

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 11, “Complaints, Investigations, Contested Case Hearings,” Iowa Administrative Code.

The amendment states that the Board “may,” rather than “shall,” set a case for hearing if there is probable cause of a violation of the Code of Professional Conduct and Ethics. The amendment also sets forth factors for the Board to consider in determining whether to set a case for hearing.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1378C** on March 19, 2014. A public hearing was held on April 9, 2014, with written comment accepted until April 11, 2014. No one attended the hearing, and no written comments were received.

This amendment is identical to that published under Notice of Intended Action.

There is an agencywide waiver provision available in 282—Chapter 6.

The Board of Educational Examiners adopted this amendment on June 20, 2014.

After analysis and review of this rule making, there is no anticipated impact on jobs.

This amendment is intended to implement Iowa Code section 272.2(4).

This amendment will become effective August 27, 2014.

The following amendment is adopted.

Amend rule 282—11.6(272) as follows:

282—11.6(272) Ruling on the initial inquiry. Upon review of the investigator’s report, the board may take any of the following actions:

11.6(1) Reject the case. If a determination is made by the board to reject the case, the complaint shall be returned to the complainant along with a statement specifying the reasons for rejection. A letter of explanation concerning the decision of the board shall be sent to the respondent.

11.6(2) Require further inquiry. If determination is made by the board to order further inquiry, the complaint and recommendations by the investigator(s) shall be returned to the investigator(s) along with a statement specifying the information deemed necessary.

11.6(3) Accept the case. If a determination is made by the board that probable cause exists to conclude that the criteria of professional practices or the criteria of competent performance have been violated, notice ~~shall~~ may be issued, pursuant to rule 282—11.7(17A,272), and a formal hearing ~~shall~~ may be conducted in accordance with rules 282—11.7(17A,272) to 282—11.21(17A,272), unless a voluntary waiver of hearing has been filed by the respondent pursuant to the provisions of subrule 11.4(6). In determining whether to issue a notice of hearing, the board may consider the following:

- a. Whether the alleged violation is of sufficient magnitude to warrant a hearing by the board.
- b. Whether there is sufficient evidence to support the complaint.
- c. Whether the alleged violation was an isolated incident.
- d. Whether adequate steps have been taken at the local level to ensure similar behavior does not occur in the future.

11.6(4) Release of investigative report. If the board finds probable cause of a violation, the investigative report will be available to the respondent upon request. Information contained within the report is confidential and may be used only in connection with the disciplinary proceedings before the board.

[Filed 6/27/14, effective 8/27/14]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/23/14.