client.

*Required Disclosure Adverse to Client*

[21] Rule 32:1.6(c) requires a lawyer to reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary to prevent imminent death or substantial bodily harm. Rule 32:1.6(c) differs from rule 32:1.6(b)(1) in that rule 32:1.6(b)(1) permits, but does not require, disclosure in situations where death or substantial bodily harm is deemed to be reasonably certain rather than imminent. For purposes of rule 32:1.6, "reasonably certain" includes situations where the lawyer knows or reasonably believes the harm will occur, but there is still time for independent discovery and prevention of the harm without the lawyer's disclosure. For purposes of this rule, death or substantial bodily harm is "imminent" if the lawyer knows or reasonably believes it is unlikely that the death or harm can be prevented unless the lawyer immediately discloses the information.
[Court Order April 20, 2005, effective July 1, 2005; October 15, 2015]

## Rule 32:1.7 CONFLICT OF INTEREST: CURRENT CLIENTS

**(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:**

**(1) the representation of one client will be directly adverse to another client; or**

**(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client, or a third person or by a personal interest of the lawyer.**

**(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:**

**(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;**

**(2) the representation is not prohibited by law;**

**(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and**

**(4) each affected client gives informed consent, confirmed in writing.**

**(c) In no event shall a lawyer represent both parties in dissolution of marriage proceedings.**

**Comment**

*General Principles*

[1] Loyalty and independent judgment are essential elements in the lawyer's relationship to a client. Concurrent conflicts of interest can arise from the lawyer's responsibilities to another client, a former client or a third person, or from the lawyer's own interests. For specific rules regarding certain concurrent conflicts of interest, see rule 32:1.8. For former client conflicts of interest, see rule 32:1.9. For conflicts of interest involving prospective clients, see rule 32:1.18. For definitions of "informed consent" and "confirmed in writing," see rule 32:1.0(e) and (b).

[2] Resolution of a conflict of interest problem under this rule requires the lawyer to: 1) clearly identify the client or clients; 2) determine whether a conflict of interest exists; 3) decide whether the representation may be undertaken despite the existence of a conflict, i.e., whether the conflict

is consentable; and 4) if so, consult with the clients affected under paragraph (a) and obtain their informed consent, confirmed in writing. The clients affected under paragraph (a) include both of the clients referred to in paragraph (a)(1) and the one or more clients whose representation might be materially limited under paragraph (a)(2).

[3] A conflict of interest may exist before representation is undertaken, in which event the representation must be declined, unless the lawyer obtains the informed consent of each client under the conditions of paragraph (b). To determine whether a conflict of interest exists, a lawyer should adopt reasonable procedures, appropriate for the size and type of firm and practice, to determine in both litigation and non-litigation matters the persons and issues involved. *See also* comment to rule 32:5.1. Ignorance caused by a failure to institute such procedures will not excuse a lawyer's violation of this rule. As to whether a client-lawyer relationship exists or, having once been established, is continuing, see comment to rule 32:1.3 and Scope.

[4] If a conflict arises after representation has been undertaken, the lawyer ordinarily must withdraw from the representation, unless the lawyer has obtained the informed consent of the client under the conditions of paragraph (b). *See* rule 32:1.16. Where more than one client is involved, whether the lawyer may continue to represent any of the clients is determined both by the lawyer's ability to comply with duties owed to the former client and by the lawyer's ability to represent adequately the remaining client or clients, given the lawyer's duties to the former client. *See* rule 32:1.9. *See also* comments [5] and [29].

[5] Unforeseeable developments, such as changes in corporate and other organizational affiliations or the addition or realignment of parties in litigation, might create conflicts in the midst of a representation, as when a company sued by the lawyer on behalf of one client is bought by another client represented by the lawyer in an unrelated matter. Depending on the circumstances, the lawyer may have the option to withdraw from one of the representations in order to avoid the conflict. The lawyer must seek court approval where necessary and take steps to minimize harm to the clients. *See* rule 32:1.16. The lawyer must continue to protect the confidences of the client from whose representation the lawyer has withdrawn. *See* rule 32:1.9(c).

*Identifying Conflicts of Interest: Directly Adverse*

[6] Loyalty to a current client prohibits undertaking representation directly adverse to that client without that client's informed consent. Thus, absent consent, a lawyer may not act as an advocate in one matter against a person the lawyer represents in some other matter, even when the matters are wholly unrelated. The client as to whom the representation is directly adverse is likely to feel betrayed, and the resulting damage to the client-lawyer relationship is likely to impair the lawyer's ability to represent the client effectively. In addition, the client on whose behalf the adverse representation is undertaken reasonably may fear that the lawyer will pursue that client's case less effectively out of deference to the other client, i.e., that the representation may be materially limited by the lawyer's interest in retaining the current client. Similarly, a directly adverse conflict may arise when a lawyer is required to cross-examine a client who appears as a witness in a lawsuit involving another client, as when the testimony will be damaging to the client who is represented in the lawsuit. On the other hand, simultaneous representation in unrelated matters of clients whose interests are only economically adverse, such as representation of competing economic enterprises in unrelated litigation, does not ordinarily constitute a conflict of interest and thus may not require consent of the respective clients.

[7] Directly adverse conflicts can also arise in transactional matters. For example, if a lawyer is asked to represent the seller of a business in negotiations with a buyer represented by the lawyer, not in the same transaction but in another, unrelated matter, the lawyer could not undertake the representation without the informed consent of each client.

*Identifying Conflicts of Interest: Material Limitation*

[8] Even where there is no direct adverseness, a conflict of interest exists if there is a significant risk that a lawyer's ability to consider, recommend, or carry out an appropriate course of action for the client will be materially limited as a result of the lawyer's other responsibilities or interests. For example, a lawyer asked to represent several individuals seeking to form a joint venture is likely to be materially limited in the lawyer's ability to recommend or advocate all possible positions that

each might take because of the lawyer's duty of loyalty to the others. The conflict in effect forecloses alternatives that would otherwise be available to the client. The mere possibility of subsequent harm does not itself require disclosure and consent. The critical questions are the likelihood that a difference in interests will eventuate and, if it does, whether it will materially interfere with the lawyer's independent professional judgment in considering alternatives or foreclose courses of action that reasonably should be pursued on behalf of the client.

*Lawyer's Responsibilities to Former Clients and Other Third Persons*

[9] In addition to conflicts with other current clients, a lawyer's duties of loyalty and independence may be materially limited by responsibilities to former clients under rule 32:1.9 or by the lawyer's responsibilities to other persons, such as fiduciary duties arising from a lawyer's service as a trustee, executor, or corporate director.

*Personal Interest Conflicts*

[10] The lawyer's own interests should not be permitted to have an adverse effect on representation of a client. For example, if the probity of a lawyer's own conduct in a transaction is in serious question, it may be difficult or impossible for the lawyer to give a client detached advice. Similarly, when a lawyer has discussions concerning possible employment with an opponent of the lawyer's client, or with a law firm representing the opponent, such discussions could materially limit the lawyer's representation of the client. In addition, a lawyer may not allow related business interests to affect representation, for example, by referring clients to an enterprise in which the lawyer has an undisclosed financial interest. See rule 32:1.8 for specific rules pertaining to a number of personal interest conflicts, including business transactions with clients. *See also* rule 32:1.10 (personal interest conflicts under rule 32:1.7 ordinarily are not imputed to other lawyers in a law firm).

[11] When lawyers representing different clients in the same matter or in substantially related matters are closely related by blood or marriage, there may be a significant risk that client confidences will be revealed and that the lawyer's family relationship will interfere with both loyalty and independent professional judgment. As a result, each client is entitled to know of the existence and implications of the relationship between the lawyers before the lawyer agrees to undertake the representation. Thus, a lawyer related to another lawyer, e.g., a parent, child, sibling, spouse, cohabiting partner, or lawyer related in any other familial or romantic capacity, ordinarily may not represent a client in a matter where that lawyer is representing another party, unless each client gives informed consent. The disqualification arising from a close family relationship is personal and ordinarily is not imputed to members of firms with whom the lawyers are associated. *See* rule 32:1.10.

[12] A lawyer is prohibited from engaging in sexual relationships with a client unless the sexual relationship predates the formation of the client-lawyer relationship. *See* rule 32:1.8(j).

*Interest of Person Paying for a Lawyer's Service*

[13] A lawyer may be paid from a source other than the client, including a co-client, if the client is informed of that fact and consents and the arrangement does not compromise the lawyer's duty of loyalty or independent judgment to the client. *See* rule 32:1.8(f). If acceptance of the payment from any other source presents a significant risk that the lawyer's representation of the client will be materially limited by the lawyer's own interest in accommodating the person paying the lawyer's fee or by the lawyer's responsibilities to a payer who is also a co-client, then the lawyer must comply with the requirements of paragraph (b) before accepting the representation, including determining whether the conflict is consentable and, if so, that the client has adequate information about the material risks of the representation.

[13a] Where a lawyer has been retained by an insurer to represent the insured pursuant to the insurer's obligations under a liability insurance policy, the lawyer may comply with reasonable cost-containment litigation guidelines proposed by the insurer if such guidelines do not materially interfere with the lawyer's duty to exercise independent professional judgment to protect the reasonable interests of the insured, do not regulate the details of the lawyer's performance, and do not materially limit the professional discretion and control of the lawyer. The lawyer may provide

the insurer with a description of the services rendered and time spent, but the lawyer may not agree to provide detailed information that would undermine the protection of confidential client-lawyer information, if the insurer will share such information with a third party. If the lawyer believes that guidelines proposed by the insurer prevent the lawyer from exercising independent professional judgment or from protecting confidential client information, the lawyer shall identify and explain the conflict of interest to the insurer and insured and also advise the insured of the right to seek independent legal counsel. If the conflict is not eliminated but the insured wants the lawyer to continue the representation, the lawyer may proceed if the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation and the insured's informed consent is obtained pursuant to paragraph (b)(4).

*Prohibited Representations*

[14] Ordinarily, clients may consent to representation notwithstanding a conflict. However, as indicated in paragraph (b), some conflicts are nonconsentable, meaning that the lawyer involved cannot properly ask for such agreement or provide representation on the basis of the client's consent. When the lawyer is representing more than one client, the question of consentability must be resolved as to each client.

[15] Consentability is typically determined by considering whether the interests of the clients will be adequately protected if the clients are permitted to give their informed consent to representation burdened by a conflict of interest. Thus, under paragraph (b)(1), representation is prohibited if in the circumstances the lawyer cannot reasonably conclude that the lawyer will be able to provide competent and diligent representation. *See* rule 32:1.1 (competence) and rule 32:1.3 (diligence).

[16] Paragraph (b)(2) describes conflicts that are nonconsentable because the representation is prohibited by applicable law.

[17] Paragraph (b)(3) describes conflicts that are nonconsentable because of the institutional interest in vigorous development of each client's position when the clients are aligned directly against each other in the same litigation or other proceeding before a tribunal. Whether clients are aligned directly against each other within the meaning of this paragraph requires examination of the context of the proceeding. Paragraph (c) provides a specific example of such a nonconsentable conflict, that is, where a lawyer is asked to represent both parties in a marriage dissolution proceeding. Although this paragraph does not preclude a lawyer's multiple representation of adverse parties to a mediation (because mediation is not a proceeding before a "tribunal" under rule 32:1.0(m)), such representation may be precluded by paragraph (b)(1).

*Informed Consent*

[18] Informed consent requires that each affected client be aware of the relevant circumstances and of the material and reasonably foreseeable ways that the conflict could have adverse effects on the interests of that client. *See* rule 32:1.0(e) (informed consent). The information required depends on the nature of the conflict and the nature of the risks involved. When representation of multiple clients in a single matter is undertaken, the information must include the implications of the common representation, including possible effects on loyalty, confidentiality, and the attorney-client privilege and the advantages and risks involved. *See* comments [30] and [31] (effect of common representation on confidentiality).

[19] Under some circumstances it may be impossible to make the disclosure necessary to obtain consent. For example, when the lawyer represents different clients in related matters and one of the clients refuses to consent to the disclosure necessary to permit the other client to make an informed decision, the lawyer cannot properly ask the latter to consent. In some cases the alternative to common representation can be that each party may have to obtain separate representation with the possibility of incurring additional costs. These costs, along with the benefits of securing separate representation, are factors that may be considered by the affected client in determining whether common representation is in the client's interests.

*Consent Confirmed in Writing*

[20] Paragraph (b) requires the lawyer to obtain the informed consent of the client, confirmed in

writing. Such a writing may consist of a document executed by the client or one that the lawyer promptly records and transmits to the client following an oral consent. *See* rule 32:1.0(b). *See also* rule 32:1.0(n) (writing includes electronic transmission). If it is not feasible to obtain or transmit the writing at the time the client gives informed consent, then the lawyer must obtain or transmit it within a reasonable time thereafter. *See* rule 32:1.0(b). The requirement of a writing does not supplant the need in most cases for the lawyer to talk with the client, to explain the risks and advantages, if any, of representation burdened with a conflict of interest, as well as reasonably available alternatives, and to afford the client a reasonable opportunity to consider the risks and alternatives and to raise questions and concerns. Rather, the writing is required in order to impress upon clients the seriousness of the decision the client is being asked to make and to avoid disputes or ambiguities that might later occur in the absence of a writing.

*Revoking Consent*

[21] A client who has given consent to a conflict may revoke the consent and, like any other client, may terminate the lawyer's representation at any time. Whether revoking consent to the client's own representation precludes the lawyer from continuing to represent other clients depends on the circumstances, including the nature of the conflict, whether the client revoked consent because of a material change in circumstances, the reasonable expectations of the other clients, and whether material detriment to the other clients or the lawyer would result.

*Consent to Future Conflict*

[22] Whether a lawyer may properly request a client to waive conflicts that might arise in the future is subject to the test of paragraph (b). The effectiveness of such waivers is generally determined by the extent to which the client reasonably understands the material risks that the waiver entails. The more comprehensive the explanation of the types of future representations that might arise and the actual and reasonably foreseeable adverse consequences of those representations, the greater the likelihood that the client will have the requisite understanding. Thus, if the client agrees to consent to a particular type of conflict with which the client is already familiar, then the consent ordinarily will be effective with regard to that type of conflict. If the consent is general and open-ended, then the consent ordinarily will be ineffective, because it is not reasonably likely that the client will have understood the material risks involved. On the other hand, if the client is an experienced user of the legal services involved and is reasonably informed regarding the risk that a conflict may arise, such consent is more likely to be effective, particularly if, e.g., the client is independently represented by other counsel in giving consent and the consent is limited to future conflicts unrelated to the subject of the representation. In any case, advance consent cannot be effective if the circumstances that materialize in the future are such as would make the conflict nonconsentable under paragraph (b).

*Conflicts in Litigation*

[23] Paragraphs (b)(3) and (c) prohibit representation of opposing parties in the same litigation, regardless of the clients' consent. On the other hand, simultaneous representation of parties whose interests in litigation may conflict, such as coplaintiffs or codefendants, is governed by paragraph (a)(2). A conflict may exist by reason of substantial discrepancy in the parties' testimony, incompatibility in positions in relation to an opposing party or the fact that there are substantially different possibilities of settlement of the claims or liabilities in question. Such conflicts can arise in criminal cases as well as civil. The potential for conflict of interest in representing multiple defendants in a criminal case is so grave that ordinarily a lawyer should decline to represent more than one codefendant. On the other hand, common representation of persons having similar interests in civil litigation is proper if the requirements of paragraph (b) are met.

[24] Ordinarily a lawyer may take inconsistent legal positions in different tribunals at different times on behalf of different clients. The mere fact that advocating a legal position on behalf of one client might create precedent adverse to the interests of a client represented by the lawyer in an unrelated matter does not create a conflict of interest. A conflict of interest exists, however, if there is a significant risk that a lawyer's action on behalf of one client will materially limit the lawyer's effectiveness in representing another client in a different case; for example, when a decision

favoring one client will create a precedent likely to seriously weaken the position taken on behalf of the other client. Factors relevant in determining whether the clients need to be advised of the risk include: where the cases are pending, whether the issue is substantive or procedural, the temporal relationship between the matters, the significance of the issue to the immediate and long-term interests of the clients involved, and the clients' reasonable expectations in retaining the lawyer. If there is significant risk of material limitation, then absent informed consent of the affected clients, the lawyer must refuse one of the representations or withdraw from one or both matters.

[25] When a lawyer represents or seeks to represent a class of plaintiffs or defendants in a class-action lawsuit, unnamed members of the class are ordinarily not considered to be clients of the lawyer for purposes of applying paragraph (a)(1) of this rule. Thus, the lawyer does not typically need to get the consent of such a person before representing a client suing the person in an unrelated matter. Similarly, a lawyer seeking to represent an opponent in a class action does not typically need the consent of an unnamed member of the class whom the lawyer represents in an unrelated matter.

*Nonlitigation Conflicts*

[26] Conflicts of interest under paragraphs (a)(1) and (a)(2) arise in contexts other than litigation. For a discussion of directly adverse conflicts in transactional matters, see comment [7]. Relevant factors in determining whether there is significant potential for material limitation include the duration and intimacy of the lawyer's relationship with the client or clients involved, the functions being performed by the lawyer, the likelihood that disagreements will arise, and the likely prejudice to the client from the conflict. The question is often one of proximity and degree. *See* comment [8].

[27] For example, conflict questions may arise in estate planning and estate administration. A lawyer may be called upon to prepare wills for several family members, such as husband and wife, and, depending upon the circumstances, a conflict of interest may be present. In order to comply with conflict of interest rules, the lawyer should make clear the lawyer's relationship to the parties involved.

[28] Whether a conflict is consentable depends on the circumstances. For example, a lawyer may not represent multiple parties to a negotiation whose interests are fundamentally antagonistic to each other, but common representation is permissible where the clients are generally aligned in interest even though there is some difference in interest among them. Thus, a lawyer may seek to establish or adjust a relationship between clients on an amicable and mutually advantageous basis; for example, in helping to organize a business in which two or more clients are entrepreneurs, working out the financial reorganization of an enterprise in which two or more clients have an interest, or arranging a property distribution in settlement of an estate. The lawyer seeks to resolve potentially adverse interests by developing the parties' mutual interests. Otherwise, each party might have to obtain separate representation, with the possibility of incurring additional cost, complication, or even litigation. Given these and other relevant factors, the clients may prefer that the lawyer act for all of them.

*Special Considerations in Common Representation*

[29] In considering whether to represent multiple clients in the same matter, a lawyer should be mindful that if the common representation fails because the potentially adverse interests cannot be reconciled, the result can be additional cost, embarrassment, and recrimination. Ordinarily, the lawyer will be forced to withdraw from representing all of the clients if the common representation fails. In some situations, the risk of failure is so great that multiple representation is plainly impossible. For example, a lawyer cannot undertake common representation of clients where contentious litigation or negotiations between them are imminent or contemplated. Moreover, because the lawyer is required to be impartial between commonly represented clients, representation of multiple clients is improper when it is unlikely that impartiality can be maintained. Generally, if the relationship between the parties has already assumed antagonism, the possibility that the clients' interests can be adequately served by common representation is not very good. Other relevant factors are whether the lawyer subsequently will represent both parties on a continuing basis and whether the situation involves creating or terminating a relationship between the parties.

[30] A particularly important factor in determining the appropriateness of common representation is the effect on client-lawyer confidentiality and the attorney-client privilege. With regard to the

attorney-client privilege, the prevailing rule is that, as between commonly represented clients, the privilege does not attach. Hence, it must be assumed that if litigation eventuates between the clients, the privilege will not protect any such communications, and the clients should be so advised.

[31] As to the duty of confidentiality, continued common representation will almost certainly be inadequate if one client asks the lawyer not to disclose to the other client information relevant to the common representation. This is so because the lawyer has an equal duty of loyalty to each client, and each client has the right to be informed of anything bearing on the representation that might affect that client's interests and the right to expect that the lawyer will use that information to that client's benefit. *See* rule 32:1.4. The lawyer should, at the outset of the common representation and as part of the process of obtaining each client's informed consent, advise each client that information will be shared and that the lawyer will have to withdraw if one client decides that some matter material to the representation should be kept from the other. In limited circumstances, it may be appropriate for the lawyer to proceed with the representation when the clients have agreed, after being properly informed, that the lawyer will keep certain information confidential. For example, the lawyer may reasonably conclude that failure to disclose one client's trade secrets to another client will not adversely affect representation involving a joint venture between the clients and agree to keep that information confidential with the informed consent of both clients.

[32] When seeking to establish or adjust a relationship between clients, the lawyer should make clear that the lawyer's role is not that of partisanship normally expected in other circumstances and, thus, that the clients may be required to assume greater responsibility for decisions than when each client is separately represented. Any limitations on the scope of the representation made necessary as a result of the common representation should be fully explained to the clients at the outset of the representation. *See* rule 32:1.2(c).

[33] Subject to the above limitations, each client in the common representation has the right to loyal and diligent representation and the protection of rule 32:1.9 concerning the obligations to a former client. The client also has the right to discharge the lawyer as stated in rule 32:1.16.

*Organizational Clients*

[34] A lawyer who represents a corporation or other organization does not, by virtue of that representation, necessarily represent any constituent or affiliated organization, such as a parent or subsidiary. *See* rule 32:1.13(a). Thus, the lawyer for an organization is not barred from accepting representation adverse to an affiliate in an unrelated matter, unless the circumstances are such that the affiliate should also be considered a client of the lawyer, there is an understanding between the lawyer and the organizational client that the lawyer will avoid representation adverse to the client's affiliates, or the lawyer's obligations to either the organizational client or the new client are likely to limit materially the lawyer's representation of the other client.

[35] A lawyer for a corporation or other organization who is also a member of its board of directors should determine whether the responsibilities of the two roles may conflict. The lawyer may be called on to advise the corporation in matters involving actions of the directors. Consideration should be given to the frequency with which such situations may arise, the potential intensity of the conflict, the effect of the lawyer's resignation from the board, and the possibility of the corporation's obtaining legal advice from another lawyer in such situations. If there is material risk that the dual role will compromise the lawyer's independence of professional judgment, the lawyer should not serve as a director or should cease to act as the corporation's lawyer when conflicts of interest arise. The lawyer should advise the other members of the board that in some circumstances matters discussed at board meetings while the lawyer is present in the capacity of director might not be protected by the attorney-client privilege and that conflict of interest considerations might require the lawyer's recusal as a director or might require the lawyer and the lawyer's firm to decline representation of the corporation in a matter.

[Court Order April 20, 2005, effective July 1, 2005]

**Rule 32:1.8 CONFLICT OF INTEREST: CURRENT CLIENTS: SPECIFIC RULES**

**(a) A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security, or other pecuniary interest adverse to a client unless:**

**(1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing in a manner that can**

**be reasonably understood by the client;**

**(2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel on the transaction; and**

**(3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.**

**(b) A lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client gives informed consent, except as permitted or required by these rules.**

**(c) A lawyer shall not solicit any substantial gift from a client, including a testamentary gift, or prepare on behalf of a client an instrument giving the lawyer or a person related to the lawyer any substantial gift unless the lawyer or other recipient of the gift is related to the client. For purposes of this paragraph, related persons include a spouse, child, sibling, grandchild, parent, grandparent, or other relative or individual with whom the lawyer or the client maintains a close, familial relationship.**

**(d) Prior to the conclusion of representation of a client, a lawyer shall not make or negotiate an agreement giving the lawyer literary or media rights to a portrayal or account based in substantial part on information relating to the representation.**

**(e) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:**

**(1) a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; and**

**(2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.**

**(f) A lawyer shall not accept compensation for representing a client from one other than the client unless:**

**(1) the client gives informed consent;**

**(2) there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and**

**(3) information relating to representation of a client is protected as required by rule 32:1.6.**

**(g) A lawyer who represents two or more clients shall not participate in making an aggregate settlement of the claims of or against the clients, or in a criminal case an aggregated agreement as to guilty or nolo contendere pleas, unless each client gives informed consent, in a writing signed by the client. The lawyer's disclosure shall include the existence and nature of all the claims or pleas involved and of the participation of each person in the settlement.**

**(h) A lawyer shall not:**

**(1) make an agreement prospectively limiting the lawyer's liability to a client for malpractice; or**

**(2) settle a claim or potential claim for such liability with an unrepresented client or former client unless that person is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel in connection therewith.**

**(i) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may:**

**(1) acquire a lien authorized by law to secure the lawyer's fee or expenses; and**

**(2) contract with a client for a reasonable contingent fee in a civil case.**

**(j) A lawyer shall not have sexual relations with a client, or a representative of a client, unless the person is the spouse of the lawyer or the sexual relationship predates the initiation of the client-lawyer relationship. Even in these provisionally exempt relationships, the lawyer should strictly scrutinize the lawyer's behavior for any conflicts of interest to determine if any harm may result to the client or to the representation. If there is any reasonable possibility that the legal representation of the client may be impaired, or the client harmed by the continuation of the sexual relationship, the lawyer should immediately withdraw from the legal representation.**

**(k) While lawyers are associated in a firm, a prohibition in the foregoing paragraphs (a) through (i) that applies to any one of them shall apply to all of them.**

**(l) A lawyer related to another lawyer shall not represent a client whose interests are directly adverse to a person whom the lawyer knows is represented by the related lawyer except upon the client's informed consent, confirmed in a writing signed by the client. Even**

**if the client's interests do not appear to be directly adverse, the lawyer should not undertake the representation of a client if there is a significant risk that the related lawyer's involvement will interfere with the lawyer's loyalty and exercise of independent judgment, or will create a significant risk that client confidences will be revealed. For purposes of this paragraph, "related lawyer" includes a parent, child, sibling, spouse, cohabiting partner, or lawyer related in any other familial or romantic capacity.**

**Comment**

*Business Transactions Between Client and Lawyer*

[1] A lawyer's legal skill and training, together with the relationship of trust and confidence between lawyer and client, create the possibility of overreaching when the lawyer participates in a business, property, or financial transaction with a client, for example, a loan or sales transaction or a lawyer investment on behalf of a client. The requirements of paragraph (a) must be met even when the transaction is not closely related to the subject matter of the representation, as when a lawyer drafting a will for a client learns that the client needs money for unrelated expenses and offers to make a loan to the client. The rule applies to lawyers engaged in the sale of goods or services related to the practice of law, for example, the sale of investment services to existing clients of the lawyer's legal practice. *See* rule 32:5.7. It also applies to lawyers purchasing property from estates they represent. It does not apply to ordinary fee arrangements between client and lawyer, which are governed by rule 32:1.5, although its requirements must be met when the lawyer accepts an interest in the client's business or other nonmonetary property as payment of all or part of a fee. In addition, the rule does not apply to standard commercial transactions between the lawyer and the client for products or services that the client generally markets to others, for example, banking or brokerage services, medical services, products manufactured or distributed by the client, and utilities' services. In such transactions, the lawyer has no advantage in dealing with the client, and the restrictions in paragraph (a) are unnecessary and impracticable.

[2] Paragraph (a)(1) requires that the transaction itself be fair to the client and that its essential terms be communicated to the client, in writing, in a manner that can be reasonably understood. Paragraph (a)(2) requires that the client also be advised, in writing, of the desirability of seeking the advice of independent legal counsel. It also requires that the client be given a reasonable opportunity to obtain such advice. Paragraph (a)(3) requires that the lawyer obtain the client's informed consent, in a writing signed by the client, both to the essential terms of the transaction and to the lawyer's role. When necessary, the lawyer should discuss both the material risks of the proposed transaction, including any risk presented by the lawyer's involvement, and the existence of reasonably available alternatives and should explain why the advice of independent legal counsel is desirable. *See* rule 32:1.0(e) (definition of informed consent).

[3] The risk to a client is greatest when the client expects the lawyer to represent the client in the transaction itself or when the lawyer's financial interest otherwise poses a significant risk that the lawyer's representation of the client will be materially limited by the lawyer's financial interest in the transaction. Here the lawyer's role requires that the lawyer must comply, not only with the requirements of paragraph (a), but also with the requirements of rule 32:1.7. Under that rule, the lawyer must disclose the risks associated with the lawyer's dual role as both legal adviser and participant in the transaction, such as the risk that the lawyer will structure the transaction or give legal advice in a way that favors the lawyer's interests at the expense of the client. Moreover, the lawyer must obtain the client's informed consent. In some cases, the lawyer's interest may be such that rule 32:1.7 will preclude the lawyer from seeking the client's consent to the transaction.

[4] If the client is independently represented in the transaction, paragraph (a)(2) of this rule is inapplicable, and the paragraph (a)(1) requirement for full disclosure is satisfied either by a written disclosure by the lawyer involved in the transaction or by the client's independent counsel. The fact that the client was independently represented in the transaction is relevant in determining whether the agreement was fair and reasonable to the client as paragraph (a)(1) further requires.

*Use of Information Related to Representation*

[5] Use of information relating to the representation to the disadvantage of the client violates the

lawyer's duty of loyalty. Paragraph (b) applies when the information is used to benefit either the lawyer or a third person, such as another client or business associate of the lawyer. For example, if a lawyer learns that a client intends to purchase and develop several parcels of land, the lawyer may not use that information to purchase one of the parcels in competition with the client or to recommend that another client make such a purchase. The rule does not prohibit uses that do not disadvantage the client. For example, a lawyer who learns a government agency's interpretation of trade legislation during the representation of one client may properly use that information to benefit other clients. Paragraph (b) prohibits disadvantageous use of client information unless the client gives informed consent, except as permitted or required by these rules. *See* rules 32:1.2(d), 32:1.6, 32:1.9(c), 32:3.3, 32:4.1(b), 32:8.1, and 32:8.3.

*Gifts to Lawyers*

[6] A lawyer may accept a gift from a client, if the transaction meets general standards of fairness. For example, a simple gift such as a present given at a holiday or as a token of appreciation is permitted. If a client offers the lawyer a more substantial gift, paragraph (c) does not prohibit the lawyer from accepting it, although such a gift may be voidable by the client under the doctrine of undue influence, which treats client gifts as presumptively fraudulent. In any event, due to concerns about overreaching and imposition on clients, a lawyer may not suggest that a substantial gift be made to the lawyer or for the lawyer's benefit, except where the lawyer is related to the client as set forth in paragraph (c).

[7] If effectuation of a substantial gift requires preparing a legal instrument such as a will or conveyance the client should have the detached advice that another lawyer can provide. The sole exception to this rule is where the client is a relative of the donee.

[8] This rule does not prohibit a lawyer from seeking to have the lawyer or a partner or associate of the lawyer named as executor of the client's estate or to another potentially lucrative fiduciary position. Nevertheless, such appointments will be subject to the general conflict of interest provision in rule 32:1.7 when there is a significant risk that the lawyer's interest in obtaining the appointment will materially limit the lawyer's independent professional judgment in advising the client concerning the choice of an executor or other fiduciary. In obtaining the client's informed consent to the conflict, the lawyer should advise the client concerning the nature and extent of the lawyer's financial interest in the appointment, as well as the availability of alternative candidates for the position.

*Literary Rights*

[9] An agreement by which a lawyer acquires literary or media rights concerning the conduct of the representation creates a conflict between the interests of the client and the personal interests of the lawyer. Measures suitable in the representation of the client may detract from the publication value of an account of the representation. Paragraph (d) does not prohibit a lawyer representing a client in a transaction concerning literary property from agreeing that the lawyer's fee shall consist of a share in ownership in the property, if the arrangement conforms to rule 32:1.5 and paragraphs (a) and (i).

*Financial Assistance*

[10] Lawyers may not subsidize lawsuits or administrative proceedings brought on behalf of their clients, including making or guaranteeing loans to their clients for living expenses, because to do so would encourage clients to pursue lawsuits that might not otherwise be brought and because such assistance gives lawyers too great a financial stake in the litigation. These dangers do not warrant a prohibition on a lawyer lending a client court costs and litigation expenses, including the expenses of medical examination and the costs of obtaining and presenting evidence, because these advances are virtually indistinguishable from contingent fees and help ensure access to the courts. Similarly, an exception allowing lawyers representing indigent clients to pay court costs and litigation expenses regardless of whether these funds will be repaid is warranted.

*Person Paying for a Lawyer's Services*

[11] Lawyers are frequently asked to represent a client under circumstances in which a third person will compensate the lawyer, in whole or in part. The third person might be a relative or friend, an indemnitor (such as a liability insurance company), or a co-client (such as a corporation sued along with one or more of its employees). Because third-party payers frequently have interests that differ from those of the client, including interests in minimizing the amount spent on the representation and in learning how the representation is progressing, lawyers are prohibited from accepting or continuing such representations unless the lawyer determines that there will be no interference with the lawyer's independent professional judgment and there is informed consent from the client. *See also* rule 32:5.4(c) (prohibiting interference with a lawyer's professional judgment by one who recommends, employs, or pays the lawyer to render legal services for another).

[12] Sometimes, it will be sufficient for the lawyer to obtain the client's informed consent regarding the fact of the payment and the identity of the third-party payer. If, however, the fee arrangement creates a conflict of interest for the lawyer, then the lawyer must comply with rule 32:1.7. The lawyer must also conform to the requirements of rule 32:1.6 concerning confidentiality. Under rule 32:1.7(a), a conflict of interest exists if there is significant risk that the lawyer's representation of the client will be materially limited by the lawyer's own interest in the fee arrangement or by the lawyer's responsibilities to the third-party payer (for example, when the third-party payer is a co-client). Under rule 32:1.7(b), the lawyer may accept or continue the representation with the informed consent of each affected client, unless the conflict is nonconsentable under that paragraph. Under rule 32:1.7(b), the informed consent must be confirmed in writing.

[12a] When the lawyer is publicly-compensated, such as in the case of a public defender in a criminal case or a guardian appointed in a civil case or when civil legal services are provided by a legal aid organization, the fee arrangement ordinarily does not pose the same risk of interference with the lawyer's independent professional judgment that exists in other contexts. Under paragraph (f), such a lawyer must disclose the fact that the lawyer is being compensated through public funding or that legal services are being provided as part of a legal aid organization; however, formal consent by the client to the fee arrangement is not required under such circumstances given the limited ability of an indigent client as a practical matter to refuse the services of the lawyer being compensated through public funding or through legal aid.

*Aggregate Settlements*

[13] Differences in willingness to make or accept an offer of settlement are among the risks of common representation of multiple clients by a single lawyer. Under rule 32:1.7, this is one of the risks that should be discussed before undertaking the representation, as part of the process of obtaining the clients' informed consent. In addition, rule 32:1.2(a) protects each client's right to have the final say in deciding whether to accept or reject an offer of settlement and in deciding whether to enter a guilty or nolo contendere plea in a criminal case. The rule stated in this paragraph is a corollary of both these rules and provides that, before any settlement offer or plea bargain is made or accepted on behalf of multiple clients, the lawyer must inform each of them about all the material terms of the settlement, including what the other clients will receive or pay if the settlement or plea offer is accepted. *See also* rule 32:1.0(e) (definition of informed consent). Lawyers representing a class of plaintiffs or defendants, or those proceeding derivatively, may not have a full client-lawyer relationship with each member of the class; nevertheless, such lawyers must comply with applicable rules regulating notification of class members and other procedural requirements designed to ensure adequate protection of the entire class.

*Limiting Liability and Settling Malpractice Claims*

[14] Agreements prospectively limiting a lawyer's liability for malpractice are prohibited because they are likely to undermine competent and diligent representation. Also, many clients are unable to evaluate the desirability of making such an agreement before a dispute has arisen, particularly if they are then represented by the lawyer seeking the agreement. This paragraph does not, however, prohibit a lawyer from entering into an agreement with the client to arbitrate legal malpractice claims, provided such agreements are enforceable and the client is fully informed of the scope and effect of the agreement. Nor does this paragraph limit the ability of lawyers to practice in the form

of a limited-liability entity, where permitted by law, provided that each lawyer remains personally liable to the client for his or her own conduct and the firm complies with any conditions required by law, such as provisions requiring client notification or maintenance of adequate liability insurance. Nor does it prohibit an agreement in accordance with rule 32:1.2 that defines the scope of the representation, although a definition of scope that makes the obligations of representation illusory will amount to an attempt to limit liability.

[15] Agreements settling a claim or a potential claim for malpractice are not prohibited by this rule. Nevertheless, in view of the danger that a lawyer will take unfair advantage of an unrepresented client or former client, the lawyer must first advise such a person in writing of the appropriateness of independent representation in connection with such a settlement. In addition, the lawyer must give the client or former client a reasonable opportunity to find and consult independent counsel.

*Acquiring Proprietary Interest in Litigation*

[16] Paragraph (i) states the traditional general rule that lawyers are prohibited from acquiring a proprietary interest in litigation. Like paragraph (e), the general rule has its basis in common law champerty and maintenance and is designed to avoid giving the lawyer too great an interest in the representation. In addition, when the lawyer acquires an ownership interest in the subject of the representation, it will be more difficult for a client to discharge the lawyer if the client so desires. The rule is subject to specific exceptions developed in decisional law and continued in these rules. The exception for certain advances of the costs of litigation is set forth in paragraph (e). In addition, paragraph (i) sets forth exceptions for liens authorized by law to secure the lawyer's fees or expenses and contracts for reasonable contingent fees. Iowa law determines which liens are authorized. These may include liens granted by statute and liens acquired by contract with the client. When a lawyer acquires by contract a security interest in property other than that recovered through the lawyer's efforts in the litigation, such an acquisition is a business or financial transaction with a client and is governed by the requirements of paragraph (a). Contracts for contingent fees in civil cases are governed by rule 32:1.5.

*Client-Lawyer Sexual Relationships*

[17] The relationship between lawyer and client is a fiduciary one in which the lawyer occupies the highest position of trust and confidence. The relationship is almost always unequal; thus, a sexual relationship between lawyer and client can involve unfair exploitation of the lawyer's fiduciary role, in violation of the lawyer's basic ethical obligation not to use the trust of the client to the client's disadvantage. In addition, such a relationship presents a significant danger that, because of the lawyer's emotional involvement, the lawyer will be unable to represent the client without impairment of the exercise of independent professional judgment. Moreover, a blurred line between the professional and personal relationships may make it difficult to predict to what extent client confidences will be protected by the attorney-client evidentiary privilege, since client confidences are protected by privilege only when they are imparted in the context of the client-lawyer relationship. Because of the significant danger of harm to client interests and because the client's own emotional involvement renders it unlikely that the client could give adequate informed consent, this rule prohibits the lawyer from having sexual relations with a client regardless of whether the relationship is consensual and regardless of the absence of prejudice to the client.

[18] Sexual relationships that predate the client-lawyer relationship are not prohibited. Issues relating to the exploitation of the fiduciary relationship and client dependency are diminished when the sexual relationship existed prior to the commencement of the client-lawyer relationship. However, before proceeding with the representation in these circumstances, the lawyer should consider whether the lawyer's ability to represent the client will be materially limited by the relationship. *See* rule 32:1.7(a)(2).

[19] When the client is an organization, paragraph (j) of this rule prohibits a lawyer for the organization (whether inside counsel or outside counsel) from having a sexual relationship with a constituent of the organization who supervises, directs, or regularly consults with that lawyer concerning the organization's legal matters.

*Imputation of Prohibitions*

[20] Under paragraph (k), a prohibition on conduct by an individual lawyer in paragraphs (a) through (i) also applies to all lawyers associated in a firm with the personally prohibited lawyer. For example, one lawyer in a firm may not enter into a business transaction with a client of another member of the firm without complying with paragraph (a), even if the first lawyer is not personally involved in the representation of the client. The prohibitions set forth in paragraphs (j) and (l) are personal and are not applied to associated lawyers.
[Court Order April 20, 2005, effective July 1, 2005]

**Rule 32:1.9 DUTIES TO FORMER CLIENTS**

**(a) A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.**

**(b) A lawyer shall not knowingly represent a person in the same or a substantially related matter in which a firm with which the lawyer formerly was associated had previously represented a client**

**(1) whose interests are materially adverse to that person, and**

**(2) about whom the lawyer had acquired information protected by rules 32:1.6 and 32:1.9(c) that is material to the matter, unless the former client gives informed consent, confirmed in writing.**

**(c) A lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter:**

**(1) use information relating to the representation to the disadvantage of the former client except as these rules would permit or require with respect to a client, or when the information has become generally known; or**

**(2) reveal information relating to the representation except as these rules would permit or require with respect to a client.**

**Comment**

[1] After termination of a client-lawyer relationship, a lawyer has certain continuing duties with respect to confidentiality and conflicts of interest and thus may not represent another client except in conformity with this rule. Under this rule, for example, a lawyer could not properly seek to rescind on behalf of a new client a contract drafted on behalf of the former client. So also a lawyer who has prosecuted an accused person could not properly represent the accused in a subsequent civil action against the government concerning the same transaction. Nor could a lawyer who has represented multiple clients in a matter represent one of the clients against the others in the same or a substantially related matter after a dispute arose among the clients in that matter, unless all affected clients give informed consent. *See* comment [9]. Current and former government lawyers must comply with this rule to the extent required by rule 32:1.11.

[2] The scope of a "matter" for purposes of this rule depends on the facts of a particular situation or transaction. The lawyer's involvement in a matter can also be a question of degree. When a lawyer has been directly involved in a specific transaction, subsequent representation of other clients with materially adverse interests in that transaction clearly is prohibited. On the other hand, a lawyer who recurrently handled a type of problem for a former client is not precluded from later representing another client in a factually distinct problem of that type even though the subsequent representation involves a position adverse to the prior client. Similar considerations can apply to the reassignment of military lawyers between defense and prosecution functions within the same military jurisdictions. The underlying question is whether the lawyer was so involved in the matter that the subsequent representation can be justly regarded as a changing of sides in the matter in question.

[3] Matters are "substantially related" for purposes of this rule if they involve the same transaction or legal dispute or if there otherwise is a substantial risk that confidential factual information as would normally have been obtained in the prior representation would materially advance the client's position in the subsequent matter. For example, a lawyer who has represented a businessperson and learned extensive private financial information about that person may not then represent that person's spouse in seeking a divorce. Similarly, a lawyer who has previously represented a client in securing

environmental permits to build a shopping center would be precluded from representing neighbors seeking to oppose rezoning of the property on the basis of environmental considerations; however, the lawyer would not be precluded, on the grounds of substantial relationship, from defending a tenant of the completed shopping center in resisting eviction for nonpayment of rent. Information that has been disclosed to the public or to other parties adverse to the former client ordinarily will not be disqualifying. Information acquired in a prior representation may have been rendered obsolete by the passage of time, a circumstance that may be relevant in determining whether two representations are substantially related. In the case of an organizational client, general knowledge of the client's policies and practices ordinarily will not preclude a subsequent representation; on the other hand, knowledge of specific facts gained in a prior representation that are relevant to the matter in question ordinarily will preclude such a representation. A former client is not required to reveal the confidential information learned by the lawyer in order to establish a substantial risk that the lawyer has confidential information to use in the subsequent matter. A conclusion about the possession of such information may be based on the nature of the services the lawyer provided the former client and information that would in ordinary practice be learned by a lawyer providing such services.

*Lawyers Moving Between Firms*

[4] When lawyers have been associated within a firm but then end their association, the question of whether a lawyer should undertake representation is more complicated. There are several competing considerations. First, the client previously represented by the former firm must be reasonably assured that the principle of loyalty to the client is not compromised. Second, the rule should not be so broadly cast as to preclude other persons from having reasonable choice of legal counsel. Third, the rule should not unreasonably hamper lawyers from forming new associations and taking on new clients after having left a previous association. In this connection, it should be recognized that today many lawyers practice in firms, that many lawyers to some degree limit their practice to one field or another, and that many move from one association to another several times in their careers. If the concept of imputation were applied with unqualified rigor, the result would be radical curtailment of the opportunity of lawyers to move from one practice setting to another and of the opportunity of clients to change counsel.

[5] Paragraph (b) operates to disqualify the lawyer only when the lawyer involved has actual knowledge of information protected by rules 32:1.6 and 32:1.9(c). Thus, if a lawyer while with one firm acquired no knowledge or information relating to a particular client of the firm, and that lawyer later joined another firm, neither the lawyer individually nor the second firm is disqualified from representing another client in the same or a related matter even though the interests of the two clients conflict. See rule 32:1.10(b) for the restrictions on a firm once a lawyer has terminated association with the firm.

[6] Application of paragraph (b) depends on a situation's particular facts, aided by inferences, deductions, or working presumptions that reasonably may be made about the way in which lawyers work together. A lawyer may have general access to files of all clients of a law firm and may regularly participate in discussions of their affairs; it should be inferred that such a lawyer in fact is privy to all information about all the firm's clients. In contrast, another lawyer may have access to the files of only a limited number of clients and participate in discussions of the affairs of no other clients; in the absence of information to the contrary, it should be inferred that such a lawyer in fact is privy to information about the clients actually served but not those of other clients. In such an inquiry, the burden of proof should rest upon the firm whose disqualification is sought.

[7] Independent of the question of disqualification of a firm, a lawyer changing professional association has a continuing duty to preserve confidentiality of information about a client formerly represented. *See* rules 32:1.6 and 32:1.9(c).

[8] Paragraph (c) provides that information acquired by the lawyer in the course of representing a client may not subsequently be used or revealed by the lawyer to the disadvantage of the client. However, the fact that a lawyer has once served a client does not preclude the lawyer from using generally known information about that client when later representing another client.

[9] The provisions of this rule are for the protection of former clients and can be waived if the client gives informed consent, which consent must be confirmed in writing under paragraphs (a) and (b). *See* rule 32:1.0(e). With regard to the effectiveness of an advance waiver, see comment

[22] to rule 32:1.7. With regard to disqualification of a firm with which a lawyer is or was formerly associated, see rule 32:1.10.
[Court Order April 20, 2005, effective July 1, 2005]

**Rule 32:1.10 IMPUTATION OF CONFLICTS OF INTEREST: GENERAL RULE**

**(a) While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by rule 32:1.7 or 32:1.9, unless**

**(1) the prohibition is based on a personal interest of the disqualified lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm; or**

**(2) the prohibition is based upon rule 32:1.9(a) or (b) and arises out of the disqualified lawyer's association with a prior firm, and**

**(i) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom;**

**(ii) written notice is promptly given to any affected former client to enable the former client to ascertain compliance with the provisions of this rule, which shall include a description of the screening procedures employed; a statement of the firm's and of the screened lawyer's compliance with these rules; a statement that review may be available before a tribunal; and an agreement by the firm to respond promptly to any written inquiries or objections by the former client about the screening procedures; and**

**(iii) certifications of compliance with these rules and with the screening procedures are provided to the former client by the screened lawyer and by a partner of the firm, at reasonable intervals upon the former client's written request and upon termination of the screening procedures.**

**(b) When a lawyer has terminated an association with a firm, the firm is not prohibited from thereafter representing a person with interests materially adverse to those of a client represented by the formerly associated lawyer and not currently represented by the firm, unless:**

**(1) the matter is the same or substantially related to that in which the formerly associated lawyer represented the client; and**

**(2) any lawyer remaining in the firm has information protected by rules 32:1.6 and 32:1.9(c) that is material to the matter.**

**(c) A disqualification prescribed by this rule may be waived by the affected client under the conditions stated in rule 32:1.7.**

**(d) The disqualification of lawyers associated in a firm with former or current government lawyers is governed by rule 32:1.11.**

**Comment**

*Definition of "Firm"*

[1] For purposes of the Iowa Rules of Professional Conduct, the term "firm" denotes lawyers in a law partnership, professional corporation, sole proprietorship, or other association authorized to practice law; or lawyers employed in a legal services organization or the legal department of a corporation or other organization. *See* rule 32:1.0(c). Whether two or more lawyers constitute a firm within this definition can depend on the specific facts. *See* rule 32:1.0, comments [2] - [4].

*Principles of Imputed Disqualification*

[2] The rule of imputed disqualification stated in paragraph (a) gives effect to the principle of loyalty to the client as it applies to lawyers who practice in a law firm. Such situations can be considered from the premise that a firm of lawyers is essentially one lawyer for purposes of the rules governing loyalty to the client, or from the premise that each lawyer is vicariously bound by the obligation of loyalty owed by each lawyer with whom the lawyer is associated. Paragraph (a)(1) operates only among the lawyers currently associated in a firm. When a lawyer moves from one firm to another, the situation is governed by rules 32:1.9(b), 32:1.10(a)(2), and 32:1.10(b).

[3] The rule in paragraph (a) does not prohibit representation where neither questions of client loyalty nor protection of confidential information are presented. Where one lawyer in a firm could not effectively represent a given client because of strong political beliefs, for example, but that lawyer will do no work on the case and the personal beliefs of the lawyer will not materially limit the representation by others in the firm, the firm should not be disqualified. On the other hand, if an opposing party in a case were owned by a lawyer in the law firm, and others in the firm would be materially limited in pursuing the matter because of loyalty to that lawyer, the personal disqualification of the lawyer would be imputed to all others in the firm.

[4] The rule in paragraph (a) also does not prohibit representation by others in the law firm where the person prohibited from involvement in a matter is a nonlawyer, such as a paralegal or legal secretary. Nor does paragraph (a) prohibit representation if the lawyer is prohibited from acting because of events before the person became a lawyer, for example, work that the person did as a law student. Such persons, however, ordinarily must be screened from any personal participation in the matter to avoid communication to others in the firm of confidential information that both the nonlawyers and the firm have a legal duty to protect. *See* rules 32:1.0(k) and 32:5.3.

[5] Rule 32:1.10(b) operates to permit a law firm, under certain circumstances, to represent a person with interests directly adverse to those of a client represented by a lawyer who formerly was associated with the firm. The rule applies regardless of when the formerly associated lawyer represented the client. However, the law firm may not represent a person with interests adverse to those of a present client of the firm, which would violate rule 32:1.7. Moreover, the firm may not represent the person where the matter is the same or substantially related to that in which the formerly associated lawyer represented the client and any other lawyer currently in the firm has material information protected by rules 32:1.6 and 32:1.9(c).

[6] Rule 32:1.10(c) removes imputation with the informed consent of the affected client or former client under the conditions stated in rule 32:1.7. The conditions stated in rule 32:1.7 require the lawyer to determine that the representation is not prohibited by rule 32:1.7(b) and that each affected client or former client has given informed consent to the representation, confirmed in writing. In some cases, the risk may be so severe that the conflict may not be cured by client consent. For a discussion of the effectiveness of client waivers of conflicts that might arise in the future, see rule 32:1.7, comment [22]. For a definition of informed consent, see rule 32:1.0(e).

[7] Rule 32:1.10(a)(2) similarly removes the imputation otherwise required by rule 32:1.10(a), but unlike section (c), it does so without requiring that there be informed consent by the former client. Instead, it requires that the procedures laid out in sections (a)(2)(i)-(iii) be followed. A description of effective screening mechanisms appears in rule 32:1.0(k). Lawyers should be aware, however, that, even where screening mechanisms have been adopted, tribunals may consider additional factors in ruling upon motions to disqualify a lawyer from pending litigation.

[8] Paragraph (a)(2)(i) does not prohibit the screened lawyer from receiving a salary or partnership share established by prior independent agreement, but that lawyer may not receive compensation directly related to the matter in which the lawyer is disqualified.

[9] The notice required by paragraph (a)(2)(ii) generally should include a description of the screened lawyer's prior representation and be given as soon as practicable after the need for screening becomes apparent. It also should include a statement by the screened lawyer and the firm that the client's material confidential information has not been disclosed or used in violation of the rules. The notice is intended to enable the former client to evaluate and comment upon the effectiveness of the screening procedures.

[10] The certifications required by paragraph (a)(2)(iii) give the former client assurance that the client's material confidential information has not been disclosed or used inappropriately, either prior to timely implementation of a screen or thereafter. If compliance cannot be certified, the certificate must describe the failure to comply.

[11] Where a lawyer has joined a private firm after having represented the government, imputation is governed by rule 32:1.11(b) and (c), not this rule. Under rule 32:1.11(d), where a lawyer represents the government after having served clients in private practice, nongovernmental employment, or in another government agency, former-client conflicts are not imputed to government lawyers associated with the individually disqualified lawyer.

[12] Where a lawyer is prohibited from engaging in certain transactions under rule 32:1.8,

paragraph (k) of that rule, and not this rule, determines whether that prohibition also applies to other lawyers associated in a firm with the personally prohibited lawyer.
[Court Order April 20, 2005, effective July 1, 2005; October 15, 2015; August 28, 2020, effective January 1, 2021]

**Rule 32:1.11 SPECIAL CONFLICTS OF INTEREST FOR FORMER AND CURRENT GOVERNMENT OFFICERS AND EMPLOYEES**

**(a) Except as law may otherwise expressly permit, a lawyer who has formerly served as a public officer or employee of the government:**

**(1) is subject to rule 32:1.9(c); and**

**(2) shall not otherwise represent a client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee, unless the appropriate government agency gives its informed consent, confirmed in writing, to the representation.**

**(b) When a lawyer is disqualified from representation under paragraph (a), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter unless:**

**(1) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and**

**(2) written notice is promptly given to the appropriate government agency to enable it to ascertain compliance with the provisions of this rule.**

**(c) Except as law may otherwise expressly permit, a lawyer having information that the lawyer knows is confidential government information about a person, acquired when the lawyer was a public officer or employee, may not represent a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person. As used in this rule, the term "confidential government information" means information that has been obtained under governmental authority and which, at the time this rule is applied, the government is prohibited by law from disclosing to the public or has a legal privilege not to disclose and which is not otherwise available to the public. A firm with which that lawyer is associated may undertake or continue representation in the matter only if the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom.**

**(d) Except as law may otherwise expressly permit, a lawyer currently serving as a public officer or employee:**

**(1) is subject to rules 32:1.7 and 32:1.9; and**

**(2) shall not:**

**(i) participate in a matter in which the lawyer participated personally and substantially while in private practice or nongovernmental employment, unless the appropriate government agency gives its informed consent, confirmed in writing; or**

**(ii) negotiate for private employment with any person who is involved as a party or as lawyer for a party in a matter in which the lawyer is participating personally and substantially, except that a lawyer serving as a law clerk to a judge, other adjudicative officer, or arbitrator may negotiate for private employment as permitted by rule 32:1.12(b) and subject to the conditions stated in rule 32:1.12(b).**

**(e) As used in this rule, the term "matter" includes:**

**(1) any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties, and**

**(2) any other matter covered by the conflict of interest rules of the appropriate government agency.**

**(f) Prosecutors for the state or county shall not engage in the defense of an accused in any criminal matter during the time they are engaged in such public responsibilities. However, this paragraph does not apply to a lawyer not regularly employed as a prosecutor for the state or county who serves as a special prosecutor for a specific criminal case, provided that the employment does not create a conflict of interest or the lawyer complies with the requirements of rule 32:1.7(b).**

**Comment**

[1] A lawyer who has served or is currently serving as a public officer or employee is personally subject to the Iowa Rules of Professional Conduct, including the prohibition against concurrent conflicts of interest stated in rule 32:1.7. In addition, such a lawyer may be subject to statutes and government regulations regarding conflict of interest. Such statutes and regulations may circumscribe the extent to which the government agency may give consent under this rule. See rule 32:1.0(e) for the definition of informed consent.

[2] Paragraphs (a)(1), (a)(2), and (d)(1) restate the obligations of an individual lawyer who has served or is currently serving as an officer or employee of the government toward a former government or private client. Rule 32:1.10 is not applicable to the conflicts of interest addressed by this rule. Rather, paragraph (b) sets forth a special imputation rule for former government lawyers that provides for screening and notice. Because of the special problems raised by imputation within a government agency, paragraph (d) does not impute the conflicts of a lawyer currently serving as an officer or employee of the government to other associated government officers or employees, although ordinarily it will be prudent to screen such lawyers.

[3] Paragraphs (a)(2) and (d)(2) apply regardless of whether a lawyer is adverse to a former client and are thus designed not only to protect the former client, but also to prevent a lawyer from exploiting public office for the advantage of another client. For example, a lawyer who has pursued a claim on behalf of the government may not pursue the same claim on behalf of a later private client after the lawyer has left government service, except when authorized to do so by the government agency under paragraph (a). Similarly, a lawyer who has pursued a claim on behalf of a private client may not pursue the claim on behalf of the government, except when authorized to do so by paragraph (d). As with paragraphs (a)(1) and (d)(1), rule 32:1.10 is not applicable to the conflicts of interest addressed by these paragraphs.

[4] This rule represents a balancing of interests. On the one hand, where the successive clients are a government agency and another client, public or private, the risk exists that power or discretion vested in that agency might be used for the special benefit of the other client. A lawyer should not be in a position where benefit to the other client might affect performance of the lawyer's professional functions on behalf of the government. Also, unfair advantage could accrue to the other client by reason of access to confidential government information about the client's adversary obtainable only through the lawyer's government service. On the other hand, the rules governing lawyers presently or formerly employed by a government agency should not be so restrictive as to inhibit transfer of employment to and from the government. The government has a legitimate need to attract qualified lawyers as well as to maintain high ethical standards. Thus a former government lawyer is disqualified only from particular matters in which the lawyer participated personally and substantially. The provisions for screening and waiver in paragraph (b) are necessary to prevent the disqualification rule from imposing too severe a deterrent against entering public service. The limitation of disqualification in paragraphs (a)(2) and (d)(2) to matters involving a specific party or parties, rather than extending disqualification to all substantive issues on which the lawyer worked, serves a similar function.

[5] When a lawyer has been employed by one government agency and then moves to a second government agency, it may be appropriate to treat that second agency as another client for purposes of this rule, as when a lawyer is employed by a city and subsequently is employed by a federal agency. However, because the conflict of interest is governed by paragraph (d), the latter agency is not required to screen the lawyer as paragraph (b) requires a law firm to do. The question of whether two government agencies should be regarded as the same or different clients for conflict of interest purposes is beyond the scope of these rules. *See* rule 32:1.13 comment [9].

[6] Paragraphs (b) and (c) contemplate a screening arrangement. *See* rule 32:1.0(k) (requirements for screening procedures). These paragraphs do not prohibit a lawyer from receiving a salary or partnership share established by prior independent agreement, but that lawyer may not receive compensation directly relating the lawyer's compensation to the fee in the matter in which the lawyer is disqualified.

[7] Notice, including a description of the screened lawyer's prior representation and of the screening procedures employed, generally should be given as soon as practicable after the need for screening becomes apparent.

[8] Paragraph (c) operates only when the lawyer in question has knowledge of the information, which means actual knowledge; it does not operate with respect to information that merely could be

imputed to the lawyer.

[9] Paragraphs (a) and (d) do not prohibit a lawyer from jointly representing a private party and a government agency when doing so is permitted by rule 32:1.7 and is not otherwise prohibited by law.

[10] For purposes of paragraph (e) of this rule, a "matter" may continue in another form. In determining whether two particular matters are the same, the lawyer should consider the extent to which the matters involve the same basic facts, the same or related parties, and the time elapsed.
[Court Order April 20, 2005, effective July 1, 2005]

**Rule 32:1.12 FORMER JUDGE, ARBITRATOR, MEDIATOR, OR OTHER THIRD-PARTY NEUTRAL**

**(a) Except as stated in paragraph (d), a lawyer shall not represent anyone in connection with a matter in which the lawyer participated personally and substantially as a judge or other adjudicative officer or law clerk to such a person or as an arbitrator, mediator, or other third-party neutral, unless all parties to the proceeding give informed consent, confirmed in writing.**

**(b) A lawyer shall not negotiate for employment with any person who is involved as a party or as lawyer for a party in a matter in which the lawyer is participating personally and substantially as a judge or other adjudicative officer or as an arbitrator, mediator, or other third-party neutral. A lawyer serving as a law clerk to a judge or other adjudicative officer may negotiate for employment with a party or lawyer involved in a matter in which the law clerk is participating personally and substantially, but only after the law clerk has notified the judge or other adjudicative officer.**

**(c) If a lawyer is disqualified by paragraph (a), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in the matter unless:**

**(1) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and**

**(2) written notice is promptly given to the parties and any appropriate tribunal to enable them to ascertain compliance with the provisions of this rule.**

**(d) An arbitrator selected as a partisan of a party in a multimember arbitration panel is not prohibited from subsequently representing that party.**

**Comment**

[1] This rule generally parallels rule 32:1.11. The term "personally and substantially" signifies that a judge who was a member of a multimember court, and thereafter left judicial office to practice law, is not prohibited from representing a client in a matter pending in the court, but in which the former judge did not participate. So also the fact that a former judge exercised administrative responsibility in a court does not prevent the former judge from acting as a lawyer in a matter where the judge had previously exercised remote or incidental administrative responsibility that did not affect the merits. Compare the comment to rule 32:1.11. The term "adjudicative officer" includes such officials as judges pro tempore, referees, special masters, hearing officers, and other parajudicial officers, and also lawyers who serve as part-time judges. Application section III(B) of the Iowa Code of Judicial Conduct provides that a magistrate or other continuing part-time judge "shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto." Although phrased differently from this rule, that rule corresponds in meaning.

[2] Like former judges, lawyers who have served as arbitrators, mediators, or other third-party neutrals may be asked to represent a client in a matter in which the lawyer participated personally and substantially. This rule forbids such representation unless all of the parties to the proceedings give their informed consent, confirmed in writing. *See* rule 32:1.0(e) and (b). Other law or codes of ethics governing third-party neutrals may impose more stringent standards of personal or imputed disqualification. *See* rule 32:2.4.

[3] Although lawyers who serve as third-party neutrals do not have information concerning the parties that is protected under rule 32:1.6, they typically owe the parties an obligation of confidentiality under law or codes of ethics governing third-party neutrals. Thus, paragraph (c) provides that conflicts of the personally disqualified lawyer will be imputed to other lawyers in a law firm unless the conditions of this paragraph are met.

[4] Requirements for screening procedures are stated in rule 32:1.0(k). Paragraph (c)(1) does

not prohibit the screened lawyer from receiving a salary or partnership share established by prior independent agreement, but that lawyer may not receive compensation directly related to the matter in which the lawyer is disqualified.

[5] Notice, including a description of the screened lawyer's prior representation and of the screening procedures employed, generally should be given as soon as practicable after the need for screening becomes apparent.

[Court Order April 20, 2005, effective July 1, 2005; April 30, 2010, effective May 3, 2010]

**Rule 32:1.13 ORGANIZATION AS CLIENT**

**(a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.**

**(b) If a lawyer for an organization knows that an officer, employee, or other person associated with the organization is engaged in action, intends to act, or refuses to act in a matter related to the representation that is a violation of a legal obligation to the organization, or a violation of law that reasonably might be imputed to the organization, and that is likely to result in substantial injury to the organization, then the lawyer shall proceed as is reasonably necessary in the best interest of the organization. Unless the lawyer reasonably believes that it is not necessary in the best interest of the organization to do so, the lawyer shall refer the matter to higher authority in the organization, including, if warranted by the circumstances to the highest authority that can act on behalf of the organization as determined by applicable law.**

**(c) Except as provided in paragraph (d), if**

**(1) despite the lawyer's efforts in accordance with paragraph (b) the highest authority that can act on behalf of the organization insists upon or fails to address in a timely and appropriate manner an action, or a refusal to act, that is clearly a violation of law, and**

**(2) the lawyer reasonably believes that the violation is reasonably certain to result in substantial injury to the organization,**

**then the lawyer may reveal information relating to the representation whether or not rule 32:1.6 permits such disclosure, but only if and to the extent the lawyer reasonably believes necessary to prevent substantial injury to the organization.**

**(d) Paragraph (c) shall not apply with respect to information relating to a lawyer's representation of an organization to investigate an alleged violation of law, or to defend the organization or an officer, employee, or other constituent associated with the organization against a claim arising out of an alleged violation of law.**

**(e) A lawyer who reasonably believes that the lawyer has been discharged because of the lawyer's actions taken pursuant to paragraphs (b) or (c), or who withdraws under circumstances that require or permit the lawyer to take action under either of those paragraphs, shall proceed as the lawyer reasonably believes necessary to ensure that the organization's highest authority is informed of the lawyer's discharge or withdrawal.**

**(f) In dealing with an organization's directors, officers, employees, members, shareholders, or other constituents, a lawyer shall explain the identity of the client when the lawyer knows or reasonably should know that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing.**

**(g) A lawyer representing an organization may also represent any of its directors, officers, employees, members, shareholders, or other constituents, subject to the provisions of rule 32:1.7. If the organization's consent to the dual representation is required by rule 32:1.7, the consent shall be given by an appropriate official of the organization other than the individual who is to be represented, or by the shareholders.**

**Comment**

*The Entity as the Client*

[1] An organizational client is a legal entity, but it cannot act except through its officers, directors, employees, shareholders, and other constituents. Officers, directors, employees, and shareholders are the constituents of the corporate organizational client. The duties defined in this comment apply equally to unincorporated associations. "Other constituents" as used in this comment means the

positions equivalent to officers, directors, employees, and shareholders held by persons acting for organizational clients that are not corporations.

[2] When one of the constituents of an organizational client communicates with the organization's lawyer in that person's organizational capacity, the communication is protected by rule 32:1.6. Thus, by way of example, if an organizational client requests its lawyer to investigate allegations of wrongdoing, interviews made in the course of that investigation between the lawyer and the client's employees or other constituents are covered by rule 32:1.6. This does not mean, however, that constituents of an organizational client are the clients of the lawyer. The lawyer may not disclose to such constituents information relating to the representation except for disclosures explicitly or impliedly authorized by the organizational client in order to carry out the representation or as otherwise permitted by rule 32:1.6.

[3] When constituents of the organization make decisions for it, the decisions ordinarily must be accepted by the lawyer even if their utility or prudence is doubtful. Decisions concerning policy and operations, including ones entailing serious risk, are not as such in the lawyer's province. Paragraph (b) makes clear, however, that when the lawyer knows that the organization is likely to be substantially injured by action of an officer or other constituent that violates a legal obligation to the organization or is in violation of law that might be imputed to the organization, the lawyer must proceed as is reasonably necessary in the best interest of the organization. As defined in rule 32:1.0(f), knowledge can be inferred from circumstances, and a lawyer cannot ignore the obvious.

[4] In determining how to proceed under paragraph (b), the lawyer should give due consideration to the seriousness of the violation and its consequences, the responsibility in the organization and the apparent motivation of the person involved, the policies of the organization concerning such matters, and any other relevant considerations. Ordinarily, referral to a higher authority would be necessary. In some circumstances, however, it may be appropriate for the lawyer to ask the constituent to reconsider the matter; for example, if the circumstances involve a constituent's innocent misunderstanding of law and subsequent acceptance of the lawyer's advice, the lawyer may reasonably conclude that the best interest of the organization does not require that the matter be referred to higher authority. If a constituent persists in conduct contrary to the lawyer's advice, it will be necessary for the lawyer to take steps to have the matter reviewed by a higher authority in the organization. If the matter is of sufficient seriousness and importance or urgency to the organization, referral to higher authority in the organization may be necessary even if the lawyer has not communicated with the constituent. Any measures taken should, to the extent practicable, minimize the risk of revealing information relating to the representation to persons outside the organization. Even in circumstances where a lawyer is not obligated by rule 32:1.13 to proceed, a lawyer may bring to the attention of an organizational client, including its highest authority, matters that the lawyer reasonably believes to be of sufficient importance to warrant doing so in the best interest of the organization.

[5] Paragraph (b) also makes clear that when it is reasonably necessary to enable the organization to address the matter in a timely and appropriate manner, the lawyer must refer the matter to higher authority, including, if warranted by the circumstances, the highest authority that can act on behalf of the organization under applicable law. The organization's highest authority to whom a matter may be referred ordinarily will be the board of directors or similar governing body. However, applicable law may prescribe that under certain conditions the highest authority reposes elsewhere, for example, in the independent directors of a corporation.

*Relation to Other Rules*

[6] The authority and responsibility provided in this rule are concurrent with the authority and responsibility provided in other rules. In particular, this rule does not limit or expand the lawyer's responsibility under rule 32:1.8, 32:1.16, 32:3.3, or 32:4.1. Paragraph (c) of this rule supplements rule 32:1.6(b) by providing an additional basis upon which the lawyer may reveal information relating to the representation, but does not modify, restrict, or limit the provisions of rule 32:1.6(b)(1) - (6). Under paragraph (c) the lawyer may reveal such information only when the organization's highest authority insists upon or fails to address threatened or ongoing action that is clearly a violation of law, and then only to the extent the lawyer reasonably believes necessary to prevent reasonably certain substantial injury to the organization. It is not necessary that the lawyer's services be used in furtherance of the violation, but it is required that the matter be related

to the lawyer's representation of the organization. If the lawyer's services are being used by an organization to further a crime or fraud by the organization, rules 32:1.6(b)(2) and 32:1.6(b)(3) may permit the lawyer to disclose confidential information. In such circumstances rule 32:1.2(d) may also be applicable, in which event, withdrawal from the representation under rule 32:1.16(a)(1) may be required.

[7] Paragraph (d) makes clear that the authority of a lawyer to disclose information relating to a representation in circumstances described in paragraph (c) does not apply with respect to information relating to a lawyer's engagement by an organization to investigate an alleged violation of law or to defend the organization or an officer, employee, or other person associated with the organization against a claim arising out of an alleged violation of law. This is necessary in order to enable organizational clients to enjoy the full benefits of legal counsel in conducting an investigation or defending against a claim.

[8] A lawyer who reasonably believes that the lawyer has been discharged because of the lawyer's actions taken pursuant to paragraph (b) or (c), or who withdraws in circumstances that require or permit the lawyer to take action under either of these paragraphs, must proceed as the lawyer reasonably believes necessary to assure that the organization's highest authority is informed of the lawyer's discharge or withdrawal.

*Government Agency*

[9] The duty defined in this rule applies to governmental organizations. Defining precisely the identity of the client and prescribing the resulting obligations of such lawyers may be more difficult in the government context and is a matter beyond the scope of these rules. *See* Scope [18]. Although in some circumstances the client may be a specific agency, it may also be a branch of government, such as the executive branch, or the government as a whole. For example, if the action or failure to act involves the head of a bureau, either the department of which the bureau is a part or the relevant branch of government may be the client for purposes of this rule. Moreover, in a matter involving the conduct of government officials, a government lawyer may have authority under applicable law to question such conduct more extensively than that of a lawyer for a private organization in similar circumstances. Thus, when the client is a governmental organization, a different balance may be appropriate between maintaining confidentiality and ensuring that the wrongful act is prevented or rectified, for public business is involved. In addition, duties of lawyers employed by the government or lawyers in military service may be defined by statutes and regulation. This rule does not limit that authority. For example, the provisions of Iowa Code sections 232.90 and 232.114 adequately accommodate the potentially conflicting roles of county attorneys in criminal prosecutions and child in need of assistance or termination of parental rights proceedings. *See* Scope.

*Clarifying the Lawyer's Role*

[10] There are times when the organization's interest may be or become adverse to those of one or more of its constituents. In such circumstances the lawyer should advise any constituent, whose interest the lawyer finds adverse to that of the organization, of the conflict or potential conflict of interest, that the lawyer cannot represent such constituent, and that such person may wish to obtain independent representation. Care must be taken to ensure that the individual understands that, when there is such adversity of interest, the lawyer for the organization cannot provide legal representation for that constituent individual, and that discussions between the lawyer for the organization and the individual may not be privileged.

[11] Whether such a warning should be given by the lawyer for the organization to any constituent individual may turn on the facts of each case.

*Dual Representation*

[12] Paragraph (g) recognizes that a lawyer for an organization may also represent a principal officer or major shareholder.

*Derivative Actions*

[13] Under generally prevailing law, the shareholders or members of a corporation may bring suit to compel the directors to perform their legal obligations in the supervision of the organization. Members of unincorporated associations have essentially the same right. Such an action may be brought nominally by the organization, but usually is, in fact, a legal controversy over management of the organization.

[14] The question can arise whether counsel for the organization may defend such an action. The proposition that the organization is the lawyer's client does not alone resolve the issue. Most derivative actions are a normal incident of an organization's affairs, to be defended by the organization's lawyer like any other suit. However, if the claim involves serious charges of wrongdoing by those in control of the organization, a conflict may arise between the lawyer's duty to the organization and the lawyer's relationship with the board. In those circumstances, rule 32:1.7 governs who should represent the directors and the organization.

[Court Order April 20, 2005, effective July 1, 2005; June 13, 2013]

**Rule 32:1.14 CLIENT WITH DIMINISHED CAPACITY**

**(a) When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment, or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.**

**(b) When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial, or other harm unless action is taken, and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator, or guardian.**

**(c) Information relating to the representation of a client with diminished capacity is protected by rule 32:1.6. When taking protective action pursuant to paragraph (b), the lawyer is impliedly authorized under rule 32:1.6(a) to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests.**

**Comment**

[1] The normal client-lawyer relationship is based on the assumption that the client, when properly advised and assisted, is capable of making decisions about important matters. When the client is a minor or suffers from a diminished mental capacity, however, maintaining the ordinary client-lawyer relationship may not be possible in all respects. In particular, a severely incapacitated person may have no power to make legally binding decisions. Nevertheless, a client with diminished capacity often has the ability to understand, deliberate upon, and reach conclusions about matters affecting the client's own well-being. For example, children as young as five or six years of age, and certainly those of ten or twelve, are regarded as having opinions that are entitled to weight in legal proceedings concerning their custody. So also, it is recognized that some persons of advanced age can be quite capable of handling routine financial matters while needing special legal protection concerning major transactions.

[2] The fact that a client suffers a disability does not diminish the lawyer's obligation to treat the client with attention and respect. Even if the person has a legal representative, the lawyer should as far as possible accord the represented person the status of client, particularly in maintaining communication.

[3] The client may wish to have family members or other persons participate in discussions with the lawyer. When necessary to assist in the representation, the presence of such persons generally does not affect the applicability of the attorney-client evidentiary privilege. Nevertheless, the lawyer must keep the client's interests foremost and, except for protective action authorized under paragraph (b), must look to the client, and not family members, to make decisions on the client's behalf.

[4] If a legal representative has already been appointed for the client, the lawyer should ordinarily look to the representative for decisions on behalf of the client. In matters involving a minor, whether the lawyer should look to the parents as natural guardians may depend on the type of proceeding or matter in which the lawyer is representing the minor. If the lawyer represents the guardian as distinct from the ward, and is aware that the guardian is acting adversely to the ward's interest, the lawyer

may have an obligation to prevent or rectify the guardian's misconduct. *See* rule 32:1.2(d).

*Taking Protective Action*

[5] If a lawyer reasonably believes that a client is at risk of substantial physical, financial, or other harm unless action is taken, and that a normal client-lawyer relationship cannot be maintained as provided in paragraph (a) because the client lacks sufficient capacity to communicate or to make adequately considered decisions in connection with the representation, then paragraph (b) permits the lawyer to take protective measures deemed necessary. Such measures could include: consulting with family members, using a reconsideration period to permit clarification or improvement of circumstances, using voluntary surrogate decisionmaking tools such as durable powers of attorney, or consulting with support groups, professional services, adult-protective agencies, or other individuals or entities that have the ability to protect the client. In taking any protective action, the lawyer should be guided by such factors as the wishes and values of the client to the extent known, the client's best interests, and the goals of intruding into the client's decisionmaking autonomy to the least extent feasible, maximizing client capacities, and respecting the client's family and social connections.

[6] In determining the extent of the client's diminished capacity, the lawyer should consider and balance such factors as: the client's ability to articulate reasoning leading to a decision, variability of state of mind, and ability to appreciate consequences of a decision; the substantive fairness of a decision; and the consistency of a decision with the known long-term commitments and values of the client. In appropriate circumstances, the lawyer may seek guidance from an appropriate diagnostician.

[7] If a legal representative has not been appointed, the lawyer should consider whether appointment of a guardian ad litem, conservator, or guardian is necessary to protect the client's interests. Thus, if a client with diminished capacity has substantial property that should be sold for the client's benefit, effective completion of the transaction may require appointment of a legal representative. In addition, rules of procedure in litigation sometimes provide that minors or persons with diminished capacity must be represented by a guardian or next friend if they do not have a general guardian. In many circumstances, however, appointment of a legal representative may be more expensive or traumatic for the client than circumstances in fact require. Evaluation of such circumstances is a matter entrusted to the professional judgment of the lawyer. In considering alternatives, however, the lawyer should be aware of any law that requires the lawyer to advocate the least restrictive action on behalf of the client.

*Disclosure of the Client's Condition*

[8] Disclosure of the client's diminished capacity could adversely affect the client's interests. For example, raising the question of diminished capacity could, in some circumstances, lead to proceedings for involuntary commitment. Information relating to the representation is protected by rule 32:1.6. Therefore, unless authorized to do so, the lawyer may not disclose such information. When taking protective action pursuant to paragraph (b), the lawyer is impliedly authorized to make the necessary disclosures, even when the client directs the lawyer to the contrary. Nevertheless, given the risks of disclosure, paragraph (c) limits what the lawyer may disclose in consulting with other individuals or entities or seeking the appointment of a legal representative. At the very least, the lawyer should determine whether it is likely that the person or entity consulted with will act adversely to the client's interests before discussing matters related to the client. The lawyer's position in such cases is an unavoidably difficult one.

*Emergency Legal Assistance*

[9] In an emergency where the health, safety, or a financial interest of a person with seriously diminished capacity is threatened with imminent and irreparable harm, a lawyer may take legal action on behalf of such a person even though the person is unable to establish a client-lawyer relationship or to make or express considered judgments about the matter, when the person or another acting in good faith on that person's behalf has consulted with the lawyer. Even in such an emergency, however, the lawyer should not act unless the lawyer reasonably believes that the person has no other lawyer, agent, or other representative available. The lawyer should take legal action on

behalf of the person only to the extent reasonably necessary to maintain the status quo or otherwise avoid imminent and irreparable harm. A lawyer who undertakes to represent a person in such an exigent situation has the same duties under these rules as the lawyer would with respect to a client.

[10] A lawyer who acts on behalf of a person with seriously diminished capacity in an emergency should keep the confidences of the person as if dealing with a client, disclosing them only to the extent necessary to accomplish the intended protective action. The lawyer should disclose to any tribunal involved and to any other counsel involved the nature of his or her relationship with the person. The lawyer should take steps to regularize the relationship or implement other protective solutions as soon as possible. Normally, a lawyer would not seek compensation for such emergency actions taken.

[Court Order April 20, 2005, effective July 1, 2005; August 28, 2020, effective January 1, 2021]

**Rule 32:1.15 SAFEKEEPING PROPERTY**

**(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be kept in a separate account. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of six years after termination of the representation.**

**(b) A lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account, but only in an amount necessary for that purpose.**

**(c) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.**

**(d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.**

**(e) When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.**

**(f) All client trust accounts shall be governed by chapter 45 of the Iowa Court Rules.**

**Comment**

[1] A lawyer should hold property of others with the care required of a professional fiduciary. Securities should be kept in a safe deposit box, except when some other form of safekeeping is warranted by special circumstances. All property that is the property of clients or third persons, including prospective clients, must be kept separate from the lawyer's business and personal property and, if monies, in one or more trust accounts. Separate trust accounts may be warranted when administering estate monies or acting in similar fiduciary capacities. A lawyer should maintain on a current basis books and records in accordance with generally accepted accounting practice and comply with any recordkeeping rules established by law or court order. *See,* Iowa Ct. R. ch 45.

[2] While normally it is impermissible to commingle the lawyer's own funds with client funds, paragraph (b) provides that it is permissible when necessary to pay bank service charges on that account. Accurate records must be kept regarding which part of the funds are the lawyer's.

[3] Lawyers often receive funds from which the lawyer's fee will be paid. The lawyer is not required to remit to the client funds that the lawyer reasonably believes represent fees owed. However, a lawyer may not hold funds to coerce a client into accepting the lawyer's contention. The disputed portion of the funds must be kept in a trust account and the lawyer should suggest means for prompt resolution of the dispute, such as arbitration. The undisputed portion of the funds shall be promptly distributed.

[4] Paragraph (e) also recognizes that third parties may have lawful claims against specific funds or other property in a lawyer's custody, such as a client's creditor who has a lien on funds recovered in a personal injury action. A lawyer may have a duty under applicable law to protect such third-party

claims against wrongful interference by the client. In such cases, when the third-party claim is not frivolous under applicable law, the lawyer must refuse to surrender the property to the client until the claims are resolved. A lawyer should not unilaterally assume to arbitrate a dispute between the client and the third party; but when there are substantial grounds for dispute as to the person entitled to the funds, the lawyer may file an action to have a court resolve the dispute.

[5] The obligations of a lawyer under this rule are independent of those arising from activity other than rendering legal services. For example, a lawyer who serves only as an escrow agent is governed by the applicable law relating to fiduciaries even though the lawyer does not render legal services in the transaction and is not governed by this rule.

[6] A lawyers' fund for client protection provides a means through the collective efforts of the bar to reimburse persons who have lost money or property as a result of dishonest conduct of a lawyer. Such a fund has been established in Iowa, and lawyer participation is mandatory to the extent required by chapter 39 of the Iowa Court Rules.

[Court Order April 20, 2005, effective July 1, 2005]

**Rule 32:1.16 DECLINING OR TERMINATING REPRESENTATION**

**(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:**

**(1) the representation will result in violation of the Iowa Rules of Professional Conduct or other law;**

**(2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or**

**(3) the lawyer is discharged.**

**(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:**

**(1) withdrawal can be accomplished without material adverse effect on the interests of the client;**

**(2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;**

**(3) the client has used the lawyer's services to perpetrate a crime or fraud;**

**(4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;**

**(5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;**

**(6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or**

**(7) other good cause for withdrawal exists.**

**(c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.**

**(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled, and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by law.**

**Comment**

[1] A lawyer should not accept representation in a matter unless it can be performed competently, promptly, without improper conflict of interest, and to completion. Ordinarily, a representation in a matter is completed when the agreed-upon assistance has been concluded. *See* rules 32:1.2(c) and 32:6.5. *See also* rule 32:1.3, comment [4].

*Mandatory Withdrawal*

[2] A lawyer ordinarily must decline or withdraw from representation if the client demands that the lawyer engage in conduct that is illegal or violates the Iowa Rules of Professional Conduct or

other law. The lawyer is not obliged to decline or withdraw simply because the client suggests such a course of conduct; a client may make such a suggestion in the hope that a lawyer will not be constrained by a professional obligation.

[3] When a lawyer has been appointed to represent a client, withdrawal ordinarily requires approval of the appointing authority. *See also* rule 32:6.2. Similarly, court approval or notice to the court is often required by applicable law before a lawyer withdraws from pending litigation. Difficulty may be encountered if withdrawal is based on the client's demand that the lawyer engage in unprofessional conduct. The court may request an explanation for the withdrawal, while the lawyer may be bound to keep confidential the facts that would constitute such an explanation. The lawyer's statement that professional considerations require termination of the representation ordinarily should be accepted as sufficient. Lawyers should be mindful of their obligations to both clients and the court under rules 32:1.6 and 32:3.3.

*Discharge*

[4] A client has a right to discharge a lawyer at any time, with or without cause, subject to liability for payment for the lawyer's services. Where future dispute about the withdrawal may be anticipated, it may be advisable to prepare a written statement reciting the circumstances.

[5] Whether a client can discharge appointed counsel may depend on applicable law. A client seeking to do so should be given a full explanation of the consequences. These consequences may include a decision by the appointing authority that appointment of successor counsel is unjustified, thus requiring self-representation by the client.

[6] If the client has severely diminished capacity, the client may lack the legal capacity to discharge the lawyer, and in any event the discharge may be seriously adverse to the client's interests. The lawyer should make special effort to help the client consider the consequences and may take reasonably necessary protective action as provided in rule 32:1.14.

*Optional Withdrawal*

[7] A lawyer may withdraw from representation in some circumstances. The lawyer has the option to withdraw if the withdrawal can be accomplished without material adverse effect on the client's interests. Withdrawal is also justified if the client persists in a course of action that the lawyer reasonably believes is criminal or fraudulent, for a lawyer is not required to be associated with such conduct even if the lawyer does not further it. Withdrawal is also permitted if the lawyer's services were misused in the past even if that would materially prejudice the client. The lawyer may also withdraw where the client insists on taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement.

[8] A lawyer may withdraw if the client refuses to abide by the terms of an agreement relating to the representation, such as an agreement concerning fees or court costs or an agreement limiting the objectives of the representation.

*Assisting the Client upon Withdrawal*

[9] Even if the lawyer has been unfairly discharged by the client, a lawyer must take all reasonable steps to mitigate the consequences to the client. The lawyer may retain papers as security for a fee to the extent permitted by Iowa Code sections 602.10116 to 602.10120 or other law. *See* rule 32:1.15.
[Court Order April 20, 2005, effective July 1, 2005; August 28, 2020, effective January 1, 2021]

**Rule 32:1.17 SALE OF LAW PRACTICE**

**A lawyer or a law firm may sell or purchase a law practice, or an area of law practice, including good will, if the following conditions are satisfied:**

**(a) The seller ceases to engage in the private practice of law, or in the area of practice that has been sold, in the geographic area in which the practice has been conducted;**

**(b) The entire practice, or the entire area of practice, is sold to one or more lawyers or law firms;**

**(c) The seller gives written notice to each of the seller's clients regarding:**

**(1) the proposed sale;**

**(2) the client's right to retain other counsel or to take possession of the file; and**

**(3) the fact that the client's consent to the transfer of the client's files will be presumed if the client does not take any action or does not otherwise object within 90 days of receipt of the notice.**

**If a client cannot be given notice, the representation of that client may be transferred to the purchaser only upon entry of an order so authorizing by a court having jurisdiction. The seller may disclose to the court in camera information relating to the representation only to the extent necessary to obtain an order authorizing the transfer of a file.**

**(d) The fees charged clients shall not be increased by reason of the sale.**

**Comment**

[1] The practice of law is a profession, not merely a business. Clients are not commodities that can be purchased and sold at will. Pursuant to this rule, when a lawyer or an entire firm ceases to practice, or ceases to practice in an area of law, and other lawyers or firms take over the representation, the selling lawyer or firm may obtain compensation for the reasonable value of the practice as may withdrawing partners of law firms. *See* rules 32:5.4 and 32:5.6.

*Termination of Practice by the Seller*

[2] The requirement that all of the private practice, or all of an area of practice, be sold is satisfied if the seller in good faith makes the entire practice, or the area of practice, available for sale to the purchasers. The fact that a number of the seller's clients decide not to be represented by the purchasers but take their matters elsewhere, therefore, does not result in a violation. Return to private practice as a result of an unanticipated change in circumstances does not necessarily result in a violation. For example, a lawyer who has sold the practice to accept an appointment to judicial office does not violate the requirement that the sale be attendant to cessation of practice if the lawyer later resumes private practice upon being defeated in a retention election for the office or resigns from a judiciary position.

[3] The requirement that the seller cease to engage in the private practice of law does not prohibit employment as a lawyer on the staff of a public agency or a legal services entity that provides legal services to the poor, or as in-house counsel to a business.

[4] This rule contemplates that a lawyer who sells an entire practice may continue in the practice of law in Iowa provided that the lawyer practices in another geographic area of the state.

[5] This rule also permits a lawyer or law firm to sell an area of practice. If an area of practice is sold and the lawyer remains in the active practice of law, the lawyer must cease accepting any matters in the area of practice that has been sold, either as counsel or co-counsel or by assuming joint responsibility for a matter in connection with the division of a fee with another lawyer as would otherwise be permitted by rule 32:1.5(e). For example, a lawyer with a substantial number of estate planning matters and a substantial number of probate administration cases may sell the estate planning portion of the practice but remain in the practice of law by concentrating on probate administration; however, that practitioner may not thereafter accept any estate planning matters. Although a lawyer who leaves a geographical area typically would sell the entire practice, this rule permits the lawyer to limit the sale to one or more areas of the practice, thereby preserving the lawyer's right to continue practice in the areas of the practice that were not sold.

*Sale of Entire Practice or Entire Area of Practice*

[6] The rule requires that the seller's entire practice, or an entire area of practice, be sold. The prohibition against sale of less than an entire practice area protects those clients whose matters are less lucrative and who might find it difficult to secure other counsel if a sale could be limited to substantial fee-generating matters. The purchasers are required to undertake all client matters in the practice or practice area, subject to client consent. This requirement is satisfied, however, even if a purchaser is unable to undertake a particular client matter because of a conflict of interest.

*Client Confidences, Consent, and Notice*

[7] Negotiations between seller and prospective purchaser prior to disclosure of information relating to a specific representation of an identifiable client no more violate the confidentiality provisions of rule 32:1.6 than do preliminary discussions concerning the possible association of another lawyer or mergers between firms, with respect to which client consent is not required. *See* rule 32:1.6(b)(7). Providing the purchaser access to detailed information relating to the representation, such as the client's file, however, requires client consent. The rule provides that before such information can be disclosed by the seller to the purchaser the client must be given actual written notice of the contemplated sale, including the identity of the purchaser, and must be told that the decision to consent or make other arrangements must be made within 90 days. If nothing is heard from the client within that time, consent to the sale is presumed.

[8] A lawyer or law firm ceasing to practice cannot be required to remain in practice because some clients cannot be given actual notice of the proposed purchase. Since these clients cannot themselves consent to the purchase or direct any other disposition of their files, the rule requires an order from a court having jurisdiction authorizing their transfer or other disposition. The court can be expected to determine whether reasonable efforts to locate the client have been exhausted, and whether the absent client's legitimate interests will be served by authorizing the transfer of the file so that the purchaser may continue the representation. Preservation of client confidences requires that the petition for a court order be considered in camera.

[9] All elements of client autonomy, including the client's absolute right to discharge a lawyer and transfer the representation to another, survive the sale of the practice or area of practice.

*Fee Arrangements Between Client and Purchaser*

[10] The sale may not be financed by increases in fees charged the clients of the practice. Existing arrangements between the seller and the client as to fees and the scope of the work must be honored by the purchaser.

*Other Applicable Ethical Standards*

[11] Lawyers participating in the sale of a law practice or a practice area are subject to the ethical standards applicable to involving another lawyer in the representation of a client. These include, for example, the seller's obligation to exercise competence in identifying a purchaser qualified to assume the practice and the purchaser's obligation to undertake the representation competently (*see* rule 32:1.1); the obligation to avoid disqualifying conflicts, and to secure the client's informed consent for those conflicts that can be agreed to (*see* rule 32:1.7 regarding conflicts and rule 32:1.0(e) for the definition of informed consent); and the obligation to protect information relating to the representation (*see* rules 32:1.6 and 32:1.9).

[12] If approval of the substitution of the purchasing lawyer for the selling lawyer is required by the rules of any tribunal in which a matter is pending, such approval must be obtained before the matter can be included in the sale. *See* rule 32:1.16.

*Applicability of the Rule*

[13] This rule applies to the sale of a law practice of a deceased, disabled, or disappeared lawyer. Thus, the seller may be represented by a nonlawyer representative not subject to these rules. Since, however, no lawyer may participate in a sale of a law practice that does not conform to the requirements of this rule, the representatives of the seller as well as the purchasing lawyer can be expected to see to it that they are met.

[14] Admission to or retirement from a law partnership or professional association, retirement plans and similar arrangements, and a sale of tangible assets of a law practice, do not constitute a sale or purchase governed by this rule.

[15] This rule does not apply to the transfers of legal representation between lawyers when such transfers are unrelated to the sale of a practice or an area of practice.

[Court Order April 20, 2005, effective July 1, 2005; October 15, 2015]

**Rule 32:1.18 DUTIES TO PROSPECTIVE CLIENT**

**(a) A person who consults with a lawyer about the possibility of forming a client-lawyer**

**relationship with respect to a matter is a prospective client.**

**(b) Even when no client-lawyer relationship ensues, a lawyer who has learned information from a prospective client shall not use or reveal that information, except as rule 32:1.9 would permit with respect to information of a former client.**

**(c) A lawyer subject to paragraph (b) shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received information from the prospective client that could be significantly harmful to that person in the matter, except as provided in paragraph (d). If a lawyer is disqualified from representation under this paragraph, no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter, except as provided in paragraph (d).**

**(d) When the lawyer has received disqualifying information as defined in paragraph (c), representation is permissible if:**

**(1) both the affected client and the prospective client have given informed consent, confirmed in writing, or;**

**(2) the lawyer who received the information took reasonable measures to avoid exposure to more disqualifying information than was reasonably necessary to determine whether to represent the prospective client; and**

**(i) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and**

**(ii) written notice is promptly given to the prospective client.**

**Comment**

[1] Prospective clients, like clients, may disclose information to a lawyer, place documents or other property in the lawyer's custody, or rely on the lawyer's advice. A lawyer's consultations with a prospective client usually are limited in time and depth and leave both the prospective client and the lawyer free (and sometimes required) to proceed no further. Hence, prospective clients should receive some but not all of the protection afforded clients.

[2] A person becomes a prospective client by consulting with a lawyer about the possibility of forming a client-lawyer relationship with respect to a matter. Whether communications, including written, oral, or electronic communications, constitute a consultation depends on the circumstances. For example, a consultation is likely to have occurred if a lawyer, either in person or through the lawyer's advertising in any medium, specifically requests or invites the submission of information about a potential representation without clear and reasonably understandable warnings and cautionary statements that limit the lawyer's obligations, and a person provides information in response. *See* comment [4]. In contrast, a consultation does not occur if a person provides information to a lawyer in response to advertising that merely describes the lawyer's education, experience, areas of practice, and contact information, or provides legal information of general interest. Such a person communicates information unilaterally to a lawyer, without any reasonable expectation that the lawyer is willing to discuss the possibility of forming a client-lawyer relationship, and is thus not a "prospective client." Moreover, a person who communicates with a lawyer for the purpose of disqualifying the lawyer is not a "prospective client."

[3] It is often necessary for a prospective client to reveal information to the lawyer during an initial consultation prior to the decision about formation of a client-lawyer relationship. The lawyer often must learn such information to determine whether there is a conflict of interest with an existing client and whether the matter is one that the lawyer is willing to undertake. Paragraph (b) prohibits the lawyer from using or revealing that information, except as permitted by rule 32:1.9, even if the client or lawyer decides not to proceed with the representation. The duty exists regardless of how brief the initial conference may be.

[4] In order to avoid acquiring disqualifying information from a prospective client, a lawyer considering whether or not to undertake a new matter should limit the initial consultation to only such information as reasonably appears necessary for that purpose. Where the information indicates that a conflict of interest or other reason for nonrepresentation exists, the lawyer should so inform the prospective client or decline the representation. If the prospective client wishes to retain the lawyer, and if consent is possible under rule 32:1.7, then consent from all affected present or former clients must be obtained before accepting the representation.

[5] A lawyer may condition a consultation with a prospective client on the person's informed consent that no information disclosed during the consultation will prohibit the lawyer from representing a different client in the matter. See rule 32:1.0(e) for the definition of informed consent. If the agreement expressly so provides, the prospective client may also consent to the lawyer's subsequent use of information received from the prospective client.

[6] Even in the absence of an agreement, under paragraph (c), the lawyer is not prohibited from representing a client with interests adverse to those of the prospective client in the same or a substantially related matter unless the lawyer has received from the prospective client information that could be significantly harmful if used in the matter.

[7] Under paragraph (c), the prohibition in this rule is imputed to other lawyers as provided in rule 32:1.10, but, under paragraph (d)(1), imputation may be avoided if the lawyer obtains the informed consent, confirmed in writing, of both the prospective and affected clients. In the alternative, imputation may be avoided if the conditions of paragraph (d)(2) are met and all disqualified lawyers are timely screened and written notice is promptly given to the prospective client. *See* rule 32:1.0(k) (requirements for screening procedures). Paragraph (d)(2)(i) does not prohibit the screened lawyer from receiving a salary or partnership share established by prior independent agreement, but that lawyer may not receive compensation directly related to the matter in which the lawyer is disqualified.

[8] Notice, including a general description of the subject matter about which the lawyer was consulted, and of the screening procedures employed, generally should be given as soon as practicable after the need for screening becomes apparent.

[9] For the duty of competence of a lawyer who gives assistance on the merits of a matter to a prospective client, see rule 32:1.1. For a lawyer's duties when a prospective client entrusts valuables or papers to the lawyer's care, see rule 32:1.15.

[Court Order April 20, 2005, effective July 1, 2005; August 29, 2012, effective January 1, 2013; October 15, 2015]

## *COUNSELOR*

### Rule 32:2.1 ADVISOR

**In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social, and political factors, that may be relevant to the client's situation.**

**Comment**

*Scope of Advice*

[1] A client is entitled to straightforward advice expressing the lawyer's honest assessment. Legal advice often involves unpleasant facts and alternatives that a client may be disinclined to confront. In presenting advice, a lawyer endeavors to sustain the client's morale and may put advice in as acceptable a form as honesty permits. However, a lawyer should not be deterred from giving candid advice by the prospect that the advice will be unpalatable to the client.

[2] Advice couched in narrow legal terms may be of little value to a client, especially where practical considerations, such as cost or effects on other people, are predominant. Purely technical legal advice, therefore, can sometimes be inadequate. It is proper for a lawyer to refer to relevant moral and ethical considerations in giving advice. Although a lawyer is not a moral advisor as such, moral and ethical considerations impinge upon most legal questions and may decisively influence how the law will be applied. In the final analysis, the lawyer should always remember that the decision whether to pursue or forgo legally available objectives or methods because of nonlegal factors is ultimately for the client and not for the lawyer.

[3] A client may expressly or impliedly ask the lawyer for purely technical advice. When such a request is made by a client experienced in legal matters, the lawyer may accept it at face value. When such a request is made by a client inexperienced in legal matters, however, the lawyer's responsibility as advisor may include indicating that more may be involved than strictly legal considerations.

[4] Matters that go beyond strictly legal questions may also be in the domain of another profession.

Family matters can involve problems within the professional competence of psychiatry, clinical psychology, or social work; business matters can involve problems within the competence of the accounting profession or of financial specialists. Where consultation with a professional in another field is itself something a competent lawyer would recommend, the lawyer should make such a recommendation. At the same time, a lawyer's advice at its best often consists of recommending a course of action in the face of conflicting recommendations of experts.

*Offering Advice*

[5] In general, a lawyer is not expected to give advice until asked by the client. However, when a lawyer knows that a client proposes a course of action that is likely to result in substantial adverse legal consequences to the client, the lawyer's duty to the client under rule 32:1.4 may require that the lawyer offer advice if the client's course of action is related to the representation. Similarly, when a matter is likely to involve litigation, it may be necessary under rule 32:1.4 to inform the client of forms of dispute resolution that might constitute reasonable alternatives to litigation. A lawyer ordinarily has no duty to initiate investigation of a client's affairs or to give advice that the client has indicated is unwanted, but a lawyer may initiate advice to a client when doing so appears to be in the client's interest.
[Court Order April 20, 2005, effective July 1, 2005]

**Rule 32:2.2 RESERVED**

**Rule 32:2.3 EVALUATION FOR USE BY THIRD PERSONS**

**(a) A lawyer may provide an evaluation of a matter affecting a client for the use of someone other than the client if the lawyer reasonably believes that making the evaluation is compatible with other aspects of the lawyer's relationship with the client.**

**(b) When the lawyer knows or reasonably should know that the evaluation is likely to affect the client's interests materially and adversely, the lawyer shall not provide the evaluation unless the client gives informed consent.**

**(c) Except as disclosure is authorized in connection with a report of an evaluation, information relating to the evaluation is otherwise protected by rule 32:1.6.**

**Comment**

*Definition*

[1] An evaluation may be performed at the client's direction or when impliedly authorized in order to carry out the representation. *See* rule 32:1.2. Such an evaluation may be for the primary purpose of establishing information for the benefit of third parties; for example, an opinion concerning the title of property rendered at the behest of a vendor for the information of a prospective purchaser, or at the behest of a borrower for the information of a prospective lender. In some situations, the evaluation may be required by a government agency; for example, an opinion concerning the legality of the securities registered for sale under the securities laws. In other instances, the evaluation may be required by a third person, such as a purchaser of a business.

[2] A legal evaluation should be distinguished from an investigation of a person with whom the lawyer does not have a client-lawyer relationship. For example, a lawyer retained by a purchaser to analyze a vendor's title to property does not have a client-lawyer relationship with the vendor. So also, an investigation into a person's affairs by a government lawyer, or by special counsel employed by the government, is not an evaluation as that term is used in this rule. The question is whether the lawyer is retained by the person whose affairs are being examined. When the lawyer is retained by that person, the general rules concerning loyalty to client and preservation of confidences apply, which is not the case if the lawyer is retained by someone else. For this reason, it is essential to identify the person by whom the lawyer is retained. This should be made clear not only to the person under examination, but also to others to whom the results are to be made available.

*Duties Owed to Third Person and Client*

[3] When the evaluation is intended for the information or use of a third person, a legal duty to that person may or may not arise. That legal question is beyond the scope of this rule. However, since such an evaluation involves a departure from the normal client-lawyer relationship, careful analysis of the situation is required. The lawyer must be satisfied as a matter of professional judgment that making the evaluation is compatible with other functions undertaken in behalf of the client. For example, if the lawyer is acting as advocate in defending the client against charges of fraud, it would normally be incompatible with that responsibility for the lawyer to perform an evaluation for others concerning the same or a related transaction. Assuming no such impediment is apparent, however, the lawyer should advise the client of the implications of the evaluation, particularly the lawyer's responsibilities to third persons and the duty to disseminate the findings.

*Access to and Disclosure of Information*

[4] The quality of an evaluation depends on the freedom and extent of the investigation upon which it is based. Ordinarily a lawyer should have whatever latitude of investigation seems necessary as a matter of professional judgment. Under some circumstances, however, the terms of the evaluation may be limited. For example, certain issues or sources may be categorically excluded, or the scope of search may be limited by time constraints or the noncooperation of persons having relevant information. Any such limitations that are material to the evaluation should be described in the report. If after a lawyer has commenced an evaluation, the client refuses to comply with the terms upon which it was understood the evaluation was to have been made, the lawyer's obligations are determined by law, having reference to the terms of the client's agreement and the surrounding circumstances. In no circumstances is the lawyer permitted to knowingly make a false statement of material fact or law in providing an evaluation under this rule. *See* rule 32:4.1.

*Obtaining Client's Informed Consent*

[5] Information relating to an evaluation is protected by rule 32:1.6. In many situations, providing an evaluation to a third party poses no significant risk to the client; thus, the lawyer may be impliedly authorized to disclose information to carry out the representation. *See* rule 32:1.6(a). Where, however, it is reasonably likely that providing the evaluation will affect the client's interests materially and adversely, the lawyer must first obtain the client's consent after the client has been adequately informed concerning the important possible effects on the client's interests. *See* rules 32:1.6(a) and 32:1.0(e).

*Financial Auditors' Requests for Information*

[6] When a question concerning the legal situation of a client arises at the instance of the client's financial auditor and the question is referred to the lawyer, the lawyer's response may be made in accordance with procedures recognized in the legal profession. Such a procedure is set forth in the American Bar Association Statement of Policy Regarding Lawyers' Responses to Auditors' Requests for Information, adopted in 1975.
[Court Order April 20, 2005, effective July 1, 2005; August 28, 2020, effective January 1, 2021]

**Rule 32:2.4 LAWYER SERVING AS THIRD-PARTY NEUTRAL**

**(a) A lawyer serves as a third-party neutral when the lawyer assists two or more persons who are not clients of the lawyer to reach a resolution of a dispute or other matter that has arisen between them. Service as a third-party neutral may include service as an arbitrator, a mediator, or in such other capacity as will enable the lawyer to assist the parties to resolve the matter.**

**(b) A lawyer serving as a third-party neutral shall inform unrepresented parties that the lawyer is not representing them. When the lawyer knows or reasonably should know that a party does not understand the lawyer's role in the matter, the lawyer shall explain the difference between the lawyer's role as a third-party neutral and a lawyer's role as one who represents a client.**

**Comment**

[1] Alternative dispute resolution has become a substantial part of the civil justice system. Aside from representing clients in dispute-resolution processes, lawyers often serve as third-party neutrals. A third-party neutral is a person, such as a mediator, arbitrator, conciliator, or evaluator, who assists the parties, represented or unrepresented, in the resolution of a dispute or in the arrangement of a transaction. Whether a third-party neutral serves primarily as a facilitator, evaluator, or decision maker depends on the particular process that is either selected by the parties or mandated by a court.

[2] The role of a third-party neutral is not unique to lawyers, although, in some court-connected contexts, only lawyers are allowed to serve in this role or to handle certain types of cases. In performing this role, the lawyer may be subject to court rules or other laws that apply either to third-party neutrals generally or to lawyers serving as third-party neutrals. Lawyer-neutrals may also be subject to various codes of ethics, such as the Code of Ethics for Arbitration in Commercial Disputes prepared by a joint committee of the American Bar Association and the American Arbitration Association or the Model Standards of Conduct for Mediators jointly prepared by the American Bar Association, the American Arbitration Association, and the Society of Professionals in Dispute Resolution. In 1987, the Iowa Supreme Court adopted the Rules Governing Standards of Practice for Lawyer Mediators in Family Disputes, which is now the Standards of Conduct for Mediators, chapter 11 of the Iowa Court Rules. Lawyers engaged in mediation should carefully review these rules because they address matters of special concern and state different and more restrictive rules on conflicts of interest.

[3] Unlike nonlawyers who serve as third-party neutrals, lawyers serving in this role may experience unique problems as a result of differences between the role of a third-party neutral and a lawyer's service as a client representative. The potential for confusion is significant when the parties are unrepresented in the process. Thus, paragraph (b) requires a lawyer-neutral to inform unrepresented parties that the lawyer is not representing them. For some parties, particularly parties who frequently use dispute-resolution processes, this information will be sufficient. For others, particularly those who are using the process for the first time, more information will be required. Where appropriate, the lawyer should inform unrepresented parties of the important differences between the lawyer's role as third-party neutral and a lawyer's role as a client representative, including the inapplicability of the attorney-client evidentiary privilege. The extent of disclosure required under this paragraph will depend on the particular parties involved and the subject matter of the proceeding, as well as the particular features of the dispute-resolution process selected.

[4] A lawyer who serves as a third-party neutral subsequently may be asked to serve as a lawyer representing a client in the same matter. The conflicts of interest that arise for both the individual lawyer and the lawyer's law firm are addressed in rule 32:1.12.

[5] Lawyers who represent clients in alternative dispute-resolution processes are governed by the Iowa Rules of Professional Conduct. When the dispute-resolution process takes place before a tribunal, as in binding arbitration (*See* rule 32:1.0(m)), the lawyer's duty of candor is governed by rule 32:3.3. Otherwise, the lawyer's duty of candor toward both the third-party neutral and other parties is governed by rule 32:4.1.

[Court Order April 20, 2005, effective July 1, 2005; August 28, 2020, effective January 1, 2021]

## *ADVOCATE*

### Rule 32:3.1 MERITORIOUS CLAIMS AND CONTENTIONS

**A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.**

**Comment**

[1] The advocate has a duty to use legal procedure for the fullest benefit of the client's cause, but also a duty not to abuse legal procedure. The law, both procedural and substantive, establishes the limits within which an advocate may proceed. However, the law is not always clear and never is

static. Accordingly, in determining the proper scope of advocacy, account must be taken of the law's ambiguities and potential for change.

[2] The filing of an action, defense, or similar action taken for a client is not frivolous merely because the facts have not first been fully substantiated or because the lawyer expects to develop vital evidence only by discovery. What is required of lawyers, however, is that they inform themselves about the facts of their clients' cases and the applicable law and determine that they can make good faith arguments in support of their clients' positions. Such action is not frivolous even though the lawyer believes that the client's position ultimately will not prevail. The action is frivolous, however, if the lawyer is unable either to make a good faith argument on the merits of the action taken or to support the action taken by a good faith argument for an extension, modification, or reversal of existing law.

[3] The lawyer's obligations under this rule are subordinate to federal or state constitutional law that entitles a defendant in a criminal matter to the assistance of counsel in presenting a claim or contention that otherwise would be prohibited by this rule.

[4] When an applicable rule or order prohibits an appellate attorney from withdrawing on the ground that the appeal is frivolous, the lawyer is permitted to advocate grounds on appeal that the lawyer believes are ultimately without merit. The lawyer must, of course, comply with the remaining rules of this chapter, including rule 32:3.3.

[Court Order April 20, 2005, effective July 1, 2005; May 21, 2012]

**Rule 32:3.2 EXPEDITING LITIGATION**

**A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.**

**Comment**

[1] Dilatory practices bring the administration of justice into disrepute. Although there will be occasions when a lawyer may properly seek a postponement for personal reasons, it is not proper for a lawyer to routinely fail to expedite litigation solely for the convenience of the advocates. Nor will a failure to expedite be reasonable if done for the purpose of frustrating an opposing party's attempt to obtain rightful redress or repose. It is not a justification that similar conduct is often tolerated by the bench and bar. The question is whether a competent lawyer acting in good faith would regard the course of action as having some substantial purpose other than delay. Realizing financial or other benefit from otherwise improper delay in litigation is not a legitimate interest of the client.

[Court Order April 20, 2005, effective July 1, 2005]

**Rule 32:3.3 CANDOR TOWARD THE TRIBUNAL**

**(a) A lawyer shall not knowingly:**

**(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;**

**(2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or**

**(3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.**

**(b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging, or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.**

**(c) The duties stated in paragraphs (a) and (b) continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by rule 32:1.6.**

**(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known**

**to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.**

**Comment**

[1] This rule governs the conduct of a lawyer who is representing a client in the proceedings of a tribunal. See rule 32:1.0(m) for the definition of "tribunal." It also applies when the lawyer is representing a client in an ancillary proceeding conducted pursuant to the tribunal's adjudicative authority, such as a deposition. Thus, for example, paragraph (a)(3) requires a lawyer to take reasonable remedial measures if the lawyer comes to know that a client who is testifying in a deposition has offered evidence that is false.

[2] This rule sets forth the special duties of lawyers as officers of the court to avoid conduct that undermines the integrity of the adjudicative process. A lawyer acting as an advocate in an adjudicative proceeding has an obligation to present the client's case with persuasive force. Performance of that duty while maintaining confidences of the client, however, is qualified by the advocate's duty of candor to the tribunal. Consequently, although a lawyer in an adversary proceeding is not required to present an impartial exposition of the law or to vouch for the evidence submitted in a cause, the lawyer must not allow the tribunal to be misled by false statements of law or fact or evidence that the lawyer knows to be false.

*Representations by a Lawyer*

[3] An advocate is responsible for pleadings and other documents prepared for litigation, but is usually not required to have personal knowledge of matters asserted therein, for litigation documents ordinarily present assertions by the client, or by someone on the client's behalf, and not assertions by the lawyer. *Compare* rule 32:3.1. However, an assertion purporting to be on the lawyer's own knowledge, as in an affidavit by the lawyer or in a statement in open court, may properly be made only when the lawyer knows the assertion is true or believes it to be true on the basis of a reasonably diligent inquiry. There are circumstances where failure to make a disclosure is the equivalent of an affirmative misrepresentation. The obligation prescribed in rule 32:1.2(d) not to counsel a client to commit or assist the client in committing a fraud applies in litigation. Regarding compliance with rule 32:1.2(d), see the comment to that rule. See also the comment to rule 32:8.4(b).

*Legal Argument*

[4] Legal argument based on a knowingly false representation of law constitutes dishonesty toward the tribunal. A lawyer is not required to make a disinterested exposition of the law, but must recognize the existence of pertinent legal authorities. Furthermore, as stated in paragraph (a)(2), an advocate has a duty to disclose directly adverse authority in the controlling jurisdiction that has not been disclosed by the opposing party. The underlying concept is that legal argument is a discussion seeking to determine the legal premises properly applicable to the case.

*Offering Evidence*

[5] Paragraph (a)(3) requires that the lawyer refuse to offer evidence that the lawyer knows to be false, regardless of the client's wishes. This duty is premised on the lawyer's obligation as an officer of the court to prevent the trier of fact from being misled by false evidence. A lawyer does not violate this rule if the lawyer offers the evidence for the purpose of establishing its falsity.

[6] If a lawyer knows that the client intends to testify falsely or wants the lawyer to introduce false evidence, the lawyer should seek to persuade the client that the evidence should not be offered. If the persuasion is ineffective and the lawyer continues to represent the client, the lawyer must refuse to offer the false evidence. If only a portion of a witness's testimony will be false, the lawyer may call the witness to testify but may not elicit or otherwise permit the witness to present the testimony that the lawyer knows is false.

[7] The duties stated in paragraphs (a) and (b) apply to all lawyers, including defense counsel in criminal cases. An advocate's obligation under the Iowa Rules of Professional Conduct is subordinate to a court's directive requiring counsel to present the accused as a witness or to allow

the accused to give a narrative statement if the accused so desires. *See also* comment [9].

[8] The prohibition against offering false evidence only applies if the lawyer knows that the evidence is false. A lawyer's reasonable belief that evidence is false does not preclude its presentation to the trier of fact. A lawyer's knowledge that evidence is false, however, can be inferred from the circumstances. *See* rule 32:1.0(f). Thus, although a lawyer should resolve doubts about the veracity of testimony or other evidence in favor of the client, the lawyer cannot ignore an obvious falsehood.

[9] Although paragraph (a)(3) only prohibits a lawyer from offering evidence the lawyer knows to be false, it permits the lawyer to refuse to offer testimony or other proof that the lawyer reasonably believes is false. Offering such proof may reflect adversely on the lawyer's ability to discriminate in the quality of evidence and thus impair the lawyer's effectiveness as an advocate. Because of the special protections historically provided criminal defendants, however, this rule does not permit a lawyer to refuse to offer the testimony of such a client where the lawyer reasonably believes but does not know that the testimony will be false. Unless the lawyer knows the testimony will be false, the lawyer must honor the client's decision to testify. *See also* comment [7].

*Remedial Measures*

[10] Having offered material evidence in the belief that it was true, a lawyer may subsequently come to know that the evidence is false. Or, a lawyer may be surprised when the lawyer's client, or another witness called by the lawyer, offers testimony the lawyer knows to be false, either during the lawyer's direct examination or in response to cross-examination by the opposing lawyer. In such situations or if the lawyer knows of the falsity of testimony elicited from the client during a deposition, the lawyer must take reasonable remedial measures. In such situations, the advocate's proper course is to remonstrate with the client confidentially, advise the client of the lawyer's duty of candor to the tribunal, and seek the client's cooperation with respect to the withdrawal or correction of the false statements or evidence. If that fails, the advocate must take further remedial action. If withdrawal from the representation is not permitted or will not undo the effect of the false evidence, the advocate must make such disclosure to the tribunal as is reasonably necessary to remedy the situation, even if doing so requires the lawyer to reveal information that otherwise would be protected by rule 32:1.6. It is for the tribunal then to determine what should be done—making a statement about the matter to the trier of fact, ordering a mistrial, or perhaps nothing.

[11] The disclosure of a client's false testimony can result in grave consequences to the client, including not only a sense of betrayal, but also loss of the case, and perhaps a prosecution for perjury. But the alternative is that the lawyer cooperate in deceiving the court, thereby subverting the truth-finding process which the adversary system is designed to implement. *See* rule 32:1.2(d). Furthermore, unless it is clearly understood that the lawyer will act upon the duty to disclose the existence of false evidence, the client can simply reject the lawyer's advice to reveal the false evidence and insist that the lawyer keep silent. Thus the client could in effect coerce the lawyer into being a party to fraud on the court.

*Preserving Integrity of Adjudicative Process*

[12] Lawyers have a special obligation to protect a tribunal against criminal or fraudulent conduct that undermines the integrity of the adjudicative process, such as bribing, intimidating, or otherwise unlawfully communicating with a witness, juror, court official, or other participant in the proceeding, unlawfully destroying or concealing documents or other evidence, or failing to disclose information to the tribunal when required by law to do so. Thus, paragraph (b) requires a lawyer to take reasonable remedial measures, including disclosure if necessary, whenever the lawyer knows that a person, including the lawyer's client, intends to engage, is engaging, or has engaged in criminal or fraudulent conduct related to the proceeding.

*Duration of Obligation*

[13] A proceeding has concluded within the meaning of this rule when it is beyond the power of a tribunal to correct, modify, reverse, or vacate a final judgment, or to grant a new trial.

*Ex Parte Proceedings*

[14] Ordinarily, an advocate has the limited responsibility of presenting one side of the matters that a tribunal should consider in reaching a decision; the conflicting position is expected to be presented by the opposing party. However, in any ex parte proceeding, such as an application for a temporary restraining order, there is no balance of presentation by opposing advocates. The object of an ex parte proceeding is nevertheless to yield a substantially just result. The judge has an affirmative responsibility to accord the absent party just consideration. The lawyer for the represented party has the correlative duty to make disclosures of material facts known to the lawyer and that the lawyer reasonably believes are necessary to an informed decision.

*Withdrawal*

[15] Normally, a lawyer's compliance with the duty of candor imposed by this rule does not require that the lawyer withdraw from the representation of a client whose interests will be or have been adversely affected by the lawyer's disclosure. The lawyer may, however, be required by rule 32:1.16(a) to seek permission of the tribunal to withdraw if the lawyer's compliance with this rule's duty of candor results in such an extreme deterioration of the client-lawyer relationship that the lawyer can no longer competently represent the client. Also see rule 32:1.16(b) for the circumstances in which a lawyer will be permitted to seek a tribunal's permission to withdraw. In connection with a request for permission to withdraw that is premised on a client's misconduct, a lawyer may reveal information relating to the representation only to the extent reasonably necessary to comply with this rule or as otherwise permitted by rule 32:1.6.
[Court Order April 20, 2005, effective July 1, 2005]

**Rule 32:3.4 FAIRNESS TO OPPOSING PARTY AND COUNSEL**

**A lawyer shall not:**

**(a) unlawfully obstruct another party's access to evidence or unlawfully alter, destroy, or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;**

**(b) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;**

**(c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists;**

**(d) in pretrial procedure, make a frivolous discovery request or fail to make a reasonably diligent effort to comply with a legally proper discovery request by an opposing party;**

**(e) in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant, or the guilt or innocence of an accused; or**

**(f) request a person other than a client to refrain from voluntarily giving relevant information to another party unless:**

**(1) the person is a relative or an employee or other agent of a client; and**

**(2) the lawyer reasonably believes that the person's interests will not be adversely affected by refraining from giving such information.**

**Comment**

[1] The procedure of the adversary system contemplates that the evidence in a case is to be marshaled competitively by the contending parties. Fair competition in the adversary system is secured by prohibitions against destruction or concealment of evidence, improperly influencing witnesses, obstructive tactics in discovery procedure, and the like.

[2] Documents and other items of evidence are often essential to establish a claim or defense. Subject to evidentiary privileges, the right of an opposing party, including the government, to obtain evidence through discovery or subpoena is an important procedural right. The exercise of that right can be frustrated if relevant material is altered, concealed, or destroyed. The law may make it an offense to destroy material for the purpose of impairing its availability in a pending proceeding or

one whose commencement can be foreseen. Falsifying evidence is also generally a criminal offense. Paragraph (a) applies to evidentiary material generally, including computerized information. The law may permit a lawyer to take temporary possession of physical evidence of client crimes for the purpose of conducting a limited examination that will not alter or destroy material characteristics of the evidence. In such a case, the law may require the lawyer to turn the evidence over to the police or other prosecuting authority, depending on the circumstances.

[3] With regard to paragraph (b), it is not improper to pay a witness's expenses, including loss of time in attending or testifying, or to compensate an expert witness on terms permitted by law. It is improper to pay an occurrence witness any fee other than as authorized by law for testifying and it is improper to pay an expert witness a contingent fee.

[4] Paragraph (f) permits a lawyer to advise employees of a client to refrain from giving information to another party, for the employees may identify their interests with those of the client. *See also* rule 32:4.2.

[Court Order April 20, 2005, effective July 1, 2005]

## Rule 32:3.5 IMPARTIALITY AND DECORUM OF THE TRIBUNAL

**A lawyer shall not:**

**(a) seek to influence a judge, juror, prospective juror, or other official by means prohibited by law;**

**(b) communicate ex parte with such a person during the proceeding unless authorized to do so by law or court order;**

**(c) communicate with a juror or prospective juror after discharge of the jury if:**

**(1) the communication is prohibited by law or court order;**

**(2) the juror has made known to the lawyer a desire not to communicate; or**

**(3) the communication involves misrepresentation, coercion, duress, or harassment; or**

**(d) engage in conduct intended to disrupt a tribunal.**

### Comment

[1] Many forms of improper influence upon a tribunal are proscribed by criminal law. Others are specified in the Iowa Code of Judicial Conduct, with which an advocate should be familiar. A lawyer is required to avoid contributing to a violation of such provisions.

[2] During a proceeding a lawyer may not communicate ex parte with persons serving in an official capacity in the proceeding, such as judges, masters, or jurors, unless authorized to do so by law or court order.

[3] A lawyer may on occasion want to communicate with a juror or prospective juror after the jury has been discharged. The lawyer may do so unless the communication is prohibited by law or a court order but must respect the desire of the juror not to talk with the lawyer. The lawyer may not engage in improper conduct during the communication.

[4] The advocate's function is to present evidence and argument so that the cause may be decided according to law. Refraining from abusive or obstreperous conduct is a corollary of the advocate's right to speak on behalf of litigants. A lawyer may stand firm against abuse by a judge but should avoid reciprocation; the judge's default is no justification for similar dereliction by an advocate. An advocate can present the cause, protect the record for subsequent review, and preserve professional integrity by patient firmness no less effectively than by belligerence or theatrics.

[5] The duty to refrain from disruptive conduct applies to any proceeding of a tribunal, including a deposition. *See* rule 32:1.0(m).

[Court Order April 20, 2005, effective July 1, 2005]

## Rule 32:3.6 TRIAL PUBLICITY

**(a) A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.**

**(b) Notwithstanding paragraph (a), a lawyer may state:**

**(1) the claim, offense, or defense involved and, except when prohibited by law, the identity**

**of the persons involved;**

**(2) information contained in a public record;**

**(3) that an investigation of a matter is in progress;**

**(4) the scheduling or result of any step in litigation;**

**(5) a request for assistance in obtaining evidence and information necessary thereto;**

**(6) a warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and**

**(7) in a criminal case, in addition to subparagraphs (1) through (6):**

**(i) the identity, residence, occupation, and family status of the accused;**

**(ii) if the accused has not been apprehended, information necessary to aid in apprehension of that person;**

**(iii) the fact, time, and place of arrest; and**

**(iv) the identity of investigating and arresting officers or agencies and the length of the investigation.**

**(c) Notwithstanding paragraph (a), a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client. A statement made pursuant to this paragraph shall be limited to such information as is necessary to mitigate the recent adverse publicity.**

**(d) No lawyer associated in a firm or government agency with a lawyer subject to paragraph (a) shall make a statement prohibited by paragraph (a).**

**(e) Any communication made under paragraph (b) that includes information that a defendant will be or has been charged with a crime must also include a statement explaining that a criminal charge is merely an accusation and the defendant is presumed innocent until and unless proven guilty.**

**Comment**

[1] It is difficult to strike a balance between protecting the right to a fair trial and safeguarding the right of free expression. Preserving the right to a fair trial necessarily entails some curtailment of the information that may be disseminated about a party prior to trial, particularly where trial by jury is involved. If there were no such limits, the result would be the practical nullification of the protective effect of the rules of forensic decorum and the exclusionary rules of evidence. On the other hand, there are vital social interests served by the free dissemination of information about events having legal consequences and about legal proceedings themselves. The public has a right to know about threats to its safety and measures aimed at ensuring its security. It also has a legitimate interest in the conduct of judicial proceedings, particularly in matters of general public concern. Furthermore, the subject matter of legal proceedings is often of direct significance in debate and deliberation over questions of public policy.

[2] Special rules of confidentiality may validly govern proceedings in juvenile, domestic relations, and mental disability proceedings, and perhaps other types of litigation. Rule 32:3.4(c) requires compliance with such rules.

[3] The rule sets forth a basic general prohibition against a lawyer's making statements that the lawyer knows or should know will have a substantial likelihood of materially prejudicing an adjudicative proceeding. Recognizing that the public value of informed commentary is great and the likelihood of prejudice to a proceeding by the commentary of a lawyer who is not involved in the proceeding is small, the rule applies only to lawyers who are, or who have been involved in the investigation or litigation of a case, and their associates.

[4] Paragraph (b) identifies specific matters about which a lawyer's statements would not ordinarily be considered to present a substantial likelihood of material prejudice, and should not in any event be considered prohibited by the general prohibition of paragraph (a). Paragraph (b) is not intended to be an exhaustive listing of the subjects upon which a lawyer may make a statement, but statements on other matters may be subject to paragraph (a).

[5] There are, on the other hand, certain subjects that are more likely than not to have a material prejudicial effect on a proceeding, particularly when they refer to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration. These subjects relate to:

(1) the character, credibility, reputation, or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness;

(2) in a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement;

(3) the performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;

(4) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration;

(5) information that the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and that would, if disclosed, create a substantial risk of prejudicing an impartial trial; or

(6) the fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.

[6] Another relevant factor in determining prejudice is the nature of the proceeding involved. Criminal jury trials will be most sensitive to extrajudicial speech. Civil trials may be less sensitive. Non-jury hearings and arbitration proceedings may be even less affected. The rule will still place limitations on prejudicial comments in these cases, but the likelihood of prejudice may be different depending on the type of proceeding.

[7] Finally, extrajudicial statements that might otherwise raise a question under this rule may be permissible when they are made in response to statements made publicly by another party, another party's lawyer, or third persons, where a reasonable lawyer would believe a public response is required in order to avoid prejudice to the lawyer's client. When prejudicial statements have been publicly made by others, responsive statements may have the salutary effect of lessening any resulting adverse impact on the adjudicative proceeding. Such responsive statements should be limited to contain only such information as is necessary to mitigate undue prejudice created by the statements made by others.

[8] See rule 32:3.8(f) for additional duties of prosecutors in connection with extrajudicial statements about criminal proceedings.

[Court Order April 20, 2005, effective July 1, 2005]

**Rule 32:3.7 LAWYER AS WITNESS**

**(a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness unless:**

**(1) the testimony relates to an uncontested issue;**

**(2) the testimony relates to the nature and value of legal services rendered in the case; or**

**(3) disqualification of the lawyer would work substantial hardship on the client.**

**(b) A lawyer may act as advocate in a trial in which another lawyer in the lawyer's firm is likely to be called as a witness unless precluded from doing so by rule 32:1.7 or rule 32:1.9.**

**Comment**

[1] Combining the roles of advocate and witness can prejudice the tribunal and the opposing party and can also involve a conflict of interest between the lawyer and client.

*Advocate-Witness Rule*

[2] The tribunal has proper objection when the trier of fact may be confused or misled by a lawyer serving as both advocate and witness. The opposing party has proper objection where the combination of roles may prejudice that party's rights in the litigation. A witness is required to testify on the basis of personal knowledge, while an advocate is expected to explain and comment on evidence given by others. It may not be clear whether a statement by an advocate-witness should be taken as proof or as an analysis of the proof.

[3] To protect the tribunal, paragraph (a) prohibits a lawyer from simultaneously serving as advocate and necessary witness except in those circumstances specified in paragraphs (a)(1) through

(a)(3). Paragraph (a)(1) recognizes that if the testimony will be uncontested, the ambiguities in the dual role are purely theoretical. Paragraph (a)(2) recognizes that where the testimony concerns the extent and value of legal services rendered in the action in which the testimony is offered, permitting the lawyers to testify avoids the need for a second trial with new counsel to resolve that issue. Moreover, in such a situation the judge has firsthand knowledge of the matter in issue; hence, there is less dependence on the adversary process to test the credibility of the testimony.

[4] Apart from these two exceptions, paragraph (a)(3) recognizes that a balancing is required between the interests of the client and those of the tribunal and the opposing party. Whether the tribunal is likely to be misled or the opposing party is likely to suffer prejudice depends on the nature of the case, the importance and probable tenor of the lawyer's testimony, and the probability that the lawyer's testimony will conflict with that of other witnesses. Even if there is risk of such prejudice, in determining whether the lawyer should be disqualified, due regard must be given to the effect of disqualification on the lawyer's client. It is relevant that one or both parties could reasonably foresee that the lawyer would probably be a witness. The conflict of interest principles stated in rules 32:1.7, 32:1.9, and 32:1.10 have no application to this aspect of the problem.

[5] Because the tribunal is not likely to be misled when a lawyer acts as advocate in a trial in which another lawyer in the lawyer's firm will testify as a necessary witness, paragraph (b) permits the lawyer to do so except in situations involving a conflict of interest.

*Conflict of Interest*

[6] In determining if it is permissible to act as advocate in a trial in which the lawyer will be a necessary witness, the lawyer must also consider that the dual role may give rise to a conflict of interest that will require compliance with rule 32:1.7 or 32:1.9. For example, if there is likely to be substantial conflict between the testimony of the client and that of the lawyer, the representation involves a conflict of interest that requires compliance with rule 32:1.7. This would be true even though the lawyer might not be prohibited by paragraph (a) from simultaneously serving as advocate and witness because the lawyer's disqualification would work a substantial hardship on the client. Similarly, a lawyer who might be permitted to simultaneously serve as an advocate and a witness by paragraph (a)(3) might be precluded from doing so by rule 32:1.9. The problem can arise whether the lawyer is called as a witness on behalf of the client or is called by the opposing party. Determining whether or not such a conflict exists is primarily the responsibility of the lawyer involved. If there is a conflict of interest, the lawyer must secure the client's informed consent, confirmed in writing. In some cases, the lawyer will be precluded from seeking the client's consent. *See* rule 32:1.7. See rule 32:1.0(b) for the definition of "confirmed in writing" and rule 32:1.0(e) for the definition of "informed consent."

[7] Paragraph (b) provides that a lawyer is not disqualified from serving as an advocate because a lawyer with whom the lawyer is associated in a firm is precluded from doing so by paragraph (a). If, however, the testifying lawyer would also be disqualified by rule 32:1.7 or rule 32:1.9 from representing the client in the matter, other lawyers in the firm will be precluded from representing the client by rule 32:1.10 unless the client gives informed consent under the conditions stated in rule 32:1.7 or 32:1.9.

[Court Order April 20, 2005, effective July 1, 2005]

## Rule 32:3.8 SPECIAL RESPONSIBILITIES OF A PROSECUTOR

**The prosecutor in a criminal case shall:**

**(a) refrain from prosecuting a charge that the prosecutor knows or reasonably should know is not supported by probable cause;**

**(b) make reasonable efforts to ensure that the accused has been advised of the right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel;**

**(c) not seek to obtain from an unrepresented accused a waiver of important pretrial rights, such as the right to a preliminary hearing;**

**(d) make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this**

**responsibility by a protective order of the tribunal;**

**(e) not subpoena a lawyer in a grand jury or other criminal proceeding to present evidence about a past or present client unless the prosecutor reasonably believes:**

**(1) the information sought is not protected from disclosure by any applicable privilege;**

**(2) the evidence sought is essential to the successful completion of an ongoing investigation or prosecution; and**

**(3) there is no other feasible alternative to obtain the information;**

**(f) except for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose, refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused and exercise reasonable care to prevent investigators, law enforcement personnel, employees, or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under rule 32:3.6 or this rule;**

**(g) when a prosecutor knows of new, credible, and material evidence creating a reasonable likelihood that a convicted defendant did not commit an offense of which the defendant was convicted,**

**(1) promptly disclose that evidence to an appropriate court or authority, and**

**(2) if the conviction was obtained in the prosecutor's jurisdiction,**

**(i) promptly disclose that evidence to the defendant unless a court authorizes delay, and**

**(ii) undertake further investigation, or make reasonable efforts to cause an investigation, to determine whether the defendant was convicted of an offense that the defendant did not commit.**

**(h) when a prosecutor knows of clear and convincing evidence establishing that a defendant in the prosecutor's jurisdiction was convicted of an offense that the defendant did not commit, seek to remedy the conviction.**

**Comment**

[1] A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice, that guilt is decided upon the basis of sufficient evidence, and that special precautions are taken to prevent and to rectify the conviction of innocent persons. The extent of mandated remedial action is a matter of debate and varies in different jurisdictions. *See generally* ABA Standards of Criminal Justice Relating to the Prosecution Function. Competent representation of the sovereignty may require a prosecutor to undertake some procedural and remedial measures as a matter of obligation. Applicable law may require other measures by the prosecutor, and knowing disregard of those obligations or a systematic abuse of prosecutorial discretion could constitute a violation of rule 32:8.4.

[2] A defendant may waive a preliminary hearing and thereby lose a valuable opportunity to challenge probable cause. Accordingly, prosecutors should not seek to obtain waivers of preliminary hearings or other important pretrial rights from unrepresented accused persons. Paragraph (c) does not apply, however, to an accused appearing pro se with the approval of the tribunal. Nor does it forbid the lawful questioning of an uncharged suspect who has knowingly waived the rights to counsel and silence. In addition, paragraph (c) does not apply to a defendant charged with a simple misdemeanor for which the prosecutor reasonably believes the defendant will not be incarcerated.

[3] The exception in paragraph (d) recognizes that a prosecutor may seek an appropriate protective order from the tribunal if disclosure of information to the defense could result in substantial harm to an individual or to the public interest.

[4] Paragraph (e) is intended to limit the issuance of lawyer subpoenas in grand jury and other criminal proceedings to those situations in which there is a genuine need to intrude into the client-lawyer relationship.

[5] Paragraph (f) supplements rule 32:3.6, which prohibits extrajudicial statements that have a substantial likelihood of prejudicing an adjudicatory proceeding. In the context of a criminal prosecution, a prosecutor's extrajudicial statement can create the additional problem of increasing public condemnation of the accused. Although the announcement of an indictment, for example, will necessarily have severe consequences for the accused, a prosecutor can, and should, avoid comments

which have no legitimate law enforcement purpose and have a substantial likelihood of increasing public opprobrium of the accused. Nothing in this comment is intended to restrict the statements which a prosecutor may make which comply with rule 32:3.6(b) or 32:3.6(c) and with rule 32:3.6(e).

[6] Like other lawyers, prosecutors are subject to rules 32:5.1 and 32:5.3, which relate to responsibilities regarding lawyers and nonlawyers who work for or are associated with the lawyer's office. Paragraph (f) reminds the prosecutor of the importance of these obligations in connection with the unique dangers of improper extrajudicial statements in a criminal case. In addition, paragraph (f) requires a prosecutor to exercise reasonable care to prevent persons assisting or associated with the prosecutor from making improper extrajudicial statements, even when such persons are not under the direct supervision of the prosecutor. Ordinarily, the reasonable care standard will be satisfied if the prosecutor issues the appropriate cautions to law-enforcement personnel and other relevant individuals.

[7] When a prosecutor knows of new, credible, and material evidence creating a reasonable likelihood that a person outside the prosecutor's jurisdiction was convicted of a crime that the person did not commit, paragraph (g) requires prompt disclosure to the court or other appropriate authority, such as the chief prosecutor of the jurisdiction where the conviction occurred. If the conviction was obtained in the prosecutor's jurisdiction, paragraph (g) requires the prosecutor to promptly disclose the evidence to the court and, absent court-authorized delay, to the defendant. Consistent with the objectives of rules 32:4.2 and 32:4.3, disclosure to a represented defendant must be made through the defendant's counsel, and, in the case of an unrepresented defendant, would ordinarily be accompanied by a request to a court for the appointment of counsel to assist the defendant in taking such legal measures as may be appropriate.

[8] Under paragraph (h), once the prosecutor knows of clear and convincing evidence that the defendant was convicted of an offense that the defendant did not commit, the prosecutor must seek to remedy the conviction. Necessary steps may include disclosure of the evidence to the defendant, requesting that the court appoint counsel for an unrepresented indigent defendant, and, where appropriate, notifying the court that the prosecutor has knowledge that the defendant did not commit the offense of which the defendant was convicted.

[9] A prosecutor's independent judgment, made in good faith, that the new evidence is not of such nature as to trigger the obligations of paragraphs (g) and (h), though subsequently determined to have been erroneous, does not constitute a violation of this rule.

[Court Order April 20, 2005, effective July 1, 2005; August 28, 2020, effective January 1, 2021]

## Rule 32:3.9 ADVOCATE IN NONADJUDICATIVE PROCEEDINGS

**A lawyer representing a client before a legislative body or administrative agency in a nonadjudicative proceeding shall disclose that the appearance is in a representative capacity and shall conform to the provisions of rules 32:3.3(a) through (c), 32:3.4(a) through (c), and 32:3.5.**

### Comment

[1] In representation before bodies such as legislatures, municipal councils, and executive and administrative agencies acting in a rule-making or policy-making capacity, lawyers present facts, formulate issues, and advance argument in the matters under consideration. The decision-making body, like a court, should be able to rely on the integrity of the submissions made to it. A lawyer appearing before such a body must deal with it honestly and in conformity with applicable rules of procedure. In all such appearances the lawyer shall identify the client if identification of the client is not prohibited by law. It is not improper, however, for a lawyer to seek from an agency information available to the public without identifying a client. *See* rules 32:3.3(a)-(c), 32:3.4(a)-(c), and 32:3.5.

[2] Lawyers have no exclusive right to appear before nonadjudicative bodies, as they do before a court. The requirements of this rule therefore may subject lawyers to regulations inapplicable to advocates who are not lawyers. However, legislatures and administrative agencies have a right to expect lawyers to deal with them as they deal with courts.

[3] This rule only applies when a lawyer represents a client in connection with an official hearing or meeting of a governmental agency or a legislative body to which the lawyer or the lawyer's client is presenting evidence or argument. It does not apply to representation of a client in a negotiation or other bilateral transaction with a governmental agency or in connection with an application for a

license or other privilege or the client's compliance with generally applicable reporting requirements, such as the filing of income tax returns. Nor does it apply to the representation of a client in connection with an investigation or examination of the client's affairs conducted by government investigators or examiners. Representation in such matters is governed by rules 32:4.1 through 32:4.4.

[4] A lawyer representing a client before a governmental body in a nonadjudicative proceeding is engaged in the practice of law, even if such undertakings could also be engaged in by nonlawyers. Accordingly, a client who employs a lawyer to represent that client in lobbying or other advocacy before governmental bodies is entitled to assume that the lawyer will do so pursuant to the lawyer's professional obligations under these rules, specifically including those provisions concerning confidentiality, competence, and conflicts of interest.

[Court Order April 20, 2005, effective July 1, 2005]

## *TRANSACTIONS WITH PERSONS OTHER THAN CLIENTS*

### Rule 32:4.1 TRUTHFULNESS IN STATEMENTS TO OTHERS

**In the course of representing a client, a lawyer shall not knowingly:**

**(a) make a false statement of material fact or law to a third person; or**

**(b) fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by rule 32:1.6.**

**Comment**

*Misrepresentation*

[1] A lawyer is required to be truthful when dealing with others on a client's behalf, but generally has no affirmative duty to inform an opposing party of relevant facts. A misrepresentation can occur if the lawyer incorporates or affirms a statement of another person that the lawyer knows is false. Misrepresentations can also occur by partially true but misleading statements or omissions that are the equivalent of affirmative false statements. For dishonest conduct that does not amount to a false statement or for misrepresentations by a lawyer other than in the course of representing a client, see rule 32:8.4.

*Statements of Fact*

[2] This rule refers to statements of fact. Whether a particular statement should be regarded as one of fact can depend on the circumstances. Under generally accepted conventions in negotiation, certain types of statements ordinarily are not taken as statements of material fact. Estimates of price or value placed on the subject of a transaction and a party's intentions as to an acceptable settlement of a claim are ordinarily in this category, and so is the existence of an undisclosed principal except where nondisclosure of the principal would constitute fraud. Lawyers should be mindful of their obligations under applicable law to avoid criminal and tortious misrepresentation.

*Crime or Fraud by Client*

[3] Under rule 32:1.2(d), a lawyer is prohibited from counseling or assisting a client in conduct that the lawyer knows is criminal or fraudulent. Paragraph (b) states a specific application of the principle set forth in rule 32:1.2(d) and addresses the situation where a client's crime or fraud takes the form of a lie or misrepresentation. Ordinarily, a lawyer can avoid assisting a client's crime or fraud by withdrawing from the representation. Sometimes it may be necessary for the lawyer to give notice of the fact of withdrawal and to disaffirm an opinion, document, affirmation, or the like. In extreme cases, substantive law may require a lawyer to disclose information relating to the representation to avoid being deemed to have assisted the client's crime or fraud. If the lawyer can avoid assisting a client's crime or fraud only by disclosing this information, then under paragraph (b) the lawyer is required to do so, unless the disclosure is prohibited by rule 32:1.6.

[Court Order April 20, 2005, effective July 1, 2005]

## Rule 32:4.2 COMMUNICATION WITH PERSON REPRESENTED BY COUNSEL

**(a) In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.**

**(b) An otherwise unrepresented person to whom limited representation is being provided or has been provided in accordance with rule 32:1.2(c) is considered to be unrepresented for purposes of this rule unless the opposing lawyer knows of, or has been provided with, a written notice of appearance under which, or a written notice of time period during which, the opposing lawyer is to communicate with the limited-representation lawyer as to the subject matter within the limited scope of representation.**

### Comment

[1] This rule contributes to the proper functioning of the legal system by protecting a person who has chosen to be represented by a lawyer in a matter against possible overreaching by other lawyers who are participating in the matter, interference by those lawyers with the client-lawyer relationship, and the uncounseled disclosure of information relating to the representation.

[2] This rule applies to communications with any person who is represented by counsel concerning the matter to which the communication relates.

[3] The rule applies even though the represented person initiates or consents to the communication. A lawyer must immediately terminate communication with a person if, after commencing communication, the lawyer learns that the person is one with whom communication is not permitted by this rule.

[4] This rule does not prohibit communication with a represented person, or an employee or agent of such a person, concerning matters outside the representation. For example, the existence of a controversy between a government agency and a private party, or between two organizations, does not prohibit a lawyer for either from communicating with nonlawyer representatives of the other regarding a separate matter. Nor does this rule preclude communication with a represented person who is seeking advice from a lawyer who is not otherwise representing a client in the matter. A lawyer may not make a communication prohibited by this rule through the acts of another. *See* rule 32:8.4(a). Parties to a matter may communicate directly with each other, and a lawyer is not prohibited from advising a client concerning a communication that the client is legally entitled to make. Also, a lawyer having independent justification or legal authorization for communicating with a represented person is permitted to do so.

[5] Communications authorized by law may include communications by a lawyer on behalf of a client who is exercising a constitutional or other legal right to communicate with the government. Communications authorized by law may also include investigative activities of lawyers representing governmental entities, directly or through investigative agents, prior to the commencement of criminal or civil enforcement proceedings. When communicating with the accused in a criminal matter, a government lawyer must comply with this rule in addition to honoring the constitutional rights of the accused. The fact that a communication does not violate a state or federal constitutional right is insufficient to establish that the communication is permissible under this rule.

[6] A lawyer who is uncertain whether a communication with a represented person is permissible may seek a court order. A lawyer may also seek a court order in exceptional circumstances to authorize a communication that would otherwise be prohibited by this rule, for example, where communication with a person represented by counsel is necessary to avoid reasonably certain injury.

[7] In the case of a represented organization, this rule prohibits communications with a constituent of the organization who supervises, directs, or regularly consults with the organization's lawyer concerning the matter or has authority to obligate the organization with respect to the matter or whose act or omission in connection with the matter may be imputed to the organization for purposes of civil or criminal liability. Consent of the organization's lawyer is not required for communication with a former constituent. If a constituent of the organization is represented in the matter by his or her own counsel, the consent by that counsel to a communication will be sufficient for purposes of this rule. *Compare* rule 32:3.4(f). In communicating with a current or former constituent of an organization, a lawyer must not use methods of obtaining evidence that violate the legal rights of the

organization. *See* rule 32:4.4.

[8] The prohibition on communications with a represented person only applies in circumstances where the lawyer knows that the person is in fact represented in the matter to be discussed. This means that the lawyer has actual knowledge of the fact of the representation; but such actual knowledge may be inferred from the circumstances. *See* rule 32:1.0(f). Thus, the lawyer cannot evade the requirement of obtaining the consent of counsel by closing eyes to the obvious.

[9] In the event the person with whom the lawyer communicates is not known to be represented by counsel in the matter, the lawyer's communications are subject to rule 32:4.3.

[Court Order April 20, 2005, effective July 1, 2005; March 12, 2007]

**Rule 32:4.3 DEALING WITH UNREPRESENTED PERSON**

**In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding. The lawyer shall not give legal advice to an unrepresented person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client.**

**Comment**

[1] An unrepresented person, particularly one not experienced in dealing with legal matters, might assume that a lawyer is disinterested in loyalties or is a disinterested authority on the law even when the lawyer represents a client. In order to avoid a misunderstanding, a lawyer will typically need to identify the lawyer's client and, where necessary, explain that the client has interests opposed to those of the unrepresented person. For misunderstandings that sometimes arise when a lawyer for an organization deals with an unrepresented constituent, see rule 32:1.13(f).

[2] The rule distinguishes between situations involving unrepresented persons whose interests may be adverse to those of the lawyer's client and those in which the person's interests are not in conflict with the client's. In the former situation, the possibility that the lawyer will compromise the unrepresented person's interests is so great that the rule prohibits the giving of any advice, apart from the advice to obtain counsel. Whether a lawyer is giving impermissible advice may depend on the experience and sophistication of the unrepresented person, as well as the setting in which the behavior and comments occur. This rule does not prohibit a lawyer from negotiating the terms of a transaction or settling a dispute with an unrepresented person. So long as the lawyer has explained that the lawyer represents an adverse party and is not representing the person, the lawyer may inform the person of the terms on which the lawyer's client will enter into an agreement or settle a matter, prepare documents that require the person's signature, and explain the lawyer's own view of the meaning of the document or the lawyer's view of the underlying legal obligations.

[Court Order April 20, 2005, effective July 1, 2005]

**Rule 32:4.4 RESPECT FOR RIGHTS OF THIRD PERSONS**

**(a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.**

**(b) A lawyer who receives a document or electronically stored information relating to the representation of the lawyer's client and knows or reasonably should know that the document or electronically stored information was inadvertently sent shall promptly notify the sender.**

**Comment**

[1] Responsibility to a client requires a lawyer to subordinate the interests of others to those of the client, but that responsibility does not imply that a lawyer may disregard the rights of third persons. It is impractical to catalogue all such rights, but they include legal restrictions on methods of obtaining evidence from third persons and unwarranted intrusions into privileged relationships, such as the client-lawyer relationship. For example, present or former organizational employees

or agents may have information protected by the attorney-client evidentiary privilege or the work product doctrine of the organization itself. If the person contacted by the lawyer has no authority to waive the privilege, the lawyer may not deliberately seek to obtain the information in this manner.

[2] Paragraph (b) recognizes that lawyers sometimes receive a document or electronically stored information that was mistakenly sent or produced by opposing parties or their lawyers. A document or electronically stored information is inadvertently sent when it is accidentally transmitted, such as when an email or letter is misaddressed or a document or electronically stored information is accidentally included with information that was intentionally transmitted. If a lawyer knows or reasonably should know that such a document or electronically stored information was sent inadvertently, then this rule requires the lawyer to promptly notify the sender in order to permit that person to take protective measures. Whether the lawyer is required to take additional steps, such as returning the document or electronically stored information, is a matter of law beyond the scope of these rules, as is the question of whether the privileged status of a document or electronically stored information has been waived. Similarly, this rule does not address the legal duties of a lawyer who receives a document or electronically stored information that the lawyer knows or reasonably should know may have been inappropriately obtained by the sending person. For purposes of this rule, "document or electronically stored information" includes, in addition to paper documents, email and other forms of electronically stored information, including embedded data (commonly referred to as "metadata"), that is subject to being read or put into readable form. Metadata in electronic documents creates an obligation under this rule only if the receiving lawyer knows or reasonably should know that the metadata was inadvertently sent to the receiving lawyer.

[3] Some lawyers may choose to return a document or delete electronically stored information unread, for example, when the lawyer learns before receiving it that it was inadvertently sent. Where a lawyer is not required by applicable law to do so, the decision to voluntarily return such a document or delete electronically stored information is a matter of professional judgment ordinarily reserved to the lawyer. *See* rules 32:1.2 and 32:1.4.

[Court Order April 20, 2005, effective July 1, 2005; October 15, 2015]

## *LAW FIRMS AND ASSOCIATIONS*

### Rule 32:5.1 RESPONSIBILITIES OF A PARTNER OR SUPERVISORY LAWYER

**(a) A partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Iowa Rules of Professional Conduct.**

**(b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Iowa Rules of Professional Conduct.**

**(c) A lawyer shall be responsible for another lawyer's violation of the Iowa Rules of Professional Conduct if:**

**(1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or**

**(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.**

**Comment**

[1] Paragraph (a) applies to lawyers who have managerial authority over the professional work of a firm. *See* rule 32:1.0(c). This includes members of a partnership, the shareholders in a law firm organized as a professional corporation, and members of other associations authorized to practice law; lawyers having comparable managerial authority in a legal services organization or a law department of an enterprise or government agency; and lawyers who have intermediate managerial responsibilities in a firm. Paragraph (b) applies to lawyers who have supervisory authority over the work of other lawyers in a firm.

[2] Paragraph (a) requires lawyers with managerial authority within a firm to make reasonable efforts to establish internal policies and procedures designed to provide reasonable assurance that

all lawyers in the firm will conform to the Iowa Rules of Professional Conduct. Such policies and procedures include those designed to detect and resolve conflicts of interest, identify dates by which actions must be taken in pending matters, account for client funds and property, and ensure that inexperienced lawyers are properly supervised.

[3] Other measures that may be required to fulfill the responsibility prescribed in paragraph (a) can depend on the firm's structure and the nature of its practice. In a small firm of experienced lawyers, informal supervision and periodic review of compliance with the required systems ordinarily will suffice. In a large firm, or in practice situations in which difficult ethical problems frequently arise, more elaborate measures may be necessary. Some firms, for example, have a procedure whereby junior lawyers can make confidential referral of ethical problems directly to a designated senior partner or special committee. *See* rule 32:5.2. Firms, whether large or small, may also rely on continuing legal education in professional ethics. In any event, the ethical atmosphere of a firm can influence the conduct of all its members, and the partners may not assume that all lawyers associated with the firm will inevitably conform to the rules.

[4] Paragraph (c) expresses a general principle of personal responsibility for acts of another. *See also* rule 32:8.4(a).

[5] Paragraph (c)(2) defines the duty of a partner or other lawyer having comparable managerial authority in a law firm, as well as a lawyer who has direct supervisory authority over performance of specific legal work by another lawyer. Whether a lawyer has supervisory authority in particular circumstances is a question of fact. Partners and lawyers with comparable authority have at least indirect responsibility for all work being done by the firm, while a partner or manager in charge of a particular matter ordinarily also has supervisory responsibility for the work of other firm lawyers engaged in the matter. Appropriate remedial action by a partner or managing lawyer would depend on the immediacy of that lawyer's involvement and the seriousness of the misconduct. A supervisor is required to intervene to prevent avoidable consequences of misconduct if the supervisor knows that the misconduct occurred. Thus, if a supervising lawyer knows that a subordinate misrepresented a matter to an opposing party in negotiation, the supervisor as well as the subordinate has a duty to correct the resulting misapprehension.

[6] Professional misconduct by a lawyer under supervision could reveal a violation of paragraph (b) on the part of the supervisory lawyer even though it does not entail a violation of paragraph (c) because there was no direction, ratification, or knowledge of the violation.

[7] Apart from this rule and rule 32:8.4(a), a lawyer does not have disciplinary liability for the conduct of a partner, associate, or subordinate. Whether a lawyer may be liable civilly or criminally for another lawyer's conduct is a question of law beyond the scope of these rules.

[8] The duties imposed by this rule on managing and supervising lawyers do not alter the personal duty of each lawyer in a firm to abide by the Iowa Rules of Professional Conduct. *See* rule 32:5.2(a).
[Court Order April 20, 2005, effective July 1, 2005; August 28, 2020, effective January 1, 2021]

## Rule 32:5.2 RESPONSIBILITIES OF A SUBORDINATE LAWYER

**(a) A lawyer is bound by the Iowa Rules of Professional Conduct notwithstanding that the lawyer acted at the direction of another person.**

**(b) A subordinate lawyer does not violate the Iowa Rules of Professional Conduct if that lawyer acts in accordance with a supervisory lawyer's reasonable resolution of an arguable question of professional duty.**

### Comment

[1] Although a lawyer is not relieved of responsibility for a violation by the fact that the lawyer acted at the direction of a supervisor, that fact may be relevant in determining whether a lawyer had the knowledge required to render conduct a violation of the rules. For example, if a subordinate filed a frivolous pleading at the direction of a supervisor, the subordinate would not be guilty of a professional violation unless the subordinate knew of the document's frivolous character.

[2] When lawyers in a supervisor-subordinate relationship encounter a matter involving professional judgment as to ethical duty, the supervisor may assume responsibility for making the judgment. Otherwise a consistent course of action or position could not be taken. If the question can reasonably be answered only one way, the duty of both lawyers is clear and they are equally responsible for fulfilling it. However, if the question is reasonably arguable, someone has to decide

upon the course of action. That authority ordinarily reposes in the supervisor, and a subordinate may be guided accordingly. For example, if a question arises whether the interests of two clients conflict under rule 32:1.7, the supervisor's reasonable resolution of the question should protect the subordinate professionally if the resolution is subsequently challenged.
[Court Order April 20, 2005, effective July 1, 2005]

**Rule 32:5.3 RESPONSIBILITIES REGARDING NONLAWYER ASSISTANCE**

**With respect to a nonlawyer employed or retained by or associated with a lawyer:**

**(a) a partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;**

**(b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and**

**(c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Iowa Rules of Professional Conduct if engaged in by a lawyer if:**

**(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or**

**(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.**

**Comment**

[1] Paragraph (a) requires lawyers with managerial authority within a law firm to make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that nonlawyers in the firm and nonlawyers outside the firm who work on firm matters act in a way compatible with the professional obligations of the lawyer. *See* rule 32:1.1, comment [6] (retaining lawyers outside the firm) and rule 32:5.1, comment [1] (responsibilities with respect to lawyers within a firm). Paragraph (b) applies to lawyers who have supervisory authority over such nonlawyers within or outside the firm. Paragraph (c) specifies the circumstances in which a lawyer is responsible for the conduct of such nonlawyers within or outside the firm that would be a violation of the Iowa Rules of Professional Conduct if engaged in by a lawyer.

*Nonlawyers Within the Firm*

[2] Lawyers generally employ assistants in their practice, including secretaries, investigators, law student interns, and paraprofessionals. Such assistants, whether employees or independent contractors, act for the lawyer in rendition of the lawyer's professional services. A lawyer must give such assistants appropriate instruction and supervision concerning the ethical aspects of their employment, particularly regarding the obligation not to disclose information relating to representation of the client, and should be responsible for their work product. The measures employed in supervising nonlawyers should take account of the fact that they do not have legal training and are not subject to professional discipline.

*Nonlawyers Outside the Firm*

[3] A lawyer may use nonlawyers outside the firm to assist the lawyer in rendering legal services to the client. Examples include the retention of an investigative or paraprofessional service, hiring a document management company to create and maintain a database for complex litigation, sending client documents to a third party for printing or scanning, and using an Internet-based service to store client information. When using such services outside the firm, a lawyer must make reasonable efforts to ensure that the services are provided in a manner that is compatible with the lawyer's professional obligations. The extent of this obligation will depend upon the circumstances, including the education, experience, and reputation of the nonlawyer; the nature of the services involved;

the terms of any arrangements concerning the protection of client information; and the legal and ethical environments of the jurisdictions in which the services will be performed, particularly with regard to confidentiality. *See also* rules 32:1.1 (competence), 32:1.2 (allocation of authority), 32:1.4 (communication with client), 32:1.6 (confidentiality), 32:5.4(a) (professional independence of the lawyer), and 32:5.5(a) (unauthorized practice of law). When retaining or directing a nonlawyer outside the firm, a lawyer should communicate directions appropriate under the circumstances to give reasonable assurance that the nonlawyer's conduct is compatible with the professional obligations of the lawyer.

[4] Where the client directs the selection of a particular nonlawyer service provider outside the firm, the lawyer ordinarily should agree with the client concerning the allocation of responsibility for monitoring as between the client and the lawyer. *See* rule 32:1.2. When making such an allocation in a matter pending before a tribunal, lawyers and parties may have additional obligations that are a matter of law beyond the scope of these rules.

[Court Order April 20, 2005, effective July 1, 2005; October 15, 2015]

**Rule 32:5.4 PROFESSIONAL INDEPENDENCE OF A LAWYER**

**(a) A lawyer or law firm shall not share legal fees with a nonlawyer, except that:**

**(1) an agreement by a lawyer with the lawyer's firm, partner, or associate may provide for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to one or more specified persons;**

**(2) a lawyer who purchases the practice of a deceased, disabled, or disappeared lawyer may, pursuant to the provisions of rule 32:1.17, pay to the estate or other representative of that lawyer the agreed-upon purchase price; and**

**(3) a lawyer or law firm may include nonlawyer employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement.**

**(b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.**

**(c) A lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.**

**(d) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:**

**(1) a nonlawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;**

**(2) a nonlawyer is a corporate director or officer thereof or occupies the position of similar responsibility in any form of association other than a corporation; or**

**(3) a nonlawyer has the right to direct or control the professional judgment of a lawyer.**

**Comment**

[1] The provisions of this rule express traditional limitations on sharing fees. These limitations are to protect the lawyer's professional independence of judgment. Where someone other than the client pays the lawyer's fee or salary, or recommends employment of the lawyer, that arrangement does not modify the lawyer's obligation to the client. As stated in paragraph (c), such arrangements should not interfere with the lawyer's professional judgment.

[2] This rule also expresses traditional limitations on permitting a third party to direct or regulate the lawyer's professional judgment in rendering legal services to another. *See also* rule 32:1.8(f) (lawyer may accept compensation from a third party as long as there is no interference with the lawyer's independent professional judgment and the client gives informed consent).

[Court Order April 20, 2005, effective July 1, 2005]

**Rule 32:5.5 UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL PRACTICE OF LAW**

**(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.**

**(b) A lawyer who is not admitted to practice in this jurisdiction shall not:**

**(1) except as authorized by these rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or**

**(2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.**

**(c) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that:**

**(1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;**

**(2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;**

**(3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires pro hac vice admission; or**

**(4) are not within paragraphs (c)(2) or (c)(3) and arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice.**

**(d) A lawyer admitted in another United States jurisdiction or in a foreign jurisdiction, and not disbarred or suspended from practice in any jurisdiction or the equivalent thereof, or a person otherwise lawfully practicing as an in-house counsel under the laws of a foreign jurisdiction, may provide legal services through an office or other systematic and continuous presence in this jurisdiction that:**

**(1) are provided to the lawyer's employer or its organizational affiliates; are not services for which the forum requires pro hac vice admission; and when performed by a foreign lawyer and requires advice on the law of this or another United States jurisdiction or of the United States, such advice shall be based upon the advice of a lawyer who is duly licensed and authorized by the jurisdiction to provide such advice; or**

**(2) are services that the lawyer is authorized by federal or other law or rule to provide in this jurisdiction.**

**(e) For purposes of paragraph (d):**

**(1) the foreign lawyer must be a member in good standing of a recognized legal profession in a foreign jurisdiction, the members of which are admitted to practice as lawyers or counselors at law or the equivalent, and subject to effective regulation and discipline by a duly constituted professional body or a public authority; or**

**(2) the person otherwise lawfully practicing as an in-house counsel under the laws of a foreign jurisdiction must be authorized to practice under this rule by, in the exercise of its discretion, the Iowa Supreme Court.**

**Comment**

[1] A lawyer may practice law only in a jurisdiction in which the lawyer is authorized to practice. A lawyer may be admitted to practice law in a jurisdiction on a regular basis or may be authorized by court rule or order or by law to practice for a limited purpose or on a restricted basis. Paragraph (a) applies to unauthorized practice of law by a lawyer, whether through the lawyer's direct action or by the lawyer assisting another person. For example, a lawyer may not assist a person in practicing law in violation of the rules governing professional conduct in that person's jurisdiction.

[2] The definition of the practice of law is established by law and varies from one jurisdiction to another. Whatever the definition, limiting the practice of law to members of the bar protects the public against rendition of legal services by unqualified persons. This rule does not prohibit a lawyer from employing the services of paraprofessionals and delegating functions to them, so long as the lawyer supervises the delegated work and retains responsibility for their work. *See* rule 32:5.3.

[3] A lawyer may provide professional advice and instruction to nonlawyers whose employment requires knowledge of the law; for example, claims adjusters, employees of financial or commercial institutions, social workers, accountants, and persons employed in government agencies. Lawyers

also may assist independent nonlawyers, such as paraprofessionals, who are authorized by the law of a jurisdiction to provide particular law-related services. In addition, a lawyer may counsel nonlawyers who wish to proceed pro se.

[4] Other than as authorized by law or this rule, a lawyer who is not admitted to practice generally in this jurisdiction violates paragraph (b)(1) if the lawyer establishes an office or other systematic and continuous presence in this jurisdiction for the practice of law. Presence may be systematic and continuous even if the lawyer is not physically present here. Such a lawyer must not hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction. *See also* rules 32:7.1(a) and 32:7.5(b).

[5] There are occasions in which a lawyer admitted to practice in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction under circumstances that do not create an unreasonable risk to the interests of their clients, the public, or the courts. Paragraph (c) identifies four such circumstances. The fact that conduct is not so identified does not imply that the conduct is or is not authorized. With the exception of paragraphs (d)(1) and (d)(2), this rule does not authorize a United States or foreign lawyer to establish an office or other systematic and continuous presence in this jurisdiction without being admitted to practice generally here.

[6] There is no single test to determine whether a lawyer's services are provided on a "temporary basis" in this jurisdiction, and may therefore be permissible under paragraph (c). Services may be "temporary" even though the lawyer provides services in this jurisdiction on a recurring basis, or for an extended period of time, as when the lawyer is representing a client in a single lengthy negotiation or litigation.

[7] Paragraphs (c) and (d) apply to lawyers who are admitted to practice law in any United States jurisdiction, which includes the District of Columbia and any state, territory, or commonwealth of the United States. The word "admitted" in paragraphs (c), (d), and (e) contemplates that the lawyer is authorized to practice in the jurisdiction in which the lawyer is admitted and excludes a lawyer who, while technically admitted, is not authorized to practice because, for example, the lawyer is on inactive status.

[8] Paragraph (c)(1) recognizes that the interests of clients and the public are protected if a lawyer admitted only in another jurisdiction associates with a lawyer licensed to practice in this jurisdiction. For this paragraph to apply, however, the lawyer admitted to practice in this jurisdiction must actively participate in and share responsibility for the representation of the client.

[9] Lawyers not admitted to practice generally in a jurisdiction may be authorized by law or order of a tribunal or an administrative agency to appear before the tribunal or agency. This authority may be granted pursuant to formal rules governing admission pro hac vice or pursuant to informal practice of the tribunal or agency. Under paragraph (c)(2), a lawyer does not violate this rule when the lawyer appears before a tribunal or agency pursuant to such authority. To the extent that a court rule or other law of this jurisdiction requires a lawyer who is not admitted to practice in this jurisdiction to obtain admission pro hac vice before appearing before a tribunal or administrative agency, this rule requires the lawyer to obtain that authority.

[10] Paragraph (c)(2) also provides that a lawyer rendering services in this jurisdiction on a temporary basis does not violate this rule when the lawyer engages in conduct in anticipation of a proceeding or hearing in a jurisdiction in which the lawyer is authorized to practice law or in which the lawyer reasonably expects to be admitted pro hac vice. Examples of such conduct include meetings with the client, interviews of potential witnesses, and the review of documents. Similarly, a lawyer admitted only in another jurisdiction may engage in conduct temporarily in this jurisdiction in connection with pending litigation in another jurisdiction in which the lawyer is or reasonably expects to be authorized to appear, including taking depositions in this jurisdiction.

[11] When a lawyer has been or reasonably expects to be admitted to appear before a court or administrative agency, paragraph (c)(2) also permits conduct by lawyers who are associated with that lawyer in the matter, but who do not expect to appear before the court or administrative agency. For example, subordinate lawyers may conduct research, review documents, and attend meetings with witnesses in support of the lawyer responsible for the litigation.

[12] Paragraph (c)(3) permits a lawyer admitted to practice law in another jurisdiction to perform services on a temporary basis in this jurisdiction if those services are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice

in a jurisdiction in which the lawyer is admitted to practice. The lawyer, however, must obtain admission pro hac vice in the case of a court-annexed arbitration or mediation or otherwise if court rules or law so require.

[13] Paragraph (c)(4) permits a lawyer admitted in another jurisdiction to provide certain legal services on a temporary basis in this jurisdiction that arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted but are not within paragraphs (c)(2) or (c)(3). These services include both legal services and services that nonlawyers may perform but that are considered the practice of law when performed by lawyers.

[14] Paragraphs (c)(3) and (c)(4) require that the services arise out of or be reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted. A variety of factors evidence such a relationship. The lawyer's client may have been previously represented by the lawyer, or may be resident in or have substantial contacts with the jurisdiction in which the lawyer is admitted. The matter, although involving other jurisdictions, may have a significant connection with that jurisdiction. In other cases, significant aspects of the lawyer's work might be conducted in that jurisdiction or a significant aspect of the matter may involve the law of that jurisdiction. The necessary relationship might arise when the client's activities or the legal issues involve multiple jurisdictions, such as when the officers of a multinational corporation survey potential business sites and seek the services of their lawyer in assessing the relative merits of each. In addition, the services may draw on the lawyer's recognized expertise developed through the regular practice of law on behalf of clients in matters involving a particular body of federal, nationally uniform, foreign, or international law. Lawyers desiring to provide *pro bono* legal services on a temporary basis in a jurisdiction that has been affected by a major disaster, but in which they are not otherwise authorized to practice law, as well as lawyers from the affected jurisdiction who seek to practice law temporarily in another jurisdiction, but in which they are not otherwise authorized to practice law, should consult Iowa Court Rule 31.17.

[15] Paragraph (d) identifies two circumstances in which a lawyer who is admitted to practice in another United States jurisdiction or a foreign jurisdiction, and is not disbarred or suspended from practice in any jurisdiction, or the equivalent thereof, may establish an office or other systematic and continuous presence in this jurisdiction for the practice of law. Except as provided in paragraphs (d)(1) and (d)(2), a lawyer who is admitted to practice law in another United States or foreign jurisdiction and who establishes an office or other systematic or continuous presence in this jurisdiction must become admitted to practice law generally in this jurisdiction.

[16] Paragraph (d)(1) applies to a United States or foreign lawyer who is employed by a client to provide legal services to the client or its organizational affiliates, i.e., entities that control, are controlled by, or are under common control with the employer. This paragraph does not authorize the provision of personal legal services to the employer's officers or employees. The paragraph applies to in-house corporate lawyers, government lawyers, and others who are employed to render legal services to the employer. The lawyer's ability to represent the employer outside the jurisdiction in which the lawyer is licensed generally serves the interests of the employer and does not create an unreasonable risk to the client and others because the employer is well situated to assess the lawyer's qualifications and the quality of the lawyer's work. To further decrease any risk to the client, when advising on the domestic law of a United States jurisdiction or on the law of the United States, the foreign lawyer authorized to practice under paragraph (d)(l) of this rule needs to base that advice on the advice of a lawyer licensed and authorized by the jurisdiction to provide it.

[17] If an employed lawyer establishes an office or other systematic and continuous presence in this jurisdiction for the purpose of rendering legal services to the employer, the lawyer must register and follow the requirements of Iowa Court Rule 31.16.

[18] Paragraph (d)(2) recognizes that a United States or foreign lawyer may provide legal services in a jurisdiction in which the lawyer is not licensed when authorized to do so by federal or other law, which includes statute, court rule, executive regulation, or judicial precedent.

[19] A lawyer who practices law in this jurisdiction pursuant to paragraph (c) or (d) or otherwise is subject to the disciplinary authority of this jurisdiction. *See* rule 32:8.5(a).

[20] In some circumstances, a lawyer who practices law in this jurisdiction pursuant to paragraph (c) or (d) may have to inform the client that the lawyer is not licensed to practice law in this jurisdiction. For example, that may be required when the representation occurs primarily in this jurisdiction and requires knowledge of the law of this jurisdiction. *See* rule 32:1.4(b).

[21] Paragraphs (c) and (d) do not authorize communications advertising legal services in this

jurisdiction by lawyers who are admitted to practice in other jurisdictions. Whether and how lawyers may communicate the availability of their services in this jurisdiction is governed by rules 32:7.1 to 32:7.5.

[Court Order April 20, 2005, effective July 1, 2005; May 14, 2007; August 29, 2012, effective January 1, 2013; October 15, 2015; August 28, 2020, effective January 1, 2021]

**Rule 32:5.6 RESTRICTIONS ON RIGHT TO PRACTICE**

**A lawyer shall not participate in offering or making:**

**(a) a partnership, shareholders, operating, employment, or other similar type of agreement that restricts the right of a lawyer to practice after termination of the relationship, except an agreement concerning benefits upon retirement; or**

**(b) an agreement in which a restriction on the lawyer's right to practice is part of the settlement of a client controversy.**

**Comment**

[1] An agreement restricting the right of lawyers to practice after leaving a firm not only limits their professional autonomy but also limits the freedom of clients to choose a lawyer. Paragraph (a) prohibits such agreements except for restrictions incident to provisions concerning retirement benefits for service with the firm.

[2] Paragraph (b) prohibits a lawyer from agreeing not to represent other persons in connection with settling a claim on behalf of a client.

[3] This rule does not apply to prohibit restrictions that may be included in the terms of the sale of a law practice pursuant to rule 32:1.17.

[Court Order April 20, 2005, effective July 1, 2005]

**Rule 32:5.7 RESPONSIBILITIES REGARDING LAW-RELATED SERVICES**

**(a) A lawyer shall be subject to the Iowa Rules of Professional Conduct with respect to the provision of law-related services, as defined in paragraph (b), if the law-related services are provided:**

**(1) by the lawyer in circumstances that are not distinct from the lawyer's provision of legal services to clients; or**

**(2) in other circumstances by an entity controlled by the lawyer individually or with others if the lawyer fails to take reasonable measures to ensure that a person obtaining the law-related services knows that the services are not legal services and that the protections of the client-lawyer relationship do not exist.**

**(b) The term "law-related services" denotes services that might reasonably be performed in conjunction with and in substance are related to the provision of legal services, and that are not prohibited as unauthorized practice of law when provided by a nonlawyer.**

**Comment**

[1] When a lawyer performs law-related services or controls an organization that does so, there exists the potential for ethical problems. Principal among these is the possibility that the person for whom the law-related services are performed fails to understand that the services may not carry with them the protections normally afforded as part of the client-lawyer relationship. The recipient of the law-related services may expect, for example, that the protection of client confidences, prohibitions against representation of persons with conflicting interests, and obligations of a lawyer to maintain professional independence apply to the provision of law-related services when that may not be the case.

[2] Rule 32:5.7 applies to the provision of law-related services by a lawyer even when the lawyer does not provide any legal services to the person for whom the law-related services are performed and whether the law-related services are performed through a law firm or a separate entity. The rule identifies the circumstances in which all of the Iowa Rules of Professional Conduct apply to the provision of law-related services. Even when those circumstances do not exist, however, the conduct of a lawyer involved in the provision of law-related services is subject to those rules that apply generally to lawyer conduct, regardless of whether the conduct involves the provision of legal

services. *See, e.g.,* rule 32:8.4.

[3] When law-related services are provided by a lawyer under circumstances that are not distinct from the lawyer's provision of legal services to clients, the lawyer in providing the law-related services must adhere to the requirements of the Iowa Rules of Professional Conduct as provided in paragraph (a)(1). Even when the law-related and legal services are provided in circumstances that are distinct from each other, for example through separate entities or different support staff within the law firm, the Iowa Rules of Professional Conduct apply to the lawyer as provided in paragraph (a)(2) unless the lawyer takes reasonable measures to ensure that the recipient of the law-related services knows that the services are not legal services and that the protections of the client-lawyer relationship do not apply.

[4] Law-related services also may be provided through an entity that is distinct from that through which the lawyer provides legal services. If the lawyer individually or with others has control of such an entity's operations, the rule requires the lawyer to take reasonable measures to ensure that each person using the services of the entity knows that the services provided by the entity are not legal services and that the Iowa Rules of Professional Conduct that relate to the client-lawyer relationship do not apply. A lawyer's control of an entity extends to the ability to direct its operation. Whether a lawyer has such control will depend upon the circumstances of the particular case.

[5] When a client-lawyer relationship exists with a person who is referred by a lawyer to a separate law-related service entity controlled by the lawyer, individually or with others, the lawyer must comply with rule 32:1.8(a).

[6] In taking the reasonable measures referred to in paragraph (a)(2) to ensure that a person using law-related services understands the practical effect or significance of the inapplicability of the Iowa Rules of Professional Conduct, the lawyer should communicate to the person receiving the law-related services, in a manner sufficient to ensure that the person understands the significance of the fact, that the relationship of the person to the business entity will not be a client-lawyer relationship. The communication should be made before entering into an agreement for provision of or providing law-related services, and preferably should be in writing.

[7] The burden is upon the lawyer to show that the lawyer has taken reasonable measures under the circumstances to communicate the desired understanding. For instance, a sophisticated user of law-related services, such as a publicly held corporation, may require a lesser explanation than someone unaccustomed to making distinctions between legal services and law-related services.

[8] Regardless of the sophistication of potential recipients of law-related services, a lawyer should take special care to keep separate the provision of law-related and legal services in order to minimize the risk that the recipient will assume that the law-related services are legal services. The risk of such confusion is especially acute when the lawyer renders both types of services with respect to the same matter. Under some circumstances the legal and law-related services may be so closely entwined that they cannot be distinguished from each other, and the requirement of disclosure and consultation imposed by paragraph (a)(2) of the rule cannot be met. In such a case, a lawyer will be responsible for ensuring that both the lawyer's conduct and, to the extent required by rule 32:5.3, that of nonlawyer employees in the distinct entity that the lawyer controls, comply in all respects with the Iowa Rules of Professional Conduct.

[9] A broad range of economic and other interests of clients may be served by lawyers' engaging in the delivery of law-related services. Examples of law-related services include providing financial planning, accounting, economic analysis, social work, psychological counseling, and non-legal consulting such as engineering, medical, or environmental consulting.

[10] When a lawyer is obliged to accord the recipients of such services the protections of those rules that apply to the client-lawyer relationship, the lawyer must take special care to heed the proscriptions of the rules addressing conflict of interest (rules 32:1.7 through 32:1.11, especially rules 32:1.7(a)(2) and 32:1.8(a), (b), and (f)), and to scrupulously adhere to the requirements of rule 32:1.6 relating to disclosure of confidential information. The promotion of the law-related services must also in all respects comply with rules 32:7.1 through 32:7.3, dealing with advertising and solicitation. In that regard, lawyers should take special care to identify the obligations that may be imposed as a result of this state's decisional law.

[11] When the full protections of all of the Iowa Rules of Professional Conduct do not apply to the provision of law-related services, principles of law external to the rules, for example, the law of principal and agent, govern the legal duties owed to those receiving the services. Those other legal principles may establish a different degree of protection for the recipient with respect to

confidentiality of information, conflicts of interest, and permissible business relationships with clients. *See also* rule 32:8.4 (Misconduct).

[12] Certain services that may be performed by nonlawyers nonetheless are treated as the practice of law in Iowa when performed by lawyers, including consummation of real estate transactions, preparation of tax returns, legislative lobbying, and estate planning. *See* rule 32:3.9, cmt. [4]; Iowa Ct. R. 37.5. Accordingly, the lawyer providing such services must at all times and under all circumstances comply fully with the Iowa Rules of Professional Conduct.

[Court Order April 20, 2005, effective July 1, 2005; August 28, 2020, effective January 1, 2021]

***PUBLIC SERVICE***

## Rule 32:6.1 VOLUNTARY PRO BONO PUBLICO SERVICE

**Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least 50 hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:**

**(a) provide a substantial majority of the 50 hours of legal services without fee or expectation of fee to:**

**(1) persons of limited means or**

**(2) charitable, religious, civic, community, governmental, and educational organizations in matters that are designed primarily to address the needs of persons of limited means; and**

**(b) provide any additional services through:**

**(1) delivery of legal services at no fee or substantially reduced fee to individuals, groups, or organizations seeking to secure or protect civil rights, civil liberties, or public rights, or charitable, religious, civic, community, governmental, and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;**

**(2) delivery of legal services at a substantially reduced fee to persons of limited means; or**

**(3) participation in activities for improving the law, the legal system, or the legal profession.**

**In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.**

### Comment

[1] Every lawyer, regardless of professional prominence or professional work load, has a responsibility to provide legal services to those unable to pay, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. It is recognized that in some years a lawyer may render greater or fewer hours than the annual standard specified, but during the course of his or her legal career, each lawyer should render on average per year, the number of hours set forth in this rule. Services can be performed in civil matters or in criminal or quasi-criminal matters for which there is no government obligation to provide funds for legal representation.

[2] Paragraphs (a)(1) and (2) recognize the critical need for legal services that exists among persons of limited means by providing that a substantial majority of the legal services rendered annually to the disadvantaged be furnished without fee or expectation of fee. Legal services under these paragraphs consist of a full range of activities, including individual and class representation, the provision of legal advice, legislative lobbying, administrative rule making, and the provision of free training or mentoring to those who represent persons of limited means. The variety of these activities should facilitate participation by government lawyers, even when restrictions exist on their engaging in the outside practice of law.

[3] Persons eligible for legal services under paragraphs (a)(1) and (2) are those who qualify for participation in programs funded by the Legal Services Corporation or by the Iowa Lawyer Trust Account Commission, or other comparable non-profit programs offering legal services to the economically disadvantaged, and those whose incomes and financial resources are slightly above the guidelines utilized by such programs but, nevertheless, cannot afford counsel. Legal services can be rendered to individuals or to organizations such as homeless shelters, battered women's centers, and food pantries that serve those of limited means. The term "governmental organizations" includes, but

is not limited to, public protection programs and sections of governmental or public sector agencies.

[4] Because service must be provided without fee or expectation of fee, the intent of the lawyer to render free legal services is essential for the work performed to fall within the meaning of paragraphs (a)(1) and (2). Accordingly, services rendered cannot be considered pro bono if an anticipated fee is uncollected, but the award of statutory attorneys' fees in a case originally accepted as pro bono would not disqualify such services from inclusion under this section. Lawyers who do receive fees in such cases are encouraged to contribute an appropriate portion of such fees to organizations or projects that benefit persons of limited means.

[5] While it is possible for a lawyer to fulfill the annual responsibility to perform pro bono services exclusively through activities described in paragraphs (a)(1) and (2), to the extent that any hours of service remained unfulfilled, the remaining commitment can be met in a variety of ways as set forth in paragraph (b). Constitutional, statutory, or regulatory restrictions may prohibit or impede government and public sector lawyers and judges from performing the pro bono services outlined in paragraphs (a)(1) and (2) and paragraphs (b)(1) and (2). Accordingly, where those restrictions apply, government and public sector lawyers and judges may fulfill their pro bono responsibility by performing services outlined in paragraph (b)(3), to the extent permitted by such restrictions.

[6] Paragraph (b)(1) includes the provision of certain types of legal services to those whose incomes and financial resources place them above limited means. It also permits the pro bono lawyer to accept a substantially reduced fee for services. Examples of the types of issues that may be addressed under this paragraph include First Amendment claims, Title VII claims, and environmental protection claims. Additionally, a wide range of organizations may be represented, including social service, medical research, cultural, and religious groups.

[7] Paragraph (b)(2) covers instances in which lawyers agree to and receive a modest fee for furnishing legal services to persons of limited means. Participation in judicare programs and acceptance of court appointments in which the fee is substantially below a lawyer's usual rate are encouraged under this paragraph.

[8] Paragraph (b)(3) recognizes the value of lawyers engaging in activities that improve the law, the legal system or the legal profession. Serving on bar association committees, serving on boards of pro bono or legal services programs, taking part in Law Day activities, acting as a continuing legal education instructor, a mediator or an arbitrator, and engaging in legislative lobbying to improve the law, the legal system, or the profession are a few examples of the many activities that fall within this paragraph.

[9] Because the provision of pro bono services is a professional responsibility, it is the individual ethical commitment of each lawyer. Nevertheless, there may be times when it is not feasible for a lawyer to engage in pro bono services. At such times a lawyer may discharge the pro bono responsibility by providing financial support to organizations providing free legal services to persons of limited means. Such financial support should be reasonably equivalent to the value of the hours of service that would have otherwise been provided. In addition, at times it may be more feasible to satisfy the pro bono responsibility collectively, as by a firm's aggregate pro bono activities.

[10] Because the efforts of individual lawyers are not enough to meet the need for free legal services that exists among persons of limited means, the government and the profession have instituted additional programs to provide those services. Every lawyer should financially support such programs, in addition to either providing direct pro bono services or making financial contributions when pro bono service is not feasible.

[11] Law firms should act reasonably to enable and encourage all lawyers in the firm to provide the pro bono legal services called for by this rule.

[12] The responsibility set forth in this rule is not intended to be enforced through disciplinary process.

[Court Order April 20, 2005, effective July 1, 2005]

### Rule 32:6.2 ACCEPTING APPOINTMENTS

**A lawyer shall not seek to avoid appointment by a tribunal to represent a person except for good cause, such as:**

**(a) representing the client is likely to result in violation of the Iowa Rules of Professional Conduct or other law;**

**(b) representing the client is likely to result in an unreasonable financial burden on the lawyer; or**

**(c) the client or the cause is so repugnant to the lawyer as to be likely to impair the client-lawyer relationship or the lawyer's ability to represent the client.**

**Comment**

[1] A lawyer ordinarily is not obliged to accept a client whose character or cause the lawyer regards as repugnant. The lawyer's freedom to select clients is, however, qualified. All lawyers have a responsibility to assist in providing pro bono publico service. *See* rule 32:6.1. An individual lawyer fulfills this responsibility by accepting a fair share of unpopular matters or indigent or unpopular clients. A lawyer may also be subject to appointment by a court to serve unpopular clients or persons unable to afford legal services.

*Appointed Counsel*

[2] For good cause a lawyer may seek to decline an appointment to represent a person who cannot afford to retain counsel or whose cause is unpopular. Good cause exists if the lawyer could not handle the matter competently, *see* rule 32:1.1, or if undertaking the representation would result in an improper conflict of interest, for example, when the client or the cause is so repugnant to the lawyer as to be likely to impair the client-lawyer relationship or the lawyer's ability to represent the client. A lawyer may also seek to decline an appointment if acceptance would be unreasonably burdensome, for example, when it would impose a financial sacrifice so great as to be unjust.

[3] An appointed lawyer has the same obligations to the client as retained counsel, including the obligations of loyalty and confidentiality, and is subject to the same limitations on the client-lawyer relationship, such as the obligation to refrain from assisting the client in violation of the rules.
[Court Order April 20, 2005, effective July 1, 2005]

## Rule 32:6.3 MEMBERSHIP IN LEGAL SERVICES ORGANIZATION

**A lawyer may serve as a director, officer, or member of a legal services organization, apart from the law firm in which the lawyer practices, notwithstanding that the organization serves persons having interests adverse to a client of the lawyer. The lawyer shall not knowingly participate in a decision or action of the organization:**

**(a) if participating in the decision or action would be incompatible with the lawyer's obligations to a client under rule 32:1.7; or**

**(b) where the decision or action could have a material adverse effect on the representation of a client of the organization whose interests are adverse to a client of the lawyer.**

**Comment**

[1] Lawyers should be encouraged to support and participate in legal services organizations. A lawyer who is an officer or a member of such an organization does not thereby have a client-lawyer relationship with persons served by the organization. However, there is potential conflict between the interests of such persons and the interests of the lawyer's clients. If the possibility of such conflict disqualified a lawyer from serving on the board of a legal services organization, the profession's involvement in such organizations would be severely curtailed.

[2] It may be necessary in appropriate cases to reassure a client of the organization that the representation will not be affected by conflicting loyalties of a member of the board. Established, written policies in this respect can enhance the credibility of such assurances.
[Court Order April 20, 2005, effective July 1, 2005]

## Rule 32:6.4 LAW REFORM ACTIVITIES AFFECTING CLIENT INTERESTS

**A lawyer may serve as a director, officer, or member of an organization involved in reform of the law or its administration notwithstanding that the reform may affect the interests of a client of the lawyer. When the lawyer knows that the interests of a client may be materially benefitted by a decision in which the lawyer participates, the lawyer shall disclose that fact but need not identify the client.**

**Comment**

[1] Lawyers involved in organizations seeking law reform generally do not have a client-lawyer relationship with the organization. Otherwise, it might follow that a lawyer could not be involved in a bar association law reform program that might indirectly affect a client. *See also* rule 32:1.2(b). For example, a lawyer specializing in antitrust litigation might be regarded as disqualified from participating in drafting revisions of rules governing that subject. In determining the nature and scope of participation in such activities, a lawyer should be mindful of obligations to clients under other rules, particularly rule 32:1.7. A lawyer is professionally obligated to protect the integrity of the program by making an appropriate disclosure within the organization when the lawyer knows a private client might be materially benefitted.
[Court Order April 20, 2005, effective July 1, 2005]

## Rule 32:6.5 NONPROFIT AND COURT-ANNEXED LIMITED LEGAL SERVICES PROGRAMS

**(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:**

**(1) is subject to rules 32:1.7 and 32:1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and**

**(2) is subject to rule 32:1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by rule 32:1.7 or 32:1.9(a) with respect to the matter.**

**(b) Except as provided in paragraph (a)(2), rule 32:1.10 is inapplicable to a representation governed by this rule.**

**Comment**

[1] Legal services organizations, courts, and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services—such as advice or the completion of legal forms—that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics, or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. *See, e.g.,* rules 32:1.7, 32:1.9, and 32:1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this rule must secure the client's informed consent to the limited scope of the representation. *See* rule 32:1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this rule, the Iowa Rules of Professional Conduct, including rules 32:1.6 and 32:1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with rule 32:1.7 or 32:1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with rule 32:1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by rule 32:1.7 or 32:1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that rule 32:1.10 is inapplicable to a representation governed by this rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with rule 32:1.10 when the lawyer knows that the lawyer's firm is disqualified by rule 32:1.7 or 32:1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this rule, a lawyer

undertakes to represent the client in the matter on an ongoing basis, rules 32:1.7, 32:1.9(a), and 32:1.10 become applicable.
[Court Order April 20, 2005, effective July 1, 2005]

### *INFORMATION ABOUT LEGAL SERVICES*

### Rule 32:7.1 COMMUNICATIONS CONCERNING A LAWYER'S SERVICES

**A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.**

**Comment**

[1] This rule governs all communications about a lawyer's services, including advertising. Whatever means are used to make known a lawyer's services, statements about them must be truthful.

[2] Misleading truthful statements are prohibited by this rule. A truthful statement is misleading if it omits a fact necessary to make the lawyer's communication considered as a whole not materially misleading. A truthful statement is misleading if a substantial likelihood exists that it will lead a reasonable person to formulate a specific conclusion about the lawyer or the lawyer's services for which there is no reasonable factual foundation. A truthful statement is also misleading if presented in a way that creates a substantial likelihood that a reasonable person would believe the lawyer's communication requires that person to take further action when, in fact, no action is required.

[3] A communication that truthfully reports a lawyer's achievements on behalf of clients or former clients may be misleading if presented so as to lead a reasonable person to form an unjustified expectation that the same results could be obtained for other clients in similar matters without reference to the specific factual and legal circumstances of each client's case. Similarly, an unsubstantiated claim about a lawyer's or law firm's services or fees, or an unsubstantiated comparison of the lawyer's or law firm's services or fees with those of other lawyers or law firms, may be misleading if presented with such specificity as would lead a reasonable person to conclude that the comparison or claim can be substantiated. The inclusion of an appropriate disclaimer or qualifying language may preclude a finding that a statement is likely to create unjustified expectations or otherwise mislead the public.

[4] It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. Rule 32:8.4(c). See also rule 32:8.4(e) for the prohibition against stating or implying an ability to improperly influence a government agency or official or to achieve results by means that violate the Iowa Rules of Professional Conduct or other law.

[5] Firm names, letterhead, and professional designations are communications concerning a lawyer's services. A firm may be designated by the names of all or some of its current members, by the names of deceased members where there has been a succession in the firm's identity, or by a trade name if it is not false or misleading. A lawyer or law firm also may be designated by a distinctive website address, social media username, or comparable professional designation that is not misleading. A law firm name or designation is misleading if it implies a connection with a government agency, with a deceased lawyer who was not a former member of the firm, with a lawyer not associated with the firm or a predecessor firm, with a nonlawyer, or with a public or charitable legal services organization. If a firm uses a trade name that includes a geographical name such as "Springfield Legal Clinic," an express statement explaining that it is not a public legal aid organization may be required to avoid a misleading implication.

[6] A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction.

[7] Lawyers may not imply or hold themselves out as practicing together in one firm when they are not a firm, as defined in rule 32:1.0(c), because to do so would be false and misleading.

[8] It is misleading to use the name of a lawyer holding a public office in the name of a law firm,

or in communications on the law firm's behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.
[Court Order April 20, 2005, effective July 1, 2005; August 29, 2012, effective January 1, 2013; August 28, 2020, effective January 1, 2021]

**Rule 32:7.2 COMMUNICATIONS CONCERNING A LAWYER'S SERVICES: SPECIFIC RULES**

**(a) A lawyer may communicate information regarding the lawyer's services through any media.**

**(b) A lawyer shall not compensate, give, or promise anything of value to a person for recommending the lawyer's services except that a lawyer may:**

**(1) pay the reasonable costs of advertisements or communications permitted by this rule;**

**(2) pay the usual charges of a legal service plan or a not-for-profit or qualified lawyer referral service;**

**(3) pay for a law practice in accordance with rule 32:1.17;**

**(4) refer clients to another lawyer or a nonlawyer professional pursuant to an agreement not otherwise prohibited under these rules that provides for the other person to refer clients or customers to the lawyer, if:**

**(i) the reciprocal referral agreement is not exclusive; and**

**(ii) the client is informed of the existence and nature of the agreement; and**

**(5) give nominal gifts as an expression of appreciation that are neither intended nor reasonably expected to be a form of compensation for recommending a lawyer's services.**

**(c) A lawyer shall not state or imply that a lawyer is certified as a specialist in a particular field of law, unless:**

**(1) the lawyer has been certified as a specialist by an organization that has been approved by an appropriate authority of the state or the District of Columbia or a United States Territory or that has been accredited by the American Bar Association; and**

**(2) the name of the certifying organization is clearly identified in the communication.**

**(d) Any communication made under this rule must include the name and contact information of at least one lawyer or law firm responsible for its content.**

**Comment**

[1] This rule permits public dissemination of information concerning a lawyer's or law firm's name, address, email address, website, and telephone number; the kinds of services the lawyer will undertake; the basis on which the lawyer's fees are determined, including prices for specific services and payment and credit arrangements; a lawyer's foreign language ability; names of references and, with their consent, names of clients regularly represented; and other information that might invite the attention of those seeking legal assistance.

*Paying Others to Recommend a Lawyer*

[2] Except as permitted under paragraphs (b)(1)-(b)(5), lawyers are not permitted to pay others for recommending the lawyer's services. A communication contains a recommendation if it endorses or vouches for a lawyer's credentials, abilities, competence, character, or other professional qualities. Directory listings and group advertisements that list lawyers by practice area, without more, do not constitute impermissible "recommendations."

[3] Paragraph (b)(1) allows a lawyer to pay for advertising and communications permitted by this rule, including the costs of print directory listings, on-line directory listings, newspaper ads, television and radio airtime, domain-name registrations, sponsorship fees, Internet-based advertisements, and group advertising. A lawyer may compensate employees, agents, and vendors who are engaged to provide marketing or client development services, such as publicists, public-relations personnel, business-development staff, television and radio station employees or spokespersons, and website designers.

[4] Paragraph (b)(5) permits lawyers to give nominal gifts as an expression of appreciation to a person for recommending the lawyer's services or referring a prospective client. The gift may not be more than a token item as might be given for holidays or other ordinary social hospitality. A gift

is prohibited if offered or given in consideration of any promise, agreement, or understanding that such a gift would be forthcoming or that referrals would be made or encouraged in the future.

[5] A lawyer may pay others for generating client leads, such as Internet-based client leads, as long as the lead generator does not recommend the lawyer, any payment to the lead generator is consistent with rules 32:1.5(e) (division of fees) and 32:5.4 (professional independence of the lawyer), and the lead generator's communications are consistent with rule 32:7.1 (communications concerning a lawyer's services). To comply with rule 32:7.1, a lawyer must not pay a lead generator that states, implies, or creates a reasonable impression that it is recommending the lawyer, is making the referral without payment from the lawyer, or has analyzed a person's legal problems when determining which lawyer should receive the referral. *See* comment [2] (definition of "recommendation"). *See also* rule 32:5.3 (duties of lawyers and law firms with respect to the conduct of nonlawyers); rule 32:8.4(a) (duty to avoid violating the rules through the acts of another).

[6] A lawyer may pay the usual charges of a legal service plan or a not-for-profit or qualified lawyer referral service. A legal service plan is a prepaid or group legal service plan or a similar delivery system that assists people who seek to secure legal representation. A lawyer referral service, on the other hand, is any organization that holds itself out to the public as a lawyer referral service. Qualified referral services are consumer-oriented organizations that provide unbiased referrals to lawyers with appropriate experience in the subject matter of the representation and afford other client protections, such as complaint procedures or malpractice insurance requirements. Consequently, this rule only permits a lawyer to pay the usual charges of a not-for-profit or qualified lawyer referral service. A qualified lawyer referral service is one that is approved by an appropriate regulatory authority as affording adequate protections for the public. *See, e.g.,* the American Bar Association's Model Supreme Court Rules Governing Lawyer Referral Services and Model Lawyer Referral and Information Service Quality Assurance Act.

[7] A lawyer who accepts assignments or referrals from a legal service plan or referrals from a lawyer referral service must act reasonably to ensure that the activities of the plan or service are compatible with the lawyer's professional obligations. Legal service plans and lawyer referral services may communicate with the public, but such communication must be in conformity with these rules. Thus, advertising must not be false or misleading, as would be the case if the communications of a group advertising program or a group legal services plan would mislead the public to think that it was a lawyer referral service sponsored by a state agency or bar association.

[8] A lawyer also may agree to refer clients to another lawyer or a nonlawyer professional, in return for the undertaking of that person to refer clients or customers to the lawyer. Such reciprocal referral arrangements must not interfere with the lawyer's professional judgment as to making referrals or as to providing substantive legal services. *See* rules 32:2.1 and 32:5.4(c). Except as provided in rule 32:1.5(e), a lawyer who receives referrals from a lawyer or nonlawyer professional must not pay anything solely for the referral, but the lawyer does not violate paragraph (b) of this rule by agreeing to refer clients to the other lawyer or nonlawyer professional, so long as the reciprocal referral agreement is not exclusive and the client is informed of the referral agreement. Conflicts of interest created by such arrangements are governed by rule 32:1.7. Reciprocal referral agreements should not be of indefinite duration and should be reviewed periodically to determine whether they comply with these rules. This rule does not restrict referrals or divisions of revenues or net income among lawyers within firms comprised of multiple entities.

*Communications about Fields of Practice*

[9] Paragraph (a) of this rule permits a lawyer to communicate that the lawyer does or does not practice in particular areas of law. A lawyer is generally permitted to state that the lawyer "concentrates in" or is a "specialist," practices a "specialty," or "specializes in" particular fields based on the lawyer's experience, specialized training, or education, but such communications are subject to the "false and misleading" standard applied in rule 32:7.1 to communications concerning a lawyer's services.

[10] The Patent and Trademark Office has a long-established policy of designating lawyers practicing before the Office. The designation of Admiralty practice also has a long historical tradition associated with maritime commerce and the federal courts. A lawyer's communications about these practice areas are not prohibited by this rule.

[11] This rule permits a lawyer to state that the lawyer is certified as a specialist in a field of law if such certification is granted by an organization approved by an appropriate authority of a state, the District of Columbia, or a United States Territory or accredited by the American Bar

Association or another organization, such as a state supreme court or a state bar association, that has been approved by the authority of the state, the District of Columbia, or a United States Territory to accredit organizations that certify lawyers as specialists. Certification signifies that an objective entity has recognized an advanced degree of knowledge and experience in the specialty area greater than is suggested by general licensure to practice law. Certifying organizations may be expected to apply standards of experience, knowledge, and proficiency to ensure that a lawyer's recognition as a specialist is meaningful and reliable. To ensure that consumers can obtain access to useful information about an organization granting certification, the name of the certifying organization must be included in any communication regarding the certification.

*Required Contact Information*

[12] This rule requires that any communication about a lawyer or law firm's services include the name of, and contact information for, the lawyer or law firm. Contact information includes a website address, a telephone number, an email address, or a physical official location.

[Court Order April 20, 2005, effective July 1, 2005; November 19, 2007; August 29, 2012, effective January 1, 2013; August 28, 2020, effective January 1, 2021]

## Rule 32:7.3 SOLICITATION OF CLIENTS

**(a) "Solicitation" or "solicit" denotes a communication initiated by or on behalf of a lawyer or law firm that is directed to a specific person the lawyer knows or reasonably should know needs legal services in a particular matter and that offers to provide, or reasonably can be understood as offering to provide, legal services for that matter.**

**(b) A lawyer shall not solicit professional employment by live person-to-person contact when a significant motive for the lawyer's doing so is the lawyer's or law firm's pecuniary gain, unless the contact is with a:**

**(1) lawyer;**

**(2) person who has a family, close personal, or prior business or professional relationship with the lawyer or law firm; or**

**(3) person who routinely uses for business purposes the type of legal services offered by the lawyer.**

**(c) A lawyer shall not solicit professional employment even when not otherwise prohibited by paragraph (b), if:**

**(1) the target of the solicitation has made known to the lawyer a desire not to be solicited by the lawyer; or**

**(2) the solicitation involves coercion, duress, or harassment.**

**(d) This rule does not prohibit communications authorized by law or ordered by a court or other tribunal.**

**(e) Notwithstanding the prohibitions in this rule, a lawyer may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the lawyer that uses live person-to-person contact to enroll members or sell subscriptions for the plan from persons who are not known to need legal services in a particular matter covered by the plan.**

### Comment

[1] Paragraph (b) prohibits a lawyer from soliciting professional employment by live person-to-person contact when a significant motive for the lawyer's doing so is the lawyer's or the law firm's pecuniary gain. A lawyer's communication is not a solicitation if it is directed to the general public, such as through a billboard, an Internet banner advertisement, a website or a television commercial, or if it is in response to a request for information or is automatically generated in response to electronic searches.

[2] "Live person-to-person contact" means in-person, face-to-face, live telephone, and other real-time visual or auditory person-to-person communications, where the person is subject to a direct personal encounter without time for reflection. Such person-to-person contact does not include chats, text messages, email, personal messages within social media platforms, or other written communications that recipients may easily disregard. A potential for overreaching exists when a lawyer, seeking pecuniary gain, solicits a person known to be in need of legal services. This form of contact subjects a person to the private importuning of the trained advocate in a direct interpersonal encounter. The person, who may already feel overwhelmed by the circumstances giving rise to the

need for legal services, may find it difficult to fully evaluate all available alternatives with reasoned judgment and appropriate self-interest in the face of the lawyer's presence and insistence upon an immediate response. The situation is fraught with the possibility of undue influence, intimidation, and overreaching.

[3] The potential for overreaching inherent in live person-to-person contact justifies its prohibition, since lawyers have alternative means of conveying necessary information. In particular, communications can be mailed or transmitted by email or other electronic means that do not violate other laws. These forms of communications make it possible for the public to be informed about the need for legal services, and about the qualifications of available lawyers and law firms, without subjecting the public to live person-to-person persuasion that may overwhelm a person's judgment.

[4] The contents of live person-to-person contact can be disputed and may not be subject to third-party scrutiny. Consequently, they are much more likely to approach (and occasionally cross) the dividing line between accurate representations and those that are false and misleading.

[5] There is far less likelihood that a lawyer would engage in overreaching against a former client, or a person with whom the lawyer has close personal, family, business, or professional relationship, or in situations in which the lawyer is motivated by considerations other than the lawyer's pecuniary gain. Nor is there a serious potential for overreaching when the person contacted is a lawyer or is known to routinely use the type of legal services involved for business purposes. Examples include persons who routinely hire outside counsel to represent the entity; entrepreneurs who regularly engage business, employment law, or intellectual property lawyers; small business proprietors who routinely hire lawyers for lease or contract issues; and other people who routinely retain lawyers for business transactions or formations. Paragraph (b) is not intended to prohibit a lawyer from participating in constitutionally protected activities of public or charitable legal service organizations or bona fide political, social, civic, fraternal, employee, or trade organizations whose purposes include providing or recommending legal services to their members or beneficiaries.

[6] Any solicitation that contains false or misleading information within the meaning of rule 32:7.1, that involves coercion, duress, or harassment within the meaning of rule 32:7.3(c)(2), or that involves contact with someone who has made known to the lawyer a desire not to be solicited by the lawyer within the meaning of rule 32:7.3(c)(l) is prohibited. Live person-to-person contact of individuals who may be especially vulnerable to coercion or duress is ordinarily not appropriate, for example, the elderly, those whose first language is not English, or the disabled.

[7] This rule does not prohibit a lawyer from contacting representatives of organizations or groups that may be interested in establishing a group or prepaid legal plan for their members, insureds, beneficiaries, or other third parties for the purpose of informing such entities of the availability of and details concerning the plan or arrangement, which the lawyer or lawyer's firm is willing to offer. This form of communication is not directed to people who are seeking legal services for themselves. Rather, it is usually addressed to an individual acting in a fiduciary capacity seeking a supplier of legal services for others who may, if they choose, become prospective clients of the lawyer. Under these circumstances, the activity which the lawyer undertakes in communicating with such representatives and the type of information transmitted to the individual are functionally similar to and serve the same purpose as advertising permitted under rule 32:7.2.

[8] Communications authorized by law or ordered by a court or tribunal include a notice to potential members of a class in class action litigation.

[9] Paragraph (e) of this rule permits a lawyer to participate with an organization which uses personal contact to enroll members for its group or prepaid legal service plan, provided that the personal contact is not undertaken by any lawyer who would be a provider of legal services through the plan. The organization must not be owned by or directed (whether as manager or otherwise) by any lawyer or law firm that participates in the plan. For example, paragraph (e) would not permit a lawyer to create an organization controlled directly or indirectly by the lawyer and use the organization for the person-to-person solicitation of legal employment of the lawyer through memberships in the plan or otherwise. The communication permitted by these organizations must not be directed to a person known to need legal services in a particular matter, but must be designed to inform potential plan members generally of another means of affordable legal services. Lawyers who participate in a legal service plan must reasonably ensure that the plan sponsors are in compliance with rules 32:7.1, 32:7.2, and 32:7.3(c).

[Court Order April 20, 2005, effective July 1, 2005; August 29, 2012, effective January 1, 2013; August 28, 2020, effective January 1, 2021]

**Rule 32:7.4 RESERVED**

**Rule 32:7.5 RESERVED**

**Rule 32:7.6 POLITICAL CONTRIBUTIONS TO OBTAIN GOVERNMENT LEGAL ENGAGEMENTS OR APPOINTMENTS BY JUDGES**

**A lawyer or law firm shall not accept a government legal engagement or an appointment by a judge if the lawyer or law firm makes a political contribution or solicits political contributions for the purpose of obtaining or being considered for that type of legal engagement or appointment.**

**Comment**

[1] Lawyers have a right to participate fully in the political process, which includes making and soliciting political contributions for judicial retention election and other public office. Nevertheless, when lawyers make or solicit political contributions in order to obtain an engagement for legal work awarded by a government agency, or to obtain appointment by a judge, the public may legitimately question whether the lawyers engaged to perform the work are selected on the basis of competence and merit. In such a circumstance, the integrity of the profession is undermined.

[2] The term "political contribution" denotes any gift, subscription, loan, advance, or deposit of anything of value made directly or indirectly to a candidate, incumbent, political party, or campaign committee to influence or provide financial support for retention in a judicial election or election to other government office. Political contributions in initiative and referendum elections are not included. For purposes of this rule, the term "political contribution" does not include uncompensated services.

[3] Subject to the exceptions below, (i) the term "government legal engagement" denotes any engagement to provide legal services that a public official has the direct or indirect power to award; and (ii) the term "appointment by a judge" denotes an appointment to a position such as referee, commissioner, special master, receiver, guardian, or other similar position that is made by a judge. Those terms do not, however, include (a) substantially uncompensated services; (b) engagements or appointments made on the basis of experience, expertise, professional qualifications, and cost following a request for proposal or other process that is free from influence based upon political contributions; and (c) engagements or appointments made on a rotational basis from a list compiled without regard to political contributions.

[4] The term "lawyer or law firm" includes a political action committee or other entity owned or controlled by a lawyer or law firm.

[5] Political contributions are for the purpose of obtaining or being considered for a governmental legal engagement or appointment by a judge if, but for the desire to be considered for the legal engagement or appointment, the lawyer or law firm would not have made or solicited the contributions. The purpose may be determined by an examination of the circumstances in which the contributions occur. For example, one or more contributions that in the aggregate are substantial in relation to other contributions by lawyers or law firms, made for the benefit of an official in a position to influence award of a government legal engagement, and followed by an award of the legal engagement to the contributing or soliciting lawyer or the lawyer's firm would support an inference that the purpose of the contributions was to obtain the engagement, absent other factors that weigh against existence of the proscribed purpose. Those factors may include among others that the contribution or solicitation was made to further a political, social, or economic interest or because of an existing personal, family, or professional relationship with a candidate.

[6] If a lawyer makes or solicits a political contribution under circumstances that constitute bribery or another crime, rule 32:8.4(b) is implicated.

[Court Order April 20, 2005, effective July 1, 2005; August 29, 2012, effective January 1, 2013; August 28, 2020, effective January 1, 2021]

*MAINTAINING THE INTEGRITY OF THE PROFESSION*

## Rule 32:8.1 BAR ADMISSION AND DISCIPLINARY MATTERS

**An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:**

**(a) knowingly make a false statement of material fact; or**

**(b) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by rule 32:1.6 or Iowa Code section 622.10.**

**Comment**

[1] The duty imposed by this rule extends to persons seeking admission to the bar as well as to lawyers. Hence, if a person makes a material false statement in connection with an application for admission, it may be the basis for subsequent disciplinary action if the person is admitted, and in any event may be relevant in a subsequent admission application. The duty imposed by this rule applies to a lawyer's own admission or disciplinary matter as well as that of others. Thus, it is a separate professional offense for a lawyer to knowingly make a misrepresentation or omission in connection with a disciplinary investigation of the lawyer's own conduct. Paragraph (b) of this rule also requires correction of any prior misstatement in the matter that the applicant or lawyer may have made and affirmative clarification of any misunderstanding on the part of the admissions or disciplinary authority of which the person involved becomes aware.

[2] This rule is subject to the provisions of the Fifth Amendment of the United States Constitution and corresponding provisions of state constitutions. A person relying on such a provision in response to a question, however, should do so openly and not use the right of nondisclosure as a justification for failure to comply with this rule.

[3] A lawyer representing an applicant for admission to the bar, or representing a lawyer who is the subject of a disciplinary inquiry or proceeding, is governed by the rules applicable to the client-lawyer relationship, including rule 32:1.6, Iowa Code section 622.10, and, in some cases, rule 32:3.3.

[Court Order April 20, 2005, effective July 1, 2005]

## Rule 32:8.2 JUDICIAL AND LEGAL OFFICIALS

**(a) A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer, or public legal officer, or of a candidate for election or appointment to judicial or legal office.**

**(b) A lawyer who is a candidate for judicial office shall comply with the applicable provisions of the Iowa Code of Judicial Conduct.**

**Comment**

[1] Assessments by lawyers are relied on in evaluating the professional or personal fitness of persons being considered for election or appointment to judicial office and to public legal offices, such as attorney general, prosecuting attorney, and public defender. Expressing honest and candid opinions on such matters contributes to improving the administration of justice. Conversely, false statements by a lawyer can unfairly undermine public confidence in the administration of justice.

[2] When a lawyer seeks judicial office, the lawyer should be bound by applicable limitations on political activity.

[3] To maintain the fair and independent administration of justice, lawyers are encouraged to continue traditional efforts to defend judges and courts unjustly criticized.

[Court Order April 20, 2005, effective July 1, 2005; August 28, 2020, effective January 1, 2021]

## Rule 32:8.3 REPORTING PROFESSIONAL MISCONDUCT

**(a) A lawyer who knows that another lawyer has committed a violation of the Iowa Rules of Professional Conduct shall inform the appropriate professional authority.**

**(b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct shall inform the appropriate authority.**

**(c) This rule does not require disclosure of information otherwise protected by rule 32:1.6 or Iowa Code section 622.10 or information gained by a lawyer or judge while participating in an approved lawyers assistance program.**

**Comment**

[1] Self-regulation of the legal profession requires that members of the profession initiate disciplinary investigation when they know of a violation of the Iowa Rules of Professional Conduct. Lawyers have a similar obligation with respect to judicial misconduct. An apparently isolated violation may indicate a pattern of misconduct that only a disciplinary investigation can uncover. Reporting a violation is especially important where the victim is unlikely to discover the offense.

[2] A report about misconduct is not required where it would involve violation of rule 32:1.6 or Iowa Code section 622.10. However, a lawyer should encourage a client to consent to disclosure where prosecution of the professional misconduct would not substantially prejudice the client's interests.

[3] (Reserved)

[4] The duty to report professional misconduct does not apply to a lawyer retained to represent a lawyer whose professional conduct is in question. Such a situation is governed by the rules applicable to the client-lawyer relationship and Iowa Code section 622.10.

[5] Information about a lawyer's or judge's misconduct or fitness may be received by a lawyer in the course of that lawyer's participation in an approved lawyers or judges assistance program. In that circumstance, providing for an exception to the reporting requirements of paragraphs (a) and (b) of this rule encourages lawyers and judges to seek treatment through such a program. Conversely, without such an exception, lawyers and judges may hesitate to seek assistance from these programs, which may then result in additional harm to their professional careers and additional injury to the welfare of clients and the public. These rules do not otherwise address the confidentiality of information received by a lawyer or judge participating in an approved lawyers assistance program; such an obligation, however, may be imposed by the rules of the program or other law.

[Court Order April 20, 2005, effective July 1, 2005]

## Rule 32:8.4 MISCONDUCT

**It is professional misconduct for a lawyer to:**

**(a) violate or attempt to violate the Iowa Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;**

**(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;**

**(c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;**

**(d) engage in conduct that is prejudicial to the administration of justice;**

**(e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Iowa Rules of Professional Conduct or other law;**

**(f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law; or**

**(g) engage in sexual harassment or other unlawful discrimination in the practice of law or knowingly permit staff or agents subject to the lawyer's direction and control to do so.**

**Comment**

[1] Lawyers are subject to discipline when they violate or attempt to violate the Iowa Rules of Professional Conduct, knowingly assist or induce another to do so or do so through the acts of another, as when they request or instruct an agent to do so on the lawyer's behalf. Paragraph (a), however, does not prohibit a lawyer from advising a client concerning action the client is legally entitled to take.

[2] Illegal conduct can reflect adversely on fitness to practice law. A pattern of repeated offenses,

even ones of minor significance when considered separately, can indicate indifference to legal obligation.

[3] A lawyer who, in the course of representing a client, knowingly manifests, by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, violates paragraph (d) when such actions are prejudicial to the administration of justice. Legitimate advocacy respecting the foregoing factors does not violate paragraph (d). A trial judge's finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of this rule. For another reference to discrimination as professional misconduct, see paragraph (g).

[4] A lawyer may refuse to comply with an obligation imposed by law upon a good faith belief that no valid obligation exists. The provisions of rule 32:1.2(d) concerning a good faith challenge to the validity, scope, meaning, or application of the law apply to challenges of legal regulation of the practice of law.

[5] Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of a lawyer. The same is true of abuse of positions of private trust such as trustee, executor, administrator, guardian, agent, and officer, director, or manager of a corporation or other organization.

[6] It is not professional misconduct for a lawyer to advise clients or others about or to supervise or participate in lawful covert activity in the investigation of violations of civil or criminal law or constitutional rights or in lawful intelligence-gathering activity, provided the lawyer's conduct is otherwise in compliance with these rules. "Covert activity" means an effort to obtain information on unlawful activity through the use of misrepresentations or other subterfuge. Covert activity may be commenced by a lawyer or involve a lawyer as an advisor or supervisor only when the lawyer in good faith believes there is a reasonable possibility that unlawful activity has taken place, is taking place, or will take place in the foreseeable future. Likewise, a government lawyer who supervises or participates in a lawful covert operation which involves misrepresentation or deceit for the purpose of gathering relevant information, such as law enforcement investigation of suspected illegal activity or an intelligence-gathering activity, does not, without more, violate this rule.

[Court Order April 20, 2005, effective July 1, 2005]

## Rule 32:8.5 DISCIPLINARY AUTHORITY; CHOICE OF LAW

**(a) Disciplinary Authority. A lawyer admitted to practice in Iowa is subject to the disciplinary authority of Iowa, regardless of where the lawyer's conduct occurs. A lawyer not admitted in Iowa is also subject to the disciplinary authority of Iowa if the lawyer provides or offers to provide any legal services in Iowa. A lawyer may be subject to the disciplinary authority of both Iowa and another jurisdiction for the same conduct.**

**(b) Choice of Law. In any exercise of the disciplinary authority of Iowa, the rules of professional conduct to be applied shall be as follows:**

**(1) for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise; and**

**(2) for any other conduct, the rules of the jurisdiction in which the lawyer's conduct occurred or, if the predominant effect of the conduct is in a different jurisdiction, the rules of that jurisdiction shall be applied to the conduct. A lawyer shall not be subject to discipline if the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect of the lawyer's conduct will occur.**

### Comment

*Disciplinary Authority*

[1] It is longstanding law that the conduct of a lawyer admitted to practice in Iowa is subject to the disciplinary authority of Iowa. Extension of the disciplinary authority of Iowa to other lawyers who provide or offer to provide legal services in Iowa is for the protection of the citizens of Iowa. Reciprocal enforcement of a jurisdiction's disciplinary findings and sanctions will further advance the purposes of this rule. *See* Iowa Ct. Rs. 34.10, .19. A lawyer who is subject to Iowa's disciplinary authority under rule 32:8.5(a) appoints the Clerk of the Supreme Court of Iowa to receive service of process with respect to Iowa disciplinary matters. The fact that the lawyer is subject to the

disciplinary authority of Iowa may be a factor in determining whether personal jurisdiction may be asserted over the lawyer for civil matters.

*Choice of Law*

[2] A lawyer may be potentially subject to more than one set of rules of professional conduct which impose different obligations. The lawyer may be licensed to practice in more than one jurisdiction with differing rules, or may be admitted to practice before a particular court with rules that differ from those of the jurisdiction or jurisdictions in which the lawyer is licensed to practice. Additionally, the lawyer's conduct may involve significant contacts with more than one jurisdiction.

[3] Paragraph (b) seeks to resolve such potential conflicts. Its premise is that minimizing conflicts between rules, as well as uncertainty about which rules are applicable, is in the best interest of both clients and the profession (as well as the bodies having authority to regulate the profession). Accordingly, it takes the approach of (i) providing that any particular conduct of a lawyer shall be subject to only one set of rules of professional conduct, (ii) making the determination of which set of rules applies to particular conduct as straightforward as possible, consistent with recognition of appropriate regulatory interests of relevant jurisdictions, and (iii) providing protection from discipline for lawyers who act reasonably in the face of uncertainty.

[4] Paragraph (b)(1) provides that as to a lawyer's conduct relating to a proceeding pending before a tribunal, the lawyer shall be subject only to the rules of the jurisdiction in which the tribunal sits unless the rules of the tribunal, including its choice of law rule, provide otherwise. As to all other conduct, including conduct in anticipation of a proceeding not yet pending before a tribunal, paragraph (b)(2) provides that a lawyer shall be subject to the rules of the jurisdiction in which the lawyer's conduct occurred, or, if the predominant effect of the conduct is in another jurisdiction, the rules of that jurisdiction shall be applied to the conduct. In the case of conduct in anticipation of a proceeding that is likely to be before a tribunal, the predominant effect of such conduct could be where the conduct occurred, where the tribunal sits, or in another jurisdiction.

[5] When a lawyer's conduct involves significant contacts with more than one jurisdiction, it may not be clear whether the predominant effect of the lawyer's conduct will occur in a jurisdiction other than the one in which the conduct occurred. So long as the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect will occur, the lawyer shall not be subject to discipline under this rule. With respect to conflicts of interest, in determining a lawyer's reasonable belief under paragraph (b)(2), a written agreement between the lawyer and client that reasonably specifies a particular jurisdiction as within the scope of that paragraph may be considered if the agreement was obtained with the client's informed consent confirmed in the agreement.

[6] If two admitting jurisdictions were to proceed against a lawyer for the same conduct, they should, in applying this rule, identify the same governing ethics rules. They should take all appropriate steps to see that they do apply the same rule to the same conduct, and in all events should avoid proceeding against a lawyer on the basis of two inconsistent rules.

[7] The choice of law provision applies to lawyers engaged in transnational practice, unless international law, treaties, or other agreements between competent regulatory authorities in the affected jurisdictions provide otherwise.

[Court Order April 20, 2005, effective July 1, 2005; February 20, 2012; August 28, 2020, effective January 1, 2021]

# CHAPTER 33
# STANDARDS FOR PROFESSIONAL CONDUCT[1]



1. With the exception of rule 33.2(6) and rule 33.2(8) of the lawyers' duties to other counsel, the preamble and remaining rules in this chapter were taken from the final report of the committee on civility of the seventh federal judicial circuit and adopted by the Iowa Supreme Court on April 12, 1996.

# CHAPTER 33
# STANDARDS FOR PROFESSIONAL CONDUCT[2]

**Rule 33.1 Preamble.**

**33.1(1)** A lawyer's conduct should be characterized at all times by personal courtesy and professional integrity in the fullest sense of those terms. In fulfilling our duty to represent a client vigorously as lawyers, we will be mindful of our obligations to the administration of justice, which is a truth-seeking process designed to resolve human and societal problems in a rational, peaceful and efficient manner.

**33.1(2)** A judge's conduct should be characterized at all times by courtesy and patience toward all participants. As judges we owe to all participants in a legal proceeding respect, diligence, punctuality and protection against unjust and improper criticism or attack.

**33.1(3)** Conduct that may be characterized as uncivil, abrasive, abusive, hostile or obstructive impedes the fundamental goal of resolving disputes rationally, peacefully and efficiently. Such conduct tends to delay and often to deny justice.

**33.1(4)** The following standards are designed to encourage us, judges and lawyers, to meet our obligations to each other, to litigants and to the system of justice, and thereby achieve the twin goals of civility and professionalism, both of which are hallmarks of a learned profession dedicated to public service.

**33.1(5)** We expect judges and lawyers will make a mutual and firm commitment to these standards. Voluntary adherence is expected as part of a commitment by all participants to improve the administration of justice throughout the state.

**33.1(6)** Lawyers are alerted to the fact that, while the standards refer generally to matters which are in court, the same standards also apply to professional conduct in all phases of the practice of law.

**33.1(7)** These standards shall not be used as a basis for litigation or for sanctions or penalties. Nothing in these standards supersedes or detracts from existing disciplinary codes or alters existing standards of conduct against which lawyer negligence may be determined.

[Court Order November 9, 2001, effective February 15, 2002]

**Rule 33.2 Lawyers' duties to other counsel.**

**33.2(1)** We will practice our profession with a continuing awareness that our role is to advance the legitimate interests of our clients. In our dealings with others we will not reflect the ill feelings of our clients. We will treat all other counsel, parties and witnesses in a civil and courteous manner, not only in court, but also in all other written and oral communications.

**33.2(2)** We will not, even when called upon by a client to do so, abuse or indulge in offensive conduct directed to other counsel, parties or witnesses. We will abstain from disparaging remarks or acrimony toward other counsel, parties or witnesses. We will treat adverse witnesses and parties with fair consideration.

**33.2(3)** We will not encourage or knowingly authorize any person under our control to engage in conduct that would be improper if we were to engage in such conduct.

**33.2(4)** We will not, absent good cause, attribute bad motives or improper conduct to other counsel or bring the profession into disrepute by unfounded accusations of impropriety.

**33.2(5)** We will not seek court sanctions without first conducting a reasonable investigation and unless fully justified by the circumstances and necessary to protect our client's lawful interests.

**33.2(6)** We will cooperate in the transfer of files, wills, and other documents to another attorney when requested to do so, orally or in writing, by a person authorized to make that request. We will provide reasonable assistance in organizing and explaining items transferred, recognizing that such cooperation assists the client in receiving competent legal representation.

**33.2(7)** We will adhere to all express promises and to agreements with other counsel, whether oral or in writing, and will adhere in good faith to all agreements implied by the circumstances or local customs.

**33.2(8)** We will promptly acknowledge the receipt of contacts from other attorneys, whether those contacts are by telephone or in writing, and we will make an appropriate response to the subject matter of the contact as soon as reasonably possible.

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2. With the exception of rule 33.2(6) and rule 33.2(8) of the lawyers' duties to other counsel, the preamble and remaining rules in this chapter were taken from the final report of the committee on civility of the seventh federal judicial circuit and adopted by the Iowa Supreme Court on April 12, 1996.

**33.2(9)** When we reach an oral understanding on a proposed agreement or a stipulation and decide to commit it to writing, the drafter will endeavor in good faith to state the oral understanding accurately and completely. The drafter will provide the opportunity for review of the writing to other counsel. As drafts are exchanged between or among counsel, changes from prior drafts will be identified in the draft or otherwise explicitly brought to the attention of other counsel. We will not include in a draft matters to which there has been no agreement without explicitly advising other counsel in writing of the addition.

**33.2(10)** We will endeavor to confer early with other counsel to assess settlement possibilities. We will not falsely hold out the possibility of settlement as a means to adjourn discovery or to delay trial.

**33.2(11)** In civil actions, we will stipulate to relevant matters if they are undisputed and if no good faith advocacy basis exists for not stipulating.

**33.2(12)** We will not use any form of discovery or discovery scheduling as a means of harassment.

**33.2(13)** We will make good faith efforts to resolve by agreement our objections to matters contained in pleadings and discovery requests and objections.

**33.2(14)** We will not time the filing or service of motions or pleadings in any way that unfairly limits another party's opportunity to respond.

**33.2(15)** We will not request an extension of time solely for the purpose of unjustified delay or to obtain a tactical advantage.

**33.2(16)** We will consult other counsel regarding scheduling matters in a good faith effort to avoid scheduling conflicts.

**33.2(17)** We will endeavor to accommodate previously scheduled dates for hearings, depositions, meetings, conferences, vacations, seminars or other functions that produce good faith calendar conflicts on the part of other counsel. If we have been given an accommodation because of a calendar conflict, we will notify those who have accommodated us as soon as the conflict has been removed.

**33.2(18)** We will notify other counsel and, if appropriate, the court or other persons, at the earliest possible time when hearings, depositions, meetings or conferences are to be canceled or postponed. Early notice avoids unnecessary travel and expense of counsel and may enable the court to use the previously reserved time for other matters.

**33.2(19)** We will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided our clients' legitimate rights will not be materially or adversely affected.

**33.2(20)** We will not cause any default or dismissal to be entered without first notifying opposing counsel, when we know the opposing counsel's identity.

**33.2(21)** We will take depositions only when actually needed to ascertain facts or information or to perpetuate testimony. We will not take depositions for the purposes of harassment or to increase litigation expenses.

**33.2(22)** We will not engage in any conduct during a deposition that would not be appropriate in the presence of a judge.

**33.2(23)** We will not obstruct questioning during a deposition or object to deposition questions unless necessary under the applicable rules to preserve an objection or privilege for resolution by the court.

**33.2(24)** During depositions we will ask only those questions we reasonably believe are necessary for the prosecution or defense of an action.

**33.2(25)** We will carefully craft document production requests so they are limited to those documents we reasonably believe are necessary for the prosecution or defense of an action. We will not design production requests to place an undue burden or expense on a party.

**33.2(26)** We will respond to document requests reasonably and not strain to interpret the request in an artificially restrictive manner to avoid disclosure of relevant and nonprivileged documents. We will not produce documents in a manner designed to hide or obscure the existence of particular documents.

**33.2(27)** We will carefully craft interrogatories so they are limited to those matters we reasonably believe are necessary for the prosecution or defense of an action, and we will not design them to place an undue burden or expense on a party.

**33.2(28)** We will respond to interrogatories reasonably and will not strain to interpret them in an artificially restrictive manner to avoid disclosure of relevant and nonprivileged information.

**33.2(29)** We will base our discovery objections on a good faith belief in their merit and will not object solely for the purpose of withholding or delaying the disclosure of relevant information.

**33.2(30)** When a draft order is to be prepared by counsel to reflect a court ruling, we will draft an order that accurately and completely reflects the court's ruling. We will promptly prepare and submit a proposed order to other counsel and attempt to reconcile any differences before the draft order is presented to the court.

**33.2(31)** We will not ascribe a position to another counsel that counsel has not taken or otherwise seek to create an unjustified inference based on counsel's statements or conduct.

**33.2(32)** Unless specifically permitted or invited by the court, we will not send copies of correspondence between counsel to the court.

[Court Order November 9, 2001, effective February 15, 2002]

**Rule 33.3 Lawyers' duties to the court.**

**33.3(1)** We will speak and write civilly and respectfully in all communications with the court.

**33.3(2)** We will be punctual and prepared for all court appearances so that all hearings, conferences and trials may commence on time; if delayed, we will notify the court and counsel, if possible.

**33.3(3)** We will be considerate of the time constraints and pressures on the court and court staff inherent in their efforts to administer justice.

**33.3(4)** We will not engage in any conduct that brings disorder or disruption to the courtroom. We will advise our clients and witnesses appearing in court of the proper conduct expected and required there and, to the best of our ability, prevent our clients and witnesses from creating disorder or disruption.

**33.3(5)** We will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities in any oral or written communication to the court.

**33.3(6)** We will not write letters to the court in connection with a pending action, unless invited or permitted by the court.

**33.3(7)** Before a date for hearing or trial is set or, if that is not feasible, immediately after such date has been set, we will attempt to verify the availability of necessary participants and witnesses so we can promptly notify the court of any likely problems.

**33.3(8)** We will act and speak civilly to court attendants, clerks, court reporters, secretaries and law clerks with an awareness that they too are an integral part of the judicial system.

[Court Order November 9, 2001, effective February 15, 2002]

**Rule 33.4 Courts' duties to lawyers.**

**33.4(1)** We will be courteous, respectful and civil to lawyers, parties, and witnesses. We will maintain control of the proceedings, recognizing that judges have both the obligation and authority to ensure that all litigation proceedings are conducted in a civil manner.

**33.4(2)** We will not employ hostile, demeaning or humiliating words in opinions or in written or oral communications with lawyers, parties or witnesses.

**33.4(3)** We will be punctual in convening all hearings, meetings and conferences; if delayed, we will notify counsel, if possible.

**33.4(4)** In scheduling all hearings, meetings and conferences we will be considerate of time schedules of lawyers, parties and witnesses.

**33.4(5)** We will make all reasonable efforts to decide promptly all matters presented to us for decision.

**33.4(6)** We will give the issues in controversy deliberate, impartial and studied analysis and consideration.

**33.4(7)** While endeavoring to resolve disputes efficiently, we will be considerate of the time constraints and pressures imposed on lawyers by the exigencies of litigation practice.

**33.4(8)** We recognize that a lawyer has a right and duty to present a cause fully and properly, and that a litigant has a right to a fair and impartial hearing. Within the practical limits of time, we will allow lawyers to present proper arguments and to make a complete and accurate record.

**33.4(9)** We will not impugn the integrity or professionalism of any lawyer on the basis of the clients whom or the causes which a lawyer represents.

**33.4(10)** We will do our best to ensure that court personnel act civilly toward lawyers, parties and witnesses.

**33.4(11)** We will not adopt procedures that needlessly increase litigation expense.

**33.4(12)** We will bring to lawyers' attention uncivil conduct which we observe.

[Court Order November 9, 2001, effective February 15, 2002]

**Rule 33.5 Judges' duties to each other.**

**33.5(1)** We will be courteous, respectful and civil in opinions, ever mindful that a position articulated by another judge is the result of that judge's earnest effort to interpret the law and the facts correctly.

**33.5(2)** In all written and oral communications, we will abstain from disparaging personal remarks or criticisms, or sarcastic or demeaning comments about another judge.

**33.5(3)** We will endeavor to work with other judges in an effort to foster a spirit of cooperation in our mutual goal of enhancing the administration of justice.

[Court Order November 9, 2001, effective February 15, 2002]

# CHAPTER 34
# ADMINISTRATIVE AND GENERAL PROVISIONS OF THE GRIEVANCE COMMISSION AND ATTORNEY DISCIPLINARY BOARD

## GRIEVANCE COMMISSION



## ATTORNEY DISCIPLINARY BOARD



## GENERAL DISCIPLINARY RULES OF GRIEVANCE COMMISSION AND ATTORNEY DISCIPLINARY BOARD



## REINSTATEMENT FROM SUSPENSION



## READMISSION AFTER REVOCATION

# CHAPTER 34
# ADMINISTRATIVE AND GENERAL PROVISIONS OF THE GRIEVANCE COMMISSION AND ATTORNEY DISCIPLINARY BOARD

GRIEVANCE COMMISSION

**Rule 34.1 Iowa Supreme Court Grievance Commission.**

**34.1(1)** There is hereby created the Iowa Supreme Court Grievance Commission (grievance commission) consisting of 25 attorneys from judicial election district 5C, 15 attorneys from judicial election district 5A, 10 attorneys from judicial election district 6, and 5 attorneys from each other judicial election district, to be appointed by the supreme court. The supreme court will designate one attorney as grievance commission chair. The supreme court will accept nominations for appointment to the grievance commission from any association of attorneys that maintains an office within the State of Iowa or any attorney licensed in Iowa. The grievance commission also consists of no fewer than 5 or more than 45 laypersons appointed by the court. Members must serve no more than three three-year terms, and no member who has served three full terms is eligible for reappointment. A member serving as a primary or alternate member of a division of the grievance commission at the time the member's regular term ends must, nonetheless, continue to serve on that division until the division has concluded its duties with respect to the complaint for which the division was appointed.

**34.1(2)** Grievance commission members are referred to as commissioners. The grievance commission or a duly appointed division of the grievance commission must hold hearings and receive evidence concerning alleged violations, wherever such violations occur, of the Iowa Rules of Professional Conduct, the laws of the United States, and the laws of the State of Iowa or any other state or territory within their respective jurisdictions, by attorneys within the jurisdiction of the grievance commission as described in rule 34.10. The grievance commission has such other powers and duties as these rules provide.

**34.1(3)** A grievance commission member must not represent, in any stage of an investigative or disciplinary proceeding, an attorney against whom an ethical complaint is filed. A grievance commission member may represent an attorney in a malpractice, criminal, or other matter; however, the member must decline representation of the attorney in any stage of the investigative or disciplinary proceeding and must not participate in any hearing or other proceeding before the grievance commission. These prohibitions extend to attorneys associated in a firm with a grievance commission member with respect to those cases in which the member participates or has participated as a member of a division or as an alternate.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; September 19, 2022, effective October 1, 2022; December 12, 2023, effective January 1, 2024]

**Rule 34.2 Grievance commission; vice chair duties.** The executive director of the office of professional regulation must designate a clerk and an assistant clerk for the grievance commission. The executive director of the office of professional regulation and the grievance commission chair must designate a vice chair. In the chair's absence or inability to act, the vice chair must perform all duties of the chair.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021; December 12, 2023, effective January 1, 2024]

**Rule 34.3 Substitutions and vacancies on the grievance commission.**

**34.3(1)** In the absence of the grievance commission chair and vice chair or inability of the chair and vice chair to perform any of the duties provided in this chapter, the executive director of the office of professional regulation may designate some other member as acting chair to perform the duties.

**34.3(2)** In the absence or inability of a division president to perform any of the duties provided in this chapter, the chair may designate some other member as acting president to perform the duties. If a vacancy occurs in any division from any cause, the chair, vice chair, or acting chair of the grievance commission must fill the vacancy.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021; December 12, 2023, effective January 1, 2024]

**Rule 34.4 Confidentiality of grievance commission.**

**34.4(1)** All records, papers, proceedings, meetings, and hearings of the grievance commission are confidential unless the grievance commission recommends that the supreme court reprimand the respondent or suspend or revoke the respondent's license.

**34.4(2)** If the grievance commission recommends that the supreme court reprimand the respondent or suspend or revoke the respondent's license, the grievance commission's report of reprimand or recommendation for license suspension or revocation is a public document upon its filing with the supreme court clerk. In addition, if the grievance commission recommends the supreme court reprimand the respondent or suspend or revoke the respondent's license, the complaint filed with the grievance commission by the Iowa Supreme Court Attorney Disciplinary Board is a public document.

**34.4(3)** Any other records and papers of the grievance commission concerning any complaint are privileged and confidential and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the respondent, the attorneys, or the attorneys' agents involved in the proceeding before the grievance commission. The respondent, the attorneys, or the attorneys' agents involved in the proceeding before the grievance commission must not disclose any records and papers of the grievance commission concerning any complaint to any third parties unless disclosure is required in the prosecution or defense of disciplinary charges. The confidential records and papers of the grievance commission concerning any complaint are not admissible in evidence in a judicial or administrative proceeding other than the formal grievance commission hearing under Iowa Court Rule 36.17.

**34.4(4)** Every witness in every proceeding under this chapter must swear or affirm to tell the truth and not to disclose the existence of the proceeding or the identity of the respondent until the proceeding is no longer confidential.

**34.4(5)** All communications, papers, and materials concerning any complaint that may come into the hands of a grievance commission member must remain confidential, and the member must keep them in a safe and secure place.

**34.4(6)** The grievance commission clerk, the chair, or a grievance commission member the chair designates may issue one or more clarifying announcements when the subject matter of a complaint is of broad public interest and failure to supply information on the status and nature of the formal proceedings could threaten public confidence in the administration of justice. No other grievance commission member may make any public statement concerning any matter before the grievance commission without prior approval of the grievance commission.

**34.4(7)** Nothing in this chapter prohibits the grievance commission from releasing any information regarding possible criminal violations to appropriate law enforcement authorities, wherever located, or to attorney disciplinary and bar admission authorities in other jurisdictions, or from releasing any information regarding possible violations of the Iowa Code of Judicial Conduct to the Commission on Judicial Qualifications.

**34.4(8)** For purposes of this rule, a grievance commission recommendation that a respondent not licensed to practice law in Iowa be publicly censured or reprimanded or be ordered, enjoined, or otherwise directed not to practice law in Iowa for any period of time is deemed the equivalent of a recommendation to reprimand, suspend, or revoke.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; December 12, 2023, effective January 1, 2024]

**Rule 34.5 Retention of grievance commission records.**

**34.5(1)** The grievance commission must permanently retain the complaint, answer, amendments to the complaint and answer, and the grievance commission recommendation for discipline or other disposition for each grievance case. Grievance commission files and records relating to a grievance complaint otherwise may be destroyed after the death of the respondent. For purposes of this rule, destruction of paper records after the records have been transferred to computer storage is permitted immediately after the transfer.

**34.5(2)** Notwithstanding any required destruction of documents, the grievance commission will permanently maintain a summary of all grievance matters containing the name of the respondent attorney, the disposition, and the respective dates on which the matter was opened and closed.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; December 12, 2023, effective January 1, 2024]

ATTORNEY DISCIPLINARY BOARD

**Rule 34.6 Iowa Supreme Court Attorney Disciplinary Board.**

**34.6(1)** There is hereby created the Iowa Supreme Court Attorney Disciplinary Board (disciplinary board). The disciplinary board consists of nine attorney members and three laypersons appointed by the supreme court. The supreme court will designate one of the attorneys as chair. The disciplinary board may appoint a vice chair who must perform all duties of the chair in the chair's absence or inability to act. The supreme court will accept nominations for appointment to the disciplinary board from any association of attorneys that maintains an office within the State of Iowa or any attorney licensed in Iowa. Members may serve no more than two three-year terms, and no member who has served two full terms is eligible for reappointment. Disciplinary board members are appointed commissioners of the supreme court to initiate or receive and process complaints against attorneys within the jurisdiction of the disciplinary board as described in rule 34.10. Upon completion of any investigation, the board must either dismiss the complaint, admonish or reprimand the attorney, or file and prosecute the complaint before the grievance commission or any grievance commission division. The disciplinary board may additionally refer complaints involving attorneys who are not authorized to practice law in Iowa to the commission on the unauthorized practice of law.

**34.6(2)** A disciplinary board member must not represent, in any stage of an investigative or disciplinary proceeding, an attorney against whom an ethical complaint is filed. To avoid even the appearance of impropriety, a disciplinary board member should not represent an attorney in any malpractice, criminal, or other matter when it appears that the filing of an ethical complaint against that attorney is reasonably likely. These prohibitions extend to attorneys associated in a firm with a disciplinary board member.

**34.6(3)** The director of attorney discipline of the office of professional regulation is the principal executive officer of the board. A reference in this chapter to the "director" refers to the director of attorney discipline of the office of professional regulation. The director is responsible to the disciplinary board, to the director of the office of professional regulation, and to the supreme court for proper administration of these rules. Subject to the approval of the supreme court, the disciplinary board may employ such other persons as it deems necessary for the proper administration of this chapter. The director and other disciplinary board employees will receive such compensation and expenses as the supreme court may fix upon recommendation of the director of the office of professional regulation.

**34.6(4)** The executive director of the office of professional regulation must, at least 60 days prior to the start of each fiscal year or on a date otherwise specified by the supreme court, submit to the supreme court for its consideration and approval a budget covering the operations of the disciplinary board for the upcoming fiscal year. This budget must include proposed expenditures for staff, support staff, office space, equipment, supplies, and other items necessary to administer the responsibilities of the disciplinary board as set out in this chapter. Supreme court approval of the budget authorizes payment as provided in the budget. A separate bank account designated as the ethics operating account of the disciplinary fund must be maintained for payment of authorized expenditures as provided in the approved budget. Funds derived from the annual disciplinary fee set out in Iowa Court Rule 39.5 must be deposited in the ethics operating account to the extent the supreme court authorizes each year for payment of the disciplinary board's authorized expenditures.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021; December 12, 2023, effective January 1, 2024]

**Rule 34.7 Disciplinary board advisory opinions prohibited.** The disciplinary board must not render advisory opinions, either orally or in writing.

[Court Order January 26, 2016, effective April 1, 2016; December 12, 2023, effective January 1, 2024]

**Rule 34.8 Retention of disciplinary board records.**

**34.8(1)** The disciplinary board must maintain files and records relating to allegations of misconduct by an attorney until destruction is authorized pursuant to the following schedule:

*a.* Files and records relating to potential complaints the director declines to open pursuant to Iowa Court Rule 35.4(1) may be destroyed one year from the date of the last action on the file.

*b.* Files and records relating to complaints the disciplinary board dismisses may be destroyed five years from the date of the last action on the file.

*c.* All other files and records relating to allegations of respondent misconduct may be destroyed after death of the respondent.

*d.* For purposes of this rule, destruction of paper files is permitted immediately after the files have been transferred to computer storage.

**34.8(2)** Notwithstanding any required destruction of documents, the disciplinary board must permanently maintain a summary of all complaint matters containing the name of the complainant and the respondent, the disposition of the complaint, and the respective dates on which the complaint was opened and closed.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021; December 12, 2023, effective January 1, 2024]

## GENERAL DISCIPLINARY RULES OF GRIEVANCE COMMISSION AND ATTORNEY DISCIPLINARY BOARD

**Rule 34.9 Effective dates.** The rules in chapters 34, 35, and 36 of the Iowa Court Rules apply prospectively and retrospectively to all alleged violations, complaints, hearings, and dispositions on which a hearing has not actually commenced before the grievance commission prior to April 1, 2016.

[Court Order January 26, 2016, effective April 1, 2016; December 12, 2023, effective January 1, 2024]

**Rule 34.10 Jurisdiction.**

**34.10(1)** *Attorneys admitted to practice.* An attorney admitted to practice law in the State of Iowa, including any formerly admitted attorney with respect to acts committed prior to suspension, disbarment, retirement, or transfer to inactive status or with respect to subsequent acts that amount to the practice of law or constitute a violation of the rules of this chapter or of the Iowa Rules of Professional Conduct or of any rules or code the supreme court subsequently adopts in lieu thereof, an attorney an Iowa court specially admits for a particular proceeding, and an attorney not admitted in Iowa who practices law or renders or offers to render any legal services in Iowa is subject to the disciplinary jurisdiction of the Iowa Supreme Court, the disciplinary board, and the grievance commission.

**34.10(2)** *Former judges.* A former judge who has resumed the status of an attorney is subject to the jurisdiction of the disciplinary board and the grievance commission not only for conduct as an attorney but also for misconduct that occurred while the attorney was a judge and that would have been grounds for discipline under the rules of professional conduct for attorneys, provided that the misconduct was not the subject of a judicial disciplinary proceeding as to which the Iowa Supreme Court has reached a final determination.

**34.10(3)** *Incumbent judges.* Incumbent judges are not subject to the jurisdiction of the disciplinary board or the grievance commission. However, if an incumbent judge is to be removed from office in the course of a judicial discipline or disability proceeding, the supreme court will first provide the disciplinary board and the respondent an opportunity to submit a recommendation regarding whether attorney discipline should be imposed, and if so, the extent of the discipline.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; December 12, 2023, effective January 1, 2024]

**Rule 34.11** Reserved.

**Rule 34.12 Immunity.**

**34.12(1)** Complaints submitted to the grievance commission or the disciplinary board and testimony regarding the complaints are privileged, and no lawsuit may be based on the complaints or testimony.

**34.12(2)** Claims against members of the grievance commission, the disciplinary board, the executive director, directors, or the staff of the office of professional regulation are subject to the Iowa Tort Claims Act set forth in Iowa Code chapter 669.

**34.12(3)** On application from the disciplinary board or the grievance commission and notice to the appropriate prosecuting authority, the supreme court may grant immunity from criminal prosecution to a witness in a disciplinary or disability proceeding.

[Court Order January 26, 2016, effective April 1, 2016; September 14, 2021, effective October 1, 2021; December 12, 2023, effective January 1, 2024]

**Rule 34.13 Reports.** The chair of the grievance commission and the chair of the disciplinary board must, on or before March 1 of each year, submit to the supreme court a consolidated report of the number of complaints received and processed during the prior calendar year, a synopsis of each complaint, and the disposition of the complaint. The name of the attorney charged and the name of the complainant must be omitted.

[Court Order January 26, 2016, effective April 1, 2016; July 24, 2019, effective August 1, 2019; December 12, 2023, effective January 1, 2024]

**Rule 34.14 Interim suspension for threat of harm.**

**34.14(1)** Upon receipt of evidence demonstrating probable cause that an attorney subject to the disciplinary jurisdiction of the supreme court has committed a violation of the Iowa Rules of Professional Conduct that poses a substantial threat of serious harm to the public, the disciplinary board must do the following:

*a.* Transmit the evidence to the supreme court with a verified petition for interim suspension pending formal disciplinary proceedings. The petition must state with particularity the disciplinary rules the attorney is alleged to have violated and the exact nature of the threat of serious harm to the public.

*b.* Promptly notify the attorney by any reasonable means that a petition has been filed and provide service of the petition.

**34.14(2)** Upon receipt of the petition and evidence, the supreme court will determine whether the disciplinary board has established by a convincing preponderance of the evidence that a disciplinary violation posing a substantial threat of serious harm to the public exists. If a disciplinary violation is established, the supreme court may enter an order immediately suspending the attorney pending final disposition of a disciplinary proceeding based on the conduct, or the court may order such other action as it deems appropriate. The order may provide that any further proceedings based on the attorney's conduct be expedited. If the supreme court enters a suspension order, the court may direct the chief judge of the judicial district in which the attorney practiced to appoint a trustee under rule 34.18.

**34.14(3)** An attorney suspended pursuant to this rule may file a petition to dissolve or modify the interim suspension order. The attorney must serve the petition on the disciplinary board's counsel and the chief judge of the judicial district in which the attorney practiced. The supreme court will promptly schedule the matter for hearing before one or more justices. The hearing must be set for a date no sooner than seven days after the petition is filed unless both parties and the court agree to an earlier date. At the hearing, the attorney has the burden of demonstrating that the suspension order should be dissolved or modified.

[Court Order January 26, 2016, effective April 1, 2016; December 12, 2023, effective January 1, 2024]

**Rule 34.15 Suspension on conviction of a crime.**

**34.15(1)** Upon the supreme court's receipt of satisfactory evidence that an attorney has pled guilty or nolo contendere to, or has been convicted of, a crime that would be grounds for license suspension or revocation, the court may temporarily suspend the attorney from the practice of law regardless of the pendency of an appeal. Not fewer than 20 days prior to the effective date of the suspension, the attorney must be notified in writing, directed by restricted certified mail to the attorney's last address as shown by the records accessible to the supreme court, that the attorney has a right to appear before one or more justices of the supreme court at a specified time and at a designated place to show cause why such suspension should not take place. Any hearing will be informal and the strict rules of evidence will not apply. The court's decision may simply state the conclusion and decision of the participating justice or justices and may be orally delivered to the attorney at the close of the hearing or sent to the attorney in written form at a later time.

**34.15(2)** An attorney suspended pursuant to this rule must refrain during the suspension from all facets of ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; acting as a fiduciary; and when possible, advertising of the attorney's services or holding out to the public that he or she is a licensed attorney. The suspended attorney may, however, act as a fiduciary for an estate, conservatorship, or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

**34.15(3)** For good cause shown, the supreme court may set aside an order temporarily suspending an attorney from the practice of law as provided above upon the attorney's application and a hearing in

accordance with rule 34.24 or 34.25, but such reinstatement does not terminate a pending disciplinary proceeding or bar later proceedings against the attorney.

**34.15(4)** An attorney temporarily suspended under the provisions of this rule must be promptly reinstated upon the filing of sufficient evidence disclosing that the underlying conviction of a crime has been finally reversed or set aside, but such reinstatement does not terminate a pending disciplinary proceeding or bar later proceedings against the attorney.

**34.15(5)** The clerk of any court in this state in which an attorney has pled guilty or nolo contendere to or been convicted of a crime must, within ten days, transmit a certified record of the proceedings to the disciplinary board.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; December 12, 2023, effective January 1, 2024]

**Rule 34.16 Suspension or revocation on consent.**

**34.16(1)** An attorney subject to investigation by the disciplinary board or the Iowa Supreme Court Client Security Commission (client security commission) or subject to a pending grievance proceeding involving allegations of misconduct subject to disciplinary action may acquiesce to suspension or revocation but only by filing with the grievance commission an affidavit stating that the attorney consents to suspension of not more than a specific duration or to revocation. If a grievance proceeding is already scheduled for hearing, any such affidavit must be filed at least 15 days before the scheduled hearing date unless the 15-day limit is waived by the panel president. All affidavits filed under this rule must indicate the following:

*a.* The consent is freely and voluntarily given without any coercion or duress and with full recognition of all implications of the consent.

*b.* The attorney is aware of a pending investigation or proceeding involving allegations that there exist grounds for discipline, the nature of which will be specifically set forth.

*c.* The attorney acknowledges the material facts of the alleged misconduct are true.

*d.* In the event proceedings were instituted upon the matters under investigation, or if existing proceedings were pursued, the attorney could not successfully defend against the allegations.

*e.* The facts admitted in the affidavit would likely result in the suspension or revocation of the attorney's license to practice law.

*f.* Any matters in mitigation or aggravation of the alleged misconduct.

*g.* Consent to any alternative or additional sanctions as provided in Iowa Court Rule 36.19.

**34.16(2)** The disciplinary board or client security commission must file a response to the affidavit, indicating whether it believes the misconduct admitted in the affidavit would likely result in suspension or revocation of the attorney's license to practice law and citing any legal authorities supporting its conclusion.

**34.16(3)** Upon receipt of the affidavit and response, the grievance commission must file the affidavit and response with the supreme court clerk and file a copy with the client security commission. The supreme court may enter an order suspending the attorney's license to practice law for a period no greater than the stipulated duration or disbarring the attorney on consent, unless the court determines the misconduct admitted in the affidavit is insufficient to support the discipline to which the attorney has consented. The supreme court may also order any of the alternative or additional sanctions to which the respondent has consented. If the supreme court determines the affidavit does not set forth facts that support imposition of the discipline to which the attorney has consented, it may either enter an order allowing the parties to supplement the affidavit or an order declining to accept the affidavit. An order declining to accept the affidavit does not bar further disciplinary proceedings against the attorney, and does not preclude the supreme court from imposing any sanction the attorney's conduct warrants upon review of a grievance commission determination.

**34.16(4)** Any order suspending or disbarring an attorney on consent is a matter of public record. If the supreme court enters an order of suspension or disbarment, the affidavit and response will be public.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; December 16, 2019, effective January 1, 2020; September 14, 2021, effective October 1, 2021; December 12, 2023, effective January 1, 2024]

**Rule 34.17 Disability suspension.**

**34.17(1)** *Certification of adjudication or commitment.* In the event an attorney is at any time in any jurisdiction duly adjudicated a mentally incapacitated person, or a person with a substance

use disorder, or is committed to an institution or hospital for treatment thereof, the clerk of any court in Iowa in which the adjudication or commitment is entered must, within ten days, certify the adjudication or commitment to the disciplinary board.

**34.17(2)** *Suspension procedure.* Upon the disciplinary board's determination that an attorney is not discharging professional responsibilities due to disability, incapacity, abandonment of practice, or disappearance, the supreme court may enter an order suspending the attorney's license to practice law in this state until further order of the court. Not fewer than 20 days prior to the effective date of the suspension, the attorney or the attorney's guardian, and the director of the institution or hospital to which the attorney is committed, if any, must be notified in writing, directed by restricted certified mail to the attorney's last address as shown in the records accessible to the supreme court, that the attorney has a right to appear before one or more justices of the supreme court at a specified time and place and show cause why such suspension should not take place. Upon a showing of exigent circumstances, emergency, or other compelling cause, the supreme court may reduce or waive the 20-day period and the effective date of action set forth above. The supreme court may take judicial notice of any relevant proceedings. Any hearing will be informal and the strict rules of evidence will not apply. The supreme court may hold the hearings remotely or by telephone. The court's decision may simply state the conclusion and decision of the participating justice or justices and may be orally delivered to the attorney at the close of the hearing or sent to the attorney in written form at a later time. A copy of the order must be given to the suspended attorney or to the attorney's guardian and to the director of the institution or hospital to which the suspended attorney has been committed, if any, by restricted mail or personal service as the supreme court may direct.

**34.17(3)** *Judicial officer retirement for disability.* Upon the voluntary retirement of an Iowa judicial officer for disability under Iowa Code section 602.9112, or upon the involuntary retirement of an Iowa judicial officer for disability under Iowa Code section 602.2106(3)(a), the supreme court may enter an order suspending the retired judicial officer's license to practice law in this state in the event the underlying disability prevents the discharge of an attorney's professional responsibilities. The suspension is effective until further order of the supreme court. A copy of the suspension order must be given to the suspended attorney or to the attorney's guardian and to the director of the institution or hospital to which the suspended attorney is committed, if any, by restricted mail or personal service as the supreme court may direct.

**34.17(4)** *Prohibition on practice of law.* An attorney suspended pursuant to rule 34.17 must refrain, during the suspension, from all facets of ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; acting as a fiduciary; and when possible, advertising of the attorney's services or holding out to the public that he or she is a licensed attorney. The suspended attorney may, however, act as a fiduciary for an estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

**34.17(5)** *Supreme court order.* No attorney suspended due to disability under rule 34.17 may engage in the practice of law in this state until reinstated by supreme court order.

**34.17(6)** *Appointment of trustee.*

*a.* Upon being notified of the suspension of an attorney, the chief judge in the judicial district in which the attorney practiced may appoint the client security commission, an attorney, or attorneys to serve as trustee to inventory the attorney's files, sequester client funds, and take any other appropriate action to protect the interests of the attorney's clients and other affected persons. In appointing a trustee, the chief judge will give due regard to any designation or standby nomination made under the provisions of Iowa Court Rule 39.18 and to the recommendation of the office of professional regulation. Any trustee appointment other than the client security commission itself is subject to supreme court confirmation. The appointed attorney serves as a special member of the client security commission for the purposes of the appointment.

*b.* While acting as trustee, the trustee must not serve as an attorney for the clients of the suspended attorney or other affected persons. The trustee also must not examine any papers or acquire any information concerning real or potential conflicts with the trustee's clients. Should any such information be acquired inadvertently, the trustee must, as to such matters, protect the privacy interests of the suspended attorney's clients by prompt recusal or refusal of employment.

*c.* The trustee may seek reasonable fees and reimbursement of costs of the trust from the suspended attorney. If reasonable efforts to collect such fees and costs are unsuccessful, the trustee may submit

a claim for payment from the Clients' Security Trust Fund of the Bar of Iowa. The client security commission, in the exercise of its sole discretion, will determine the merits of the claim and the amount of any payment from the fund.

*d.* When the suspended attorney is reinstated to practice law in this state, all pending representation of clients is completed, or the purposes of the trust are accomplished, the trustee must apply to the appointing chief judge for an order terminating the trust. Upon termination of the trusteeship or upon request of the client security commission, any undistributed client files may be ordered immediately destroyed.

*e.* Trustee fees and expenses paid by the client security commission must be assessed to the suspended attorney by the client security commission and are due upon assessment. Trustee fees and expenses assessed under this rule must be paid as a condition of reinstatement and may be collected by the client security commission as part of the annual statement and assessment required by rule 39.8.

**34.17(7)** *Application for reinstatement to active status.* Any suspended attorney is entitled to apply for reinstatement to active status once each year or upon the expiration of such shorter intervals as the supreme court may provide. The supreme court may reinstate an attorney suspended due to disability upon a showing by clear and convincing evidence that the attorney's disability has been removed and the attorney is fully qualified to resume the practice of law. Upon the attorney's filing of an application for reinstatement from disability suspension, the supreme court may take or direct any action deemed necessary or proper to determine whether the suspended attorney's disability has been removed, including an examination of the attorney by qualified medical experts as the supreme court may designate. In its discretion the supreme court may direct that the attorney pay the expenses of the examination.

**34.17(8)** *Waiver of doctor-patient privilege.* The filing of an application for reinstatement to active status by an attorney suspended due to disability constitutes a waiver of the doctor-patient privilege regarding any treatment of the attorney during the period of the disability. The attorney must also set forth in the application for reinstatement from disability suspension the name of every psychiatrist, psychologist, physician, hospital, or any other institution by whom or in which the attorney has been examined or treated since the disability suspension. The attorney must also furnish to the supreme court written consent that the psychiatrist, psychologist, physician, hospital, or other institution may divulge any information and records the supreme court or any court-appointed medical expert requests.

**34.17(9)** *Supreme court reinstatement.* When an attorney has been suspended due to disability and thereafter the attorney is judicially held to be competent or cured, the supreme court may dispense with further evidence regarding removal of the disability and may order reinstatement to active status upon such terms as the court deems reasonable.

[Court Order January 26, 2016, effective April 1, 2016; November 18, 2016, effective December 25, 2017; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; September 14, 2021, effective October 1, 2021; July 11, 2023; December 12, 2023, effective January 1, 2024; January 26, 2024]

**Rule 34.18 Death, suspension, or disbarment of practicing attorney.**

**34.18(1)** Upon a client security commission determination or disciplinary board showing that a practicing attorney has died or has been suspended or disbarred from the practice of law and that a reasonable necessity exists, the chief judge in the judicial district in which the attorney practiced may appoint an attorney or the client security commission to serve as trustee to inventory the attorney's files, sequester client funds, and take any other appropriate action to protect the interests of the attorney's clients and other affected persons. In appointing a trustee, the chief judge will give due regard to any designation or standby nomination made under the provisions of rule 39.18 and the recommendation of the office of professional regulation. Trusteeships are specially assigned to the appointing chief judge, who will hear and rule upon all matters therein. The appointment of an attorney as trustee is subject to supreme court confirmation. The appointed attorney serves as a special member of the client security commission for the purposes of the appointment.

**34.18(2)** While acting as trustee, the trustee must not serve as an attorney for the clients of the disabled attorney or other affected persons. The trustee also must not examine any papers or acquire any information concerning real or potential conflicts with the trustee's clients. If the trustee acquires such information inadvertently, the trustee must, as to such matters, protect the privacy interests of the suspended attorney's clients by prompt recusal or refusal of employment.

**34.18(3)** A trustee who seeks compensation for services rendered must first seek reasonable fees and reimbursement of costs of the trust from the deceased attorney's estate or the attorney whose license to practice law has been suspended or revoked. If reasonable efforts to collect such fees and costs are unsuccessful, the trustee may submit a claim for payment from the Clients' Security Trust Fund of the Bar of Iowa. The client security commission, in the exercise of its sole discretion, must determine the merits of the claim and the amount of any payment from the fund.

**34.18(4)** When all pending representation of clients is completed or the purposes of the trust are accomplished, the trustee must apply to the appointing chief judge for an order terminating the trust. Upon termination of the trusteeship or upon request of the client security commission, any undistributed client files may be ordered immediately destroyed.

**34.18(5)** Trustee fees and expenses paid by the client security commission must be assessed to the deceased, suspended, relinquished, or disbarred attorney by the client security commission and are due upon assessment. Trustee fees and expenses assessed under this rule must be paid as a condition of reinstatement and may be collected by the client security commission as part of the annual statement and assessment required by Iowa Court Rule 39.8.

[Court Order January 26, 2016, effective April 1, 2016; November 18, 2016, effective December 25, 2017; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; July 24, 2019, effective August 1, 2019; October 24, 2019, effective January 1, 2020; December 16, 2019, effective January 1, 2020; September 14, 2021, effective October 1, 2021; December 12, 2023, effective January 1, 2024]

**Rule 34.19 Reciprocal discipline.**

**34.19(1)** An attorney admitted to practice in this state, upon being subjected to professional disciplinary action in another jurisdiction or in any federal court, must promptly advise the disciplinary board in writing of such action. Upon being informed that an attorney admitted to practice in this state has been the subject of professional discipline in another jurisdiction or any federal court, the disciplinary board must obtain a certified copy of such disciplinary order and file it in the office of the supreme court clerk.

**34.19(2)** Upon receipt of a certified copy of an order disclosing that an attorney admitted to practice in this state has been disciplined in another jurisdiction or any federal court, the supreme court will promptly give notice of the discipline by restricted certified mail or personal service directed to the attorney containing: a copy of the disciplinary order from the other jurisdiction or federal court and an order directing that the disciplined attorney file in the supreme court, within 30 days after receipt of the notice, any objection that imposition of identical discipline in this state would be too severe or otherwise unwarranted, giving specific reasons. A like notice will be sent, by ordinary mail, to the disciplinary board, which has the right to object on the ground that the imposition of identical discipline in this state would be too lenient or otherwise unwarranted. If either party objects to imposition of identical discipline, the matter will be set for hearing before three or more justices of the supreme court, and the parties will be notified by restricted certified mail at least ten days prior to the date set. At the hearing, a certified copy of the testimony, transcripts, exhibits, affidavits, and other matters introduced into evidence in the other jurisdiction or federal court must be admitted into evidence as well as any findings of fact, conclusions of law, decisions, and orders. Any such findings of fact are conclusive and not subject to readjudication. The supreme court may enter such findings, conclusions, and orders that it deems appropriate.

**34.19(3)** If neither party objects within 30 days from service of the notice, the supreme court may impose the identical discipline, unless the court finds that on the face of the record upon which the discipline is based it clearly appears that any of the following are true:

*a.* The disciplinary procedure was so lacking in notice and opportunity to be heard as to constitute a deprivation of due process.

*b.* There was such infirmity of proof establishing misconduct as to give rise to the clear conviction that the supreme court could not, conscientiously, accept as final the conclusion on that subject.

*c.* The misconduct established warrants substantially different discipline in this state.

**34.19(4)** If the supreme court determines that any such factors exist, it may enter an appropriate order. Rules 34.24 and 34.25 apply to any subsequent reinstatement or reduction or stay of discipline.

[Court Order January 26, 2016, effective April 1, 2016; December 12, 2023, effective January 1, 2024]

**Rule 34.20 Administrative suspension of attorney's license for failure to comply with a child support order.** An attorney who fails to comply with a child support order may be subject to administrative suspension of the attorney's license to practice law in Iowa.

**34.20(1)** *Procedure.* Any certificate of noncompliance with a child support order that involves an attorney must be filed by Child Support Services (CSS) with the office of professional regulation at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the office of professional regulation of the supreme court must issue a notice to the attorney. The notice will be sent to the attorney's address on file with the office of professional regulation. The following rules apply and must be recited in the notice:

*a.* The attorney's license to practice law will be suspended unless the attorney causes CSS to file a withdrawal of certificate of noncompliance within 30 days of the date of issuance of the notice.

*b.* The attorney may challenge CSS's issuance of the certificate of noncompliance under this rule only by filing an application for hearing with the district court in the county in which the underlying child support order is filed.

*c.* The attorney must file the application for hearing with the district court clerk within 30 days of the date of issuance of the notice and must provide copies of the application to CSS and the office of professional regulation by regular mail.

*d.* Filing of the application automatically stays the supreme court's suspension based on the certificate of noncompliance.

*e.* The provisions of this rule prevail over those of any other statute or rule to the extent they may conflict.

**34.20(2)** *District court hearing.*

*a.* Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. The district court clerk must mail copies of the order setting hearing to the attorney, CSS, and the office of professional regulation.

*b.* Prior to the hearing, the district court must receive a certified copy of CSS's written decision and certificate of noncompliance from CSS and a certified copy of the notice from the office of professional regulation.

*c.* If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance will be lifted.

*d.* The district court's scope of review is limited to determining if there has been a mistake of fact relating to the attorney's child support delinquency. The court will not consider visitation or custody issues and will not modify the child support order.

*e.* If the district court concludes CSS erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of certificate of noncompliance, the district court will order CSS to file a withdrawal of certificate of noncompliance with the office of professional regulation.

**34.20(3)** *Noncompliance certificate withdrawn.* If CSS files a withdrawal of certificate of noncompliance, the supreme court will curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, will reinstate the attorney's license to practice law if the attorney is otherwise eligible under supreme court rules and has paid a $200 reinstatement fee.

**34.20(4)** *Sharing information.* Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the office of professional regulation is authorized to share information with CSS for the sole purpose of allowing CSS to identify attorneys subject to enforcement under Iowa Code chapter 252J or 598.

**34.20(5)** *Denial of reinstatement for failure to comply with a child support order.* An attorney who fails to comply with a child support order may be denied reinstatement of the attorney's license to practice law in Iowa.

*a. Procedure.* CSS may file with the office of professional regulation any certificate of noncompliance that involves an attorney. Rule 34.20(1) governs the procedure, including notice to the attorney, except that the notice must refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.

*b. District court hearing.* Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. Rule 34.20(2) governs all matters pertaining to the hearing.

*c. Noncompliance certificate withdrawn.* If a withdrawal of certificate of noncompliance is filed, the supreme court will curtail any proceedings pursuant to the certificate of noncompliance or, if

necessary, will immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.

*d. Sharing information.* Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the supreme court clerk and the office of professional regulation are authorized to share information with CSS for the sole purpose of allowing CSS to identify licensees subject to enforcement under Iowa Code chapter 252J or 598.

[Court Order January 26, 2016, effective April 1, 2016; July 24, 2019, effective August 1, 2019; September 14, 2021, effective October 1, 2021; June 30, 2023, effective July 1, 2023; December 12, 2023, effective January 1, 2024]

**Rule 34.21 Administrative suspension of attorney's license for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission.** An attorney who defaults on an obligation owed to or collected by the Iowa College Student Aid Commission (aid commission) may be subject to administrative suspension of the attorney's license to practice law in Iowa.

**34.21(1)** *Procedure.* The aid commission must file any certificate of noncompliance that involves an attorney with the office of professional regulation at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the office of professional regulation must issue a notice to the attorney. The notice will be sent to the attorney's address on file with the office of professional regulation. The following rules apply and must be recited in the notice:

*a.* The attorney's license to practice law will be suspended unless the attorney causes the aid commission to file a withdrawal of certificate of noncompliance within 30 days of the date of issuance of the notice.

*b.* The attorney must contact the aid commission to schedule a conference or to otherwise obtain a withdrawal of the certificate of noncompliance.

*c.* The attorney may challenge the aid commission's issuance of the certificate of noncompliance under this rule only by filing an application for hearing with the district court in the attorney's county of residence.

*d.* The attorney must file the application for hearing with the district court clerk within 30 days of the date of issuance of the notice must provide copies of the application to the aid commission and the office of professional regulation by regular mail.

*e.* Filing of the application automatically stays the supreme court's suspension based on the certificate of noncompliance.

*f.* The provisions of this rule prevail over those of any other statute or rule to the extent they may conflict.

**34.21(2)** *District court hearing.*

*a.* Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. The district court clerk must mail copies of the order setting hearing to the attorney, the aid commission, and the office of professional regulation.

*b.* Prior to the hearing, the district court must receive a certified copy of the aid commission's written decision, a certificate of noncompliance from the commission, and a certified copy of the notice from the office of professional regulation.

*c.* If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance will be lifted.

*d.* The district court's scope of review is limited to determining if there has been a mistake of fact relating to the attorney's delinquency.

*e.* If the district court concludes the aid commission erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of the certificate of noncompliance, the court will order the aid commission to file a withdrawal of the certificate of noncompliance with the office of professional regulation.

**34.21(3)** *Noncompliance certificate withdrawn.* If the aid commission files a withdrawal of certificate of noncompliance, the supreme court will halt any proceedings pursuant to the certificate of noncompliance or, if necessary, will reinstate the attorney's license to practice law if the attorney is otherwise eligible under supreme court rules and has paid a $100 reinstatement fee.

**34.21(4)** *Sharing information.* Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the supreme court clerk and the office of professional regulation are authorized to share information with the aid commission for the sole purpose of

allowing the aid commission to identify attorneys subject to enforcement under Iowa Code chapter 261.

**34.21(5)** *Denial of reinstatement for default on student loan obligation.* An attorney who defaults on an obligation owed to or collected by the Iowa College Student Aid Commission (aid commission) may be denied reinstatement of the attorney's license to practice law in Iowa.

*a. Procedure.* The aid commission may file with the office of professional regulation any certificate of noncompliance that involves an attorney. Rule 34.21(1) governs the procedure, including notice to the attorney, except that the notice must refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.

*b. District court hearing.* Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. Rule 34.21(2) governs all matters pertaining to the hearing.

*c. Noncompliance certificate withdrawn.* If a withdrawal of certificate of noncompliance is filed, the supreme court will halt any proceedings pursuant to the certificate of noncompliance or, if necessary, will immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.

*d. Sharing information.* Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the supreme court clerk and the office of professional regulation are authorized to share information with the aid commission for the sole purpose of allowing the aid commission to identify attorneys subject to enforcement under Iowa Code chapter 261.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 24, 2019, effective August 1, 2019; September 14, 2021, effective October 1, 2021; December 12, 2023, effective January 1, 2024]

**Rule 34.22 Administrative suspension of attorney's license for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue.** An attorney who defaults on an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue (CCU) may be subject to administrative suspension of the attorney's license to practice law in Iowa.

**34.22(1)** *Procedure.* The CCU must file any certificate of noncompliance that involves an attorney with the office of professional regulation at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the office of professional regulation must issue a notice to the attorney. The notice will be sent to the attorney's address on file with the office of professional regulation. The following rules apply and must be recited in the notice:

*a.* The attorney's license to practice law will be suspended unless the attorney causes the CCU to file a withdrawal of the certificate of noncompliance within 30 days of the date of issuance of the notice.

*b.* The attorney must contact the CCU to schedule a conference or to otherwise obtain a withdrawal of the certificate of noncompliance.

*c.* The attorney may challenge the CCU's issuance of the certificate of noncompliance under this rule only by filing an application for hearing with the district court in the county where the majority of the liability was incurred.

*d.* The attorney must file the application for hearing with the clerk of the district court within 30 days of the date of issuance of the notice and must provide copies of the application to the CCU and the office of professional regulation by regular mail.

*e.* Filing of the application automatically stays the supreme court's suspension based on the certificate of noncompliance.

*f.* The provisions of this rule prevail over those of any other statute or rule to the extent they may conflict.

**34.22(2)** *District court hearing.*

*a.* Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. The district court clerk must mail copies of the order setting hearing to the attorney, the CCU, and the office of professional regulation.

*b.* Prior to the hearing, the district court must receive a certified copy of the CCU's written decision and certificate of noncompliance from the CCU and a certified copy of the notice from the office of professional regulation.

*c.* If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance will be lifted.

*d.* The district court's scope of review is limited to demonstration of the amount of the liability owed or the identity of the person.

*e.* If the district court concludes the CCU erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of the certificate of noncompliance, the court will order the CCU to file a withdrawal of the certificate of noncompliance with the office of professional regulation.

**34.22(3)** *Noncompliance certificate withdrawn.* If a withdrawal of the certificate of noncompliance is filed, the supreme court will halt any proceedings pursuant to the certificate of noncompliance or, if necessary, will reinstate the attorney's license to practice law if the attorney is otherwise eligible under supreme court rules and has paid a $100 reinstatement fee.

**34.22(4)** *Sharing information.* Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the office of professional regulation is authorized to share information with the CCU for the sole purpose of allowing the CCU to identify attorneys subject to enforcement under Iowa Code chapter 272D.

**34.22(5)** *Denial of reinstatement for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue.* An attorney who defaults on an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue (CCU) may be denied reinstatement of the attorney's license to practice law in Iowa.

*a. Procedure.* The CCU may file with the office of professional regulation any certificate of noncompliance that involves an attorney. Rule 34.22(1) governs the procedure, including notice to the attorney, except that the notice must refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.

*b. District court hearing.* Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. Rule 34.22(2) governs all matters pertaining to the hearing.

*c. Noncompliance certificate withdrawn.* If a withdrawal of a certificate of noncompliance is filed, the supreme court will halt any proceedings pursuant to the certificate of noncompliance or, if necessary, will immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.

*d. Sharing information.* Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the supreme court clerk and the office of professional regulation are authorized to share information with the aid commission for the sole purpose of allowing the aid commission to identify attorneys subject to enforcement under Iowa Code chapter 261.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 24, 2019, effective August 1, 2019; September 14, 2021, effective October 1, 2021; December 12, 2023, effective January 1, 2024]

**Rule 34.23 Suspension and revocation generally.**

**34.23(1)** *Timing of suspension.* When the supreme court suspends an attorney's license to practice law, the suspension continues for the minimum time specified in such order and until the supreme court approves the attorney's written application for reinstatement, if such application is required. If the suspension is pursuant to rule 36.21, the suspension period will start ten days from the date of the suspension order unless the supreme court orders otherwise. The suspension period for all other suspensions begins on the same day as the suspension order unless the supreme court orders otherwise.

**34.23(2)** *Post-suspension requirements.* An attorney who is ordered to be suspended must do the following within ten days of the filing date of the suspension order as conditions for reinstatement to practice:

*a.* File a notice of license suspension in each pending or active matter in every court, agency, or tribunal where the attorney is listed as counsel of record. The notice of license suspension must include the date of the start of the term of suspension, the ordered duration of suspension, and a statement that the attorney cannot represent the client until the supreme court issues an order reinstating the attorney's license.

*b.* Send each of the attorney's active clients written notice of the following:

(1) The attorney's license is suspended and the attorney cannot provide legal advice or representation to the client until the supreme court has reinstated the attorney's license.

(2) The client should seek legal advice and representation elsewhere, calling attention to the client's need for any urgency in seeking representation from another attorney.

(3) The client has the right to retrieve the client's file, papers, and any other client property in the attorney's possession.

(4) The client has a right to a refund of fees paid in advance that have not been earned and stating the amount of the client's unearned fees.

*c.* Send the client security commission a copy of the attorney's or firm's balanced monthly triple reconciliation for the prior month for each trust account in which client funds are held, including copies of the bank statement for the month, the check register, and subaccount ledgers indicating the amount of funds in the trust account that belong to each client.

*d.* A copy of each notice sent pursuant to rules 34.23(2)(*a*) and (*b*) must be filed with the disciplinary board within 15 days of the effective date of the suspension. Failure to timely file the notices may be considered a separate disciplinary violation.

**34.23(3)** *Post-revocation requirements.* When an attorney's license is revoked, the attorney must do the following as conditions for readmission to practice:

*a.* Within ten days of the filing date of the revocation order, send each client on the attorney's active client list written notice of the following:

(1) The attorney's license has been revoked and the attorney can no longer provide legal advice or representation to the client.

(2) The client needs to seek legal advice and representation elsewhere, calling attention to the client's need for any urgency in seeking representation from another attorney.

(3) The client needs to retrieve the client's file, papers, and any other client property in the attorney's possession.

(4) The client will be refunded any fees paid in advance that have not been earned and stating the amount of the client's unearned fees.

*b.* Within 30 days of the date of the revocation order:

(1) Return all client files, papers, and any other client property in the attorney's possession.

(2) Return all funds owed to each client.

*c.* Send the client security commission a copy of the attorney's or firm's balanced monthly triple reconciliation for the prior month for each trust account in which client funds are held, including copies of the bank statement for the month, the check register, and subaccount ledgers indicating the amount of funds in the trust account that belong to each client.

*d.* A copy of each notice sent pursuant to rules 34.23(3)(*a*) and (*b*) must be filed with the disciplinary board within 15 days of the effective date of the revocation. Failure to timely file the notices may be considered a separate disciplinary violation.

**34.23(4)** *Activities during suspension.* A suspended attorney must refrain during such suspension from all facets of ordinary law practice including, but not limited to, the following: examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; acting as a fiduciary; and when possible, advertising the attorney's services or holding out to the public that he or she is a licensed attorney. The suspended attorney may, however, act as a fiduciary for an estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

**34.23(5)** *Employment of suspended attorneys.* Nothing in this rule precludes an attorney, law firm, or professional association from employing a suspended attorney to perform such limited services as laypersons may ethically perform under all of the following conditions:

*a.* Notice of employment, together with a full job description, must be provided by the employer and suspended attorney to the disciplinary board and client security commission before employment commences.

*b.* The employer and suspended attorney must verify and submit informational reports quarterly to the disciplinary board certifying that no aspect of the suspended attorney's work has involved the unauthorized practice of law.

*c.* A suspended attorney must not have direct or personal association with any client and must not disburse or otherwise handle funds or property of a client.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; September 14, 2021, effective October 1, 2021; September 19, 2022, effective October 1, 2022; December 12, 2023, effective January 1, 2024]

REINSTATEMENT FROM SUSPENSION

**Rule 34.24 Procedure for reinstatement from suspension of 60 days or fewer.** Unless another rule or court order states to the contrary, an attorney whose license to practice law in this state has been suspended for a period not exceeding 60 days may apply for reinstatement subject to the following rules.

**34.24(1)** *Application for reinstatement without hearing.* An attorney whose license has been suspended for a period not exceeding 60 days must file an application for reinstatement without hearing with the supreme court clerk, accompanied with a certification from the office of professional regulation that confirms the following:

*a.* The attorney has completed all of the requirements for reinstatement set forth in the supreme court's suspension order.

*b.* All costs assessed under Iowa Court Rule 36.24 are paid and the reporting and fee payment requirements of rules 39.14(2), 39.17, and 41.10(2) are completed, and the attorney has completed all continuing legal education requirements under chapters 41 and 42 of the Iowa Court Rules.

*c.* The attorney has complied with the notice requirements of rule 34.23(2).

*d.* The attorney is not subject to any denial of reinstatement pursuant to rule 34.20(5), 34.21(5), or 34.22(5).

*e.* The attorney is not subject to any other suspension orders.

*f.* The attorney has paid a $200 reinstatement from suspension fee.

**34.24(2)** *Objection; hearing.* The disciplinary board or client security commission may file and serve within the suspension period an objection to reinstatement of the attorney without hearing.

*a.* The filing of an objection stays reinstatement until the supreme court orders otherwise.

*b.* If the disciplinary board or client security commission files an objection, the supreme court will set the matter for hearing and the supreme court clerk must enter written notice in conformance with rule 34.25, except that the court may waive the requirement of a 60-day waiting period prior to the hearing date. If the disciplinary board or the client security commission do not object to reinstatement, the attorney may be reinstated without hearing.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; December 12, 2023, effective January 1, 2024]

**Rule 34.25 Procedure for reinstatement from suspension of more than 60 days.** An attorney whose license to practice law in this state has been suspended for a period exceeding 60 days may apply for reinstatement subject to the following rules.

**34.25(1)** *Application for reinstatement.* A proceeding for reinstatement to the practice of law in Iowa must be commenced by written application for reinstatement to the supreme court filed with the supreme court clerk no sooner than 60 days prior to expiration of the suspension period. The application for reinstatement must include the following:

*a.* The date of the applicant's original admission, the date and duration of suspension, and a statement that the applicant has completed all requirements for reinstatement set forth in the supreme court's suspension order.

*b.* Verification by the oath of the applicant as to the truth of the statements made in the application.

*c.* Satisfactory proof that the applicant, at the time of the application, is of good moral character and in all respects worthy of the right to practice law. The application must be accompanied by the recommendation of three Iowa attorneys in good standing who are in active status and currently practicing law. The recommendations may not be from judges or magistrates.

*d.* Satisfactory proof that the applicant, at the time of the application, has filed all reports, paid all fees, and completed all continuing legal education requirements of chapters 39, 41, and 42 of the Iowa Court Rules, has paid all costs assessed under rule 36.24, has complied with the notice requirements of rule 34.23(2), and has paid a $200 reinstatement from suspension fee.

*e.* Satisfactory proof that the Clients' Security Trust Fund of the Bar of Iowa is repaid in full for all client security conduct or that the client security commission has approved a repayment plan.

**34.25(2)** *Procedure.* Upon filing of the application and recommendations with the supreme court clerk, the clerk must give notice containing the date of suspension, the date of filing the application, and the date of the hearing set by the supreme court, which will be at least 60 days after the filing of such application for reinstatement, to the following persons:

*a.* The executive director of the office of professional regulation.

*b.* The county attorney for the county in which the applicant currently resides.

*c.* The director of the disciplinary board.

*d.* The director of the client security commission.

*e.* The chief judge of each judicial district.

*f.* The executive director of The Iowa State Bar Association.

**34.25(3)** *Written statements.* After receipt of the notice and before the date fixed for hearing, any person or entity may submit to the supreme court clerk written statements of fact and comments regarding the current fitness of the applicant to practice law.

**34.25(4)** *Notices of witnesses and exhibits.* At least 14 days prior to the scheduled hearing date, the applicant and the disciplinary board must file with the court and serve the opposing party the names and expected testimony of any witnesses they intend to produce and must file and serve copies of any exhibits they intend to introduce at the hearing. The opposing party must provide notice of any rebuttal witnesses or exhibits no later than 7 days prior to the scheduled hearing date. The supreme court may waive these deadlines upon good cause shown.

**34.25(5)** *Hearing.* The supreme court will designate the time and place of the hearing. The applicant bears the burden of demonstrating that the applicant is of good moral character, is fit to practice law, and has complied in all respects with the terms of the order or judgment of suspension. The hearing will be public unless the supreme court orders otherwise upon motion of a party. The hearing will be informal and the strict rules of evidence will not apply. The supreme court may impose reasonable time limits on the length of the hearing.

**34.25(6)** *Decision.* The supreme court will issue its decision as soon as practicable after the hearing. The supreme court may require the applicant to meet reasonable conditions for reinstatement including, but not limited to, passing the Multistate Professional Responsibility Examination.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 24, 2019, effective August 1, 2019; September 14, 2021, effective October 1, 2021; June 30, 2023, effective July 1, 2023; December 12, 2023, effective January 1, 2024]

**Rule 34.26 Procedure for reinstatement from administrative suspension for failure to file annual forms and pay fees.**

**34.26(1)** *Eligibility for reinstatement.* An attorney suspended pursuant to Iowa Court Rule 39.8(2) or 41.5(1) for failing to pay annual fees, complete required continuing legal education, or file required annual reports, statements, supplements, or questionnaires, must comply with the following requirements before being eligible for reinstatement:

*a.* Complete all continuing legal education required by rules 41.3 and 42.2 through the end of the current calendar year.

*b.* File the statement required by rule 39.8(1) and the questionnaire required by rule 39.11.

*c.* Pay all delinquent fees, assessments, and late filing penalties due under rules 39.5, 39.6, 39.8, 39.17, and 41.4.

*d.* Pay a reinstatement from suspension fee of $200.

**34.26(2)** *Office of professional regulation request for reinstatement.* If the attorney complies with the requirements of rule 34.26(1) within ten days of the date of the suspension order, the office of professional regulation will file with the supreme court a request for reinstatement, which will include the date that the attorney was in compliance. If the office of professional regulation certifies that the attorney was in compliance with rule 34.26(1) within ten days of the date of the suspension order, the notice requirements of rule 34.23(2) for reinstatement do not apply. The supreme court will enter an order reinstating the attorney without further application or hearing.

**34.26(3)** *Application for reinstatement without hearing.* Application for reinstatement without hearing.

*a.* If the attorney did not comply with rule 34.26(1) within 10 days from the date of suspension, the notice requirements of rule 34.23(2) apply. To be reinstated, the attorney must file an application for reinstatement without hearing with the supreme court clerk, which includes a certification from the office of professional regulation that:

(1) The attorney has completed all continuing legal education required by rules 41.3 and 42.2 through the end of the current calendar year.

(2) The attorney has filed the statement required by rule 39.8(1) and the questionnaire required by rule 39.11.

(3) The attorney has paid all delinquent fees, assessments, and late filing penalties due under rules 39.5, 39.6, 39.8, 39.17, and 41.4.

(4) The attorney has paid the reinstatement from suspension fee of $200.

(5) The attorney has complied with the requirements of rule 34.23(2).

(6) The attorney is not subject to any denials of reinstatement pursuant to rule 34.20(5), 34.21(5), or 34.22(5).

*b.* Within seven days of the filing of the application for reinstatement without hearing either the disciplinary board or client security commission may file and serve an objection to reinstatement of the attorney without hearing. The filing of an objection stays reinstatement until the supreme court orders otherwise. If the disciplinary board or client security commission files an objection, the supreme court will set the matter for hearing and the supreme court clerk must enter written notice in conformance with rule 34.25, except that the court may waive the requirement of a 60-day waiting period prior to the hearing date.

*c.* The supreme court will not order reinstatement until all costs assessed under Iowa Court Rule 36.24 are paid and the reporting and fee payment requirements of rules 39.17 and 41.10(2) are satisfied.

[Court Order December 12, 2023, effective January 1, 2024]

## READMISSION AFTER REVOCATION

**Rule 34.27 Readmission after revocation.** In the event the supreme court revokes an attorney's license to practice law, the attorney is not eligible to apply for readmission until at least five years after the date of revocation. For purposes of rule 34.27, "revoked attorney" includes an attorney whose license to practice law has been revoked or an attorney who has been disbarred. Similarly, "revocation" includes "disbarment" and "revoked" includes "disbarred."

**34.27(1)** *Prefiling requirements.* Prior to filing the application, the revoked attorney must:

*a.* File the attorney's character and fitness application with the National Conference of Bar Examiners (NCBE) and pay the NCBE's application fee.

*b.* Pay a $525 administrative fee to the Iowa Board of Law Examiners (board of law examiners).

**34.27(2)** *Filing and contents of application.* A revoked attorney's application for readmission must:

*a.* Be filed with the supreme court clerk and be served on the office of professional regulation.

*b.* State the date of the applicant's original admission, the date of revocation, and that the applicant has complied in all respects with rule 34.23(3) and any supreme court orders, opinions, or judgments relating to the revocation.

*c.* Include satisfactory proof that the applicant is of good moral character and is in all respects worthy of readmission to the bar. The applicant must provide a detailed affidavit describing the applicant's personal, educational, and work history since the date of revocation. The application must be accompanied by the recommendation of at least three reputable Iowa attorneys currently practicing law in the judicial district in which the applicant then lives and has lived at least one year prior to filing the application. If the applicant does not reside in the district in which the applicant lived at the time of the revocation, the applicant must also file a recommendation from three reputable attorneys currently practicing law in the district where the applicant resided at the time of revocation. The required recommendations may not be from judges or magistrates.

*d.* Include satisfactory proof that the applicant, at the time of the application, has paid all fees required by the provisions of chapters 39, 41, and 42 of the Iowa Court Rules and that the applicant has completed all continuing legal education for the years the applicant's license was revoked through the end of the calendar year, up to a maximum of 100 hours.

*e.* Include satisfactory proof that the Client Security Trust Fund has been repaid in full, or that the client security commission has approved a repayment plan, for all client security claim payments paid from the Client Security Trust Fund under Iowa Court Rule 39.9 based on the applicant's conduct.

*f.* Include satisfactory proof that the applicant, at the time of the application, has paid all costs assessed against the applicant under rule 36.24.

*g.* Include satisfactory proof that the applicant, prior to filing the application, has complied with the prefiling requirements of rule 34.27(1).

**34.27(3)** *Iowa Board of Law Examiners' report.* After the application for readmission is filed with the supreme court clerk, the board of law examiners will file a report and recommendation with the supreme court regarding the applicant's character and fitness. The board of law examiners will file its report and recommendations within 30 days of its receipt of the final results of the National Conference of Bar Examiners' report referenced in the prefiling requirements of rule 34.27(1).

**34.27(4)** *Supreme court actions on application.*

*a.* Upon filing of the report and recommendation of the board of law examiners, the supreme court will review the application for readmission from the revoked attorney and the report and recommendation of the board of law examiners.

*b.* The supreme court may summarily deny the application, request further information, or set a hearing date and direct the supreme court clerk to give the notice provided under rule 34.27(5).

*c.* The court may appoint a special master or a hearing panel to conduct the hearing. The hearing date must in no case be fewer than 60 days after the filing of the report of the board of law examiners.

*d.* Any order denying readmission may state whether the attorney is allowed to file a future application and, if so, the minimum amount of time before the application may be filed.

**34.27(5)** *Procedure.* Upon direction of the supreme court, the supreme court clerk must give written notice of the revoked attorney's application for readmission containing the date of the revocation, the date of filing the application, and the date of the hearing set by the court, if any, to the following persons:

*a.* The executive director of the office of professional regulation.

*b.* The county attorney for the county in which the applicant currently resides.

*c.* The director of attorney discipline of the office of professional regulation.

*d.* The director of the client security commission.

*e.* The chief judge of each judicial district.

*f.* The executive director of The Iowa State Bar Association.

**34.27(6)** *Written statements.* Any person or entity may submit to the supreme court clerk written statements of fact and comments regarding the applicant's current fitness to practice law.

**34.27(7)** *Notices of witnesses and exhibits.* At least 14 days prior to the scheduled hearing date, the applicant and the disciplinary board must provide the supreme court or the special master or hearing panel, if applicable, and the opposing party notice of the names and expected testimony of any witnesses they intend to produce, and they must file and serve copies of any exhibits they intend to introduce at the hearing. The parties may provide notice of any rebuttal witnesses or exhibits no later than 7 days prior to the scheduled hearing date. The court, or the special master or hearing panel, if applicable, may waive these deadlines only upon good cause shown.

**34.27(8)** *Hearing.* The readmission hearing will be held at the time and place the supreme court designates. The applicant bears the burden of demonstrating that the applicant is of good moral character, is fit to practice law, and has complied in all respects with the terms of the order or judgment of revocation. The hearing will be public unless the supreme court orders otherwise upon motion of a party. The hearing will be informal, and strict rules of evidence will not apply. The supreme court may impose reasonable time limits on the length of the hearing. The hearing must be recorded.

**34.27(9)** *Decision.*

*a.* The supreme court's decision will be determined by majority vote of those justices participating in the proceeding. Any special master or hearing panel appointed to conduct a hearing must file a report containing findings of fact with the supreme court clerk within 30 days after the hearing. The court's review of the record made before the special master or hearing panel will be de novo. An attorney's readmission to practice in another jurisdiction following revocation in Iowa is not binding on the decision of the supreme court on any application for readmission to practice in Iowa. The decision rests in the sole discretion of the supreme court.

*b.* The supreme court in its discretion may place conditions on readmission, including, but not limited to, passing the Iowa bar examination. If the applicant refuses or fails to perform any of the conditions, the court may enter an order summarily denying the application or revoking the attorney's license, if admitted, without further hearing. The applicant must post a scaled score of at least 80 on the Multistate Professional Responsibility Exam (MPRE) as a condition of readmission. The MPRE score must be from a test taken no longer than three years prior to the date of filing of the application for readmission. An applicant may take the MPRE after the court's readmission decision, but the attorney will not be readmitted until the required score is filed.

**34.27(10)** *Applicability of rules to attorneys permanently enjoined from practicing law in Iowa.* Rule 34.27 also applies to attorneys not licensed in Iowa whom the Iowa Supreme Court has enjoined from practicing law in Iowa on a permanent basis. Such attorneys who seek to have the injunction lifted must follow the procedures set forth for revoked attorneys in this rule, and their applications will be processed in the same manner.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 24, 2019, effective August 1, 2019; September 14, 2021, effective October 1, 2021; June 30, 2023, effective July 1, 2023; December 12, 2023, effective January 1, 2024]

# CHAPTER 35
# IOWA SUPREME COURT ATTORNEY DISCIPLINARY BOARD
# RULES OF PROCEDURE

# CHAPTER 35
# IOWA SUPREME COURT ATTORNEY DISCIPLINARY BOARD RULES OF PROCEDURE

**Rule 35.1 Complaints.** Complaints alleging that an attorney has committed a disciplinary infraction must be accepted from any person, firm, or other entity. The Iowa Supreme Court Attorney Disciplinary Board (disciplinary board) may, upon its own motion, initiate any investigation or disciplinary action.

[Court Order January 26, 2016, effective April 1, 2016]

**COMMENT:** Rule 35.1 substantially appeared as former Iowa Court Rule 34.1. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.2 Form of complaint.** Complaint forms, found in rule 35.15, must be available to the public from the disciplinary board. Complaints must be certified under penalty of perjury, except when filed by an officer of the court, and may include whatever supporting documents the complainant desires to submit.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**COMMENT:** Rule 35.2 formerly appeared as Iowa Court Rule 34.2. It is amended to conform an internal reference to the new rule numbers, and to reflect actual practice with respect to dissemination of complaint forms. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.3 Filing.** Complaints must be filed, without charge, with the disciplinary board.

[Court Order January 26, 2016, effective April 1, 2016]

**COMMENT:** Rule 35.3 formerly appeared as Iowa Court Rule 34.3. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.4 Procedure upon receipt of complaint.**

**35.4(1)** Upon receiving a complaint, the assistant director for attorney discipline must evaluate all information coming to his or her attention from the complaint or from any other sources alleging attorney misconduct or incapacity. The assistant director is authorized to decline to open an investigation of a complaint if the information, if true, would not constitute misconduct or incapacity or if the complaint is facially frivolous, stale, lacking in adequate factual detail, duplicative, outside the disciplinary board's jurisdiction, or does not otherwise reasonably warrant investigation. The disciplinary board may adopt policies to guide the assistant director in the exercise of this authority.

**35.4(2)** The disciplinary board must make a record indicating the date on which the complaint was filed, the name and address of the complainant, the name and address of the respondent, and a brief statement of the charges made. This record ultimately must show the final disposition of the matter when it is completed.

**35.4(3)** The disciplinary board must keep all files confidential, unless the board chair or the chair's designee otherwise provides or directs in writing for disciplinary purposes or pursuant to a specific supreme court rule. All files must be available for examination and reproduction by the designated officer or agent of the Client Security Commission, pursuant to proceedings under chapter 39 of the Iowa Court Rules.

**35.4(4)** Any such files, except for the work product of staff counsel, investigators, or assistant directors of the disciplinary board, must be provided to the respondent within a reasonable time upon the respondent's request. For purposes of this rule, "work product" does not include a written statement signed or otherwise adopted or approved by the person making it or a contemporaneous and substantially verbatim transcript or recording of a person's oral statement.

**35.4(5)** A potential complaint declined pursuant to this rule may not be deemed a complaint for any purpose. A potential complaint declined pursuant to this rule will not be docketed under rule 35.4(2), and the disciplinary board or the respondent must not report or disclose the complaint to any person or authority for any reason.

**35.4(6)** A true copy of any complaint against a current member of the grievance commission or the disciplinary board involving alleged violations of an attorney's oath of office or of the Iowa Rules of Professional Conduct or laws of the United States or State of Iowa must be promptly forwarded to the Chief Justice of the Iowa Supreme Court.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**COMMENT:** Rules 35.4(1) through 35.4(5) formerly appeared at Iowa Court Rule 34.4. Rule 35.4(6) formerly appeared as Iowa Court Rule 35.24(3). Rule 35.4 is amended to conform an internal reference to the new rule numbers. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.5 Notification of complainant.** Upon receipt of any complaint, the disciplinary board must notify the complainant in writing that the board has received the complaint and will act upon it or that pursuant to rule 35.4(1) the board will take no action on the complaint.
[Court Order January 26, 2016, effective April 1, 2016]

**COMMENT:** Rule 35.5 formerly appeared as Iowa Court Rule 34.5. It is amended to conform an internal rule reference to the new rule numbers, and the rule title is changed to more accurately describe this step in disciplinary board procedure. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.6 Notification of respondent; response.**

**35.6(1)** The disciplinary board must forward to the respondent a copy of the complaint and a copy of chapter 35 of the Iowa Court Rules. However, if a potential complaint is declined pursuant to rule 35.4(1), the disciplinary board need not notify the respondent and no response is required.

**35.6(2)** The disciplinary board may forward the complaint to the respondent by restricted certified mail, marked "Confidential," to the respondent's last address as shown by records accessible to the supreme court, or the board may serve the complaint by personal service in the manner of an original notice in civil suits.

**35.6(3)** If service cannot be obtained pursuant to rule 35.6(2), the disciplinary board may serve the complaint on the supreme court clerk, who is appointed to receive service on behalf of attorneys subject to Iowa's disciplinary authority. Iowa R. Prof'l Conduct 32:8.5 cmt. [1]. Service upon the supreme court clerk is deemed to be receipt of the complaint by the respondent. Simultaneously with serving a complaint on the supreme court clerk, the disciplinary board must forward the complaint to the respondent by restricted certified mail, marked "Confidential," to the respondent's last address as shown by records accessible to the supreme court, and the board must file with the supreme court clerk an affidavit attesting that it has done so.

**35.6(4)** The respondent must provide a written response within 20 days of receipt of the complaint.
[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 11, 2023]

**COMMENT:** Rule 35.6 formerly appeared as Iowa Court Rule 34.6. It is amended to conform internal references to the new rule numbers. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.7 Failure to respond; notice; effect.**

**35.7(1)** *Failure to respond—separate ethical violation.* If after 20 days no response has been received, the respondent must be notified by restricted certified mail that unless a response is made within 10 days from receipt of notice, the disciplinary board may file a complaint with the Grievance Commission of the Supreme Court of Iowa (grievance commission) for failure to respond and concerning all or any portion of the matter about which the original complaint was made. If service cannot be obtained by restricted certified mail, the disciplinary board may serve the notice on the supreme court clerk, who is appointed to receive service on behalf of attorneys subject to Iowa's disciplinary authority. Iowa R. of Prof'l Conduct 32:8.5 cmt. [1]. Service upon the supreme court clerk is deemed to be receipt of the notice by the respondent.

**35.7(2)** *Enlargement of time to respond.* The disciplinary board may grant an enlargement of time to respond under rule 35.6 or 35.7(1) for good cause shown.

**35.7(3)** *Failure to respond—temporary suspension.* If a response is not provided within 10 days of receipt of the notice issued pursuant to rule 35.7(1) or within the time allowed under rule 35.7(2), the disciplinary board must certify the respondent's failure to respond to the supreme court clerk.

*a.* Upon receipt of the disciplinary board's certificate, the supreme court clerk must issue a notice to the attorney that the attorney's license to practice law will be temporarily suspended unless the attorney causes the board to file a withdrawal of the certificate within 20 days of the date of issuance of the clerk's notice.

*b.* If the attorney responds to the complaint within the 20-day period, the disciplinary board must immediately withdraw the certificate and no suspension will occur.

*c.* If the disciplinary board has not withdrawn the certificate and the 20-day notice period expires, the court will enter an order temporarily suspending the attorney's license to practice law in the State of Iowa.

*d.* If the attorney responds to the complaint after a temporary suspension order is entered, the disciplinary board must, within five days of receiving the response, either withdraw the certificate or file with the supreme court a report indicating that the attorney has responded but stating cause why the attorney's license should not be reinstated and the suspension should be continued under the provisions of Iowa Court Rule 34.14, 34.15, or 34.17.

*e.* If the disciplinary board seeks to continue the suspension under the provisions of Iowa Court Rule 34.14, 34.15, or 34.17, the supreme court will either reinstate the attorney or enter an appropriate order under the applicable rule.

*f.* If the disciplinary board files a withdrawal of the certificate after temporary suspension of the attorney's license, and the office of professional regulation certifies that the attorney has paid the reinstatement fee, the supreme court may immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible under the rules of the court.

*g.* During the initial 30 days of a temporary suspension under this rule, the attorney must give the notice Iowa Court Rule 34.24 requires to those clients whose interests may be adversely affected by the attorney's suspension.

*h.* When the suspension period under this rule exceeds 30 days, the attorney must comply with the requirements of Iowa Court Rule 34.24 as to all clients.

*i.* An attorney whose license is suspended under the provisions of rule 35.7(3)(*c*) must pay a fee of $200 to the office of professional regulation as a condition precedent to reinstatement.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 11, 2023; December 12, 2023, effective January 1, 2024]

**Rule 35.8 Disciplinary board actions upon receipt of response.**

**35.8(1)** Upon receipt of a response, the disciplinary board must do one of the following:

*a.* Dismiss the complaint and notify the complainant and the respondent of the dismissal in writing.

*b.* Cause the case to be docketed for disciplinary board consideration at its next hearing-meeting.

*c.* Arrange for the disciplinary board's counsel or another entity to investigate the complaint as the board chair or the chair's designee deems appropriate.

(1) All investigations done by a person or entity other than the disciplinary board's counsel or its in-house staff must be done in a manner as directed by and under the supervision of the board.

(2) The results of the investigation must be forwarded to the disciplinary board with any recommendation for the board's final action.

**35.8(2)** The disciplinary board has subpoena power during any investigation conducted on its behalf to compel the appearance of witnesses or the production of documents before the person or entity designated to conduct the investigation on behalf of the board.

**35.8(3)** The disciplinary board chair, or any other board member in the absence of the chair, has authority to issue subpoenas.

**35.8(4)** The district court for the county in which the investigation is being conducted has jurisdiction over any objection or motion relating to a subpoena, and it has authority to punish disobedience of a subpoena in a contempt proceeding.

**35.8(5)** The board's counsel or any other person authorized to administer oaths has authority to administer an oath or affirmation to a witness.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**COMMENT:** Rule 35.8 formerly appeared as Iowa Court Rule 34.8. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.9 Disciplinary board action upon report and recommendation of investigator.** When the report and recommendation of the investigator is returned to the disciplinary board, the board must do one of the following:

**35.9(1)** Dismiss the complaint and notify the complainant and the respondent of the dismissal.

**35.9(2)** Cause the case to be docketed for consideration at its next hearing-meeting.

[Court Order January 26, 2016, effective April 1, 2016]

**COMMENT:** Rule 35.9 formerly appeared as Iowa Court Rule 34.9. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.10 Prior notice of witnesses.** If any witness or party is required to give testimony before the disciplinary board, the witness or party must be given at least seven days' written notice in advance of the hearing-meeting at which the witness or party is required to attend and testify.

[Court Order January 26, 2016, effective April 1, 2016]

**COMMENT:** Rule 35.10 formerly appeared as Iowa Court Rule 34.10. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.11 Hearing-meetings.** The disciplinary board must hold hearing-meetings at least quarterly and may hold them telephonically. A majority of the disciplinary board constitutes a quorum. The chair, or the chair's designee, must see to the preparation of a record of hearing-meetings, which becomes a part of the permanent files of the supreme court. Any evidence must be taken under oath

or affirmation and may be made of record. Upon completion of the consideration of any matter before the disciplinary board, the members, by majority vote of those present, must do one of the following:

**35.11(1)** Continue the matter.

**35.11(2)** Dismiss the complaint and notify the complainant and the respondent of the dismissal.

**35.11(3)** Admonish the respondent, who must be notified in writing that the respondent has 30 days from the date of mailing to file an exception with the assistant director for attorney discipline, who upon receipt of the exception must then return the admonition to the disciplinary board. The disciplinary board may dismiss, admonish, reprimand, or file a formal complaint with the grievance commission. In cases of admonition, the disciplinary board must notify the complainant of the board's opinion concerning the matter and its communication with the attorney involved.

**35.11(4)** Reprimand the respondent and file the reprimand as provided in Iowa Court Rule 35.12.

**35.11(5)** File a complaint before the grievance commission and prosecute the complaint to final determination.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**COMMENT:** Rule 35.11 formerly appeared as Iowa Court Rule 34.11. It is amended to conform an internal reference to the new rule numbers. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.12 Reprimand.** If the disciplinary board reprimands an attorney, a copy of the reprimand must be filed with the grievance commission clerk, who must cause a copy of the reprimand to be served on the attorney by personal service in the manner of an original notice in civil suits or by restricted certified mail with a notice attached stating that the attorney has 30 days from the date of completed service to file an exception to the reprimand with the grievance commission clerk. Service is complete on the date of personal service or the date shown by the postal receipt of delivery of the notice to the attorney.

**35.12(1)** If the attorney fails to file an exception to the reprimand, the failure constitutes a waiver of any further proceedings and a consent that the reprimand be made final and public. In that event, the grievance commission clerk must cause a copy of the reprimand to be forwarded to the supreme court clerk, together with proof of service of the reprimand upon the attorney and a statement that the attorney did not file an exception within the time prescribed. The supreme court will then include the reprimand in the records of the court as a public document unless the court remands the matter to the disciplinary board for consideration of another disposition.

**35.12(2)** In the event the attorney files a timely exception to the reprimand, no report of the reprimand will be made to the supreme court clerk and the reprimand must be stricken from the grievance commission records.

**35.12(3)** The board may proceed further by filing a complaint against the attorney before the grievance commission. When an exception to a reprimand is filed, the reprimand is not admissible in evidence in any hearing before the grievance commission.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**COMMENT:** Rule 35.12 formerly appeared as Iowa Court Rule 35.3. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.13 Order for mental or physical examination or treatment.**

**35.13(1)** *Order requiring examination or treatment.* An attorney who is licensed to practice law in the State of Iowa is, as a condition of licensure, under a duty to submit to a mental or physical examination or subsequent treatment as the disciplinary board may order. The disciplinary board may order the examination or treatment based upon a showing of probable cause to believe the attorney is suffering from a condition that impairs the attorney's ability to discharge professional duties. The disciplinary board may order that the examination or treatment be at the attorney's expense.

**35.13(2)** *Show cause hearing.* Before the disciplinary board may order an attorney to submit to examination or treatment, it must schedule a hearing to permit the attorney to show cause why the board should not enter the order. At least three members of the disciplinary board must participate in the hearing. At the hearing, the disciplinary board's staff counsel must first present evidence of probable cause supporting the need for examination or treatment. The attorney may then respond to the staff counsel's showing and rebut the claim that the examination or treatment is necessary. The hearing will be informal and the strict rules of evidence will not apply. Following the hearing, the disciplinary board, by majority vote, must either dismiss the matter or enter an order requiring examination or treatment.

**35.13(3)** *Content of order.* The disciplinary board's order for mental or physical examination or treatment must include the following:

*a.* A description of the type of examination or treatment to which the attorney must submit.

*b.* The name and address of the examiner or treatment facility that the disciplinary board has identified to perform the examination or provide the treatment.

*c.* The time period in which the attorney must schedule the examination or enter treatment.

*d.* The amount of time in which the attorney is required to complete the examination or treatment.

*e.* A requirement that the attorney provide a report or reports of the examination or treatment results to the disciplinary board within a specified period of time.

*f.* A requirement that the attorney communicate with the disciplinary board regarding the status of the examination or treatment.

*g.* A provision allowing the attorney to request additional time to schedule the examination or complete the treatment or to request that the disciplinary board approve an alternative examiner or treatment facility. The disciplinary board has sole discretion to determine whether to grant the request.

**35.13(4)** *Review.* An attorney who disagrees with the disciplinary board's order may seek review from the supreme court by filing a petition for review with the supreme court clerk and serving one copy of the petition on the disciplinary board within seven days after receipt of the board's order. The disciplinary board may file a response to the petition with the supreme court clerk and serve one copy of the response on the attorney within seven days after service of the petition. The matter will be promptly set for hearing before one or more justices of the supreme court. The disciplinary board's order is stayed upon the filing of the petition for review.

**35.13(5)** *Hearing.* At the hearing on the petition, the disciplinary board must present evidence of probable cause supporting its order and the necessity for the examination or treatment. The attorney may then respond to the disciplinary board's showing and rebut the board's claim that the examination or treatment is necessary. The hearing will be informal and the strict rules of evidence will not apply. Following the hearing, the supreme court may affirm, vacate, or modify the disciplinary board's order or may enter such order as the circumstances warrant.

**35.13(6)** *Failure to submit.* An attorney's failure to submit to the examination or treatment the disciplinary board orders under this rule may be grounds for discipline through the normal disciplinary process.

**35.13(7)** *"Condition."* For purposes of this rule, "condition relating to the attorney's impairment" means any physiological, mental or psychological condition, impairment, or disorder, including a substance use disorder.

**35.13(8)** *Confidentiality.* All records, papers, proceedings, meetings, and hearings filed or conducted under this rule are confidential unless the supreme court orders otherwise.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; January 26, 2024]

**COMMENT:** Rule 35.13 formerly appeared as Iowa Court Rule 34.12. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.14 Deferral of further proceedings.**

**35.14(1)** *Deferral.* With agreement of the director for attorney discipline and the attorney, the board may defer further proceedings pending the attorney's compliance with conditions the board imposes for supervision of the attorney for a specified period of time not to exceed one year unless the board extends the time prior to the conclusion of the specified period. Proceedings may not be deferred under any of the following circumstances:

*a.* The conduct under investigation involves misappropriation of funds or property of a client or a third party.

*b.* The conduct under investigation involves a criminal act that reflects adversely on the attorney's honesty, trustworthiness, or fitness as an attorney in other respects.

*c.* The conduct under investigation resulted in or is likely to result in actual prejudice (loss of money, legal rights, or valuable property rights) to a client or other person, unless restitution is made a condition of deferral.

**35.14(2)** *Conditions.* In imposing conditions, the disciplinary board must consider the nature and circumstances of the conduct under investigation and the history, character, and condition of the attorney. The conditions the disciplinary board may impose include, but are not limited to, the following:

*a.* Periodic reports to the director for attorney discipline.

*b.* Supervision of the attorney's practice or accounting procedures.

*c.* Satisfactory completion of a course of study.

*d.* Successful completion of the Multistate Professional Responsibility Examination.

*e.* Compliance with the provisions of the Iowa Rules of Professional Conduct.

*f.* Restitution.

*g.* Psychological counseling or treatment.

*h.* Substance use disorder counseling or treatment.

*i.* Abstinence from alcohol or drugs.

*j.* Cooperation with the Iowa Lawyers Assistance Program.

*k.* Fee arbitration.

**35.14(3)** *Affidavit.* Prior to the disciplinary board's deferral of further proceedings, the attorney must execute an affidavit setting forth all of the following:

*a.* The attorney's admission of the conduct under the disciplinary board's investigation.

*b.* The conditions the disciplinary board will impose for supervision of the attorney, including the period of supervision.

*c.* The attorney's agreement to the conditions to be imposed.

*d.* An acknowledgement that the attorney understands that if the attorney fails to comply with the conditions the disciplinary board has imposed, a formal complaint may be filed with the grievance commission, both for the matters raised in the original complaint to the board and for the attorney's failure to comply with the conditions of supervision.

*e.* A statement that, if the attorney fails to comply with the conditions of supervision, the attorney's admissions with respect to the attorney's conduct may be introduced as evidence in any subsequent proceedings before the disciplinary board or the grievance commission.

*f.* An acknowledgement that the attorney joins in the disciplinary board's deferral determination freely and voluntarily and understands the nature and consequences of the board's action.

**35.14(4)** *Supervision.* The diversion coordinator, who may be the director for attorney discipline, is responsible for supervising the attorney's compliance with the conditions the disciplinary board imposes. Where appropriate, the diversion coordinator may recommend to the disciplinary board modifications of the conditions and must report to the board the attorney's failure to comply with the conditions or to cooperate with the diversion coordinator.

**35.14(5)** *Compliance.* Upon the attorney's successful compliance with the conditions the disciplinary board imposed, the board must dismiss or close the investigations pending before it at the time it determined to defer further proceedings. The attorney will not be considered to have been disciplined, but the attorney's admission of misconduct may be considered in imposing sanctions in a subsequent disciplinary matter not arising out of the same conduct.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; September 19, 2022, effective October 1, 2022; January 26, 2024]

**COMMENT:** Rule 35.14 formerly appeared as Iowa Court Rule 34.13. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.15 Forms.**
**Rule 35.15 — Form 1:** ***Iowa Supreme Court Attorney Disciplinary Board Complaint Form.***

**Iowa Supreme Court Attorney Disciplinary Board**
**Complaint Form**

*Complete a separate form for each attorney with whom you have a complaint.*

1. _____ _____
*Your name* *Email address*

_____ _____ _____ _____
*Street address* *City* *State* *ZIP code*

(_____) _____ (_____) _____ (_____) _____
*Home phone* *Cell phone* *Business phone*

2. Name of attorney about whom you are complaining: _____
*Name*

_____ _____ _____ _____
*Business address* *City* *State* *ZIP code*

(_____) _____
*Business phone*

3. Did you hire the attorney? *Check one* ☐ Yes ☐ No

If yes, when did you hire the attorney? _____

If no, what is your connection to the attorney?_____

_____

4. If your complaint is about a lawsuit or court case, answer the following:

A. Name of court: _____
*Examples: Iowa District Court for Polk County; United States District Court for Northern District of Iowa*

B. Case title: _____
*Examples: Smith vs. Jones; State vs. Doe*

C. Case no. _____

5. Type or write neatly on one or more separate sheets of paper a detailed factual statement of what the attorney did or did not do. Return the sheet(s) with this form. Write on only one side of the complaint form and the additional sheets of paper. Attach copies of documents that prove or help to explain your complaint, such as fee agreements, letters, checks, receipts, itemized billings, and court papers. Send only copies, not original documents, as we are not able to return your documents to you.

In filing this complaint, you are waiving confidentiality and attorney-client privileges, if any, between you and the attorney named above. This waiver allows the attorney to disclose your confidential information to the extent reasonably necessary to respond to the complaint.

6. **Oath and Signature**

I, _____, certify under penalty of perjury and pursuant to the laws
*Print your name*

of the State of Iowa that the allegations of this complaint are true and correct.

_____ _____, 20_____ _____
*Month* *Day* *Year* *Your Signature*

Send the completed form to: Iowa Supreme Court Attorney Disciplinary Board
Iowa Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319
Telephone (515) 725-8017

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[Court Order January 26, 2016, effective April 1, 2016]

# CHAPTER 36
# GRIEVANCE COMMISSION RULES OF PROCEDURE

# CHAPTER 36
# GRIEVANCE COMMISSION RULES OF PROCEDURE

**Rule 36.1 Complaints.**

**36.1(1)** Any complaint of the Iowa Supreme Court Attorney Disciplinary Board (disciplinary board) must be filed with the Iowa Supreme Court Grievance Commission (grievance commission) in the name of the disciplinary board as the complainant and against the attorney named in the charges as the respondent. The disciplinary board must prosecute the complaint and charges before the grievance commission until final disposition.

**36.1(2)** Every complaint filed against an attorney with the grievance commission by the disciplinary board must be signed and sworn to by the disciplinary board chair and served upon the attorney as provided in rule 36.5. The complaints must be sufficiently clear and specific in their charges to reasonably inform the attorney against whom the complaint is made of the misconduct the attorney is alleged to have committed.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**COMMENT:** Rule 36.1(1) formerly appeared as Iowa Court Rule 36.3. Rule 36.1(2) formerly appeared at Iowa Court Rule 35.5. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.2 Docket; complaints; filings.**

**36.2(1)** The grievance commission clerk must maintain a permanent docket of complaints in substantially the same manner as the records relating to civil actions in district court. The clerk must separately number and file each complaint. All subsequent answers, motions, applications, petitions, pleadings, orders, or other related documents will be made part of the file.

**36.2(2)** The grievance commission clerk must file and preserve all complaints, answers, motions, applications, petitions, pleadings, orders, records, reports, exhibits, evidence, and other documents or things filed under this chapter or received in evidence in a hearing before the grievance commission in Des Moines, Iowa, and the files must at all times be available to the supreme court or anyone the court designates.

[Court Order January 26, 2016, effective April 1, 2016]

**COMMENT:** Rule 36.2(1) formerly was included in Iowa Court Rule 36.4. Rule 36.2(2) formerly appeared at Iowa Court Rule 35.5. Rule 36.2 is amended to conform an internal reference to the new rule numbers and to reduce duplication with rule 36.4. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.3 Report of filing.** The grievance commission clerk must report the filing of each complaint to the grievance commission chair, who must by written order direct that the grievance commission as a whole, or a specified division of the commission, hear each complaint.

[Court Order January 26, 2016, effective April 1, 2016]

**COMMENT:** Rule 36.3 formerly appeared as Iowa Court Rule 36.5. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.4 Grievance commission; divisions.** Grievance commission commissioners may act as a body or in such divisions as the grievance commission chair may direct. Each division must consist of five members. The chair must designate the personnel of each division for each complaint as required. The chair must appoint one member to serve as division president. The chair will select two additional members as alternates.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**COMMENT:** Rule 36.4 formerly appeared as Iowa Court Rule 36.2. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.5 Notice to respondent.**

**36.5(1)** Upon the filing of a complaint, the grievance commission clerk must serve a written notice of the complaint, a copy of the complaint, and a copy of chapter 36 of the Iowa Court Rules upon the respondent.

**36.5(2)** The grievance commission clerk may serve notice of the complaint by personal service in the manner of an original notice in civil suits or by restricted certified mail to the respondent's last address as shown by records accessible to the supreme court. The notice must inform the respondent of the 20-day period following completed service of the notice to file a written answer to the complaint. Written return of service must be made by the person making the service if by personal service, or by the grievance commission clerk with postal receipts attached to the return if by restricted certified mail, and the return of service must be filed. Service is complete on the date of personal service or on the date shown by the postal receipt of delivery of the notice to the respondent or refusal of the

respondent to accept delivery. The notice is sufficient if it substantially complies with the form that accompanies these rules.

**36.5(3)** If service cannot be obtained pursuant to rule 36.5(2), the grievance commission clerk may serve notice of the complaint on the supreme court clerk, who is appointed to receive service on behalf of attorneys subject to Iowa's disciplinary authority. Iowa R. Prof'l Conduct 32:8.5 cmt. [1]. Service upon the supreme court clerk is deemed to be completed service of the notice on the respondent. Simultaneously with serving notice on the supreme court clerk, the grievance commission clerk must forward the notice and a copy of the complaint to the respondent by restricted certified mail to the respondent's last address as shown by records accessible to the supreme court. The notice must instruct the respondent to file a written answer to the complaint within 20 days after completed service of the notice. The grievance commission clerk must file with the supreme court clerk an affidavit attesting that notice was sent to the respondent by restricted certified mail.

[Court Order January 26, 2016, effective April 1, 2016]

**COMMENT:** Rule 36.5 formerly appeared as Iowa Court Rule 36.6. It is amended to conform an internal reference to the new rule numbers. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.6 Filing and service of documents.** All answers, motions, applications, petitions, and pleadings in connection with a complaint must be electronically filed with the clerk of the grievance commission. The grievance commission clerk must transmit copies to the parties and the grievance commission chair if the commission is sitting as a whole or to the grievance commission division president to whom the complaint has been referred.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 24, 2019, effective August 1, 2019; October 24, 2019, effective January 1, 2020; December 2, 2021]

**COMMENT:** Rule 36.6 formerly appeared as Iowa Court Rule 36.11. It is amended to conform an internal reference to the new rule numbers and reduce duplication with rule 36.2. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.7 Answer.** The respondent must file a written answer to the complaint within 20 days from the completed service of notice. For good cause shown upon written application, the grievance commission may grant an extension of time for filing an answer. If the respondent fails or refuses to file an answer within the time specified, the allegations of the complaint are deemed admitted, and the matter will proceed to a hearing on the issue of the appropriate sanction.

[Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.8 Notices by complainant and respondent.**

**36.8(1)** *Allegation of misappropriation or conversion.* If the complainant intends to assert that a respondent misappropriated or converted client or third-party funds in violation of rule 32:1.15 or chapter 45 of the Iowa Court Rules, the complainant must specifically allege in the complaint the respondent's misappropriation or conversion for personal use without a colorable future claim to the funds. The division president may for good cause shown allow amendment of the complaint to specifically allege misappropriation or conversion, provided the respondent is given notice of the amendment and an adequate opportunity to respond before the hearing commences. In granting leave to amend, the division president may impose terms and conditions, including a delay or continuance of the hearing.

**36.8(2)** *Colorable future claim.* A respondent who intends to rely on the defense of a colorable future claim to funds taken from a trust account to avoid a finding of misappropriation must, within the time set for the making of pretrial motions or at such later time as the division president directs, file written notice of such intention. The division president may for good cause shown allow late filing of the notice. The respondent bears the burden of coming forward with evidence in support of a colorable future claim, but the burden to prove conversion remains with the complainant.

**36.8(3)** *Failure to comply.* If a respondent fails to abide by the time period described in rule 36.8(2), the respondent may not offer evidence on the issue of colorable future claim without leave of the division president for good cause shown. In granting leave, the division president may impose terms and conditions including a delay or continuance of hearing.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**COMMENT:** Rule 36.8 is a new rule, intended to require notice of an allegation of misappropriation and use of the colorable future claim defense in trust account conversion cases. In 2014, the supreme court discussed the advisability of specifically alleging misappropriation or conversion for personal use in the complaint so that the respondent has adequate notice. *Iowa Sup. Ct. Att'y Disciplinary Bd. v. Kelsen*, 855 N.W.2d 175 (Iowa 2014). The supreme court subsequently stated that a complaint alleging theft or misappropriation must "specifically allege misappropriation or conversion of a client retainer for personal use without a colorable future claim." *Iowa Sup. Ct. Att'y Disciplinary Bd. v. Cepican*, 861 N.W.2d 841 (Iowa 2015). In another 2014 attorney discipline case, the supreme court addressed allocation of the burden of proof with respect to the so-called colorable future claim defense to conversion

of client funds held in trust. The court decided to allocate the burden of coming forward with evidence of a colorable future claim to the respondent attorney, but left the burden of proving conversion with the attorney disciplinary board. *Iowa Sup. Ct. Att'y Disciplinary Bd. v. Carter*, 847 N.W.2d 228 (Iowa 2014). Rule 36.8 requires that the complainant specifically include in its complaint any allegation of misappropriation or conversion, and the rule incorporates a notice requirement for a respondent intending to assert the colorable future claim defense, similar to the notice requirements for alibi, insanity, diminished capacity, and other defenses described in Iowa Rule of Criminal Procedure 2.11(11). [Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**Rule 36.9 Challenge regarding impartiality; four-member divisions.**

**36.9(1)** Within the time allowed for filing an answer to the complaint, the respondent may challenge the impartiality of any member of the grievance commission or division by filing a motion setting forth the grounds for challenge. The motion will be disposed of as provided in rule 36.14. If the challenge is sustained, the vacancy thus created will be filled as provided in rule 36.4.

**36.9(2)** With the consent of the complainant and the respondent, a grievance commission division may consist of four members. If the four-member division is evenly divided between a recommendation of sanction or dismissal, the division must enter a dismissal of the complaint pursuant to the provisions of rule 36.19. Upon such dismissal, the complainant may apply for permission to appeal pursuant to rule 36.22.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**COMMENT:** Rule 36.9 formerly appeared at Iowa Court Rule 36.13. It is amended to conform an internal rule reference to the new rule numbers. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.10 Setting case for hearing; pretrial conference and scheduling order.**

**36.10(1)** After 30 days have elapsed from the date of service of the complaint and a grievance commission division is appointed to hear the matter, the grievance commission clerk must arrange a scheduling conference with the division members and the parties to schedule the hearing, discovery, and other pretrial matters. Notice of the scheduling conference must be provided at least 10 days prior to the scheduled telephone conference.

**36.10(2)** The hearing must be held not less than 60 days nor more than 90 days after the date the answer is due. A respondent who waives this requirement must file a written application for waiver of speedy hearing with the grievance clerk at least three days prior to the rule 36.10(1) scheduling conference. Hearings may only be set outside of this period if the division president finds that good cause exists and the respondent does not object. At least 10 days before the date set for the hearing, the grievance commission clerk must mail to all parties and division members a copy of the order setting the hearing. If a party does not participate in the scheduling conference, the grievance commission clerk must provide notice of the hearing to the party by restricted certified mail or personal service.

**36.10(3)** The division president must file a scheduling order regarding discovery and other pretrial matters after the telephone conference. The scheduling order must specify deadlines for disclosure of expert witnesses, service of discovery requests, service of responses to discovery, exchange of witness and exhibit lists, exchange of exhibits, amendment of pleadings, objections to witnesses or exhibits, motions to resolve discovery issues, and any other pretrial matters the division president deems appropriate.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 24, 2019, effective August 1, 2019; October 24, 2019, effective January 1, 2020; December 16, 2019, effective January 1, 2020]

**COMMENT:** Rule 36.10 formerly appeared as Iowa Court Rule 35.7. It is amended to conform an internal reference to the new rule numbers and eliminate duplication with rule 36.11. In addition, provisions for a mandatory pretrial conference and a scheduling order regarding discovery and other pretrial matters are added, reflecting actual grievance commission pretrial practice. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.11 Time and place of hearing.** The grievance commission chair or the division president to whom a complaint has been referred must direct a hearing to be held upon the complaint in the respondent's county of residence or, at the discretion of the grievance commission chair, within any other judicial district as most nearly serves the convenience of the parties and must designate by written order the time and place for the hearing. If the respondent files written objections to conducting the hearing in the respondent's county of residence, the hearing must be held at such other place as the grievance commission chair or division president directs by written order, in which case a new notice of the hearing date must be given. If all parties and the division president agree, the hearing may be held by videoconference or telephone.

[Court Order January 26, 2016, effective April 1, 2016; September 14, 2021, effective October 1, 2021]

**COMMENT:** Rule 36.11 formerly appeared as Iowa Court Rule 36.8. It is amended to eliminate duplication with rule 36.10. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.12 Continuances.** A hearing may not be continued except for good cause, upon written application supported by affidavit. Except in a case of emergency, any motion for continuance must be filed at least seven days before the day of hearing. Any objections to continuance must be filed promptly.

[Court Order January 26, 2016, effective April 1, 2016]

**COMMENT:** Rule 36.12 formerly appeared as Iowa Court Rule 36.9. It is amended to include language formerly in Iowa Court Rule 35.7 regarding the written application and affidavit. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.13 Discovery.** In any disciplinary proceeding or action taken by the disciplinary board, discovery is permitted as provided in Iowa Rules of Civil Procedure 1.501(2) and 1.501(3), 1.502 through 1.504, 1.505(2), 1.506, 1.508 through 1.517, 1.701, 1.704, 1.705, and 1.707 through 1.717. The attorney against whom a complaint is filed, in addition to the restriction stated in Iowa Rule of Civil Procedure 1.503(1), is not required to answer an interrogatory pursuant to Iowa Rule of Civil Procedure 1.509, a request for admission pursuant to Iowa Rule of Civil Procedure 1.510, a question upon oral examination pursuant to Iowa Rule of Civil Procedure 1.701, or a question upon written interrogatories pursuant to Iowa Rule of Civil Procedure 1.710, if the answer would be self-incriminatory. In addition, evidence and testimony may be perpetuated as provided in Iowa Rules of Civil Procedure 1.721 through 1.728. If either party is to utilize discovery, it must be commenced within 30 days after service of the complaint. The grievance commission may permit amendments to the complaint to conform to the proof or to raise new matters as long as the respondent has notice and a reasonable time to prepare a defense prior to the date set for hearing. The grievance commission or any grievance commission division may receive an application and may enter an order to enforce discovery or to perpetuate any evidence. Discovery pursuant to this rule includes a respondent's right to obtain a copy of the disciplinary board's file pursuant to Iowa Court Rule 35.4(4).

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**COMMENT:** Rule 36.13 formerly appeared as Iowa Court Rule 35.6. It is amended to conform an internal reference to the new rule numbers. Rule 36.13 also is amended based on changes to discovery rules for civil cases adopted effective January 1, 2015, with the goal of selectively incorporating the new discovery rules in civil cases to reflect current discovery practice before the grievance commission. The incorporated rules allow discovery by oral deposition, written interrogatories, requests for admission, requests for production, physical or mental examination, and depositions upon written interrogatories. Iowa Rule of Civil Procedure 1.507 regarding a discovery plan is not incorporated. Current grievance commission practice, incorporated in rule 36.10, is to craft a discovery plan that accommodates the hearing date and enter a scheduling order at the time the hearing date is set by telephone conference. Iowa Rules of Civil Procedure 1.501(1) and 1.505 are not incorporated because the contemplated initial disclosures are not relevant in attorney disciplinary cases or are already subject to disclosure in other parts of the attorney disciplinary process and the timing provisions are not compatible with the pace of attorney disciplinary proceedings. Similarly, Iowa Rule of Civil Procedure 1.702 regarding small claims and Iowa Rule of Civil Procedure 1.706 regarding substituted parties do not apply in attorney disciplinary proceedings. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.14 Prehearing motions and hearings.** If prompt written request is filed by or on behalf of any party for a hearing upon any preliminary motion or application filed in connection with a complaint, the chair of the grievance commission sitting as a whole or the division president to whom such complaint has been referred must by written order set a time and place of hearing on the motion or application and must notify all parties and attorneys. After the hearing, or if none is requested, the grievance commission chair or division president, as the case may be, or any member of the grievance commission or division designated by the chair or president must file a written ruling upon the motion or application, and thereafter all parties must promptly comply with the ruling's terms and conditions.

[Court Order January 26, 2016, effective April 1, 2016]

**COMMENT:** Rule 36.14 formerly appeared as Iowa Court Rule 36.12. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.15 Subpoenas.**

**36.15(1)** The grievance commission has subpoena power on behalf of the disciplinary board and the attorney against whom a complaint is filed to compel the appearance of persons or the production of documents during discovery and the final hearing. The grievance commission clerk must issue a subpoena, signed but otherwise in blank, to a party who requests it. That party must complete the subpoena for service. An attorney licensed or otherwise authorized to practice law in Iowa, as an officer of the court, also may issue and sign a subpoena.

**36.15(2)** Any attack on the validity of a subpoena must be heard or determined by the grievance commission chair, the division president, or any division member to whom a complaint has been referred. Any resulting order is not appealable prior to entry of the grievance commission final

ruling, report, or recommendation. Disobedience of a grievance commission subpoena is punishable as contempt in the district court for the county where the hearing is to be held. A contempt proceeding is not a matter of public record.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**COMMENT:** Rule 36.15 formerly appeared as Iowa Court Rule 35.8. It is amended to conform an internal reference to the new rule numbers and to flow more logically. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.16 Stipulated submissions.**

**36.16(1)** The parties may stipulate and agree to waive formal hearing and submit the complaint to the grievance commission for its decision on the basis of a written stipulation the parties approve and file with the grievance commission clerk. The grievance commission may consider the complaint on the basis of the stipulation, refuse to accept the stipulation and proceed with a formal hearing, or accept the stipulation but conduct a limited hearing to elicit such additional evidence as the grievance commission may deem necessary to facilitate informed consideration of the complaint. A stipulation under this rule must be submitted not less than 15 days before the date set for hearing. A stipulation submitted pursuant to this rule may include a statement regarding the proposed discipline, including additional or alternative sanctions as provided in rule 36.19. A stipulation submitted pursuant to this rule must include:

*a.* For each rule violation stipulated, a separate paragraph stating supporting facts sufficient to allow the grievance commission and the supreme court to find a factual basis for concluding the violation occurred.

*b.* A separate statement of conclusions of law as to the stipulated violations.

*c.* A separate description of mitigating and aggravating circumstances.

*d.* A stipulation as to all exhibits.

*e.* A waiver of the formal hearing as to matters contained in the stipulation, the parties' agreement to submit the matter on the basis of the stipulation, and an agreement to closure of the record unless the grievance commission directs further proceedings.

*f.* If the parties stipulate to a sanction, a separate paragraph supported by citations to prior Iowa Supreme Court discipline decisions and a discussion as to why those decisions support the stipulated sanction.

**36.16(2)** If the grievance commission accepts a stipulation of facts, the stipulation binds the parties, the grievance commission, and the supreme court. The grievance commission must interpret the stipulation of facts with reference to its subject matter and in light of the surrounding circumstances and the whole record, including the state of the pleadings, issues involved, and any additional evidence elicited at a limited hearing.

**36.16(3)** A stipulation as to violations or sanctions is not binding on the grievance commission or the supreme court. The grievance commission must consider the statement of proposed discipline, but the statement does not limit the commission. The commission may recommend greater or lesser discipline, including additional or alternative sanctions.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

**COMMENT:** Rule 36.16 formerly appeared as Iowa Court Rule 35.9. It is amended to conform an internal reference to the new rule numbers. In addition, more specific requirements for the content of stipulated submissions and more specific provisions regarding the effect of stipulations are included based on the decisions of *Iowa Sup. Ct. Att'y Disciplinary Bd. v. Haskovec*, 869 N.W.2d 554 (Iowa 2015) and *Iowa Sup. Ct. Att'y Disciplinary Bd. v. Gailey*, 790 N.W.2d 801 (Iowa 2010). [Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**Rule 36.17 Conduct of hearing.**

**36.17(1)** At the time and place set for the hearing upon any complaint, the grievance commission or division must proceed to hear the evidence and arguments of the parties. The hearing is not open to the public.

**36.17(2)** The respondent may present character evidence by sworn affidavit, which must be filed as part of the respondent's exhibits. The affidavit must be admitted into evidence unless the complainant indicates, at least three days prior to the scheduled hearing date, that it intends to cross-examine the affiant. In such case, the affidavit must not be received into evidence, and the affiant must testify in the manner of all other witnesses. The respondent may similarly offer the character evidence of a subpoenaed judge by sworn affidavit, subject to the same constraints if the complainant timely indicates its intention to cross-examine the affiant judge. All other witnesses must testify at the hearing after administration of an oath or affirmation by a grievance commission member or other

person authorized by law to administer oaths, and their testimony must be officially reported by a duly qualified court reporter.

**36.17(3)** If the respondent previously has been publicly reprimanded, the respondent's license has been suspended or revoked, or the respondent has been disbarred, a certified copy of said action must be admitted into evidence at any hearing involving disciplinary proceedings without the necessity of a bifurcated hearing. The grievance commission and the supreme court will consider this evidence with all other evidence in the case in determining the respondent's fitness to practice law in the State of Iowa.

**36.17(4)** Either party may use principles of issue preclusion in an attorney discipline case if all of the following conditions exist:

*a.* The issue has been resolved in a civil proceeding that resulted in a final judgment or in a criminal proceeding that resulted in a finding of guilt, even if the disciplinary board was not a party to the prior proceeding.

*b.* The burden of proof in the prior proceeding was greater than a preponderance of the evidence.

*c.* The party seeking preclusive effect has given written notice to the opposing party, not less than 10 days prior to the hearing, of the party's intention to invoke issue preclusion.

**36.17(5)** The respondent may defend and has the right to participate in the hearing in person and by counsel to cross-examine, to be confronted by witnesses, and to present evidence.

**36.17(6)** The presentation of evidence must conform to the Iowa Rules of Civil Procedure and the Iowa Rules of Evidence. The grievance commission chair or division president will determine all questions of procedure, including objections to evidence.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**COMMENT:** The majority of rule 36.17 formerly appeared at Iowa Court Rule 36.14. Rules 36.17(3) and 36.17(4) formerly appeared at Iowa Court Rule 35.7. [Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**Rule 36.18 Oaths.** Any member of the grievance commission may administer oaths or affirmations to all witnesses and must cause such testimony to be officially reported by a court reporter.

[Court Order January 26, 2016, effective April 1, 2016]

**COMMENT:** Rule 36.18 formerly appeared as Iowa Court Rule 36.10. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.19 Action upon complaint; report of decision.**

**36.19(1)** At the conclusion of a hearing upon any complaint against an attorney, the grievance commission may permit a reasonable time for the parties to file post-hearing briefs and arguments. The commissioners must dismiss the complaint, issue a private admonition, or recommend that the supreme court reprimand the respondent or suspend or revoke the respondent's license. If the commissioners recommend a reprimand, suspension, or revocation, they must file with the grievance commission clerk a report of their findings of fact, conclusions of law, and recommendations within 60 days of the date set for filing of the last responsive brief and argument. The report must be titled in the name of the complainant versus the accused attorney as respondent. As part of its report, the grievance commission may recommend additional or alternative sanctions such as restitution, costs, practice limitations, appointment of a trustee or receiver, passage of a bar examination or the Multistate Professional Responsibility Examination, attendance at continuing legal education courses, or other measures consistent with the purposes of attorney discipline. The clerk of the grievance commission must promptly file the report with the supreme court clerk and must serve the report upon the complainant and the respondent as provided in Iowa Rule of Appellate Procedure 6.701. The matter then stands for disposition in the supreme court.

**36.19(2)** All reports and recommendations of the commissioners must be concurred in by at least 3 members of the division or at least 12 members of the grievance commission, as the case may be, all of whom must have been present throughout the proceedings. Any commissioner has the right to file with the grievance commission clerk a dissent from the majority determination or report. The clerk must promptly serve a copy of a dissent on the parties.

**36.19(3)** If the grievance commission dismisses the complaint or issues a private admonition, no report may be made to the supreme court except as provided in rule 34.13; however, the grievance commission must, within 10 days of its determination, serve a copy of its determination or report on the complainant and the attorney concerned as provided in this rule. If the complainant does not apply for an appeal within 10 days after such service, the grievance commission's determination is final.

**36.19(4)** If the commissioners dismiss the charges, no publicity will be given to any of the proceedings except at respondent's request.

**36.19(5)** A copy of the grievance commission's report must be filed with the Client Security Commission.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**COMMENT:** Rule 36.19 formerly appeared as Iowa Court Rule 36.15. It is amended to conform an internal reference to the new rule numbers and to complement rule 36.20. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.20 Additional time for decision upon request.** If the grievance commission cannot reasonably make its determination or file its report within 60 days of the date set for the filing of the last responsive brief and argument, the division president may file a request for an extension of time with the grievance commission clerk prior to expiration of the 60-day period. The clerk must serve a copy of the request on the grievance commission chair and the parties. The grievance commission chair must file a written decision on the extension request with the grievance commission clerk, who must serve a copy on all parties. If the division fails to file its decision or a request for an extension of time within 60 days of the date set for the filing of the last responsive brief and argument, the grievance commission clerk must promptly notify the executive director of the office of professional regulation of the failure.

[Court Order January 26, 2016, effective April 1, 2016; September 14, 2021, effective October 1, 2021]

**COMMENT:** Rule 36.20 formerly appeared at Iowa Court Rule 35.10. It is amended to conform an internal reference to the new rule numbers and to reflect the provisions moved to or already present in rule 36.19. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.21 Supreme court disposition if no appeal.**

**36.21(1)** Within 14 days after a report is filed with the supreme court clerk, the grievance commission clerk must transmit to the supreme court clerk the entire record made before the grievance commission. If no appeal is taken or application for permission to appeal is filed within the 10-day period provided in rule 36.22, the supreme court will set a date for submission of the grievance commission report. The supreme court will notify the parties that they may file written statements with the supreme court in support of or in opposition to the discipline the grievance commission recommends. Statements in support of or in opposition to the recommended discipline must be served and filed no later than seven days before the date set for submission. Upon submission, the supreme court will proceed to review de novo the record made before the grievance commission and determine the matter without oral argument or further notice to the parties. Upon de novo review the supreme court may impose a lesser or greater sanction than the discipline the grievance commission recommends.

**36.21(2)** The supreme court may revoke or suspend the license of an attorney admitted to practice law in Iowa upon any of the following grounds: conviction of a felony, conviction of a misdemeanor involving moral turpitude, violation of any provision of the Iowa Rules of Professional Conduct, or any cause now or hereafter provided by statute or these rules.

**36.21(3)** If the supreme court imposes a sanction in the form of a suspension, the suspension period will start ten days from the date of the order unless the order states otherwise.

[Court Order January 26, 2016, effective April 1, 2016; September 19, 2022, effective October 1, 2022]

**COMMENT:** Rule 36.21 formerly appeared as Iowa Court Rule 35.11. It is amended to conform an internal reference to the new rule numbers. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.22 Appeal.**

**36.22(1)** Pursuant to rule 36.19, the respondent may appeal to the supreme court from the report or recommendation the grievance commission files. The respondent's notice of appeal must be filed with the grievance commission clerk within 10 days after service of the report or recommendation on the respondent. The respondent must serve a copy of the notice of appeal on the complainant pursuant to Iowa Rule of Appellate Procedure 6.701. Promptly after filing the notice of appeal with the grievance commission clerk, the respondent must mail or deliver a copy of the notice to the supreme court clerk.

**36.22(2)** The complainant may apply to the supreme court for permission to appeal from a determination, ruling, report, or recommendation of the grievance commission. The application must be filed within 10 days after service of the determination, ruling, report, or recommendation on the complainant. The supreme court may grant such appeal in a manner similar to the granting of interlocutory appeals in civil cases under the Iowa Rules of Appellate Procedure. The filing fee and the docket fee may be waived upon the complainant's written request.

**36.22(3)** An appeal of the grievance commission's dismissal of a complaint or of the grievance commission's decision to issue a private admonition must remain confidential. In making such

application, and in any subsequent briefs, the complainant must refer to the respondent as "Attorney Doe No. (insert grievance commission number)," instead of using the respondent's name. All references to the respondent during oral arguments must be to "Attorney Doe." In the event the supreme court reverses or modifies the report of the grievance commission, the court order of reversal or modification is a public record.

**36.22(4)** After a notice of appeal is filed or permission to appeal is granted, the appeal must proceed pursuant to the Iowa Rules of Appellate Procedure to the full extent those rules are not inconsistent with this chapter. Within seven days of the filing of the notice of appeal or the filing of the order granting permission to appeal, appellant must pay the filing fee pursuant to Iowa Rule of Appellate Procedure 6.702 and must file the combined certificate Iowa Rule of Appellate Procedure 6.804 requires. The matter must be captioned under the title given to the action before the grievance commission with the appellant identified as such pursuant to Iowa Rule of Appellate Procedure 6.109(2), unless rule 36.22(3) requires otherwise. The abbreviated time limits specified in Iowa Rule of Appellate Procedure 6.902 apply. Extensions of time must not be granted except upon a verified showing of the most unusual and compelling circumstances. Review is de novo. If a respondent's appeal is dismissed for lack of prosecution pursuant to Iowa Rule of Appellate Procedure 6.1202 or for any other reason, the supreme court must proceed to review and decide the matter pursuant to rule 36.21 as if no appeal had been taken.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**COMMENT:** Rule 36.22 formerly appeared as Iowa Court Rule 35.12. It is amended to conform an internal reference to the new rule numbers. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.23 Harmless error; substantial prejudice test.** An omission, irregularity, or other defect in procedure will not render void or ineffective any act of the grievance commission, division, or any member thereof unless substantial prejudice is shown to have resulted.

[Court Order January 26, 2016, effective April 1, 2016]

**COMMENT:** Rule 36.23 formerly appeared as Iowa Court Rule 36.17. It is amended to conform an internal reference to the new rule numbers. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.24 Costs.**

**36.24(1)** In the event that an order of revocation, suspension, or public reprimand results from formal charges of misconduct, the supreme court will assess against the respondent the costs of the proceeding. For the purposes of this rule, costs include those expenses normally taxed as costs in state civil actions pursuant to the provisions of Iowa Code chapter 625. Transcript costs for hearings before the grievance commission are not subject to the maximum compensation amounts for shorthand reporters set forth in Iowa Court Rule 22.28. Transcript costs will be taxed at the actual amount the grievance commission expends.

**36.24(2)** Within 30 days of the filing of the grievance commission report, the clerk of the grievance commission must serve the complainant and the respondent with a bill of costs and file the bill with the supreme court clerk. An appeal does not obviate this requirement. The complainant and the respondent have 10 days from the date of service to file written objections with the supreme court and the grievance commission clerk. Any objections filed must be considered by the grievance commission division president or the president's designee. The president or the designee must rule on the objections within 10 days. The supreme court will consider the ruling and objections upon disposition of the matter under rule 36.21 or 36.22. The supreme court clerk must tax additional costs associated with an appeal as in other civil actions.

**36.24(3)** In its final decision, the supreme court will order the respondent to pay restitution to the complainant for such costs as the supreme court may approve. A suspended or disbarred attorney may not file an application for reinstatement or readmission until the amount of such restitution for costs assessed under this rule is fully paid or waived by the supreme court.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

**COMMENT:** Rule 36.24 formerly appeared as Iowa Court Rule 35.27. It is amended to conform an internal reference to the new rule numbers. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 36.25 Forms.**
**Rule 36.25 — Form 1:** ***Notice of Complaint.***

| **Before the Iowa Supreme Court Grievance Commission** | |
|---|---|
| **Iowa Supreme Court**<br>**Attorney Disciplinary Board,**<br>**Complainant,**<br>**vs.**<br>_____ , Attorney at Law, of<br>*Full name: first, middle, last*<br>_____, Iowa<br>**Respondent.** | **Notice of Complaint** |

To: _____,
*Respondent's name*

Respondent:

You are notified that there is now a complaint on file with the Iowa Supreme Court Grievance Commission Clerk at the Iowa Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa 50319, alleging that you have committed unethical practices as an attorney and counselor at law.

A copy of the complaint and a copy of chapter 36 of the Iowa Court Rules are attached and made a part of this notice.

You are further notified to file your written answer to the complaint within 20 days from the completed service of this notice and to abide by any further orders of the grievance commission made in accordance with chapter 36 of the Iowa Court Rules.

You are further notified that the grievance commission will hear this complaint in accordance with the rules and will take action as may be warranted by the facts and circumstances disclosed at the hearing.

Dated this _____ day of _____, 20_____.
*Month* *Year*

_____
*Grievance Commission Clerk*
Iowa Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319



[Court Order January 26, 2016, effective April 1, 2016]

# CHAPTER 37
# COMMISSION ON THE UNAUTHORIZED PRACTICE OF LAW

# CHAPTER 37
# COMMISSION ON THE UNAUTHORIZED PRACTICE OF LAW

**Rule 37.1 Commission on the Unauthorized Practice of Law.**

**37.1(1)** There is created a commission for the abatement of the unauthorized practice of law, which is known as the Commission on the Unauthorized Practice of Law (commission). This commission comprises seven lawyer members and two nonlawyer members, all of whom are appointed by the supreme court. The supreme court may accept nominations for appointment to the commission from any association of lawyers that maintains an office within the State of Iowa or any lawyer licensed in Iowa. The court will designate annually one lawyer commission member to be the chair. Members may serve no more than three three-year terms, and a member who has served three full terms is not eligible for reappointment. The commission's purpose is to receive complaints and make investigations with respect to the alleged unauthorized practice of law within this state.

**37.1(2)** The executive director of the office of professional regulation will designate the director of boards and commissions of the office of professional regulation to serve as the principal administrator for the commission on the unauthorized practice of law. Wherever in this chapter a reference to the "director" appears, it refers to the director of boards and commissions of the office of professional regulation.

**37.1(3)** Commission expenses must be paid from the disciplinary fee account of the Clients' Security Trust Fund of the Bar of Iowa. The executive director of the office of professional regulation must, annually on or before May 1 or on a date otherwise specified by the supreme court, submit a budget to the supreme court for the next fiscal year.

[Court Order April 17, 1990, effective June 1, 1990; May 2, 1997; November 9, 2001, effective February 15, 2002; June 28, 2004, effective May 1, 2004; April 20, 2005, effective July 1, 2005; December 5, 2007; December 10, 2012, effective July 1, 2013; November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

**Rule 37.2 Injunctions.**

**37.2(1)** If the commission has reasonable cause to believe that any person who has not been admitted to practice law within this state is engaging in the practice of law or holding out to the public that the person is qualified to provide services constituting the practice of law in this state, the commission may file a verified complaint with the clerk of the district court in any county in which the unauthorized practice is alleged to have occurred.

**37.2(2)** The complaint must be filed with the clerk of the district court, be given a docket number, and be captioned in the Iowa District Court for _____ County. The commission must be designated as the complainant. The respondent must be named and designated as the respondent. The complaint must be presented to the chief judge of the judicial district for entry of an order to be served on the respondent requiring that person to appear before the court and show cause why that person should not be enjoined from such activity. The show-cause hearing will be held before the chief judge or another judge designated by the chief judge.

**37.2(3)** If it appears that the facts are incapable of being adequately developed at a summary hearing, the matter may be set for trial before that judge, who will hear the evidence and make findings of fact and an appropriate dispositional order.

[Court Order April 17, 1990, effective June 1, 1990; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

**Rule 37.3 Unauthorized practice of nonadmitted lawyers.** If the commission makes a determination that any person who is admitted to practice in another jurisdiction but is not admitted to practice in this state has violated an injunction issued in compliance with rule 37.2, the commission must report its findings to the office of professional regulation, and the court may, in its discretion, use such information for purposes of admissions under Iowa Court Rule 31.12.

[Court Order May 2, 1997; November 9, 2001, effective February 15, 2002; February 14, 2008, effective April 1, 2008; December 13, 2017, effective January 1, 2018]

**Rule 37.4 Domestic violence, sexual assault, and sexual abuse victim counselors.**

**37.4(1)** In all proceedings under Iowa Code chapters 236, 236A, and 664A, a victim counselor, as defined in Iowa Code section 915.20A(1)(*d*), who is affiliated with a member domestic violence program of the Iowa Coalition Against Domestic Violence or a member of the sexual assault program

of the Iowa Coalition Against Sexual Assault, and whose program has registered with the Iowa Coalition Against Domestic Violence or the Iowa Coalition Against Sexual Assault as providing services under this rule, is allowed to do the following:

*a.* To distribute the pro se forms prescribed by the department of justice pursuant to Iowa Code sections 236.3A and 236A.4 and to assist victims of domestic violence in the preparation of such forms.

*b.* To describe to victims the proceedings under chapters 236, 236A, and 664A and to assist them in their role as witnesses.

*c.* To accompany victims throughout all stages of proceedings under Iowa Code chapters 236, 236A, and 664A.

*d.* To attend all court proceedings, including sitting in chambers and at counsel table, to confer with the plaintiffs, and, at the judge's discretion, to address the court; however, domestic violence and sexual assault victim counselors cannot examine witnesses, make arguments to the court, or otherwise act in a representative capacity for victims of domestic violence.

**37.4(2)** The Iowa Coalition Against Domestic Violence and the Iowa Coalition Against Sexual Assault must provide to the director of the office of professional regulation, on an annual basis and more frequently as necessary, an updated list of its member programs that perform the services provided under this rule.

**37.4(3)** When they assist victims of domestic violence as specified in this rule, domestic violence and sexual assault victim counselors are not engaged in the unauthorized practice of law.

[Court Order October 18, 1993, effective January 3, 1994; November 9, 2001, effective February 15, 2002; June 14, 2002, effective July 1, 2002; March 15, 2007; February 14, 2008, effective April 1, 2008; December 13, 2017, effective January 1, 2018]

**Rule 37.5 Limited real estate practice.**

**37.5(1)** *Purpose.* The purpose of this rule is to authorize nonlawyers to select, prepare, and complete certain legal documents incident to residential real estate transactions of four units or less. The preparation of documents beyond that authorized by this rule may constitute the unauthorized practice of law.

**37.5(2)** *Scope of practice authorized.* Except to the extent authorized by this rule, the selection, preparation, and completion of legal documents in connection with real estate transactions by nonlawyers constitutes the unauthorized practice of law unless the nonlawyer is acting on his or her own behalf as a buyer or seller.

*a.* Upon written request of a buyer or seller, a nonlawyer may select, prepare, and complete form documents for use incident to a residential real estate transaction of four units or less. Such documents are limited to:

(1) Purchase offers or purchase agreements, provided the parties are given written notice that these are binding legal documents and competent legal advice should be sought before signing.

(2) Groundwater hazard statements.

(3) Declaration of value forms.

*b.* Nonlawyers cannot select, prepare or complete:

(1) Deeds.

(2) Real estate installment sales contracts.

(3) Affidavits of identity or nonidentity.

(4) Affidavits of payment of spousal or child support.

(5) Any other documents necessary to correct title problems or deficiencies.

*c.* Nonlawyers may not charge for preparation of the legal documents authorized by this rule.

[Court Order May 23, 2001; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

# CHAPTER 38
# RULES OF PROCEDURE OF THE COMMISSION ON THE UNAUTHORIZED PRACTICE OF LAW

# CHAPTER 38
# RULES OF PROCEDURE OF THE COMMISSION ON THE UNAUTHORIZED PRACTICE OF LAW

**Rule 38.1 Jurisdiction; authorization; scope.** The Commission on the Unauthorized Practice of Law, as an official arm of the court, is charged under Iowa Court Rule 37.2 with considering, investigating, and seeking the prohibition of matters pertaining to the unauthorized practice of law and the prosecution of alleged offenders. The rules contained in this chapter apply to all proceedings, functions, and responsibilities of the commission.
[Court Order February 17, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; December 10, 2012; December 13, 2017, effective January 1, 2018]

**Rule 38.2 Definitions.** In this chapter unless the content or subject matter otherwise requires:

**38.2(1)** "Director" means the director of boards and commissions designated by the executive director of the office of professional regulation.

**38.2(2)** "Chair" means the presiding officer of the commission and includes the chair of the commission, the vice chair, or any acting chair designated by the commission to preside in the absence of the chair.

**38.2(3)** "Commission" means the Commission on the Unauthorized Practice of Law.

**38.2(4)** "Respondent" is the person or entity whose conduct is the subject of a complaint to the commission or a proceeding in district court pursuant to Iowa Court Rule 37.2.

**38.2(5)** "Must" is mandatory and "may" is permissive.
[Court Order February 17, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; December 5, 2007; December 10, 2012; November 20, 2015; effective January 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

**Rule 38.3 Officers.** At its first meeting in each year, the commission will elect a vice chairperson to serve for the year and until a successor is elected.
[Court Order February 17, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

**Rule 38.4 Meetings and quorum.**

**38.4(1)** Meetings of the commission will be called by the chair of the commission and may be attended in person or by telephone. The commission must meet at least once in each calendar quarter. Special meetings may be called by the chairperson or at the request of three or more members of the commission.

**38.4(2)** The commission may act only upon the concurrence of a majority of the members present, except in the case of a vote to initiate an action pursuant to Iowa Court Rule 37.2, in which case the commission may act only upon the concurrence of a minimum of four members.
[Court Order February 17, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; December 10, 2012, effective July 1, 2013; December 13, 2017, effective January 1, 2018]

**Rule 38.5 Complaints to the commission.** Complaints may be accepted from any person or other entity believing that an individual or entity has been engaged in the unauthorized practice of law.

**38.5(1)** In this context, "complaint" means any written communication to the commission that alleges or indicates that the unauthorized practice of law has been or is taking place.

**38.5(2)** Complaints must be in writing but may be simple and informal. Complaints must include whatever information or exhibits the complainant desires to submit.

**38.5(3)** Complaints must be filed by submitting them to the director at the office of professional regulation.

**38.5(4)** The commission may, upon its own motion and regardless of whether any complaint has been filed, initiate any investigation or action it deems appropriate.

**38.5(5)** Upon receiving a complaint or initiating any investigation or action on its own motion, the commission must make a record indicating the date of filing or initiation, the name and address of complainant, the name and address of respondent, and a brief statement of the allegations made. This record must also show the final disposition of the matter when it is completed.

**38.5(6)** All commission files must be kept in permanent form at the office of professional regulation.

[Court Order February 17, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; December 5, 2007; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

**Rule 38.6 Investigation procedure.**

**38.6(1)** Upon receipt of a complaint, the commission may notify the complainant in writing that the complaint has been received and will be considered by the commission.

**38.6(2)** Upon receipt of a complaint, the commission must cause the complaint to be set for consideration by the commission at its next meeting.

**38.6(3)** When considering a complaint, the commission must act in accordance with the following guidelines:

*a.* If it reasonably appears from the complaint that the respondent is not engaged in the unauthorized practice of law, the chair or the chair's designee must notify the complainant in writing of the commission's position and that the commission will take no further action.

*b.* Other complaints may be further investigated and acted upon by the commission consistent with this chapter and, if appropriate, referral may be made to the Iowa Supreme Court Attorney Disciplinary Board, the Iowa Department of Justice, or some other agency or entity.

*c.* If the commission determines that a complaint should be investigated further, it may direct that the investigation be conducted by a commission member or members or by the director.

*d.* If the commission in its discretion determines that it would be helpful for the respondent to provide a written response to the matters alleged in the complaint, it may direct that the respondent be so notified. In such circumstances the respondent must be notified of the substance of the complaint and that it is requested, but not required, that within 20 days the respondent provide a written response to the commission concerning the matters referred to in the notice.

*e.* The commission may request the complainant to clarify the complainant's original statement, to furnish additional information, to disclose sources of information, or to verify by affidavit statements of fact within the complainant's knowledge.

*f.* The commission may also initiate inquiries of other sources.

**38.6(4)** Nothing in this rule prohibits the chair of the commission from referring any complaint for investigation in advance of the next commission meeting when, in the chair's discretion, such referral is warranted.

[Court Order February 17, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007; November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

**Rule 38.7 Determination following investigation.** After the results of an investigation are returned to the commission, the commission may do any of the following:

**38.7(1)** Close the file and so notify the complainant.

**38.7(2)** Contact the respondent to obtain an agreement by the respondent to cease and desist from the unauthorized practice of law.

**38.7(3)** Initiate an action pursuant to Iowa Court Rule 37.2.

[Court Order February 17, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; December 10, 2012; December 13, 2017, effective January 1, 2018]

**Rule 38.8 Confidentiality.**

**38.8(1)** All unauthorized practice of law investigation matters, including but not limited to files, correspondence, investigation reports, memoranda, and records of investigations, are confidential unless otherwise provided in this chapter or ordered by the Iowa Supreme Court. All statements, communications, or materials that may be received or obtained by any person investigating any complaint on behalf of the commission must also be confidential unless otherwise provided in this chapter or ordered by the Supreme Court of Iowa.

**38.8(2)** Notwithstanding rule 38.8(1):

*a.* If the commission initiates an action pursuant to Iowa Court Rule 37.2, the petition and all documents filed in that proceeding are public documents.

*b.* The chairperson or other designee of the commission may issue one or more clarifying announcements when the subject matter of a complaint or petition is of broad public interest. No

other member of the commission may make any public statement concerning any matter before the commission without prior approval of the commission.

*c.* Pursuant to the commission's order, records may be inspected by and their contents disclosed to a person conducting bona fide research for research purposes, provided that no personal identifying data or work product of commission counsel is disclosed to such a person.

*d.* Nothing in this chapter prohibits the commission from releasing information to its counsel.

*e.* Nothing in this chapter prohibits the commission from releasing information as appropriate to the Iowa Supreme Court, the Iowa Department of Justice, the Iowa Supreme Court Attorney Disciplinary Board, appropriate law enforcement authorities, or some other agency or entity.

[Court Order February 17, 1992, effective July 1, 1992; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 10, 2012; December 13, 2017, effective January 1, 2018]

**Rule 38.9 Immunity.** Members of the commission and their respective staffs are immune from suit for any conduct in the course of their official duties. Complaints submitted to the commission, and testimony with respect thereto, are privileged and no lawsuit predicated thereon may be instituted.

[Court Order February 17, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

# CHAPTER 39
# CLIENT SECURITY COMMISSION

# CHAPTER 39
# CLIENT SECURITY COMMISSION

**Rule 39.1 Client Security Commission.**

**39.1(1)** *Commission.* There is hereby created a Client Security Commission (commission), which has the duties and powers provided in this chapter.

**39.1(2)** *Duties of commission.* The commission has the following duties and powers as limited and defined in this chapter:

*a.* To examine lawyer defalcations and breaches of Iowa Rules of Professional Conduct, the rules relating to the discipline of members of the Iowa bar, and to make recommendations to the supreme court concerning rule changes deemed necessary or desirable in this area.

*b.* To assist the court in administering both preventive and remedial attorney disciplinary procedures contained in these rules or other court rules.

*c.* To administer and operate the Clients' Security Trust Fund of the Bar of Iowa, as hereinafter created, designated as the "fund."

**39.1(3)** *Appointment of commissioners.* The supreme court will appoint five members of the Iowa bar and two laypersons who are residents of this state to the commission. All appointments will be for a term of four years, and any commissioner who has served two full terms is not eligible for reappointment. A vacancy occurring during a term will be filled by the supreme court for the unexpired portion thereof.

**39.1(4)** *Organization and meetings.* The commissioners must organize annually and elect from among their number a chair and a treasurer to serve for a one-year term and such other officers for such terms as they deem necessary or appropriate. Meetings thereafter will be held at the call of the chair or of the majority of the commissioners. Five commissioners will constitute a quorum and may transact all business except as may be otherwise provided by this chapter and chapter 40 of the Iowa Court Rules.

**39.1(5)** *Regulations.* The commission may adopt regulations, consistent with this chapter and subject to the approval of the supreme court, concerning all of the powers and duties granted to and imposed upon the commission by this chapter.

**39.1(6)** *Reimbursement.* The commissioners must serve without compensation but are entitled to reimbursement from the fund for their expenses reasonably incurred in the performance of their duties.

[Court Order December 5, 1973; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; May 25, 2004; April 20, 2005, and July 1, 2005, effective July 1, 2005; December 13, 2017, effective January 1, 2018]

**Rule 39.2 Principal executive officer.**

**39.2(1)** *Appointment.* The executive director of the office of professional regulation serves as the principal executive officer of the commission. The executive director may designate a director of client security to assist with the duties described in this chapter.

**39.2(2)** *Duties of the executive director.* Subject to the supervision of the supreme court and the commission, the executive director must do the following:

*a.* Collect attorney fees and assessments for the fund and report to the commission the names and addresses of all attorneys who fail to pay the fee and assessment.

*b.* Serve as executive secretary to the commission and assist in the operation and administration of the fund.

*c.* Conduct investigations and audits of attorneys' accounts and office procedures to determine compliance with this chapter, Iowa Rule of Professional Conduct 32:1.15, and chapter 45 of the Iowa Court Rules and report violations to the commission.

*d.* Maintain an office in such place as the supreme court may designate, act as a liaison between the court, the commission, and other commissions, committees, boards, and personnel serving a function in the disciplinary system, and maintain for the court records of disciplinary proceedings and such other information and data as the court requires.

*e.* Upon request of the commission, institute disciplinary proceedings before the grievance commission pursuant to chapter 36 of the Iowa Court Rules.

*f.* Perform such other functions and duties as may be directed by the supreme court.

[Court Order December 5, 1973; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007; November 20, 2015, effective

January 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

**Rule 39.3 Clients' Security Trust Fund of the Bar of Iowa.**

**39.3(1)** *Creation, operation and purpose.* A trust fund, to be known as the "Clients' Security Trust Fund of the Bar of Iowa" (fund) is hereby authorized and created.

**39.3(2)** *Administration.* The fund will be operated and administered by the commission in accordance with this chapter.

**39.3(3)** *Purpose.* The purpose of the fund is to prevent defalcations by members of the Iowa bar, and insofar as practicable, to provide for the indemnification by the profession for losses caused to the public by the dishonest conduct of members of the bar of this state, and to provide funding for the administration of the lawyer disciplinary system and other programs that impact the disciplinary system including, but not limited to, the Iowa Lawyer's Assistance Program.

**39.3(4)** *Powers and duties of commission relating to the fund.* The commission, in addition to the powers granted elsewhere in this chapter, also has the following powers and duties:

*a.* To receive, hold, manage, and distribute, pursuant to the direction of the supreme court and this chapter, the moneys raised hereunder, and any other amounts that may be received by the fund through voluntary contributions or otherwise.

*b.* To adopt, subject to the approval of the supreme court, regulations for the administration of the fund and the procedures for presentation, consideration, recognition, rejection and payment of claims, and for conducting business. A copy of such regulations must be filed with the clerk of the supreme court.

*c.* To enforce claims for restitution arising by subrogation or assignment or otherwise.

*d.* To invest the fund, or any portion thereof, in those investments and in the percentages authorized by Iowa Code section 97B.7, (investments for the Iowa Public Employees' Retirement System); provided, however, the commission is not required to invest such portions of the fund as it may deem necessary to be currently available for payment of claims and other expenses required by this chapter. All interest or other income received in the operation of the fund will become a part of the fund.

*e.* To employ and compensate consultants, agents, legal counsel, and employees.

*f.* To delegate the power to perform routine acts that may be necessary or desirable for the operation of the fund, including the power to authorize disbursements for routine operating expenses of the fund, and all necessary expenses of the assistant administrator and staff in the performance of their duties. Authorization for payment of claims, however, may be made only by the commission under the provisions of this chapter.

*g.* To sue in the name of the commission without joining any or all individual commissioners.

*h.* To purchase complementary fidelity coverage for the fund in such amount and with such limitations or deductible limits as in its discretion it determines proper.

*i.* To pay reasonable and necessary attorney fees incurred by the commission in connection with disciplinary proceedings based on attorney defalcations or which are initiated pursuant to rule 39.2(3)(*e*).

*j.* To fund programs that the commission believes will assist in preventing defalcations by attorneys. The annual allocation for any such program must not exceed two and one-half percent of the fund value as of the beginning of the fiscal year in which the funding is to occur. No such funding may be provided unless there is at least twice the minimum balance required by rule 39.6(3) in the fund at the beginning of the fiscal year in which the funding is to occur.

**39.3(5)** *Applications to the supreme court.* The commission may apply to the supreme court for interpretations of this chapter and of the extent of the commission's powers thereunder and for advice regarding the proper administration of the fund. Interpretations of the supreme court are obligatory when rendered.

[Court Order November 9, 2001, effective February 15, 2002; November 26, 2013, effective December 1, 2013; December 13, 2017, effective January 1, 2018]

**Rule 39.4 Audit; banking; budget.**

**39.4(1)** *Audit and report.* On March 1 of each year, and at such additional times as the supreme court may order, the commission must file with the supreme court a written report reviewing in detail the administration of the fund during the preceding calendar year together with an audit of the fund certified by a certified public accountant licensed to practice in Iowa.

**39.4(2)** *Banking and disbursements.* The executive director of the office of professional regulation must maintain the assets of the fund in a separate account and may disburse moneys from the fund only at the direction of the supreme court or upon the action of the commission pursuant to this chapter. A separate bookkeeping account designated as the disciplinary fund account must be maintained within the fund for moneys derived from the annual disciplinary fee set out in rule 39.5. Fees, penalties, or investment income derived from the investment of the income from annual disciplinary fees and penalties must be placed in the disciplinary fund account.

**39.4(3)** *Budget.* At least 60 days prior to the commencement of each fiscal year or on a date otherwise specified by the supreme court, the executive director of the office of professional regulation must submit to the supreme court its budget of operations of such year, which may be amended thereafter as necessity dictates.

[Court Order November 9, 2001, effective February 15, 2002; December 5, 2007; November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

**Rule 39.5 Annual disciplinary fee.** As a condition to continuing membership in the bar of the supreme court, including the right to practice law before Iowa courts, every bar member, unless exempt or retired, must pay to the commission through the office of professional regulation an annual fee as determined by the supreme court to finance the disciplinary system. The annual fee is due on or before March 10 of each year, for that calendar year. A calendar year is defined as the period of time from January 1 through December 31. A member of the bar of the supreme court who certifies in writing to the commission that the member is a justice, judge, associate judge, or full-time magistrate of any court, spends full time in the military service of the United States following admission to the Iowa bar, is admitted on examination to the bar of Iowa during the current calendar year, or is issued a certificate of exemption or a certificate of retirement pursuant to the provisions of rule 39.7 is exempt from payment of this fee.

[Court Order November 9, 2001, effective February 15, 2002; December 5, 2007; December 2, 2011; April 25, 2014; August 19, 2016, effective September 1, 2016; December 13, 2017, effective January 1, 2018]

**Rule 39.6 Fund assessments.**

**39.6(1)** *Assessments.* As a condition to continuing membership in the bar of Iowa, including the right to practice law before Iowa courts, every bar member, unless exempt or retired under the provisions of rule 39.6(6) or rule 39.7, must pay to the commission through the office of professional regulation the assessment specified in rule 39.6(2), 39.6(3), or 39.6(4), or as provided by court order. The assessment is to be paid annually and deposited in the fund created pursuant to the provisions of rule 39.3. Assessments are due on or before March 10 of each year, for that calendar year. A calendar year is defined as the period of time from January 1 through December 31.

**39.6(2)** *Initial and regular assessment schedule.*

For the calendar year of the member's admission on examination to the bar of Iowa, and for the calendar year thereafter. . . . . None.

For the calendar year of the member's admission on motion to the bar of Iowa, a payment toward the $200 initial assessment in the amount of . . . . . $50.

For the years after those described above, until an initial total of $200 in assessment has been paid, a payment of . . . . . $50 annually.

For the years after an initial total of $200 in assessments has been paid, unless a special assessment is payable under rule 39.6(4), a regular annual assessment of . . . . . $50 annually.

[Court Order June 13, 1979; November 13, 1984; November 15, 1985; November 11, 1986; November 19, 1987; October 20, 1988; November 16, 1989; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; December 5, 2007; November 26, 2013, effective December 26, 2013]

**39.6(3)** *Certificate of sufficiency.* The commission must determine the net value of the cash and securities in the fund as of December 1 of each year. The commission must file with the supreme court prior to December 31 of each year a certificate regarding sufficiency of the fund. Whenever the value of such assets equals less than $900,000, after deducting all claims and requests for reimbursement against the fund, not disposed of at the date of valuation, and all expenses properly chargeable against the fund, a special assessment as set forth in rule 39.6(4) will be payable for the next calendar year after the date of the certificate of sufficiency. This special assessment will be paid in lieu of the regular assessment set in rule 39.6(2) by each member of the bar who has already paid the $200 initial assessment.

**39.6(4)** *Special assessment.* For any calendar year in which a special assessment is payable in lieu of the regular assessment set in rule 39.6(2), the special assessment is established as follows:

*a. Lawyers in full-time private practice.* Members of the bar of Iowa in full-time private practice must pay to the commission a special assessment of $140.

*b. Lawyers in part-time private practice.* Members of the bar of Iowa who derive net income of less than $10,000 from the practice of law in Iowa during the preceding calendar year must pay to the commission a special assessment of $70. Net income from the practice of law for the purposes of this rule is that amount shown on the federal income tax return of such members for the appropriate year as "profit or loss from a business or profession." The commission may require members so electing to submit to the commission a copy of their federal income tax return for the appropriate year to substantiate the amount due hereunder.

*c. Judges, government attorneys, corporate counsel.* Any member of the bar of Iowa who certifies in writing to the commission that the member is a justice, judge, associate judge, or full-time magistrate of any court, or one who performs legal services only for a governmental unit, or one who performs legal services only for a particular person, firm, or corporation (other than a professional legal corporation or a law firm) and stands in the legal capacity with such person, firm, or corporation as an employee, must pay to the commission a special assessment of $70. However, a retired judge or justice recalled for temporary service is not required to pay an assessment or surrender their certificate of exemption.

**39.6(5)** *Multijurisdictional practitioners.* Lawyers practicing in Iowa under the provisions of rule of professional conduct 32:5.5(*d*)(2) and rule 39.16 must pay the same initial, regular, and special assessments as members of the bar of Iowa in private practice.

**39.6(6)** *Members in full-time military service.* Any member of the bar of Iowa who certifies in writing that the member is serving full-time in the military service of the United States is exempt from any assessment under this rule.

[Court Order November 9, 2001, effective February 15, 2002; December 5, 2007; November 26, 2013, effective December 26, 2013; April 25, 2014; August 19, 2016, effective September 1, 2016; December 13, 2017, effective January 1, 2018; December 12, 2023, effective January 1, 2024]

**Rule 39.7 Exemption; retirement.**

**39.7(1)** *Certificate of exemption.* A member of the bar of the supreme court who is not engaged in the practice of law in the State of Iowa may be granted a certificate of exemption by the commission, and thereafter no fee or assessment except for an annual exemption fee of $50 and late filing penalties will be required from such member unless the member thereafter engages in the practice of law in the State of Iowa, in which case the certificate of exemption must without further order of court stand revoked, and the member must file at once the statement required by rule 39.8(1) and the questionnaire required by rule 39.11 and pay the fee and assessment due under rules 39.5 and 39.6. A member of the bar requesting a certificate of exemption must file with the director such part of the rule 39.11 questionnaire as the executive director may deem necessary to determine the member's status. Applications for a certificate of exemption must be submitted concurrently under rules 39.7(1), 41.7, and 42.6.

**39.7(2)** *Certificate of relinquishment.* A member of the bar of the supreme court who does not intend ever again to practice law in Iowa may be granted a certificate of relinquishment. Thereafter, no fee, assessment, annual statement, or questionnaire is required from such member. A member granted a certificate of relinquishment is not entitled to practice law in the State of Iowa and may not apply for reinstatement, but the member may be certified as an emeritus attorney under Iowa Court Rule 31.19. A member granted a certificate of relinquishment who desires to again practice law other than as an emeritus attorney must seek admission under the provisions of chapter 31 of the Iowa Court Rules. A member of the bar requesting a certificate of relinquishment must file with the commission such part of the rule 39.11 questionnaire as the executive director may deem necessary to determine the member's status. Applications for a certificate of relinquishment must be submitted concurrently under rules 39.7(2) and 41.13.

**39.7(3)** *Practice of law.* The practice of law as that term is employed in this chapter includes the following: examining abstracts; consummating real estate transactions; preparing legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; representing others in any Iowa courts; the right to represent others in any Iowa courts; regularly preparing legal instruments; securing legal rights, advising others as to their legal rights or the effect of contemplated actions upon their legal rights, or holding oneself out to so do; instructing others in legal rights; and being a judge or one who

rules upon the legal rights of others unless neither state nor federal law requires the person so judging or ruling to hold a license to practice law.

**39.7(4)** *Transition provisions.*

*a.* The provisions of rule 39.7(1) regarding an annual $50 fee for exempt practitioners and concurrent application for exempt status and of rule 39.7(2) regarding a separate fully relinquished status are effective January 1, 2018.

*b.* On or before December 31, 2017, attorneys in active status may apply for and be granted exempt status without payment of an annual fee, or emeritus status under Iowa Court Rule 31.19.

*c.* On or after January 1, 2018, attorneys in active status may apply for and be granted exempt status with payment of an annual fee, emeritus status under rule 31.19, or retired status under rule 39.7(2).

*d.* Attorneys who are in exempt status as of December 31, 2017, will be accorded legacy status. Attorneys in legacy status will have no fee payment or reporting responsibilities for a period of five years commencing January 1, 2018, and ending December 31, 2022. On or after January 1, 2023, attorneys in legacy status may apply for conversion to exempt status or apply for reinstatement to active status under rule 39.14(3), but will be required to pay the $50 annual fee for each year they were in legacy inactive status after January 1, 2023. Attorneys in legacy inactive status may apply for emeritus status under rule 31.19 or relinquished status under rule 39.7(2) at any time.

[Court Order November 9, 2001, effective February 15, 2002; December 5, 2007; August 19, 2016, effective September 1, 2016, rules 39.7(1) and 39.7(2), effective January 1, 2018; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; September 14, 2021, effective October 1, 2021; July 11, 2023]

**Rule 39.8 Enforcement.**

**39.8(1)** To facilitate the collection of the annual fees and assessments provided for in rules 39.5, 39.6, 39.7(1), and 39.17, all members of the Iowa bar required to pay the fees and assessments must, on or before March 10 of each year, file a statement, on a form prescribed by the executive director, setting forth their date of admission to practice before the supreme court, their current residence and office addresses, and such other information as the executive director may from time to time direct. In addition to such statement, every bar member must file a supplemental statement of any change in the information previously submitted within 30 days of such change. All persons admitted to practice before the supreme court must file the statement required by this rule at the time of admission but no annual fees or assessments are payable until the time above provided. All attorneys failing to file the required statement by March 10 of each year must, in addition to the annual fees and assessments provided for above, pay a penalty as set forth in the following schedule if the statement is filed after March 10. The penalty fees collected will be used to pay the costs of administering the fund, or for such other purposes within the office of professional regulation as the supreme court may direct.

Penalty schedule:

| If filed: | Penalty: |
|---|---|
| After March 10 but before April 12 | $100 |
| After April 11 but before May 12 | $150 |
| After May 11 but before June 12 | $200 |
| After June 11 | $250 |

**39.8(2)** Attorneys who fail to timely pay the fees and assessments required under rules 39.5, 39.6, 39.7(1), and 39.17, or fail to file the statement or supplement thereto provided in rule 39.8(1), may have their right to practice law suspended by the supreme court, provided that at least 15 days prior to such suspension, a notice of delinquency has been served upon them in the manner provided for the service of original notices in Iowa Rule of Civil Procedure 1.305, or has been forwarded to them by restricted certified mail, return receipt requested, addressed to them at their last-known address. Such attorneys must be given the opportunity during said 15 days to file in duplicate in the office of professional regulation an affidavit disclosing facts demonstrating the noncompliance was not willful and tendering such documents and sums and penalties which, if accepted, would cure the delinquency, or to file in duplicate in the office of the clerk of the supreme court a request for hearing to show cause why their license to practice law should not be suspended, accompanied with an affidavit stating why

the attorney is not required to comply with the annual filing requirement. A hearing will be held at the discretion of the court. If, after hearing, or failure to cure the delinquency by satisfactory affidavit and compliance, an attorney is suspended, the attorney must be notified thereof by either of the two methods provided above for notice of delinquency.

**39.8(3)** An attorney suspended pursuant to this chapter must comply with the requirements of Iowa Court Rule 34.23(2).

**39.8(4)** An attorney suspended pursuant to this chapter must refrain during such suspension from all facets of the ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; and acting as a fiduciary. Such suspended attorney may, however, act as a fiduciary for the estate, conservatorship, or guardianship of any person related to the suspended attorney within the second degree of affinity or consanguinity.

**39.8(5)** Attorneys who have been suspended pursuant to this chapter or who currently hold a certificate of exemption or certificate issued pursuant to rule 39.7(2) and who practice law or who hold themselves out as being authorized to practice law in this state are engaged in the unauthorized practice of law and may also be held in contempt of the court or may be subject to disciplinary action as provided by chapter 35 of the Iowa Court Rules.

**39.8(6)** An attorney who has been administratively suspended pursuant to this chapter must follow the reinstatement procedures in rule 34.26

[Court Order November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007; April 25, 2008; June 5, 2008, effective July 1, 2008; January 19, 2010; April 25, 2014; November 20, 2015, effective January 1, 2016; August 19, 2016, effective September 1, 2016; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; September 14, 2021, effective October 1, 2021; July 11, 2023; December 12, 2023, effective January 1, 2024]

**Rule 39.9 Claims.**

**39.9(1)** The commission will consider for payment all claims resulting from the dishonest conduct of a member of the bar of this state acting either as an attorney or fiduciary, provided that all of the following are established:

*a.* The conduct was engaged in while the attorney was a practicing member of the bar of this state, and the claim arises out of the practice of law in this state. The commission must not consider any claim resulting from conduct engaged in after an attorney's license to practice in Iowa has been revoked. For purposes of this rule, a practicing member of the bar of this state is:

(1) A member of the bar of Iowa whose license is active and in good standing at the time of the dishonest conduct giving rise to the claim.

(2) A member of the bar of Iowa whose license has been suspended and whom the client reasonably believes to be licensed, active, and in good standing at the time of the dishonest conduct giving rise to the claim. If the attorney has been suspended more than six months prior to the time of the dishonest conduct giving rise to the claim, it will be presumed that the client was unreasonable in believing that the attorney was licensed, active, and in good standing at the time of the dishonest conduct.

(3) An attorney who establishes an office or other systematic and continuous presence in Iowa for the practice of law under the provisions of rule of professional conduct 32:5.5(d)(2) and pays the annual fee and assessment due under rules 39.5 and 39.6.

*b.* Such defalcation or dishonest conduct occurred after January 1, 1974.

*c.* The claim is made within one year after the client's discovery of the loss; provided, however, such time limitation in unusual circumstances may be extended by the commission in its discretion for good cause shown.

*d.* The claim is made directly by or on behalf of the injured client or the client's personal representative or, if a corporation, by or on behalf of itself or its successors in interest.

*e.* The commission is satisfied that there is no other source or collateral source for the reimbursement of the loss.

*f.* The claim did not arise out of an employer-employee relationship as distinguished from a lawyer-client relationship or a fiduciary relationship.

**39.9(2)** The commission is invested with the power, which it will exercise in its sole discretion, to determine whether a claim merits reimbursement from the fund, and if so, the amount of such reimbursement, the time, place, and manner of its payment, the conditions upon which payment will be made, and the order in which payment will be made. The commission's powers in this

respect may be exercised only by the affirmative vote of at least four commissioners. In making such determinations, the commission may consider among other appropriate factors, the following:

*a.* The amounts available and likely to become available to the fund for the payment of claims and the size and number of claims which are likely to be presented.

*b.* The total amount of reimbursable losses in previous years for which total reimbursement has not been made, if any, and the total assets of the fund.

*c.* The amount of the claimant's loss as compared to the amount of losses sustained by other eligible claimants.

*d.* The degree of hardship suffered by the claimant as a result of the loss.

*e.* The degree of negligence, if any, of the claimant which may have contributed to the loss.

*f.* The total amount of losses caused by defalcations of any one attorney or associated group of attorneys.

**39.9(3)** By regulation approved by the supreme court, the commission must fix the maximum amount that any one claimant may recover from the fund and the aggregate maximum amount that may be recovered because of the dishonest conduct of any one attorney.

**39.9(4)** No claimant or any other person or organization has any right in the fund as third-party beneficiary or otherwise. Reimbursement by claim on the fund is a matter of grace and not of right.

**39.9(5)** The commission may require as a condition to payment that the claimant execute an assignment of claimant's right against the defaulting lawyer.

**39.9(6)** No claimant need be represented by counsel before the commission. No attorney representing a claimant will receive a fee for services from the fund. Any agreement for compensation between a claimant and any attorney retained for prosecution of the claim is subject to the approval of the commission.

**39.9(7)** The commission may request individual lawyers, bar associations, and other organizations of lawyers to assist the commission in the investigation of claims.

**39.9(8)** The payment or denial of any claim filed under the provisions of this rule is inadmissible as evidence in any disciplinary or contempt proceeding.

[Court Order December 5, 1973; April 22, 1974; October 16, 1974; April 9, 1975; April 10, 1975; August 29, 1975; October 28, 1976; November 21, 1977; January 15, 1979; June 20, 1980; April 21, 1982; November 13, 1984; April 25, 1985; February 16, 1990, effective March 15, 1990; December 15, 1994, effective January 3, 1995; March 6, 1995; January 24, 2000; November 9, 2001, effective February 15, 2002; February 20, 2012; December 10, 2012; December 13, 2017, effective January 1, 2018]

**Rule 39.10 Investigations; audits.**

**39.10(1)** Each member of the bar of Iowa, in filing the statement required by rule 39.8(1), must authorize the executive director to investigate, audit, and verify all funds, securities, and other property held in trust by the member, and all related accounts, safe deposit boxes, and any other forms of maintaining trust property as required by Iowa Rule of Professional Conduct 32:1.15 and chapter 45 of the Iowa Court Rules, together with deposit slips, canceled checks, and all other records pertaining to transactions concerning such property.

**39.10(2)** Each member of the bar of Iowa must comply promptly with any request by the executive director to execute and deliver to the director a written authorization, directed to any bank or depository, for the director to audit and inspect such accounts, safe deposit boxes, securities, and other forms of maintaining trust property by the member in such bank or other depository.

**39.10(3)** Each member of the bar of Iowa must do all of the following:

*a.* Cooperate fully with the executive director in any investigation, audit, or verification of any funds, securities, or property held in trust by that lawyer.

*b.* Answer all questions posed by the executive director that relate to any investigation, audit, or verification, unless claiming the privilege against self-incrimination.

*c.* Retain complete records of all trust fund transactions for a period of not less than six years following completion of the matter to which they relate, in accordance with Iowa Rule of Professional Conduct 32:1.15 and Iowa Court Rule 45.2(3).

**39.10(4)** The commission with the approval of the supreme court may retain, compensate from the fund, and furnish as staff for the executive director, such public or certified accountants, investigators, or attorneys as may be deemed necessary to carry out the duties and functions imposed upon the executive director. When acting under the executive director's supervision and direction, such staff personnel have all the powers granted to the executive director by this chapter.

**39.10(5)** When the investigation, audit, or verification provisions of this chapter disclose, in the opinion of the executive director, a violation of the Iowa Rules of Professional Conduct, or when the member of the bar of Iowa affected by the investigation, audit, or verification has refused to comply with the provisions of this chapter, the director must promptly report such circumstances to the commission. A copy of such report must be furnished to the member affected.

**39.10(6)** Client trust funds and property held by an Iowa licensed attorney whose law office is situated in another state are not subject to investigation, audit, or verification except to the extent such funds and property are related to matters affecting Iowa clients. State or federal funds or property subject to state or federal auditing procedures and in control of an Iowa licensed attorney employed full- or part-time by a state or the United States are not subject to investigation, audit, or verification under the provisions of this chapter.

**39.10(7)** The costs of performing a trust account audit must be assessed to the attorney or attorneys who are signatories on the account if the audit reveals the account was not in substantial compliance with Iowa Rule of Professional Conduct 32:1.15 or chapter 45 of the Iowa Court Rules, and one or more of the following circumstances caused performance of the audit:

*a.* A claim for reimbursement was filed under the provisions of rule 39.9 based on the alleged conduct of the attorney or attorneys who are signatories on the account.

*b.* A notice of insufficient funds to honor an instrument drawn on the account was reported to the commission under the provisions of Iowa Court Rule 45.4(4)(*c*).

*c.* A complaint alleging an attorney signatory on the account committed a disciplinary infraction was filed with the attorney disciplinary board under the provisions of Iowa Court Rule 35.1.

*d.* An attorney signatory on the account was suspended from practice under the provisions of chapter 34 of the Iowa Court Rules.

*e.* An attorney signatory on the account failed to timely file the statement and questionnaire required by rule 39.8.

*f.* An attorney signatory on the account was served a 15-day notice under rule 39.8(2) based on failure to cooperate with investigation and audit of the account as required by rule 39.10.

*g.* A trustee was appointed under the provisions of Iowa Court Rule 34.17 or 34.18 for an attorney signatory on the account.

*h.* An attorney signatory on the account was issued a certificate of noncompliance pursuant to Iowa Court Rule 34.20(1), 34.21(1), or 34.22(1).

*i.* The Client Security Commission specifically directed the audit.

**39.10(8)** Costs assessed under rule 39.10(7) are due upon assessment by the commission. Costs assessed under this rule must be paid as a condition of reinstatement, and may be collected by the commission as part of the annual statement and assessment required by rule 39.8 if not previously paid.

[Court Order November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007; November 20, 2015, effective January 1, 2016; December 10, 2012; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021; July 11, 2023]

**Rule 39.11 Annual questionnaire.**

**39.11(1)** The executive director, under the supervision of the supreme court and the commission, will prepare a questionnaire to be annually submitted to and completed by each member of the bar of Iowa, except those who have been issued a certificate of exemption pursuant to rule 39.7. The questionnaire may be, but is not required to be, incorporated as a part of the annual statement provided in rule 39.8(1). This purpose of this questionnaire is to elicit information to determine whether the member is complying with the Iowa Court Rules, including but not restricted to, Iowa Rule of Professional Conduct 32:1.15 and chapter 45 of the rules. The commission may prescribe an electronic format for the questionnaire and annual statement and require submission of the questionnaire and annual statement in that form.

**39.11(2)** A failure to complete and return a questionnaire will be addressed as provided in rule 39.12.

[Court Order November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007; June 5, 2008, effective July 1, 2008; December 10, 2012; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

**Rule 39.12 Investigations; audits; annual questionnaire; enforcement.**

**39.12(1)** *Failure of bar members to cooperate.*

*a.* The right of a member of the Iowa bar to practice law in this state is conditioned upon the member executing and delivering the authorization provided in rule 39.10(2), furnishing the cooperation required in rule 39.10(3), and completing and returning the annual questionnaire described in rule 39.11. Upon failure of a member of the Iowa bar to comply with any of the rules specified in this paragraph, the member's right to practice law before Iowa courts may be suspended, following the procedure specified in rule 39.8(2).

*b.* A member of the bar of Iowa who willfully fails to comply with the rules enumerated in rule 39.12(1)(*a*) may be held in contempt of the supreme court or may be subject to disciplinary action as provided in chapter 35 of the Iowa Court Rules.

**39.12(2)** *Violation of the Iowa Rules of Professional Conduct.*

*a.* When the audit, investigation, or verification of funds, securities, or other property held in trust by any member of the bar of Iowa, or an answer of any member on the annual questionnaire, discloses an apparent violation of the Iowa Rules of Professional Conduct, the director upon request of the commission, or the commission, may privately admonish, refer to the Attorney Disciplinary Board, or institute disciplinary proceedings under chapter 36 of the Iowa Court Rules for the suspension or revocation of the member's license to practice law in this state.

*b.* All information obtained by the director and staff by virtue of the audits, investigations and verifications, and annual questionnaire, must be held in strict confidence by them and by the supreme court and the commission unless otherwise directed by the supreme court or unless proceedings are initiated pursuant to chapter 36 of the Iowa Court Rules or Iowa Code section 602.10123. If proceedings are initiated pursuant to chapter 36 of the Iowa Court Rules, such information relating to the named respondent may be released only to the respondent, the disciplinary board, and the grievance commission. If proceedings are initiated pursuant to Iowa Code section 602.10123, such information relating to the named accused may be released only to the accused and the attorney general or the special assistant attorney general designated pursuant to Iowa Code section 602.10127, to prosecute the charges.

**39.12(3)** *Commission subpoena authority.*

*a.* The commission has subpoena power during any investigation conducted on its behalf to compel the appearance of witnesses or the production of documents before the person designated to conduct the investigation on behalf of the commission.

*b.* The commission chair, or other commission member in the absence of the chair, has the authority to issue a subpoena.

*c.* The district court for the county in which the investigation is being conducted has jurisdiction over any objection or motion relating to a subpoena and authority to punish disobedience of a subpoena in a contempt proceeding.

*d.* Counsel for the commission, the director, or any other person authorized to administer oaths has authority to administer an oath or affirmation to a witness.

[Court Order December 5, 1973; September 19, 1974; October 16, 1974; April 9, 1975; April 30, 1982; August 14, 1986, and August 18, 1986, effective September 2, 1986; May 10, 1990, effective July 2, 1990; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 9, 2003; April 20, 2005, effective July 1, 2005; December 5, 2007; December 10, 2012; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

**Rule 39.13 Attorneys acting as fiduciaries.**

**39.13(1)** After January 1, 1974, unless a lawyer is the spouse of or is the son-in-law or daughter-in-law of or is related by consanguinity or affinity within the third degree to the decedent in an estate, the ward in a conservatorship, the settlor or beneficiary of a trust, or unless such attorney is coexecutor, cotrustee, or coconservator with another party or parties and such other party or parties will receive and pay out any of the funds, securities or other property of the estate, trust, or conservatorship, such lawyer must not be appointed by a court in any fiduciary capacity for an estate, trust, or conservatorship until the lawyer has posted a bond in an amount to be determined by the court with sureties approved by the court, and no waiver of such bond will be recognized by any court of this state. In the event the surety on the bond posted by the lawyer is not a corporate surety, the surety thereon must not be the ward, any beneficiary or distributee or be related to the lawyer, the ward, or any beneficiary or distributee within the third degree of consanguinity or affinity.

**39.13(2)** A lawyer who willfully fails to comply with the provisions of this rule may be held in contempt of the supreme court, or may be subject to disciplinary action as provided in chapter 35 of the Iowa Court Rules.

[Court Order November 9, 2001, effective February 15, 2002; December 10, 2012; December 13, 2017, effective January 1, 2018]

**Rule 39.14 Reinstatement from exemption or suspension.**

**39.14(1)** An attorney who has been suspended for failure to pay the annual fee or assessment or for failure to file the statement, supplement, or questionnaire required by these rules may be reinstated by following the reinstatement procedures in rule 34.26.

**39.14(2)** An attorney who seeks or applies for reinstatement from suspension under chapters 34 or 36 of the Iowa Court Rules must follow the procedures for reinstatement in rule 34.24 or 34.25 depending on the length of the suspension.

**39.14(3)** An attorney who has been granted a certificate of exemption under the provisions of rule 39.7 may be reinstated after filing the statement required by rule 39.8(1) and the questionnaire required by rule 39.11, paying all fees, assessments, and late filing penalties due and unpaid, paying the current fee and assessment required by rules 39.5 and 39.6 and paying a reinstatement fee of $200.

[Court Order April 25, 2008; August 10, 2009; November 20, 2015, effective January 1, 2016; December 10, 2012; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; September 14, 2021, effective October 1, 2021; December 12, 2023, effective January 1, 2024]

**Rule 39.15 Denial of reinstatement for failure to comply with certain obligations.**

**39.15(1)** *Denial of reinstatement for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue.* The supreme court may deny an attorney's application for reinstatement under rule 39.14 for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue. The procedure is governed by Iowa Court Rule 34.22(5).

**39.15(2)** *Denial of reinstatement for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission.* The supreme court may deny an attorney's application for reinstatement under rule 39.14 for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission. The procedure is governed by Iowa Court Rule 34.21(5).

**39.15(3)** *Denial of reinstatement for failure to comply with a support order.* The supreme court may deny an attorney's application for reinstatement under rule 39.14 for failure to comply with a support order. The procedure is governed by Iowa Court Rule 34.20(5).

[Court Order June 5, 2008, effective July 1, 2008; February 20, 2012; December 13, 2017, effective January 1, 2018; December 12, 2023, effective January 1, 2024]

**Rule 39.16 Attorneys practicing in Iowa under the multijurisdictional practice rule.** An attorney who establishes an office or other systematic and continuous presence in Iowa for the practice of law under the provisions of rule of professional conduct 32:5.5(d)(2) must file the annual statement required by rule 39.8(1) and annual questionnaire required by rule 39.11, pay the annual fee and assessment due under rules 39.5 and 39.6, comply with all provisions of chapter 45 of the Iowa Court Rules, cooperate with investigations and audits under rule 39.10, and be subject to the provisions of rules 39.12 and 39.17.

[Court Order December 10, 2012; December 13, 2017, effective January 1, 2018]

**Rule 39.17 Collection of court costs and other fees.**

**39.17(1)** As a part of the annual statement provided by rule 39.8(1), the office of professional regulation must assess against each active attorney all fees, penalties, or court costs due any district court clerk or the clerk of the supreme court, or the office of professional regulation, and any client security trust fund claim reimbursement due the Client Security Commission, that are a personal obligation of such attorney, as of the preparation date of the annual statement.

**39.17(2)** As a condition to continuing or regaining membership in the bar of the supreme court, including the right to practice before Iowa courts, every bar member must pay to the supreme court through the office of professional regulation, all fees, penalties, court costs, and client security trust fund claim reimbursements assessed on the annual statement.

**39.17(3)** Assessments are due on or before March 10 of each year.

**39.17(4)** The executive director of the office of professional regulation must pay to the state general fund all fees, penalties, and court costs due the state general fund and collected under this provision.

[Court Order November 20, 2015, effective January 1, 2016; December 10, 2012; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

**Rule 39.18 Requirement for death or disability designation and authorization.**

**39.18(1)** *Required designation and authorization in annual questionnaire.*

*a.* Each attorney in private practice must identify and authorize each year, as part of the annual questionnaire required by rule 39.11, a qualified attorney-servicing association, an Iowa law firm that includes Iowa attorneys in good standing, or an active Iowa attorney in good standing, to serve as the attorney's designated representative or representatives under this rule. An attorney may identify and authorize an Iowa law firm of which the attorney is a member to serve under this rule.

*b.* The attorney or entity designated under this rule is authorized to review client files, notify each client of the attorney's death or disability, and determine whether there is a need for other immediate action to protect the interests of clients.

*c.* The attorney or entity designated under this rule also is authorized to serve as a successor signatory for any client trust account maintained by the private practitioner under Iowa Court Rule 45.11, prepare final trust accountings for clients, make trust account disbursements, properly dispose of inactive files, and arrange for storage of files and trust account records.

*d.* The authority of the attorney or entity designated under this rule takes effect upon the death or disability of the designated attorney. The designated attorney or entity may apply to the chief judge of the judicial district in which the designating attorney practiced for an order confirming the death or disability of the designating attorney. A copy of the order will be delivered to the office of professional regulation.

**39.18(2)** *Client list and location of key information.* Each attorney in private practice must maintain a current list of active clients, in a location accessible by the attorney or entity designated under this rule. As part of the annual questionnaire required by rule 39.11, each attorney in private practice must identify a person with knowledge of the location of the client list, a person with knowledge of the location of electronic and paper files and records, and a person with knowledge of the location of passwords and other security protocols required to access the electronic files and records. The attorney or entity designated under this rule is authorized to access electronic and paper files and records as necessary to perform duties as a designated attorney, and is authorized to access passwords and other security protocols required to access those electronic files and records.

**39.18(3)** *Supplemental plan.* An attorney in private practice may prepare a written plan that is supplemental to the designation and authority in the annual client security questionnaire. The supplemental written plan may designate an attorney or entity to collect fees, pay firm expenses and client costs, compensate staff, terminate leases, liquidate or sell the practice, or perform other law firm administration tasks. The supplemental written plan also may nominate an attorney or entity to serve as trustee if proceedings are commenced under the provisions of Iowa Court Rule 34.17 or 34.18.

**39.18(4)** *Durability.* A designation or plan under this rule must include language sufficient to make the designated attorney's or entity's powers durable in the event of the private practitioner's disability. *See* Iowa Code §633B.104; Iowa R. Prof'l Conduct 32:1.3 cmt. [5].

**39.18(5)** *Conflicts of interest.* A designated attorney or entity must not examine any documents or acquire any information containing real or potential conflicts with the designated attorney's clients. Should any such information be acquired inadvertently, the designated attorney or entity must, as to such matters, protect the privacy interests of the planning attorney's clients by prompt recusal or refusal of employment.

**39.18(6)** *Availability of trustee provisions.* A designated attorney or entity may petition the court, at any time, for appointment as the trustee or appointment of an independent trustee under the provisions of Iowa Court Rule 34.17 or 34.18, as applicable.

**39.18(7)** *Definitions.* For purposes of this rule, the following definitions apply:

*a.* A *"qualified attorney-servicing association"* is a bar association, all or part of whose members are admitted to practice law in the State of Iowa, a company authorized to sell attorneys professional liability insurance in Iowa, or an Iowa bank with trust powers issued by the Iowa Division of Banking.

*b.* A *"law firm"* is a minimum of two attorneys in a law partnership, professional corporation, or other association authorized to practice law.

*c.* An *"attorney in private practice"* includes an active Iowa attorney who resides outside Iowa but engages in the private practice of law in Iowa.

[Court Order November 20, 2015, effective January 1, 2016; November 24, 2015, effective March 1, 2016; January 15, 2016, effective January 1, 2017; August 29, 2016, effective January 1, 2018; November 18, 2016, effective December 25, 2017; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018]

# CHAPTER 40
# REGULATIONS OF THE CLIENT SECURITY COMMISSION

# CHAPTER 40
# REGULATIONS OF THE CLIENT SECURITY COMMISSION

**Rule 40.1 Definitions.** For the purpose of this chapter, the following definitions apply:

"Commissioner" means the commissioners of the Client Security Commission.

"Dishonest conduct" means wrongful acts committed by a lawyer against a person in the manner of defalcation or embezzlement of money, or the wrongful taking or conversion of money, property or other things of value.

"Fund" means the Clients' Security Trust Fund of the Bar of Iowa.

"Lawyer" means one who, at the time of the act complained of, had the right to practice law in the State of Iowa. The fact that the act complained of took place outside of Iowa does not necessarily mean that the lawyer was not engaged in the practice of law in Iowa.

"Reimbursable losses" means those losses as set out in Iowa Court Rule 39.9.

[Court Order November 9, 2001, effective February 15, 2002; July 1, 2005; December 13, 2017, effective January 1, 2018]

**Rule 40.2 Applications for reimbursement.**

**40.2(1)** The commissioners must prepare a form of application for reimbursement. In their discretion, the commissioners may waive a requirement that a request be filed on such form.

**40.2(2)** The form must require, at a minimum, the following information:

*a.* The name and address of the lawyer.

*b.* The amount of the alleged loss claimed.

*c.* The date or period of time during which the alleged loss was incurred.

*d.* Name and address of the party requesting reimbursement.

*e.* The general statement of facts relative to the request for reimbursement.

*f.* Verification by the party requesting reimbursement.

**40.2(3)** The form or application must contain the following statement in bold type:

**In establishing the Clients' Security Trust Fund of the Bar of Iowa the Iowa Supreme Court did not create, nor acknowledge any legal responsibility for the acts of individual lawyers in the practice of law. All reimbursements of losses of the Clients' Security Trust Fund of the Bar of Iowa are a matter of grace in the sole discretion of the commissioners administering the fund and not a matter of right. No client or any other person or organization has any right in the fund as a third-party beneficiary or otherwise.**

**40.2(4)** Applications must be in the form attached and must be addressed to the Client Security Commission, Iowa Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa 50319.

[Court Order November 9, 2001, effective February 15, 2002; April 9, 2003; July 1, 2005; December 5, 2007; December 13, 2017, effective January 1, 2018]

**Rule 40.3 Processing applications.**

**40.3(1)** The executive director of the office of professional regulation will cause each such application to be sent to the commissioners or other parties or organizations for investigation and report. A copy must be served upon or sent by certified mail to the lawyer, at the lawyer's last-known address, who it is claimed committed the dishonest act. Whenever feasible, any investigative lawyer to whom such application is referred must not practice in the county wherein the alleged defalcating attorney practiced.

**40.3(2)** When, in the opinion of the person or persons to whom the application has been referred for investigation the application is clearly not for a reimbursable loss, no further investigation need be conducted, but a report with respect to such application must be made to the commission.

**40.3(3)** The person or persons to whom a report is referred for investigation will conduct such investigation as to them seems necessary and desirable in order to determine whether the claim is for a reimbursable loss and in order to guide the commissioners in determining the extent, if any, to which the claim must be reimbursed from the fund. Any information so obtained by the person or persons will be used solely by or for the commissioners and will constitute confidential information. When information is received by the commission indicating an apparent violation of the criminal laws by a lawyer, such information must be reported to the attorney disciplinary board.

**40.3(4)** Reports with respect to applications must be submitted by the executive director of the office of professional regulation to each member of the commission as soon as reasonably possible.

**40.3(5)** At the meetings of the commission the commissioners will conduct such investigation or review as seems necessary or desirable in order to determine whether the applications are for a reimbursable loss and to guide the commissioners in determining the extent, if any, to which the applicant may be reimbursed. After studying the summaries or applications to be processed, any commissioner may request that testimony be presented. Absent such recommendation or request, applications will be processed on the basis of information contained in the report of the person or persons who investigated such application and in the summary. In all cases, the alleged defalcating attorney or the attorney's personal representative must be given an opportunity to be heard by the commissioners if they so request.

**40.3(6)** The commission in its sole discretion will determine the amount of loss, if any, for which any person may be reimbursed from the fund. *See* Iowa Ct. R. 39.9(2). However, the maximum amount that any one claimant may recover from the fund is $100,000 and the aggregate maximum amount which may be recovered from the fund because of the dishonest conduct of any one attorney is $300,000.

**Comment:** The November 26, 2013, amendments of claim reimbursement limits apply only to claims arising from attorney conduct occurring on or after January 1, 2014.

[Regulation amendment July 8, 1981; Court Order July 16, 1984; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; November 26, 2013, effective January 1, 2014; July 1, 2005; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

**Rule 40.4 Subrogation for reimbursement made.** In the event reimbursement is made to a person or organization, the fund will be subrogated to the person's or organization's rights in said amount, and the fund may bring such action as is deemed advisable against the lawyer, the lawyer's assets or estate, either in the name of the person, or in the name of the Clients' Security Trust Fund of the Bar of Iowa. The party receiving funds is required to execute a subrogation agreement in this regard. Upon commencement of an action by the fund pursuant to its subrogation rights, it must advise the reimbursed party at the party's last-known address. The reimbursed party may then join in such action to press a claim for any loss in excess of the amount of the above reimbursement, but the fund will have first priority to any recovery on such suit.

[Amended by Court Order December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

**Rule 40.5 General purposes.** In any given case, the commissioners may waive technical adherence to these regulations in order to achieve the objectives of the fund.

[Court Order November 9, 2001, effective February 15, 2002]

**Rule 40.6 General provisions.** The annual report of the commissioners to the supreme court is public information after it is filed with the court. Upon prior approval of the commission, such information as the commission may approve concerning payments made to applicants for reimbursement, including information with regard to the lawyer involved and the facts upon which the reimbursement is made, may be released as public information. Other than as set out above, other information regarding applications for reimbursement, payments made by the fund, or any actions of the commissioners are not considered public information without the express prior approval of the court.

[Regulation Order January 4, 1974; February 15, 1979; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

# CHAPTER 41
# CONTINUING LEGAL EDUCATION FOR LAWYERS

# CHAPTER 41
# CONTINUING LEGAL EDUCATION FOR LAWYERS

**Rule 41.1 Purpose.** Only by continuing their legal education throughout their period of the practice of law can attorneys fulfill their obligation competently to serve their clients. Failure to do so will be grounds for disciplinary action by the supreme court. This chapter establishes minimum requirements for such continuing legal education and the means by which the requirements will be enforced.
[Court Order April 9, 1975; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

**Rule 41.2 Continuing legal education commission.**

**41.2(1)** There is hereby established a Commission on Continuing Legal Education (commission) consisting of 12 members. The supreme court will appoint to the commission 10 resident members of this state who are currently licensed to practice law in the State of Iowa, and 2 residents of this state who are not attorneys. The court must designate from among the members of the commission a chair who will serve at the pleasure of the court. All members, except for those appointed to fill unexpired terms, are appointed for a term of three years. No member can serve more than two consecutive complete terms as a member of the commission. The supreme court may adopt rules and regulations governing the operations and activities of the commission.

**41.2(2)** The commission has the following duties:

*a.* To exercise general supervisory authority over the administration of this chapter.

*b.* To accredit courses, programs, and other educational activities that will satisfy the educational requirements of this chapter; all being subject to continuous review by the commission.

*c.* To foster and encourage the offering of such courses, programs and educational activities.

*d.* To submit to the supreme court proposed rules and regulations not inconsistent with this chapter to govern the operations and activities of the commission. *See* chapter 42 of the Iowa Court Rules.

*e.* Subject to the approval of the supreme court, to employ such persons as it deems necessary for the proper administration of this chapter.

*f.* To make recommendations to the supreme court concerning this chapter and the enforcement thereof.

*g.* To present an annual budget and a recommended annual fee for costs of administering this chapter.

*h.* To report promptly to the supreme court concerning any violation of this chapter by any member of the bar of this state.

*i.* To file with the supreme court on March 1 of each year, and at such additional times as the supreme court may order, a written report reviewing in detail the activities of the commission during the preceding calendar year together with an audit of commission funds certified by a certified public accountant licensed to practice in Iowa.

**41.2(3)** Members of the commission will not be compensated but may be reimbursed for expenses incurred by them in the performance of their duties upon vouchers approved by the supreme court.
[Court Order April 9, 1975; July 5, 1978; November 13, 1984; November 14, 1985; November 11, 1986; November 19, 1987; November 21, 1988; November 16, 1989; November 9, 2001, effective February 15, 2002; February 22, 2002; December 5, 2007; December 13, 2017, effective January 1, 2018]

**Rule 41.3 Continuing legal education requirement.**

**41.3(1)** Each attorney admitted to practice in this state must complete a minimum of 15 hours of legal education accredited by the commission during each calendar year. The commission is authorized pursuant to guidelines established by the supreme court to determine the number of hours for which credit will be given for particular courses, programs, or other legal education activities. Under rules to be promulgated by the supreme court, an attorney may be given credit in one or more succeeding calendar years, not exceeding two such years, for completing more than 15 hours of accredited education during any one calendar year.

**41.3(2)** Beginning January 1, 2021, the 15 hours required by rule 41.3(1) must include a minimum of 1 hour devoted exclusively to the area of legal ethics and 1 hour devoted exclusively to the area of either attorney wellness or diversity and inclusion. Excess hours of education devoted to legal ethics, attorney wellness, and diversity and inclusion can be carried over for purposes of the annual

15-hour requirement under rule 41.3(1) but cannot be carried over for the special legal ethics, attorney wellness, and diversity and inclusion requirements under this rule.
[Court Order April 9, 1975; December 6, 1978; January 8, 1988; November 9, 2001, effective February 15, 2002; February 22, 2002; February 21, 2012; March 21, 2014; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; August 28, 2020]

**Rule 41.4 Annual fee and report by attorneys to commission.**

**41.4(1)** On or before March 10 of each year, each attorney admitted to practice in this state must pay to the commission a prescribed fee for costs of administering this chapter.

**41.4(2)** On or before March 10 of each year, each attorney admitted to practice in this state must make a written report to the commission, in such form as the commission prescribes, concerning completion of accredited legal education during the preceding calendar year. However, an attorney is not required to comply with this rule or comply with the continuing legal education requirements set forth in rule 41.3 for the year during which the attorney was admitted to practice in this state. Each annual report must be accompanied by proof satisfactory to the commission that the attorney has met the requirements for continuing legal education for the calendar year for which such report is made.

**41.4(3)** Each attorney admitted to practice in this state must make a written report to the commission, in such form as the commission prescribes, concerning completion of accredited legal ethics, attorney wellness, and diversity and inclusion education. The report is to be filed on or before March 10 of each year. An attorney is not required to comply with this requirement for the year of admission to practice.

**41.4(4)** All attorneys who fail by March 10 of each year to file the annual report or to pay the prescribed fee must, in addition, pay a penalty as set forth in the following schedule if either the annual report is filed or the prescribed fee is paid after March 10. The penalty fees collected must be used to pay the costs of administering this chapter, or for such other purposes within the office of professional regulation as the supreme court may direct.

Penalty schedule:

| If filed: | Penalty: |
|---|---|
| After March 10 but before April 12 | $100 |
| After April 11 but before May 12 | $150 |
| After May 11 but before June 12 | $200 |
| After June 11 | $250 |

**41.4(5)** The commission may prescribe an electronic format for the annual report and require submission of the report in that form.
[Court Order April 9, 1975; August 28, 1975; August 12, 1980; January 8, 1988; January 24, 2000; November 9, 2001, effective February 15, 2002; April 25, 2008; June 5, 2008, effective July 1, 2008; January 19, 2010; April 25, 2014; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020]

**Rule 41.5 Penalty for failure to satisfy continuing legal education requirements.**

**41.5(1)** Attorneys who fail to comply with the provisions of rule 41.4 or who file a report showing on its face that they have failed to complete the required number of hours of continuing legal education may have their right to practice law administratively suspended by the supreme court, provided that at least 15 days prior to such suspension, notice of such delinquency has been served upon them in the manner provided for the service of original notices in Iowa Rule of Civil Procedure 1.305 or has been forwarded to them by restricted certified mail, return receipt requested, addressed to them at their last-known address. Such attorneys must be given the opportunity during said 15 days to file in the office of professional regulation an affidavit disclosing facts demonstrating their noncompliance was not willful and tendering such documents and sums and penalties which, if accepted, would cure the delinquency, or to file in duplicate in the office of clerk of the supreme court a request for hearing to show cause why their license to practice law should not be suspended, accompanied with an affidavit stating why the attorney is not required to comply with the annual filing requirement. A hearing will be held at the discretion of the court. If, after hearing, or failure to cure the delinquency by satisfactory affidavit and compliance, an attorney is suspended, the attorney will be notified thereof by either of the two methods above provided for notice of delinquency.

**41.5(2)** An attorney suspended pursuant to this chapter must comply with the requirements of Iowa Court Rule 34.23(2).

**41.5(3)** An attorney suspended pursuant to this chapter must refrain during such suspension from all facets of the ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills and tax returns; and acting as a fiduciary. Such suspended attorney may, however, act as a fiduciary for the estate, conservatorship, or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

**41.5(4)** In addition, an attorney who willfully fails to comply with this chapter may be subject to disciplinary action as provided in chapter 35 of the Iowa Court Rules, upon report filed by the commission with the disciplinary board.

**41.5(5)** For good cause shown, the commission may, in individual cases involving hardship or extenuating circumstances, grant waivers of the minimum educational requirements or extensions of time within which to fulfill the requirements or make the required reports.

[Court Order April 9, 1975; November 21, 1977; December 6, 1978; January 15, 1979; August 12, 1980; April 25, 1985; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; April 25, 2008; June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018; July 11, 2023; December 12, 2023, effective January 1, 2024]

**Rule 41.6 Confidentiality.** Unless otherwise directed by the supreme court, the files, records and proceedings of the commission, as they relate to or arise out of any failure of any attorney to satisfy the requirements of this chapter, are deemed confidential and must not be disclosed, except in furtherance of the commission's duties or upon the request of the attorney affected, or as they may be introduced in evidence or otherwise produced in proceedings taken in accordance with this chapter.

[Court Order April 9, 1975; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

**Rule 41.7 Inactive practitioners.** A member of the bar who is not engaged in the practice of law in the State of Iowa as defined in Iowa Court Rule 39.7, upon application to the commission, may be granted a waiver of compliance with this chapter and obtain a certificate of exemption. No person holding such certificate of exemption is permitted to practice law in this state until reinstated. The supreme court will make rules and regulations governing the continuing legal education requirements for reinstatement of attorneys who, for any reason, have not been entitled to practice law in this state for any period of time subsequent to their admission to the bar. Applications for a certificate of exemption must be submitted concurrently under Iowa Court Rules 39.7 and 42.6 and this rule.

[Court Order April 9, 1975; November 9, 2001, effective February 15, 2002; August 19, 2016, effective January 1, 2018; December 13, 2017, effective January 1, 2018]

**Rule 41.8 Application of this chapter.** This chapter applies to every person licensed to practice law in the State of Iowa.

[Court Order April 9, 1975; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

**Rule 41.9 Attendance exemption for out-of-state attendance of equivalent hours.**

**41.9(1)** An active member of the bar who resides in another state or the District of Columbia, did not practice law in Iowa during the reporting period, and who attends at least 15 clock-hours of continuing legal education accredited by the continuing legal education regulatory body in his or her state of residence, including 1 clock-hour in the area of legal ethics and 1 clock-hour of either attorney wellness or diversity and inclusion is exempt from the attendance requirements of rule 41.3. However, any member exempt from attendance under this rule must file the annual report and pay the annual fee required under rule 41.4, and must certify qualification for the exemption on the annual report.

**41.9(2)** The commission may require any member who claims exemption under this rule to provide proof of attending the accredited continuing legal education in the other jurisdiction.

**41.9(3)** The practice of law as that term is employed in this rule includes: the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; representation of others in any Iowa courts; regular preparation of legal instruments, securing of legal rights, advising others as to their legal rights or the effect of contemplated actions upon their legal rights, or holding oneself out to so do; instructing others in legal rights; being a judge or one who rules upon the legal rights of others unless neither the state nor federal law requires the person so judging or ruling to hold a license to practice law.

[Court Order November 20, 2015, effective January 1, 2016; October 24, 2019, effective January 1, 2020]

**Rule 41.10 Reinstatement from suspension.**

**41.10(1)** An attorney who has been suspended for failure to pay the annual fee, complete required continuing legal education, or file the annual report required by rule 41.4 may be reinstated by following the procedures for reinstatement in rule 34.26.

**41.10(2)** An attorney who seeks or applies for reinstatement from suspension under the provisions of chapter 34 or 36 of the Iowa Court Rules must follow the procedures for reinstatement in rule 34.24 or 34.25 depending on the length of suspension. The commission may grant an attorney additional time after the effective reinstatement date, on such terms and conditions as it may prescribe, to complete and furnish evidence of compliance with these continuing legal education requirements.

[Court Order April 25, 2008; November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; September 14, 2021, effective October 1, 2021; September 19, 2022, effective October 1, 2022; December 12, 2023, effective January 1, 2024]

**Rule 41.11 Denial of reinstatement for failure to comply with certain obligations.**

**41.11(1)** *Denial of reinstatement for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue.* The supreme court may deny an attorney's application for reinstatement under rule 41.7 or 41.10 for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue. The procedure is governed by Iowa Court Rule 34.22(5).

**41.11(2)** *Denial of reinstatement for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission.* The supreme court may deny an attorney's application for reinstatement under rule 41.7 or 41.10 for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission. The procedure is governed by Iowa Court Rule 34.21(5).

**41.11(3)** *Denial of reinstatement for failure to comply with a support order.* The supreme court may deny an attorney's application for reinstatement under rule 41.7 or 41.10 for failure to comply with a support order. The procedure is governed by Iowa Court Rule 34.20(5).

[Court Order June 5, 2008, effective July 1, 2008; February 20, 2012; December 13, 2017, effective January 1, 2018; December 12, 2023, effective January 1, 2024]

**Rule 41.12 Basic skills course requirement.**

**41.12(1)** Every Iowa attorney admitted to practice by examination after December 31, 2008, but before January 1, 2015, must complete a Basic Skills Course. The course must be completed within one year of the newly admitted attorney's date of admission to practice in Iowa. The course may be completed after the last day of the bar examination that resulted in admission. If the course is completed after the last day of the bar examination, but the applicant fails the examination, the applicant will remain in compliance with this rule so long as the applicant passes the next examination offered.

**41.12(2)** The Basic Skills Course must total at least eight actual hours of instruction and include at least one actual hour qualifying for credit in the area of legal ethics. The course will include instruction on Iowa law selected from at least eight of the following topic areas:

Civil Procedure
Criminal Law
Criminal Procedure
Family Law
Guardianships, Conservatorships, Trusts, and Powers of Appointment
Business Entities
Probate
Torts
Contracts
Real Estate Transactions
Ethics and Professionalism

**41.12(3)** Newly admitted attorneys shall be entitled to claim credit for attendance at an accredited Basic Skills Course against the continuing legal education requirements of rules 41.3 and 42.2, but are not exempt from reporting and fee payment duties of rule 41.4.

**41.12(4)** An attorney who fails to complete the Basic Skills Course within one year of the date of admission may have the right to practice law suspended under the provisions of rule 41.5.

**41.12(5)** The commission may, in individual cases involving hardship or extenuating circumstances, grant waivers of the Basic Skills Course requirement or extensions of time in which to complete the Basic Skills Course.

**41.12(6)** The Basic Skills Course may be offered by any provider of continuing legal education, but must be reviewed and accredited by the Commission on Continuing Legal Education as provided in Iowa Court Rule 42.4. The Basic Skills Course may be conducted in installments over time, and may be offered by computer-based transmission as provided in Iowa Court Rule 42.3. Any provider of the Basic Skills Course is required to report attendance in the manner specified by the commission.
[Court Order October 9, 2009; November 24, 2010; January 21, 2015; December 13, 2017, effective January 1, 2018]

**Rule 41.13 Retired practitioners.**

**41.13(1)** *Certificate of relinquishment.* A member of the bar of the supreme court who does not intend ever again to practice law in Iowa may be granted a certificate of relinquishment. Thereafter, no continuing legal education, annual report, or annual fee is required from such member. A member granted a certificate of relinquishment is not entitled to practice law in the State of Iowa and may not apply for reinstatement, but the member may be certified as an emeritus attorney under Iowa Court Rule 31.19. A member granted a certificate of relinquishment who desires to again practice law other than as an emeritus attorney must seek admission under the provisions of chapter 31 of the Iowa Court Rules. A member of the bar requesting a certificate of relinquishment must file with the director an application in such form as the director may deem necessary to determine the member's status. Applications for a certificate of relinquishment must be submitted concurrently under rules 39.7(2) and 41.13(1).

**41.13(2)** *Transition provisions.*

*a.* The provisions of rule 41.13(1) regarding a separate fully relinquished status and the provisions of rules 41.7 and 42.6 regarding concurrent applications for exempt status are effective January 1, 2018.

*b.* On or before December 31, 2017, attorneys in active status may apply for and be granted exempt status under rules 41.7 and 42.6 or emeritus status under rule 31.19.

*c.* On or after January 1, 2018, attorneys in active status may apply for and be granted exempt status under rules 41.7 and 42.6, emeritus status under rule 31.19, or relinquished status under rule 41.13(1).

*d.* Attorneys in active status under rules 41.7 and 42.6 but exempt status under rule 39.7 as of December 31, 2017, will be administratively transferred to exempt status under rules 41.7 and 42.6 as of January 1, 2018. Attorneys administratively transferred to exempt status under this provision nonetheless will be allowed to record their continuing legal education attendance on their attorney account pages while in exempt status.
[Court Order August 19, 2016, effective September 1, 2016, rule 41.13(1), effective January 1, 2018; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018]

# CHAPTER 42
# REGULATIONS OF THE COMMISSION ON CONTINUING LEGAL EDUCATION

# CHAPTER 42
# REGULATIONS OF THE COMMISSION ON CONTINUING LEGAL EDUCATION

**Rule 42.1 Definitions.** For the purpose of these regulations, the following definitions apply:

(1) "Accredited program or activity" means a continuing legal education activity meeting the standards set forth in rule 42.3, which has received accreditation by the commission pursuant to rule 42.4.

(2) "Attorney" means any person licensed to practice law in the State of Iowa.

(3) "Commission" means the Commission on Continuing Legal Education or any division thereof.

(4) "Guidelines" means the requirements for accreditation of continuing legal education programs made available to sponsors and attorneys on the commission webpage.

(5) "Hour" of continuing legal education means one clock-hour spent by an attorney in actual attendance at or completion of an accredited legal education activity.

(6) "Legal ethics" means a separate, designated, and dedicated session of instruction referring to and based on the disciplinary rules or ethical considerations of the ethics or professional responsibility code for attorneys in the jurisdiction where the instruction is presented.

(7) "Attorney wellness" means a separate, designated, and dedicated session of instruction designed to help attorneys detect, prevent, or respond to substance use disorders or mental illness that impairs professional competence. The instruction must focus on issues in the legal profession and in the practice of law, and not issues of substance use disorders or mental health in general.

(8) "Diversity and inclusion" means a separate, designated, and dedicated session of instruction regarding the impact of race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation on court system interaction or case or controversy outcome, and professional relationships between attorneys, judges, and clients where race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation is a potential factor.

(9) "Unmoderated activity" means a continuing legal education (CLE) activity presented by delayed or on-demand transmission or broadcast, or pre-recorded media, that has an interactive component and is approved by the commission based on its guidelines. "Pre-recorded media," for purposes of this rule, includes but is not limited to audiotape, videotape, CD, podcast, CD-ROM, DVD, and self-paced computer-based instruction.

(10) "Quorum" of the entire commission means six or more members of the commission.

(11) "Moderated activity" includes the following:

*a. Standard (live)*. A live CLE activity presented in a suitable classroom setting devoted to the program.

*b. Satellite*. A live CLE activity broadcast by satellite link to a classroom setting or a central viewing or listening location. The attorney must be able to contact the moderator or presenters during the activity to comment and ask questions.

*c. Video conference*. A live CLE activity broadcast by cable, wire, or fiber optic link to a classroom setting or a central viewing or listing location. The attorney must be able to contact the moderator or presenters during the activity to comment and ask questions.

*d. Live webcast*. A live CLE activity broadcast over the Internet in audio or audio plus video form to viewers at remote locations or at a central viewing or listening location. The attorney must be able to contact the moderator or presenters during the activity to comment and ask questions.

*e. Live teleconference*. A live CLE activity broadcast over the telephone in audio or audio plus video form to listeners at remote locations or at a central viewing or listening location. The attorney must be able to contact the moderator or presenters during the activity to comment and ask questions.

*f. Video replay*. A recorded CLE activity presented in audio plus video form in a suitable classroom setting or central viewing location to a broad attorney population. The attorney must be able to contact a live moderator during the activity to comment or ask questions.

*g. Audio replay*. A recorded CLE activity presented in audio form in a suitable classroom setting, central listening location, or by telephone to a broad attorney population. The attorney must be able to contact a live moderator during the activity to comment or ask questions.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; February 22, 2002; February 20, 2012; August 24, 2012; March 21, 2014; November 20, 2015, effective January 1, 2016;

December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; January 26, 2024]

**Rule 42.2 Continuing legal education requirements.**

**42.2(1)** A minimum of 15 hours of continuing legal education must be completed by each attorney for each calendar year in the manner stated in Iowa Court Rule 41.3(1). Beginning January 1, 2021, at least one hour of these 15 hours must be devoted specifically to the area of legal ethics and at least one hour devoted specifically to the area of either attorney wellness or diversity and inclusion.

**42.2(2)** Hours of continuing legal education credit may be obtained by attending or participating in a CLE activity, either previously accredited by the commission or which otherwise meets the requirements herein and is retroactively accredited by the commission pursuant to rule 42.4.

**42.2(3)** Hours of continuing legal education credit may be awarded for preparation of an accredited continuing legal education presentation. An attorney is entitled to one hour of preparation credit for each hour of accredited continuing legal education for which they prepare written materials and present, up to a maximum of three hours per calendar year. Hours of preparation credit are credited against the regular attendance requirement of 15 hours per calendar year, but not against the attendance requirement for legal ethics, attorney wellness, and diversity and inclusion. Hours of preparation credit in excess of three do not carry over to a subsequent year. Preparation credit may not be awarded to:

*a.* An attorney who prepares written materials without making the presentation or serving on a panel of speakers.

*b.* An attorney who makes a presentation or serves on a panel of speakers without preparing written materials.

*c.* An attorney who prepares a course directed primarily to persons preparing for admission to practice law.

*d.* An attorney who receives compensation, other than reasonable expenses, for preparing or presenting the continuing legal education.

**42.2(4)** An attorney desiring to obtain credit for one or more succeeding calendar years, not exceeding two such years, for completing more than 15 hours of accredited legal education during any one calendar year, under Iowa Court Rule 41.3(1), must report such "carry-over" credit at the time of filing the annual report to the commission on or before March 10 of the year following the calendar year during which the claimed additional legal education hours were completed.

[Court Order November 25, 1975; December 6, 1978; January 8, 1988; November 9, 2001, effective February 15, 2002; March 21, 2014; April 25, 2014; November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; September 14, 2021, effective October 1, 2021]

**Rule 42.3 Standards for accreditation.**

**42.3(1)** A CLE activity qualifies for accreditation if the commission determines that the activity complies with all of the following:

*a.* It constitutes an organized program of learning (including a workshop or symposium) that contributes directly to the professional competency of an attorney.

*b.* It pertains to common legal subjects or other subject matters that integrally relate to the practice of law.

*c.* It is conducted by attorneys or individuals who have a special education, training, and experience by reason of which the attorneys or individuals should be considered experts concerning the subject matter of the program, and the activity preferably is accompanied by a paper, manual, or written outline that substantively pertains to the subject matter of the program.

*d.* It is presented in the form of moderated programming, or in the form of unmoderated programming approved by the commission according to its guidelines.

**42.3(2)** No activity will be accredited that involves solely self-study, including television viewing, video or sound recorded programs, or correspondence work, except as may be allowed pursuant to rule 42.5.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; February 22, 2002; March 21, 2014; December 13, 2017, effective January 1, 2018]

**Rule 42.4 Accreditation of programs and activities.**

**42.4(1)** *Accreditation of activities.* A program sponsor that desires accreditation of a program, course, or other legal education activity or an attorney who desires to establish accreditation of a program, course, or other legal education activity must apply for accreditation to the commission in advance of the commencement of the activity or after completion of the activity in the manner the commission prescribes. The commission must approve or deny such application in writing or by electronic mail within 30 days of receipt of such application. The application must state the dates, subjects offered, total hours of instruction, names and qualifications of speakers, and other pertinent information.

**42.4(2)** *Fee for organization applications for accreditation.* To support administration of this chapter, any organization or other activity sponsor applying for accreditation of an activity must pay to the commission a prescribed nonrefundable application fee for each activity. No application fee is required of an attorney who applies for accreditation solely as an attendee. The commission may waive the application fee for any of the following reasons:

*a.* For any activity offered at no charge to attendees for the educational portion of the activity.

*b.* For any presentation of the identical program at additional places or dates during a calendar year, provided the original presentation of the program was approved.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; February 22, 2002; November 23, 2004, effective July 1, 2005; March 21, 2014; December 13, 2017, effective January 1, 2018]

**Rule 42.5 Hardships or extenuating circumstances.**

**42.5(1)** The commission may, in individual cases involving hardship or extenuating circumstances, grant waivers of the minimum educational requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time will be granted unless written application therefor is made on forms prescribed by the commission. A $100 fee will be assessed on all waiver or extension of time applications received after January 15 of the year following the year in which the alleged hardship occurred.

**42.5(2)** Waivers of the minimum educational requirements may be granted by the commission for any period of time not to exceed one year. In the event that the hardship or extenuating circumstances upon which a waiver has been granted continue beyond the period of the waiver, the attorney must reapply for an extension of the waiver. The commission may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the commission.

**42.5(3)** Extensions of time within which to fulfill the minimum educational requirements may, in individual cases involving hardship or extenuating circumstances, be granted by the commission for a period not to exceed six months immediately following expiration of the year in which the requirements were not met. Hours of minimum educational requirement completed within such an extension period must be applied first to the minimum educational requirement for the preceding year and will then be applied to the current or following year only to the extent that such hours are not required to fulfill the minimum educational requirement for the preceding year.

[Court Order November 25, 1975; August 12, 1980; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020]

**Rule 42.6 Exemptions for inactive practitioners.** A member of the bar who is not engaged in the practice of law in the State of Iowa as defined in Iowa Court Rule 39.7 residing within or without the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the commission. The application must contain a statement that the applicant will not engage in the practice of law in Iowa, as defined in Iowa Court Rule 39.7, without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption must be submitted upon the form prescribed by the commission. Applications for a certificate of exemption must be submitted concurrently under Iowa Court Rules 39.7 and 41.7 and this rule.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; August 19, 2016, effective January 1, 2018; December 13, 2017, effective January 1, 2018]

**Rule 42.7 Reinstatement of inactive practitioners.**

**42.7(1)** Inactive practitioners who have been granted a waiver of compliance with these regulations and obtained a certificate of exemption must, prior to engaging in the practice of law

in the State of Iowa as defined in Iowa Court Rule 39.7, satisfy the following requirements for reinstatement:

*a.* Submit written application for reinstatement to the commission upon forms prescribed by the commission together with a reinstatement fee of $100 and all late filing penalties due at the time the exemption was granted.

*b.* Furnish in the application evidence of one of the following:

(1) Having engaged in the full-time practice of law, as defined in Iowa Court Rule 39.7, in another state of the United States or the District of Columbia and completion of continuing legal education for each year of inactive status substantially equivalent in the opinion of the commission to that required under chapter 41 of the Iowa Court Rules.

(2) Successful completion of an Iowa state bar examination conducted within one year immediately prior to the submission of such application for reinstatement.

(3) Completion of a total number of hours of accredited continuing legal education computed by multiplying 15 by the number of years a certificate of exemption has been in effect for such applicant, but limited to a maximum requirement of 100 hours. The continuing legal education required for reinstatement includes hours devoted specifically to legal ethics, attorney wellness, and diversity and inclusion in accordance with the requirements in effect for the years the attorney was in exempt or inactive status. Alternatively, the legal ethics requirement may be satisfied by obtaining a scaled score of 80 or higher on the Multistate Professional Responsibility Examination within one year immediately prior to submission of the application for reinstatement.

**42.7(2)** Notwithstanding that an applicant for reinstatement has not fully complied with the requirements for reinstatement set forth in rule 42.7(1)(*b*), the commission may conditionally reinstate such applicant on such terms and conditions as it may prescribe regarding the period of time in which the applicant must furnish evidence of compliance with the requirements of rule 42.7(1)(*b*).

[Court Order November 25, 1975; July 28, 1977; January 8, 1988; December 15, 1994, effective January 3, 1995; April 10, 1997; November 9, 2001, effective February 15, 2002; August 10, 2009; December 10, 2012; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; December 12, 2023, effective January 1, 2024]

**Rule 42.8 Staff.** The executive director of the office of professional regulation may designate a director of boards and commissions of the office of professional regulation to serve as the principal executive officer of the commission. The commission may, subject to the approval of the court, employ such other employees as the commission deems necessary to carry out its duties under chapter 41 of the Iowa Court Rules, who must perform such duties as the commission may from time to time direct.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; December 5, 2007; November 20, 2015, effective January 1, 2016; September 14, 2021, effective October 1, 2021]

**Rule 42.9 Divisions.** The commission may organize itself into divisions of not fewer than three members for the purpose of considering and deciding matters assigned to them.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002]

**Rule 42.10 Hearings.** In the event of denial in whole or in part of any application, the applicant has the right, within 20 days after receipt of the notification of the denial, to request in writing a hearing before the commission. The decision of the commission after such hearing is final. Any hearing on a revocation of the accreditation of an accredited sponsor, the denial of a hardship application, or a recommendation for disciplinary action under Iowa Court Rule 41.5(4) must be before a quorum of the entire commission.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

**Rule 42.11 Notice of failure to comply.** In the event an attorney fails to comply with the provisions of Iowa Court Rule 41.4 or files a report showing on its face failure to complete the required number of accredited hours of continuing legal education, the commission must notify the attorney in writing of such apparent noncompliance and the attorney will have 15 days from the mailing of the notice to cure the failure to comply or make an appropriate application under rule 42.5. If the failure to comply

is not cured or such application is not approved, the commission must report promptly to the supreme court the failure of the attorney to comply with chapter 41 of the Iowa Court Rules.
[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

# CHAPTER 43
# LAWYER TRUST ACCOUNT COMMISSION

# CHAPTER 43
# LAWYER TRUST ACCOUNT COMMISSION

**Rule 43.1 Composition.**

**43.1(1)** *Members.* The Lawyer Trust Account Commission (commission) consists of seven members, four of whom must be members of the bar of Iowa having their principal offices in this state. Three members must be residents of this state who are not lawyers.

**43.1(2)** *Appointment.* The members are appointed by the supreme court of Iowa.

**43.1(3)** *Terms.* The term of office for members is three years. Each member must continue to serve until a successor is appointed and qualified. No member may serve for longer than two successive terms and until a successor is appointed and qualified.

**43.1(4)** *Vacancies.* Vacancies will be filled by appointment of a person to serve for the unexpired portion of the vacant term.

[Court Order December 28, 1984; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

**Rule 43.2 Powers and duties.**

**43.2(1)** *General.* The commission has general supervisory authority over the administration of these rules.

**43.2(2)** *Receipt and investment of funds.* The commission receives funds from lawyers' interest-bearing trust accounts and makes appropriate temporary investments of such funds pending disbursement of them. The commission may also accept funds from other sources. All funds received are held by the commission as an agency of the supreme court.

**43.2(3)** *Disbursement of funds.* The commission must disburse funds received as follows:

*a.* Such sums as are necessary for the employment of staff and administration of activities authorized under these rules.

*b.* The remaining funds for the tax-exempt public purposes, which the supreme court may prescribe from time to time consistent with Internal Revenue Code regulations and rulings.

**43.2(4)** *Records and reports.* The commission must maintain adequate books and records reflecting all transactions and submit quarterly reports of its financial and other activities to the supreme court. At least once a year, and at such additional times as the supreme court may order, the commission must file with the supreme court a written report reviewing in detail the administration of the fund during the year together with an audit of the fund certified by an Iowa certified public accountant.

[Court Order December 28, 1984; October 23, 1985, effective November 1, 1985; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

**Rule 43.3 Officers.**

**43.3(1)** *Chairperson.* The supreme court will designate from among the members of the commission a chairperson who will serve at the pleasure of the court.

**43.3(2)** *Other officers.* The commission may elect other officers as it deems appropriate and may specify their duties.

[Court Order December 28, 1994; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

**Rule 43.4 Director.**

**43.4(1)** *Appointment.* The executive director of the office of professional regulation serves as the principal executive officer of the commission. The executive director may designate an assistant director for boards and commissions to assist with the duties described in this chapter.

**43.4(2)** *Duties.* The executive director is responsible and accountable to the commission for the proper administration of these rules.

**43.4(3)** *Services.* The executive director may employ persons or contract for services as the commission may approve.

**43.4(4)** *Records.* All information obtained by the commission in the administration of these rules is public information, except that individual remittance reports with required attachments are confidential unless directed by the court or chair to be made public. Individual remittance reports and

attachments must be available for examination and reproduction by an officer or agent of the Client Security Commission, for purposes of carrying out duties under chapter 39 of the Iowa Court Rules.
[Court Order December 28, 1984; October 23, 1985, effective November 1, 1985; July 26, 1995, effective September 5, 1995; November 9, 2001, effective February 15, 2002; July 1, 2005; December 5, 2007; November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

**Rule 43.5 Compensation and expenses.** Members of the commission serve without compensation but may be paid their reasonable and necessary expenses incurred in the performance of their duties. All expenses of the operation of the commission must be paid from funds the commission receives from lawyers' interest-bearing trust accounts or income earned thereon.
[Court Order December 28, 1984; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

**Rule 43.6 Disposition of funds upon dissolution.** If the Lawyer Trust Account Commission is discontinued, any funds then on hand must be transferred to its successor agency or organization qualifying under the Internal Revenue Code, if any, for distribution for the purposes specified under rule 43.2 or, if there is no successor, to the general fund of the State of Iowa.
[Court Order December 28, 1984; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

**Rule 43.7 Supplemental rules.** Subject to approval of the supreme court, the commission may make and adopt rules not inconsistent with these rules to govern the conduct of its business and performance of its duties.
[Court Order December 28, 1984; November 9, 2001, effective February 15, 2002]

**Rule 43.8 Applicability of Iowa Tort Claims Act.** Claims against members of the commission and the executive director, directors, and the staff of the office of professional regulation are subject to the Iowa Tort Claims Act set forth in Iowa Code chapter 669.
[Court Order April 25, 1985; November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008; September 14, 2021, effective October 1, 2021]

# CHAPTER 44

# LAWYER TRUST ACCOUNT COMMISSION GRANT CRITERIA AND GUIDELINES

# CHAPTER 44
# LAWYER TRUST ACCOUNT COMMISSION GRANT CRITERIA AND GUIDELINES

**Rule 44.1 Interest on lawyers' trust account program (IOLTA).**

**44.1(1)** The Lawyer Trust Account Commission (commission) was created by the supreme court to receive interest on lawyers' pooled trust accounts. Lawyers' pooled trust accounts hold client funds that are so small in amount or held for such a brief period that it is not possible for the funds to economically benefit the individual client. Previously, lawyers' pooled trust accounts earned no interest. Effective July 1, 1985, an interest on lawyers' trust account program (IOLTA) was created to benefit charitable and educational interests. The commission has adopted grant criteria by which the interest earned will be disbursed. The commission reserves the right to change these criteria as it continues to assess how and where its funds might be best used.

**44.1(2)** The commission provides the following information in this chapter to guide grant applicants in applying for funds.

**44.1(3)** Grant applications are available from the commission at the following addresses:

Lawyer Trust Account Commission
Iowa Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319

(515) 725-8029

Grant applications will be located on the Iowa Judicial Branch website.

[Court Order December 27, 1985, effective February 3, 1986; December 23, 1987; November 9, 2001, effective February 15, 2002; April 9, 2003; December 10, 2012; December 13, 2017, effective January 1, 2018]

**Rule 44.2 Statement of purpose.**

**44.2(1)** The commission will use the interest earned on IOLTA accounts as directed by the supreme court. The funds are to be used for the tax-exempt public purposes, which the supreme court may prescribe from time to time consistent with Internal Revenue Code regulations and rulings.

**44.2(2)** The IOLTA program is intended to fill a critical need for legal services to low income persons in civil cases as well as educational and other specific law-related programs designed to improve the administration of justice in Iowa.

[Court Order December 27, 1985, effective February 3, 1986; November 9, 2001, effective February 15, 2002; December 10, 2012; December 13, 2017, effective January 1, 2018]

**Rule 44.3 Grant criteria.** The commission desires to make the best use of IOLTA funds and obtain maximum effect from each grant. The following guidelines, with exception where necessary, will be used to assist in the grant decision-making process:

**44.3(1)** The commission favors funding groups or organizations as opposed to individuals.

**44.3(2)** The commission favors challenge grants or other types of fund-matching arrangements to leverage IOLTA money.

**44.3(3)** Grant applicants should, if possible, have sources of income in addition to the IOLTA funds requested. Generally, the commission does not intend to be the primary source of financial support for a sustained period of time, and the applicant should demonstrate an ability to function eventually without the assistance of the commission.

**44.3(4)** Greater weight will be given to applicants with a prior history of service reflecting clear ability to deliver quality services successfully.

**44.3(5)** Greater weight will be given to applicants that work to develop cooperative efforts between grantees in a given service area.

**44.3(6)** The commission prefers to fund applicants that have community support.

**44.3(7)** The commission will fund applicants to achieve broad geographic and demographic distribution of IOLTA funds throughout the state.

**44.3(8)** The commission prefers to avoid replacing other funding sources. The commission also prefers neither to fund agencies primarily funded by state appropriations, nor will funding be granted to state agencies to perform statutory duties.

**44.3(9)** In reviewing grants for renewal, greater weight will be given to previous recipients that have successfully utilized IOLTA funds.

**44.3(10)** All grant recipients are expected to propose criteria by which their projects will be reviewed at least annually and to assist the commission in conducting periodic evaluations.

**44.3(11)** The commission is especially interested in using its limited funds as seed money to establish new programs which contribute to the increased availability of legal services to indigents in all parts of the state or will provide increased education about the rights and responsibilities of all citizens under our legal system.

**44.3(12)** The commission will not fund political campaigns, lobbying or legislative advocacy nor will it fund programs to provide for criminal indigent defense.

**44.3(13)** The commission examines applications based on the general return on investment and an overall emphasis on legal services for low income persons.

[Court Order December 27, 1985, effective February 3, 1986; February 27, 1987; November 9, 2001, effective February 15, 2002; December 10, 2012; December 13, 2017, effective January 1, 2018]

**Rule 44.4 Eligible applicants.** To be eligible to receive funds from the commission, an applicant must do all of the following:

**44.4(1)** Qualify as an exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law) or otherwise demonstrate the charitable purposes of the applicant organization and project.

**44.4(2)** Submit a grant application form and written narrative proposal within the commission's time schedule.

**44.4(3)** Respond adequately in the proposal to the commission's grant proposal format.

**44.4(4)** Respond adequately to questions about the application by telephone or in writing.

**44.4(5)** Agree to carry out the program for which funds were requested.

**44.4(6)** Account for the grant funds separately in its financial reporting system.

**44.4(7)** Unless exempted, agree to file with the commission within 90 days after the end of the grant period, an audit of IOLTA funds received certified by a certified public accountant licensed to practice in Iowa.

**44.4(8)** Report to the commission on progress and results.

[Court Order December 27, 1985, effective February 3, 1986; December 27, 1991, effective January 6, 1992; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

**Rule 44.5 Rejection of grant applications.** The commission reserves the right to reject any or all grant applications that do not, in its opinion, meet the purposes of this program.

[Court Order December 27, 1985, effective February 3, 1986; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

**Rule 44.6 Grant applications are property of commission.** Upon submission, all grant applications become the property of the commission which has the right to use any or all ideas presented in any application, whether or not the application is approved for funding. All grant applications are open to public inspection and comment upon receipt by the commission.

[Court Order December 27, 1985, effective February 3, 1986; November 9, 2001, effective February 15, 2002]

**Rule 44.7 Grantee costs.** Neither the supreme court nor the commission will be liable for any expenses incurred by any prospective grantee prior to the issuance of the grant.

[Court Order December 27, 1985, effective February 3, 1986; November 9, 2001, effective February 15, 2002]

**Rule 44.8 Inquiry.** Questions should be directed by mail to: Director, Office of Professional Regulation, Iowa Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa 50319; or by electronic mail to: iolta@iowacourts.gov.

[Court Order December 27, 1985, effective February 3, 1986; December 23, 1987; November 9, 2001, effective February 15, 2002; April 9, 2003; December 5, 2007; December 10, 2012]

**Rule 44.9 Copies of applications; signature.** One electronic copy and one paper copy of a grant application will be required. Applications should be signed by an official who has authority to bind the organization to the proposed obligations. Applications must state that they are valid for a minimum period of 60 days from the date of submission. Applications should be transmitted to the electronic mail address and postal address designated in rule 44.8.
[Court Order December 27, 1985, effective February 3, 1986; November 9, 2001, effective February 15, 2002; December 10, 2012]

**Rule 44.10 Prime grantee responsibility.** A selected grantee will be required to assume responsibility for all services offered in its application. The selected grantee will be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the grant.
[Court Order December 27, 1985, effective February 3, 1986; November 9, 2001, effective February 15, 2002]

**Rule 44.11 Access to books and records.** The commission or any of its duly authorized representatives must have access for purposes of audit and examination to books, documents, papers, and records of the grantee.
[Court Order December 27, 1985, effective February 3, 1986; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

**Rule 44.12 Contract terms.** The grant application must state when the grantee will start the project, which should be within 60 days of the award. If during the performance of the project the grantee deviates from the grant, the grant may, at the discretion of the commission, be terminated at any time. If a dispute arises in the performance of the grant that cannot be settled between the parties, the dispute must be submitted to arbitration pursuant to Iowa Code chapter 679A.
[Court Order December 27, 1985, effective February 3, 1986; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

**Rule 44.13 Project completion date.** The completion date of the project must be specified in the application. If the project will continue for more than one year, the applicant should specify the budget and evaluation cycle on a twelve-month basis.
[Court Order December 27, 1985, effective February 3, 1986; November 9, 2001, effective February 15, 2002]

**Rule 44.14 Additional grant requests.** Applicants who submit proposals in the initial funding cycle will not be precluded from applying in later funding cycles if need exceeds the amount of the initial award.
[Court Order December 27, 1985, effective February 3, 1986; November 9, 2001, effective February 15, 2002]

**Rule 44.15 Grant application procedures.** To aid in the comparative evaluation of proposals, all grant applications must contain the information set forth in rule 44.15(1) in the order listed.

**44.15(1)** *Organization and contents of proposal.*

*a.* Cover sheet (rule 44.21, Form 1).

*b.* Summary of grant request (rule 44.21, Form 2).

*c.* A written narrative proposal on 8½ x 11 inch paper, not to exceed ten double-spaced typewritten pages, which sets forth:

(1) The objectives of the project or organization for which funds are requested.

(2) The methods by which the objectives are to be accomplished.

(3) The qualifications of key individuals responsible for the project or organization.

(4) The period of time expected to complete the project (if applicable).

(5) Whether support has been or is being requested from other funding sources.

(6) The audit mechanism that will be utilized to provide accountability for the requested funds.

(7) The extent to which the program serves a reasonable number of clients, its service area, the nature and scope of legal services provided and its impact on the community's demonstrated needs.

(8) The extent to which two or more programs in the service area cooperate in the provision of legal assistance.

(9) The extent of participation from the bar within the program's service area.
(10) The extent to which the program has systems to assure the quality of services provided.
(11) The plans for evaluating the success of the project or organization in meeting the objectives.
(12) Such additional information as the applicant believes desirable.
*d.* Financial budget form (rule 44.21, Forms 3, 4, and 5).
*e.* Funding sources (rule 44.21, Form 6).
*f.* Legal problem categories (rule 44.21, Form 7).
*g.* Program activity (rule 44.21, Form 8).
*h.* Nondiscrimination statement (rule 44.21, Form 9).
*i.* Checklist of enclosures (rule 44.21, Form 10).

**44.15(2)** *Processing of grant applications.*

*a.* One written copy and one electronic copy of the application should be directed to the director of the office of professional regulation at the following addresses:

Lawyer Trust Account Commission
Iowa Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319

iolta@iowacourts.gov

*b.* The commission will make all recommendations on grant awards, subject to final approval by the supreme court.
*c.* Applicant must submit one original written copy and one electronic copy of its proposal.
*d.* There can be no extensions of or exceptions to established deadlines.
*e.* Grant awards will be announced by the supreme court or by the commission with the approval of the court.

[Court Order December 27, 1985, effective February 3, 1986; December 23, 1987; December 27, 1991, effective January 6, 1992; November 9, 2001, effective February 15, 2002; April 9, 2003; December 10, 2012; December 13, 2017, effective January 1, 2018]

**Rules 44.16** to **44.20** Reserved.

**Rule 44.21 FORMS — Grant Application Forms**
**Rule 44.21 — Form 1:** ***Cover Sheet.***

## GRANT APPLICATION

## LAWYER TRUST ACCOUNT COMMISSION

Amount of Grant Request $ _____

Name of Organization/Applicant _____

Address _____

City _____ County _____ Zip _____

Telephone Number (include area code) _____

Number of Counties Served _____

Number of Indigent Persons in Service Area _____

Program Director or _____
Chief Executive Officer

_____
Signature

Chairperson or _____
Chief Policy-Making Officer

_____
Signature

Current Fiscal Year Budget $ _____
(Exclude IOLTA Funding)

Define Fiscal Year: Starts _____ Ends _____

Funds Requested are For:

_____ Legal Services for the Poor _____ Law Related Education

_____ Pro Bono _____ Administration of Justice

_____ Other _____

I HEREBY CERTIFY THAT ALL THE INFORMATION CONTAINED IN THIS GRANT PROPOSAL IS ACCURATE AND COMPLETE.

_____ _____
SIGNATURE DATE

[Court Order December 27, 1985, effective February 3, 1986; December 27, 1991, effective January 6, 1992; November 9, 2001, effective February 15, 2002]

**Rule 44.21 — Form 2:** ***Summary of Grant Request.***

## SUMMARY OF GRANT REQUEST

Using only the space provided, summarize those aspects of your grant application that you most wish to highlight to help the Lawyer Trust Account Commission evaluate your proposal.

[Court Order December 27, 1985, effective February 3, 1986; December 27, 1991, effective January 6, 1992; November 9, 2001, effective February 15, 2002]

**Rule 44.21 — Form 3:** ***Financial Budget Form.***

## FINANCIAL BUDGET FORM

Name of Organization/Applicant _____

Please complete the following form on a "grant year" basis. We recognize that many programs do not operate on a fiscal year which coincides with the "grant year," but we need to compare the data you submit with the information provided by other applicants.

Please refer to explanations on reverse side when completing budget request form.

| COST CATEGORY | IOLTA FUNDS REQUESTED | TOTAL BUDGET* |
|---|---|---|
| **PERSONNEL** | | |
| Lawyers No. _____ | | |
| Paralegals No. _____ | | |
| Other No. _____ | | |
| Salary Subtotal _____ | | |
| Employee Benefit _____ | | |
| **Total Personnel Costs** | | |
| **NONPERSONNEL** | | |
| Space | | |
| Equipment | | |
| Supplies | | |
| Telephone | | |
| Travel | | |
| Training | | |
| Library | | |
| Insurance | | |
| Audit | | |
| Litigation | | |
| Capital Additions | | |
| Contract Services | | |
| Other | | |
| **Total Nonpersonnel Costs** | | |
| **TOTAL** | | |

*Excluding IOLTA Funds Requested

Financial Budget Form *(cont'd)*

## FINANCIAL BUDGET FORM

## EXPLANATIONS

**LAWYERS:** This category should include all salaries and wages paid to program attorneys, whether employed directly or supervised by the program (e.g., VISTA volunteers), and whether part time, full time, or temporary.

**PARALEGALS:** This category should include salaries and wages paid to program paralegals, whether employed directly or supervised by the program (e.g., VISTA volunteers), and whether part time, full time, or temporary. Paralegals are persons whose duties consist primarily of such activities as intake interviewing, case investigations, checking court records, legal research, client representation at administrative hearings, and outreach and community work.

**OTHER STAFF:** This category should include salaries and wages paid to all other program staff, whether employed directly or supervised by the program (e.g., VISTA volunteers, CETA workers, etc.), whether administrative/clerical staff, students, or others, and whether full time, part time, or temporary.

**EMPLOYEE BENEFITS:** This category should include all those commonly accepted fringe benefits paid on behalf of employees, such as retirement, FICA, health and life insurance, worker's compensation, unemployment insurance, and other payroll-related costs approved by the program's board of directors.

**SPACE:** This category includes estimated rent, utility payments, and maintenance or janitorial expenses.

**EQUIPMENT RENTAL:** This category includes lease or rental expenses for office furniture, fixtures, and equipment (except telephone). It also includes an estimate of maintenance costs for that equipment whether pursuant to a service contract or an estimate of individual repair bills.

**OFFICE SUPPLIES AND EXPENSES:** This category includes all basic office accessories and supplies, including material used in copiers. Printing and postage, which may be recorded in special accounts, are included in this category. All equipment purchases under $100 may be placed under this line item.

**TELEPHONE:** This category includes estimates for the rent of telephone equipment and long distance calls. Similar and related expenses such as telegraph or other telecommunications should be included as well.

**PROGRAM TRAVEL:** Travel expenses directly related to specific client matters, circuit calls, administration of the program, etc. While most travel placed in this category will be local or intrastate, some interstate travel should also be included here.

**TRAINING:** All nonpersonnel costs to be paid for with regular program funds associated with the training or continuing education of staff members should be included here. Examples would be: travel to/from training events, per diem, conference registration fees or tuition, purchase of training materials, rent for facilities used in a training event, etc. Materials or equipment purchased for training with a value in excess of $100 should be reported under "Capital Additions." No program personnel costs should be included here.

**LIBRARY:** This category includes expenses for the maintenance and normal expansion of office libraries, including subscriptions to periodicals, books, reference materials, and multiple volume sets of law books. Capital additions to the library holdings over $100 should be included under "Capital Additions."

**INSURANCE:** This category includes professional liability insurance, bonding, property insurance (fire and theft), and liability insurance for property and automobiles.

**AUDIT:** This category includes expenses for auditors.

**LITIGATION:** This category includes court costs, witness fees, expert witness expenses, sheriff fees, courthouse copying fees, and other expenses incurred but not recovered in litigation on behalf of eligible clients.

**CAPITAL ADDITIONS:** This category includes equipment and library purchases over $100 per item and other major expenses which occur infrequently (e.g., major renovation). Items included should be certain expenditures (e.g., report "office equipment" rather than "typewriters, dictating equipment, adding machines," etc.).

**CONTRACT SERVICES:** This category includes two sections: one for all payments to private attorneys who provided legal services to clients and the other for service to the program, such as legal counsel for program operations, consultant fees exclusive of those paid for training, use of a computer service bureau, bookkeeping or other accounting services, etc.

**OTHER:** This category includes all program expenses not included above.

[Court Order December 27, 1985, effective February 3, 1986; December 27, 1991, effective January 6, 1992; November 9, 2001, effective February 15, 2002]

**Rule 44.21 — Form 4:** ***Financial Budget Form — Personnel Costs.***

**FINANCIAL BUDGET FORM**

**PERSONNEL COSTS**

Please provide a detailed breakdown and explanation by line item of your funding request. Comment on methodology used in determining each funding request for Personnel Costs.

(Attach additional sheets if necessary)

[Court Order December 27, 1991, effective January 6, 1992; November 9, 2001, effective February 15, 2002]

**Rule 44.21 — Form 5:** ***Financial Budget Form — Nonpersonnel Costs.***

**FINANCIAL BUDGET FORM**

**NONPERSONNEL COSTS**

Please provide a detailed breakdown and explanation by line item of your funding request. Comment on methodology used in determining each funding request for Nonpersonnel Costs.

(Attach additional sheets if necessary)

[Court Order December 27, 1991, effective January 6, 1992; November 9, 2001, effective February 15, 2002]

**Rule 44.21 — Form 6:** ***Funding Sources.***

## FUNDING SOURCES

Name of Applicant: _____

List Sources of Public and Private Funds:

Do Not Include Any Estimates for "In-Kind" or Volunteer Services

(EXPLANATION OF "FUNDS" ON REVERSE)

| | SOURCE | AMOUNT |
|---|---|---|
| 1. Local: | | |
| 2. Federal: | | |
| 3. Community Funds: | | |
| 4. Foundations: | | |
| 5. Bar Associations/Groups: | | |
| 6. Individual Contributions: | | |
| 7. Corporate: | | |
| 8. Law Firms: | | |
| 9. Others: | | |
| TOTAL | | |

Funding Sources *(cont'd)*

**EXPLANATION OF "FUNDS"**

1. **LOCAL —** List all public sources of funds from city, county, and state agencies. This does not include federal funds. If the applicant receives allocations through city, county, or state offices, such as social service departments, list sources in this category.

2. **FEDERAL —** List all sources of funds from federal sources including: Legal Services Corporation; Title XX; Title III; Title IV; Community Development Block Grants; Revenue Sharing; Action/VISTA; other federal grants.

3. **COMMUNITY FUNDS —** List community nonprofit organization funds, e.g., United Way, Community Chest, and other consolidated community funds in this category.

4. **FOUNDATIONS —** List private charitable foundation funds in this category.

5. **BAR ASSOCIATIONS/GROUPS —** List state, local and specialty bar associations and related organizations which provide monetary contributions.

6. **INDIVIDUAL CONTRIBUTIONS —** Indicate the total amount of individual contributions received by the program.

7. **CORPORATE —** List all funds received from corporations, corporate foundations, and corporate law departments.

8. **LAW FIRMS —** List all funds received from law firms, including support from annual fundraiser/benefit over $200.00.

9. **OTHER —** List all other sources of income, including special events such as annual benefit or dinner. Continue on another sheet of paper if necessary.

[Court Order December 27, 1985, effective February 3, 1986; December 27, 1991, effective January 6, 1992; November 9, 2001, effective February 15, 2002]

**Rule 44.21 — Form 7:** ***Legal Problem Categories.***

## LEGAL PROBLEM CATEGORIES

Define what is meant by your use of the term "Legal Problem" and "Case" as a measure of services provided:

_____

_____

_____

_____

_____

_____

1. **CONSUMER/FINANCE** — refers to bankruptcy, debtor relief, collections, deficiency, garnishment, contracts, warranties, credit access, energy, loans, installment purchase, public utilities, unfair sales practice, repossession, and other consumer/finance.
2. **EDUCATION/EMPLOYMENT** — refers to education, job discrimination, wage claims, and other employment (including CETA).
3. **FAMILY** — refers to adoption, custody, visitation, dissolution, separation, annulment, guardianship, conservatorship, name change, parental rights termination, paternity, spouse abuse, support, and other family.
4. **JUVENILE** — refers to neglected, delinquent, and other juvenile.
5. **HEALTH** — refers to Medicare, Medicaid, and other health.
6. **HOUSING** — refers to federally subsidized housing rights, home ownership, real property, landlord-tenant, public housing, and other housing.
7. **INCOME MAINTENANCE** — refers to AFDC, welfare, food stamps, social security, SSI, unemployment compensation, veterans benefits, worker's compensation, and other income maintenance.
8. **INDIVIDUAL RIGHTS** — refers to immigration, naturalization, mental health, prisoners' rights, physically disabled rights, and other individual rights.
9. **MISCELLANEOUS** — refers to incorporation, dissolution, license (auto and other), torts, wills, estates, and other miscellaneous.

[Court Order December 27, 1991, effective January 6, 1992; November 9, 2001, effective February 15, 2002]

**Rule 44.21 — Form 8:** ***Program Activity.***

## PROGRAM ACTIVITY

Please provide information on the number of indigent persons assisted during the year.

| ACTIVITY | NUMBER |
|---|---|
| Counsel and Advice | |
| Brief Service | |
| Referred After Legal Assessment | |
| Insufficient Merit to Proceed | |
| Client Withdrew or Did Not Return | |
| Negotiated Settlement | |
| Admin. Agency Decision | |
| Court Decision | |
| Change in Eligibility | |
| Other | |
| Total Closed Cases | |

**STAFF PATTERN**

Please describe the staffing pattern of your organization by completing the following chart.

| | Full Time | Part Time | Temporary | Volunteer |
|---|---|---|---|---|
| 1. Number of Attorneys | | | | |
| 2. Number of Paralegals | | | | |
| 3. Number of Other Staff | | | | |

COMMENTS: _____

_____

_____

_____

_____

[Court Order December 27, 1991, effective January 6, 1992; November 9, 2001, effective February 15, 2002]

**Rule 44.21 — Form 9:** ***Nondiscrimination Statement.***

**NONDISCRIMINATION STATEMENT**

On behalf of the _____,
(Organization)

I, _____, the undersigned state

that the _____ does not
(Organization)

discriminate against clients, job applicants, or its employees on the basis of race, creed, color, sex, age, national origin, handicap, or Vietnam veteran status.

_____
(Name)

_____
(Title)

_____
(Date)

[Court Order December 27, 1985, effective February 3, 1986; December 27, 1991, effective January 6, 1992; November 9, 2001, effective February 15, 2002]

**Rule 44.21 — Form 10:** ***Checklist of Enclosures.***

## CHECKLIST OF ENCLOSURES

Please number and enclose the following supplemental materials with this Grant Application. If your organization has previously submitted any of these items to the Lawyer Trust Account Commission and it is still in full force and effect, check "Submitted Previously" and omit from this application.

| ENCLOSED | SUBMITTED PREVIOUSLY | | ATTACHMENT # |
|---|---|---|---|
| _____ | _____ | List of board members — name, address, occupation, indicate officers, their title and terms | _____ |
| _____ | _____ | Current articles of incorporation or association, bylaws or other organizational documents | _____ |
| _____ | _____ | Proof of tax exempt status and last IRS form 990 | _____ |
| _____ | _____ | Current client financial eligibility guidelines | _____ |
| _____ | _____ | Description of your organization's professional liability coverage | _____ |
| _____ | _____ | A copy of applicant organization's most recent audited financial statement | _____ |
| _____ | _____ | Any evaluation reports prepared by other funding sources within the last two years | _____ |

All documents required shall have attached a certificate signed by the secretary or similar officer that the documents are true and correct copies, have not been retracted or amended, and are in full form and effect.

[Court Order December 27, 1991, effective January 6, 1992; November 9, 2001, effective February 15, 2002]

# CHAPTER 45
# CLIENT TRUST ACCOUNT RULES

# CHAPTER 45
# CLIENT TRUST ACCOUNT RULES

**Rule 45.1 Requirement for client trust account.** Funds a lawyer receives from clients or third persons for matters arising out of the practice of law in Iowa must be deposited in one or more identifiable interest-bearing trust accounts at a financial institution with a branch geographically located in Iowa. Other property of clients or third persons must be identified as such and appropriately safeguarded. The trust account must be clearly designated as "Trust Account." No funds belonging to the lawyer or law firm may be deposited in this account except:

1. Funds reasonably sufficient to pay or avoid imposition of fees and charges that are a lawyer's or law firm's responsibility, including fees and charges that are not "allowable monthly service charges" under the definition in rule 45.5, may be deposited in this account.

2. Funds belonging in part to a client and in part currently or potentially to the lawyer or law firm must be deposited in this account, but the portion belonging to the lawyer or law firm may be withdrawn when due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion must not be withdrawn until the dispute is finally resolved.

[Court Order April 20, 2005, effective July 1, 2005; December 13, 2017, effective January 1, 2018; September 19, 2022, effective October 1, 2022]

**Rule 45.2 Action required upon receiving funds; accounting; records.**

**45.2(1)** *Authority to endorse or sign client's name.* Upon receipt of funds or other property in which a client or third person has an interest, a lawyer must not endorse or sign the client's name on any check, draft, security, evidence of encumbrance, transfer of ownership of realty or personalty, or any other document without the client's prior express authority. A lawyer signing an instrument in a representative capacity must so indicate by initials or signature.

**45.2(2)** *Accounting and returning funds or property.* Except as stated in this chapter or otherwise permitted by law or by agreement with the client, a lawyer must promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and must promptly render a full accounting regarding such property.

**45.2(3)** *Maintaining records.*

*a.* A lawyer who practices in this jurisdiction must maintain current financial records as provided in these rules and required by Iowa Rule of Professional Conduct 32:1.15 and must retain the following records for a period of six years after termination of the representation:

(1) Receipt and disbursement journals with a running balance containing a record of deposits to and withdrawals from client trust accounts, specifically identifying the date, source, and description of each item deposited, as well as the date, payee, and purpose of each disbursement.

(2) Ledger records for all client trust accounts showing, for each separate trust client or beneficiary, the source of all funds deposited, the names of all persons for whom the funds are or were held, the amount of such funds, the descriptions and amounts of charges or withdrawals, and the names of all persons or entities to whom such funds were disbursed.

(3) Copies of retainer and compensation agreements with clients as required by Iowa Rule of Professional Conduct 32:1.5.

(4) Copies of accountings to clients or third persons showing the disbursement of funds to them or on their behalf.

(5) Copies of bills for legal fees and expenses rendered to clients.

(6) Copies of records showing disbursements on behalf of clients.

(7) The physical or electronic equivalents of all checkbook registers, bank statements, records of deposit, prenumbered canceled checks, and substitute checks provided by a financial institution.

(8) Records of all electronic transfers from client trust accounts, including the name of the person authorizing transfer, the date of transfer, the name of the recipient, and the trust account name or number from which money is withdrawn.

(9) Copies of monthly lists of individual client ledger balances and monthly triple reconciliations of bank statement balance to check register balance to sum of individual client ledger balances of the client trust accounts maintained by the lawyer.

(10) Copies of those portions of client files that are reasonably related to client trust account transactions.

*b.* With respect to trust accounts required by Iowa Rule of Professional Conduct 32:1.15:

(1) Only a lawyer admitted to practice law in this jurisdiction or a person under the direct supervision of the lawyer may be an authorized signatory or authorize transfers from a client trust account.

(2) Receipts must be deposited intact and records of deposit should be sufficiently detailed to identify each item.

(3) Withdrawals must be made only by check payable to a named payee and not to cash, or by authorized bank transfer.

*c.* Records required by this rule may be maintained by electronic, photographic, computer, or other media provided that the records otherwise comply with these rules and that printed copies can be produced. These records must be accessible to the lawyer.

*d.* Upon dissolution of a law firm or of any legal professional corporation, the partners must make reasonable arrangements for the maintenance of the records specified in this rule.

*e.* Upon the sale of a law practice, the seller must make appropriate arrangements for the maintenance of the records specified in this rule.

[Court Order April 20, 2005, effective July 1, 2005; February 20, 2012; December 13, 2017, effective January 1, 2018; September 19, 2022, effective October 1, 2022; July 11, 2023]

**Rule 45.3 Type of accounts and institutions where trust accounts must be established.** Each trust account referred to in rule 45.1 must be an interest-bearing or dividend-paying account in a bank, savings bank, trust company, savings and loan association, savings association, credit union, or federally regulated investment company selected by the law firm or lawyer in the exercise of ordinary prudence. The financial institution must be authorized by federal or state law to do business in Iowa and insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. Trust funds must be placed in accounts at credit unions only to the extent that each individual client's funds are eligible for insurance. Trust funds must be placed in accounts from which withdrawals or transfers can be made without delay when such funds are required, subject only to any notice period which the depository institution is required to observe by law or regulation.

[Court Order April 20, 2005, effective July 1, 2005; April 25, 2008; December 13, 2017, effective January 1, 2018; September 19, 2022, effective October 1, 2022]

**Rule 45.4 Pooled interest-bearing trust account.**

**45.4(1)** *Deposits of nominal or short-term funds.* A lawyer who receives a client's or third person's funds must maintain a pooled interest-bearing trust account for deposits of funds that are nominal in amount or reasonably expected to be held for a short period of time. A lawyer must inform the client or third person that the interest accruing on this account, net of any allowable monthly service charges, will be paid to the Lawyer Trust Account Commission established by the supreme court.

**45.4(2)** *Exceptions to using pooled interest-bearing trust accounts.* All client or third person funds must be deposited in an account specified in rule 45.4(1) unless they are deposited in:

*a.* A separate interest-bearing trust account for the particular third person, client, or client's matter on which the interest, net of any transaction costs, will be paid to the client or third person; or

*b.* A pooled interest-bearing trust account with subaccountings that will provide for computation of interest earned by each client's or third person's funds and the payment thereof, net of any transaction costs, to the client or third person.

**45.4(3)** *Accounts generating positive net earnings.* If the client's or the third person's funds could generate positive net earnings for the client or third person, the lawyer must deposit the funds in an account described in rule 45.4(2). In determining whether the funds would generate positive net earnings, the lawyer must consider the following factors:

*a.* The amount of the funds to be deposited.

*b.* The expected duration of the deposit, including the likelihood of delay in the matter for which the funds are held.

*c.* The rates of interest or yield at the financial institution in which the funds are to be deposited.

*d.* The cost of establishing and administering the account, including service charges, the cost of the lawyer's services, and the cost of preparing any tax reports required for interest accruing to a client's benefit.

*e.* The capability of financial institutions described in rule 45.3 to calculate and pay interest to individual clients.

*f.* Any other circumstances that affect the ability of the client's funds to earn a net return for the client.

**45.4(4)** *Directions to depository institutions.* As to accounts created under rule 45.4(1), a lawyer or law firm must direct the depository institution:

*a.* To remit interest or dividends, net of any allowable monthly service charges, as computed in accordance with the depository institution's standard accounting practice, at least quarterly, to the Lawyer Trust Account Commission.

*b.* To transmit with each remittance to the Lawyer Trust Account Commission a copy of the depositor's statement showing the name of the lawyer or law firm for whom the remittance is sent, the rate of interest applied, the amount of allowable monthly service charges deducted, if any, and the account balance(s) for the period covered by the report.

*c.* To report to the Client Security Commission in the event any properly payable instrument is presented against a lawyer trust account containing insufficient funds. In the case of a dishonored instrument, the report must be identical to the overdraft notice customarily forwarded to the depositor, and must include a copy of the dishonored instrument, if such a copy is normally provided to depositors. In the case of instruments that are honored when presented against insufficient funds, the report must identify the financial institution, the lawyer or law firm, the account number, the date of presentation for payment and the date paid, and the amount of overdraft. If an instrument presented against insufficient funds is not honored, the report must be made simultaneously with, and within the time provided by law for, any notice of dishonor. If the instrument is honored, the report must be made within five banking days of the date of presentation for payment against insufficient funds.

[Court Orders April 20, 2005, and July 1, 2005, effective July 1, 2005; December 13, 2017, effective January 1, 2018]

**Rule 45.5 Definition of "allowable monthly service charges."** For purposes of this chapter, "allowable monthly service charges" means the monthly fee customarily assessed by the institution against a depositor solely for the privilege of maintaining the type of account involved. Fees or charges assessed for transactions involving the account, such as fees for wire transfers, stop payment orders, or check printing, are a lawyer's or law firm's responsibility and may not be paid or deducted from interest or dividends otherwise payable to the Lawyer Trust Account Commission.

[Court Order April 20, 2005, effective July 1, 2005]

**Rule 45.6 Lawyer certification.** Every lawyer required to have a client trust account must certify annually, in such form as the supreme court may prescribe, that the lawyer or the law firm maintains, on a current basis, records required by Iowa Rule of Professional Conduct 32:1.15(a).

[Court Order April 20, 2005, effective July 1, 2005; December 13, 2017, effective January 1, 2018]

**Rule 45.7 Advance fee; expense payments.**

**45.7(1)** *Definition of advance fee payments.* "Advance fee payments" are payments for contemplated services that are made to the lawyer prior to the lawyer's having earned the fee.

**45.7(2)** *Definition of advance expense payments.* Advance expense payments are payments for contemplated expenses in connection with the lawyer's services that are made to the lawyer prior to the incurrence of the expense.

**45.7(3)** *Deposit and withdrawal.* A lawyer must deposit advance fee and expense payments from a client into the trust account and may withdraw such payments only as the fee is earned or the expense is incurred.

**45.7(4)** *Notification upon withdrawal of fee or expense.* A lawyer accepting advance fee or expense payments must notify the client in writing of the time, amount, and purpose of any withdrawal of the fee or expense, together with a complete accounting. The attorney must transmit such notice no later than the date of the withdrawal.

**45.7(5)** *When refundable.* Notwithstanding any contrary agreement between the lawyer and client, advance fee and expense payments are refundable to the client if the fee is not earned or the expense is not incurred.

[Court Order April 20, 2005, effective July 1, 2005; December 13, 2017, effective January 1, 2018]

**Rule 45.8 General retainer.**

**45.8(1)** *Definition.* A general retainer is a fee a lawyer charges for agreeing to provide legal services on an as-needed basis during a specified time period. Such a fee is not a payment for the performance of services and is earned by the lawyer when paid.

**45.8(2)** *Deposit.* Because a general retainer is earned by the lawyer when paid, the retainer should not be deposited in the trust account.

[Court Order April 20, 2005, effective July 1, 2005]

**Rule 45.9 Special retainer.**

**45.9(1)** *Definition.* A "special retainer" is a fee that is charged for the performance of contemplated services rather than for the lawyer's availability. Such a fee is paid in advance of performance of those services.

**45.9(2)** *Prohibition.* A lawyer may not charge a nonrefundable special retainer or withdraw unearned fees.

[Court Order April 20, 2005, effective July 1, 2005; December 13, 2017, effective January 1, 2018]

**Rule 45.10 Flat fee.**

**45.10(1)** *Definition.* A "flat fee" is one that embraces all services that a lawyer is to perform, whether the work be relatively simple or complex.

**45.10(2)** *When deposit required.* If the client makes an advance payment of a flat fee prior to performance of the services, the lawyer must deposit the fee into the trust account.

**45.10(3)** *Withdrawal of flat fee.* A lawyer and client may agree as to when, how, and in what proportion the lawyer may withdraw funds from an advance fee payment of a flat fee. The agreement, however, must reasonably protect the client's right to a refund of unearned fees if the lawyer fails to complete the services or the client discharges the lawyer. In no event may the lawyer withdraw unearned fees.

[Court Order April 20, 2005, effective July 1, 2005; December 13, 2017, effective January 1, 2018]

**Rule 45.11 Designation of successor signatories.** A lawyer who is the sole lawyer signatory on an attorney trust account may designate in an instrument acceptable to the depository for the trust account, a successor signatory, who must be a member of the bar in good standing and admitted to the practice of law in Iowa, and whose authority must become effective upon the occurrence of an event or events described in the instrument. The event or events described in the instrument may include death, disappearance, abandonment of law practice, temporary or permanent incapacity, suspension, or disbarment.

[Court Order December 10, 2012; December 13, 2017, effective January 1, 2018]

# CHAPTER 46

# RULES OF THE BOARD OF EXAMINERS OF SHORTHAND REPORTERS

# CHAPTER 46
# RULES OF THE BOARD OF EXAMINERS OF SHORTHAND REPORTERS

**Rule 46.1 Authorization and scope.** The rules in this chapter are adopted in conjunction with Iowa Code sections 602.3101 through 602.3302. They apply to all proceedings, functions, and responsibilities of shorthand reporters and the board of examiners.
[Court Order June 5, 2008, effective July 1, 2008]

**Rule 46.2 Definitions.** In this chapter:

(1) "Certified shorthand reporter" is an individual who has demonstrated by examination administered by the board of examiners that such individual has achieved proficiency in shorthand equivalent in the discretion of the board to the standard of the National Court Reporters Association for the earned designation of Registered Professional Reporter, namely, the demonstrated ability to write dictated tests at 180 words per minute (question and answer — technical dictation), 200 words per minute (multivoice dictation for transcription or readback), and 225 words per minute (question and answer dictation), or such equivalents thereof as the board may select, each at 95 percent accuracy or better, and demonstrated written knowledge of the reporter's duties, Iowa legal procedure, and correct English usage at 70 percent accuracy or better. Individuals who hold the designation of Registered Professional Reporter from the National Court Reporters Association by passing the association's examination on or after May 1, 1973, and are in good standing with such association, may, upon application to the board of examiners, become certified shorthand reporters upon successfully passing a written examination concerning a reporter's duties, Iowa legal procedure, and correct English usage at 70 percent accuracy or better.

(2) "Shorthand" is a method of writing rapidly with stenographic machine by substituting characters, abbreviations, or symbols for letters, words, or phrases.

(3) "Shorthand reporting" is the professional skill, the practice of which by official shorthand reporters and freelance shorthand reporters serves the judicial branch of state government in courts of record, references by such courts or the law, depositions taken by shorthand reporters, or proceedings of like character, with the end in view of ensuring the accuracy and integrity of the record upon which courts rely for evidence, trial, and appellate review.
[Court Order June 5, 2008, effective July 1, 2008; December 18, 2014; October 15, 2015; December 13, 2017, effective January 1, 2018]

**Rule 46.3 Organization; meetings; information.**

**46.3(1)** The officers of the Board of Examiners of Shorthand Reporters (board) are a chairperson selected by the supreme court of Iowa and a secretary elected at the first meeting of the fiscal year, each to serve for a term of one year, or until a successor is elected. Each must perform the duties incumbent upon the office.

**46.3(2)** The board must hold regular meetings for examination of applicants and the transaction of other business at least twice per year. Special meetings may be held upon the call of any two members of the board. A majority of three or more members of the board constitutes a quorum. Business must not be conducted unless a quorum is present. All actions of the board require a simple majority vote of those present.

**46.3(3)** The board must at least 60 days prior to the start of each fiscal year or on a date otherwise requested by the supreme court submit to the court for consideration and approval a budget covering the board's operations for the upcoming fiscal year. Approval of the budget by the court will authorize payment as provided in the budget. A separate bank account designated as the certified shorthand reporter operating account must be maintained for payment of authorized expenditures as provided in the approved budget. Fees or other funds received or collected as directed in this chapter or in accordance with an approved interagency agreement must be deposited in the certified reporter operating account for payment of the board's authorized expenditures.

**46.3(4)** The executive director of the office of professional regulation will serve as the administrator for the board. Information may be obtained from the executive director at the Office

of Professional Regulation, Iowa Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa 50319, by mail or in person during office hours.
[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021; July 11, 2023]

**Rule 46.4 Applications.** Candidates for examination must make written application on the form approved by the board and provided by the board's office. An application must be on file with the administrator at the board's office at least 30 days before the date of the examination, unless the board for good cause shown grants an applicant additional time to file or otherwise waives the 30-day filing deadline. Good cause for this purpose may include illness, military service, unavoidable casualty or misfortune, or other grounds beyond the control of the applicant. A new application is required for each examination. An applicant to become a certified shorthand reporter must not be examined until the applicant has satisfied the board that the applicant's educational and special training includes at least one of the following:

**46.4(1)** The applicant has attained proficiency of 200 words per minute or more in a shorthand reporting course.

**46.4(2)** The applicant has had at least two years of experience as a shorthand reporter in making verbatim records of judicial or related proceedings.

**46.4(3)** The applicant has graduated from a shorthand reporting school approved by the National Court Reporters Association.
[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

**Rule 46.5 Examination.**

**46.5(1)** Applicants are required to write shorthand from dictation of regular court proceedings, or such other matter as may be selected by the board of examiners, for such periods as required at varying speeds within the standard.

**46.5(2)** Applicants will be examined with respect to their knowledge of the statutory duties of a court reporter, general Iowa court procedure, and correct English usage at a 70 percent or better accuracy rate.

**46.5(3)** Applicants are required to transcribe such part of the dictation as the board of examiners may indicate.

**46.5(4)** Applicants are required to read aloud such part of the dictated matter as the board of examiners may indicate.

**46.5(5)** Applicants are required to furnish their own equipment and supplies for taking shorthand. Applicants must make their own transcript on a provided computer or typewriter unless the applicant is otherwise notified.

**46.5(6)** Upon completion of the examination, all shorthand notes, transcripts, and other papers used in connection with an examination must be returned to the board.

**46.5(7)** Testing rules and guidelines of the National Court Reporters Association and the Board of the Academy of Professional Reporters for Registered Professional Reporters must be used as a guide to procedure.
[Court Order June 5, 2008, effective July 1, 2008; December 18, 2014; October 15, 2015; December 13, 2017, effective January 1, 2018]

**Rule 46.6 Certification.** Each person who has achieved the designation of certified shorthand reporter will be issued a certificate by the board. The certificate may be signed by the chairperson and secretary or by all of the board members.
[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

**Rule 46.7 Fees.**

**46.7(1)** The fee for each examination is $200.

**46.7(2)** The fee for annual renewal is $100.

**46.7(3)** The fee for late filing of an annual report is $100.

**46.7(4)** The fee for reinstatement from a suspension is $100.

**46.7(5)** The fee for reinstatement for one granted a certificate of exemption is $50.

**46.7(6)** The fee for an extension for obtaining continuing education credit is $50.
[Court Order June 5, 2008, effective July 1, 2008; July 17, 2013, effective September 1, 2013; July 11, 2023]

**Rule 46.8 Continuing education requirement.**

**46.8(1)** Units of continuing education credits as approved by the board must be completed by each reporter in active practice in Iowa. Failure to comply with the continuing education requirements will be grounds for disciplinary action under rule 46.11. In order to comply, a reporter must meet the requirements of rule 46.8(1)(*a*) or 46.8(1)(*b*):

*a. Continuing education requirements.*

(1) A reporter must obtain at least three continuing education units (CEUs) within a three-year period by attending or participating in seminars, workshops, or courses, integrally relating to the field of shorthand reporting, and which contribute directly to the professional competency of the shorthand reporter. One hour of continuing education credit equals .1 CEU.

(2) Continuing education activities must be conducted by individuals who have special education, training, and experience, and the individuals should be considered experts concerning the subject matter of the program. Attendance at any approved national, regional, or state seminar will be acceptable.

(3) CEUs earned in any one reporting period may be carried over for credit in one or more succeeding reporting periods, constituting the three-year period previously provided, but cannot be carried over to any successive three-year period.

(4) The annual reporting cycle will run from October 1 through September 30. Continuing education requirements and the three-year reporting cycle for newly certified shorthand reporters will commence October 1 of the year following the year of their certification.

*b. Alternative requirements.* In lieu of the requirements set forth in rule 46.8(1)(*a*), the board will accept satisfactory evidence of compliance with the current continuing education requirements of the National Court Reporters Association for retention on its Registry of Professional Reporters.

**46.8(2)** The board may, in individual cases involving disability, hardship, or extenuating circumstances, grant waivers of the minimum education requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time will be granted unless written application is made and signed by the reporter. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

**46.8(3)** Reporters who are not actively engaged in practice may obtain from the board a certificate of exemption from continuing education requirements. Application for such exemption must contain a statement that the applicant will not engage in the practice of shorthand reporting in Iowa without first complying with the regulations governing reinstatement after exemption.

**46.8(4)** Inactive practitioners who have been granted a certificate of exemption from these regulations or who have been suspended must, prior to engaging in the practice of shorthand reporting in Iowa, satisfy the following requirements for reinstatement:

*a.* Submit written application for reinstatement to the board upon forms prescribed by the board together with a reinstatement fee of $50.

*b.* Furnish in the application evidence of one of the following:

(1) Active shorthand reporting in another state of the United States or the District of Columbia and completion of continuing education requirements that are the substantial equivalent to the requirements set forth in these rules for court reporters in Iowa as determined by the board.

(2) Completion of CEUs sufficient to satisfy education requirements for the period of inactivity if seeking reinstatement within three years of being granted a certificate of exemption.

*c.* Successfully passing the written knowledge test set forth in rule 46.5(2), if it was not passed within a three-year period immediately prior to submission of such application for reinstatement.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018; September 19, 2022, effective October 1, 2022]

**Rule 46.9 Approval of activity.** A reporter seeking credit for attendance and participation in an educational activity other than those sponsored or approved by the National or Iowa Court Reporters Associations must submit to the board, within 30 days after completion of such activity, a request for credit, including a brief résumé of the activity, its dates, subjects, instructors and their qualifications, and the number of credit hours requested. Within 60 days after receipt of such application, the board must advise the reporter in writing by electronic mail whether the activity is approved and the number of hours are allowed. A reporter not complying with the requirements of this rule may be denied credit for such activity.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

**Rule 46.10 Continuing education reports.**

**46.10(1)** On or before December 1 of each year, each reporter must file with the board, on forms provided by the board, a signed report concerning completion of continuing education for the prior reporting period. The report, along with the annual renewal fee, must be submitted and filed electronically using the reporter's account with the office of professional regulation.

**46.10(2)** All active reporters who fail to file the annual report on or before December 1 of each year must pay a penalty of $100.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

**Rule 46.11 Penalty for failure to satisfy continuing education requirements.** The board may revoke or suspend the license of any reporter who fails to comply with rule 46.10 or who files a report showing a failure to complete the required number of education credits, provided that at least 30 days prior to the suspension or revocation, notice of the delinquency has been served upon the reporter in the manner provided for the service of original notices in Iowa Rule of Civil Procedure 1.305 or has been forwarded to the reporter by restricted certified mail, return receipt requested, addressed to the reporter's last-known address. The reporter must be given the opportunity during the 30 days to file in the board's office an affidavit establishing that the noncompliance was not willful and tender the documents and sums and penalties which, if accepted, would cure the delinquency. Alternatively, the reporter may file in the board's office a request, in duplicate, for hearing to show cause why the reporter's certificate should not be suspended or revoked. The board must grant a hearing if requested. If the board orders a suspension or revocation it must notify the reporter by either of the methods provided above. The suspension or revocation must continue until the board has approved the reporter's written application for reinstatement.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

**Rule 46.12 Disciplinary action.** The board may, upon its own initiative, at the request of the Iowa Supreme Court, or pursuant to complaint by a third party, begin disciplinary procedures against any reporter for violations of the board rules or the Code of Iowa.

**46.12(1)** Charges against a reporter brought by a third party must be in writing, signed by the complainant, filed with the board, and contain substantiating evidence to support the complainant's allegations. The complaint must include complainant's address and telephone number, be dated, identify the reporter, and give the address and any other information about the reporter that the complainant may have concerning the matter.

**46.12(2)** Such complaint, which will be held in confidence as required by law, must be reviewed by the board. If the board concurs in the seriousness of the allegations made by the complainant, the board must advise the reporter in writing of the charges involved. The reporter has 30 days from the receipt of the board's notice to answer the charges in writing. The reporter may request a personal appearance before the board. The board must then review again the charges made and determine whether the complaint can be disposed of informally or if contested case proceedings should be commenced.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

**Rule 46.13 Causes for disciplinary action.** The board may revoke or suspend a certificate, or impose any of the disciplinary sanctions included in this chapter for any of the following reasons:

**46.13(1)** All grounds listed in Iowa Code section 602.3203.

**46.13(2)** Failure to file an annual report showing satisfaction of the current requirement of continuing education or submission of a false report of continuing education.

**46.13(3)** Conviction of a misdemeanor related to the profession or occupation of the reporter.

**46.13(4)** Unless otherwise required by law, a violation of Iowa Rule of Civil Procedure 1.713(1) or 1.713(2) in any state, federal, administrative, or other proceeding.

**46.13(5)** The board's receipt of a certificate of noncompliance from Child Support Services pursuant to the procedures set forth in Iowa Code chapter 252J.

**46.13(6)** The board's receipt of a certificate of noncompliance from the Iowa College Student Aid Commission pursuant to the procedures set forth in Iowa Code chapter 261.

**46.13(7)** The board's receipt of a certificate of noncompliance from the Central Collection Unit of the Iowa Department of Revenue pursuant to the procedures set forth in Iowa Code chapter 272D.

[Court Order June 5, 2008, effective July 1, 2008; December 12, 2011; December 13, 2017, effective January 1, 2018; June 30, 2023, effective July 1, 2023]

**Rule 46.14 Contested case proceedings.**

**46.14(1)** Contested case proceedings that involve possible disciplinary sanctions must be set for hearing on not less than 10 days' notice to all parties. Notice of hearing must be in writing and must be served either by personal service or certified mail, return receipt requested.

**46.14(2)** The notice must include all of the following information:

*a.* A statement of the time, place, and nature of the hearing.

*b.* A statement of the legal authority and jurisdiction under which the hearing is to be held.

*c.* A reference to the particular sections of the statutes and rules involved.

*d.* A concise statement of the matters asserted, or if the board is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved.

**46.14(3)** If a party fails to appear in a contested case proceeding after proper service of notice, the presiding officer may, if no adjustment is granted, proceed with the hearing and make a decision in the absence of the party.

**46.14(4)** Opportunity should be afforded all parties to respond and present evidence and argument on all issues involved and to be represented by counsel at their own expense.

**46.14(5)** Unless precluded by statute, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, default, or by another method agreed upon by the parties in writing.

**46.14(6)** After the conclusion of a hearing, the board must take any of the actions set forth in rule 46.15. The board's actions must be set forth in writing, and a copy of the conclusions and decisions must be served upon all parties and the Iowa Supreme Court. The board may permit a reasonable time for the parties to file posthearing briefs and arguments. The report of the board must be made within 60 days after the date set for the filing of the last responsive brief and argument. If the board cannot reasonably make its determination or file its report within such time limit, it must report that fact and the reasons therefor to the parties and to the clerk of the supreme court. Any determination or report of the board need only be concurred in by a majority of the board members sitting, and any member has the right to file a dissent from the majority determination or report.

**46.14(7)** Procedures for the handling of all contested case proceedings are governed, to the extent not specifically set forth in this chapter, by the Iowa Administrative Procedure Act.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

**Rule 46.15 Disciplinary sanctions.** The board may, based upon the evidence presented, take one or more of the following actions:

**46.15(1)** Dismiss the charges.

**46.15(2)** Informally stipulate and settle any matter relating to the reporter's discipline.

**46.15(3)** Require additional professional education.

**46.15(4)** Issue a citation and warning regarding the reporter's behavior.

**46.15(5)** Reprimand.

**46.15(6)** Impose a period of probation.

**46.15(7)** Require retesting.

**46.15(8)** Suspend the certificate.

**46.15(9)** Revoke the certificate.

[Court Order June 5, 2008, effective July 1, 2008; September 19, 2022, effective October 1, 2022]

**Rule 46.16 Military service and veteran reciprocity.**

**46.16(1)** *Definitions.* In this rule:

*a.* "Military service" means honorably serving: in federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. section 10101.

*b.* "Military service applicant" is an individual requesting credit toward certification for military education, training, or service obtained or completed in military service.

*c.* "Veteran" is an individual who meets the definition of "veteran" in Iowa Code section 35.1(2).

**46.16(2)** *Military education, training, and service credit.* A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for certification by submitting a military service application to the board.

*a.* The application may be submitted with an application for certification or examination or prior to an applicant's applying for certification or to take an examination. No fee is required for submission of an application for military service credit.

*b.* The applicant must identify the experience or educational certification requirement to which the credit would be applied if granted. Credit may not be applied to an examination requirement.

*c.* The applicant must provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant's Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (DD Form 2586).

*d.* Upon receipt of a completed military service application, the board will promptly determine whether the verified military education, training, or service satisfies all or any part of the identified experience or educational qualifications for certification.

*e.* The board will grant the application in whole or in part if the board determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for certification.

*f.* The board will inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for certification, or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.

*g.* A military service applicant aggrieved by the board's decision may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case must be made within 30 days of issuance of the board's decision. No fees or costs may be assessed against the military service applicant in connection with a contested case conducted pursuant to this rule 46.16(2).

*h.* The board will grant or deny the military service application prior to ruling on the application for certification. The applicant is not required to submit any fees in connection with the certification application unless the board grants the military service application. If the board does not grant the military service application, the applicant may withdraw the certification application or request that the application be placed in pending status for up to one year or as mutually agreed. Withdrawal of a certification application does not preclude subsequent applications supported by additional documentation or information.

**46.16(3)** *Veteran reciprocity.*

*a.* A veteran with an unrestricted professional certificate as a shorthand reporter in another jurisdiction may apply for certification in Iowa through reciprocity. A veteran must pass any examinations required for certification to be eligible for certification through reciprocity and will be given credit for examinations previously passed when consistent with board rules on examination requirements. A veteran's fully completed application for certification submitted under rule 46.16(3) will be expedited and given priority.

*b.* A veteran's application for certification must contain all of the information required of all applicants for certification who hold unrestricted certificates in other jurisdictions and who are applying for certification by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant must use the same forms as any other applicant for certification by reciprocity and must additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2).

*c.* Upon receipt of a fully completed certification application, the board will promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran is certified are substantially equivalent to the certification requirements in Iowa. The board will make this determination based on information the applicant supplies and such additional information as the board may acquire from the applicable jurisdiction. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examination required for certification.

*d.* The board will promptly grant a certificate to the veteran if the applicant is certified in the same or similar profession in another jurisdiction whose certification requirements are substantially equivalent to those required in Iowa and the applicant has passed the written examination administered by the board pursuant to rule 46.5(2), unless the applicant is ineligible for certification based on other grounds, such as the applicant's disciplinary or criminal background.

*e.* If the board determines that the certification requirements in the jurisdiction in which the veteran is certified are not substantially equivalent to those required in Iowa, the board will promptly inform the veteran of the additional experience, education, or examinations required for certification in Iowa.

*f.* Unless the applicant is ineligible for certification based on other grounds, such as disciplinary or criminal background, the following apply:

(1) If a veteran has not passed the required examinations for certification, the applicant may not be issued a provisional certificate but may request that the certification application be placed in pending status for up to one year or as mutually agreed to provide the veteran with the opportunity to satisfy the examination requirements.

(2) If additional experience or education is required for the applicant's qualifications to be considered substantially equivalent, the applicant may request that the board issue a provisional certificate for a specified period of time during which the applicant will successfully complete the necessary experience or education. The board may issue a provisional certificate for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare, or safety of the public, unless the board determines that the deficiency is of a character that the public health, welfare, or safety will be adversely affected if a provisional certificate is granted.

(3) If a request for a provisional certificate is denied, the board will issue an order fully explaining the decision and inform the applicant of the steps the applicant may take to receive a provisional certificate.

(4) If a provisional certificate is issued, the application for full certification will be placed in pending status until the applicant successfully completes the necessary experience or education or the provisional certificate expires, whichever occurs first. The board may extend a provisional certificate on a case-by-case basis for good cause.

*g.* A veteran who is aggrieved by the board's decision to deny an application for a reciprocal certificate or a provisional certificate, or who is aggrieved by the terms under which a provisional certificate will be granted, may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case must be made within 30 days of issuance of the board's decision. No fees or costs will be assessed against the veteran in connection with a contested case conducted pursuant to this rule 46.16(3).

**46.16(4)** *Substantially equivalent certification requirements.* The certification requirements of another jurisdiction are substantially equivalent to those of Iowa, if in that jurisdiction an individual must demonstrate, by examination administered by the licensing authority of the jurisdiction, proficiency in shorthand equivalent to the standard of the National Court Reporters Association for the earned designation of Registered Professional Reporter.

[Court Order December 18, 2014; October 15, 2015; December 13, 2017, effective January 1, 2018]

**Rule 46.17 Certification by reciprocity.**

**46.17(1)** An applicant with an unrestricted professional certificate as a stenographic shorthand reporter in another jurisdiction may apply for certification in Iowa through reciprocity. The applicant will be given credit for examinations previously passed when consistent with board rules on examination requirements.

**46.17(2)** An applicant's application for certification must contain completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check.

**46.17(3)** Upon receipt of a fully completed certification application, the board will promptly determine if the professional or occupational licensing requirements of the jurisdiction where the applicant is certified are substantially equivalent to the certification requirements in Iowa. The board will make this determination based on information the applicant supplies and such additional information as the board may acquire from the applicable jurisdiction. The board may consider the following factors in determining substantial equivalence: method of practice, scope of practice, education and coursework, degree requirements, postgraduate experience, and examination required for certification.

**46.17(4)** The board will promptly grant a certificate to the applicant if the applicant is certified in the same or similar profession in another jurisdiction whose certification requirements are substantially equivalent to those required in Iowa and the applicant has passed the written examination administered by the board pursuant to rule 46.5(2), unless the applicant is ineligible for certification based on other grounds, such as the applicant's disciplinary or criminal background.

**46.17(5)** If the board determines that the certification requirements in the jurisdiction in which the applicant is certified are not substantially equivalent to those required in Iowa, the board will promptly inform the applicant of the additional experience, education, or examinations required for certification in Iowa.

**46.17(6)** An applicant who is aggrieved by the board's decision to deny an application for a reciprocal certificate may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case must be made within 30 days of issuance of the board's decision.

**46.17(7)** The certification requirements of another jurisdiction are substantially equivalent to those of Iowa, if in that jurisdiction an individual must demonstrate by examination, administered by the licensing authority of the jurisdiction, proficiency in stenographic shorthand equivalent to the standard of the National Court Reporters Association for the earned designation of Registered Professional Reporter.

[Court Order October 15, 2015; December 13, 2017, effective January 1, 2018]

# CHAPTER 47
# COURT INTERPRETER AND TRANSLATOR RULES

# CHAPTER 47
# COURT INTERPRETER AND TRANSLATOR RULES

[Prior to April 1, 2008, see Chapter 14]

**Rule 47.1 Definitions.** As used in this chapter:

**47.1(1)** *Certified deaf interpreter (CDI).* A "CDI" is an interpreter who is deaf, has obtained a Certified Deaf Interpreter certificate or a Certified Legal Interpreter Provisional—Relay (CLIP-R) certificate from the Registry for Interpreters for the Deaf (RID), and who provides interpreting services to deaf persons with linguistic differences that prevent them from fully utilizing a traditional American Sign Language (ASL) interpreter.

**47.1(2)** *Court interpreter or interpreter.* A "court interpreter" or "interpreter" means an oral or sign language interpreter who transfers the meaning of spoken or written words or signs into the equivalent meaning in another oral or sign language during a legal proceeding

**47.1(3)** *Court-ordered program.* A "court-ordered program" is a predisposition program in which a court has ordered a party to participate.

**47.1(4)** *Court personnel.* "Court personnel" includes clerk of court staff and district court administration staff.

**47.1(5)** *Court proceeding.* A "court proceeding" is any action before a state court judicial officer that has direct legal implications for any person.

**47.1(6)** *Legal proceeding.* A "legal proceeding" includes any court proceeding, any deposition conducted in preparation for a court proceeding, any case settlement negotiation in an existing court case, and any attorney-client communication necessary for preparation for a court proceeding in an existing court case.

**47.1(7)** *Limited English proficient (LEP) participant or person.* An "LEP participant" or "LEP person" has a limited ability to speak, read, write, or understand English because the person's primary language is not English or because the person is deaf, deaf-blind, or hard-of-hearing.

**47.1(8)** *Participant in a legal proceeding.* A "participant in a legal proceeding" is any of the following: a party or witness in a court or legal proceeding; a party participating in a court-ordered program; a parent, guardian, or custodian of a minor party involved in a juvenile delinquency proceeding; a deaf, deaf-blind, or hard-of-hearing attorney; or a deaf, deaf-blind, or hard-of-hearing person summoned for jury duty or grand jury duty.

**47.1(9)** *Reasonably available interpreter.* Subject to the exceptions identified in rule 47.3(6), a "reasonably available interpreter" is an interpreter available and willing to provide in-person services at the time and location of the legal proceeding and who resides within 150 miles of the location where the legal proceeding will occur. A reasonable distance could be more than 150 miles when an interpreter of an uncommon language is needed or the case could result in serious consequences for one of the parties, including but not limited to termination of parental rights, a sentence to serve time in a state correctional facility, or substantial financial damages.

**47.1(10)** *Translator.* A "translator" accurately transfers the meaning of written, oral, or signed words and phrases in one language into the equivalent meaning in written words and phrases of a second language, or accurately produces a written transcript in English of electronically recorded testimony or other court communication in which one or more of the participants has limited English proficiency.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015; September 14, 2021, effective October 1, 2021]

**Rule 47.2 Minimum qualifications of a court interpreter.**

**47.2(1)** *Qualifications.*

*a. Minimum age.* A court interpreter must be at least 21 years old.

*b. Education.* A court interpreter must have completed at least the equivalent of two years or 48 credit hours of college courses or must have completed the requirements in rule 47.4 or 47.5 to qualify for the Iowa roster of court interpreters.

*c. Approval of state court administration.*

(1) *Court interpreter application form.* A court interpreter must complete an application form, developed by state court administration, on which the interpreter provides information about the interpreter's education, experience, prior misconduct, and references to assist the court in determining the interpreter's qualifications for court interpreting.

(2) *Criminal records search.* A criminal records search will be completed by state court administration or a designee of state court administration at the time the application to be a court interpreter is filed with state court administration. The criminal record search may be waived for an interpreter who has had a criminal records search completed by state court administration or a designee of state court administration within six months of the filing date of the application.

(3) *No prior disqualifying misconduct.* State court administration will review the applicant's application and criminal background check for possible disqualifying misconduct as identified in rule 47.2(1)(*c*)(3). When reviewing possible disqualifying misconduct, state court administration will weigh any mitigating or aggravating factors identified in rule 47.10(6) and the applicant's candor in the application process. State court administration may determine whether the misconduct disqualifies the applicant from being a court interpreter. Possible disqualifying misconduct includes:

1. A felony or any lesser crime of dishonesty or moral turpitude for which the applicant was convicted in any jurisdiction. An offense is a felony if it was classified as a felony in the jurisdiction where the conviction was entered at the time of the conviction.

2. Ethical misconduct that resulted in the bar or suspension of the interpreter from interpreting in any jurisdiction.

*d. Oath or affirmation.* At the start of a court proceeding or a deposition in which an interpreter is present to facilitate communication with an LEP participant, the judicial officer presiding at the court proceeding or an attorney involved in taking the deposition must ask the interpreter on the record to swear or affirm that the interpreter has the knowledge and skills to interpret completely and accurately in a legal proceeding, understands and will abide by the Code of Professional Conduct for Court Interpreters and Translators in Chapter 48 of the Iowa Court Rules, and will interpret in court to the best of the interpreter's ability.

*e. Sign language interpreter qualifications.* In addition to meeting the minimum qualifications in rules 47.2(1)(*a*) through (*d*), a sign language interpreter must be licensed by the Iowa Board of Sign Language Interpreters and Transliterators pursuant to Iowa Code chapter 154E, except as allowed under Iowa Code section 154E.4, and must meet the qualifications to be at least a Class B interpreter in rule 47.5(2).

**47.2(2)** *Waiver of minimum qualifications for oral language court interpreters.*

*a. Waiver only in extraordinary circumstances.* A court may waive minimum qualifications for an oral language court interpreter only in extraordinary circumstances.

(1) For court proceedings expected to last approximately 30 minutes or less, extraordinary circumstances exist when there is no reasonably available interpreter to provide in-person services and when there is no qualified interpreter available through a remote audio or video interpreter service consistent with rule 47.3(7).

(2) For court proceedings expected to last more than approximately 30 minutes, extraordinary circumstances exist when there is no reasonably available interpreter to provide in-person services. In this circumstance, the court may waive the minimum requirements in rules 47.2(1)(*a*) through (*c*) subject to the following limitations:

1. If waiving the minimum age requirement in rule 47.2(1)(*a*), the court may approve an interpreter who is not less than 18 years old.

2. If waiving the minimum education requirement of rule 47.2(1)(*b*), the court may approve an interpreter who has at least a high school diploma or its equivalent.

*b. Before waiving minimum qualifications.* Before waiving minimum qualifications, the court should reschedule a court proceeding if it is likely that the additional time will allow court personnel to obtain the services of an interpreter who meets at least the minimum qualifications and the delay will not result in a failure to meet a statutory or constitutional deadline for conducting the court proceeding.

*c. Waiver of interpreter qualifications on the record.* Whenever the court waives one or more of the qualifications under rule 47.2(1), the court must explain the reasons for the waiver on the record. [Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

**Rule 47.3 Scheduling and appointing a court interpreter.**

**47.3(1)** *Persons who qualify for appointment of a court interpreter.* When the court or court personnel have a reasonable basis to believe a person has limited English proficiency, unless the

court determines that another reasonable accommodation is appropriate, the person qualifies for appointment of a court interpreter if the LEP person is a participant in a legal proceeding.

**47.3(2)** *Application for appointment of a court interpreter.*

*a. Cases in district court.* An attorney must file an application for appointment of a court interpreter with the clerk of court as soon as the attorney learns that the attorney's client or a witness for a client needs an interpreter for a district court proceeding. A self-represented party should file an application for appointment of a court interpreter with the clerk of court as soon as possible after the party learns that the party or a witness for the party needs an interpreter for a court proceeding. Court personnel should obtain the assistance of an interpreter by telephone or in person while helping an unrepresented LEP party complete the form.

*b. Cases in the appellate courts.* When an attorney represents an LEP party in a case on appeal, the attorney must file any application for appointment of a court interpreter in the district court where the case originated.

**47.3(3)** *Responsibility for selection and appointment of a court interpreter.* When a court or court personnel learn that an interpreter is needed for an LEP participant in a court proceeding, court personnel will contact and select the most qualified interpreter who is reasonably available using the priorities established in rules 47.3(4) through (7). This responsibility cannot be delegated to an attorney or party involved in the case.

**47.3(4)** *Priorities in the selection of an oral language interpreter.* Subject to exceptions identified in rule 47.3(6), the court or court personnel must select the highest classified interpreter who is reasonably available for the court proceeding, giving preference to interpreters who are on Iowa's roster of court interpreters and using the following classification order:

*a.* Class A certified interpreter, defined in rules 47.4(1) and 47.4(5)(*a*).

*b.* Class B noncertified interpreter, defined in rule 47.4(2).

*c.* Class C noncertified interpreter, defined in rules 47.4(3) and 47.4(5)(*b*).

*d.* Oral language interpreter on the list of approved interpreters in another jurisdiction. When there is no interpreter on Iowa's roster of court interpreters who is reasonably available, court personnel must seek an interpreter who is on an official list of certified or qualified interpreters approved by another state court system before selecting an unclassified interpreter as defined in rule 47.4(4).

*e.* Unclassified noncertified interpreter, defined in rule 47.4(4). An unclassified interpreter will be selected only when there is no reasonably available interpreter who meets the minimum qualifications of rule 47.2(1).

**47.3(5)** *Priorities in the selection of a sign language interpreter.* Subject to exceptions identified in rule 47.3(6), the court or court personnel will select the highest classified interpreter who is reasonably available for a court proceeding using the following classification order, and within each classification, will give preference to interpreters who are on Iowa's roster of court interpreters:

*a.* Class A certified interpreter, as defined in rule 47.5(1).

*b.* Class B noncertified interpreter, as defined in rule 47.5(2).

**47.3(6)** *Exceptions to the priorities for selecting a court interpreter.*

*a. Court proceedings within a magistrate's jurisdiction.* For any court proceeding within a magistrate's jurisdiction, except a court proceeding involving a simple misdemeanor domestic assault charge, the court may appoint a reasonably available Class B or Class C noncertified interpreter on Iowa's roster of court interpreters before seeking the services of a Class A certified interpreter.

*b. Interpreter required on short notice.* If a court receives notice for the need of an interpreter on the day the court proceeding is scheduled to occur or after 4 p.m. the previous workday, and the court determines that rescheduling the court proceeding would not be appropriate under the circumstances, the court may appoint the highest classified interpreter who is available to interpret at the required time and location. A Spanish interpreter must be at least a Class C interpreter, and an American Sign Language interpreter must be at least a Class B interpreter.

*c. No reasonably available certified court interpreter resides within 150 miles of the courthouse.*

(1) If court personnel are unable to locate a reasonably available certified court interpreter for a legal proceeding in an indictable criminal case or termination of parental rights case within 150 miles of the courthouse, court personnel will conduct a regional or national search.

(2) If court personnel are unable to locate a reasonably available certified court interpreter for cases other than indictable criminal or termination of parental rights within 150 miles of the courthouse, court personnel may conduct a regional or national search.

(3) If court personnel are unable to locate an available certified court interpreter after a regional or national search, court personnel will attempt to locate a noncertified interpreter who is on the Iowa roster of court interpreters or who is on a list of qualified noncertified interpreters maintained by another state court system.

(4) If court personnel are unable to locate an available certified or a qualified noncertified interpreter under rules 47.3(6)(*c*)(1) through (3), court personnel may appoint an interpreter who is not on a list of qualified interpreters maintained by any state court system.

(5) Court personnel may request assistance from state court administration in conducting a regional or national search for a court interpreter.

*d. Civil pretrial proceedings.* For any proceeding other than a trial, the court may appoint a reasonably available Class B noncertified interpreter.

**47.3(7)** *Interpreter services through remote audio or video communications technology.*

*a.* For a court proceeding expected to last approximately two hours or less, a court may appoint an appropriate interpreter available through a remote audio or video interpreter service.

*b.* A court may appoint a remote audio or video interpreter only from a service state court administration has approved.

*c.* A remote video sign language interpreter must be a Class A certified interpreter or Class B noncertified interpreter as defined in rule 47.4(1) or 47.4(2).

*d.* For a court proceeding expected to last approximately two hours or less, a court may appoint a remote Class A certified interpreter or Class B noncertified interpreter instead of a less qualified interpreter available to interpret in person.

*e.* The court will enter into the record of the court proceeding the interpreter's name, the interpreter services company that provided the interpreter (if applicable), and the interpreter's formal education, interpreter testing and training, experience as an interpreter, and experience as a court interpreter.

*f.* A court may approve a remote interpreter only if the court concludes that the interpreter has the qualifications to be a competent court interpreter.

*g.* Before or at a court proceeding for which a remote interpreter is appointed to facilitate communication with an LEP participant, the court will enter an order appointing the remote interpreter consistent with rule 47.3(8). For an initial appearance in a criminal case, the court may orally appoint the interpreter prior to the proceeding and enter an order appointing the interpreter after the proceeding has been concluded, if necessary.

*h.* If the court declines to appoint an interpreter who appears at a court proceeding or discontinues use of an interpreter after a court proceeding has begun and the hearing will be approximately two hours or less, the court may obtain an interpreter through a remote interpreter service approved by state court administration; otherwise the court may postpone the court proceeding to allow time for court personnel to procure the services of a qualified interpreter consistent with the criteria in rules 47.3(4) through (6).

**47.3(8)** *Order appointing a court interpreter.*

*a.* When a court interpreter is identified consistent with rule 47.3, the court will enter an order appointing the interpreter prior to the legal proceeding, unless the court has previously entered an order appointing the interpreter for all subsequent proceedings in the case.

*b.* When the court appoints an interpreter for an LEP defendant at an initial appearance, whether the interpreter appears in person or through a remote interpreter service, the order appointing the interpreter must also include the appointment of a qualified interpreter for all subsequent proceedings in the case consistent with rules 47.3(4) through (7), or the order must direct the district court administrator to schedule a qualified interpreter for all subsequent proceedings in the case consistent with rules 47.3(4) through (7).

*c.* An order appointing an interpreter must specify whether the interpreter is appointed for a specific court proceeding or all court proceedings in the case and whether an interpreter also is appointed to assist with attorney-client communications, settlement communications, depositions, witness interviews, and other reasonable preparations prior to the scheduled court proceeding or proceedings for which the interpreter has been appointed.

*d.* An order appointing an interpreter must identify the interpreter's classification under rule 47.4, identify the sign or oral language for which the interpreter is needed, and set the level of compensation for the interpreter consistent with state court administration's standard statewide fees and policies for compensation.

**47.3(9)** *Examination of court interpreter qualifications.*

*a.* At the start of any court proceeding for which an interpreter will be providing services, the court will question the interpreter on the record regarding the interpreter's classification. If the interpreter is not a Class A or Class B interpreter, the court will inquire on the record about the interpreter's education, knowledge of English and the other language, and interpreting experience.

*b.* If the court finds that the interpreter meets the minimum qualifications in rule 47.2(1), is the highest classified interpreter who is reasonably available consistent with rules 47.3(4) through (7), and has no disqualifying conflict of interest, the court may approve an existing order appointing the interpreter or may enter an order appointing the interpreter.

*c.* At any time during the court proceeding, if the court finds a reasonable basis to believe that an interpreter does not have the appropriate knowledge, skills, or experience to competently interpret the court proceeding, or that the interpreter has a disqualifying conflict of interest, the court must discontinue use of the interpreter.

**47.3(10)** *Persons prohibited from appointment as a court interpreter.* A court may not appoint a person to be a court interpreter in a legal proceeding if that person is a family member or personal friend of any of the parties or of the person needing an interpreter, or of any person involved in the legal proceeding, including but not limited to: a domestic abuse advocate, attorney, court-appointed special advocate (CASA), juvenile court officer, law enforcement officer, or social worker.

**47.3(11)** *Disclosure of conflicts of interest and objections to a court interpreter.*

*a.* A court interpreter must promptly inform the court of any known factors that could constitute a conflict of interest for the interpreter in the legal proceedings.

*b.* Objections regarding a court interpreter's competence or conflict of interest must be made within a reasonable time after the grounds for the objection become apparent.

*c.* Class A and Class B court interpreters, as defined in rule 47.4 and rule 47.5, are presumed competent to interpret in all legal proceedings.

*d.* The court will make rulings on objections on the record.

**47.3(12)** *Number of court interpreters.*

*a.* A court may appoint more than one interpreter if it finds a reasonable basis for multiple interpreters for the court proceeding.

*b.* When a party needs an interpreter and the court expects the interpreted event on a given day to be complex or to last more than four hours, the court must appoint more than one interpreter to serve as a team or as relay interpreters during the court proceeding and may appoint more than one interpreter for a deposition.

*c.* When determining whether a court proceeding that is expected to be less than four hours is complex, the court may consider the following: the number of parties or participants who will need an interpreter; whether both a witness and a party will need an interpreter at the same time; whether technical or specialized terms will be used frequently in the court proceeding; and whether the gravity of the court proceeding enhances concern for the accuracy of the interpretation.

*d.* When two or more parties with adverse interests in a case need an interpreter of the same language, the court will appoint a separate interpreter for each party, unless the parties knowingly and voluntarily waive the right to separate interpreters on the record.

*e.* When the court appoints two or more interpreters for a proceeding, only one interpreter at a given time may provide the simultaneous interpretation of the general court proceedings and the consecutive interpretation of witness testimony for the LEP parties, while any additional interpreter will provide interpretation for attorney-client communications during the proceeding. In this situation, the proceedings and witness interpreter will use a mobile microphone and transmitter, and the LEP parties will use mobile receivers with headphones. The interpreters must rotate the duty of interpreting the proceedings and witness testimony at least once per hour.

*f.* When a proceeding will be more than four hours, and two or more LEP parties or LEP parties and witnesses need an interpreter, the court may appoint fewer than two interpreters for each LEP party and direct the interpreters to work as a team to provide interpreting services for attorney-client communications and for general proceedings and witness interpretation as described in rule 47.3(12)(*e*).

*g.* When an appointed American Sign Language (ASL) interpreter reports difficulty communicating with an LEP participant, the court may appoint a certified deaf interpreter (CDI) to work as a relay interpreter with the ASL interpreter.

*h.* Whenever a government entity will be responsible for paying the interpreters, more than one interpreter will be paid for services during the same court or legal proceeding only if a court enters an order appointing more than one interpreter.

**47.3(13)** *Interpreter cancellation and substitution.* When a court interpreter learns that the interpreter will be unable to fulfill the terms of an appointment or agreement to interpret during a court proceeding, the interpreter must:

*a.* Promptly arrange for a substitute interpreter who resides in the county where the court proceeding is scheduled to occur, or a county contiguous to that county, and who has a classification under rule 47.4 that is equal to or greater than the original interpreter's classification. When a substitute interpreter has been secured, the original interpreter must promptly inform the district court administrator's office or the clerk of district court where the court proceeding is scheduled and the attorney whose client needs an interpreter, if applicable, regarding the substitution.

*b.* If the original interpreter is unable to secure a substitute interpreter consistent with rule 47.3(13)(*a*), the original interpreter must promptly inform the district court administrator's office or the clerk of district court where the court proceeding is scheduled that a substitute interpreter is needed for the court proceeding.

**47.3(14)** *Reimbursement of oral language interpreter fees paid by state court administration.*

*a.* For purposes of rule 47.3(14), "interpreter" applies only to oral language interpreters and translators.

*b.* When state court administration pays an interpreter for services provided to an LEP participant in a court proceeding, the court will apportion costs according to the following provisions:

(1) In a criminal case in which an interpreter provided services for a non-indigent defendant, the court will order the defendant to pay the total amount of interpreter fees to the court.

(2) In a child in need of assistance or termination of parental rights case in which an interpreter provided services for a parent, guardian, or custodian who was represented by a privately retained attorney, the court will order the person who needed the interpreter to pay the total amount of interpreter fees to the court.

(3) In a juvenile delinquency case in which an interpreter provided services for a parent whose child was the subject of a delinquency petition, the court will order the parent who needed an interpreter to pay the total amount of interpreter fees to the court.

(4) In a civil case other than child in need of assistance or termination of parental rights, the court will tax the total amount of interpreter fees as court costs pursuant to Iowa Code sections 622A.3(2) and 625.1.

*c.* This rule does not limit the authority of the court to order the repayment of interpreter fees paid by another public agency, such as the state public defender, pursuant to any applicable statute or rule that authorizes or requires the repayment.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015; December 13, 2017, effective January 1, 2018; July 20, 2020, effective October 1, 2020; September 14, 2021, effective October 1, 2021]

**Rule 47.4 Classification of oral language court interpreters.**

**47.4(1)** *Class A oral language court interpreter.* A Class A oral language court interpreter is a certified interpreter who has met the requirements in rule 47.6 to be on the Iowa roster of court interpreters and has done one of the following:

*a.* Satisfied all certification requirements for an oral language interpreter established by the Federal Court Interpreter Certification Program or the National Association of Judiciary Interpreters and Translators.

*b.* Taken oral interpretation examinations for court interpreter certification approved by the Language Access Services Section of the National Center for State Courts (NCSC) and achieved a passing score of at least 70 percent correct on each of the three parts of the oral examination (sight interpretation of written documents, consecutive interpretation, and simultaneous interpretation) in a single test session.

**47.4(2)** *Class B oral language court interpreter.* A Class B oral language court interpreter is a noncertified interpreter who has met the requirements in rule 47.6 to be on the Iowa roster of court interpreters and has done one of the following by July 1, 2019:

*a.* Taken one of the court interpreter certification examinations identified in rule 47.4(1)(*b*) and did not meet the test score requirements for certification, but achieved a score of at least 65 percent correct on each of the three parts of the oral interpretation examination in one test session.

*b.* Met the oral interpretation examination score requirements for court interpreter certification in a state that uses the oral interpretation examinations approved by the NCSC, but did not achieve scores of at least 70 percent correct on each of the three parts of the oral examination in a single test session.

**47.4(3)** *Class C oral language court interpreter.* A Class C oral language court interpreter is a noncertified interpreter who has met the criteria under rule 47.6 to qualify for the Iowa roster of court interpreters, but has not met the criteria under rule 47.4(1) or (2) to be a Class A or B oral language court interpreter.

**47.4(4)** *Unclassified oral language court interpreter.* An unclassified oral language interpreter has not met the requirements under rule 47.4(1), (2), or (3) to be a Class A, Class B, or Class C oral language interpreter and has not met the requirements to be on an official list of qualified court interpreters in another state.

**47.4(5)** *Oral language interpreters on a list of qualified interpreters approved by another state.*

*a.* Interpreters who have met the testing requirements for certification in rule 47.4(1)(*a*) or (*b*) by taking those examinations in another state, will be classified as certified court interpreters and receive the same hourly fee as Class A certified court interpreters in Iowa. These interpreters must still meet the requirements in rule 47.6 to be on the Iowa roster of court interpreters, and certified interpreters on the roster will receive preference for appointments over certified interpreters who are not on the roster.

*b.* Interpreters who have met testing and training requirements to be included on a list of qualified court interpreters in another state, but who have not met the testing requirements in rule 47.4(1)(*a*) or (*b*), will be comparable to Class C interpreters in Iowa. These interpreters must still meet the requirements in rule 47.6 to be on the Iowa roster of court interpreters, and interpreters on the roster will receive preference in appointments over interpreters who are not on the roster.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018]

**Rule 47.5 Classification of sign language court interpreters.**

**47.5(1)** *Class A sign language court interpreter.* A Class A sign language court interpreter is a certified interpreter who:

*a.* Holds a permanent license issued by the Iowa Board of Sign Language Interpreters and Transliterators and a "specialist certificate: legal (SC:L)" or a conditional legal interpreting permit—relay (CLIP-R) from the National Testing System of the Registry of Interpreters for the Deaf (RID); or

*b.* Is a licensed sign language court interpreter in a state other than Iowa that has licensing requirements comparable to the requirements in Iowa Code section 154E.3 and holds a valid SC:L from the RID. Pursuant to Iowa Code section 154E.4(2)(*a*), an interpreter who meets these requirements may interpret in Iowa for up to 14 days per year without obtaining an Iowa license.

**47.5(2)** *Class B sign language court interpreter.* A Class B sign language court interpreter is a noncertified interpreter who:

*a.* Holds a permanent license issued by the Iowa Board of Sign Language Interpreters and Transliterators and has at least one of the following certificates: a certificate based on the National Interpreter Certification (NIC) examination; an advanced (NAD IV) or master (NAD V) certificate from the National Association for the Deaf (NAD); a valid comprehensive skills certificate (CSC), a master comprehensive skills certificate (MCSC), both a certificate of interpretation (CI) and a certificate of transliteration (CT), or a certified deaf interpreter (CDI) certificate from the National Testing System of the RID; or

*b.* Is a licensed sign language court interpreter in a state other than Iowa that has licensing requirements comparable to the requirements in Iowa Code section 154E.3, and who holds one of the certificates or qualifications identified in rule 47.5(2)(*a*) and is on a list of noncertified sign language interpreters (without an SC:L) approved by the state court interpreter program in another

state. Pursuant to Iowa Code section 154E.4(2)(*a*) an interpreter who meets these requirements may interpret in Iowa for up to 14 days per year without obtaining an Iowa license.
[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015; December 13, 2017, effective January 1, 2018]

**Rule 47.6 Iowa roster of court interpreters.**

**47.6(1)** *Management.* State court administration will maintain and publish the Iowa roster of court interpreters and may determine the order in which interpreters must complete the testing and training requirements in rule 47.4 to qualify for the roster. State court administration may remove an interpreter from the roster or change an interpreter's classification on the roster if a roster interpreter takes or retakes the oral language certification exam and achieves a score on one or more parts of the exam that is less than the minimum scores required to be on the roster. State court administration may also require a roster interpreter to retake the oral language interpreter certification exam if state court administration learns through an investigation that the interpreter failed to interpret at a level of competency comparable to the minimum language proficiency qualifications for being on the roster in rule 47.6(2)(*d*).

**47.6(2)** *Testing and training requirements.* Beginning July 1, 2019, to be included on the roster, an interpreter must meet the qualifications in rule 47.4 and the following requirements:

*a. Ethics exam.* All interpreters must take a written exam on the Code of Professional Conduct for Court Interpreters and achieve a score of at least 75 percent correct, unless the interpreter has taken the same or a similar exam in another state within the past five years and achieved a score of at least 75 percent correct.

*b. Written exam approved by the NCSC.* Interpreters must achieve a score of at least 80 percent correct on a written exam for court interpreters that the National Center for State Courts (NCSC) has approved and that includes at least the following areas: general English vocabulary, legal terminology, and legal procedures. This requirement may be waived by state court administration if the interpreter has taken the same test in Iowa or another jurisdiction within the past five years, achieved a score of 80 percent correct, and has regularly provided court interpreter services each year since taking the exam.

*c. Court interpreter orientation program.* An interpreter must complete the court interpreter orientation program approved by state court administration. State court administration may waive this requirement for an interpreter who has completed a similar training program in another jurisdiction, and who has regularly provided court interpreter services each year since completing that program.

*d. Oral interpretation exam.*

(1) An interpreter of a language for which one of the testing organizations identified in rule 47.4(1) offers a court interpreter certification exam must take one of the exams and achieve a score of at least 55 percent correct on each of the three parts of the exam (sight, consecutive, and simultaneous interpretation).

(2) An interpreter of a language for which the NCSC does not offer a court interpreter certification exam must take the ALTA Language Services oral proficiency interview (speaking and listening) exam in English and the interpreter's other language, under the supervision of a designee of state court administration, and must achieve a score of at least 11 (on a scale of 12) on each exam.

**47.6(3)** *Retaking the court interpreter written and oral interpretation exams.*

*a. Written multiple-choice exams.* An interpreter may retake a written multiple-choice exam once in a six-month period. When there are multiple versions of a written exam, state court administration will rotate the exam versions.

*b. Oral language certification exams state court administration conducts.* For oral language certification exams state court administration conducts, an interpreter may retake the same version of an exam once in a 12-month period. When there are multiple versions of the oral language certification exam, an interpreter must wait six months before taking a different version of the exam.

*c. Oral language certification exams the Federal Court Interpreter Certification Program conducts.* Interpreters taking oral language certification exams the Federal Court Interpreter Certification Program conducts must comply with the rules established by the program regarding the retaking of the exams.

*d. ALTA Language Services oral proficiency interview (speaking and listening) exam.* An interpreter may retake an ALTA Language Services oral proficiency exam only once in a six-month period.

[Court Order August 10, 2009; December 4, 2014, effective July 1, 2015; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; July 24, 2019, effective August 1, 2019; September 14, 2021, effective October 1, 2021]

**Rule 47.7** Reserved.

**Rule 47.8 Application and test registration fees.**

**47.8(1)** The application fee to be an oral or sign language court interpreter is $25. This fee cannot be waived or refunded.

**47.8(2)** The registration fee for the two written examinations identified in rule 47.4(1)(*a*) is $50 for Iowa residents and $100 for nonresidents. If the applicant has already passed at least one of the two examinations, the registration fee is $25 for Iowa residents and $50 for nonresidents.

**47.8(3)** The registration fee for each oral proficiency interview examination is $65 for Iowa residents and $130 for nonresidents.

**47.8(4)** The registration fees for the three-part oral interpretation certification examination approved by the NCSC's Language Access Services Section is $250 for Iowa residents and $500 for nonresidents.

**47.8(5)** All fees set forth in this rule must be paid to state court administration. The interpreter application fee is due at the time the application is filed. Test registration fees are due on or before the registration deadline established by state court administration.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015; May 18, 2015, effective July 1, 2015; December 13, 2017, effective January 1, 2018; July 20, 2020, effective October 1, 2020; September 14, 2021, effective October 1, 2021]

**Rule 47.9 Language Access in the Courts Advisory Committee.** The Iowa Supreme Court will appoint a Language Access in the Courts Advisory Committee (advisory committee) to provide guidance to state court administration regarding language access policies in the courts and to assist state court administration in administering the disciplinary systems for court interpreters and translators.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015; September 14, 2021, effective October 1, 2021]

**Rule 47.10 Complaint and disciplinary process.**

**47.10(1)** *Purpose.* These rules establish the procedure whereby an oral or sign language interpreter or translator may be removed or suspended from the roster described in rule 47.6.

**47.10(2)** *Applicability.* These rules apply to the delivery of services by oral and sign language interpreters or translators in any legal proceeding, court-ordered program, or office of the Iowa Judicial Branch.

**47.10(3)** *Procedures for complaints against oral language court interpreters or translators.*

*a. Complaints.* A complaint against a court interpreter or a translator must be filed with state court administration on a form available from that office or through the Iowa Judicial Branch website. A complaint must be signed by the complainant, provide the complainant's full address, telephone number, and email address, if any, and contain substantiating evidence supporting the complaint. State court administration may also initiate a complaint.

*b. Review of complaints.* State court administration will review all complaints and may seek additional information from the complainant as well as a response from the court interpreter or translator if state court administration deems necessary. If state court administration determines that the allegations made within the complaint are serious enough to warrant the suspension or removal of the court interpreter or translator from the roster, then state court administration will forward the complaint, response, and any investigative materials to the chair of the advisory committee. The chair will appoint a panel of at least three advisory committee members to consider the complaint.

*c. Dismissal of complaints.* The advisory committee panel may dismiss the complaint without further action if it appears the complaint wholly lacks merit, alleges conduct that does not constitute misconduct or rise to the level of a disciplinary violation under the Code of Professional Conduct for Court Interpreters and Translators, or does not comply with the requirements for a complaint or is not supplemented as requested. In such instances, state court administration will notify the complainant of the advisory committee panel's decision. The advisory committee panel's summary dismissal is not subject to review.

*d. Responses to complaints.* If the advisory committee panel does not dismiss the complaint, it will notify the interpreter or translator of the complaint in writing. The notice should state that the interpreter or translator may provide a written response to the complaint, request a hearing, or both, within 30 days from the date of the notice. If a written response has previously been provided, the advisory committee panel may, at its discretion, request a supplemental response.

*e. Advisory committee action.* If the advisory committee panel does not dismiss the complaint, the panel will review the complaint upon the papers filed unless the interpreter or translator requests a hearing or the panel determines that a hearing is necessary.

*f. Hearing and decision.*

(1) *Time and format of hearing.* A hearing will be scheduled to occur within 60 days after the complaint is assigned to the advisory committee panel. The hearing will be informal and strict rules of evidence will not apply. During the hearing, the interpreter or translator has the right to be represented by counsel at the interpreter's or translator's expense, to confront and cross-examine witnesses, and to present evidence.

(2) *Location; subpoenas; recording.* The hearing will be held at the Judicial Branch Building unless state court administration and the interpreter or translator agree otherwise. An advisory committee panel member, the interpreter or translator, state court administration, or state court administration's designee, may request the clerk of the district court of the county in which the disciplinary hearing is to be held to issue subpoenas in connection with the matter, and the clerk will issue the subpoenas. Any member of the advisory committee panel is empowered to administer oaths or affirmations to all witnesses. The hearing will be recorded electronically, unless the interpreter or translator pays for a court reporter and the subsequent transcript, if necessary.

(3) *Burden of proof.* Any grounds for discipline under rule 47.10(5) must be shown by a convincing preponderance of the evidence.

(4) *Advisory committee panel actions.* The advisory committee panel may:

1. Dismiss the complaint.
2. Impose a private admonition.
3. Require the interpreter to refund fees to a client for court interpreter services by a specified date to remain on the roster.
4. Require that the interpreter take specified education courses by a specified date to remain on the roster.
5. Require that the interpreter retake and pass one or more of the three examinations identified in rule 47.6(2) by a specified date to remain on the roster.
6. Suspend or revoke the interpreter's roster status or certification, if any.
7. Suspend or bar the interpreter from interpreting in legal proceedings or court-ordered programs, or both.

(5) *Advisory committee panel decision.* The advisory committee panel will file a written decision with the chair of the advisory committee, with a copy sent to state court administration. State court administration will promptly forward a copy of the decision to the interpreter or translator by email and ordinary mail to the address on record with state court administration. If the determination of the advisory committee panel was a suspension or revocation of the interpreter or translator's roster status or certification, state court administration will immediately remove the interpreter or translator from the roster unless otherwise instructed in writing by the chair of the advisory committee.

*g. Petition for review.* The interpreter or translator may file a petition for review of the advisory committee panel's decision with state court administration. The petition for review must be received by state court administration within 30 days after state court administration mails the decision to the interpreter or translator. The petition must state all claims of error that were raised before the panel and the reasons for challenging the panel's determination. State court administration will transmit the complete record in the case to the state court administrator.

*h. Submission and decision on review.* Unless state court administration requests otherwise, the petition will be submitted based upon the record previously made and without supplementation or hearing. After considering the record, state court administration or state court administration's designee may sustain or deny the petition or enter such other appropriate order. State court administration's order is conclusive, and no petition for rehearing is permitted.

*i. Costs.* Costs of the disciplinary proceeding will be assessed against the interpreter or translator for any private admonition, public sanction, or any agreed disposition that taxes costs against the interpreter or translator. For purposes of this rule, costs include those expenses normally taxed as costs in state civil actions pursuant to Iowa Code chapter 625, including but not limited to expert witness fees and translation, transcription, and interpreter fees. The interpreter or translator must pay the costs as a condition for reinstatement.

*j. Application for reinstatement.* An interpreter or translator may file an application for reinstatement from an order suspending or revoking a certification, roster status, or privilege of interpreting or translating in court. The application must be filed with state court administration and include payment of a $100 reinstatement fee. The application must show that all conditions for reinstatement imposed in the panel's decision or any resulting state court administration decision have been satisfied, the interpreter or translator is currently fit to interpret or translate in court, and all costs have been paid. The interpreter or translator must also swear or affirm that the interpreter or translator did not provide interpreting or translating services in any legal or court proceeding during the suspension period.

*k. Reinstatement decision.* State court administration will review the application for reinstatement and, if the requirements have been fulfilled, may reinstate the interpreter or translator on the roster. If any requirement has not been fulfilled, state court administration will inform the interpreter or translator of what remains to be completed before reinstatement on the roster can occur.

*l. Confidentiality.*

(1) All records, papers, proceedings, meetings, and hearings of the advisory committee panel are confidential, unless the panel imposes the following: a public reprimand; a suspension or revocation of a certification, roster status, or privilege to interpret or translate before the courts; a requirement that fees be refunded to a client for court services; or a form of discipline that the panel and the interpreter or translator agree should be made public.

(2) If the advisory committee panel imposes public discipline, the decision and the complaint will become public upon filing with state court administration.

(3) If the advisory committee panel does not impose public discipline and the records do not become public documents, the records and papers will remain confidential unless they are ordered released by a judge in a related court case. The party or attorney requesting the confidential records must sufficiently demonstrate to the judge the relatedness of the records to the court case in question. The records are not otherwise subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the interpreter or translator, the attorneys, or the attorneys' agents involved in the disciplinary proceeding before the advisory committee panel.

(4) Every witness in every disciplinary proceeding under rule 47.10 must swear or affirm to tell the truth and not to disclose the existence of the disciplinary proceedings or the identity of the interpreter or translator until the disciplinary proceeding is no longer confidential under these rules.

(5) Any communications, papers, and materials concerning any complaint that may come into the possession of a committee member are confidential, and the member must keep such confidential material in a safe and secure place.

(6) Nothing in this rule prohibits the advisory committee or an advisory committee panel from releasing any information regarding possible criminal violations to appropriate law enforcement authorities, wherever located, or to interpreter or translator disciplinary and admission authorities in other jurisdictions.

*m. Temporary suspension.* Notwithstanding the provisions of this rule, state court administration may temporarily remove an interpreter or translator from the roster and suspend the interpreter's right to interpret or translate in legal proceedings, court-ordered programs, and offices of the Iowa Judicial Branch upon a showing of a clear violation of the Iowa Code of Professional Conduct for Court Interpreters and Translators or exigent circumstances demonstrating that the interpreter or translator currently lacks the capacity to interpret court proceedings or translate court documents. Any suspension of an interpreter's or translator's right to interpret or translate in Iowa courts must

provide the interpreter or translator with an opportunity to file a petition for review with state court administration explaining why the temporary suspension order should be lifted.

**47.10(4)** *Procedures for complaints against sign language court interpreters.*

*a. Complaints.* A complaint against a sign language court interpreter must be filed with the Iowa Board of Sign Language Interpreters and Transliterators (board) and must follow the procedures outlined in Iowa Administrative Code 645—Chapter 363, Discipline for Sign Language Interpreters and Transliterators.

*b. Notice to state court administration.* A sign language interpreter who receives a notice from the board that a complaint has been filed against the interpreter must promptly provide written notice to state court administration that a complaint has been filed against the interpreter, including the date the complaint was filed and a description of the alleged misconduct. The interpreter also must promptly provide written notice to state court administration after the disciplinary process has been concluded, including the date and type of disposition. A sign language interpreter's failure to provide these notices will be considered grounds for disciplinary action and a disciplinary process may be commenced under procedures in rule 47.10(3).

**47.10(5)** *Grounds for discipline.* The following actions may constitute misconduct for which a court interpreter may be subject to discipline:

*a.* Violation of the Code of Professional Conduct for Court Interpreters and Translators.

*b.* Conviction of a felony in this state or any other jurisdiction or conviction of a lesser crime that involves dishonesty or moral turpitude. A crime is a felony if it is so defined in the jurisdiction where the conviction was entered at the time of the conviction.

*c.* Disciplinary action involving the interpreter's services in another jurisdiction.

*d.* Discipline by the Board of Sign Language Interpreters and Transliterators pursuant to Iowa Administrative Code section 645—Chapter 363.

*e.* Providing incompetent interpretation, which includes, but is not limited to, repeated incomplete or inaccurate interpretation that significantly inhibits or distorts communications between an LEP person and the court or between an LEP person and that person's attorney.

*f.* Dishonest billing for interpreter or translator services.

*g.* Engaging in prohibited interpreting while suspended. This action may subject an interpreter to additional discipline.

**47.10(6)** *Aggravating or mitigating circumstances.* When determining the appropriate discipline for interpreter misconduct, the advisory committee panel may consider factors that include, but are not limited to, the following:

*a. Aggravating circumstances.* Aggravating circumstances that may justify an increase in the degree of discipline imposed include, but are not limited to:

(1) Prior disciplinary offenses.
(2) Dishonest or selfish motive.
(3) A pattern of misconduct.
(4) Multiple offenses.
(5) Bad faith obstruction of the disciplinary proceeding.
(6) Submission of false evidence, false statements, or other deceptive practices during disciplinary process.
(7) Refusal to acknowledge wrongful nature of misconduct.
(8) Harm caused by the misconduct.
(9) Substantial experience as a court interpreter.

*b. Mitigating circumstances.* Mitigating circumstances that may justify a reduction in the degree of discipline imposed include, but are not limited to:

(1) Absence of a prior disciplinary record.
(2) Absence of a dishonest or selfish motive.
(3) Personal or emotional problems contributed to the misconduct.
(4) Timely good faith effort to rectify consequences of the misconduct.
(5) Full and free disclosure to the advisory committee panel or cooperative attitude toward proceedings.
(6) Inexperience as a court interpreter.
(7) Character or reputation.
(8) Physical or mental disability or impairment.
(9) Interim rehabilitation.

(10) Remorse.

(11) Substantial time since the prior offense(s).

**47.10(7)** *Duty to disclose.* A court interpreter or translator must disclose to the OPR any potentially disqualifying criminal or ethical misconduct as defined in rule 47.2(1)(*c*)(3).

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; December 16, 2019, effective January 1, 2020; September 14, 2021, effective October 1, 2021]

**Rule 47.11 Recording of court proceedings.**

**47.11(1)** *Interpreted testimony and communication with a judicial officer.* The court will make appropriate electronic recordings of those portions of court proceedings when an interpreter is required for testimony that is given in a language other than English and when an interpreter is required for communication between a judicial officer and a participant who speaks a language other than English.

*a. Oral language interpreters.* For court proceedings involving oral language interpretation, the court will use an electronic audio or audio-video recorder to meet this recording requirement.

*b. Sign language interpreters.* For court proceedings involving a sign language interpreter, the court will make an audio-video recording of a full and clear view of the sign language interpreter and the LEP deaf, deaf-blind, or hard-of-hearing person.

**47.11(2)** *Retention of recordings.* For small claims, civil infractions, simple misdemeanors, and uniform traffic citation cases, the recording must be maintained for one year after entry of judgment or sentence in district court or, if the judgment is appealed, one year after entry of the final judgment on appeal. For all other cases, the recording must be maintained for the same duration as court reporters' notes as set forth in Iowa Code section 602.8103.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015]

**Rule 47.12 Court interpreter and translator compensation.**

**47.12(1)** *Claims for compensation.* After providing services in any legal proceeding or court-ordered program for which an interpreter or translator will be paid by a state or county office, the interpreter or translator must submit a claim for compensation to the court using a fee claim form approved by state court administration. Upon review and approval of the claim, the court will enter an order setting the maximum amount of compensation that may be paid to the interpreter or translator.

**47.12(2)** *Policies for compensation of court interpreters and translators.* State court administration will establish standard statewide fees and policies for compensation of court interpreters and translators who are paid by government entities. Government entities other than the courts that pay court interpreters and translators may adopt compensation policies that do not conflict with state court administration policies.

[Court Order February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015; September 14, 2021, effective October 1, 2021]

**Rule 47.13 Written translations of court-related material.**

**47.13(1)** *Definition of court-related materials.* As used in rule 47.13, "court-related material" includes written documents that are relevant to the court case and electronically recorded oral or sign communications in which one or more of the participants has limited English proficiency and the communications are relevant to the court case.

**47.13(2)** *Definition of a certified translator.*

*a.* A certified translator has met the requirements for translator certification established by the American Translators Association (ATA) or the National Association of Judiciary Interpreters and Translators (NAJIT).

*b.* A Class A certified court interpreter under rule 47.4(1) is not a certified translator of written documents unless the interpreter has also completed the requirements established by the ATA or NAJIT to be a certified translator.

**47.13(3)** *Priorities in the appointment of a translator of court-related material.* When a translator of court-related material is needed, the court will appoint a translator in the following order of preference:

*a.* Certified as a translator by the ATA or NAJIT in the required language combination (e.g., Spanish to English translation).

*b.* A Class A certified oral language court interpreter as defined in rule 47.4(1).

*c.* If there is no person available who meets the qualifications in rule 47.13(3)(*a*) or (*b*) and who could deliver the translated material through regular or electronic mail by the required date, the court may approve a translator who has a degree from a four-year college or university and has sufficient knowledge and experience as a translator of English and the other required language to provide a complete and accurate written translation of the court-related material.

**47.13(4)** *Compensation of a translator.* A translator whom the court appoints under rule 47.13(3) will receive the standard fee per word or per hour depending on the material to be translated. The standard translation fees will be established in an administrative directive by state court administration pursuant to rule 47.12(2). The court may approve a higher fee only if the court is unable to locate a qualified translator who is able to send and receive court-related materials via electronic mail, can perform the requested translation services by the required date, and will provide the translation service for the standard fee established by state court administration. A translator approved under this rule must submit a claim for compensation consistent with rule 47.12(1).

**47.13(5)** *Application for written translation of court-related material.* When a party or attorney in a case involving an LEP person wants a written translation of court-related material from English into another language, or from another language into English, and the court or other government entity will be responsible for paying the translator, the LEP person or the LEP person's attorney must file with the court a timely application for a written translation of the court-related material. The application must include:

*a.* An explanation of the need for a written translation of the court-related material and why an oral or sign language interpretation of the court-related material would not be sufficient to ensure due process under the circumstances.

*b.* If the court-related material is a written document, the application must also include:

(1) A brief description of the document's content.

(2) The language in which the document is written.

(3) The language into which the document should be translated.

(4) The number of words in the document to be translated.

*c.* If the court-related material is an electronic recording of communications with an LEP person, the application must also include:

(1) A brief description of the nature of the communications.

(2) The number of persons involved in the communications.

(3) The languages spoken by the persons involved in the communications.

(4) Whether a language interpreter was one of the persons involved in the communications.

(5) The number of minutes of recorded communication involving one or more LEP persons.

(6) Whether the applicant is requesting only a transcript of what the English-speaking person said and a translation into English of what the LEP person said during the communication or a transcript of what the English-speaking person said and a translation of what the LEP person said and an evaluation of the accuracy of the interpretation of an interpreter involved in the communication, if applicable.

**47.13(6)** *Court approval of written translation and translator.* The court may approve the application for the written translation of court-related material only if an oral or sign language interpretation of the material would not be sufficient to ensure due process under the circumstances. If the court approves a written translation of court-related material, the court will direct district court administration staff to locate a translator who meets the criteria in rule 47.13(3) and to comply with the policies for locating and paying translators as established by state court administration. After district court administration staff has located a qualified translator and agreed upon a fee for the translation service, the court will enter an order approving a written translation of court-related material and appointing the translator.

[Court Order June 5, 2008, effective July 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015; December 13, 2017, effective January 1, 2018; July 20, 2020, effective October 1, 2020; September 14, 2021, effective October 1, 2021]

**Rule 47.14 Interpretation of legally binding documents submitted to the court.**

**47.14(1)** *Legally binding documents.* For the purpose of this rule, "legally binding documents" include but are not limited to settlement agreements, consent decrees, and guilty pleas.

**47.14(2)** *Selection of an interpreter to interpret a legally binding document outside a court proceeding.* When an interpreter is required to interpret a legally binding document outside a court proceeding, attorneys must use the highest classified interpreter consistent with the priorities for selecting an oral language interpreter in rule 47.3(4) or the priorities for selecting a sign language interpreter in rule 47.3(5) and may seek assistance from district court administration staff to locate an interpreter who meets these qualifications.

**47.14(3)** *Remote interpreters.* Attorneys may use a remote interpreter via telephone or video conference to interpret a legally binding document for an LEP party and must give preference to an interpreter the court has already appointed to interpret for the LEP party.

**47.14(4)** *Certification of interpretation of a legally binding document.* When a party or attorney submits to the court a legally binding document that involves an LEP party, the person submitting the document to the court must also submit a court-approved "Certification of Interpretation of a Legally Binding Document" form in which the interpreter who interpreted the legally binding document for the LEP party includes:

*a.* A statement that the interpreter completely and accurately interpreted the legally binding document from English into the LEP party's primary language to the best of the interpreter's ability and in the presence of the LEP party.

*b.* The interpreter's classification as determined by rule 47.4 or 47.5.

*c.* If certified, the interpreter must include the state or organization that awarded the certification and the date of certification. If not certified, the interpreter must include the interpreter's classification on Iowa's roster of court interpreters or other state court's roster and include the interpreter's educational background with a list of degrees and institutions awarding each degree.

*d.* A certification pursuant to Iowa Code section 622.1 using substantially the following form:

"I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

_____ _____

Date Signature"

[Court Order July 20, 2020, effective October 1, 2020]

**Rule 47.15 Application of rules to administrative agency proceedings.** To the extent an administrative agency is subject to these rules pursuant to Iowa Code section 622A.7 or 622B.1(2), the agency is responsible for appointing interpreters to appear in agency proceedings and for approving interpreters' claims for compensation.

[Court Order December 4, 2014, effective July 1, 2015; July 20, 2020, effective October 2020]

**Rule 47.16 Administration.** The language access coordinator will serve as the principal executive officer for matters pertaining to the qualifications, classification, examination, continuing education, and discipline of court interpreters. State court administration, subject to the approval of the supreme court, may employ such other employees as may be necessary to carry out the duties of this chapter of the Iowa Court Rules.

[Court Order December 4, 2014, effective July 1, 2015; July 20, 2020, effective October 1, 2020; September 14, 2021, effective October 1, 2021]

**Rule 47.17 Immunity.**

**47.17(1)** *Claims.* Claims against state court administration and staff, or against members of the advisory committee, are subject to the State Tort Claims Act set forth in Iowa Code chapter 669.

**47.17(2)** *Immunity.* State court administration and staff, and members of the advisory committee, are immune from all civil liability for damages for the conduct, communications, and omissions occurring in the performance of and within the scope of their official duties under these rules.

**47.17(3)** *Qualified immunity.* Records, statements of opinion, and other information regarding an interpreter that are communicated by an entity, including any person, firm, or institution, without malice, to state court administration and staff, and the members of the advisory committee, are privileged; civil suits for damages predicated thereon may not be instituted.

[Court Order December 4, 2014, effective July 1, 2015; July 20, 2020, effective October 1, 2020; September 14, 2021, effective October 1, 2021]

**Rule 47.18 Forms.**

**Rule 47.18 — Form 1:** ***Certification of Interpretation of a Legally Binding Document.***

**In the Iowa District Court for _____County**
*County where this Certification is filed*

| | |
|---|---|
| _____<br>**Plaintiff/Petitioner**<br>*Full name of Plaintiff/Petitioner*<br>vs.<br>_____<br>**Defendant/Respondent**<br>*Full name of Defendant/Respondent* | Case no._____<br>**Certification of Interpretation of a Legally Binding Document**<br>Iowa Court Rule 47.14(4) |

**1. Certification statement**

I, _____, certify the following: *Read, complete, and check if you agree*
*Print your name*

☐ I have completely and accurately interpreted the legally binding document submitted with this certification from English into _____, the limited English
*LEP party's language*
proficient (LEP) party's language, to the best of my ability and in the presence of _____.
*name of LEP party*

**2. Interpreter's classification** *Check A or B*

I am:

A. ☐ An oral language court interpreter with the following certification: *Check one (Iowa Court rule 47.4)*

- ☐ Class A oral language court interpreter
- ☐ Class B oral language court interpreter
- ☐ Class C oral language court interpreter
- ☐ Unclassified oral language court interpreter
- ☐ Oral language interpreter on a list of qualified interpreters approved by another state

  State: _____

  Classification level: _____

B. ☐ A sign language court interpreter with the following certification: *Check one (Iowa Court rule 47.5)*

- ☐ Class A sign language court interpreter
- ☐ Class B sign language court interpreter

***Continued on next page***

*Rule 47.18—Form 1: Certification of Interpretation of a Legally Binding Document,* continued

**3. Interpreter's certification** *Check A or B*

I am:

A. ☐ **A certified interpreter** *If you check this box, complete the next section*

State or organization of certification:_____

Date of certification: _____ _____, 20____
*Month* *Day* *Year*

B. ☐ **Not a certified interpreter** *If you check this box, complete the next section*

Educational background:

_____ ____/____/_____ _____
*Degree* *Date received* *Institution*

_____ ____/____/_____ _____
*Degree* *Date received* *Institution*

☐ *Check this box if you have attached a sheet with additional information.*

**4. Oath and signature**

I, _____, have read this Certification, and I certify under penalty
*Print your full name: first, middle, last*

of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Certification is true and correct.

_____ _____, 20____ _____
*Month* *Day* *Year* *Signature**

_____
*Mailing address*

_____ _____ _____
*City* *State* *ZIP code*

(_____)_____ _____
*Phone number* *Fax number*

_____ _____
*Email address* *Additional email address, if applicable*

**Whether filing electronically or in paper, you must handwrite your signature on this form. If you are filing electronically, scan the form after signing it and then file electronically.*



[Court Order July 20, 2020, effective October 1, 2020]

# CHAPTER 48
# CODE OF PROFESSIONAL CONDUCT FOR COURT INTERPRETERS AND TRANSLATORS

# CHAPTER 48
# CODE OF PROFESSIONAL CONDUCT FOR COURT INTERPRETERS AND TRANSLATORS

[Prior to April 1, 2008, see Chapter 15]

## PREAMBLE

Effective and accurate language assistance may be necessary to ensure access to justice for all persons. Qualified interpreters and translators are highly skilled professionals who provide accurate language assistance during legal proceedings.

## APPLICABILITY

The Code of Professional Conduct for Court Interpreters and Translators (Code of Conduct) governs the delivery of services by oral and sign language interpreters and translators in legal proceedings or in offices of the Iowa Judicial Branch. This Code of Conduct describes the role and defines the duties of interpreters, enhancing the administration of justice and promoting public confidence in the legal system. The canons apply to oral and sign language interpreters and translators and also to real-time court reporters providing language access to deaf or hearing-impaired persons who can read English. The comments guide the conduct of interpreters but should be read broadly to guide the conduct of translators and real-time court reporters when applicable.

## DEFINITIONS

Throughout this chapter:

(1) *Court interpreter or interpreter.* A "court interpreter" or an "interpreter" means an oral or sign language interpreter who transfers the meaning of spoken or written words or signs into the equivalent meaning in another oral or sign language during a legal proceeding.

(2) *Court proceeding.* A "court proceeding" is any action before a state court judicial officer that has direct legal implications for any person.

(3) *Legal proceeding.* "Legal proceeding" includes any court proceeding, any deposition conducted in preparation for a court proceeding, any case settlement negotiation in an existing court case, and any attorney-client communication necessary for preparation for a court proceeding in an existing court case.

(4) *Limited English proficient (LEP) participant or person.* An "LEP participant or person" has a limited ability to speak, read, write, or understand English because the person's primary language is not English or because the person is deaf, deaf-blind, or hard-of-hearing.

(5) *Sight translation.* "Sight translation" is the act of transferring verbally, or through the use of sign language, the meaning of written text in one language into the equivalent meaning in another language.

(6) *Source language.* "Source language" is the spoken, written, or signed communication that an interpreter or translator is to transfer into the equivalent meaning in another language, which is the "target language."

(7) *Target language.* "Target language" is the language into which a text, document, or speech is translated.

(8) *Translator.* A "translator" accurately transfers the meaning of written, oral, or signed words and phrases in one language into the equivalent meaning in written words and phrases of a second language, or accurately produces a written transcript in English of electronically recorded testimony or other court communication in which one or more of the participants has limited English proficiency.

COMMENTS

The Comments describe basic principles of the Code of Conduct. If a court policy or routine practice appears to conflict with any provision of the Code of Conduct, including the Comments, the policy or practice as it applies to interpreters should be reviewed for modification.

## *CANON 1*

## *ACCURACY AND COMPLETENESS*

An interpreter must render a complete and accurate interpretation or sight translation by reproducing in the target language the closest natural equivalent of the source language message, without altering, omitting, or adding anything to the meaning of what is stated or written, and without explanation.

**Comment to Canon 1.**

*Qualifications of an interpreter in a legal proceeding.*

To fulfill the obligation to interpret completely and accurately in a legal proceeding, an interpreter should have college-level vocabularies, including legal terms and slang, in English and at least one other language. An interpreter must also have exceptional memory and verbal skills and should have training in legal interpreting.

*Role of an interpreter in a legal proceeding.*

The primary role of an interpreter in a legal proceeding is twofold: To ensure that communications of an LEP participant are completely and accurately expressed in English and that communications of an English proficient participant are completely and accurately expressed in the oral or sign language the LEP participant understands.

An interpreter should apply the interpreter's best skills and judgment to preserve the meaning of what is communicated as faithfully as possible without adding or omitting words or phrases. The interpreter should express the style or register of speech, the ambiguities and nuances of the speaker, and the level of language that best conveys the original meaning of the source language, even if the LEP participant does not completely understand that level of language. Verbatim, "word for word," or literal oral interpretations are *inappropriate* when they distort the meaning of what was said in the source language. However, all spoken statements, including misstatements, should be interpreted, even if they appear non-responsive, obscene, rambling, or incoherent.

Sometimes, a speaker in a court proceeding might use a term or phrase that has no direct equivalent in the target language. When this occurs, the interpreter should ask the judicial officer's permission to explain the situation, and then offer the most accurate interpretation possible under the circumstances. If this situation arises in a legal proceeding without a judicial officer present, the interpreter should inform the attorney(s), or the supervisor of the activity if no attorney is involved, about the language issue, and then offer the most accurate interpretation possible under the circumstances.

An oral language interpreter should convey the emotional emphasis of the speaker without reenacting or mimicking the speaker's emotions, or dramatic gestures. A sign language interpreter, however, must employ all of the visual cues that the language being interpreted requires, including facial expressions, body language, and hand gestures. Judicial officers should ensure that court participants do not confuse these essential elements of the interpreted language with inappropriate interpreter conduct. Any challenge to the interpreter's conduct should be directed to the judicial officer.

The obligation to preserve accuracy includes the interpreter's duty to correct any errors of interpretation discovered during the proceeding. An interpreter should demonstrate professionalism by objectively analyzing any challenge to the interpreter's performance.

*Preparation by an interpreter for a legal proceeding.*

The ethical responsibility to interpret accurately and completely includes the responsibility of properly preparing for interpreting assignments. An interpreter is encouraged to obtain public documents and other public information necessary to become familiar with the nature and purpose of a proceeding. Prior preparation is especially important when testimony or documents are likely to include highly specialized terminology and subject matter.

To avoid any impropriety, or even the appearance of impropriety, an interpreter should seek permission of the court before conducting any preparation involving access to confidential information. Courts may grant such permission when it is necessary for the interpreter to discharge the interpreter's professional responsibilities.

Preparation may include, but is not limited to, the following:

(1) Reviewing public documents in the court file, such as motions and supporting affidavits, witness lists, and jury instructions; the criminal complaint, information, and preliminary hearing transcript in a criminal case; and the summons, petition, and answer in a civil case.

(2) Reviewing information from public sources such as dictionaries, newspapers, online case records, or internet sites.

(3) Reviewing documents in the possession of counsel, such as police reports, witness summaries, deposition transcripts, and presentence investigation reports.

(4) Contacting any other interpreters involved in the case for information on language use or style.

(5) Contacting attorneys involved in the case for additional information on anticipated testimony or exhibits.

(6) Anticipating and discussing interpreting issues related to the case with the judicial officer, but only in the presence of counsel for all parties unless the court directs otherwise.

*Team interpreting in a legal proceeding.*

When engaging in team interpreting, but not actively interpreting, the support interpreter must remain attentive during the proceeding to assist the active interpreter as needed to ensure the accuracy of interpretation. If the support interpreter believes the active interpreter's interpretation should be corrected, the support interpreter should ask the judicial officer's permission to discuss an interpretation issue with the active interpreter. If necessary, the active interpreter should then correct the interpretation for the record.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015; May 18, 2015, effective July 1, 2015; December 13, 2017, effective January 1, 2018]

## *CANON 2*

## *REPRESENTATION OF QUALIFICATIONS*

An interpreter must accurately and completely represent the interpreter's certification, education, interpreter training, classification on the Iowa roster of court interpreters, and interpreting experience.

**Comment to Canon 2.**

By accepting an interpreting assignment in a legal proceeding, an interpreter asserts linguistic competency in legal settings and familiarity with courtroom and legal proceeding protocols. Withdrawing, or being asked to withdraw, after a court proceeding has begun is disruptive and wasteful of scarce public resources. It is essential an interpreter present a complete and truthful account of the interpreter's education, interpreter training, certification, classification (if any) on the Iowa roster of court interpreters, and interpreting experience prior to appointment, so the judicial officer can fairly evaluate the interpreter's qualifications for delivering interpreting services.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

*CANON 3*

*IMPARTIALITY AND AVOIDANCE OF CONFLICT OF INTEREST*

An interpreter must be impartial and unbiased and must refrain from conduct that may give an appearance of bias. An interpreter must disclose any real or perceived conflict of interest.

**Comment to Canon 3.**

The primary duty of a court interpreter is to be a neutral facilitator of accurate communication between an LEP person and the other English speaking participants in a legal proceeding.

An interpreter should avoid any conduct or behavior that presents the appearance of favoritism toward anyone during a legal proceeding. An interpreter should maintain a professional relationship with LEP participants, discourage dependence on the interpreter, and refrain from casual or personal conversation or interaction.

An interpreter should strive for professional detachment by avoiding verbal and nonverbal displays of personal attitudes, prejudices, emotions, or opinions.

An interpreter must not solicit or accept any payment, gift, or gratuities in addition to the interpreter's customary fees.

Any condition that interferes with the objectivity of an interpreter constitutes a conflict of interest and must be disclosed to the judicial officer, or if the legal proceeding is outside of court, to all attorneys involved in the proceeding. An interpreter should only divulge necessary information when disclosing the conflict of interest. The disclosure must not include privileged or confidential information. The following circumstances create potential conflicts of interest that a court interpreter must disclose:

(1) The interpreter is a friend, associate, or relative of a party, counsel for a party, a witness, or a victim (in a criminal case) involved in the proceedings.

(2) The interpreter or the interpreter's friend, associate, or relative has a financial interest in the subject matter in controversy, a shared financial interest with a party to the proceeding, or any other interest that might be affected by the outcome of the case.

(3) The interpreter has served in an investigative capacity for any party involved in the case.

(4) The interpreter has previously been retained by a law enforcement agency to assist in the preparation of the criminal case at issue.

(5) The interpreter is an attorney or witness in the case.

(6) The interpreter has previously been retained for employment by one of the parties.

(7) For any other reason, the interpreter's independence of judgment would be compromised in the course of providing services.

The judicial officer should carefully evaluate any potential conflict, but the existence of only one of the above circumstances will not automatically disqualify an interpreter if the interpreter is able to render services objectively. The interpreter should disclose to the judicial officer any indication that the recipient of interpreting services views the interpreter as being biased. If an actual or apparent conflict of interest exists, the judicial officer should decide whether removal is appropriate based upon the totality of the circumstances.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015; December 13, 2017, effective January 1, 2018]

*CANON 4*

*PROFESSIONAL INTEGRITY AND DEMEANOR*

An interpreter must act honestly and professionally, in a manner consistent with the dignity of the court.

**Comment to Canon 4.**

An interpreter must be honest and trustworthy in all interactions with the court and all other participants and agencies involved in legal proceedings. For example, an interpreter must appear when scheduled to provide services, promptly report to an appropriate authority when a scheduling conflict arises, and accurately report time and expenses for interpreting services.

An interpreter should avoid personal or professional conduct that could dishonor the interpreter, the court, or the legal system. For example, an interpreter must never take advantage of knowledge obtained in the performance of duties or through access to court records, facilities, or privileges for the interpreter's or another person's personal gain.

An interpreter also should know and observe the established protocol, rules, and procedures for delivering interpreting services, and should dress in a manner that reflects the conventions of appropriate attire for professionals who appear in legal proceedings. When interpreting for an LEP witness and speaking in English, an interpreter should speak at a rate and volume that is audible and understandable throughout the courtroom. An interpreter should be as unobtrusive as possible and should not seek to attract inappropriate attention while performing the interpreter's professional duties. This includes any time the interpreter is present but not actively interpreting.

An interpreter should avoid obstructing the view of anyone involved in the proceedings, but should be appropriately positioned to facilitate communication. An interpreter who uses sign language or other visual modes of communication must be positioned so that signs, facial expressions, and whole body movements are visible to the person for whom the interpreter is interpreting. When necessary, the interpreter should be repositioned to accommodate visual access to exhibits.

An interpreter should avoid personal or professional conduct that could dishonor the court.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

*CANON 5*

*CONFIDENTIALITY*

An interpreter must protect the confidentiality of all privileged and other confidential information. An interpreter may disclose information that would otherwise be privileged or confidential to the extent such disclosure is necessary to prevent imminent death or bodily harm.

**Comment to Canon 5.**

An interpreter must uphold the confidentiality of any communications between attorney and client and must refrain from repeating or disclosing information obtained in the course of the interpreter's employment.

An interpreter must accompany an LEP juror into the jury room and interpret for jury deliberations. When this occurs, the interpreter must be neutral, must not participate in jury deliberations, and must not disclose or comment upon jury deliberations.

An interpreter providing services to an LEP party may disclose information obtained while providing interpreter services if the interpreter is reasonably certain that such disclosure is necessary to prevent imminent death or bodily harm. If the LEP party is represented by an attorney, the disclosure must be made to the party's attorney. If the LEP party is not represented by an attorney, the disclosure must be made to the presiding judicial officer or other appropriate authority if the judicial officer is not available.

An interpreter providing services to an LEP person who is not a party may disclose information obtained while providing interpreter services if the interpreter is reasonably certain that such disclosure is necessary to prevent imminent death or bodily harm. The disclosure must be made to the presiding judicial officer or another appropriate authority if the judicial officer is not available.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

*CANON 6*

*RESTRICTION OF PUBLIC COMMENT*

An interpreter must not publicly discuss, report, or offer an opinion concerning a matter in which the interpreter is or has been engaged, even when that information is not privileged or required by law to be confidential, except to facilitate training and education.

**Comment to Canon 6.**

Generally, an interpreter should not discuss interpreter assignments with anyone other than persons who have a formal duty associated with the case. For purposes of interpreter education and training, however, an interpreter may share information only about cases in which a final judgment has been entered and may divulge only as much information as is required to accomplish this purpose. Unless so ordered by a court or permitted under Canon 5, an interpreter must never reveal privileged or confidential information for any purpose, including training and education.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

*CANON 7*

*SCOPE OF PRACTICE*

An interpreter for an LEP participant in any legal proceeding, or for an LEP party in a court-ordered program, must provide only interpreting or translating services. The interpreter must not give legal advice, express personal opinions to individuals for whom interpreting services are being provided, or engage in other activities that may be construed to constitute a service other than interpreting or translating.

**Comment to Canon 7.**

Since an interpreter is responsible only for enabling others to communicate, the interpreter should limit the interpreter's conduct to interpreting or translating. An interpreter, however, may initiate communications during a proceeding if direction from the court is necessary to perform the interpreter's duties. Examples of such circumstances include: seeking direction from the court when unable to understand or express a word or thought; requesting speakers to adjust their rate of speech or to repeat or rephrase something; correcting the interpreter's errors; or notifying the court of concerns about the interpreter's ability to fulfill an assignment competently. In such instances, the interpreter must make it clear the interpreter is speaking on his or her own behalf.

An interpreter may convey legal advice from an attorney to a person only while that attorney is giving it. An interpreter should not explain the purpose or contents of forms or services, or otherwise act as a counselor or an advisor, unless the interpreter is interpreting for someone who is acting in that official capacity. An interpreter may interpret or translate language on a form or instructions for the form for an LEP person who is filling out the form. However, the interpreter must not explain the form or answer questions about it, although an interpreter may interpret for a court official who is authorized to answer questions about a court form. In general, an interpreter should not perform functions that are the responsibility of attorneys or court officials.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

*CANON 8*

*ASSESSING AND REPORTING IMPEDIMENTS TO PERFORMANCE*

An interpreter must assess at all times the interpreter's ability to competently and ethically deliver interpreting services. When an interpreter has any concern about the interpreter's ability to competently and ethically provide services or about interference with or impediments to providing competent and ethical services, the interpreter must immediately report that concern to an appropriate authority.

**Comment to Canon 8.**

*Impediments to competent performance*

If the communication mode or language variety of the LEP person cannot be readily interpreted, the interpreter should notify the appropriate authority, such as a judicial officer, an attorney, or another person with authority over the proceeding.

An interpreter should notify the appropriate authority of any circumstances (e.g., environmental conditions or physical limitations) that impede the ability to deliver interpreting services adequately. For example, these circumstances may include that the courtroom is not sufficiently quiet for the interpreter to hear or be heard by the LEP person, more than one person is speaking at the same time, or a person is speaking too quickly for the interpreter to accurately interpret. A sign language interpreter must ensure that the interpreter can both see and convey the full range of visual language elements that are necessary for communication, including facial expressions and body movements, as well as hand gestures. A sign language interpreter must also ensure that the LEP person can see the interpreter clearly.

An interpreter should notify the judicial officer or other appropriate authority of the need to take periodic breaks in order to maintain mental and physical alertness and prevent interpreter fatigue. An interpreter should inform the judicial officer when the use of team interpreting is necessary.

Even a competent and experienced interpreter may encounter situations where routine proceedings unexpectedly involve slang, idiomatic expressions, regional dialect, or technical or specialized terminology unfamiliar to the interpreter. When such situations occur, the interpreter should request a brief recess in order to become familiar with the subject matter. If familiarity with the terminology requires extensive time or more intensive research, the interpreter should inform the judicial officer, or if the legal proceeding is outside of court, the interpreter should inform all attorneys involved in the proceeding.

An interpreter should refrain from accepting a case that has language or subject matter that is likely to exceed the interpreter's capabilities. An interpreter should also notify the judicial officer or other appropriate authority if the interpreter is unable to perform adequately for any reason.

*Impediments to ethical performance*

Some users of interpreting services might ask or expect the interpreter to engage in activities that are contrary to provisions in the Code of Conduct or other law, rules, or policies governing court interpreters. In this situation, an interpreter should explain the interpreter's professional obligations. If the person continues to ask or demands that the interpreter engage in such activities, the interpreter should promptly request assistance from a judicial officer or other appropriate authority to resolve the matter.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015; December 13, 2017, effective January 1, 2018]

## *CANON 9*

## *DUTY TO REPORT CRIMINAL CONVICTIONS AND ETHICAL VIOLATIONS*

An interpreter must immediately report the interpreter's conviction of a felony or any lesser crime of dishonesty or moral turpitude to the Office of Professional Regulation of the Iowa Supreme Court (OPR). The interpreter must also immediately report to the OPR any public discipline entered against the interpreter in any jurisdiction. The failure to submit such a report may be an independent ground for discipline. An interpreter who observes another interpreter commit a serious violation of the Code of Conduct should submit a written complaint to the OPR.

**Comment to Canon 9.**

Interpreters must disclose to the OPR the types of criminal convictions and disciplinary actions that potentially constitute "disqualifying misconduct" pursuant to Iowa Court Rule 47.2(1)(*c*)(3). An interpreter who observes another interpreter commit a serious violation of the Code of Conduct should file a written complaint with the OPR using the form provided by that office. Discretion should be

exercised by the interpreter who observed the alleged unethical conduct when determining whether the alleged violation was sufficiently substantial to warrant discipline. Minor or infrequent interpreting errors might be technical violations of Canon 1, but they probably would not warrant discipline. Some examples of serious ethical violations by court interpreters include: frequent failures to interpret accurately or completely in court; falsification of a claim for interpreter services; publicly discussing confidential attorney-client communications; or clearly providing legal advice to an LEP person in court.

If an interpreter doubts whether another interpreter's conduct rises to the level of a serious ethical violation, the interpreter should consider sharing her or his concerns with the other interpreter. Collaboration among interpreters working together to improve their skills is encouraged.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015; December 13, 2017, effective January 1, 2018]

*CANON 10*

*PROFESSIONAL DEVELOPMENT*

An interpreter must strive to become more skillful and knowledgeable and advance the profession through activities such as professional training, education, and interaction with colleagues and specialists in related fields.

**Comment to Canon 10.**

An interpreter should improve the interpreter's interpreting skills and knowledge of the languages in which the interpreter works professionally, including past and current trends in slang, idiomatic expression, changes in dialect, technical terminology, and social and regional dialects.

An interpreter should keep informed of all statutes, rules of court, and policies of the judiciary that govern the performance of an interpreter's professional duties.

An interpreter should seek to elevate the standards of the profession through participation in workshops, professional meetings, interaction with colleagues, and reading current literature in the field. An interpreter should support other interpreters by sharing knowledge and expertise.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

# CHAPTER 49
# OFFICE OF PROFESSIONAL REGULATION

# CHAPTER 49
# OFFICE OF PROFESSIONAL REGULATION

**Rule 49.1 Office of Professional Regulation of the Supreme Court of Iowa.** There is hereby created the Office of Professional Regulation of the Supreme Court of Iowa. The office of professional regulation consists of the following persons:

**49.1(1)** An executive director, appointed by the supreme court. The executive director is responsible to the supreme court for the administration and program functions of the continuing legal education commission, the client security commission, the lawyer trust account commission, the grievance commission, the attorney disciplinary board, the unauthorized practice of law commission, the board of examiners of shorthand reporters, and the board of law examiners. The executive director also is responsible for administration of the court interpreter examination program.

**49.1(2)** A director of attorney discipline, appointed by the executive director with the approval of the supreme court. The director of attorney discipline is responsible to the executive director of the office of professional regulation for the administration of the attorney disciplinary board.

**49.1(3)** Such other directors, appointed by the executive director of the office of professional regulation with the approval of the supreme court, to be responsible to the director of the office of professional regulation for administration of boards and commissions as the executive director may designate.

**49.1(4)** Such other staff members as the supreme court may from time to time direct, appointed by the executive director with the approval of the court.

[Court Order December 5, 2007; November 20, 2015, effective January 1, 2016; July 24, 2019, effective August 1, 2019; September 14, 2021, effective October 1, 2021]

**Rule 49.2 Board and commission budgets.** Annual budgets for the continuing legal education commission, the client security commission, the lawyer trust account commission, the grievance commission, the board of examiners of shorthand reporters, the board of law examiners, the unauthorized practice of law commission, and the court interpreter examination and licensing program, must be prepared for each fiscal year running from July 1 through June 30. At least 60 days prior to the start of each fiscal year or on a date otherwise specified by the supreme court, the executive director must submit to the supreme court annual operating budgets for each of these boards and commissions, which may be amended as necessary.

[Court Order December 5, 2007; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

**Rule 49.3 Authority to allocate funds.** The fees collected under the provisions of chapters 39, 41, and 42 of the Iowa Court Rules may be allocated and used for such purposes within the office of professional regulation as the supreme court may direct.

[Court Order December 5, 2007; December 10, 2012; December 13, 2017, effective January 1, 2018]

**Rule 49.4 Fees for certificates; score transfers; copies.**

**49.4(1)** The boards and commissions of the office of professional regulation must collect fees as the supreme court prescribes for providing:

*a.* Certificates of disciplinary history, certificates of continuing education history, certificates of client security history, certificates of license status, or similar certificates.

*b.* Certifications or transfers of examination scores.

*c.* Copies of official records in electronic form.

*d.* Copies of official records in paper form.

*e.* Reissued certificates of admission.

**49.4(2)** Fees collected under rule 49.4(1) are allocated to the board or commission preparing the certificate or providing the copies for such purposes as the supreme court may direct.

[Court Order November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018]

**Rule 49.5 File retention and destruction.** Unless otherwise required by court rule or order, files and records maintained by the boards and commissions of the office of professional regulation must be retained for at least three years after the last board or commission action on the matter. For purposes

of this rule, destruction of paper records after the records have been transferred to computer storage is permitted immediately after the transfer.
[Court Order July 24, 2019, effective August 1, 2019]

# CHAPTER 50

Reserved

# CHAPTER 51
# IOWA CODE OF JUDICIAL CONDUCT

***CANON 4***
***A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, OR IMPARTIALITY OF THE JUDICIARY***

# CHAPTER 51
# IOWA CODE OF JUDICIAL CONDUCT

### PREAMBLE

[1] An independent, fair, and impartial judiciary is indispensable to our system of justice. The United States legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law. Inherent in all the rules contained in the Iowa Code of Judicial Conduct are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.

[2] Judges should maintain the dignity of judicial office at all times and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence.

[3] The Iowa Code of Judicial Conduct establishes standards for the ethical conduct of judges and judicial candidates. It is not intended as an exhaustive guide for the conduct of judges and judicial candidates, who are governed in their judicial and personal conduct by general ethical standards as well as by the Code. The Code is intended, however, to provide guidance and assist judges in maintaining the highest standards of judicial and personal conduct, and to provide a basis for regulating their conduct through disciplinary agencies.

### SCOPE

[1] The Iowa Code of Judicial Conduct consists of four Canons, numbered rules under each Canon, and comments that generally follow and explain each rule. Scope and terminology sections provide additional guidance in interpreting and applying the Code. An application section establishes when the various rules apply to a judge or judicial candidate.

[2] The Canons state overarching principles of judicial ethics that all judges must observe. Although a judge may be disciplined only for violating a rule, the Canons provide important guidance in interpreting the rules. Where a rule contains a permissive term, such as "may" or "should," the conduct being addressed is committed to the personal and professional discretion of the judge or candidate in question, and no disciplinary action should be taken for action or inaction within the bounds of such discretion.

[3] The comments that accompany the rules serve two functions. First, they provide guidance regarding the purpose, meaning, and proper application of the rules. They contain explanatory material and, in some instances, provide examples of permitted or prohibited conduct. Comments neither add to nor subtract from the binding obligations set forth in the rules. Therefore, when a comment contains the term "must," it does not mean that the comment itself is binding or enforceable; it signifies that the rule in question, properly understood, is obligatory as to the conduct at issue.

[4] Second, the comments identify aspirational goals for judges. To implement fully the principles of the Iowa Code of Judicial Conduct as articulated in the Canons, judges should strive to exceed the standards of conduct established by the rules, holding themselves to the highest ethical standards and seeking to achieve those aspirational goals, thereby enhancing the dignity of the judicial office.

[5] The rules of the Iowa Code of Judicial Conduct are rules of reason that should be applied consistent with constitutional requirements, statutes, other court rules, and decisional law, and with due regard for all relevant circumstances. The rules should not be interpreted to impinge upon the essential independence of judges in making judicial decisions.

[6] Although the black letter of the rules is binding and enforceable, it is not contemplated that every transgression will result in the imposition of discipline. Whether discipline should be imposed should be determined through a reasonable and reasoned application of the rules, and should depend upon factors such as the seriousness of the transgression, the facts and circumstances that existed at

the time of the transgression, the extent of any pattern of improper activity, whether there have been previous violations, and the effect of the improper activity upon the judicial system or others.

[7] The Iowa Code of Judicial Conduct is not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court.

### Terminology

**The first time any term listed below is used in a rule in its defined sense, it is followed by an asterisk (*).**

**"Affiliate"** and **"affiliated"** mean any person, domestic or foreign, that controls, is controlled by, or is under common control with any other person. *See* rule 51:2.11.

**"Appropriate authority"** means the authority having responsibility for the initiation of disciplinary process in connection with the violation to be reported. *See* rules 51:2.14 and 51:2.15.

**"Associate"** and **"associated"** means any person who employs, is employed by, or is under common employment with another person; any person who acts in cooperation, consultation, or concert with, or at the request of, another person; and any spouse, domestic partner, or person within the third degree of relationship of any of the foregoing. *See* rule 51:2.11.

**"Contribution"** means both financial and in-kind contributions, such as goods, professional or volunteer services, advertising, and other types of assistance which, if obtained by the recipient otherwise, would require a financial expenditure. *See* rules 51:3.7, 51:4.1, and 51:4.4.

**"Control"** and **"controlled"** each refers to the power of one person to exercise, directly or indirectly or through one or more persons, a dominating, governing, or controlling influence over another person, whether by contractual relationship (including without limitation a debtor-creditor relationship), by family relationship, by ownership, dominion over, or power to vote any category or voting interest (including without limitation shares of common stock, shares of voting preferred stock, and partnership interests), or by exercising (or wielding the power to exercise) in any manner dominion over a majority of directors, partners, trustees, or other persons performing similar functions. *See* definition of "affiliate" and "affiliated."

**"De minimis,"** in the context of interests pertaining to disqualification of a judge, means an insignificant interest that could not raise a reasonable question regarding the judge's impartiality. *See* rule 51:2.11.

**"Domestic partner"** means a person with whom another person maintains a household and an intimate relationship, other than a person to whom he or she is legally married. *See* rules 51:2.11, 51:2.13, 51:3.13, and 51:3.14.

**"Economic interest"** means ownership of more than a de minimis legal or equitable interest. Except for situations in which the judge participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before a judge, it does not include:

(1) an interest in the individual holdings within a mutual or common investment fund;

(2) an interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the judge or the judge's spouse, domestic partner, parent, or child serves as a director, an officer, an advisor, or other participant;

(3) a deposit in a financial institution or deposits or proprietary interests the judge may maintain as a member of a mutual savings association or credit union, or similar proprietary interests; or

(4) an interest in the issuer of government securities held by the judge.

*See* rules 51:1.3 and 51:2.11.

**"Fiduciary"** includes relationships such as executor, administrator, trustee, or guardian. *See* rules 51:2.11, 51:3.2, and 51:3.8.

**"Impartial," "impartiality,"** and **"impartially"** mean absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open mind in considering issues that may come before a judge. *See* Canons 1, 2, and 4, and rules 51:1.2, 51:2.2, 51:2.10, 51:2.11, 51:2.13, 51:3.1, 51:3.12, 51:3.13, 51:4.1, and 51:4.2.

**"Impending matter"** is a matter that is imminent or expected to occur in the near future. *See* rules 51:2.9, 51:2.10, 51:3.13, and 51:4.1.

**"Impropriety"** includes conduct that violates the law, court rules, or provisions of the Iowa Code of Judicial Conduct, and conduct that undermines a judge's independence, integrity, or impartiality. *See* Canon 1 and rule 51:1.2.

**"Independence"** means a judge's freedom from influence or controls other than those established by law. *See* Canons 1 and 4, and rules 51:1.2, 51:3.1, 51:3.12, 51:3.13, and 51:4.2.

**"Integrity"** means probity, fairness, honesty, uprightness, and soundness of character. *See* Canon 1 and rule 51:1.2.

**"Judicial candidate"** means any person, including a sitting judge, who is seeking selection for or retention in judicial office by election or appointment. A person becomes a candidate for judicial office as soon as he or she declares or files as a candidate with the election or appointment authority, authorizes, where permitted, solicitation or acceptance of contributions or support, or is seeking appointment to office. *See* rules 51:2.11, 51:4.1, 51:4.2, and 51:4.4.

**"Knowingly," "knowledge," "known,"** and **"knows"** mean actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances. *See* rules 51:2.11, 51:2.15, 51:2.16, 51:3.6, and 51:4.1.

**"Law"** encompasses court rules as well as statutes, constitutional provisions, and decisional law. *See* rules 51:1.1, 51:2.1, 51:2.2, 51:2.6, 51:2.7, 51:2.9, 51:3.1, 51:3.4, 51:3.9, 51:3.12, 51:3.13, 51:3.14, 51:3.15, 51:4.1, 51:4.2, 51:4.4, and 51:4.5.

**"Member of the candidate's family"** means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the candidate maintains a close familial relationship.

**"Member of the judge's family"** means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. *See* rules 51:3.7, 51:3.8, 51:3.10, and 51:3.11.

**"Member of a judge's family residing in the judge's household"** means any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge's family, who resides in the judge's household. *See* rules 51:2.11 and 51:3.13.

**"Nonpublic information"** means information that is not available to the public. Nonpublic information may include, but is not limited to, information that is sealed by statute or court order or impounded or communicated in camera, and information offered in grand jury proceedings, presentencing reports, dependency cases, or psychiatric reports. *See* rule 51:3.5.

**"Pending matter"** is a matter that has commenced. A matter continues to be pending through any appellate process until final disposition. *See* rules 51:2.9, 51:2.10, 51:3.13, and 51:4.1.

**"Person"** means any natural or juridical person, including without limitation any corporation, limited liability company, partnership, trust, union, or other labor organization; any branch, division, department, or local unit of any of the foregoing; any political committee, party, or organization; or any other organization or group of persons. *See* rule 51:2.11.

**"Personally solicit"** means a direct request made by a judge or a judicial candidate for financial support or in-kind services, whether made by letter, telephone, or any other means of communication. *See* rule 51:4.1.

**"Political organization"** means a political party or other group sponsored by or affiliated with a political party or candidate, the principal purpose of which is to further the election or appointment of candidates for political office. For purposes of the Iowa Code of Judicial Conduct, the term does

not include a judicial candidate's campaign committee created as authorized by rule 51:4.4. *See* rules 51:4.1 and 51:4.2.

**"Restricted donor"** means

(1) a party or other person involved in a case pending before the donee.

(2) a party or a person seeking to be a party to any sale, purchase, lease or contract involving the judicial branch or any of its offices, if the donee has authority to approve the sale, purchase, lease or contract, or if the donee assists or advises the person with authority to approve the sale, purchase, lease or contract.

(3) a person who will be directly or substantially affected by the performance or nonperformance of the donee's official duties in a way that is greater than the effect on the public generally or on a substantial class of persons to which the donor belongs as a member of a profession, occupation, industry or region.

*See* rule 51:3.13.

**"Third degree of relationship"** includes the following persons: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew, and niece. *See* rule 51:2.11.

### Application

The application section establishes when the various rules apply to a judge or judicial candidate.

**I. Applicability of the Iowa Code of Judicial Conduct**

**(A) The provisions of the Iowa Code of Judicial Conduct apply to all full-time and senior judges. Parts II through IV of this section identify those provisions that apply to three distinct categories of part-time judges. Canon 4 applies to judicial candidates.**

**(B) A judge, within the meaning of the Iowa Code of Judicial Conduct, is anyone who is authorized to perform judicial functions, including an officer such as a magistrate, special master, child support referee, probate referee, or judicial hospitalization referee. Administrative law judges are not judges within the meaning of the Code.**

**Comment**

[1] The rules in the Iowa Code of Judicial Conduct have been formulated to address the ethical obligations of any person who serves a judicial function and are premised upon the supposition that a uniform system of ethical principles should apply to all those authorized to perform judicial functions.

[2] The determination of which category and, accordingly, which specific rules apply to an individual judicial officer depends upon the facts of the particular judicial service.

[3] In Iowa, many districts have formed drug courts. Judges presiding in drug courts may be authorized and even encouraged to communicate directly with social workers, probation officers, and others outside the context of their usual judicial role as independent decision makers on issues of fact and law. When the law* specifically authorizes conduct not otherwise permitted under these rules, that law takes precedence over the provisions set forth in the Iowa Code of Judicial Conduct. Nevertheless, judges serving on drug courts and other "problem solving" courts shall comply with this Code except to the extent the law provides and permits otherwise.

**II. Retired Justice or Judge Subject to Recall for Service under Iowa Code Section 602.1612**

**A retired justice or judge subject to recall for service, who by law is not permitted to practice law, is not required to comply:**

**(A) with rule 51:3.9 (Service as Arbitrator or Mediator), except while serving as a judge; or**

**(B) at any time with rule 51:3.8 (Appointments to Fiduciary Positions).**

**Comment**

[1] For the purposes of this section, as long as a retired judge is subject to being recalled for service, the judge is considered to "perform judicial functions." This provision does not supersede the restrictions applicable to retired judges participating in the senior judge program.

**III. Magistrate and Other Continuing Part-Time Judge**

**A judge who serves repeatedly on a part-time basis or under a continuing appointment ("continuing part-time judge"),**

**(A) is not required to comply:**

**(1) with rules 51:2.10(A) and 51:2.10(B) (Judicial Statements on Pending and Impending Cases), except while serving as a judge; or**

**(2) at any time with rules 51:3.4 (Appointments to Governmental Positions), 51:3.8 (Appointments to Fiduciary Positions), 51:3.9 (Service as Arbitrator or Mediator), 51:3.10 (Practice of Law), 51:3.11 (Financial, Business, or Remunerative Activities), and 51:3.14 (Reimbursement of Expenses and Waivers of Fees or Charges);**

**(B) except as provided in paragraph (C), shall not practice law in the court on which the judge serves and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto; and**

**(C) when not otherwise prohibited by the Iowa Rules of Professional Conduct, may appear as counsel for a client in a matter that is within the jurisdiction of a magistrate so long as the matter is heard by a district judge or a district associate judge. Partners or associates of a magistrate may appear before a magistrate other than their partner or associate.**

**Comment**

[1] When a person who has been a continuing part-time judge is no longer a continuing part-time judge, that person may act as a lawyer in a proceeding in which he or she has served as a judge or in any other proceeding related thereto only with the informed consent of all parties, and pursuant to Iowa Rule of Professional Conduct 32:1.12.

**IV. Special Master, Referee, and Other Pro Tempore Part-Time Judge**

**A special master, referee, and other pro tempore part-time judge who serves or expects to serve once or only sporadically on a part-time basis under a separate appointment for each period of service or for each case heard is not required to comply:**

**(A) except while serving as a judge, with rules 51:1.2 (Promoting Confidence in the Judiciary), 51:2.4 (External Influences on Judicial Conduct), 51:2.10 (Judicial Statements on Pending and Impending Cases), or 51:3.2 (Appearances before Governmental Bodies and Consultation with Government Officials); or**

**(B) at any time with rules 51:3.4 (Appointments to Governmental Positions), 51:3.6 (Affiliation with Discriminatory Organizations), 51:3.7 (Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities), 51:3.8 (Appointments to Fiduciary Positions), 51:3.9 (Service as Arbitrator or Mediator), 51:3.10 (Practice of Law), 51:3.11 (Financial, Business, or Remunerative Activities), 51:3.13 (Acceptance of Gifts, Loans, Bequests, Benefits, or Other Things of Value), 51:3.15 (Reporting Requirements), 51:4.1 (Political and Campaign Activities of Judges and Judicial Candidates in General), and 51:4.5 (Activities of Judges Who Become Candidates for Nonjudicial Office).**

**V. Time for Compliance**

**A person to whom the Iowa Code of Judicial Conduct becomes applicable shall comply immediately with its provisions, except that those judges to whom rules 51:3.8 (Appointments to Fiduciary Positions) and 51:3.11 (Financial, Business, or Remunerative Activities) apply shall comply with those rules as soon as reasonably possible, but in no event later than six months after the Code becomes applicable to the judge.**

**Comment**

[1] If serving as a fiduciary when selected as judge, a new judge may, notwithstanding the prohibitions in rule 51:3.8, continue to serve as fiduciary, but only for that period of time necessary to avoid serious adverse consequences to the beneficiaries of the fiduciary relationship and in no event longer than six months. Similarly, if engaged at the time of judicial selection in a business activity, a new judge may, notwithstanding the prohibitions in rule 51:3.11, continue in that activity for a reasonable period but in no event longer than six months.

## *CANON 1*

## *A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY*

### Rule 51:1.1 COMPLIANCE WITH THE LAW

**A judge shall comply with the law,* including the Iowa Code of Judicial Conduct.**
[Court Order April 30, 2010, effective May 3, 2010]

### Rule 51:1.2 PROMOTING CONFIDENCE IN THE JUDICIARY

**A judge shall act at all times in a manner that promotes public confidence in the independence,* integrity,* and impartiality* of the judiciary and shall avoid impropriety* and the appearance of impropriety.**

**Comment**

[1] Public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a judge.

[2] A judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens and must accept the restrictions imposed by the Iowa Code of Judicial Conduct.

[3] Conduct that compromises or appears to compromise the independence, integrity, and impartiality of a judge undermines public confidence in the judiciary. Because it is not practicable to list all such conduct, the rule is necessarily cast in general terms.

[4] Judges should participate in activities that promote ethical conduct among judges and lawyers, support professionalism within the judiciary and the legal profession, and promote access to justice for all.

[5] Actual improprieties include violations of law, court rules or provisions of the Iowa Code of Judicial Conduct. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge.

[6] A judge should initiate and participate in community outreach activities for the purpose of promoting public understanding of and confidence in the administration of justice. In conducting such activities, the judge must act in a manner consistent with the Iowa Code of Judicial Conduct.
[Court Order April 30, 2010, effective May 3, 2010]

### Rule 51:1.3 AVOIDING ABUSE OF THE PRESTIGE OF JUDICIAL OFFICE

**A judge shall not abuse the prestige of judicial office to advance the personal or economic interests* of the judge or others, or allow others to do so.**

**Comment**

[1] It is improper for a judge to use or attempt to use his or her position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a judge to allude to his or

her judicial status to gain favorable treatment in encounters with traffic officials. Similarly, a judge must not use judicial letterhead to gain an advantage in conducting his or her personal business.

[2] A judge may provide a reference or recommendation for an individual based upon the judge's personal knowledge. The judge may use official letterhead for such reference or recommendation. Except as provided in comment 3 or as a member of a nominating commission under Iowa Code chapter 46, a judge should not provide a reference or recommendation for a person seeking appointment to judicial office. This rule does not prohibit an applicant from listing a judge as a reference when seeking appointment to judicial office.

[3] Judges may participate in the process of judicial selection by cooperating with appointing authorities and screening committees and by responding to specific inquiries from such entities concerning the professional qualifications of a person being considered for judicial office.

[4] Special considerations arise when judges write or contribute to publications of for-profit entities, whether related or unrelated to the law. A judge should not permit anyone associated with the publication of such materials to exploit the judge's office in a manner that violates this rule or other applicable law. In contracts for publication of a judge's writing, the judge should retain sufficient control over the advertising to avoid such exploitation.

[Court Order April 30, 2010, effective May 3, 2010]

## *CANON 2*

## *A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY*

### Rule 51:2.1 GIVING PRECEDENCE TO THE DUTIES OF JUDICIAL OFFICE

**The duties of judicial office, as prescribed by law,* shall take precedence over all of a judge's personal and extrajudicial activities.**

**Comment**

[1] To ensure that judges are available to fulfill their judicial duties, judges must conduct their personal and extrajudicial activities to minimize the risk of conflicts that would result in frequent disqualification. *See* Canon 3.

[2] Although it is not a duty of judicial office unless prescribed by law, judges are encouraged to participate in activities that promote public understanding of and confidence in the justice system.

[Court Order April 30, 2010, effective May 3, 2010]

### Rule 51:2.2 IMPARTIALITY AND FAIRNESS

**A judge shall uphold and apply the law,* and shall perform all duties of judicial office fairly and impartially.***

**Comment**

[1] To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.

[2] Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.

[3] When applying and interpreting the law, a judge sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this rule.

[4] It is not a violation of this rule for a judge to make reasonable accommodations to ensure self-represented litigants the opportunity to have their matters fairly heard. By way of illustration, a judge may: (1) provide brief information about the proceeding; (2) provide information about evidentiary and foundational requirements; (3) modify the traditional order of taking evidence; (4) refrain from using legal jargon; (5) explain the basis for a ruling; and (6) make referrals to any resources available to assist the litigant in the preparation of the case.

[Court Order April 30, 2010, effective May 3, 2010]

**Rule 51:2.3 BIAS, PREJUDICE, AND HARASSMENT**

**(A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.**

**(B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.**

**(C) A judge shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice or engaging in harassment, based upon attributes including but not limited to race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, against parties, witnesses, lawyers, or others.**

**(D) The restrictions of paragraphs (B) and (C) do not preclude judges or lawyers from making legitimate reference to the listed factors, or similar factors, when they are relevant to an issue in a proceeding.**

**Comment**

[1] A judge who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute.

[2] Examples of manifestations of bias or prejudice include but are not limited to epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based upon stereotypes; threatening, intimidating, or hostile acts; suggestions of connections between race, ethnicity, or nationality and crime; insensitive statements about crimes against women; and irrelevant references to personal characteristics. Even facial expressions and body language can convey to parties and lawyers in the proceeding, jurors, the media, and others an appearance of bias or prejudice. A judge must avoid conduct that may reasonably be perceived as prejudiced or biased.

[3] Harassment, as referred to in paragraphs (B) and (C), is verbal or physical conduct that denigrates or shows hostility or aversion toward a person on bases such as race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation.

[4] Sexual harassment includes but is not limited to sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is unwelcome.

[Court Order April 30, 2010, effective May 3, 2010]

**Rule 51:2.4 EXTERNAL INFLUENCES ON JUDICIAL CONDUCT**

**(A) A judge shall not be swayed by public clamor or fear of criticism.**

**(B) A judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment.**

**(C) A judge shall not convey or permit others to convey the impression that any person or organization is in a position to influence the judge.**

**Comment**

[1] An independent judiciary requires that judges decide cases according to the law and facts, without regard to whether particular laws or litigants are popular or unpopular with the public, the media, government officials, or the judge's friends or family. Confidence in the judiciary is eroded if judicial decision making is perceived to be subject to inappropriate outside influences.

[Court Order April 30, 2010, effective May 3, 2010]

**Rule 51:2.5 COMPETENCE, DILIGENCE, AND COOPERATION**

**(A) A judge shall perform judicial and administrative duties competently and diligently.**

**(B) A judge shall cooperate with other judges and court officials in the administration of court business.**

**Comment**

[1] Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a judge's responsibilities of judicial office.

[2] A judge should seek the necessary docket time, court staff, expertise, and resources to discharge all adjudicative and administrative responsibilities.

[3] Prompt disposition of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to take reasonable measures to ensure that court officials, litigants, and their lawyers cooperate with the judge to that end.

[4] In disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of parties to be heard and to have issues resolved without unnecessary cost or delay. A judge should monitor and supervise cases in ways that reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs.

[Court Order April 30, 2010, effective May 3, 2010]

## Rule 51:2.6 ENSURING THE RIGHT TO BE HEARD

**(A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to he heard according to law.***

**(B) A judge may encourage parties to a proceeding and their lawyers to settle matters in dispute but shall not act in a manner that coerces any party into settlement.**

**Comment**

[1] The right to be heard is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are observed.

[2] The judge plays an important role in overseeing the settlement of disputes, but should be careful that efforts to further settlement do not undermine any party's right to be heard according to law. The judge should keep in mind the effect that the judge's participation in settlement discussions may have, not only on the judge's own views of the case, but also on the perceptions of the lawyers and the parties if the case remains with the judge after settlement efforts are unsuccessful. Among the factors that a judge should consider when deciding upon an appropriate settlement practice for a case are (1) whether the parties have requested or voluntarily consented to a certain level of participation by the judge in settlement discussions, (2) whether the parties and their counsel are relatively sophisticated in legal matters, (3) whether the case will be tried by the judge or a jury, (4) whether the parties participate with their counsel in settlement discussions, (5) whether any parties are unrepresented by counsel, and (6) whether the matter is civil or criminal.

[3] Judges must be mindful of the effect settlement discussions can have, not only on their objectivity and impartiality, but also on the appearance of their objectivity and impartiality. Despite a judge's best efforts, there may be instances when information obtained during settlement discussions could influence a judge's decision making during trial, and, in such instances, the judge should consider whether disqualification may be appropriate. *See* rule 51:2.11(A)(1).

[Court Order April 30, 2010, effective May 3, 2010]

## Rule 51:2.7 RESPONSIBILITY TO DECIDE

**A judge shall hear and decide matters assigned to the judge, except when disqualification is required by rule 2.11 or other law.***

**Comment**

[1] Judges must be available to decide the matters that come before the court. Although there are times when disqualification is necessary to protect the rights of litigants and preserve public confidence in the independence, integrity, and impartiality of the judiciary, judges must be available

to decide matters that come before the courts. Unwarranted disqualification may bring public disfavor to the court and to the judge personally. The dignity of the court, the judge's respect for fulfillment of judicial duties, and a proper concern for the burdens that may be imposed upon the judge's colleagues require that a judge not use disqualification to avoid cases that present difficult, controversial, or unpopular issues.
[Court Order April 30, 2010, effective May 3, 2010]

**Rule 51:2.8 DECORUM, DEMEANOR, AND COMMUNICATION WITH JURORS**

**(A) A judge shall require order and decorum in proceedings before the court.**

**(B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.**

**(C) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.**

**Comment**

[1] The duty to hear all proceedings with patience and courtesy is not inconsistent with the duty imposed in rule 51:2.5 to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.

[2] Commending or criticizing jurors for their verdict may imply a judicial expectation in future cases and may impair a juror's ability to be fair and impartial in a subsequent case.

[3] A judge who is not otherwise prohibited by law from doing so may meet with jurors who choose to remain after trial but should be careful not to discuss the merits of the case.
[Court Order April 30, 2010, effective May 3, 2010]

**Rule 51:2.9 EX PARTE COMMUNICATIONS**

**(A) A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending matter* or impending matter,* except as follows:**

**(1) When circumstances require it, ex parte communication for scheduling, administrative, or emergency purposes, which does not address substantive matters, is permitted, provided:**

**(a) the judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the ex parte communication; and**

**(b) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication, and gives the parties an opportunity to respond.**

**(2) A judge may obtain the written advice of a disinterested expert on the law applicable to a proceeding before the judge, if the judge gives advance notice to the parties of the person to be consulted and the subject matter of the advice to be solicited, and affords the parties a reasonable opportunity to object and respond to the notice and to the advice received.**

**(3) A judge may consult with court staff and court officials whose functions are to aid the judge in carrying out the judge's adjudicative responsibilities, or with other judges, provided the judge makes reasonable efforts to avoid receiving factual information that is not part of the record, and does not abrogate the responsibility personally to decide the matter.**

**(4) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to settle matters pending before the judge.**

**(5) A judge may initiate, permit, or consider any ex parte communication when expressly authorized by law* to do so.**

**(B) If a judge inadvertently receives an unauthorized ex parte communication bearing upon the substance of a matter, the judge shall make provision promptly to notify the parties of the substance of the communication and provide the parties with an opportunity to respond.**

**(C) A judge shall not investigate facts in a matter independently and shall consider only the evidence presented and any facts that may properly be judicially noticed.**

**(D) A judge shall make reasonable efforts, including providing appropriate supervision,**

**to ensure that this rule is not violated by court staff, court officials, and others subject to the judge's direction and control.**

**Comment**

[1] To the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge. *See, e.g.*, Iowa R. Civ. P. 1.1507.

[2] Whenever the presence of a party or notice to a party is required by this rule, it is the party's lawyer or, if the party is unrepresented, the party who is to be present or to whom notice is to be given.

[3] The proscription against communications concerning a proceeding includes communications with lawyers, law teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted by this rule.

[4] A judge may initiate, permit, or consider ex parte communications expressly authorized by law, such as when serving on therapeutic or problem-solving courts, mental health courts, or drug courts. In this capacity, judges may assume a more interactive role with parties, treatment providers, probation officers, social workers, and others.

[5] A judge may consult with other judges on pending matters, but must avoid ex parte discussions of a case with judges who have previously been disqualified from hearing the matter and with judges who have appellate jurisdiction over the matter.

[6] The prohibition against a judge investigating the facts in a matter extends to information available in all mediums, including electronic.

[7] A judge may consult ethics advisory committees, outside counsel, or legal experts concerning the judge's compliance with the Iowa Code of Judicial Conduct. Such consultations are not subject to the restrictions of paragraph (A)(2).

[8] Parties frequently present ex parte requests to a judge for routine scheduling matters. Iowa Rule of Civil Procedure 1.453 requires the clerk to provide notice of all orders entered by the court. A notice of orders entered in routine scheduling matters provided by the clerk satisfies the judge's obligation under paragraph (A)(1)(b).

[Court Order April 30, 2010, effective May 3, 2010]

## Rule 51:2.10 JUDICIAL STATEMENTS ON PENDING AND IMPENDING CASES

**(A) A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a pending matter* or impending matter* in any court, or make any nonpublic statement that might substantially interfere with a fair trial or hearing.**

**(B) A judge shall not, in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial* performance of the adjudicative duties of judicial office.**

**(C) A judge shall require court staff, court officials, and others subject to the judge's direction and control to refrain from making statements that the judge would he prohibited from making by paragraphs (A) and (B).**

**(D) Notwithstanding the restrictions in paragraph (A), a judge may explain court procedures and may comment on any proceeding in which the judge is a litigant in a personal capacity.**

**(E) Subject to the requirements of paragraph (A), a judge may respond directly or through a third party to allegations in the media or elsewhere concerning the judge's conduct in a matter.**

**Comment**

[1] This rule's restrictions on judicial speech are essential to the maintenance of the independence, integrity, and impartiality of the judiciary.

[2] This rule does not prohibit a judge from commenting on proceedings in which the judge is a litigant in a personal capacity. In cases in which the judge is a litigant in an official capacity, such as a writ of mandamus, the judge must not comment publicly.

[3] Depending upon the circumstances, the judge should consider whether it may be preferable for a third party, rather than the judge, to respond or issue statements in connection with allegations concerning the judge's conduct in a matter.

[Court Order April 30, 2010, effective May 3, 2010]

**Rule 51:2.11 DISQUALIFICATION**

**(A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality* might reasonably be questioned, including but not limited to the following circumstances:**

**(1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge* of facts that are in dispute in the proceeding.**

**(2) The judge knows* that the judge, the judge's spouse or domestic partner,* or a person within the third degree of relationship* to either of them, or the spouse or domestic partner of such a person is:**

**(a) a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;**

**(b) acting as a lawyer in the proceeding;**

**(c) a person who has more than a de minimis* interest that could be substantially affected by the proceeding; or**

**(d) likely to be a material witness in the proceeding.**

**(3) The judge knows that he or she, individually or as a fiduciary,* or the judge's spouse, domestic partner, parent, or child, or any other member of the judge's family residing in the judge's household,* has an economic interest* in the subject matter in controversy or in a party to the proceeding.**

**(4) The judge knows or learns by means of disclosures mandated by law* or a timely motion that the judge's participation in a matter or proceeding would violate due process of law as a result of:**

**(a) campaign contributions made by donors associated* or affiliated* with a party or counsel appearing before the court, or**

**(b) independent campaign expenditures by a person* other than a judge's campaign committee, whose donors to the independent campaign are associated or affiliated with a party or counsel appearing before the court.**

**(5) The judge, while a judge or a judicial candidate,* has made a public statement, other than in a court proceeding, judicial decision, or opinion, that commits or appears to commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy.**

**(6) The judge:**

**(a) served as a lawyer in the matter in controversy or was associated with a lawyer who participated substantially as a lawyer in the matter during such association;**

**(b) served in governmental employment and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding, or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy;**

**(c) was a material witness concerning the matter; or**

**(d) previously presided as a judge over the matter in another court.**

**(B) A judge shall keep informed about the judge's personal and fiduciary economic interests and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse or domestic partner and minor children residing in the judge's household.**

**(C) A judge subject to disqualification under this rule, other than for bias or prejudice under paragraph (A)(1), may disclose on the record the basis of the judge's disqualification and may ask the parties and their lawyers to consider, outside the presence of the judge and court personnel, whether to waive disqualification. If, following the disclosure, the parties and lawyers agree, without participation by the judge or court personnel, that the judge should not be disqualified, the judge may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding.**

**Comment**

[1] Under this rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless of whether any of the specific provisions of paragraphs (A)(1) through (6) apply. The term "recusal" is used interchangeably with the term "disqualification."

[2] A judge's obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify is filed.

[3] The rule of necessity may override the rule of disqualification. For example, a judge might be required to participate in judicial review of a judicial salary statute, or might be the only judge available in a matter requiring immediate judicial action, such as a hearing on probable cause or a temporary restraining order. In matters that require immediate action, the judge must disclose on the record the basis for possible disqualification and make reasonable efforts to transfer the matter to another judge as soon as practicable.

[4] The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not itself disqualify the judge. If, however, the judge's impartiality might reasonably be questioned under paragraph (A), or the relative is known by the judge to have an interest in the law firm that could be substantially affected by the proceeding under paragraph (A)(2)(c), the judge's disqualification is required.

[5] A judge should disclose on the record information that the judge believes the parties or their lawyers might reasonably consider relevant to a possible motion for disqualification, even if the judge believes there is no basis for disqualification.

[6] "Economic interest," as set forth in the terminology section, means ownership of more than a de minimis legal or equitable interest. Except for situations in which a judge participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before a judge, it does not include:

(1) an interest in the individual holdings within a mutual or common investment fund;

(2) an interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the judge or the judge's spouse, domestic partner, parent, or child serves as a director, officer, advisor, or other participant;

(3) a deposit in a financial institution or deposits or proprietary interests the judge may maintain as a member of a mutual savings association or credit union, or similar proprietary interests; or

(4) an interest in the issuer of government securities held by the judge.

[Court Order April 30, 2010, effective May 3, 2010]

### Rule 51:2.12 SUPERVISORY DUTIES

**(A) A judge shall require court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations under the Iowa Code of Judicial Conduct.**

**(B) A judge with supervisory authority for the performance of other judges shall take reasonable measures to ensure that those judges properly discharge their judicial responsibilities, including the prompt disposition of matters before them.**

**Comment**

[1] A judge is responsible for his or her own conduct and for the conduct of others, such as staff, when those persons are acting at the judge's direction or control. A judge may not direct court personnel to engage in conduct on the judge's behalf or as the judge's representative when such conduct would violate the Iowa Code of Judicial Conduct if undertaken by the judge.

[2] Public confidence in the judicial system depends upon timely justice. To promote the efficient administration of justice, a judge with supervisory authority must take the steps needed to ensure that judges under his or her supervision administer their workloads promptly.

[Court Order April 30, 2010, effective May 3, 2010]

### Rule 51:2.13 ADMINISTRATIVE APPOINTMENTS

**(A) In making administrative appointments, a judge:**

**(1) shall exercise the power of appointment impartially* and on the basis of merit; and**

**(2) shall avoid nepotism, favoritism, and unnecessary appointments.**

**(B) A judge shall not approve compensation of appointees beyond the fair value of services rendered.**

**Comment**

[1] Appointees of a judge may include assigned counsel, mediators, officials such as district

associate judges, magistrates, referees, commissioners, special masters, receivers, guardians, and personnel such as clerks, secretaries, and court reporters. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by paragraph (A).

[2] Unless otherwise defined by law, nepotism is the appointment or hiring of any relative within the third degree of relationship of either the judge or the judge's spouse or domestic partner*, or the spouse or domestic partner of such relative.

[Court Order April 30, 2010, effective May 3, 2010]

**Rule 51:2.14 DISABILITY AND IMPAIRMENT**

**A judge having a reasonable belief that the performance of a lawyer or another judge is impaired by drugs or alcohol, or by a mental, emotional, or physical condition, shall take appropriate action, which may include a confidential referral to a lawyer or judicial assistance program.**

**Comment**

[1] "Appropriate action" means action intended and reasonably likely to help the judge or lawyer in question address the problem and prevent harm to the justice system. Depending upon the circumstances, appropriate action may include, but is not limited to, speaking directly to the impaired person, notifying an individual with supervisory responsibility over the impaired person, or making a referral to an assistance program.

[2] Taking or initiating corrective action by way of referral to an assistance program may satisfy a judge's responsibility under this rule. Assistance programs have many approaches for offering help to impaired judges and lawyers, such as intervention, counseling, or referral to appropriate health care professionals. Depending upon the gravity of the conduct that has come to the judge's attention, however, the judge may be required to take other action, such as reporting the impaired judge or lawyer to the appropriate authority*, agency, or body. *See* rule 51:2.15.

[Court Order April 30, 2010, effective May 3, 2010]

**Rule 51:2.15 RESPONDING TO JUDICIAL AND LAWYER MISCONDUCT**

**(A) A judge having knowledge* that another judge has committed a violation of the Iowa Code of Judicial Conduct that raises a substantial question regarding the judge's honesty, trustworthiness, or fitness as a judge in other respects shall inform the appropriate authority.***

**(B) A judge having knowledge that a lawyer has committed a violation of the Iowa Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the appropriate authority.**

**(C) A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code shall take appropriate action.**

**(D) A judge who receives information indicating a substantial likelihood a lawyer has committed a violation of this Code shall take appropriate action.**

**(E) This rule does not require disclosure of information gained by a judge while participating in an approved judges or lawyers assistance program.**

**Comment**

[1] Taking action to address known misconduct is a judge's obligation. Paragraphs (A) and (B) impose an obligation on the judge to report to the appropriate disciplinary authority the known misconduct of another judge or a lawyer that raises a substantial question regarding the honesty, trustworthiness, or fitness of that judge or lawyer. Ignoring or denying known misconduct among one's judicial colleagues or members of the legal profession undermines a judge's responsibility to participate in efforts to ensure public respect for the justice system. This rule limits the reporting obligation to those offenses that an independent judiciary must vigorously endeavor to prevent.

[2] A judge who does not have actual knowledge that another judge or a lawyer may have committed misconduct, but receives information indicating a substantial likelihood of such misconduct, is required to take appropriate action under paragraphs (C) and (D). Appropriate action may include, but is not limited to, communicating directly with the judge who may have

violated this Code, communicating with a supervising judge, or reporting the suspected violation to the appropriate authority or other agency or body. Similarly, actions to be taken in response to information indicating that a lawyer has committed a violation of the Rules of Professional Conduct may include, but are not limited to, communicating directly with the lawyer who may have committed the violation or reporting the suspected violation to the appropriate authority or other agency or body.

[3] Information about a judge's misconduct or fitness may be received by a judge in the course of that judge's participation in an approved judges assistance program. In that circumstance, providing for an exception to reporting requirements of paragraphs (A) and (B) of this rule encourages judges to seek treatment through such a program. Conversely, without such an exception, judges may hesitate to seek assistance from these programs, which may then result in additional harm to their professional careers and additional injury to the welfare of the public. These rules do not otherwise address the confidentiality of information received by a judge participating in an approved judges assistance program; such an obligation, however, may be imposed by the rules of the program or other law.

[Court Order April 30, 2010, effective May 3, 2010]

### Rule 51:2.16 COOPERATION WITH DISCIPLINARY AUTHORITIES

**(A) A judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies.**

**(B) A judge shall not retaliate, directly or indirectly, against a person known* or suspected to have assisted or cooperated with an investigation of a judge or a lawyer.**

**Comment**

[1] Cooperation with investigations and proceedings of judicial and lawyer discipline agencies, as required in paragraph (A), instills confidence in judges' commitment to the integrity of the judicial system and the protection of the public.

[Court Order April 30, 2010, effective May 3, 2010]

## *CANON 3*

## *A JUDGE SHALL CONDUCT THE JUDGE'S PERSONAL AND EXTRAJUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH THE OBLIGATIONS OF JUDICIAL OFFICE*

### Rule 51:3.1 EXTRAJUDICIAL ACTIVITIES IN GENERAL

**A judge may engage in extrajudicial activities, except as prohibited by law* or the Iowa Code of Judicial Conduct. However, when engaging in extrajudicial activities, a judge shall not:**

**(A) participate in activities that will interfere with the proper performance of the judge's judicial duties;**

**(B) participate in activities that will lead to frequent disqualification of the judge;**

**(C) participate in activities that would appear to a reasonable person to undermine the judge's independence,* integrity,* or impartiality;***

**(D) engage in conduct that would appear to a reasonable person to be coercive; or**

**(E) make use of court premises, staff, stationery, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, the provision of legal services, or the administration of justice, or unless such additional use is permitted by law.**

**Comment**

[1] To the extent that time permits, and judicial independence and impartiality are not compromised, judges are encouraged to engage in appropriate extrajudicial activities. Judges are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system, the provision of legal services, and the administration of justice, such as by speaking, writing, teaching,

or participating in scholarly research projects. In addition, judges are permitted and encouraged to engage in educational, religious, charitable, fraternal or civic extrajudicial activities not conducted for profit, even when the activities do not involve the law. *See* rule 51:3.7.

[2] Participation in both law-related and other extrajudicial activities helps integrate judges into their communities and furthers public understanding of and respect for courts and the judicial system.

[3] Discriminatory actions and expressions of bias or prejudice by a judge, even outside the judge's official or judicial actions, are likely to appear to a reasonable person to call into question the judge's integrity and impartiality. Examples include jokes or other remarks that demean individuals based upon their race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, or socioeconomic status. For the same reason, a judge's extrajudicial activities must not be conducted in connection or affiliation with an organization that practices invidious discrimination. *See* rule 51:3.6.

[4] While engaged in permitted extrajudicial activities, judges must not coerce others or take action that would reasonably be perceived as coercive. For example, depending upon the circumstances, a judge's solicitation of contributions or memberships for an organization, even as permitted by rule 51:3.7(A), might create the risk that the person solicited would feel obligated to respond favorably, or would do so to curry favor with the judge.

[Court Order April 30, 2010, effective May 3, 2010]

## Rule 51:3.2 APPEARANCES BEFORE GOVERNMENTAL BODIES AND CONSULTATION WITH GOVERNMENT OFFICIALS

**A judge shall not appear voluntarily at a public hearing before, or otherwise consult with, an executive or a legislative body or official, except:**

**(A) in connection with matters concerning the law, the legal system, the provision of legal services, or the administration of justice;**

**(B) in connection with matters about which the judge acquired knowledge or expertise in the course of the judge's judicial duties; or**

**(C) when the judge is acting pro se in a matter involving the judge's legal or economic interests, or when the judge is acting in a fiduciary* capacity.**

### Comment

[1] Judges possess special expertise in matters of law, the legal system, the provision of legal services, and the administration of justice and may properly share that expertise with governmental bodies and executive or legislative branch officials.

[2] In appearing before governmental bodies or consulting with government officials, judges must be mindful that they remain subject to other provisions of the Iowa Code of Judicial Conduct, such as rule 51:1.3, prohibiting judges from using the prestige of office to advance their own or others' interests, rule 51:2.10, governing public comment on pending and impending matters, and rule 51:3.1(C), prohibiting judges from engaging in extrajudicial activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality.

[3] In general, it would be an unnecessary and unfair burden to prohibit judges from appearing before governmental bodies or consulting with government officials on matters that are likely to affect them as private citizens, such as zoning proposals affecting their real property. In engaging in such activities, however, judges must not refer to their judicial positions and must otherwise exercise caution to avoid using the prestige of judicial office.

[Court Order April 30, 2010, effective May 3, 2010]

## Rule 51:3.3 TESTIFYING AS A CHARACTER WITNESS

**A judge shall not testify as a character witness in a judicial, administrative, or other adjudicatory proceeding or otherwise vouch for the character of a person in a legal proceeding, except when duly subpoenaed.**

### Comment

[1] A judge who, without being subpoenaed, testifies as a character witness abuses the prestige of

judicial office to advance the interests of another. *See* rule 51:1.3. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to testify as a character witness.
[Court Order April 30, 2010, effective May 3, 2010]

**Rule 51:3.4 APPOINTMENTS TO GOVERNMENTAL POSITIONS**

**A judge shall not accept appointment to a governmental committee, board, commission, or other governmental position, unless it is one that concerns the law, the legal system, the provision of legal services, or the administration of justice.**

**Comment**

[1] Rule 3.4 implicitly acknowledges the value of judges accepting appointments to entities that concern the law, the legal system, the provision of legal services, or the administration of justice. Even in such instances, however, a judge should assess the appropriateness of accepting an appointment, paying particular attention to the subject matter of the appointment and the availability and allocation of judicial resources, including the judge's time commitments, and giving due regard to the requirements of the independence and impartiality of the judiciary.

[2] A judge may represent his or her country, state, or locality on ceremonial occasions or in connection with historical, educational, or cultural activities. Such representation does not constitute acceptance of a government position.
[Court Order April 30, 2010, effective May 3, 2010]

**Rule 51:3.5 USE OF NONPUBLIC INFORMATION**

**A judge shall not intentionally disclose or use nonpublic information* acquired in a judicial capacity for any purpose unrelated to the judge's judicial duties.**

**Comment**

[1] In the course of performing judicial duties, a judge may acquire information of commercial or other value that is unavailable to the public. The judge must not reveal or use such information for personal gain or for any purpose unrelated to his or her judicial duties.

[2] This rule is not intended, however, to affect a judge's ability to act on information as necessary to protect the health or safety of any individual if consistent with other provisions of the Iowa Code of Judicial Conduct.
[Court Order April 30, 2010, effective May 3, 2010]

**Rule 51:3.6 AFFILIATION WITH DISCRIMINATORY ORGANIZATIONS**

**(A) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation. A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not prohibited.**

**(B) A judge shall not use the benefits or facilities of an organization if the judge knows* or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.**

**Comment**

[1] A judge's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired.

[2] An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited.

[3] When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization.

[4] This rule does not apply to national or state military service.

[Court Order April 30, 2010, effective May 3, 2010]

**Rule 51:3.7 PARTICIPATION IN EDUCATIONAL, RELIGIOUS, CHARITABLE, FRATERNAL, OR CIVIC ORGANIZATIONS AND ACTIVITIES**

**(A) Subject to the requirements of rule 51:3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, the provision of legal services, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities:**

**(1) assisting such an organization or entity in planning related to fund-raising, volunteering goods or services at fundraising events, and participating in the management and investment of the organization's or entity's funds;**

**(2) soliciting* contributions* for such an organization or entity, but only from members of the judge's family,* or from judges over whom the judge does not exercise supervisory or appellate authority;**

**(3) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the judge may participate only if the event concerns the law, the legal system, the provision of legal services, or the administration of justice;**

**(4) making recommendations to such a public or private fund-granting organization or entity in connection with its programs and activities, but only if the organization or entity is concerned with the law, the legal system, the provision of legal services, or the administration of justice; and**

**(5) serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity, unless it is likely that the organization or entity:**

**(a) will be engaged in proceedings that would ordinarily come before the judge; or**

**(b) will frequently be engaged in adversary proceedings in the court of which the judge is a member, or in any court subject to the appellate jurisdiction of the court of which the judge is a member.**

**(B) A judge may encourage lawyers to provide pro bono publico legal services.**

**(C) Subject to the requirements of rule 51:3.1, a judge may:**

**(1) provide leadership in identifying and addressing issues involving equal access to the justice system; developing public education programs; engaging in activities to promote the fair administration of justice and convening, participating or assisting in advisory committees and community collaborations devoted to the improvement of the law, the legal system, the provision of legal services, or the administration of justice.**

**(2) endorse projects and programs directly related to the law, the legal system, the provision of legal services, and the administration of justice to those coming before the courts.**

**(3) participate in programs concerning the law or which promote the administration of justice.**

**Comment**

[1] The activities permitted by paragraph (A) generally include those sponsored by or undertaken on behalf of public or private not-for-profit educational institutions, and other not-for-profit organizations, including law-related, charitable, and other organizations.

[2] Even for law-related organizations, a judge should consider whether the membership and purposes of the organization, or the nature of the judge's participation in or association with the organization, would conflict with the judge's obligation to refrain from activities that reflect adversely upon a judge's independence, integrity, and impartiality.

[3] Attendance at fundraising events and volunteering services or goods at or in support of fundraising events do not present an element of coercion or abuse the prestige of the judicial office and are not prohibited by this rule.

[4] In addition to appointing lawyers to serve as counsel for indigent parties in individual cases, a judge may promote broader access to justice by encouraging lawyers to participate in pro bono publico legal services, if in doing so the judge does not employ coercion or abuse the prestige of judicial office. Such encouragement may take many forms, including providing lists of available programs, training lawyers to do pro bono publico legal work, and participating in events recognizing lawyers who have done pro bono publico work.

[5] Judges, as parents, may assist their children in their fundraising activities if the procedures employed are not coercive and the sums nominal.

[Court Order April 30, 2010, effective May 3, 2010]

## Rule 51:3.8 APPOINTMENTS TO FIDUCIARY POSITIONS

**(A) A judge shall not accept appointment to serve in a fiduciary* position, such as executor, administrator, trustee, guardian, attorney in fact, or other personal representative, except for the estate, trust, or person of a member of the judge's family,* and then only if such service will not interfere with the proper performance of judicial duties.**

**(B) A judge shall not serve in a fiduciary position if the judge as fiduciary will likely be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which the judge serves, or one under its appellate jurisdiction.**

**(C) A judge acting in a fiduciary capacity shall be subject to the same restrictions on engaging in financial activities that apply to a judge personally.**

**(D) If a person who is serving in a fiduciary position becomes a judge, he or she must comply with this rule as soon as reasonably practicable, but in no event later than six months after becoming a judge.**

**Comment**

[1] A judge should recognize that other restrictions imposed by the Iowa Code of Judicial Conduct may conflict with a judge's obligations as a fiduciary; in such circumstances, a judge should resign as fiduciary. For example, serving as a fiduciary might require frequent disqualification of a judge under rule 51:2.11 because a judge is deemed to have an economic interest in shares of stock held by a trust if the amount of stock held is more than de minimis.*

[Court Order April 30, 2010, effective May 3, 2010]

## Rule 51:3.9 SERVICE AS ARBITRATOR OR MEDIATOR

**A judge shall not act as an arbitrator or a mediator or perform other judicial functions apart from the judge's official duties unless expressly authorized by law.***

**Comment**

[1] This rule does not prohibit a judge from participating in arbitration, mediation, or settlement conferences performed as part of assigned judicial duties. Rendering dispute resolution services apart from those duties, whether or not for economic gain, is prohibited unless it is expressly authorized by

law.

[2] Senior judges can act as an arbitrator or a mediator as allowed by Iowa Court Rule 22.12.
[Court Order April 30, 2010, effective May 3, 2010]

**Rule 51:3.10 PRACTICE OF LAW**

**A judge shall not practice law. A judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge's family,* but is prohibited from serving as the family member's lawyer in any forum.**

**Comment**

[1] A judge may act pro se in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with governmental bodies. A judge must not use the prestige of office to advance the judge's personal or family interests. *See* rule 51:1.3.

[2] This rule does not prohibit the practice of law pursuant to military service.
[Court Order April 30, 2010, effective May 3, 2010]

**Rule 51:3.11 FINANCIAL, BUSINESS, OR REMUNERATIVE ACTIVITIES**

**(A) A judge may hold and manage investments of the judge and members of the judge's family.***

**(B) A judge shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity except that a judge may manage or participate in:**

**(1) a business closely held by the judge or members of the judge's family; or**

**(2) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.**

**(C) A judge shall not engage in financial activities permitted under paragraphs (A) and (B) if they will:**

**(1) interfere with the proper performance of judicial duties;**

**(2) lead to frequent disqualification of the judge;**

**(3) involve the judge in frequent transactions or continuing business relationships with lawyers or other persons likely to come before the court on which the judge serves; or**

**(4) result in violation of other provisions of this Code.**

**Comment**

[1] Judges are generally permitted to engage in financial activities, including managing real estate and other investments for themselves or for members of their families. Participation in these activities, like participation in other extrajudicial activities, is subject to the requirements of the Iowa Code of Judicial Conduct. For example, it would be improper for a judge to spend so much time on business activities that it interferes with the performance of judicial duties. *See* rule 51:2.1. Similarly, it would be improper for a judge to use his or her official title or appear in judicial robes in business advertising, or to conduct his or her business or financial affairs in such a way that disqualification is frequently required. *See* rules 51:1.3 and 51:2.11.

[2] As soon as practicable without serious financial detriment, the judge must divest himself or herself of investments and other financial interests that might require frequent disqualification or otherwise violate this rule.
[Court Order April 30, 2010, effective May 3, 2010]

**Rule 51:3.12 COMPENSATION FOR EXTRAJUDICIAL ACTIVITIES**

**A judge may accept reasonable compensation for extrajudicial activities permitted by the Iowa Code of Judicial Conduct or other law* unless such acceptance would appear to a reasonable person to undermine the judge's independence,* integrity,* or impartiality.***

**Comment**

[1] A judge is permitted to accept honoraria as allowed by Iowa Court Rule 22.23, stipends, fees, wages, salaries, royalties, or other compensation for speaking, teaching, writing, and other extrajudicial activities, provided the compensation is reasonable and commensurate with the task performed. The judge should be mindful, however, that judicial duties must take precedence over other activities. *See* rule 51:2.1.
[Court Order April 30, 2010, effective May 3, 2010]

**Rule 51:3.13 ACCEPTANCE OF GIFTS, LOANS, BEQUESTS, BENEFITS, OR OTHER THINGS OF VALUE**

**(A) A judge, a judge's spouse, a judge's domestic partner, or a judge's minor child shall not accept or solicit any gift, loan, bequest, benefit, or other thing of value, if acceptance is prohibited by law or would appear to a reasonable person to undermine the judge's independence,* integrity,* or impartiality.***

**(B) Unless prohibited by paragraph (A), a judge, a judge's spouse, a judge's domestic partner*, or a judge's minor child may accept only the following gifts, loans, bequests, benefits, or other things of value if they are from a restricted donor:***

**(1) items with little intrinsic value, such as plaques, certificates, trophies, and greeting cards;**

**(2) commercial or financial opportunities and benefits, including special pricing and discounts, and loans from lending institutions in their regular course of business, if the same opportunities and benefits or loans are made available on the same terms to similarly situated persons who are not judges;**

**(3) books, magazines, journals, audiovisual materials, and other resource materials supplied by publishers on a complimentary basis for official use;**

**(4) anything received from a person related within the fourth degree of kinship or marriage, unless the donor is acting as an agent or intermediary for another person not so related;**

**(5) an inheritance or bequest;**

**(6) nonmonetary items with a value of $3 or less that are received from any one donor during one calendar day;**

**(7) items or services solicited by or given to a state, national or regional organization in which the state of Iowa or a political subdivision of the state is a member;**

**(8) items or services received as part of a regularly scheduled event that is part of a conference, seminar or other meeting that is sponsored and directed by any state, national or regional organization in which the judicial branch is a member;**

**(9) funeral flowers or memorials to a church or non-profit organization; and**

**(10) gifts which are given to an official or employee for the official's or the employee's wedding or twenty-fifth or fiftieth wedding anniversary.**

**(C) Unless prohibited by paragraph (A), a judge, a judge's spouse, a judge's domestic partner, or a judge's minor child may receive the following gifts, loans, bequests, benefits, or other things of value from a donor other than a restricted donor:**

**(1) gifts, loans, bequests, benefits, or other things of value from friends, relatives, or other persons, including lawyers, whose appearance or interest in a proceeding pending* or impending* before the judge would in any event require disqualification of the judge under rule 51:2.11;**

**(2) ordinary social hospitality;**

**(3) rewards and prizes given to competitors or participants in random drawings, contests, or other events that are open to persons who are not judges;**

**(4) scholarships, fellowships, and similar benefits or awards, if they are available to similarly situated persons who are not judges, based upon the same terms and criteria;**

**(5) gifts, awards, or benefits associated with the business, profession, or other separate activity of a spouse, a domestic partner,* or other family member of a judge residing in the judge's household,* but that incidentally benefit the judge;**

**(6) gifts incident to a public testimonial;**

**(7) invitations to the judge and the judge's spouse, domestic partner, or guest to attend without charge:**

**(a) an event associated with a bar-related function or other activity relating to the law, the legal system, the provision of legal services, or the administration of justice; or**

**(b) an event associated with any of the judge's educational, religious, charitable, fraternal or civic activities permitted by the Iowa Code of Judicial Conduct, if the same invitation is offered to nonjudges who are engaged in similar ways in the activity as is the judge;**

**(8) contributions to the campaign committee of a judge, a judge's spouse, or a judge's domestic partner; and**

**(9) anything that can be given by a restricted donor under paragraph (B).**

**Comment**

[1] Whenever a judge accepts a gift or other thing of value without paying fair market value, there is a risk that the benefit might be viewed as intended to influence the judge's decision in a case. Rule 51:3.13 imposes restrictions upon the acceptance of such benefits, according to the magnitude of the risk. Paragraph (B) identifies the only gifts, loans, bequests, benefits, or other things of value a judge, a judge's spouse, a judge's domestic partner, or a judge's minor child may accept from a restricted donor. Paragraph (C) identifies gifts, loans, bequests, benefits, or other things of value that a judge, a judge's spouse, a judge's domestic partner, or a judge's minor child may accept from a donor other than a restricted donor. Rule 51:3.13 substantially complies with the gift law provisions of chapter 68B of the Iowa Code.

[2] Gift-giving between friends and relatives is a common occurrence, and ordinarily does not create an appearance of impropriety or cause reasonable persons to believe that the judge's independence, integrity, or impartiality has been compromised. In addition, when the appearance of friends or relatives in a case would require the judge's disqualification under rule 51:2.11, there would be no opportunity for a gift to influence the judge's decision making. Paragraph (C)(1) places no restrictions upon the ability of a judge to accept gifts or other things of value from friends or relatives under these circumstances.

[3] Businesses and financial institutions frequently make available special pricing, discounts, and other benefits, either in connection with a temporary promotion or for preferred customers, based upon longevity of the relationship, volume of business transacted, and other factors. A judge may freely accept such benefits if they are available to the general public, or if the judge qualifies for the special price or discount according to the same criteria as are applied to persons who are not judges. As an example, loans provided at generally prevailing interest rates are not gifts, but a judge could not accept a loan from a financial institution at below-market interest rates unless the same rate was being made available to the general public for a certain period of time or only to borrowers with specified qualifications that the judge also possesses.

[4] Rule 51:3.13 applies to acceptance of gifts or other things of value by a judge's spouse, a judge's domestic partner, or a judge's minor child. If a gift or other benefit is given to the judge's spouse, domestic partner, or minor child, it may be viewed as an attempt to influence the judge indirectly. A judge should remind family members of the restrictions imposed upon judges and urge them to take these restrictions into account when making decisions about accepting such gifts or benefits.

[5] Rule 51:3.13 does not apply to contributions to a judge's retention election. Such contributions are governed by other rules of the Iowa Code of Judicial Conduct, including rules 51:4.3 and 51:4.4.

[6] In deciding whether a gift, loan, benefit, or other thing of value constitutes ordinary social hospitality, relevant considerations include the cost of the event or gift, whether the benefits conferred are greater in value than that traditionally furnished at similar events sponsored by bar associations or similar groups, whether the benefits are greater in value than that which the judge customarily provides the judge's own guests, whether the benefits conferred are usually exchanged only between friends or relatives, whether there is a history or expectation of reciprocal social hospitality between the judge and the donor, whether the event is a traditional occasion for social hospitality, and whether the benefits received must be reported to any governmental entity.

[Court Order April 30, 2010, effective May 3, 2010]

## Rule 51:3.14 REIMBURSEMENT OF EXPENSES AND WAIVERS OF FEES OR CHARGES

**(A) Unless otherwise prohibited by rules 51:3.1 and 51:3.13(A) or other law,* a judge may**

**accept reimbursement of necessary and reasonable expenses for travel, food, lodging, or other incidental expenses, or a waiver or partial waiver of fees or charges for registration, tuition, and similar items, from sources other than the judge's employing entity, if the expenses or charges are associated with the judge's participation in extrajudicial activities permitted by the Iowa Code of Judicial Conduct.**

**(B) Reimbursement of expenses for necessary travel, food, lodging, or other incidental expenses shall be limited to the actual costs reasonably incurred by the judge and, when appropriate to the occasion, by the judge's spouse, domestic partner*, or guest.**

**Comment**

[1] Educational, civic, religious, fraternal, and charitable organizations often sponsor meetings, seminars, symposia, dinners, awards ceremonies, and similar events. Judges are encouraged to attend educational programs, as both teachers and participants, in law-related and academic disciplines, in furtherance of their duty to remain competent in the law. Participation in a variety of other extrajudicial activity is also permitted and encouraged by the Iowa Code of Judicial Conduct.

[2] Not infrequently, sponsoring organizations invite certain judges to attend seminars or other events on a fee-waived or partial-fee-waived basis, and sometimes include reimbursement for necessary travel, food, lodging, or other incidental expenses. A judge's decision whether to accept reimbursement of expenses or a waiver or partial waiver of fees or charges in connection with these or other extrajudicial activities must be based upon an assessment of all the circumstances. The judge must undertake a reasonable inquiry to obtain the information necessary to make an informed judgment about whether acceptance would be consistent with the requirements of this Code.

[3] A judge must assure himself or herself that acceptance of reimbursement or fee waivers would not appear to a reasonable person to undermine the judge's independence, integrity, or impartiality. The factors that a judge should consider when deciding whether to accept reimbursement or a fee waiver for attendance at a particular activity include:

(a) whether the sponsor is an accredited educational institution or bar association rather than a trade association or a for-profit entity;

(b) whether the funding comes largely from numerous contributors rather than from a single entity and is earmarked for programs with specific content;

(c) whether the content is related or unrelated to the subject matter of litigation pending or impending before the judge, or to matters that are likely to come before the judge;

(d) whether the activity is primarily educational rather than recreational, and whether the costs of the event are reasonable and comparable to those associated with similar events sponsored by the judiciary, bar associations, or similar groups;

(e) whether information concerning the activity and its funding sources is available upon inquiry;

(f) whether the sponsor or source of funding is generally associated with particular parties or interests currently appearing or likely to appear in the judge's court, thus possibly requiring disqualification or recusal of the judge under rule 51:2.11;

(g) whether differing viewpoints are presented; and

(h) whether a broad range of judicial and nonjudicial participants are invited, whether a large number of participants are invited, and whether the program is designed specifically for judges.

[Court Order April 30, 2010, effective May 3, 2010]

## *CANON 4*

## *A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, OR IMPARTIALITY OF THE JUDICIARY*

### Rule 51:4.1 POLITICAL AND CAMPAIGN ACTIVITIES OF JUDGES AND JUDICIAL CANDIDATES IN GENERAL

**(A) Except as permitted by law,* or by rules 51:4.2, 51:4.3, and 51:4.4, a judge or a judicial candidate* shall not:**

**(1) act as a leader in, or hold an office in, a political organization;***

**(2) make speeches on behalf of a political organization;**

**(3) publicly endorse or oppose a candidate for any public office;**

**(4) solicit funds for, pay an assessment to, or make a contribution* to a political organization, a candidate for judicial retention, or a candidate for public office;**

**(5) attend or purchase tickets for dinners or other events sponsored by a political organization or a candidate for public office;**

**(6) publicly identify himself or herself as a candidate of a political organization;**

**(7) seek, accept, or use endorsements from a political organization;**

**(8) personally solicit* or accept campaign contributions other than through a campaign committee authorized by rule 51:4.4;**

**(9) use or permit the use of campaign contributions for the private benefit of the judge, the judicial candidate, or others;**

**(10) use court staff, facilities, or other court resources in a campaign for judicial office;**

**(11) knowingly,* or with reckless disregard for the truth, make any false or misleading statement;**

**(12) make any statement that would reasonably be expected to affect the outcome or impair the fairness of a pending matter* or impending matter* in any court; or**

**(13) in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial* performance of the adjudicative duties of judicial office,**

**(14) participate in a precinct caucus; or**

**(15) solicit or accept any campaign contributions from any judicial branch employee.**

**(B) A judge or judicial candidate shall take reasonable measures to ensure that other persons do not undertake, on behalf of the judge or judicial candidate, any activities prohibited under paragraph (A).**

**Comment**

General Considerations

[1] Even when subject to a retention election, a judge plays a role different from that of a legislator or executive branch official. Rather than making decisions based upon the expressed views or preferences of the electorate, a judge makes decisions based upon the law and the facts of every case. Therefore, in furtherance of this interest, judges and judicial candidates must, to the greatest extent possible, be free and appear to be free from political influence and political pressure. This Canon imposes narrowly tailored restrictions upon the political and campaign activities of all judges and judicial candidates.

[2] When a person becomes a judicial candidate, this Canon becomes applicable to his or her conduct.

Participation in Political Activities

[3] Public confidence in the independence and impartiality of the judiciary is eroded if judges or judicial candidates are perceived to be subject to political influence. Although judges and judicial candidates may register to vote as members of a political party, they are prohibited by paragraph (A)(1) from assuming leadership roles in political organizations.

[4] Paragraphs (A)(2) and (A)(3) prohibit judges and judicial candidates from making speeches on behalf of political organizations or publicly endorsing or opposing candidates for public office, respectively, to prevent them from abusing the prestige of judicial office to advance the interests of others. *See* rule 51:1.3. These rules do not prohibit judicial candidates from campaigning on their own behalf. *See* rule 51:4.2(B)(2).

[5] Although members of the families of judges and judicial candidates are free to engage in their own political activity, including running for public office, there is no "family exception" to the prohibition in paragraph (A)(3) against a judge or judicial candidate publicly endorsing candidates for public office. A judge or judicial candidate must not become involved in, or publicly associated with, a family member's political activity or campaign for public office. To avoid public misunderstanding, judges and judicial candidates should take, and should urge members of their families to take, reasonable steps to avoid any implication that they endorse any family member's

candidacy or other political activity.

[6] Judges and judicial candidates retain the right to participate in the political process as voters in both primary and general elections. For purposes of this Canon, participation in a caucus-type election procedure does constitute public support for or endorsement of a political organization or candidate, and is prohibited by this Code. In Iowa, a precinct caucus is organized and held by a political party in order to elect delegates to a party's county convention and, thus, serves a purely political purpose. *See* Iowa Code § 43.4.

Statements and Comments Made during a Campaign for Judicial Office

[7] Judicial candidates must be scrupulously fair and accurate in all statements made by them and by their campaign committees. Paragraph (A)(11) obligates judicial candidates and their committees to refrain from making statements that are false or misleading or that omit facts necessary to make the communication considered as a whole not materially misleading.

[8] Judicial candidates are sometimes the subject of false, misleading, or unfair allegations made by third parties or the media. For example, false or misleading statements might be made regarding the identity, present position, experience, qualifications, or judicial rulings of a judicial candidate. In other situations, false or misleading allegations may be made that bear upon a judicial candidate's integrity or fitness for judicial office. As long as the judicial candidate does not violate paragraphs (A)(11), (A)(12), or (A)(13), the judicial candidate may make a factually accurate public response.

[9] Subject to paragraph (A)(12), a judicial candidate is permitted to respond directly to false, misleading, or unfair allegations made against him or her during a campaign, although it is preferable for someone else to respond if the allegations relate to a pending case.

[10] Paragraph (A)(12) prohibits judicial candidates from making comments that might impair the fairness of pending or impending judicial proceedings. This provision does not restrict arguments or statements to the court or jury by a lawyer who is a judicial candidate, or rulings, statements, or instructions by a judge that may appropriately affect the outcome of a matter.

Pledges, Promises, or Commitments Inconsistent with Impartial Performance of the Adjudicative Duties of Judicial Office

[11] The role of a judge is different from that of a legislator or executive branch official, even when the judge is subject to a retention election. Campaigns for retention must be conducted differently from campaigns for other offices. The narrowly drafted restrictions upon political and campaign activities of judicial candidates provided in Canon 4 allow candidates to conduct campaigns that provide voters with sufficient information to permit them to make informed electoral choices.

[12] Paragraph (A)(13) makes applicable to both judges and judicial candidates the prohibition that applies to judges in rule 51:2.10(B) relating to pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

[13] The making of a pledge, promise, or commitment is not dependent upon, or limited to, the use of any specific words or phrases; instead, the totality of the statement must be examined to determine if a reasonable person would believe that the candidate for judicial office has specifically undertaken to reach a particular result. Pledges, promises, or commitments must be contrasted with statements or announcements of personal views on legal, political, or other issues, which are not prohibited. When making such statements, a judge should acknowledge the overarching judicial obligation to apply and uphold the law, without regard to his or her personal views.

[14] A judicial candidate may make campaign promises related to judicial organization, administration, and court management, such as a promise to dispose of a backlog of cases, start court sessions on time, or avoid favoritism in appointments and hiring. A judicial candidate may also pledge to take action outside the courtroom, such as working toward an improved jury selection system, or advocating for more funds to improve the physical plant and amenities of the courthouse.

[15] Judicial candidates may receive questionnaires or requests for interviews from the media and from issue advocacy or other community organizations that seek to learn their views on disputed or controversial legal or political issues. Paragraph (A)(13) does not specifically address judicial responses to such inquiries. Depending upon the wording and format of such questionnaires, judicial candidates' responses might be viewed as pledges, promises, or commitments to perform the adjudicative duties of office other than in an impartial way. To avoid violating paragraph (A)(13), therefore, judicial candidates who respond to media and other inquiries should also give assurances that they will keep an open mind and will carry out their adjudicative duties faithfully and impartially

if retained. Judicial candidates who do not respond may state their reasons for not responding, such as the danger that answering might be perceived by a reasonable person as undermining a retained judge's independence or impartiality, or that it might lead to frequent disqualification. *See* rule 51:2.11.
[Court Order April 30, 2010, effective May 3, 2010]

**Rule 51:4.2 POLITICAL AND CAMPAIGN ACTIVITIES OF JUDICIAL CANDIDATES IN RETENTION ELECTIONS**

**(A) A judicial candidate* in a retention election shall:**
**(1) act at all times in a manner consistent with the independence,* integrity,* and impartiality* of the judiciary;**
**(2) comply with all applicable election, election campaign, and election campaign fund-raising laws, regulations of Iowa, and this Code;**
**(3) review and approve the content of all campaign statements and materials produced by the candidate or his or her campaign committee, as authorized by rule 51:4.4, before their dissemination; and**
**(4) take reasonable measures to ensure that other persons do not undertake on behalf of the judicial candidate activities, other than those described in rule 51:4.4, that the candidate is prohibited from doing by rule 51:4.1.**
**(B) A judicial candidate in a retention election may, unless prohibited by law*:**
**(1) establish a campaign committee pursuant to the provisions of rule 51:4.4;**
**(2) speak on behalf of his or her candidacy through any medium, including, but not limited to, advertisements, websites, or other campaign literature; and**
**(3) seek, accept, or use endorsements from any person or organization other than a partisan political organization.**

**Comment**

[1] Paragraph (B) permits judicial candidates in retention elections to engage in some political and campaign activities otherwise prohibited by rule 51:4.1.
[2] Despite paragraph (B), judicial candidates for retention election remain subject to many of the provisions of rule 51:4.1. For example, a candidate continues to be prohibited from soliciting funds for a political organization, knowingly making false or misleading statements during a campaign, or making certain promises, pledges, or commitments related to future adjudicative duties. *See* rule 51:4.1(A), paragraphs (4), (11), and (13).
[3] In retention elections, paragraph (B)(3) prohibits a candidate from seeking, accepting, or using nominations or endorsements from a partisan political organization.
[Court Order April 30, 2010, effective May 3, 2010]

**Rule 51:4.3 ACTIVITIES OF CANDIDATES FOR APPOINTIVE JUDICIAL OFFICE**

**A candidate for appointment to judicial office may:**
**(A) communicate with the appointing or confirming authority, including any selection, screening, or nominating commission or similar agency; and**
**(B) seek endorsements for the appointment from any person or organization other than a partisan political organization.**

**Comment**

[1] When seeking support or endorsement, or when communicating directly with an appointing or confirming authority, a candidate for appointive judicial office must not make any pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office. *See* rule 51:4.1(A)(13).
[Court Order April 30, 2010, effective May 3, 2010]

**Rule 51:4.4 CAMPAIGN COMMITTEES**

**(A) A judicial candidate* subject to a retention election may establish a campaign committee to manage and conduct a campaign for the candidate, subject to the provisions of the Iowa Code of Judicial Conduct. The candidate is responsible for ensuring that his or her campaign committee complies with applicable provisions of this Code and other applicable law.***

**(B) A judicial candidate subject to a retention election shall direct his or her campaign committee:**

**(1) to solicit and accept only such campaign contributions* as are permissible by law;**

**(2) to not solicit or accept any campaign contributions from other judicial officers or any judicial branch employee;**

**(3) to contribute all surplus contributions held by the committee after the election without public attribution to the Interest on Lawyers' Trust Account Program (IOLTA).**

**(4) to comply with all applicable statutory requirements under the Iowa Code and all applicable rules of the Iowa Ethics and Campaign Disclosure Board; and**

**(5) to comply with all applicable requirements of this Code.**

**Comment**

[1] Judicial candidates are prohibited from personally soliciting campaign contributions or personally accepting campaign contributions. *See* rule 51:4.1(A)(8). This rule recognizes that in Iowa, judges standing for retention must raise campaign funds to support their candidacies, and permits judicial candidates, other than candidates seeking appointment to judicial office, to establish campaign committees to solicit and accept reasonable financial contributions or in-kind contributions.

[2] Campaign committees may solicit and accept campaign contributions, manage the expenditure of campaign funds, and generally conduct campaigns. However, campaign committees may not solicit or accept campaign contributions from other judicial officers or from any judicial branch employee. Candidates are responsible for compliance with the requirements of election law and other applicable law, and for the activities of their campaign committees.

[3] At the start of a campaign, the candidate must instruct the campaign committee to solicit or accept only such contributions as are in conformity with Iowa election laws. Although lawyers and others who might appear before a successful candidate for judicial office are permitted to make campaign contributions, the candidate should instruct his or her campaign committee to be especially cautious in connection with such contributions, so they do not create grounds for disqualification if the candidate is retained in his or her judicial office. *See* rule 51:2.11.

[4] Iowa has adopted a system whereby judges periodically must stand for retention during the general election. *See* Iowa Code ch. 46. Iowa Code chapter 68A permits a judicial candidate to establish a candidate's committee to support that individual's candidacy, while section 68A.102(4) defines "candidate" so as to include "any judge standing for retention in a judicial election." The Iowa Code, thus, envisions and creates a system allowing a judge to establish campaign committees when involved in a judicial retention election. The Iowa Code of Judicial Conduct merely implements this system, albeit in a more restrictive fashion than for those seeking political or other office.

[Court Order April 30, 2010, effective May 3, 2010]

**Rule 51:4.5 ACTIVITIES OF JUDGES WHO BECOME CANDIDATES FOR NONJUDICIAL OFFICE**

**(A) Upon becoming a candidate for a nonjudicial elective office, a judge shall resign from judicial office, unless permitted by law* to continue to hold judicial office.**

**(B) Upon becoming a candidate for a nonjudicial appointive office, a judge is not required to resign from judicial office, provided that the judge complies with the other provisions of this Code.**

**Comment**

[1] In campaigns for nonjudicial elective public office, candidates may make pledges, promises, or commitments related to positions they would take and ways they would act if elected to office.

Although appropriate in nonjudicial campaigns, this manner of campaigning is inconsistent with the role of a judge, who must remain fair and impartial to all who come before him or her. The potential for misuse of the judicial office, and the political promises that the judge would be compelled to make in the course of campaigning for nonjudicial elective office, together dictate that a judge who wishes to run for such an office must resign upon becoming a candidate.

[2] The "resign to run" rule set forth in paragraph (A) ensures that a judge cannot use the judicial office to promote his or her candidacy, and prevents post-campaign retaliation from the judge in the event the judge is defeated in the election. When a judge is seeking appointive nonjudicial office, however, the dangers are not sufficient to warrant imposing the "resign to run" rule.

[Court Order April 30, 2010, effective May 3, 2010]

# CHAPTER 52

# RULES OF PROCEDURE OF THE STATE OF IOWA COMMISSION ON JUDICIAL QUALIFICATIONS

# CHAPTER 52
# RULES OF PROCEDURE OF THE STATE OF IOWA COMMISSION ON JUDICIAL QUALIFICATIONS

**Rule 52.1 Authorization and scope.** The rules in this chapter are adopted pursuant to Iowa Code section 602.2105. They apply to all proceedings, functions, and responsibilities of the commission.
[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.2 Definitions.** In this chapter unless the content or subject matter otherwise requires:

*"Chairperson"* means the presiding officer of the commission and includes the chairperson of the commission, the vice chairperson, or any acting chairperson designated by the commission to preside in the absence of the chairperson.

A *"charge"* is the written specification by which formal proceedings are instituted pursuant to Iowa Code section 602.2104.

*"Commission"* means the commission on judicial qualifications.

A *"complaint"* shall be any written communication to the commission which indicates a violation of Iowa Code section 602.2106(3).

*"Employee"* means an officer or employee of the judicial branch, except a judicial officer subject to the jurisdiction of the commission.

*"Judicial officer"* means a supreme court justice, a court of appeals judge, a district court judge, a district associate judge, associate juvenile judge, associate probate judge, or magistrate of this state subject to the jurisdiction of the commission.

*"Oath"* is synonymous with "affirmation" and *"swear"* is synonymous with "affirm."

*"Shall"* is mandatory and *"may"* is permissive.
[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.3 Officers and staff.**

**52.3(1)** The commission shall elect a chairperson and a vice chairperson to serve for the calendar year and until successors are elected.

**52.3(2)** The state court administrator or designee of the state court administrator shall be executive secretary of the commission.

**52.3(3)** The commission may employ such additional investigative personnel as it deems necessary.

**52.3(4)** The commission may employ or contract for the employment of legal counsel. However, the attorney general shall prosecute the charge(s) before the commission on behalf of the state.
[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.4 Replacement of interested judicial member.**

**52.4(1)** If the judicial member of the commission is the subject of a complaint before the commission under rule 52.9, the chief justice of the supreme court shall appoint a district judge of another judicial district to the commission until the person charged is exonerated, or for the unexpired portion of the term if the person charged is not exonerated.

**52.4(2)** If the judicial member of the commission is a resident judge of the same judicial district as the judicial officer who is the subject of a complaint before the commission under rule 52.9, the chief justice of the supreme court shall appoint a district judge of another judicial district to the commission to act as the judicial member during that proceeding. However, if the judicial member recuses himself or herself from the matter prior to the commission acting on the complaint, and a quorum is present to act on the matter, the judicial member shall not be replaced by the chief justice of the supreme court, unless formal proceedings under rule 52.12 are commenced.

**52.4(3)** The executive secretary shall notify the chief justice of the supreme court of any need for such replacement appointment.
[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.5 Confidentiality.**

**52.5(1)** Notwithstanding the provisions of Iowa Code chapters 21 and 22, all records, papers, proceedings, meetings, and hearings of the commission shall be confidential, unless the commission applies to the supreme court to retire, discipline, or remove a judicial officer or employee.

**52.5(2)** If the commission applies to the supreme court to retire, discipline, or remove a judicial officer or employee, the following records and papers shall become public documents:

*a.* The initial complaint(s).

*b.* The notice of charge(s) filed by the commission initiating the charge(s) against the judicial member or employee.

*c.* All pleadings, motions and discovery filed with the commission after the notice of charge(s).

*d.* A transcript of any hearing of the commission that was made by a certified shorthand reporter.

*e.* All exhibits admitted at any hearing of the commission.

*f.* The application of the commission made to the supreme court.

**52.5(3)** Any records and papers contained in the commission's investigation file shall remain privileged and confidential and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the judicial officer, employee, the attorneys, or the attorneys' agents involved in the proceeding before the commission. The judicial officer, employee, the attorneys, or the attorneys' agents involved in the proceeding before the commission shall not disclose any records and papers contained in the commission's investigation file to any third parties unless disclosure is required in the prosecution or defense of the charges. The records and papers contained in the commission's investigation file shall not be admissible in evidence in a judicial or administrative proceeding other than the formal commission proceeding under rule 52.12.

**52.5(4)** Every witness in every proceeding under this chapter shall swear or affirm to tell the truth, and not to disclose the existence of the proceedings or the identity of the judicial officer or employee until the proceeding is no longer confidential under these rules.

**52.5(5)** All communications, papers, and materials concerning any complaint which may come into the hands of a commission member shall remain confidential and the member shall keep the same in a safe and secure place.

**52.5(6)** All statements, communications, or materials received by any person investigating any complaint on behalf of the commission shall be confidential.

**52.5(7)** The executive secretary, chairperson or a member of the commission designated by the chairperson may issue one or more clarifying announcements when the subject matter of a complaint or charge(s) is of broad public interest and failure to supply information on the status and nature of the formal proceedings could threaten public confidence in the administration of justice. No other member of the commission shall make any public statement concerning any matter before the commission without prior approval of the commission.

**52.5(8)** Nothing in this chapter shall prohibit the commission from releasing any information regarding possible criminal violations to appropriate law enforcement authorities, wherever located, or any information regarding possible violations of the Iowa Rules of Professional Conduct to the Iowa Supreme Court Attorney Disciplinary Board.

[Court Order November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005]

**Rule 52.6 Meetings.** The commission shall meet at least once in each calendar quarter. Meetings may be held by telephone conference or at such place as the chairperson may designate if no member of the commission objects. If there is an objection by a member of the commission to holding a meeting by telephone conference or at a place other than the Iowa Judicial Branch Building in Des Moines, the meeting shall be held at the Iowa Judicial Branch Building in Des Moines. Special meetings may be called by the chairperson or at the request of three or more members of the commission.

[Court Order November 9, 2001, effective February 15, 2002; April 9, 2003]

**Rule 52.7 Quorum.** A quorum for the transaction of business by the commission shall consist of four members. Only members present may vote. Members participating in a telephone conference shall be deemed to be present at the meeting.

[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.8 Minutes.** Minutes shall be kept of each meeting of the commission and shall record the action taken, the names of those present, and any other matter that the commission may deem appropriate. The minutes shall be confidential.

[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.9 Complaints.**

**52.9(1)** A complaint shall be in writing but may be simple and informal. It shall be mailed to or filed with the executive secretary of the commission.

**52.9(2)** The executive secretary shall promptly acknowledge receipt of any writing and transmit a copy of the writing to each member of the commission.

**52.9(3)** A complaint may be initiated by the commission's own motion. A separate writing signed by the chairperson shall be filed with the commission if the complaint was initiated on the commission's own motion. This filing shall constitute the complaint.

[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.10 Initial inquiry.**

**52.10(1)** Upon receipt of a complaint a determination shall be made whether or not the complaint is of substantial nature and involves matters which could be grounds for a charge within the jurisdiction of the commission to make application to the supreme court:

*a.* To retire a judicial officer or employee for permanent physical or mental disability which substantially interferes with the performance of his or her duties.

*b.* To discipline or remove a judicial officer or employee for persistent failure to perform duties, habitual intemperance, willful misconduct in office, conduct which brings the judicial office into disrepute, or a substantial violation of the canons of judicial ethics.

**52.10(2)** If the commission finds the complaint on its face is clearly unfounded, frivolous, or could not be the basis for a charge within the jurisdiction of the commission, the complaint shall be dismissed with notice to the complainant.

**52.10(3)** If the commission finds the complaint on its face is substantial, and, if true, would warrant application to the supreme court the commission may formulate a charge and institute formal proceedings, without any further inquiry or investigation.

**52.10(4)** Upon the making of the determination provided in rule 52.10(1), when the commission has received a complaint or initiated a complaint on its own motion, the commission or the chairperson may direct that an additional inquiry be made by the executive secretary, or a commission member. The chairperson of the commission may further direct that the judicial officer or employee about whom a complaint has been made be notified that a complaint has been received, and of the substance of the complaint. When such notice is directed it shall advise the judicial officer or employee that the matter is in a preliminary stage and is not the subject of a formal investigation under rule 52.11(1), nor is the notice intended to be notice required under rule 52.11(2) of the commission. In such circumstances the judicial officer or employee shall be notified that because of the substance of the complaint or the commission's concern, the commission or chairperson feels that it would be desirable for the judicial officer or employee to provide in writing a report to the commission concerning matters referred to in the notice, and that it is requested, but not required, that the judicial officer or employee give to the commission such report.

**52.10(5)** The commission or the chairperson may request the complainant to clarify the complainant's original statement to furnish additional information, to disclose sources of information, or to verify by affidavit statements of fact within the complainant's knowledge.

**52.10(6)** The commission or the chairperson may also initiate inquiries of other sources.

**52.10(7)** The commission shall dismiss the complaint and so inform the complainant if the initial inquiry confirms the fact that the complaint is clearly unfounded, frivolous, or could not be the basis for a charge within the jurisdiction of the commission. If the judicial officer or employee has been given notice of the initial inquiry as contemplated in rule 52.10(4), the judicial officer or employee shall likewise be informed of the dismissal of the complaint.

**52.10(8)** If after the initial inquiry the complaint appears to be substantiated in whole or in part but does not warrant application to the supreme court the commission may dispose of the complaint informally by conference with or communication to the judicial officer or employee. The complainant shall be notified of such action.

**52.10(9)** The commission shall direct that an investigation of the complaint be made if the initial inquiry indicates that the complaint may constitute a charge within the commission's jurisdiction and formal proceedings have not been initiated.

**52.10(10)** The commission may formulate a charge and institute formal proceedings if the initial inquiry indicates that the matter investigated appears to be substantiated and, if true, would warrant application to the supreme court.

[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.11 Investigation and disposition.**

**52.11(1)** The commission may direct an investigation on its own motion, without any initial inquiry under rule 52.10.

**52.11(2)** The judicial officer or employee involved shall be notified of the investigation and the nature of the complaint. The commission in its discretion may disclose the name of the complainant or that the investigation is on the commission's own motion. Notification shall be by prepaid certified or registered mail marked "confidential" and addressed to the judicial officer's chambers, employee's business address or last known residence of the judicial officer or employee. The judicial officer or employee may be requested to provide in writing a report to the commission concerning matters referred to in the complaint. The judicial officer or employee shall be notified that it is not mandatory that the judicial officer or employee provide such report.

**52.11(3)** In the event the investigation indicates that the complaint has merit, then the commission in its discretion may grant to the judicial officer or employee an opportunity to present to the commission such information relevant to the complaint as the judicial officer or employee may desire to submit.

**52.11(4)** The commission shall dismiss the complaint and so inform the judicial officer or employee and the complainant if the investigation shows it to be groundless.

**52.11(5)** After the investigation, if the complaint appears to be substantiated in whole or in part but does not warrant application to the supreme court, the commission may dispose of the complaint informally by conference with or communication to the judicial officer or employee. The complainant shall be notified of such action.

**52.11(6)** The commission shall formulate a charge and institute formal proceedings if the investigation indicates that the matter investigated appears to be substantiated and, if true, would warrant application to the supreme court.

[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.12 Formal proceedings.**

**52.12(1)** The service of the notice of charge(s) shall constitute the commencement of formal proceedings against a judicial officer or employee.

**52.12(2)** Formal proceedings to inquire into a charge shall be entitled "Before the Commission on Judicial Qualifications, State of Iowa. Inquiry Concerning (name of judicial officer or employee)."

**52.12(3)** The notice of charge(s) shall specify the charge(s) against the judicial officer or employee with a concise, general summary of the alleged facts on which it is based, and shall state the time and place of hearing. The hearing shall be held in the county where the judicial officer or employee resides unless the commission and the judicial officer or employee agree to a different location.

**52.12(4)** The notice of charge(s) shall be signed by the chairperson of the commission or on the chairperson's behalf by the executive secretary of the commission pursuant to the express direction of the chairperson.

**52.12(5)** The notice of charge(s) shall be sent by prepaid certified or registered mail addressed to the judicial officer or employee at the judicial officer's or employee's residence and marked "confidential," at least 20 days prior to the time set for the hearing.

**52.12(6)** A copy of the complaint upon which the notice of charge(s) is based and the complete investigative file shall be sent to the judicial officer or employee with the notice of charge(s). The investigative file of the commission does not include the recommendations of the attorney general to the commission. The recommendations of the attorney general to the commission are privileged and are not to be transmitted.

[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.13 Answer.** Within 15 days after service of the notice of formal proceedings, the judicial officer or employee may file a verified answer at the office of the commission in the Iowa Judicial Branch Building in Des Moines.

[Court Order November 9, 2001, effective February 15, 2002; April 9, 2003]

**Rule 52.14 Allowable motions — prehearing conference.**

**52.14(1)** The following prehearing motions may be filed:

*a.* A judicial officer or employee may request that the hearing be held at a place other than the county where the judicial officer or employee resides. Such motion shall be contained in the answer or filed with the commission in the time for filing an answer. The chairperson or a member of the

commission designated by the chairperson shall have authority to rule on this motion. A hearing need not be held prior to entering a ruling. Any hearing may be held telephonically and without a record being made of the hearing.

*b.* Either party may file a motion regarding discovery disputes which shall be governed by rule 52.15.

*c.* Either party may request a prehearing conference. The chairperson or a member of the commission designated by the chairperson may conduct the prehearing conference. The prehearing conference may be held telephonically and without a record being made of the hearing. The commission on its own motion may require a prehearing conference.

*d.* Either party may file a motion for a continuance which may be granted pursuant to rule 52.16.

**52.14(2)** The commission will not consider any other prehearing motions or applications.

**52.14(3)** The commission will not consider any dispositive motions prior to the close of all the evidence of a hearing.

**52.14(4)** The action of the chairperson or a single member of the commission designated by the chairperson under rule 52.14, 52.15 or 52.16 may be reviewed by the commission on its own motion or a motion of a party. A motion by a party for review of an action of the chairperson or a single member of the commission designated by the chairperson shall be served and filed within ten days after the filing of the challenged order.

[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.15 Discovery.**

**52.15(1)** In any formal proceeding taken by the commission, discovery shall be permitted as provided in Iowa Rs. Civ. P. 1.501 to 1.517 inclusive; 1.701 and 1.702; and in 1.714 to 1.717. The judicial officer or employee against whom a notice of charge(s) has been filed, in addition to the restriction stated in Iowa R. Civ. P. 1.503(1), shall not be required to answer an interrogatory pursuant to Iowa R. Civ. P. 1.509, a request for admission pursuant to Iowa R. Civ. P. 1.510, a question upon oral examination pursuant to Iowa R. Civ. P. 1.701, or a question upon written interrogatories, pursuant to Iowa R. Civ. P. 1.710, if the answer would be self-incriminatory. In addition thereto, evidence and testimony may be perpetuated as provided in Iowa Rs. Civ. P. 1.721 to 1.728.

**52.15(2)** The time to respond to any discovery allowed under rule 52.15(1) shall be 15 days, regardless of time allowed by the Iowa Rules of Civil Procedure.

**52.15(3)** All discovery shall be timed so that it is completed, including the time to receive responses to all propounded discovery, no later than 50 days after service of the notice of charge(s).

**52.15(4)** All motions or applications pertaining to discovery shall be filed with the commission as soon as practicable. The chairperson or a member of the commission designated by the chairperson shall have authority to rule on any motions or applications. A hearing need not be held prior to entering a ruling. Any hearing may be held telephonically and without a record being made of the hearing.

[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.16 Continuances.** The commission may grant reasonable continuances but only upon written application supported by affidavit. The motion for continuance shall be filed with the commission as soon as the reason for continuance becomes apparent to the movant. The chairperson or a member of the commission designated by the chairperson shall have authority to rule on any motion for continuance. A hearing need not be held prior to entering a ruling. Any hearing may be held telephonically and without a record being made of the hearing.

[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.17 Final hearing.**

**52.17(1)** The commission may proceed with the final hearing at the time and place set, whether or not the judicial officer or employee has filed an answer or appears at the hearing.

**52.17(2)** The chairperson of the commission shall preside over and conduct the final hearing. The presentation of evidence shall conform to the Iowa Rules of Civil Procedure and the Iowa Rules of Evidence insofar as such rules may be applicable to cases tried in equity.

**52.17(3)** All evidence received shall be taken only on oath or affirmation.

**52.17(4)** The attorney general, on behalf of the state, shall present the case in support of the charge(s) before the commission.

**52.17(5)** A complete record of the evidence shall be made by a certified shorthand reporter.
[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.18 Procedural rights of judicial officer or employee.**

**52.18(1)** The judicial officer or employee may defend and shall have the right to participate in the proceedings in person and by counsel, to cross-examine, to be confronted by witnesses, and to present evidence in accordance with the Iowa Rules of Civil Procedure and the Iowa Rules of Evidence.

**52.18(2)** A judicial officer shall continue judicial duties during the pendency of any complaint, charge(s), investigation, or formal proceeding unless otherwise ordered by the commission. An employee shall continue his or her duties during the pendency of any complaint, charge(s), investigation, or formal proceeding unless otherwise ordered by the commission.
[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.19 Amendment to notice of charge(s) or answer.** Amendments shall be governed by the Iowa Rules of Civil Procedure.
[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.20 Subpoena power.**

**52.20(1)** The commission shall have subpoena power during any investigation conducted on its behalf compelling the appearance of persons or the production of documents before the person designated to conduct the investigation on behalf of the commission.
[Court Order November 9, 2001, effective February 15, 2002]

**52.20(2)** The commission shall have subpoena power on behalf of the state and the judicial officer or employee compelling the appearance of persons or the production of documents during discovery and the final hearing.

**52.20(3)** Disobedience of the commission's subpoena shall be punishable as contempt in the district court in and for the county in which the hearing is to be held or where the investigation is being conducted.

**52.20(4)** Any application for a subpoena shall be made to the commission's executive secretary or chairperson.
[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.21 Privilege in defamation actions.** The making of charges before the commission, the giving of evidence or information before the commission or to its investigator and the presentation of transcripts, extensions of evidence, briefs, and arguments in the supreme court shall be privileged in actions for defamation.
[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.22 Physical or mental examinations.** Where a judicial officer's or employee's physical or mental health is in issue, the commission may order the judicial officer or employee to submit to a physical or mental examination by a duly licensed health care professional designated by the commission. The failure of the judicial officer or employee to submit to a physical or mental examination ordered by the commission may be considered by the commission, unless it appears that such failure was due to circumstances beyond the control of the judicial officer or employee.
[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.23 Compensation of witnesses.** Each witness compelled to attend any proceedings under this chapter, other than an officer or employee of the state or a political subdivision, shall receive for attendance the same fees and mileage allowed by law to a witness in a civil case, payable from the commission's funds.
[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.24 Findings and determination by commission.**

**52.24(1)** In accordance with its findings on the evidence at the hearing, the commission shall dismiss the charge(s) or make application to the supreme court to retire, discipline, or remove the judicial officer or employee. A copy of the application shall be sent to the judicial officer or employee by prepaid certified or registered mail. Copies shall also be provided to the attorneys of record.

**52.24(2)** Any application by the commission to the supreme court or any action by the commission which affects the final disposition of a complaint shall require the affirmative vote of at least four commission members who were present at the hearing.

**52.24(3)** Any person filing a complaint with the commission shall be notified by ordinary mail of its final disposition.

[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.25 Application to supreme court.** If the commission makes application to the supreme court to retire, discipline, or remove a judicial officer or employee, it shall promptly file in the supreme court all items set forth in rule 52.5(2).

[Court Order November 9, 2001, effective February 15, 2002]

**Rule 52.26 Letters of caution and warning.** In some cases, the commission may conclude that a judicial officer's or employee's conduct has been questionable but does not amount to misconduct, or that misconduct of a very minor nature has occurred which does not warrant formal discipline. In these cases, the commission may inform the judicial officer or employee that no present formal disciplinary action will be taken but that the judge should avoid similar conduct in the future.

[Court Order November 9, 2001, effective February 15, 2002]

Historical notes from Third Edition of the Iowa Court Rules:

[Court Order December 26, 1985, effective February 3, 1986; April 30, 1987, effective June 1, 1987; August 31, 1987, effective October 1, 1987; January 10, 1990; July 5, 2000]

# CHAPTERS 53 TO 60

Reserved

# CHAPTER 61
# IOWA STANDARDS OF PRACTICE FOR ATTORNEYS REPRESENTING PARENTS IN JUVENILE COURT

# CHAPTER 61
# IOWA STANDARDS OF PRACTICE FOR ATTORNEYS REPRESENTING PARENTS IN JUVENILE COURT

**These standards do not add obligations to the Iowa Rules of Professional Conduct, but like the comments to those rules, they provide guidance to attorneys representing parents in juvenile proceedings for practicing in compliance with the rules. In the event of any conflict between these standards and a rule of professional conduct, the requirements of the rule take precedence.**

The parent's attorney shall:

## I. General

1. Adhere to all educational requirements before accepting a court appointment to represent a client in a child welfare case. Acquire sufficient working knowledge of all relevant federal and state laws, regulations, policies, and rules.

2. Avoid continuances and work to reduce delays in court proceedings unless warranted by the interests of the client.

3. Communicate as needed with other professionals in the case to protect or advance the client's interests.

## II. Relationship with the Client

4. Establish and maintain a working relationship with the client. Communicate with the client prior to the day of hearing and when apprised of emergencies or significant events.

5. Advocate for the client's goals. Empower the client to direct the representation and make informed decisions.

6. Understand and protect the client's rights to information and decision-making while the child is placed out of the home.

7. Act in accordance with the duty of loyalty owed to the client while adhering to all laws and ethical obligations concerning confidentiality. Avoid potential conflicts of interest that would interfere with the competent representation of the client. Comply with all other Iowa Rules of Professional Conduct.

8. Provide the client with all relevant contact information. Establish a system that promotes regular client-attorney contact.

9. Communicate with the client in a manner that promotes advocacy and adequate preparation to support the client's position.

10. Take reasonable steps to communicate with incarcerated clients and to locate clients who become absent. Develop representation strategies. Establish a plan for the client's participation in case-related events.

11. Communicate with and counsel the client about financial implications of the juvenile matter to promote and protect the client's interest.

12. Investigate and consider the client's background and its impact on the case. Act in a culturally competent manner and with due regard to disabilities or unique circumstances of the client. Advocate for appropriate supportive services with the child welfare agency and court.

## III. Investigation and Court Preparation

13. Conduct an independent investigation at every stage of the proceeding as reasonable and necessary.

14. Use effective discovery methods according to the Iowa Rules of Juvenile Procedure.

15. Consult with the client to develop a case theory and strategy. Explain the statutory timeline for the case.

16. Timely file appropriate pleadings, motions, and briefs.

17. Engage in multidisciplinary case planning and advocate for appropriate services and high quality family interaction.

18. Effectively participate with the client in family team meetings, mediation, and other negotiations.

19. Thoroughly prepare the client in advance for all hearings, meetings, and other case events.

20. Identify, locate, and prepare necessary lay and expert witnesses. Prepare for cross-examination and, when permissible, interview those witnesses.

21. Review court orders to ensure accuracy and clarity. Review orders with the client. Take reasonable steps to ensure the client complies with court orders.

22. Continually evaluate whether the case should be reviewed by the court prior to the next scheduled hearing date to ensure case progress.

23. Timely file reasonable and necessary post-hearing motions.

**IV. Appeal**

24. Consider and discuss appeal options and deadlines with the client.

25. Timely file appeal documents if the client decides to appeal. Adhere to the Iowa Rules of Appellate Procedure.

26. Timely review the ruling and discuss its implications with the client.

27. Consider and discuss further review options.

## Commentary to the Iowa Standards of Practice for Attorneys Representing Parents in Juvenile Court

**The parent's attorney shall:**

**I. General**

**1. Adhere to all educational requirements before accepting a court appointment to represent a client in a child welfare case. Acquire sufficient working knowledge of all relevant federal and state laws, regulations, policies, and rules.**

*Commentary*

[1] As in all areas of law, it is essential that attorneys learn the substantive law as well as local practice. A client's fundamental liberty interest in the care and custody of the client's child is at stake, and the attorney must be adequately trained to protect this interest. The attorney must know enough about all relevant laws to vigorously advocate for the client's interests. Additionally, the attorney must be able to use procedural, evidentiary, and confidentiality laws and rules to protect the client's rights throughout court proceedings.

[2] It is essential for the attorney to read and understand all state laws, policies, and procedures regarding child abuse and neglect. In addition, the attorney must be familiar with other applicable laws to recognize when they are relevant to a case and to conduct research if necessary. Examples of potentially relevant laws include but are not limited to:

- Titles IV-B and IV-E of the Social Security Act, including the Adoption and Safe Families Act (AFSA), 42 U.S.C. §§620-679 and the ASFA Regulations, 45 C.F.R. Parts 1355, 1356, 1357
- Child Abuse Prevention Treatment Act (CAPTA), P.L.108-36
- Indian Child Welfare Act (ICWA) 25 U.S.C. §§190-963; ICWA Regulations, 25 C.F.R. Part 23; Guidelines for State Courts: Indian Child Custody Proceedings, 44 Fed. Reg. 67, 584 (Nov. 26, 1979)
- State Indian Child Welfare Act laws
- Multi-Ethnic Placement Act (MEPA), as amended by the Inter-Ethnic Adoption Provisions of 1996 (MEPA-IEP) 42 U.S.C. §622 (b)(9) (1998), 42 U.S.C. §671(a)(18) (1998), 42 U.S.C. §1996b (1998)

- Interstate Compact on Placement of Children (ICPC)
- Foster Care Independence Act of 1999 (FCIA), P.L. 106-169
- Individuals with Disabilities Education Act (IDEA), P.L. 91-230
- Family Education Rights Privacy Act (FERPA), 20 U.S.C. §1232g
- Health Insurance Portability and Accountability Act of 1996 (HIPAA), P.L. 104-191 §264, 42 U.S.C. §1320d-2 (in relevant part)
- Public Health Act, 42 U.S.C. §290dd-2 and 42 C.F.R. Part 2
- Immigration laws relating to child welfare and child custody
- State laws and rules of juvenile procedure
- State laws and rules of evidence
- State laws and rules of civil procedure
- State laws and rules of criminal procedure
- State laws concerning privilege and confidentiality, public benefits, education, and disabilities
- State laws and rules of professional responsibility or other relevant ethics standards
- State laws regarding domestic violence
- State domestic relations laws

**2. Avoid continuances and work to reduce delays in court proceedings unless warranted by the interests of the client.**

*Commentary*

[1] The Iowa Supreme Court has established that juvenile court cases take priority over all other cases with the exception of civil commitments and domestic abuse cases. *See* Iowa Supreme Court Supervisory Orders, dated December 1, 2009, and February 4, 2010.

[2] The attorney should not request a continuance unless there is an emergency or a continuance otherwise furthers the interests of the client. If a continuance is necessary, the attorney should request the continuance in writing as far as possible in advance of the hearing and for the shortest period possible, consistent with the client's interests. The attorney should object to repeated or prolonged continuance requests by other parties if the resulting continuance would harm the client.

[3] Delaying a case often increases the time a family is separated and can reduce the likelihood of reunification. Appearing in court often motivates parties to comply with orders and cooperate with services. When a judge actively monitors a case, services are often put in place more quickly, visitation may be increased, and other requests by the client may be granted. If a hearing is continued and the case is delayed, the client may lose momentum in addressing the issues that led to the child's removal, or the client may lose the opportunity to prove compliance with case plan goals. Additionally, the Adoption and Safe Families Act timelines continue to run despite continuances.

**3. Communicate as needed with other professionals in the case to protect or advance the client's interests.**

*Commentary*

[1] Communication with others is necessary to ensure the client is involved with key aspects of the child's life. This requires open and ongoing communication with attorneys of record, pro se litigants, and any guardian ad litem (GAL). Similarly, the attorney should communicate with the relatives, caseworker, foster parents, court appointed special advocate (CASA), and service providers to learn about the client's progress and their views of the case, as appropriate. Rules of professional ethics govern contact with represented and unrepresented parties.

[2] The attorney should have open lines of communication with any attorneys representing the client in related matters, such as criminal, protection from abuse, private custody, or administrative proceedings to ensure that probation orders, protection from abuse orders, private custody orders, and administrative determinations do not conflict with the client's goals in the abuse and neglect case.

## II. Relationship with the Client

**4. Establish and maintain a working relationship with the client. Communicate with the client prior to the day of hearing and when apprised of emergencies or significant events.**

*Commentary*

[1] Gaining the client's trust and establishing ongoing communication are two essential aspects of representing the client. The client may feel angry and believe that all of the attorneys in the system work with the child welfare agency and against that client. The attorney must take care to distinguish the attorney from others in the system so the client can see that the attorney serves the client's interests. The attorney should be mindful that parents often feel disempowered in child welfare proceedings and should take steps to make the client feel comfortable expressing goals and wishes without fear of judgment.

[2] The attorney should meet with the client regularly throughout the case. The meetings should occur well before the hearing, not at the courthouse just minutes before the case is called before the judge. The attorney should ask the client questions to obtain information to prepare the case, and should strive to create a comfortable environment so the client can ask the attorney questions. The attorney should use these meetings to prepare for court as well as to counsel the client concerning issues that arise during the course of the case. Information obtained from the client should be used to propel the investigation.

**5. Advocate for the client's goals. Empower the client to direct the representation and make informed decisions.**

*Commentary*

[1] Attorneys representing parents must understand the client's goals and pursue them vigorously. The attorney should explain that the attorney's job is to represent the client's interests and regularly inquire as to the client's goals, including ultimate case goals and interim goals. The attorney should explain all legal aspects of the case and provide comprehensive advice on the advantages and disadvantages of different options. At the same time, the attorney should be careful not to usurp the client's authority to decide the case goals.

**6. Understand and protect the client's rights to information and decision-making while the child is placed out of the home.**

*Commentary*

[1] Unless and until parental rights are terminated, the client has parental obligations and rights while a child is in foster care. Advocacy may be necessary to ensure the client is allowed to remain involved with key aspects of the child's life. Not only should the client's rights be protected, but continuing to exercise as much parental responsibility as possible is often an effective strategy to speed family reunification. Often a client does not understand that the client has the right to help make decisions for, or obtain information about, the child. Therefore, it is the attorney's responsibility to counsel the client and help the client understand and carry out the client's rights and responsibilities.

[2] The attorney must explain to the client the decision-making authority that remains with the client and the authority that lies with the child welfare agency while the child is in foster care. The attorney should seek updates and reports from any service provider working with the child or the family and help the client obtain information about the child's safety, health, education, and well-being when the client desires. Where decision-making rights remain, the attorney should assist the client in exercising the client's rights to continue to make decisions regarding the child's medical, mental health, and educational services. If necessary, the attorney should intervene with the child welfare agency, provider agencies, medical providers, and the child's school to ensure the client has decision-making opportunities. This may include seeking court orders when the client has been left out of important decisions about the child's life.

**7. Act in accordance with the duty of loyalty owed to the client while adhering to all laws and ethical obligations concerning confidentiality. Avoid potential conflicts of interest that would interfere with the competent representation of the client. Comply with all other Iowa Rules of Professional Conduct.**

*Commentary*

[1] Attorneys must understand and adhere to ethical obligations and all confidentiality laws, including Iowa Code chapter 232. The attorney must fully explain to the client the advantages and disadvantages of choosing to exercise, partially waive, or waive a privilege or right to confidentiality. Consistent with the client's interests and goals, the attorney must seek to protect from disclosure confidential information concerning the client.

[2] Confidential information contained in a client's substance use disorder treatment records, domestic violence treatment records, mental health records, or medical records is often at issue in abuse and neglect cases. Improper disclosure of confidential information early in the proceeding may have a negative impact on the manner in which the client is perceived by the other parties and the court. For this reason, it is crucial for the attorney to advise the client promptly as to the advantages and disadvantages of releasing confidential information, and for the attorney to take whatever steps necessary to protect the client's privileges or rights to confidentiality.

[3] The attorney must not represent multiple parties if their interests differ. In most instances, attorneys should avoid representing both parents in an abuse or neglect case. In situations involving allegations of domestic violence, the attorney should never represent both parents. In the rare case in which an attorney, after careful consideration of potential conflicts, may represent both parents, it should only be with their informed consent. Even in cases in which there is no apparent conflict at the beginning of the case, conflicts may arise as the case proceeds. If this occurs, the attorney might be required to withdraw from representing one or both parents. This could be difficult for the clients and delay the case. Other examples of potential conflicts of interest that the attorney should avoid include representing multiple fathers in the same case or representing parties in a separate case who have interests adverse to the client in the current case.

**8. Provide the client with all relevant contact information. Establish a system that promotes regular client-attorney contact.**

*Commentary*

[1] The attorney should ensure the client understands how to contact the attorney and that the attorney wants to hear from the client on an ongoing basis. The attorney should explain that even when the attorney is unavailable, the client should leave a message. The attorney must respond to client messages in a reasonable time period. The attorney and client should establish a reliable communication system that meets the client's needs. The attorney should be aware of the client's circumstances, such as whether the client has access to a telephone, and tailor the communication system to the individual client. For example, a communication system may involve telephone contact, email, or communication through a third party when the client agrees to it. Interpreters should be used when the attorney and client are not fluent in the same language.

[2] Upon accepting an appointment, the attorney should communicate to the client the importance of staying in contact with the attorney. While the attorney must communicate as necessary with the client, and be informed of the client's wishes before a hearing, the client also must keep in contact with the attorney. At the beginning of the representation, the attorney should tell the client how to contact the attorney and discuss the importance of the client keeping the attorney informed of changes in address, phone numbers, and the client's whereabouts.

**9. Communicate with the client in a manner that promotes advocacy and adequate preparation to support the client's position.**

*Commentary*

[1] The attorney's job extends beyond the courtroom. The attorney should be a counselor as well as litigator. The attorney should be available to talk with the client to prepare for hearings and to provide advice and information about ongoing concerns. Open lines of communication between attorneys and clients help ensure clients get answers to questions and attorneys get the information and documents they need.

[2] The attorney should be available for in-person meetings or telephone calls to answer the client's questions and address the client's concerns. The attorney and client should work together to identify and review short- and long-term goals, particularly as circumstances change during the case.

**10. Take reasonable steps to communicate with incarcerated clients and to locate clients who become absent. Develop representation strategies. Establish a plan for the client's participation in case-related events.**

*Commentary*

[1] *Absent Parents*

The attorney should make reasonable attempts to locate and communicate with absent parents to formulate the positions the attorney should take at hearings and to understand what information the client wishes the attorney to share with the child welfare agency and the court. If the attorney is unable to find and communicate with the client, the attorney should consider filing a motion to withdraw.

[2] *Incarcerated Parents*

An attorney who is appointed to represent an incarcerated parent has an ethical obligation to zealously represent that parent, even if the client is not an immediate placement option. Upon being appointed to represent an incarcerated parent, the attorney should immediately locate the parent. If the incarcerated client is serving a sentence in Iowa, the attorney can locate that parent using the Iowa department of corrections website for offender information. If the incarcerated parent is housed in a federal prison, the Federal Bureau of Prisons website can be used to locate the client.

The attorney must be particularly diligent when representing an incarcerated parent. The attorney must be aware of the reasons for the incarceration. If the parent is incarcerated as a result of an act against the child or another child of the parent, the court can order that reasonable efforts to reunite the family are not required. The attorney must be prepared to argue against the issuance of such an order if the client opposes it. Attorneys should counsel the client as to any effects of incarceration and know statutory and case law concerning incarceration. The attorney should help the client identify potential kinship placements and advocate for placement with parental relatives who can provide care for the child while the parent is incarcerated.

[3] *Services*

The attorney should assist an incarcerated client in obtaining services while incarcerated, such as substance use disorder treatment, parenting skills, or job training. The attorney must advocate for reasonable efforts for the client and may have to assist the client and the agency caseworker in acquisition of those services. The attorney must learn about available resources and seek the support of the agency and child's attorney.

[4] *Communication*

The attorney should counsel an incarcerated client on the importance of maintaining regular contact with the client's child while incarcerated. The attorney should advocate for a plan that fosters communication and visitation by obtaining necessary court orders and working with the caseworker as well as the correctional facility's social worker. The attorney must find alternative ways to communicate with the incarcerated client. This may include visiting the client in prison or engaging in more extensive phone or mail contact than with other clients. The attorney should also communicate with the client's criminal defense attorney. There may be issues related to self-incrimination and timing that require coordination between cases.

[5] *Appearance in Court*

An incarcerated client's participation in court frequently raises issues that require the attorney's attention in advance. The attorney should find out from the client if the client wishes to participate in the hearing. If so, the attorney should make arrangements with the incarcerated client's prison counselor to have the parent appear by telephone. The attorney should explain to any client hesitant to appear that the case will proceed without the client's presence and should explain the potential consequences of that choice.

**11. Communicate with and counsel the client about financial implications of the juvenile matter to promote and protect the client's interest.**

*Commentary*

[1] It is important to have a thorough discussion with the client of the financial aspects of the juvenile case. The client is entitled to know the costs associated with services and the funding mechanism for each. For example, if the child is placed in foster care, Foster Care Services will be establishing a support obligation to be paid by one or both of the parents. If the child is placed in foster group care, parents are expected to reimburse all or part of the cost. If the attorney is court appointed, the client should be made aware of the requirement to repay the state for the court appointed attorney fees and expenses under Iowa Code section 815.9. The attorney should explain the work that can be billed under the court appointment, the billing rate, and when the court may start requiring reimbursement of the fees and expenses. Copies of all claims submitted to the State Public Defender for payment must be provided to the parent.

**12. Investigate and consider the client's background and its impact on the case. Act in a culturally competent manner and with due regard to disabilities or unique circumstances of the client. Advocate for appropriate supportive services with the child welfare agency and court.**

*Commentary*

[1] The attorney should learn about and understand the client's background, determine how it impacts the client's case, and always show the client respect. The attorney must understand how cultural and socioeconomic differences affect interaction with the client, and must interpret the client's words and actions accordingly.

[2] The child welfare system comprises a diverse group of people, including the clients and professionals involved. Each person comes to this system with the person's own set of values and expectations, but it is essential that each person try to learn about and understand the backgrounds of others. An individual's race, ethnicity, gender, sexual orientation, and socioeconomic position all have an impact on how the person acts and reacts in particular situations. The attorney must be vigilant against imposing the attorney's values onto the client, and should, instead, work with the client within the context of the client's culture and socioeconomic position. While the court and child welfare agency have expectations of parents in their treatment of children, the parent's advocate must strive to explain these expectations to the client in a sensitive way. The attorney should also try to explain how the client's background might affect the client's ability to comply with court orders and agency requests.

[3] The attorney should ensure a formal interpreter is involved when the attorney and client are not fluent in the same language. The attorney should also advocate for the use of an interpreter when other professionals in the case who are not fluent in the same language as the client are interviewing the client.

[4] The attorney and the client should identify barriers to the client engaging in services, such as employment, transportation, and financial issues. The attorney should work with the client, caseworker, and service provider to overcome the barriers.

[5] The attorney should be aware of any special issues the client may have related to participating in the proposed case plan, such as difficulties in reading or language differences, and advocate with the child welfare agency and court for appropriate supportive services.

[6] Attorneys representing parents must be able to determine whether a client's mental status, including mental illness or mental retardation, interferes with the client's ability to make decisions about the case. The attorney should be familiar with any mental health diagnosis and treatment that a client has had in the past or is undergoing, including any medications for such conditions.

## III. Investigation and Court Preparation

**13. Conduct an independent investigation at every stage of the proceeding as reasonable and necessary.**

*Commentary*

[1] The attorney should seek updates and reports from any service provider working with the child or the family and should help the client obtain information about the child's safety, health, education, and well-being when the client desires.

[2] Often, the client is the best source of information for the attorney, and the attorney should set aside time to obtain that information. Since the interview may involve disclosure of sensitive or painful information, the attorney should explain attorney-client confidentiality to the client. The attorney may need to work hard to gain the client's trust, but if a trusting relationship can be developed, the attorney will have an easier time representing the client. The investigation will be more effective if guided by the client, as the client generally knows firsthand what occurred in the case.

[3] The attorney must take all necessary steps to prepare each case. A thorough investigation is an essential element of preparation. The attorney cannot rely solely on what the agency caseworker reports about the client. Rather, the attorney should contact service providers who work with the client, relatives who can discuss the client's care of the child, the child's teacher, or other people who can clarify information relevant to the case. If necessary, the attorney should petition the court for funds to hire an investigator.

**14. Use effective discovery methods according to the Iowa Rules of Juvenile Procedure.**

*Commentary*

[1] The attorney should ask for and review the agency case file as early during the course of representation as possible. The file contains useful documents that the attorney may not yet have and will instruct the attorney on the agency's case theory. If the agency case file is inaccurate, the attorney should seek to correct it. The attorney must read the case file periodically because the agency is continually adding information.

[2] While an independent investigation is essential, it is also important that the attorney understands the information the agency is relying on to further its case. The case file should contain a history about the family that the client may not have shared and important reports and information about both the child and parent that the attorney must understand for hearings as well as settlement conferences. Unless the attorney also has the information the agency has, the attorney will walk into court at a disadvantage.

[3] As part of the discovery phase, the attorney should gather all relevant documentation regarding the case that might shed light on the allegations, the service plan, and the client's strengths as a parent. The attorney should not limit the scope of discovery prematurely because information about past or present criminal, protection from abuse, private custody, or administrative proceedings involving the client can have an impact on the abuse and neglect case. The attorney should also review the following kinds of documents:

- Social service records
- Court records
- Medical records
- School records
- Evaluations of all types

[4] The attorney should obtain reports and records from service providers.

[5] Discovery is not limited to information regarding the client, but may include records of others such as the other parent, stepparents, the child, relatives, and nonrelative caregivers. In preparing the client's case, the attorney must try to learn as much about the client and the family as possible. Various records may contradict or supplement the agency's account of events. Gathering documentation to verify the client's reports about what occurred before the child came into care and to show progress the client is making during the case is necessary to provide concrete evidence for the court. Documentation may also alert the attorney to issues the client is having that the client did not share with the attorney. The attorney may be able to intercede and assist the client with service providers, agency caseworkers, and others.

[6] The attorney should know what information is needed to prepare the case and understand the best methods of obtaining that information. The attorney should become familiar with the pretrial requests and actions used in the jurisdiction and use whatever tools are available to obtain necessary information. When informal discovery proves inadequate, the attorney should consider the following types of formal discovery: depositions, interrogatories (including expert interrogatories), requests for

production of documents, requests for admissions, and motions for mental or physical examination of a party.

[7] The attorney, when appropriate and consistent with the client's interests and goals, should take all necessary steps to preserve and protect the client's rights by opposing discovery requests of other parties.

**15. Consult with the client to develop a case theory and strategy. Explain the statutory timeline for the case.**

*Commentary*

[1] The attorney should spend time with the client to prepare the case and address questions and concerns. The attorney should clearly explain the allegations made against the client, what is likely to happen before, during, and after each hearing, and what steps the client can take to increase the likelihood of reuniting with the child. The attorney should explain any settlement options and determine whether the client wants the attorney to pursue such options. The attorney should explain courtroom procedures. The attorney should write to the client to ensure the client understands what happened in court and what is expected of the client.

[2] Once the attorney has completed the initial investigation and discovery, including interviews with the client, the attorney should develop a strategy for representation. The strategy may change throughout the case, depending on the client's progress and other considerations, but the initial theory is important to assist the attorney in staying focused on the client's wishes and on what is achievable. The theory of the case should inform the attorney's preparation for hearings and arguments to the court throughout the case. It should also help the attorney decide which evidence to develop for hearings and the steps to take to move the case toward the client's ultimate goals (for example, requesting increased visitation when a client becomes engaged in services).

[3] At the beginning of a case, the attorney and the client should develop timelines that contain deadlines and important dates and develop a tickler or calendar system to track the deadlines and dates. The timeline should specify the actions the attorney and client will need to take and the dates for completion. The attorney and the client should know when important dates will occur and should be focused on timely accomplishing the objectives in the case plan. The attorney should provide the client with a timeline or calendar outlining known and prospective court dates, service appointments, deadlines, and critical points of attorney-client contact. The attorney should record federal and state law deadlines in the system (for example, the presumptive date at which termination of parental rights can occur if the child is not in the custody of the parents).

[4] Having a consistent calendaring system can help an attorney manage a busy caseload. Clients should receive a hard copy calendar to keep track of appointments and important dates. This helps clients stay focused on accomplishing the service plan goals and meeting court-imposed deadlines.

**16. Timely file appropriate pleadings, motions, and briefs.**

*Commentary*

[1] The attorney should make appropriate motions and evidentiary objections to advance the client's position during the hearing. If necessary, the attorney should file briefs in support of the client's position on motions and evidentiary issues. The attorney should always be aware of preserving legal issues for appeal.

[2] It is essential the attorney understands the applicable rules of evidence and all court rules and procedures. The attorney must be willing and able to make appropriate motions, objections, and arguments (for example, objecting to the qualification of expert witnesses or raising the issue of the child welfare agency's lack of reasonable efforts). When a case presents a complicated or new legal issue, the attorney should conduct the appropriate research before appearing in court. The attorney must have a solid understanding of the relevant law and be able to present it to the judge in a compelling and convincing way. The attorney should be prepared to distinguish case law that appears to be unfavorable.

[3] Arguments in child welfare cases are often fact-based. Nonetheless, the attorney should ground his or her arguments in statutory, regulatory, and common law. These sources of law exist in each

jurisdiction, as well as in federal law. Additionally, law from other jurisdictions can be used to sway a court in the client's favor. An attorney who has a firm grasp of the law, and who is willing to do legal research on an individual case, may have more credibility before the court. At times, competent representation requires advancing legal arguments that are not yet accepted in the jurisdiction. The attorney should be mindful to preserve issues for appellate review by making a record even if the argument is unlikely to prevail at the trial level.

**17. Engage in multidisciplinary case planning and advocate for appropriate services and high quality family interaction.**

*Commentary*

[1] The attorney must advocate for the client both in and out of court. Consistent, high quality family interaction is one of the best predictors of successful reunification between a parent and child. Often visits are arranged in settings that are uncomfortable and inhibiting for families. It is important that the attorney seek the best possible family interaction. Effort should be made to have family interaction that is unsupervised or at the lowest possible level of supervision. Families are often more comfortable when relatives, family friends, clergy, or other community members, rather than caseworkers, are recruited to supervise family interaction. The attorney should advocate for family interaction to occur in the most family-friendly locations possible, such as in the family's home, parks, libraries, restaurants, places of worship, or other community venues.

[2] The attorney should know the social, mental health, substance use disorder, and other treatment services that are available to parents and families in the jurisdiction in which the attorney practices so that the attorney can advocate effectively for the client to receive these services. The attorney should ask the client if the client wishes to engage in services. If so, the attorney must determine whether the client has access to the necessary services to overcome the issues that led to the case.

[3] The services in which the client is involved must be tailored to the client's needs, and not merely hurdles over which the client must jump (for example, if the client is taking parenting classes, the classes must be relevant to the underlying issues in the case).

[4] The attorney should advocate for an effective family interaction plan and counsel the client on the importance of regular contact with the child. Preservation of parent-child bonds through regular family interaction is essential to any reunification effort. Courts and child welfare agencies may need to be urged to develop family interaction plans that best fit the needs of the individual family. Factors to consider in family interaction plans include:

- Frequency
- Length
- Location
- Supervision
- Types of activities
- Visit coaching—having someone at the visit who can model effective parenting skills

[5] For a client to succeed in a child welfare case, the client must receive and cooperate with social services. It is therefore necessary that the attorney do whatever possible to obtain appropriate services for the client and then counsel the client about participating in such services. Examples of services common to child welfare cases include:

- Evaluations
- Family preservation or reunification services
- Medical and mental health care
- Drug and alcohol treatment
- Domestic violence prevention, intervention, or treatment
- Parenting education
- Education and job training
- Housing

- Child care
- Funds for public transportation so the client can receive services

[6] When necessary, the attorney should seek court orders to require the child welfare agency to provide services or family interaction for the client. The attorney may need to ask the court to enforce previously entered orders if the agency did not comply with them in a reasonable period. The attorney should consider whether the child's representative (lawyer, GAL, or CASA) might be an ally on service and visitation issues. If so, the attorney should solicit the child's representative's assistance and work together in making requests to the agency and the court.

**18. Effectively participate with the client in family team meetings, mediation, and other negotiations.**

*Commentary*

[1] A family team meeting is a voluntary process for a family involved with the department of health and human services (department). It is designed to engage and support the family in the case planning, case management, and case closure process. A family team meeting is not an adversarial setting, and it may seem to the attorney that social work is occurring. Attorneys for parents may misunderstand the critical nature of family team meetings. The family team meeting forum is one of the most important stages of juvenile court because it is where the department develops or refines the case plan. The case plan is a key document the court will use to assess whether the client has made progress. The case plan also should be the framework for the attorney to develop the theory of the case.

[2] The attorney should attend family team meetings and actively engage in case planning to ensure the client asks the department for and receives the needed services. The attorney should be prepared to object to the department's inclusion of services in the case plan that are beyond the client's needs. If the department continues to require services that are not tailored to the client's specific needs, the attorney must bring the issue before the court on the grounds of a lack of reasonable efforts.

[3] The attorney should be available to accompany the client to other important meetings during a case if the client requests. Whenever possible, the attorney should engage in a dialogue with the social worker and service provider to monitor the department's perspective of the client's progress. The attorney should act as a liaison and advocate for the client with the social worker and service provider.

**19. Thoroughly prepare the client in advance for all hearings, meetings, and other case events.**

*Commentary*

[1] The attorney must prepare for and attend all hearings. Part of that preparation is to thoroughly prepare the client in advance of the hearing. This also includes thoroughly preparing an incarcerated client in advance of hearings and other case events.

[2] The attorney and the client must be prepared and present in court. The attorney's failure to participate in the proceedings in which all other parties are represented may disadvantage the client. Therefore, the attorney should be actively involved in this stage. Attorneys must appear for all court appearances on time. If the attorney has a conflict with another courtroom appearance, the attorney should notify the court and other parties and request a short continuance. In a substantive hearing, the attorney should avoid having another attorney stand in to represent the client, especially if the other attorney is unfamiliar with the client or case.

**20. Identify, locate, and prepare necessary lay and expert witnesses. Prepare for cross-examination and, when permissible, interview those witnesses.**

*Commentary*

[1] The attorney must be able to present witnesses effectively to advance the client's position. Witnesses must be prepared in advance, and the attorney should know the evidence that will be presented through the witnesses. The attorney must also be skilled at cross-examining opposing parties' witnesses. The attorney must know how to offer documents, photos, and physical objects into evidence.

[2] At each hearing, the attorney should keep the case theory in mind; advocate for the child to return home and for appropriate services, if that is the client's position; and request that the court state its expectations of all parties.

[3] Becoming a strong courtroom attorney takes practice and attention to detail. The attorney must be sure to learn the rules on presenting witnesses, impeaching testimony, and entering evidence. The attorney should seek out training in trial skills and observe more experienced trial attorneys to learn from them. Even if the attorney is more seasoned, effective direct and cross-examination require careful preparation. The attorney must know the relevant records well enough to be able to impeach adverse witnesses and bring out in both direct and cross-examinations any information that would support the client's position. Attorneys who are not as experienced may wish to consult with other experienced attorneys about complex cases. Presenting and cross-examining witnesses are skills with which the attorney must be comfortable.

[4] The attorney, in consultation with the client, should develop a witness list well before a hearing. The attorney should not assume the agency will call a witness, even if the witness is named on the agency's witness list. The attorney should, when possible, contact the potential witnesses to determine if they can provide helpful testimony.

[5] When appropriate, witnesses should be informed that a subpoena is on its way. The attorney should also ensure the subpoena is served. The attorney should subpoena potential agency witnesses (for example, a previous caseworker) who have favorable information about the client.

[6] The attorney should set aside time before the hearing to fully prepare all witnesses in person. The attorney should remind the witnesses about the court date.

[7] Preparation is the key to successfully resolving a case, either in negotiation or trial. The attorney should plan as early as possible for the case and make arrangements accordingly. Witnesses may have direct knowledge of the allegations against the client. They may be service providers working with the client or individuals from the community who can testify generally about the family's strengths.

[8] When appropriate, the attorney should consider working with other parties who share the client's position (such as the child's representative) when creating a witness list, issuing subpoenas, and preparing witnesses. Doctors, nurses, teachers, therapists, and other potential witnesses have busy schedules and need advance warning about the date and time of the hearing.

[9] Witnesses are often nervous about testifying in court. The attorney should prepare them thoroughly so they feel comfortable with the process. Preparation may include rehearsing the specific questions that will be asked on direct examination and anticipating the questions that might arise on cross-examination. The attorney should provide written questions for those witnesses who need them.

[10] Often a case requires multiple experts in different roles, such as experts in medicine, mental health treatment, drug and alcohol treatment, or social work. Experts may be needed for ongoing case consultation in addition to providing testimony at trial. The attorney should consider whether the opposing party is calling expert witnesses and determine whether the client needs to call any experts.

[11] When expert testimony is required, the attorney should identify the qualified experts and seek necessary funds to retain them in a timely manner. The attorney should subpoena the witnesses, giving them as much advance notice of the court date as possible. As is true for all witnesses, the attorney should spend as much time as possible preparing the expert witnesses for the hearing. The attorney should be competent in qualifying expert witnesses.

**21. Review court orders to ensure accuracy and clarity. Review orders with the client. Take reasonable steps to ensure the client complies with court orders.**

*Commentary*

[1] The client may be angry about being involved in the child welfare system, and a court order that is not in the client's favor could add stress and frustration. It is essential that the attorney take time, either immediately after the hearing or at a meeting soon after the court date, to discuss the hearing and the outcome with the client.

[2] After the hearing, the attorney should review the written order to ensure it reflects the court's oral order, if any. If the order is incorrect, the attorney should take the necessary steps to correct it. The attorney should provide the client with a copy of the order and should review the order with the client to ensure the client understands it. If the client is unhappy with the order, the attorney should counsel the client about options for appeal or to request rehearing on the order, but the attorney should explain that the order is in effect unless a stay or other relief is secured. The attorney should counsel the client on the potential consequences of failing to comply with a court order.

**22. Continually evaluate whether the case should be reviewed by the court prior to the next scheduled hearing date to ensure case progress.**

*Commentary*

[1] The attorney should play an active role in assisting the client in complying with court orders, obtaining family interaction, and securing other necessary services. The attorney should speak with the client regularly about progress and any difficulties the client is encountering while trying to comply with the court order or service plan.

[2] If the client is attempting to comply with the order and case plan but another party, such as the department or a contracted provider, is not meeting the party's responsibilities, the attorney should approach the other party and seek assistance on behalf of the client.

[3] When the department is not offering appropriate services to meet the needs of the client to promote reunification, the attorney should first request the department in writing to provide the needed services to the client. If the department still does not provide reasonable efforts to preserve and unify the family or make it possible for the child to return home safely, the attorney should consider filing a motion alleging the department is not making reasonable efforts and request the case immediately be brought back to court to litigate this issue. *See* Iowa Code section 232.102(12)—Reasonable Efforts.

**23. Timely file reasonable and necessary post-hearing motions.**

**IV. Appeal**

**24. Consider and discuss appeal options and deadlines with the client.**

*Commentary*

[1] The attorney should inform the client of appeal rights and the expedited appellate deadlines in juvenile cases. The attorney should counsel the client on the likelihood of a successful appeal and the potential consequences of an appeal. The attorney should always litigate the case and preserve the record with the assumption there may be a subsequent appeal.

**25. Timely file appeal documents if the client decides to appeal. Adhere to the Iowa Rules of Appellate Procedure.**

*Commentary*

[1] The attorney shall carefully review obligations under the Iowa Rules of Appellate Procedure and timely file all paperwork. A summary follows:

*Notice of appeal.* A notice of appeal must be filed within 15 days of the date of the order and signed by the attorney *and* the client. Iowa Rs. App. P. 6.101(1) and 6.102(1)(*a*), *see* Form 4 in rule 6.1401. The notice shall be served upon all counsel of record, all unrepresented parties, the attorney general, and the clerk of the supreme court pursuant to Iowa Rules of Civil Procedure 1.442(2) and 1.442(7). The notice of appeal shall include a certificate of service in the form provided in rule 1.442(7).

*Notice of cross appeal.* A notice of cross appeal must be filed within the 15-day limit for filing a notice of appeal, or within 10 days after filing of the notice of appeal, whichever is later. Iowa R. App. P. 6.101(2)(*a*).

*Petition on appeal.* The protocol for a juvenile appeal under Iowa Code chapter 232 differs somewhat from other appeals. Unless a petition on appeal is filed, the juvenile appeal will be dismissed. Iowa Rs. App. P. 6.102(1)(*b*) and 6.201(1) & (2); *see* Form 5 in rule 6.1401. Ensure all necessary attachments are included, a certificate of service is included, and the petition is served in the same manner as the notice of appeal. Iowa R. App. P. 6.201(1). If the petition is not served

within 15 days after filing the notice of appeal, the appeal will be dismissed with no recourse. Iowa R. App. P. 6.201(2). Extensions will most likely not be granted, as the rules explicitly state, "The time for filing a petition on appeal shall not be extended." Iowa R. App. P. 6.201(1)(*b*).

*Response to petition on appeal.* A response to a petition on appeal is optional unless a notice of cross-appeal was filed. Iowa R. App. P. 6.202(1). Similar to the petition on appeal, careful attention should be paid to the rules with regard to notice, service, length, form (including acceptable font and number of pages), the number of copies to be served, and cover. *See* Form 6 in Iowa R. App. P. 6.1401.

*Reply to issues raised in cross appeal.* A reply to the cross-appeal issues must be filed within 7 days after service of the Appellee's response. Iowa R. App. P. 6.203.

*Filing fee.* Within 7 days after filing the notice of appeal, the appellant shall pay the filing fee as provided in Iowa Rule of Appellate Procedure 6.702(1) or request a waiver or deferral of the fee pursuant to rule 6.702(2).

*Ordering transcript.* Within 7 days after filing the notice of appeal, the appellant shall use a combined certificate to order a transcript from the court reporter. Iowa Rs. App. P. 6.803(1) and 6.804; *see* Form 2 in rule 6.1401.

*Transmission of record.* Within 30 days of the filing of the notice of appeal, the appellant shall request the clerk of the district court to transmit the record to the clerk of the supreme court. Iowa R. App. P. 6.204. In Iowa Code chapter 232 cases, the court reporter then has 30 days to file the transcript. Iowa R. App. P. 6.803(3)(*b*).

*Disposition of appeal.* After reviewing the petition on appeal, any response, any reply, and the record, the appellate court may affirm or reverse, remand, or set the case for full briefing as directed by the court. Iowa Rs. App. P. 6.205(1) and 6.902(1)(*d*). If the court of appeals affirms or reverses the court's order, or remands the case, further review pursuant to Iowa Rule of Appellate Procedure 6.1103 may be sought. The court of appeals' refusal to grant full briefing shall not constitute grounds for further review by the supreme court. Iowa R. App. P. 6.205(2).

[2] The petition on appeal should clearly, concisely, and comprehensively state the material relevant facts, legal issues, and supporting legal authority as they relate to the issues presented for appeal. The petition should present all relevant case law and present the best legal arguments available in state and federal law for the client's position. The petition should include novel legal arguments if there is a chance of developing favorable law in support of the client's claim.

[3] The attorney shall keep the client informed of the status of the appeal. The client should be informed of the date, time, and place scheduled for oral argument of the appeal.

**26. Timely review ruling and discuss its implications with the client.**

*Commentary*

[1] The attorney shall communicate the result of the appeal and its implications immediately upon learning of the decision, so the client does not find out from another source, and the attorney shall provide the client with a copy of the appellate decision.

**27. Consider and discuss further review options.**

*Commentary*

[1] If the court of appeals affirms or reverses the court's order, or remands the case, further review pursuant to Iowa Rule of Appellate Procedure 6.1103 may be sought. The court of appeals' refusal to grant full briefing shall not constitute grounds for further review by the supreme court. Iowa R. App. P. 6.205(2).

[Court Order August 28, 2018; June 30, 2023, effective July 1, 2023; January 26, 2024]

# CHAPTER 62
# IOWA STANDARDS OF PRACTICE FOR LAWYERS REPRESENTING CHILDREN IN CUSTODY CASES

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# IOWA STANDARDS OF PRACTICE FOR LAWYERS REPRESENTING CHILDREN IN CUSTODY CASES

## I. Introduction

[1] Children deserve to have custody proceedings conducted in the manner least harmful to them and most likely to provide judges with the facts needed to decide the case. The Iowa Standards of Practice for Lawyers Representing Children in Custody Cases (Standards) are a model for good practice and consistency in the appointment and performance of lawyers representing children in Iowa custody cases.

[2] These Standards distinguish two distinct types of lawyers for children: (1) the Child's Attorney, who provides independent legal representation in a traditional attorney-client relationship, giving the child a strong voice in the proceedings; and (2) the Guardian ad Litem, who as a lawyer independently investigates, assesses, and advocates the child's best interests. While some courts in the past have appointed a lawyer, often called a Guardian ad Litem, to report or testify on the child's best interests and related information, this is not a lawyer's role under these Standards.

[3] These Standards seek to keep the best interests of children at the center of the court's attention and to build public confidence in a just and fair court system that works to promote the best interests of children. These Standards promote quality control, professionalism, clarity, uniformity, and predictability. They require that: (1) all participants in a case know the duties, powers, and limitations of the appointed role; and (2) lawyers have sufficient training, qualifications, compensation, time, and authority to do their jobs properly with the support and cooperation of the courts and other institutions.

[4] These Standards do not add obligations to the Iowa Rules of Professional Conduct, but like the comments to those rules, they provide guidance to attorneys representing children in custody cases for practicing in compliance with the rules. In the event of any conflict between these Standards and a Rule of Professional Conduct, the requirements of the rule take precedence.

## II. Scope and Definitions

### A. Scope

**These Standards apply to the appointment and performance of lawyers serving as advocates for children or their interests in any case where temporary or permanent legal custody, physical custody, parenting plans, parenting time, access, or visitation are adjudicated, including but not limited to divorce, custody, domestic violence, contested adoptions, and contested private guardianship cases.**

### B. Definitions

**1. "Child's Attorney": A lawyer who provides independent legal counsel for a child, and who owes the same duties of undivided loyalty, confidentiality, and competent representation as are due an adult client.**

**2. "Guardian ad Litem": A lawyer who provides independent legal services for the purpose of protecting a child's best interests without being bound by the child's directives or objectives.**

*Commentary*

[1] A lawyer should be either a Child's Attorney or a Guardian ad Litem, not both. The duties common to both roles are found in Part III of these Standards. The unique duties of each are described separately in Parts IV and V. The essential distinction between the two lawyer roles is that the Guardian ad Litem investigates and advocates the best interests of the child as a lawyer in the litigation, while the Child's Attorney is a lawyer who represents the child as a client. Neither kind of lawyer is a witness. Form should follow function in deciding which kind of lawyer to appoint. The role and duties of the lawyer should be tailored to the reasons for the appointment and the needs of the child.

[2] The role of "Guardian ad Litem" has become muddled through different usages in different states, with varying connotations. It is a venerable legal concept that has often been stretched beyond

recognition to serve fundamentally new functions, such as parenting coordinator, referee, facilitator, arbitrator, evaluator, mediator, and advocate. Asking one Guardian ad Litem to perform several roles at once, to be all things to all people, is a messy, ineffective expedient. A court seeking expert or lay opinion testimony, written reports, or other nontraditional services should appoint an individual for that purpose, such as a Child and Family Reporter (CFR), and make clear that that person is not serving as a lawyer and is not a party. This person can be either a nonlawyer or a lawyer who chooses to serve in a volunteer nonlawyer capacity.

## III. Duties of All Lawyers for Children

**In addition to their general ethical duties as lawyers and the specific duties set out in Parts IV and V, Child's Attorneys and Guardians ad Litem also have the duties outlined in this section.**

### A. Accepting appointment

**The lawyer should accept an appointment only with a full understanding of the issues and functions to be performed. If the appointed lawyer considers parts of the appointment order confusing or incompatible with the lawyer's ethical duties, the lawyer should (1) decline the appointment, or (2) inform the court of the conflict and ask the court to clarify or change the terms of the order, or (3) both.**

### B. Lawyer's roles

**A lawyer appointed as a Child's Attorney or Guardian ad Litem should not play any other role in the case and should not testify, file a report, or make recommendations except as ordered by the court when appointed in cases under Iowa Code chapter 600, 600A, or both.**

*Commentary*

[1] Neither a Child's Attorney nor a Guardian ad Litem should be a witness, which means that the lawyer should not be cross-examined and more importantly should not testify or make a written or oral report or recommendation to the court but instead should offer traditional evidence-based legal arguments just as any other lawyer would. However, explaining what result a client wants, or proffering what one hopes to prove, is not testifying; those are things all lawyers do.

[2] If these Standards are properly applied, it will not be possible for courts to make a dual appointment, but there may be cases in which such an appointment was made before these Standards were adopted. The Child's Attorney role involves a confidential relationship with privileged communications. Because the child has a right to confidentiality and advocacy of the child's position, the Child's Attorney can never abandon this role while remaining involved in the case in any way. Once a lawyer has an attorney-client relationship with a child, the lawyer cannot and should not assume any other role for the child, especially as Guardian ad Litem or witness or CFR who investigates and makes a report.

### C. Independence

**The lawyer should be independent from the court and other participants in the litigation and unprejudiced and uncompromised in the lawyer's independent action. The lawyer has the right and the responsibility to exercise independent professional judgment in carrying out the duties the court assigns and to participate in the case as fully and freely as a lawyer for a party.**

*Commentary*

[1] The lawyer should not prejudge the case. A lawyer may receive payment from a court, a government entity, or even from a parent, relative, or other adult so long as the lawyer retains the full authority for independent action.

### D. Limited appointments

**The court may limit a lawyer's appointment to a specific issue and direct the lawyer accordingly.**

### E. Initial tasks

**Immediately after being appointed, the lawyer should review the file. The lawyer should inform other parties or counsel of the appointment and that as counsel of record the lawyer**

**should receive copies of pleadings, discovery exchanges, and reasonable notification of hearings and of major changes of circumstances affecting the child.**

**F. Meeting with the child**

**The lawyer should meet with the child, adapting all communications to the child's age, level of education, cognitive development, cultural background, and degree of language acquisition, using an interpreter if necessary. The lawyer should inform the child about the court system, the proceedings, and the lawyer's responsibilities. The lawyer should elicit and assess the child's views.**

*Commentary*

[1] Establishing and maintaining a relationship with a child is the foundation of representation. Competent representation requires a child-centered approach and developmentally appropriate communication. All appointed lawyers should meet with the child and focus on the needs and circumstances of the individual child. Even nonverbal children can reveal much about their needs and interests through their behaviors and developmental levels. Meeting with the child also allows the lawyer to assess the child's circumstances, often leading to a greater understanding of the case, which may lead to creative solutions in the child's interest.

[2] The nature of the legal proceeding or issue should be explained to the child in a developmentally appropriate manner. The lawyer must speak clearly, precisely, and in terms the child can understand. A child may not understand legal terminology. Also, because of a particular child's developmental limitations, the lawyer may not completely understand what the child says. Therefore, the lawyer must learn how to ask developmentally appropriate, nonsuggestive questions and how to interpret the child's responses. The lawyer may work with social workers or other professionals to assess a child's developmental abilities and to facilitate communication.

[3] While the lawyer should always take the child's point of view into account, caution should be used because the child's stated views and desires may vary over time or may be the result of fear, intimidation, or manipulation. Lawyers may need to collaborate with other professionals to gain a full understanding of the child's needs and wishes.

**G. Pretrial responsibilities**

**The lawyer should:**

**1. Conduct thorough, continuing, and independent discovery and investigations.**

**2. Develop a theory and strategy of the case to implement at hearings, including presentation of factual and legal issues.**

**3. Stay apprised of other court proceedings affecting the child, the parties, and other household members.**

**4. Attend meetings involving issues within the scope of the appointment.**

**5. Take any necessary and appropriate action to expedite the proceedings.**

**6. Participate in, and when appropriate, initiate negotiations and mediation. The lawyer should clarify, when necessary, that the lawyer is not acting as a mediator. A lawyer who participates in a mediation should be bound by the confidentiality and privilege rules governing the mediation.**

**7. Participate in depositions, pretrial conferences, and hearings.**

**8. File or make petitions, motions, responses, or objections when necessary.**

**9. Where appropriate, within a lawyer's area of competency and not prohibited by law, request authority from the court to pursue issues on behalf of the child, administratively or judicially, even if those issues do not specifically arise from the court appointment.**

*Commentary*

[1] The lawyer should investigate the facts of the case to get a sense of the people involved and the real issues in the case, just as any other lawyer would. Guardians ad Litem have additional investigation duties described in Standard V.D.

[2] By attending relevant meetings, the lawyer can present the child's perspective, gather information, and sometimes help negotiate a full or partial settlement. The lawyer may not need to attend if another person involved in the case, such as a social worker, can obtain information or present the child's perspective, or when the meeting will not be materially relevant to any issues in the case.

[3] The lawyer is in a pivotal position in negotiations. The lawyer should attempt to resolve the case in the least adversarial manner possible, considering whether therapeutic intervention, parenting or co-parenting education, mediation, or other dispute resolution methods are appropriate. The lawyer may effectively assist negotiations of the parties and their lawyers by focusing on the needs of the child, including where appropriate the impact of domestic violence. Settlement frequently obtains at least short-term relief for all parties involved and is often the best way to resolve a case. The lawyer's role is to advocate the child's interests and point of view in the negotiation process. If a party is legally represented, it is unethical for a lawyer to negotiate with the party directly without the consent of the party's lawyer.

[4] The lawyer should file any appropriate pleadings on behalf of the child, including responses to the pleadings of other parties, to ensure that appropriate issues are properly before the court and expedite the court's consideration of issues important to the child's interests. Where available under state law or court rules or by permission of the court, relief requested may include, but is not limited to: (1) a mental or physical examination of a party or the child; (2) a parenting, custody, or visitation evaluation; (3) an increase, decrease, or termination of parenting time; (4) services for the child or family; (5) contempt for noncompliance with a court order; (6) a protective order concerning the child's privileged communications; and (7) dismissal of petitions or motions.

[5] The child's interests may be served through proceedings not connected with the case in which the lawyer is participating. For example, issues to be addressed may include: (1) child support; (2) delinquency or status offender matters; (3) Supplemental Security Income and other public benefits access; (4) mental health proceedings; (5) visitation, access, or parenting time with parents, siblings, or third parties; (6) paternity; (7) personal injury actions; (8) school or education issues, especially for a child with disabilities; (9) guardianship; (10) termination of parental rights; (11) adoption; and (12) a protective order concerning the child's tangible or intangible property.

**H. Hearings**

**The lawyer should participate actively in all hearings and conferences with the court on issues within the scope of the appointment. Specifically, the lawyer should:**

**1. Introduce herself or himself to the court as the Child's Attorney or Guardian ad Litem at the beginning of any hearing.**

**2. Make appropriate motions, including motions in limine and evidentiary objections, file briefs, and preserve issues for appeal, as appropriate.**

**3. Present and cross-examine witnesses and offer exhibits as necessary.**

**4. If a child is to meet with the judge or testify, prepare the child, familiarizing the child with the places, people, procedures, and questioning that the child will be exposed to, and seek to minimize any harm to the child from the process.**

**5. Seek to ensure that questions to the child are phrased in a syntactically and linguistically appropriate manner and that testimony is presented in a manner that is admissible.**

**6. Where appropriate, introduce evidence and make arguments on the child's competency to testify or the reliability of the child's testimony or out-of-court statements. The lawyer should be familiar with the current law and empirical knowledge about children's competency, memory, and suggestibility.**

**7. Make a closing argument, proposing specific findings of fact and conclusions of law.**

**8. Ensure that a written order is made and that it conforms to the court's oral rulings and statutorily required findings and notices.**

*Commentary*

[1] Although the lawyer's position may overlap with the position of one or more parties, the lawyer should be prepared to participate fully in any proceedings and not merely defer to the other parties. The lawyer should address the child's interests, describe the issues from the child's perspective, keep the case focused on the child's needs, discuss the effect of various dispositions on the child, and, when appropriate, present creative alternative solutions to the court.

[2] A brief formal introduction should not be omitted, because in order to make an informed decision on the merits, the court must be mindful of the lawyer's exact role, with its specific duties and constraints. Even though the appointment order states the nature of the appointment, judges should be reminded at each hearing which role the lawyer is playing.

[3] The lawyer's preparation of the child should include attention to the child's developmental needs and abilities. The lawyer should also prepare the child for the possibility that the judge may render a decision against the child's wishes, explaining that such a result would not be the child's fault.

[4] If the child does not wish to testify or would be harmed by testifying, the lawyer should seek a stipulation of the parties not to call the child as a witness or should seek a protective order from the court. The lawyer should seek to minimize adverse consequences by seeking any appropriate accommodations permitted by law so that the child's views are presented to the court in the manner least harmful to the child, such as having the testimony taken informally in chambers without the parents present. The lawyer should seek any necessary assistance from the court, including location of the testimony, determination of who will be present, and restrictions on the manner and phrasing of questions posed to the child. The child should be told beforehand whether in-chambers testimony will be shared with others, such as parents who might be excluded from chambers.

[5] Questions to the child should be phrased consistently with the law and research regarding children's competency, memory, and suggestibility. The information a child gives is often misleading, especially if adults have not understood how to ask children developmentally appropriate questions and how to interpret their answers properly. The lawyer must become skilled at recognizing the child's developmental limitations. It may be appropriate to present expert testimony on the issue or have an expert present when a young child is directly involved in the litigation to point out any developmentally inappropriate phrasing of questions.

[6] The competency issue may arise in the unusual circumstance of the child being called as a live witness, as well as when the child's input is sought by other means such as in-chambers meetings, closed-circuit television testimony, etc. Iowa has no presumptive ages of competency; rather, courts engage in more flexible, case-by-case analyses. Competency to testify involves the abilities to perceive and relate. If necessary and appropriate, the lawyer should present expert testimony to establish competency or reliability or to rehabilitate any impeachment of the child on those bases.

**I. Appeals**

**1. If an appeal on behalf of the child is permitted by state law, and if it has been decided pursuant to Standard IV.D or V.F that such an appeal is necessary, the lawyer should take all steps necessary to perfect the appeal and seek appropriate temporary orders or extraordinary writs necessary to protect the interests of the child during the pendency of the appeal. *See* Iowa Rule of Appellate Procedure 6.109(4).**

**2. The lawyer should participate in any appeal filed by another party concerning issues relevant to the child and within the scope of the appointment, unless discharged.**

**3. When the appeals court's decision is received, the lawyer should explain it to the child.**

*Commentary*

[1] The lawyer should take a position in any appeal filed by a party, consistent with the other provisions in these Standards. If the child's interests are affected by the issues raised in the appeal, the lawyer should seek an appointment on appeal or seek appointment of appellate counsel.

[2] As with other court decisions, the lawyer should explain in terms the child can understand the nature and consequences of the appeals court's decision, whether there are further appellate remedies, and what more, if anything, will be done in the trial court following the decision.

**J. Enforcement**

**The lawyer should monitor the implementation of the court's orders and address any noncompliance.**

**K. End of representation**

**When the representation ends, the lawyer should inform the child in a developmentally appropriate manner.**

**IV. Child's Attorneys**

**A. Ethics and confidentiality**

**1. Child's Attorneys are bound by Iowa's ethics rules in all matters.**

**2. A Child's Attorney appointed to represent two or more children should remain alert to the possibility of a conflict that could require the lawyer to decline representation or withdraw from representing all of the children.**

*Commentary*

[1] The child is an individual with independent views. To ensure that the child's independent voice is heard, the Child's Attorney should advocate the child's articulated position, and owes traditional duties to the child as client, subject to Iowa Rules of Professional Conduct 32:1.2(a) and 32:1.14.

[2] The Iowa Rules of Professional Conduct impose a broad duty of confidentiality concerning all "information relating to the representation of a client," but they also modify the traditional exceptions to confidentiality. Under rule 32:1.6, a lawyer may reveal information without the client's informed consent "to the extent the lawyer reasonably believes necessary . . . to prevent reasonably certain death or substantial bodily harm," or "to comply with other law or a court order," or when "the disclosure is impliedly authorized in order to carry out the representation." Also, according to rule 32:1.14(c), "the lawyer is impliedly authorized under rule 32:1.6 to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests" when acting under rule 32:1.14 to protect a client with "diminished capacity" who "is at risk of substantial physical, financial, or other harm."

[3] Iowa Rule of Professional Conduct 32:1.7 provides that "a lawyer shall not represent a client if . . . the representation of one client will be directly adverse to another client . . . ." Some diversity between siblings' views and priorities does not pose a direct conflict. But when two siblings aim to achieve fundamentally incompatible outcomes in the case as a whole, they are "directly adverse." Comment [8] to rule 32:1.7 states that "a conflict of interest exists if there is a significant risk that a lawyer's ability to consider, recommend, or carry out an appropriate course of action for the client will be materially limited . . . . [A] lawyer asked to represent several individuals . . . is likely to be materially limited in the lawyer's ability to recommend or advocate all possible positions that each might take because of the lawyer's duty of loyalty to the others. . . . The critical questions are the likelihood that a difference in interests will eventuate and, if it does, whether it will materially interfere with the lawyer's independent professional judgment in considering alternatives or foreclose courses of action that reasonably should be pursued on behalf of the client."

**B. Informing and counseling the client**

**In a developmentally appropriate manner, the Child's Attorney should:**

**1. Meet with the child upon appointment, before court hearings, when apprised of emergencies or significant events affecting the child and at other times as needed to gain the child's trust and establish a rapport with the child.**

**2. Explain to the child what is expected to happen before, during, and after each hearing.**

**3. Advise the child and provide guidance, communicating in a way that maximizes the child's ability to direct the representation.**

**4. Discuss each substantive order and its consequences with the child.**

*Commentary*

[1] Meeting with the child is important before court hearings and case reviews. Such in-person meetings allow the lawyer to explain to the child what is happening, what alternatives might be available, and what will happen next.

[2] The Child's Attorney has an obligation to explain clearly, precisely, and in terms the child can understand, the meaning and consequences of the child's choices. A child may not understand the implications of a particular course of action. The lawyer has a duty to explain in a developmentally appropriate way such information as will assist the child in having maximum input in decision-making. The lawyer should inform the child of the relevant facts and applicable laws and the ramifications of taking various positions, which may include the impact of such decisions on other family members or on future legal proceedings. The lawyer may express an opinion concerning the likelihood of the court or other parties accepting particular positions. The lawyer may inform the child of an expert's recommendations germane to the issue.

[3] As in any other attorney-client relationship, the lawyer may express the lawyer's assessment of the case, the best position for the child to take, and the reasons underlying such recommendation, and the lawyer may counsel against the pursuit of particular goals sought by the client. However, a child may agree with the lawyer for inappropriate reasons. A lawyer must remain aware of the power dynamics inherent in adult-child relationships, recognize that the child may be more susceptible to intimidation and manipulation than some adult clients, and strive to detect and neutralize those factors. The lawyer should carefully choose the best time to express the lawyer's assessment of the case. The lawyer needs to understand what the child knows and what factors are influencing the child's decision. The lawyer should attempt to determine from the child's opinion and reasoning what factors have been most influential or have been confusing or glided over by the child.

[4] The Child's Attorney has dual fiduciary duties to the child that must be balanced. On the one hand, the lawyer has a duty to ensure that the child is given the information necessary to make an informed decision, including advice and guidance. On the other hand, the lawyer has a duty not to overbear the will of the child. While the lawyer may attempt to persuade the child to accept a particular position, the lawyer may not advocate a position contrary to the child's expressed position except as provided by the applicable ethical standards.

[5] Consistent with the rules of confidentiality and with sensitivity to the child's privacy, the lawyer should consult with the child's therapist and other experts and obtain appropriate records. For example, a child's therapist may help the child to understand why an expressed position is dangerous, foolish, or not in the child's best interests. The therapist might also assist the lawyer in understanding the child's perspective, priorities, and individual needs. Similarly, significant persons in the child's life may educate the lawyer about the child's needs, priorities, and previous experiences.

[6] As developmentally appropriate, the Child's Attorney should consult the child prior to any settlement becoming binding.

[7] The child is entitled to understand what the court has done and what that means to the child, at least with respect to those portions of the order that directly affect the child. Children sometimes assume that orders are final and not subject to change. Therefore, the lawyer should explain whether the order may be modified at another hearing, or whether the actions of the parties may affect how the order is carried out.

### C. Client decisions

**The Child's Attorney should abide by the child's decisions about the objectives of the representation with respect to each issue on which the child is competent to direct the lawyer and does so. The Child's Attorney should pursue the child's expressed objectives unless the child requests otherwise and follow the child's direction throughout the case.**

*Commentary*

[1] The child is entitled to determine the overall objectives to be pursued. The Child's Attorney may make certain decisions about the manner of achieving those objectives, particularly on procedural matters, as any adult's lawyer would. These Standards do not require the lawyer to consult with the child on matters that would not require consultation with an adult client, or to discuss with the child issues for which the child's developmental limitations make it not feasible to obtain the child's direction, as with an infant or preverbal child.

**1. The Child's Attorney should make a separate determination whether the child has "diminished capacity" pursuant to Iowa Rule of Professional Conduct 32:1.14 with respect to each issue for which the child is called upon to direct the representation.**

*Commentary*

[1] These Standards do not presume that children of certain ages are "impaired," "disabled," "incompetent," or lack capacity to determine their position in litigation. Disability is contextual, incremental, and may be intermittent. The child's ability to contribute to a determination of the child's position is functional, depending upon the particular position and the circumstances prevailing at the time the position must be determined. Therefore, a child may be able to determine some positions in the case but not others. Similarly, a child may be able to direct the lawyer with respect to a particular issue at one time but not at another.

**2. If the child does not express objectives of representation, the Child's Attorney should make a good faith effort to determine the child's wishes and advocate according to those wishes as if the child had expressed them. If a child does not or will not express objectives regarding a particular issue or issues, the Child's Attorney should determine and advocate the child's legal interests or request the appointment of a Guardian ad Litem.**

*Commentary*

[1] There are circumstances in which a child is unable to express any positions, as in the case of a preverbal child. Under such circumstances, the Child's Attorney should represent the child's legal interests or request appointment of a Guardian ad Litem. "Legal interests" are distinct from "best interests" and from the child's objectives. Legal interests are interests of the child that are specifically recognized in law and that can be protected through the courts. A child's legal interests could include, for example, depending on the nature of the case: a special needs child's right to appropriate educational, medical, or mental health services; helping assure that children needing residential placement are placed in the least restrictive setting consistent with their needs; a child's child support, governmental, and other financial benefits; visitation with siblings, family members, or others the child wishes to maintain contact with; and a child's due process or other procedural rights.

[2] The child's failure to express a position is different from being unable to do so and from directing the lawyer not to take a position on certain issues. The child may have no opinion with respect to a particular issue or may delegate the decision-making authority. The child may not want to assume the responsibility of expressing a position because of loyalty conflicts or the desire not to hurt one of the parties. In that case, the lawyer is free to pursue the objective that appears to be in the client's legal interests based on information the lawyer has and positions the child has already expressed. A position chosen by the lawyer should not contradict or undermine other issues about which the child has expressed a viewpoint. However, before reaching that point the lawyer should clarify with the child whether the child wants the lawyer to take a position, remain silent with respect to that issue, or express a point of view only if the party is out of the room. The lawyer is then bound by the child's directive.

**3. If the Child's Attorney determines that pursuing the child's expressed objective would put the child at risk of substantial physical, financial, or other harm, and is not merely contrary to**

**the lawyer's opinion of the child's interests, the lawyer may request appointment of a separate Guardian ad Litem and continue to represent the child's expressed position, unless the child's position is prohibited by law or without any factual foundation. The Child's Attorney should not reveal the reason for the request for a Guardian ad Litem, which would compromise the child's position, unless such disclosure is authorized by the applicable ethics rule on confidentiality.**

*Commentary*

[1] One of the most difficult ethical issues for lawyers representing children occurs when the child is able to express a position and does so, but the lawyer believes that the position chosen is wholly inappropriate or could result in serious injury to the child. This is particularly likely to happen with respect to an abused child whose home is unsafe, but who desires to remain or return home. A child may desire to live in a dangerous situation because it is all the child knows, because of a feeling of blame or of responsibility to take care of a parent, or because of threats or other reasons to fear the parent. The child may choose to deal with a known situation rather than risk the unknown.

[2] It should be remembered in this context that the lawyer is bound to pursue the client's objectives only through means permitted by law and ethical rules. The lawyer may be subject personally to sanctions for taking positions that are not well grounded in fact and warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

[3] In most cases the ethical conflict involved in asserting a position that would seriously endanger the child, especially by disclosure of privileged information, can be resolved through the lawyer's counseling function, if the lawyer has taken the time to establish rapport with the child and gain the child's trust. While the lawyer should be careful not to apply undue pressure to the child, the lawyer's advice and guidance can often persuade the child to change a dangerous or imprudent position or at least identify alternative choices in case the court denies the child's first choice.

[4] If the child cannot be persuaded, the lawyer has a duty to safeguard the child's interests by requesting appointment of a Guardian ad Litem. As a practical matter, this may not adequately protect the child if the danger to the child was revealed only in a confidential disclosure to the lawyer, because the Guardian ad Litem may never learn of the disclosed danger.

[5] Iowa Rule of Professional Conduct 32:1.14 provides that "when the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial, or other harm unless action is taken, and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action" and "the lawyer is impliedly authorized under rule 32:1.6 to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests."

[6] If there is a substantial danger of serious injury or death, the lawyer must take the minimum steps necessary to ensure the child's safety, respecting and following the child's direction to the greatest extent possible consistent with the child's safety and ethical rules.

**4. The Child's Attorney should discuss with the child whether to ask the judge to meet with the child and whether to call the child as a witness. The decision should include consideration of the child's needs and desires to do either of these, any potential repercussions of such a decision or harm to the child from testifying or being involved in the case, the necessity of the child's direct testimony, the availability of other evidence or hearsay exceptions that may substitute for direct testimony by the child, and the child's developmental ability to provide direct testimony and withstand cross-examination. Ultimately, the Child's Attorney is bound by the child's direction concerning testifying.**

*Commentary*

[1] Decisions about the child testifying should be made individually based on the circumstances. If the child has a therapist, the Child's Attorney should consult the therapist about the decision and for help in preparing the child. In the absence of compelling reasons, a child who has a strong desire to testify should be called to do so.

**D. Appeals**

**If an appeal on behalf of the child is permitted, the Child's Attorney should consider and discuss with the child, as developmentally appropriate, the possibility of an appeal. If the child, after consultation, wishes to appeal the order, and the appeal has merit, the Child's Attorney should appeal. If the Child's Attorney determines that an appeal would be frivolous or that the Child's Attorney lacks the expertise necessary to handle the appeal, the Child's Attorney should notify the court and seek to be discharged or replaced.**

*Commentary*

[1] The Child's Attorney should explain not only any legal possibility of an appeal, but also the ramifications of filing an appeal, including delaying conclusion of the case, and what will happen pending a final decision.

**E. Obligations after initial disposition**

**The Child's Attorney should perform, or when discharged, seek to ensure, continued representation of the child at all further hearings, including at administrative or judicial actions that result in changes to the child's placement or services, so long as the court maintains its jurisdiction.**

*Commentary*

[1] Representing a child continually presents new tasks and challenges due to the passage of time and the changing needs of the child. The Child's Attorney should stay in touch with the child, the parties or their counsel, and any other caretakers, case workers, and service providers throughout the term of appointment to attempt to ensure that the child's needs are met and that the case moves quickly to an appropriate resolution.

**F. End of representation**

**The Child's Attorney should discuss the end of the legal representation with the child, what contacts, if any, the Child's Attorney and the child will continue to have, and how the child can obtain assistance in the future if necessary.**

**V. Guardians ad Litem**

**A. Ethics**

**Guardians ad Litem are bound by Iowa's ethics rules in all matters except as dictated by the absence of a traditional attorney-client relationship with the child and the particular requirements of their appointed tasks. Even outside of an attorney-client relationship, all lawyers have certain ethical duties toward the court, parties in a case, the justice system, and the public.**

*Commentary*

[1] Siblings with conflicting views do not pose a conflict of interest for a Guardian ad Litem, because such a lawyer is not bound to advocate a client's objective. A Guardian ad Litem in such a case should report the relevant views of all the children in accordance with Standard V.E.3, and advocate the children's best interests in accordance with Standard V.E.1.

**B. Confidentiality**

**A child's communications with the Guardian ad Litem are subject to Iowa's ethics rules on attorney-client confidentiality, except that the lawyer may also use the child's confidences for the purposes of the representation without disclosing them.**

*Commentary*

[1] Iowa Rule of Professional Conduct 32:1.6(a) bars any release of information except for disclosures that are "impliedly authorized in order to carry out the representation." Under rule 32:1.6, a lawyer may reveal confidences "to prevent reasonably certain death or substantial bodily harm," "to comply with other law or a court order," or for other named reasons. As for communications that are not subject to disclosure under these or other applicable ethics rules, a Guardian ad Litem may

use the communications to further the child's best interests without disclosing them. An example of this distinction is if a child tells the lawyer that a parent takes drugs: the lawyer may seek and present other evidence of the drug use, but may not reveal that the initial information came from the child. For more discussion of exceptions to confidentiality, see the Commentary to Standard IV.A.

**C. Explaining role to the child**

**In a developmentally appropriate manner, the Guardian ad Litem should explain to the child that the Guardian ad Litem will (1) investigate and advocate the child's best interests, (2) investigate the child's views relating to the case and will report them to the court unless the child requests that they not be reported, and (3) use information from the child for those purposes, but (4) not necessarily advocate what the child wants as a lawyer for a client would.**

**D. Investigations**

**The Guardian ad Litem should conduct thorough, continuing, and independent investigations, including:**

**1. Reviewing any court files of the child and of siblings who are minors or are still in the home, potentially relevant court files of parties and other household members, and case-related records of any social service agency and other service providers.**

**2. Reviewing the child's social services records, if any, mental health records (except as otherwise provided in Standard VI.A.3), drug and alcohol-related records, medical records, law enforcement records, school records, and other records relevant to the case.**

**3. Contacting lawyers for the parties, and nonlawyer representatives or court-appointed special advocates (CASAs).**

**4. Contacting and meeting with the parties with permission of their lawyers.**

**5. Interviewing individuals significantly involved with the child, who may in the Guardian ad Litem's discretion include, if appropriate, case workers, caretakers, neighbors, relatives, school personnel, coaches, clergy, mental health professionals, physicians, law enforcement officers, and other potential witnesses.**

**6. Reviewing the relevant evidence personally, rather than relying on other parties' or counsel's descriptions and characterizations of it.**

**7. Staying apprised of other court proceedings affecting the child, the parties, and other household members.**

*Commentary*

[1] Relevant files to review include those concerning child protective services, developmental disabilities, juvenile delinquency, mental health, and educational agencies. These records can provide a more complete context for the current problems of the child and family. Information in the files may suggest additional professionals and lay witnesses who should be contacted.

[2] Though courts should order automatic access to records, the Guardian ad Litem may still need to use subpoenas or other discovery or motion procedures to obtain the relevant records, especially those pertaining to the parties.

[3] Meetings with the child and all parties are among the most important elements of a competent investigation. However, there may be a few cases where a party's lawyer will not allow the Guardian ad Litem to communicate with the party. Iowa Rule of Professional Conduct 32:4.2 prohibits such contact without consent of the party's lawyer. In some such cases, the Guardian ad Litem may be able to obtain permission for a meeting with the party's lawyer present. When the party has no lawyer, rule 32:4.3 allows contact but requires reasonable efforts to correct any apparent misunderstanding of the Guardian ad Litem's role.

[4] The parties' lawyers may have information not included in any of the available records. They can provide information on their clients' perspectives.

**E. Advocating the child's best interests**

**1. Any assessment of, or argument on, the child's best interests should be based on objective criteria as set forth in the law related to the purposes of the proceedings.**

**2. Guardians ad Litem should bring to the attention of the court any facts that when considered in context seriously call into question the advisability of any agreed settlement.**

**3. At hearings on custody or parenting time, Guardians ad Litem should present the child's expressed desires (if any) to the court, except for those that the child expressly does not want presented.**

*Commentary*

[1] Determining a child's best interests is a matter of gathering and weighing evidence, reaching factual conclusions, and then applying legal standards to those interests. Factors in determining a child's interests are generally stated in Iowa's statutes and case law, and Guardians ad Litem must be familiar with these factors and how courts apply them. A child's desires are usually one of many factors in deciding custody and parenting time, and the weight given the desires varies with age and circumstances.

[2] A Guardian ad Litem is functioning in a nontraditional role by determining the position to be advocated independently of the client. The Guardian ad Litem should base this determination on objective criteria concerning the child's needs and interests and not merely on the Guardian ad Litem's personal values, philosophies, and experiences. A best-interests case should be based on Iowa's governing statute and case law, or a good-faith argument for modification of case law. The Guardian ad Litem should not use any other theory, doctrine, model, technique, ideology, or personal rule without explicitly arguing for it in terms of governing law or the best interests of the child. The trier of fact needs to understand any such theory in order to make an informed decision in the case.

[3] The Guardian ad Litem must consider the child's individual needs. The child's various needs and interests may be in conflict and must be weighed against each other. The child's developmental level, including the child's sense of time, is relevant to an assessment of needs. The lawyer may seek the advice and consultation of experts and other knowledgeable people in determining and weighing such needs and interests.

[4] As a general rule Guardians ad Litem should encourage, not undermine, settlements. However, in unusual cases where the Guardian ad Litem reasonably believes the settlement would endanger the child and the court would not approve the settlement were it aware of certain facts, the Guardian ad Litem should bring those facts to the court's attention. This should not be done by ex parte communication. The Guardian ad Litem should ordinarily discuss the Guardian ad Litem's concerns with the parties and counsel in an attempt to change the settlement before involving the judge.

**F. Appeals**

**If an appeal on behalf of the child is permitted, the Guardian ad Litem should appeal when the Guardian ad Litem believes that (1) the trial court's decision is significantly detrimental to the child's welfare, (2) an appeal could be successful considering the law, the standard of review, and the evidence that can be presented to the appellate court, and (3) the probability and degree of benefit to the child outweighs the probability and degree of detriment to the child from extending the litigation and expense that the parties will undergo. *See* Iowa R. App. P. 6.109(4).**

**VI. Training**

**Training for lawyers representing children in custody cases should cover:**

**1. Relevant state and federal laws, agency regulations, court decisions, and court rules.**

**2. The legal standards applicable in each kind of case in which the lawyer may be appointed, including child custody and visitation law.**

**3. Applicable representation guidelines and standards.**

**4. The court process and key personnel in child-related litigation, including custody evaluations and mediation.**

**5. Children's development, needs, and abilities at different ages.**

**6. Communicating with children.**

**7. Preparing and presenting a child's viewpoints, including child testimony and alternatives to direct testimony.**

**8. Recognizing, evaluating, and understanding evidence of child abuse and neglect.**

**9. Family dynamics and dysfunction, domestic violence, and substance use disorder.**

**10. The multidisciplinary input required in child-related cases, including information on local experts who can provide evaluation, consultation, and testimony.**

**11. Available services for child welfare, family preservation, medical care, mental health, education, and special needs, including placement, evaluation and diagnostic, and treatment services, and provisions and constraints related to agency payment for services.**

**12. Basic information about state and federal laws and treaties on child custody jurisdiction, enforcement, and child abduction.**

*Commentary*

[1] Courts, bar associations, and other organizations should sponsor, fund, and participate in training. They should also offer advanced and new-developments training and provide mentors for lawyers who are new to child representation. Training in custody law is especially important because not everyone seeking to represent children will have a family law background. Lawyers must be trained to distinguish between the different kinds of cases in which they may be appointed and the different legal standards to be applied.

[2] Training should address the impact of spousal or domestic partner violence on custody and parenting time and any statutes or case law regarding how allegations or findings of domestic violence should affect custody or parenting time determinations. Training should also sensitize lawyers to the dangers that domestic violence victims and their children face in attempting to flee abusive situations and how that may affect custody awards to victims.

[Court Order August 28, 2018; January 26, 2024]

# CHAPTER 63
# IOWA STANDARDS OF PRACTICE FOR CHILD AND FAMILY REPORTERS IN CHILD CUSTODY CASES

# CHAPTER 63
# IOWA STANDARDS OF PRACTICE FOR CHILD AND FAMILY REPORTERS IN CHILD CUSTODY CASES

## I. Introduction

[1] A Child and Family Reporter (CFR) is appointed by the court to gather and report factual information in cases involving the care and custody of minor children and other matters bearing on the interests or rights of children under Iowa Code chapters 598 and 600B. A CFR report provides a brief assessment of home conditions, parenting capabilities, and other matters pertinent to the best interests of the child. The court may appoint an attorney, a mental health professional, or another individual whom the court believes is able to carry out the CFR role.

[2] The purpose of these standards is to provide guidance for CFRs, to promote uniformity, consistency, and accountability in CFR reports; to promote respect for the rights of parties and their children; and to improve custody, visitation, and other outcomes for children.

[3] These standards do not add obligations to the Iowa Rules of Professional Conduct, but like the comments to those rules, they provide guidance to those serving as CFRs in custody cases for practicing in compliance with the CFRs professional ethical obligations and rules of professional conduct. In the event of any conflict between these standards and a rule of professional conduct for attorneys, the requirements of the rule take precedence.

## II. Role of a Child and Family Reporter

### A. The CFR gathers and reports factual data to the court.

*Commentary*

[1] The role of the CFR is to gather and report factual information that will assist the court in making custody, visitation, or other decisions related to the welfare of a child. Unless the appointing judge specifies otherwise, the CFR role is limited to gathering and reporting information to the court. The CFR may include recommendations in the report only if the court's appointment order authorizes inclusion of such recommendations.

### B. The CFR must remain impartial and avoid conflicts of interest.

*Commentary*

[1] The CFR must approach all family members and parties with an attitude of respect and openness in order to hear their account of the relevant facts regardless of any allegations that have been made. The CFR must not engage in conduct manifesting bias or prejudice based on race, religion, ethnicity, disability, age, socioeconomic status, marital status, or sexual orientation against a party, witness, counsel, or other person involved in a case.

[2] The CFR must decline or withdraw from an appointment if the CFR has a conflict of interest, information, or personal relationship that could influence the process or outcome of the investigation. If the CFR has any prior or existing direct or indirect relationship with the parties, their families, their attorneys, material witnesses, or someone else connected with the family, the CFR must consider whether the CFR's impartiality is compromised because of the relationship. The CFR must decline the appointment if:

1. The CFR (or the CFR's law firm) previously advised or acted as counsel for a party, child, or other person closely aligned to a party (such as a spouse or nonmarital partner), or a material witness;

2. The CFR has provided counseling or other services to a child, a party, another member of the family, or a material witness; or

3. The CFR has or had a family relationship or other close personal relationship (including an intimate or dating relationship) with a party, a member of the party's family, a material witness, or counsel of record.

### C. The CFR does not act as an attorney or advocate.

*Commentary*

[1] The CFR serves as an objective and even-handed reporter. The CFR must not provide legal advice or act as an advocate or attorney for the child. The CFR does not conduct depositions or engage in direct or cross-examination of witnesses and does not file motions except as related to performance of the CFR's responsibilities. For example, a CFR might file a motion seeking access to an individual, regarding fees or seeking an additional evaluation, but should not file motions related to the substance of the proceedings. If called as a witness, the CFR may be subject to direct or cross-examination by both parties. The CFR refers the parties to their attorneys for legal advice.

**D. The CFR must not serve dual or multiple roles.**

*Commentary*

[1] The CFR must not provide legal, mental health, mediation, or other professional services to any party or the child during the investigation and pendency of the case.

[2] The CFR may not later accept an appointment as an attorney for a child or guardian ad litem in the same case or the same family. The CFR may accept the separate role of parenting coordinator or arbitrator after all of the CFR's duties are completed and after the court has terminated the CFR appointment, but only with the written, informed consent of all parties.

**E. Payment of the CFR's fees is governed by the court's order of appointment.**

*Commentary*

[1] The court's appointment order allocates responsibility for payment of the CFR's fees based on a fixed fee or stated hourly rates. If the appointment order specifies a presumptive maximum, the CFR may not exceed this fee cap without securing permission from the court.

## III. Duties of the Child and Family Reporter

**A. The CFR acts pursuant to the court's order of appointment.**

*Commentary*

[1] Upon appointment, the CFR should review the court's order of appointment and ask for clarification or modification of the order when necessary. If the order would require the CFR to act beyond the scope of the CFR's competence or perform multiple contradictory roles, the CFR should inform the court. Any issues regarding time needed to complete a report or arrangements for payment of fees should be addressed immediately upon notice of appointment and before beginning any work on the case. If any conflicts or other issues cannot be resolved, the CFR should decline the appointment or request removal from the case.

[2] The CFR appointment terminates at the time specified in the court's order but in no event later than entry of permanent orders or the post-decree order resolving the issue for which the appointment was made.

**B. The CFR includes all parties in communications with the court or another party.**

*Commentary*

[1] If the CFR needs to communicate with the court during the course of the appointment, communication should be carried out in writing with copies to the parties and their counsel, or by conference call, or at a status conference or court hearing. If the children are represented by an attorney or guardian ad litem, that individual should be treated as counsel for purposes of these communications.

[2] If the CFR sends a substantive written communication to one party or counsel, the CFR must send a copy of the communication to the opposing party or counsel and any representative of the child. The CFR must send copies of any documents the CFR files with the court to counsel of record and self-represented parties.

**C. The CFR conducts an appropriate investigation.**

*Commentary*

[1] The CFR may investigate only those areas the court has specified in its order of appointment and may not broaden the scope of investigation without obtaining authority from the court in advance. The CFR may not perform a clinical assessment, conduct psychological testing, or conduct drug and alcohol or other evaluations unless specifically ordered by the court. If the CFR believes other evaluations would benefit the parties or the child and assist the court, the CFR should provide this information to the court as soon as possible.

[2] At the outset of the investigation, the CFR should invite all counsel and parties to provide relevant information and documents and a list of witnesses and professionals who can provide relevant information. When possible, the CFR accesses original sources of information and uses multiple sources to investigate any disputed events or facts. The CFR should spend sufficient time interviewing parties and investigating their concerns to gather relevant information to respond to the court's inquiry. The CFR decides whether to conduct home visits, and if no home visits are conducted, the CFR should explain this decision in the CFR's report.

[3] As part of the investigation, the CFR must meet with the child and allow an opportunity for the child to provide information about the child and the child's family. The CFR should communicate with the child in an age-appropriate manner and consider the child's views and wishes. When appropriate, the CFR should observe the child with each parent or party.

[4] In meeting with the parties and the child, the CFR should explain the CFR role, the purpose of the investigation, and how the information the CFR collects will be reported to the court. A party may request to have counsel present during an interview, but the CFR controls the interview and conducts the questioning. The CFR should arrange for a qualified interpreter if a party or the child is not completely comfortable or fluent using the English language.

**D. The CFR preserves confidentiality.**

*Commentary*

[1] Information gathered by the CFR is confidential. The CFR may not disclose information about the parties, the child, or the services rendered by the CFR to any person who is not a party or counsel in the case except as necessary to gather information and complete the investigation and report, or to perform responsibilities related to the court's order of appointment. This prohibition is permanent and includes any writing, lectures, or other media communication by the CFR.

[2] Before obtaining privileged or confidential information about the parties or the children, the CFR must obtain appropriate release forms or court orders. Some third parties or providers may be unaware of the protections that apply to confidential information relating to the parties or the child, but the CFR may only review information after appropriate releases or orders have been provided. If a privilege is not properly waived, a judge may allow a motion to strike reference to the information from the CFR report.

**E. The CFR seeks to preserve the safety of all participants in the process.**

*Commentary*

[1] The CFR should inquire at the outset of the investigation about any safety risks related to the investigation for the parties, the child, or others because of any party's mental illness, substance use disorder, domestic violence, child abuse, or history of violence against others. The CFR should attempt to conduct the investigation in such a manner as to avoid likely harm to the child, a party, the CFR, or others.

[2] When the CFR suspects or knows that a child is being neglected or abused, the CFR may take appropriate steps to inform law enforcement or the department of health and human services and must comply with all mandatory professional reporting requirements.

**F. The CFR may include recommendations pursuant to the appointment order.**

*Commentary*

[1] If the court's order of appointment authorizes it, the CFR may make recommendations regarding services, parenting schedules, or other matters as directed by the court.

## IV. CFR Reports and Records

### A. The CFR prepares a clear, concise, and timely report for the court, the parties, and the parties' counsel.

*Commentary*

[1] The CFR must present the results of the CFR's investigation in a written report to the court with copies delivered to the parties and their counsel. The report sets forth the information the CFR obtained in the course of the investigation. Any recommendations the court requests based on the facts collected should be confined to a separate section at the conclusion of the CFR's report.

[2] The CFR's report should include information about the CFR's investigation process, identifying the persons interviewed and the records reviewed. The report should be as factual and detailed as possible, as well as accurate, objective, and unbiased. The report should clearly identify the sources of all information included. If a party has failed to or refused to participate or provide information, the report should disclose this fact.

[3] The CFR must retain any notes, records, documents, recordings, or other material gathered or created during the investigation so that these materials are available for discovery, trial, appeal, and remand of the case.

### B. The CFR and the court maintain the confidentiality of the CFR's report and files.

*Commentary*

[1] The CFR's report and underlying materials are considered sealed and not open to inspection except with consent of the court. The CFR must maintain the confidentiality of the CFR's file and report and disclose these only to the parties and their counsel or pursuant to court order.

[2] After the CFR's report has been filed and prior to any scheduled hearing in the case, upon request of the parties or their counsel, the CFR must make copies of the CFR's file and any information underlying the report available to the parties and their counsel. This includes disclosure of the names and addresses of all persons the CFR has consulted, CFR notes, and witness statements. However, if the CFR believes that release of any particular information would endanger any person's welfare, the CFR should inform counsel and the court and await further order from the court before releasing the information in question.

### C. The CFR as a witness.

*Commentary*

[1] Pursuant to Iowa Code section 598.12B(2) (2017), the CFR's report must be submitted to the court and available to all parties. The CFR's report will be a part of the record unless the court otherwise orders. Any party may call the CFR as a witness. If called as a witness, the CFR may be cross-examined concerning the report.

[Court Order August 28, 2018; June 30, 2023, effective July 1, 2023; January 26, 2024]

# CHAPTERS 64 TO 69

Reserved

# CHAPTER 70
# IOWA RULES OF JUVENILE COURT SERVICES DIRECTED PROGRAMS

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# CHAPTER 70
# IOWA RULES OF JUVENILE COURT SERVICES DIRECTED PROGRAMS

PREAMBLE

[1] Iowa Code section 232.192 (as enacted by HF 2507, effective July 1, 2023) provides that juvenile court services shall administer "early intervention and follow-up programs." Historically, the legislature has appropriated funds for such programs using the term "juvenile delinquent graduated sanctions services." These rules are intended to effectuate Iowa Code section 232.192 and apply to the appropriation historically termed "juvenile delinquent graduated sanctions services."

[2] These rules prescribe services for eligible children from funds appropriated specifically for juvenile court services directed programs. The state court administrator, the director of juvenile court services, and the chief juvenile court officers have primary responsibility for the administration of early intervention and follow-up programs/graduated sanctions and noncontracted/court-ordered services for eligible children. These funds may also be used to enhance the education and performance of those employees who are directly involved with the clients and their programs.

[3] These rules, pursuant to the authority granted in the Iowa Code and annual appropriations acts, prescribe the relationship between the state court administrator, the director of juvenile court services, and the chief juvenile court officer from each judicial district in the administration of the funds for the juvenile court services directed programs. These rules establish the criteria for the allocation of funds and the procedures for the administration, eligibility, contracting, billing and payment, application, and service delivery for early intervention and follow-up programs/graduated sanctions and noncontracted/court-ordered services. In addition, these rules detail expenses that are eligible for reimbursement from the noncontracted/court-ordered service allocation as well as the expenses that are ineligible for reimbursement. The lists are intended to be exhaustive.

[4] The early intervention and follow-up programs/graduated sanctions services are services to be provided to children adjudicated delinquent and to children who have been referred to juvenile court services for a delinquency violation or who have exhibited behaviors that put them at risk of a juvenile delinquency referral. The services are directed to enhance personal adjustment to help the children transition into productive adulthood and to prevent or reduce criminal charges, out-of-home placement, and recidivism. The services are provided in the child's home community whenever feasible. These services may be provided in an individual or group setting and can include, but are not limited to, supervised educational support and treatment and outreach services to eligible children who are experiencing social, behavioral, or emotional problems that put them at risk of involvement with the juvenile justice system. This mix of services allows the flexibility to tailor treatment and services to meet the specific needs of the child. A program for a child may be funded from multiple sources, but the funding sources may not duplicate or overlap. The components and activities shall be outlined in the contract. Services offered may provide individualized and intensive interventions to assist a child in establishing positive behavior patterns and to help the child maintain accountability in a community-based setting.

## DIVISION I
DEFINITIONS

**Rule 70.101 Definitions.**

**70.101(1)** *At risk.* "At risk" means that a child has been referred to juvenile court services for a delinquency violation or has exhibited behaviors likely to result in a juvenile delinquency referral.

**70.101(2)** *Audit.* "Audit" means an official examination and verification of financial accounts and records by the office of the auditor of state.

**70.101(3)** *Case file.* "Case file" means an electronic file that includes referral information, information generated during assessment, documentation of court proceedings, other eligibility determinations, case plans, and case reports, including quarterly progress reports. Case files of providers also include records of provider–child contact that document provision of services.

**70.101(4)** *Chief juvenile court officers.* "Chief juvenile court officers" are defined under Iowa Code section 602.1217.

**70.101(5)** *Child.* "Child" means a person under 18 years of age. "Child" also includes a person up to 19 1/2 years of age when (1) the person is adjudicated delinquent and the dispositional order is entered while the person is 17 years of age (in which case, the order terminates 18 months after the date of disposition), or (2) the person, as an adult, has been transferred to the jurisdiction of the juvenile court and is adjudicated as having committed a delinquent act before becoming an adult (in which case, the dispositional order automatically terminates 18 months after the last date upon which jurisdiction could attach). Also included is a juvenile who has been adjudicated by the court to have committed a delinquent act upon the child reaching 18 years of age until the child is 21 years of age if the child and juvenile court services determine the child should remain under the guidance of juvenile court services.

**70.101(6)** *Contract compliance review.* "Contract compliance review" means official examination and verification of contractual and financial records conducted virtually and asynchronously. A virtual contract compliance review meets the annual contract review requirements so long as client records are available to be securely reviewed.

**70.101(7)** *Director of juvenile court services.* "Director of juvenile court services" means the position responsible for the day-to-day management of juvenile court services statewide initiatives, including federal programs; this position serves as a liaison with other departments and agencies.

**70.101(8)** *Early intervention and follow-up programs/graduated sanctions services.* "Early intervention and follow-up programs/graduated sanctions services" means services to be provided to children adjudicated delinquent and to children who have been referred to juvenile court services for a delinquency violation or who have exhibited behaviors that put them at risk of a juvenile delinquency referral. The services are directed to enhance personal adjustment to help the children transition into productive adulthood and to prevent or reduce criminal charges, out-of-home placement, and recidivism and to ensure community safety.

**70.101(9)** *Eligible child.* "Eligible child" means a child who has been adjudicated delinquent, is at risk, or has been identified by the chief juvenile court officer as eligible for early intervention and follow-up programs/noncontracted/court-ordered or juvenile delinquent graduated sanction services.

**70.101(10)** *Juvenile court officer.* "Juvenile court officer" means a person appointed as a juvenile court officer or a chief juvenile court officer under Iowa Code section 602.7202.

**70.101(11)** *Juvenile justice service plan.* "Juvenile justice service plan" means an annual plan developed by each chief juvenile court officer which accounts for expenditure of the district's annual allocation and provision for service to the eligible children in their district.

**70.101(12)** *Noncontracted/court-ordered services.* "Noncontracted/court-ordered services" means the defined or specific care and treatment ordered by the court for an eligible child and for which no other payment source is available to cover the cost or the defined or specific care and treatment for an eligible child for which a service contract does not otherwise exist.

**70.101(13)** *On-site review.* "On-site review" means an official examination and verification of contractual and financial records conducted at the location where the clients are served, where the client and financial records are stored, or both.

**70.101(14)** *Provider.* "Provider" means a public agency, including a school district or government unit, or a private agency, organization, or eligible individual authorized to do business in the state. The provider is also known as the "claimant."

**70.101(15)** *State court administration.* "State court administration" refers generally to positions responsible for various statewide functions, including, but not limited to, the state court administrator, director of finance, and director of juvenile court services.

**70.101(16)** *State court administrator.* "State court administrator" is defined under Iowa Code section 602.1101.

**70.101(17)** *Supportive enhancements.* "Supportive enhancements" means a category of services, real goods, or incentives matched to the risk needs of a child that support a child to reduce or eliminate delinquent or at-risk behavior.

[Court Order December 2, 2022, effective July 1, 2023]

**Rules 70.102** to **70.200** Reserved.

## DIVISION II
GENERAL PROVISIONS

**Rule 70.201 Appropriation and allocation of funds.** Pursuant to the authority granted in Iowa Code chapters 232 and 602 and the annual appropriations acts, the judicial branch, represented by the state court administrator, the director of juvenile court services, and the chief juvenile court officers, are each charged with specific responsibilities for funding, administering, and ensuring the provision of juvenile court services directed programs.

**70.201(1)** The funds shall be appropriated to the judicial branch for allocation by the state court administrator and the director of juvenile court services for the payment of the expenses of juvenile court services directed programs, including administration of these services.

*a.* The state court administrator and director of juvenile court services shall base the allocation of each district's respective portion of funds on the statewide population of children as reported in current census data.

*b.* The source of the census data shall be determined and agreed upon by the state court administrator and the director of juvenile court services.

**70.201(2)** State court administration shall allocate a set-aside amount up to, but not to exceed, 20 percent of the total appropriation for early intervention and follow-up programs/graduated sanctions services for state court administration to pay the administrative costs related to administering these allocated funds.

**70.201(3)** The annual budget tracking form, with estimated or actual transfers outside the judicial branch, shall be updated a minimum of twice annually.

**70.201(4)** The ongoing budget tracking form shall be updated monthly for all obligated costs and expenditures by the end of the succeeding month.

[Court Order December 2, 2022, effective July 1, 2023]

**Rule 70.202 Allocation of Title IV-E Prevention Service reimbursement funds.** Funds received as reimbursement for Title IV-E Prevention Service Programs shall be allocated to the judicial districts in the same ratio as the expenditure of funds for prevention services within each district after the maintenance of effort requirement has been met.

[Court Order December 2, 2022, effective July 1, 2023]

**Rule 70.203 Availability of funds.** The judicial branch shall monitor the availability of funds throughout the state fiscal year.

**70.203(1)** The state court administrator, the director of juvenile court services, and the chief juvenile court officers shall reallocate funds as needed to ensure the availability of services on a statewide basis throughout the state fiscal year.

**70.203(2)** If funding for early intervention and follow-up programs/graduated sanctions and noncontracted/court-ordered services are exhausted in any district, the respective services within that district shall be discontinued.

**70.203(3)** The chief juvenile court officer shall be responsible for communicating this information.

[Court Order December 2, 2022, effective July 1, 2023]

**Rule 70.204 Transfer of funds.** Allocated funds may be transferred to a decategorization governance board or to other government agencies or departments.

**70.204(1)** The state court administrator and the director of juvenile court services will determine transfers for state-level projects.

**70.204(2)** Each chief juvenile court officer may transfer funds from the officer's own district allocation.

**70.204(3)** All transfers are dependent upon availability of funds.

**70.204(4)** Fund transfers will identify any specific usage, and reporting requirements, as well as any limitations related to the funds. The receiving entity must agree to the usage, and reporting requirements, as well as any spending limitations prior to acceptance of any funds transfer.

[Court Order December 2, 2022, effective July 1, 2023]

**Rule 70.205 Administration of juvenile court services programs within each judicial district.** Each chief juvenile court officer is responsible for the administration of the early intervention and follow-up programs/graduated sanctions and noncontracted/court-ordered service

funds within the officer's judicial district. The chief juvenile court officer shall purchase services on behalf of eligible children within the officer's judicial district.

**70.205(1)** *Planning for service needs.*

*a.* Each chief juvenile court officer shall develop a process for determining:

(1) The service needs of the children within the officer's district.

(2) The mix of services to be provided to best meet the identified needs within the district.

*b.* Each chief juvenile court officer shall develop a draft juvenile justice service plan for the officer's judicial district that accounts for the expenditure of their annual allocation for the new state fiscal year.

(1) The draft annual plan must be submitted to the state court administrator by September 15 for the current state fiscal year.

(2) The state court administrator shall approve or recommend changes to each district's draft annual plan by September 30 for the current state fiscal year.

*c.* The chief juvenile court officers, in conjunction with the director of juvenile court services, shall develop the juvenile justice service plan guidance and shall review and make adjustments to this guidance annually. At a minimum, this guidance shall address:

(1) Community safety.

(2) Matching service type and dosage to risk level.

(3) Recidivism.

(4) Evidence-based services.

(5) Promising practices.

(6) Racial and ethnic disparities.

(7) Reentry.

(8) Cross-over practices.

*d.* The juvenile court services quality improvement staff shall evaluate and ensure the quality and effectiveness of the services being provided.

*e.* The chief juvenile court officer shall make recommendations concerning changes that are needed to ensure that children and families receive the services necessary to meet the unique needs of the officer's judicial district.

**70.205(2)** *Eligible providers.*

*a.* The chief juvenile court officer shall purchase services from public or private agencies, organizations, or eligible individuals.

*b.* To be eligible to provide services, an organization or individual shall meet the following criteria:

(1) Submit a completed Form W-9; and

(2) Have a federal identification number; or

(3) Have a social security number for which the state accounting enterprise has determined that an employee–employer relationship with the state does not exist; or

(4) Be paid an amount during a state fiscal year that does not exceed $1,000 plus allowable expenses such as meals, lodging, and mileage per state fiscal year as determined according to state accounting enterprise procedure 210.102.

**70.205(3)** *Allowable costs.*

*a.* The administrative and program requirements of these rules include those costs specified below:

(1) Reimbursement for mileage, meals, and lodging expenses involved in the transportation of the child shall not exceed the lower of the rates set by the judicial branch or the provider's customary rate, unless the transportation is provided by a public officer or employee.

(2) A public officer or employee, other than a state officer or employee, is entitled to be reimbursed for expenses.

(3) Fees and expenses as specified in Iowa Code section 331.655 when the court order specifies that the public officer or employee shall provide transportation. The allowable expenses for which sheriffs may be reimbursed are found in Iowa Code section 70A.9.

(4) Expenses approved by the chief juvenile court officer when the court order does not specify that the public officer or employee shall provide transportation.

*b.* A provider with a service contract for a similar service shall be reimbursed at the rate of the purchase of service contract. A provider that does not have a service contract shall be reimbursed at a rate comparable to the rate reimbursed to providers that have service contracts.

*c.* Funds for early intervention and follow-up programs/graduated sanctions and noncontracted/court-ordered services shall not be used in lieu of private insurance.

**70.205(4)** *Contract development.* The chief juvenile court officer shall have the responsibility to initiate contracts for services. All service contracts must follow the Judicial Branch procurement policy.

*a.* Each chief juvenile court officer shall be responsible to develop contracts within the officer's judicial district with each provider selected through the process.

*b.* The chief juvenile court officer, the provider, and state court administration shall sign the contract.

*c.* The chief juvenile court officer or designee is responsible for distributing a copy of the signed contract, amendment, or renewal letter to the provider.

*d.* Contract amendments shall be prepared whenever there is a change in the amount of contracted dollars, contract duration, program description, or any other terms of the contract.

(1) Any party to the contract may request an amendment to the contract. The provider may request a contract amendment through the chief juvenile court officer.

(2) The chief juvenile court officer, the provider, and state court administration shall sign all contract amendments.

*e.* Prior to the contract being signed, the state accounting enterprise must determine that no employer–employee relationship with the state exists. A vendor must either:

(1) Have a valid, assigned state accounting enterprise number.

(2) Follow the steps to be assigned a state accounting enterprise control number as outlined in state accounting enterprise procedure 240.102.

**70.205(5)** *Contract content.*

*a.* Contracts for purchasing services shall be developed using contract forms approved as to legal form by state court administration.

*b.* The contract shall:

(1) Note the deliverables, performance measures, and payment methodology.

(2) Describe the process the provider shall follow to complete and submit claims for payment.

*c.* The contract shall not guarantee a specific amount of utilization.

*d.* A minimum and a maximum number of participants may be established.

[Court Order December 2, 2022, effective July 1, 2023]

**Rule 70.206 Billing and payment.** The chief juvenile court officer shall ensure that billing and payment are in compliance with judicial branch requirements and the requirements of the accounting policies and procedures manual of the administrative services state accounting enterprise. A claim that meets the requirements of these rules becomes a state liability on the date of the claim's accrual. The date of a claim's accrual is the date the service was provided, the end of the agreed-upon billing interval specified in the contract, or the date of a determination of liability for the claim.

**70.206(1)** *Claim forms and instructions.* The instructions and forms used for billing shall be available to all providers electronically.

*a.* For claims for noncontracted/court-ordered services:

(1) The provider shall prepare a claim for noncontracted/court-ordered services on Form GAX, General Accounting Expenditure. An original, itemized invoice may accompany a Form GAX in lieu of a claimant's original signature.

(2) The provider shall ensure receipt of a referral from juvenile court services for all noncontracted/court-ordered services and the applicable court order prior to commencement of services as required. The provider shall submit the noncontracted/court-ordered service referral, as applicable, and court order, as applicable, with the GAX form, and/or itemized invoice for payment.

*b.* For claims for contracted services:

(1) The provider shall prepare a claim for contracted services on Form GAX, General Accounting Expenditure. An original, itemized invoice may accompany a Form GAX in lieu of a claimant's original signature.

(2) The provider shall ensure receipt of a referral from juvenile court services for all contracted services, as applicable. The provider shall also submit the referral along with an approved invoice and a copy of the provider's list of the eligible children for whom the claim is made. The document submitted shall include the name of each child and the number of units of service provided to that child each month, as required by the individual contract.

**70.206(2)** *Preparation of a claim.* The Form GAX, General Accounting Expenditure, with an original claimant signature or an original, itemized invoice, shall be submitted with all claims.

*a.* The Form GAX submitted shall not include claims for more than one state fiscal year.

*b.* The provider, as vendor, must enter on the Form GAX:

(1) The vendor code.

(2) The vendor's name and mailing address.

(3) The vendor's service month(s).

(4) A short description of the item or service that was purchased.

(5) A claimant original signature of the provider unless an original invoice is submitted.

**70.206(3)** *Support of a claim.*

*a.* The provider bears ultimate responsibility for the completeness and accuracy of each claim submitted.

*b.* The provider must maintain a record of the dates and times during which each service was provided for each eligible child.

*c.* The provider's record must correspond to the units billed, as applicable.

**70.206(4)** *Submittal of claims to juvenile court services.*

*a.* Providers shall submit claims to the contract administrator responsible for each contract. The provider shall submit the original Form GAX or original invoice and any required documented support of the claim.

(1) Claims shall be submitted timely to allow the contract administrator to submit the claim for payment within 90 calendar days of the date of the claim's accrual.

(2) To ensure payment from funds appropriated for the state fiscal year, claims shall be submitted timely to allow the contract administrator to submit the claim for payment within 45 calendar days of state fiscal year end, June 30.

**70.206(5)** *Review and approval of claims.*

*a.* The chief juvenile court officer is responsible for accuracy and disposition of claims. The contract administrator shall verify the accuracy of the provider's billings and submit the claims to the chief juvenile court officer for review and approval.

(1) Juvenile court services staff may complete the Form GAX when the provider submits an original invoice or may enter any required missing information to the Form GAX.

(2) To approve the claim, the chief juvenile court officer or designee shall sign the Form GAX in the space titled "order approved by." The signature shall be deemed as certification that the billed expenses were incurred, amounts are correct, and payment should be made.

**70.206(6)** *Claim records.* The chief juvenile court officer or approved administrator shall have the responsibility for retention of records, maintenance of records, and authorized access to records. Electronic record retention is acceptable.

*a.* Juvenile court services shall retain one copy of the claim and supporting documentation as submitted for payment as well as any additional required supporting documentation submitted to juvenile court services by the provider. The copy of the Form GAX and supporting documentation, as well as any additional required supporting documentation submitted to juvenile court services by the provider, are subject to audit.

*b.* During the required retention period, all records and knowledgeable personnel must be accessible and available for the review or audit. All documents related to each other must be appropriately attached and organized in a manner that provides easy access.

**70.206(7)** *Claim payment.*

*a.* The judicial branch shall reimburse providers for costs when claims are submitted according to the required procedures.

*b.* The judicial branch shall process a claim through the state appeal board's processes for approving outdated invoices when the judicial branch receives the claim after August 31 for the previous state fiscal year.

[Court Order December 2, 2022, effective July 1, 2023]

**Rule 70.207 Record keeping.** The provider and juvenile court services shall maintain financial and service records for a period of seven years following termination of services. The records are subject to review and/or audit.

**70.207(1)** *Record keeping requirements.*

*a.* Each provider shall maintain all the financial and service records used to submit or substantiate claims for reimbursement, including court orders as required and lists of the children served. The provider bears the ultimate responsibility for the completeness and accuracy of the claim submitted as set forth in these rules.

*b.* Each provider shall maintain all the corresponding service and financial information necessary to document the provision of the service as agreed upon in the contract. Each provider shall maintain a case file that documents the provision of the contracted service for each individual child for whom a claim is made.

*c.* Each juvenile court officer shall maintain within the case file all referrals for both noncontracted/court-ordered and contracted services as required. Each juvenile court officer shall ensure provider updates are recorded within the case file. Each juvenile court officer shall ensure the case file includes all the corresponding service information necessary to document that the contracted service was provided.

*d.* Each chief juvenile court officer shall ensure that a court order supports the payment of any claim paid for noncontracted/court-ordered services as required by these rules.

*e.* Each chief juvenile court officer shall ensure that the district is accountable for payments, receipts, and retention of records as established by these rules.

**70.207(2)** *Access to records.* Each provider of these services shall make available upon request to juvenile court services, the department of inspections and appeals, or the office of the auditor of state the service and financial records used to support or substantiate claims for reimbursement, including court orders and lists of children served. The records shall be subject to review and audit by juvenile court services, the department of inspections and appeals, or the office of the auditor of state.

[Court Order December 2, 2022, effective July 1, 2023]

**Rule 70.208 Annual contract compliance review.**

**70.208(1)** *General requirements.*

*a.* The contract administrators shall complete annual contract compliance reviews of all service contracts which meet the minimum thresholds to ensure contractual and fiscal requirements are met.

*b.* The contract administrator who oversees each contract shall not conduct the annual contract compliance review on any contracts administrated.

**70.208(2)** *Schedule.* The contract administrator shall notify each chief juvenile court officer of the contracts which meet the threshold at which a review must be conducted. The contract administrators shall coordinate to determine the list of providers which require a review for those services shared across multiple districts.

*a.* Annual contract compliance reviews are required for any provider having one or more contracts with one or more judicial districts when the total annual value of all contracts is $100,000 or more.

*b.* Annual contract compliance reviews are required for each new provider who has not previously contracted with the judicial district during the first year of the provider's contract with the district when the total annual value of the provider's contracts with the judicial district is $50,000 or more.

*c.* Additional contract compliance reviews are optional but may be required or requested by state court administration or the chief juvenile court officer for the providers, other than those described in subrules 70.208(1)-(2), based on factors such as:

(1) Length of time the provider has been in business.

(2) Amount of time the provider has offered the services being purchased.

(3) Type of service or program being purchased.

(4) Amount of money involved in the contract.

(5) Whether other governmental entities contract with the provider.

(6) Findings from previous contract compliance review by the district or other entities such as the office of the auditor of state.

**70.208(3)** *Location.* A virtual contract compliance review meets the annual contract compliance review requirements so long as client records are available to be securely reviewed. Alternately, on-site reviews may take place at the sites where the program is operated if deemed necessary by the contract administrator, the chief juvenile court officer, or state court administration.

**70.208(4)** *Scope.*

*a.* The contract compliance review shall include review of the provider's service and financial records, including the client case files, to ensure that the records contain the required documentation of the provision of the contracted service.

*b.* At a minimum, the reviews shall include:

(1) Documentation of direct contact with the client.

(2) Review of referral for service, service billings, payments, and documentation of delivery of service.

(3) Documentation that the provider meets contract requirements.

(4) Solicitation and incorporation of input from juvenile court officers referring to service contracts to determine if needs are being met.

**70.208(5)** *Repayment.* The judicial branch may seek repayment of claims paid for noncovered services or for services for which documentation is not established.

*a.* The chief juvenile court officer shall notify the provider in writing that a repayment is due. The written notice shall identify:

(1) The claims.

(2) The amounts of the claims that are not documented or substantiated.

(3) The amount of the repayment requested.

*b.* The provider shall repay the judicial branch the difference between the amount received and the amount established through the review, not to exceed the amount paid by the state, when:

(1) The provider, upon review, fails to verify or document the provision of covered services or costs in the amount for which a claim was paid or when the review confirms claims paid for noncovered services.

(2) Juvenile court services or the judicial branch makes a request for repayment.

*c.* If the provider does not make payment within 60 days, the chief juvenile court officer shall submit to state court administration a copy of the notice to the provider for state court administration's review and further action, if necessary.

**70.208(6)** *Reporting.* Each contract administrator shall submit the standardized annual contract compliance review form for each contract the administrator has reviewed to the chief juvenile court officer for the district of the assigned contract and to state court administration.

*a.* The annual reports shall be submitted by December 31 following the end of the state fiscal year. This date may be extended upon the written request of the chief juvenile court officer to state court administration.

*b.* The annual report shall include a summary of the findings of the reviews conducted during the state fiscal year.

**70.208(7)** *Formal audit by the office of the auditor of state.* All judicial branch employees must report any suspected fraud to state court administration immediately. The state court administrator or the judicial branch director of finance may request a formal audit by the office of the auditor of state.
[Court Order December 2, 2022, effective July 1, 2023]

**Rules 70.209** to **70.300** Reserved.

## DIVISION III
NONCONTRACTED/COURT-ORDERED SERVICES

**Rule 70.301 Juvenile court services responsibilities.** The chief juvenile court officer shall purchase noncontracted/court-ordered services for eligible children.

**70.301(1)** The chief juvenile court officer shall ensure the services fall within the defined allowable services and that there are sufficient funds in the district's allocation to pay for all noncontracted/court-ordered services.

**70.301(2)** Any services that are provided without the signed approval of the chief juvenile court officer or approved administrator may be denied payment unless there is an emergency or after-hours situation and no other provision exists for handling the emergency or after-hours situation or transport.

**70.301(3)** A district or juvenile court shall not order any service that is a charge upon the state pursuant to Iowa Code section 232.141 if there are insufficient noncontracted/court-ordered services funds available in the district allocation to pay for the service.

**70.301(4)** The chief juvenile court officer shall encourage responsible use of noncontracted/court-ordered service funds such that there are sufficient funds during the entire year to pay for all noncontracted/court-ordered services.

*a.* The chief juvenile court officer shall establish service priorities for spending the noncontracted/court-ordered services funds allocated to the district.

*b.* The chief juvenile court officer shall inform state court administration of potential shortfalls in the district's allocation and shall request a transfer of funds between the districts as prudent.

**70.301(5)** The chief juvenile court officer shall notify the state court administrator and the chief judge of the district in the event that the noncontracted/court-ordered services funds for the judicial district are exhausted.
[Court Order December 2, 2022, effective July 1, 2023]

**Rule 70.302 Noncontracted/court-ordered service application process.** The chief juvenile court officer or approved administrator shall determine the need for each service.

**70.302(1)** Any party intending to request noncontracted/court-ordered service funds shall complete an application and receive approval for the funding request from the chief juvenile court officer or approved administrator, with the exception of drug testing, drug testing supplies, court-ordered transportation, and global positioning system monitors.

**70.302(2)** If an application for noncontracted/court-ordered services and/or a court order is not available, a consent decree, a global positioning system monitoring agreement, a condition of supervision agreement, or an informal or formal probation agreement must be contained within the case file.

**70.302(3)** The application form with instructions shall be available upon request from the office of each chief juvenile court officer.

**70.302(4)** The chief juvenile court officer or approved administrator shall approve or disapprove the request for funds and shall sign and return the application to the referring juvenile court officer.

*a.* If the request is disapproved, the decision is final.

*b.* If the request is approved, the service plan may be presented to the court for a court order to be issued for the services.

**70.302(5)** The applicant shall have verified that there are no other alternative funding sources for the service.

**70.302(6)** The chief juvenile court officer or approved administrator may establish procedures for handling emergency or after-hours situations and for the handling of transports.

**70.302(7)** *Use of other funding sources.*

*a.* The chief juvenile court officers shall ensure that the funds allocated for noncontracted/court-ordered services are spent only after all other reasonable actions have been taken to use other funding sources.

*b.* Services are not eligible for reimbursement when another payment source is available.

*c.* Medical cost sharing for the one-time payment per court order of a deductible amount or a coinsurance amount for treatment specified in a court order is an allowable expense that may be paid through the noncontracted/court-ordered services fund when insurance or Medicaid is then available to pay the remainder of the cost.

*d.* The date of a medical claim's accrual for reimbursement through noncontracted/court-ordered services is the date the claim becomes a state liability. For example, a claim becomes a state liability on:

(1) The date of a court order for a contested claim; or

(2) The date of a determination by Medicaid or private insurance that Medicaid or private insurance denies partial or full payment for care and treatment for which an application has been approved.

**70.302(8)** *Allowable rates.* The chief juvenile court officer or approved administrator shall negotiate a reimbursement rate with the provider to obtain the service at a reasonable cost based on available community or statewide rates.

[Court Order December 2, 2022, effective July 1, 2023]

**Rule 70.303 Expenses.** The following lists include expenses that are either eligible or ineligible for reimbursement from the noncontracted/court-ordered services fund and are intended to be exhaustive. Billings for services not listed below shall not be paid except as provided in subrule 70.303(3).

**70.303(1)** *Reimbursable expenses.* The expenses for which reimbursement shall be made include:

*a.* Transportation expenses, including those incurred in transporting a child to or from a place designated by the court, including mileage, lodging, and meals.

*b.* Medical cost sharing for payment of deductibles or coinsurance when Medicaid or private insurance is then available to pay the remainder of the cost.

*c.* The expense of care or treatment ordered by the court whenever the child is placed by the court with someone other than the parents or whenever the child is given a physical or mental examination or treatment under order of the court, including treatment referenced under a consent decree. Care and treatment expenses for which no other provision for payment is made by law that shall be reimbursable include:

(1) Individual services for the child separate from a family's treatment plan.

(2) Diagnosis and evaluation on an outpatient basis unless the diagnosis and evaluation are provided by a person or agency with a contract with the judicial branch for that service for which the child is eligible.

(3) An evaluation of a child in a residential facility.

(4) Inpatient (hospital) evaluation of a child previous to disposition.

(5) Medical treatment for a child when the medical treatment is court-ordered, except when the child is in a detention facility.

(6) Drug treatment, testing, testing supplies, and care for a child.

(7) In-home supervision and monitoring, including global positioning system monitoring, and alternatives to shelter care unless a person or agency has a contract with the judicial branch to provide the service for which the child is eligible.

(8) One-to-one supervision of a child not in a detention facility unless the service is provided by a person or agency with a contract with the judicial branch for that service for which the child is eligible.

(9) Physical or mental examinations ordered pursuant to Iowa Code section 232.49, except those set forth in paragraph 70.303(2)(b) or those eligible for payment pursuant to Iowa Code chapter 249A.

*d.* Expenses for educational testing or programs related to a high school equivalency test (HiSET) or equivalent or for credit hours when the expenses are not required to be paid by the state.

*e.* Expenses for a child meant to serve as a diversionary tool for children at risk of further involvement with the juvenile justice system, which may include:

(1) Drug treatment, testing, testing supplies, and care for a child.

(2) Educational programming used as a deterrent for at-risk and delinquent children, unless the service is provided by a person or agency with a contract with the judicial branch for that service for which the child is eligible.

(3) In-home supervision and monitoring, including global positioning system monitoring, and alternatives to shelter care, unless a person or agency has a contract with the judicial branch to provide the service for which the child is eligible.

**70.303(2)** *Expenses not eligible for reimbursement.* Expenses that are excluded from reimbursement from noncontracted/court-ordered service funds because another source is available to pay for the service include:

*a.* Foster care and shelter care. *See* Iowa Code section 234.35.

*b.* All charges for which the county is obligated by statute to pay including:

(1) Care and treatment of patients by any state mental health institute. *See* Iowa Code section 230.20(5).

(2) Care and treatment of patients by either of the state resource centers or by any other facility established under Iowa Code chapter 222. *See* Iowa Code section 222.60.

(3) Care and treatment of patients by the psychiatric hospital in Iowa City. *See* Iowa Code ch. 225.

(4) Care and treatment of persons at the alcoholic treatment center in Oakdale or any other facility as provided in Iowa Code chapter 125. *See* Iowa Code section 125.44.

(5) Clothing and medical or other service provided to persons at the Iowa Braille and Sight Saving School, the Iowa School for the Deaf, or the University of Iowa Stead Family Children's Hospital for which the county becomes obligated to pay pursuant to Iowa Code sections 263.12, 269.2, and 270.4.

(6) Expenses for detention in a facility used for detention. *See* Iowa Code section 232.142.

(7) Care and treatment of persons placed in a county hospital, county care facility, a health care facility as defined in Iowa Code section 135C.1(8), or any other public or private facility in lieu of admission or commitment to a state mental health institute, state resource center, or other facility established pursuant to Iowa Code chapter 222. *See* Iowa Code section 222.50.

(8) Child abuse photos and X rays. *See* Iowa Code section 232.77.

(9) Any expenses set forth in Iowa Administrative Code subrule 441—151.22(1) that qualify for payment pursuant to Iowa Code chapter 249A.

(10) Expense of a child sexual abuse examination. *See* Iowa Code section 915.41.

(11) Expense of child daycare. *See* Iowa Code section 234.6.

(12) Expense of in-home treatment services. *See* Iowa Admin. Code chs. 441—78-79, 83.

(13) Expense of homemaker-home health aide services. *See* Iowa Admin. Code ch. 641—80.

(14) Expenses for all educational testing or programming required to be paid by the state, except for children who attend an on-campus school in an out-of-state facility and who are not weighted as special education students. *See* Iowa Code ch. 256.

(15) Expenses, except for the allowable medical cost sharing, for all court-ordered counseling and treatment for adults, including individual, marital, mental health, substance use disorder, and group therapy. Payment source is private insurance, Medicare, Medicaid, or other resources consistent with Medicaid and social services eligibility and Iowa Code chapter 249A.

(16) Expenses, except for the allowable medical cost sharing, for psychiatric medical institutions for children (PMIC). Payment source is private insurance, Medicare, Medicaid, or other resources consistent with Medicaid and social services eligibility and Iowa Code chapter 249A.

**70.303(3)** *Services not listed.* If a court orders a service not currently listed in subrule 70.303(1), the chief juvenile court officer or approved administrator shall review the order and shall consult with state court administration. If reimbursement for the service expense is not in conflict with current law and meets the criteria for payment by noncontracted/court-ordered service funding, the chief juvenile court officer or approved administrator shall authorize reimbursement to the provider.

**70.303(4)** *Appeals.* If services are court-ordered, children who have been adversely affected by decisions made by the juvenile court and their parents or guardians may appeal through procedures established pursuant to Iowa Code section 232.133.

[Court Order December 2, 2022, effective July 1, 2023; January 26, 2024]

**Rules 70.304** to **70.400** Reserved.

## DIVISION IV
EARLY INTERVENTION AND FOLLOW-UP PROGRAMS/GRADUATED SANCTIONS SERVICES

**Rule 70.401 Service eligibility.** Children shall be eligible for services without regard to individual or family income when they are adjudicated delinquent or a juvenile court officer or other approved referral entity determines they are at risk and in need of contracted services.

**70.401(1)** Juvenile court services shall maintain in the child's case file documentation of the child's adjudication or at-risk status as well as the child's need for services, as applicable.

**70.401(2)** The chief juvenile court officer shall establish written procedures for screening and approving referrals for services and make the procedures available to the district's juvenile court officers and other approved referral entities.

**70.401(3)** The juvenile court officer shall determine the child to be in need of services as evidenced by one or more of the following situations:

*a.* Schools, parents, or community organizations, due to complaints of delinquent activities or activities that put a child at risk of involvement in the juvenile justice system, indicate the need for intervention and guidance of the child.

*b.* A petition has been filed alleging delinquent behavior.

*c.* Juvenile court services action has been initiated including, but not limited to, diversion, informal adjustment agreements, and adjudication and disposition proceedings, including consent decrees.

**70.401(4)** The chief juvenile court officer may approve services for up to six consecutive months at a time, except that service approval shall not extend beyond the current state fiscal year unless a contract is in effect to assume the cost for the services provided in the next state fiscal year. The referring officer shall reevaluate the child's eligibility and need for these services in accordance with procedures established by the respective juvenile court services district.

**70.401(5)** Referrals shall not be made or accepted when funds for the program are not available; the chief juvenile court officer shall inform referring entities when program funds are no longer available.

**70.401(6)** Each chief juvenile court officer may approve follow-up services for a child adjudicated to have committed a delinquent act upon the child reaching 18 years of age until the child is 21 years of age, as indicated in Iowa Code section 232.8(5)(a).

**70.401(7)** *Service components.*

*a.* Services may include, but are not limited to, the following components:

(1) Cognitive-behavioral therapy.

(2) Group counseling.

(3) Mentoring.

(4) Behavioral contracting or contingency management.

(5) Family counseling, including child and parent relationships and parenting skills.
(6) Family crisis counseling.
(7) Mixed counseling.
(8) Social skills training.
(9) Challenge programs.
(10) Mediation.
(11) Restitution or community service.
(12) Remedial academic program.
(13) Individual counseling.
(14) Job-related training, including job-seeking skills, as well as training for specific jobs and on-the-job training experiences.
(15) Personal skills, including anger management, stress reduction, and self-esteem.
(16) Problem solving.
(17) Accountability and acceptance of responsibility.
(18) Victim empathy and self-advocacy.
(19) Activities of daily living and time management.
(20) School attendance and truancy issues.
(21) Violence prevention.

*b.* The contract must specify what is required of the provider, including transportation services, as needed.

*c.* Services may be co-located with school programs. Although the costs of the state-funded educational programming shall not be funded through the early intervention and follow-up programs/graduated sanctions appropriation, programs shall be developed so that there is close coordination between the treatment and the state-funded educational components.
[Court Order December 2, 2022, effective July 1, 2023]

**Rule 70.402 Reporting requirements.**

**70.402(1)** Providers of services shall submit all reports on each child receiving services to the assigned juvenile court officer, or other juvenile court services staff, at intervals specified in the contract. All required reports may be electronic, including, but not limited to, treatment plans, case updates, and progress reports, and shall include all required components specified in the contract.

**70.402(2)** The juvenile court officer shall file provider reports in the child's electronic case file.

**70.402(3)** Additional reports may be required when requested by the juvenile court judge or the child's juvenile court officer.

**70.402(4)** Any school-based program shall have established procedures for communication and for maintaining records on individual children receiving assistance. The procedure shall include methods for the timely communication of critical information to juvenile court services and school officials, assurances that child abuse allegations shall be reported promptly in accordance with applicable Iowa statutes, and systems to safeguard the confidentiality of the child's records.
[Court Order December 2, 2022, effective July 1, 2023]

**Rule 70.403 Contracted services referral process.**

**70.403(1)** *Referral requirements.* The juvenile court officer or other approved referral source shall:

*a.* Determine which service provider can best meet the child's needs.
*b.* Complete the referral form, as applicable, and follow the district's referral approval process.
*c.* Assist in the child's transition to receive the service.
*d.* Follow up after the service has been provided.

**70.403(2)** *Monitoring of service delivery.* The juvenile court officer, or other approved referral source, shall monitor the delivery of services to children for whom the referral was made.

*a.* The juvenile court officer, or other approved referral source, shall review provider progress reports and maintain contact with the child, the child's family, the provider, and other community agencies to adequately assess the child's progress and need for service.

*b.* The referring juvenile court officer, the provider, the child, or the child's representatives may report problems in service delivery to the chief juvenile court officer or designee.

**70.403(3)** *Payment methodology.* Rates for services shall be established through a service contract between the provider and the chief juvenile court officer based on the provider's proposed

budget. Rates may vary among providers for various types of services. The payment methodology and contract maximum shall be specified in the contract.

**70.403(4)** *Provider standards.* Providers shall have a contract with juvenile court services for services and agree to abide by all contract requirements, including, but not limited to, reporting, payment methodology, record retention, and billing and payment procedures. Providers of these services shall meet all of the following conditions:

*a.* Be selected and approved by the chief juvenile court officer or designee within each judicial district to provide the contracted services.

*b.* Use staff who, in the opinion of the chief juvenile court officer, have the necessary training and qualifications to provide quality services.

*c.* Make any changes to curriculum as requested by the chief juvenile court officer or designee.

*d.* Provide services to eligible children in the settings most suited to each child's needs.

**70.403(5)** *Performance and outcome measures.*

*a.* Each contract shall detail expected performance measures for the services provided.

*b.* Each contract shall detail expected outcomes of the service requirements for each child.

*c.* The provider shall report data as required in the service contract.

*d.* Juvenile court services shall determine preservice and postservice measures needed to track and record outcomes.

[Court Order December 2, 2022, effective July 1, 2023]

**Rule 70.404 Supportive enhancements.** A funding application or referral for services or goods shall be completed by the referring juvenile court officer and include language to indicate how the services or goods reduce the risk factors of the eligible child. See monitoring of service delivery, provider standards, and outcome measures in subrules 70.403(2), (4), and (5).

**70.404(1)** *Types of supportive enhancements.* Supportive enhancements are individualized to address the child's needs, including:

*a.* Living environment.

*b.* Accountability.

*c.* Basic needs.

*d.* Safety.

*e.* Social needs.

*f.* Educational needs.

*g.* Cultural needs.

**70.404(2)** *Service eligibility.* The eligible child shall be qualified for supportive enhancements without regard to individual or family income when the child is adjudicated delinquent or is determined by a juvenile court officer, or other approved referral entity, to be at risk and to be in need of the services or goods.

*a.* Juvenile court services shall maintain in the child's case file documentation, including the funding application or referral for services or goods, including language to indicate how the services or goods shall reduce the risk factors of the child, as well as the child's adjudication or at-risk status.

*b.* The chief juvenile court officer shall establish written procedures for screening and approving funding applications or referrals for supportive enhancements and make the procedures available to the district's juvenile court officers or other approved referring entities.

*c.* The chief juvenile court officer may approve supportive enhancements for up to six consecutive months at a time, except that service approval shall not extend beyond the current state fiscal year unless a contract is in effect to assume the cost for the services provided in the next state fiscal year. The referring officer shall reauthorize the child's eligibility and need for these services in accordance with the procedures established by the respective juvenile court services district.

*d.* Referrals shall not be made or accepted when funds for the program are not available; the chief juvenile court officer shall inform referring entities when program funds are no longer available.

**70.404(3)** *Service components.* Supportive enhancements are to complement other services or interventions for a child served by the juvenile court services or other provider. These supports allow juvenile court services to intervene immediately with a support or incentive that is expected to reduce misbehavior or truancy and will lead to improved outcomes.

*a.* Alternative funds or services shall be utilized prior to supportive enhancements, when available.

*b.* Supportive enhancements may include, but are not limited to:

(1) Education-related services.

(2) Restitution.

(3) Crisis intervention.
(4) Transportation.
(5) Clothing and grooming supplies.
(6) Enrollment for prosocial activities.
(7) Other expenses as approved by the chief juvenile court officer.

**70.404(4)** *Application process.* An application for supportive enhancements is required and must state all of the following:

*a.* Purpose of the purchase.
*b.* Benefit to the child.
*c.* Intent to reduce criminogenic risk factors.
*d.* A statement that there is no other funding source available for these goods or services.
*e.* Verification that the child meets eligibility requirements defined in these rules.

**70.404(5)** *Program requirements.*

*a.* For purchases valued over $10, the chief juvenile court officer or designee must approve an application prior to purchase of the goods or services.

*b.* For purchases valued $10 or under, it is strongly encouraged to have the application approved prior to receipt of the goods or services by the child. It is allowable to have only verbal or written approval by a supervisor and obtain formal approval of the application after the child receives the goods or services in certain situations.

*c.* All gift cards must be tracked using a tracking number and linked to the child receiving the card.

*d.* Recipient signoff is required and may consist of an email, letter, note, or other document signed by the child or the child's guardian confirming receipt of the goods or services.

*e.* The hourly reimbursement rate for community service restitution is set by the chief juvenile court officers and reviewed annually.

*f.* A maximum annual cap for restitution for any one child is set by the chief juvenile court officers and reviewed annually. The referring juvenile court officer must request an exception to this policy for each child, as applicable.

**70.404(6)** *Rate setting.* Rates for supportive enhancements shall be established through a contract between the provider and the chief juvenile court officer. Rates may vary.
[Court Order December 2, 2022, effective July 1, 2023]

These rules are intended to implement Iowa Code section 232.192.