

**IOWA PUBLIC INFORMATION BOARD[497]**

**Adopted and Filed**

**Rule making related to board actions and exempt sessions**

The Iowa Public Information Board hereby amends Chapter 2, “Complaint Investigation and Resolution Procedures,” and Chapter 8, “Open Meetings,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 23.6.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 17A, 21 and 22.

*Purpose and Summary*

The Board is removing paragraph 2.2(4)“e” from Chapter 2. The Board is also adding rule 497—8.3(21,22) relating to exempt sessions to Chapter 8. The new rule explains Iowa Code section 21.9.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 11, 2019, as **ARC 4655C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Board on October 17, 2019.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on December 11, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 2.2(4) as follows:

**2.2(4) Board action.** Upon receipt and review of the staff investigative report and any recommendations, the board may:

- a. Redirect the matter for further investigation;
- b. Dismiss the matter for lack of probable cause to believe a violation has occurred;
- c. Make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion, dismiss the matter; or
- d. Make a determination that probable cause exists to believe a violation has occurred, designate a prosecutor and direct the issuance of a statement of charges to initiate a contested case proceeding; ~~or~~
- e. ~~Direct administrative resolution of the matter under subrule 2.1(6) without making a determination as to whether a violation occurred.~~

ITEM 2. Adopt the following new rule 497—8.3(21,22):

**497—8.3(21,22) Exempt sessions.**

**8.3(1)** An Iowa Code section 21.9 exempt session is a meeting to discuss strategy concerning employment conditions of employees of a governmental body who are not covered by a collective bargaining agreement under Iowa Code chapter 20.

**8.3(2)** “Employment conditions” include wages, hours, vacations, insurance, holidays, leaves of absence, shift differentials, overtime compensation, supplemental pay, seniority, transfer procedures, job classifications, health and safety matters, evaluation procedures, procedures for staff reduction, in-service training, and grievance procedures.

**8.3(3)** An exempt session does not fall under the requirements of Iowa Code chapter 21; therefore, notice, a tentative agenda, minutes, and other requirements of Iowa Code chapter 21 do not apply.

**8.3(4)** The purpose of an exempt session is to allow a governmental body to formulate its position on the terms and conditions of employment for non-union employees in private. An exemption from the open meetings law for this purpose parallels the exemption provided by Iowa Code chapter 20 for governmental bodies negotiating with employee unions. Meetings to evaluate the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered are subject to the requirements of Iowa Code section 21.5(1)“i.”

This rule is intended to implement Iowa Code section 21.9.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/6/19.