

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

**Proposing rulemaking related to complaints, investigations, and contested case hearings
and providing an opportunity for public comment**

The Educational Examiners Board hereby proposes to amend Chapter 11, “Complaints, Investigations, Contested Case Hearings,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 272.2(15) as amended by 2023 Iowa Acts, House File 430.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 272.2.

Purpose and Summary

2023 Iowa Acts, House File 430, directs the Board to adopt rules related to retention of records, public notice, the evaluation of past complaints, and investigations. This proposed rulemaking implements that legislation.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Beth Myers
Board of Educational Examiners
701 East Court Avenue, Suite A
Des Moines, Iowa 50309-0147
Fax: 515.281.7669
Email: beth.myers@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 31, 2024
1 to 2 p.m.

Board Room
701 East Court Avenue, Suite A
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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).

The following rulemaking action is proposed:

ITEM 1. Amend subrule 11.4(9) as follows:

11.4(9) Confidentiality. All complaint files, investigation files, other investigation reports, and other investigation information in the possession of the board or its employees or agents, which relate to licensee discipline, 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 and the board and its employees and agents involved in licensee discipline, and are not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. However, investigative information in the possession of the board or its employees or agents which is related to licensee discipline may be disclosed to appropriate licensing authorities within this state, the appropriate licensing authorities in another state, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license. Records related to written complaints shall be collected and retained and shall be evaluated if a similar complaint has been filed against the same licensed practitioner. A finding of probable cause, a final written decision, and a finding of fact by the board in a disciplinary proceeding is constitute a public record.

ITEM 2. Amend rule 282—11.5(272) as follows:

282—11.5(272) Investigation of complaints or license reports. The chairperson of the board or the chairperson's designee may request an investigator to investigate the complaint or report received by the board from another state, territory or other jurisdiction concerning license or certificate revocation or suspension pursuant to subrule 11.4(7); providing that the jurisdictional requirements have been met on the face of the complaint. The investigation shall be limited to the allegations contained on the face of the complaint. The investigator may consult an assistant attorney general concerning the investigation or evidence produced from the investigation. Upon completion of the investigation, the investigator shall prepare a report of the investigation for consideration by the board in determining whether probable cause exists. The investigation of the complaint shall be finalized even if the licensed practitioner resigns or surrenders the practitioner's license, certificate, authorization, or statement of recognition during the investigation. The board shall investigate whether or not an administrator who is employed by the school that employs a licensed practitioner who is the subject of an investigation initiated under Iowa Code section 272.15(1) "a" as amended by 2023 Iowa Acts, House File 430, filed a written complaint and whether or not the administrator was required to report to the board pursuant to Iowa Code section 272.15 as amended by 2023 Iowa Acts, House File 430.