

**IOWA PUBLIC INFORMATION BOARD[497]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 23.6, the Iowa Public Information Board hereby amends Chapter 1, “Organization and General Administration,” Iowa Administrative Code.

These amendments are necessary to reflect the Board’s current procedures on issuing advisory opinions.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on May 27, 2015, as **ARC 2012C**. The Board received no public comment on the proposed amendments. No changes were made to the amendments as published under Notice of Intended Action.

The Iowa Public Information Board adopted these amendments on July 16, 2015.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 23.6.

These amendments will become effective on September 9, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 497—1.2(84GA,ch1115) as follows:

**497—1.2(84GA, ~~ch1115~~ 23) Requirements for requesting board advisory opinions.**

**1.2(1)** No change.

**1.2(2)** *Who may request an advisory opinion.* Any person may request a board advisory opinion construing or applying Iowa Code chapters 21, ~~and 22,~~ and 23. An authorized agent may seek an opinion on behalf of any person. The board will not issue an opinion to an unauthorized third party. The board may on its own motion issue opinions without receiving a formal request. The board may issue declaratory orders with the force of law pursuant to Iowa Code section 17A.9.

**1.2(3)** No change.

This rule is intended to implement ~~2012 Iowa Acts, chapter 1115, section 9(3)~~ Iowa Code section 23.6.

ITEM 2. Amend rule 497—1.3(84GA,ch1115) as follows:

**497—1.3(84GA, ~~ch1115~~ 23) Processing of advisory opinion requests.**

**1.3(1)** No change.

**1.3(2)** After receiving an opinion request, the board’s executive director shall prepare a draft opinion for board review. If the same or similar issue has been addressed in an opinion of a court, or in an attorney general’s opinion, or in another prior advisory opinion, the executive director may respond to the requester by sending a copy of the prior opinion. Upon an affirmative vote of at least five members, the executive director shall issue a board advisory opinion on behalf of the board. ~~The executive director may also cause an opinion to be issued on a routine matter on behalf of the board and shall provide notice to the board in writing of the opinion given.~~ Advice contained in a board opinion rendered to a government official or a lawful custodian of a public record, if followed, constitutes a defense for the government official or lawful custodian before the board to a subsequent complaint that is based on the same facts and circumstances. Board staff may also provide written advice on routine matters. However, such advice is not an advisory opinion of the board.

**1.3(3) to 1.3(5)** No change.

**1.3(6)** On an annual basis, the board shall review the advisory opinions issued for that year and determine which opinions should be adopted into rule pursuant to the procedures in Iowa Code chapter 17A.

This rule is intended to implement Iowa Code section 23.6.

[Filed 7/17/15, effective 9/9/15]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/5/15.