

APPEAL BOARD, STATE[543]

Rules transferred from agency number 60 to 543 under the "umbrella" of Management Department pursuant to 1986 Iowa Acts, chapter 1245, section 107

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CHAPTER 1
TORT CLAIMS

[Prior to 5/4/88, see Appeal Board, State[60] Ch 1]

543—1.1(25A) Definitions. As used in these rules, “*state agency*,” “*employee of the state*,” “*claim*” and “*award*” bear the definitions ascribed to them in Iowa Code section 25A.2.

“*Board*” means “*state approved board*” as defined in section 23.1.

“*Executive secretary*” means executive secretary of the state appeal board.

543—1.2(25A) Meetings of board. The board shall meet at a time and place fixed by the chairman or a majority of the board.

1.2(1) Orders of board. The board shall be considered in continuous session for the purpose of entering orders, issuing determinations and making awards.

1.2(2) Quorum. A majority of the membership of the board shall constitute a quorum for the transaction of all business. But the compromise, settlement or allowance of any claim in an amount larger than \$5,000 shall require the approval of all members of the board and of the district court of Polk County.

1.2(3) Executive secretary. The director of the department of management shall appoint an employee of the office to serve as executive secretary of the board.

543—1.3(25A) Form of claims. All claims should be typewritten, but claims printed by hand will be accepted if legible.

1.3(1) Place of filing. Claims shall be filed in triplicate with the Department of Management, State Capitol, Des Moines, Iowa 50319.

1.3(2) Verification. Claims shall be verified.

1.3(3) Names and signatures. A claim shall state thereon the name, address, telephone number, and age of the person making the claim and the name, address and telephone number of the attorney, if any, preparing the claim, and their signatures.

1.3(4) Designation by number. The executive secretary shall assign a number to each claim. Thereafter it may be referred to by such a number.

543—1.4(25A) Content. All claims shall set forth information as follows:

1.4(1) Type of claim. A claim shall state whether it is against an employee or the state. If the claim is against an employee the name of the employee and the department where employed shall be stated. A separate claim shall be filed for each type by each claimant.

1.4(2) Description of accident. State, in detail, all known facts and circumstances attending the damage or injury, identifying persons and property involved and the cause thereof.

1.4(3) In connection with personal injuries or death.

a. A detailed description of the nature, extent and duration of any and all injuries.

(1) The names and addresses of any and all physicians, surgeons, dentists or other medical personnel providing treatment or services.

(2) The dates and places of the treatments or services.

(3) The date of the final treatment or service and the name of the physician or other person providing same.

(4) If treatment or services are continuing, the name and address of each physician or other person rendering said treatment or service, and the nature of the treatment or service.

b. The name and address of any hospital in which claimant is or was confined and the dates of admission and discharge.

c. The name and address of any and all persons who have taken the X-rays of claimant, the dates of such X-rays and a statement as to what the X-rays purportedly established.

d. A statement as to any preexisting injury, illness or condition, the nature of such preexisting injury, illness or condition, and the name and present address of each physician or other person who has rendered or who is rendering treatment for such disability.

e. If employed at the time of the injury or death, the name and address of the employer, the position or job held and nature of the work performed, the average weekly wage or salary for the year immediately past, the period of time lost from employment (dates), and the sum of wages or salary claimed to have been lost, if any, by reason of injuries or death.

f. If other loss of income, profit or earnings is claimed, the amount of such loss or losses and how computed, the source of such loss, the date of deprivation thereof, the period of time and whether it is continuing.

g. Name and address of present employer, if claimant has returned to work, the position or job held, the nature of the work being performed and present weekly wages, earnings, income or profits.

h. Itemization in detail of any and all moneys expended or expenses incurred in connection with said claim.

i. Names and addresses of all persons who have personal knowledge of any facts relating to said claim.

1.4(4) *In connection with property damage or loss.*

a. Motor vehicle.

(1) Make, model, year.

(2) Date of purchase and purchase price.

(3) Cost estimates for repairs or actual costs thereof, with copies of estimates or bills.

(4) Specific part or parts allegedly damaged.

(5) Names and addresses of any and all persons having personal knowledge of any facts relating to the claim.

b. Other property.

(1) Nature and description of such other property or items of property separately listed.

(2) Method by which such property was acquired. If purchased, then the name of the person or place from which purchased, the price, date and usage made of the property.

(3) Depreciated value at date of damage or loss.

(4) Costs estimates for repairs or actual costs thereof with copies of cost estimates made or of bills paid.

(5) Names and addresses of any and all persons having personal knowledge of any facts relating to the claim.

1.4(5) *Forms.* Claims may be in any form, but shall contain the information required by rules 1.3(25A) and 1.4(25A). Printed forms can be obtained from the secretary of the state appeal board.

543—1.5(25A) Amount of claim. All claims shall state the amount of compensation requested from the state appeal board.

543—1.6(25A) Attorney general. The executive secretary shall deliver or cause delivery of two copies of each claim to the special assistant attorney general assigned to claims.

543—1.7(25A) Investigation. Upon receipt of said copy, the special assistant attorney general shall investigate the claim. The special assistant attorney general shall ex officio be empowered to administer oaths or may take testimony in the form of affidavits, depositions or oral or written interrogatories or otherwise. The special assistant attorney general may compel the attendance of witnesses and certify to any district court for contempt.

543—1.8(25A) Notification. The special assistant attorney general shall notify the claimant or the claimant's attorney, in writing, of the board's determination and of the amount of the award, if any.

543—1.9(25A) Release or covenant not to sue. The claimant shall be required to execute a release of the claim or a covenant not to sue in consideration of the amount of the award fixed by the board.

543—1.10(25A) Acceptance. Return of the release or covenant not to sue properly executed by the claimant or the claimant's attorney shall constitute acceptance of the award in full settlement of the claim.

543—1.11(25A) Warrant. If the board determines the claimant's attorney's fees to be reasonable and the release or covenant not to sue properly executed the director of the department of management shall cause the issuance of a warrant in the amount of the award, payable to claimant and to the claimant's attorney.

543—1.12(25A) Withdrawal. Withdrawal of claims shall be by notice in writing addressed to the State Appeal Board, Office of the Department of Management, Des Moines, Iowa 50319.

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CHAPTER 2
GENERAL PROVISIONS

[Prior to 5/4/88, see Appeal Board, State[60] Ch 2]

543—2.1(17A) Organization. The state appeal board is an agency of the state having as its purpose the review of objections to public contracts and bonds and to the budgets of counties, school districts, cities, agricultural extension districts, assessors, and county hospitals, and the approval or rejection and payment of claims against the state. The state appeal board consists of the director of the department of management, auditor of state, and treasurer of state and conducts hearings in the above matters. Information may be obtained from and submissions or requests may be made to the Secretary of the State Appeal Board located in the State Capitol Building, Des Moines, Iowa 50319.

543—2.2(17A) Definitions. The following words used in this chapter shall have the meaning hereinafter ascribed to them:

“*Board*” means the state appeal board as set forth in Iowa Code section 24.26.

“*Contested case*” has the meaning given it in Iowa Code section 17A.2(2), but does not include proceedings under Iowa Code chapter 24, 25 or 25A.

543—2.3(17A) Request for rule change. An interested person may file with the secretary of the board a written request that the board adopt, amend, or repeal a rule. To be valid, the request shall:

1. Be addressed to the secretary of the board.
2. State the names of those requesting the change.
3. Set forth the proposed rule, or the prior rule as it would be after amendment.
4. Describe specifically the reason for the proposed rule or requested change.
5. Describe the statutory authority for the new rule or requested change. Within 60 days of the receipt by the secretary of the request, the board shall either deny the request stating the reasons for denial in writing or initiate rule-making proceedings in accordance with Iowa Code chapter 17A.

543—2.4(17A) Declaratory orders. Any interested person(s) may submit to the secretary of the board a petition for a declaratory order regarding the application of a statute, rule, decision, order, or other written statement of law or policy to a specific factual situation. The petition requesting the order shall contain the name(s) of the person(s) requesting the order, the specific factual background of the question, the statute, rule, decision, order or other written statement of law or policy deemed applicable and the reasons for the request. The board may demand that the request be clarified or that additional facts be set forth. Failure of the person(s) requesting a declaratory order to clarify the request or set forth additional facts to the satisfaction of the board shall be grounds for dismissal of the petition.

543—2.5 and 2.6 Rescinded, effective 4/7/82.

543—2.7(24) Budget appeals. In resolving appeals filed under Iowa Code chapter 24, the board possesses broad discretionary power to determine the manner in which objections are presented and the conduct of hearings and appeals. All proceedings shall be simple and informal and need not conform to technical rules or procedures except to the extent specific administrative rules have been adopted.

This rule is intended to implement Iowa Code sections 24.26 to 24.32.

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CHAPTER 3
GENERAL CLAIMS

[Prior to 5/4/88, see Appeal Board, State[60] Ch 3]

543—3.1(25) Claims. General claims include, but are not limited to, the listing of claims found in Iowa Code section 25.2. General claims shall be filed on a form supplied by the executive secretary of the state appeal board. Claims shall be filed with and processed directly by the state agency when the following conditions are met:

1. Claim is an outdated invoice that is over 90 days old, within the same fiscal year and for which moneys are available; or
2. Claim is for an outdated invoice that is from a previous fiscal year and the amount of the reversion is sufficient to pay the claim.

If a claim meets the criteria of 3.1(1) or 3.1(2) below, when the agency recommends approval of the claim, it is then to be submitted to the department of revenue, accounting bureau, who will process such claims. The agency will keep a record of such claims and will report to the state appeal board at its next regularly scheduled meeting. The claim shall be submitted to the department of revenue on the form prescribed by the state appeal board. The department of revenue is authorized by the state appeal board to pay such claims from the state appeal board appropriation if sufficient moneys have been reverted from the state agency involved. If sufficient moneys have not been reverted, or if the agency or the department of revenue recommends denial of the claim, the claim is to be forwarded by the state agency to the state appeal board for consideration. A record of denied claims shall be submitted quarterly to the state appeal board by the state agency.

3.1(1) Place of filing. The original and one copy of the general claim shall be filed with the Department of Management, Room 14, State Capitol Building, Des Moines, Iowa 50319.

3.1(2) Verification. General claims shall be verified.

3.1(3) Names and signatures. General claims shall state the name, address and telephone number of the claimant and be signed.

3.1(4) Designation. A general claim shall indicate that it is a general claim filed pursuant to Iowa Code chapter 25.

3.1(5) Designation by number. The executive secretary of the state appeal board shall assign a number to each general claim. Thereafter it may be referred to by such number. If a claim meets the conditions as described in rule 543—3.1(25) and is filed directly with the state agency, a number will not be assigned.

543—3.2(25) Content. All general claims shall set forth information as follows:

3.2(1) Services rendered or merchandise purchased. An itemized statement indicating the services or merchandise and the name of the state agency or employee involved. If available, a bill for the same shall be attached.

3.2(2) Refunds. A detailed statement of the reasons for the refund, indicating the state agency involved.

3.2(3) Documentation. Sufficient documentation to support the claim shall be attached.

3.2(4) Amount. All amounts for which the claim is filed shall be stated and itemized.

543—3.3(25) Investigation. The special assistant attorney general assigned to the claims division shall investigate a general claim. The special assistant attorney general shall be empowered ex officio to administer oaths or may take testimony in the form of affidavits, depositions or oral or written interrogatories or otherwise. The special assistant attorney general may compel the attendance of witnesses and certify to any district court for contempt. All information from the investigation shall be included with the report to the state appeal board.

543—3.4(25) Notification. The special assistant attorney general shall notify the claimant in writing of the state appeal board's decision if the general claim is denied.

543—3.5(25) Denial. For those general claims that are denied, the state appeal board shall file with the clerk of the house of representatives and the secretary of the senate a list of such claims together with all reports and recommendations. The claims committee of the legislature shall then review said claims and may make an appropriation for any of them.

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CHAPTER 4
COUNTY INDEMNIFICATION FUND
Rescinded by 1986 Iowa Acts, chapter 1246, section 775. See IAB 5/4/88

CHAPTER 5
BUDGET APPEALS

[Prior to 5/4/88, see Appeal Board, State[60] Ch 5]

543—5.1(24) Organization.

5.1(1) The state appeal board by which protests of local government budgets are considered has statutory authority under Iowa Code chapter 24. The three ex officio and voting members are:

Treasurer of State	Telephone (515)281-5366
Auditor of State	Telephone (515)281-5834
Director of the Department of Management	Telephone (515)281-3322

5.1(2) The board is assisted by the executive secretary named by the board [telephone (515)281-5512], one or more special assistant attorneys general for claims and such other staff support as necessary from their respective offices.

5.1(3) It is the intent of these rules that the manner of presentation and the conduct of hearings and appeals shall be simple and informal, subject only to such rules as may be prescribed by the state appeal board.

543—5.2(24) Inquiries.

5.2(1) Inquiries as to procedures may be directed to any appeal board member or the executive secretary at the telephone numbers given.

5.2(2) Written inquiries may be addressed to any one of the members at their respective offices, all of which are located in the State Capitol Building, Des Moines, Iowa 50319.

543—5.3(24) Declaratory orders.

5.3(1) Any interested person(s) may submit to the executive secretary of the board a petition for a declaratory order regarding the application to a specific factual situation of a statute, rule, decision, order, or other written statement of law or policy. The petition requesting the order shall contain the name(s) of the person(s) requesting the order, the specific factual background of the question, the statute, rule, decision, order or other written statement of law or policy deemed applicable and the reasons for the request.

5.3(2) The board may demand that the request be clarified or that additional facts be set forth. Failure of the person(s) requesting a declaratory order to clarify the request or set forth additional facts to the satisfaction of the board shall be grounds for dismissal of the petition.

543—5.4(24) Request for rule change.

5.4(1) Any interested person(s) may file with the executive secretary of the board a written request that the board adopt, amend or repeal a rule. To be valid, the request shall:

- a. Be addressed to the executive secretary of the board.
- b. State the name(s) of those requesting the change.
- c. Set forth the proposed rule, or the prior rule as it would be after amendment.
- d. Describe specifically the reason for the proposed rule or requested change.
- e. Describe the statutory authority for the new rule or requested change.

5.4(2) Within 60 days of the receipt of the request by the executive secretary, the board shall either deny the request, stating the reasons for denial in writing, or initiate rule-making proceedings.

543—5.5(24) Filings.

5.5(1) The required number of signatures is subject to voting records. Voting record information is obtained from the county auditor (election commissioner). Verification of the required signatures shall be made by the appeal board.

5.5(2) For a budget or amendment appeal for all local governments other than a city, the protest must be signed by a number of persons in the municipality (local government) equal to one-fourth of 1 percent of those voting for the office of president of the United States or governor, as the case may be, at the last general election in said municipality, but the number shall not be less than 10, and the number need not be more than 100 persons.

5.5(3) For a city budget or amendment appeal, the protest must be signed by qualified electors equal in number to one-fourth of 1 percent of the votes cast for governor in the last preceding general election in the city, but the number shall not be less than 10 and the number need not be more than 100 persons.

5.5(4) Filings of appeal petitions are to be with the county auditor of the county in which the local government is located or, if more than one county is involved, in that county where the principal administrative offices are located.

5.5(5) It is the responsibility of the county auditor to notify the appeal board and the appropriate local government upon receipt of an appeal petition. Such filing by the auditor is to consist of a copy of the appeal petition, together with a complete copy of the certified budget under appeal. Filing with the appeal board is through its executive secretary.

5.5(6) Any appeal and supporting documents shall be legible. Clear carbon copies or processed copies are acceptable.

5.5(7) Signatures shall be accompanied by legible and full mailing addresses.

5.5(8) Petitioners need not have appeared and entered objection at the public hearing at which the protested budget was considered.

5.5(9) The board shall extend statutory deadlines by the same elapsed time constraints when tardy certification occurs or whenever a different certification date is established by a special charter city.

5.5(10) If more than one appeal with reasonably related issues is filed against the same budget, the board may consolidate or concurrently consider the appeals in a single hearing and may issue a consolidated decision.

5.5(11) There is no required format for an appeal. The content should include:

- a. Name of the local government budget being appealed.
- b. Statutory authority under which the appeal is taken (Iowa Code chapter 384 for cities, and Iowa Code chapter 24 for all other local governments).
- c. Decision being protested, summarizing key objections and basic reasons for such objections. This general statement may be expanded at the formal hearing with oral testimony, written briefs, exhibits or other substantive documentation.

5.5(12) Illustration of appeal format.

To: State Appeal Board

State Capitol

Des Moines, IA 50319

We, the undersigned, protest the action of the officials of (local government) in certification of their 19 – budget and request an appeal hearing.

We offer the following objections and reasons in summary form as basis for our appeal under Iowa Code chapter :

Objection 1 (cite)

Reasons: (brief explanation)

Objection 2 (cite)

Reasons: (brief explanation)

(Add such other sections as needed to identify each basic objection and supporting reasons.)

Date	Signatures	Full mailing address with Zip code.
1.		
2.	(Additional signature sheets may be attached without the	
3.	full heading, it being assumed those subscribing their	
10.	names are fully aware of the stated appeal, objections and	
	reasons. Minimal headings on attached sheets should	
	indicate "Protest to _____ (local government) _____ Budget,	
	19 ____ - ____."	
100.		

5.5(13) The burden is upon objectors for any proposed item which was included in the budget of the previous year with proposal for reduction or exclusion of the specific items. These arguments need not be fully developed in the appeal petition.

5.5(14) The burden is on the local government certifying or levying officials (as opposed to staff) to show any new item in the budget, or any increase in any item thereof, is necessary, reasonable and in the interest of the public welfare.

543—5.6(24) Scheduling and notice of hearings.

5.6(1) Dates for hearings shall be set by the appeal board. When a date is set, notice shall be given by certified mail, return receipt requested, to the first ten names on the petition and to the appropriate officials of the local government.

5.6(2) This notice shall be mailed at least five days prior to the hearing.

543—5.7(24) Hearings.

5.7(1) Hearings shall be held at scheduled times within the county where the local government is located or headquartered. All parties assume their own expenses except as may otherwise be specifically provided by rule or law.

5.7(2) The appeal board may conduct the hearing or may appoint a deputy (hearing officer) to conduct the hearing and report findings and recommendations to the board for its decision.

5.7(3) The hearing shall be held in a public place and shall be open to the public. The hearing shall be conducted so as to give all parties a fair opportunity to be heard.

5.7(4) The appeal board secretary shall prepare an official record of all proceedings, including testimony and exhibits. Testimony taken by a mechanical recording device may be incorporated by reference if a transcript is not made. A reasonable amount will be charged to cover the cost of providing a duplicate tape or a copy of the transcription for either party. Tapes will be retained for five years following the decision.

5.7(5) If a party entitled to a hearing fails to appear, that party shall be deemed to have waived opportunity for the hearing or to participate in the hearing unless there is show of good cause for such failure.

5.7(6) Legal counsel shall be at the discretion and expense of either party to the appeal.

5.7(7) Parties appearing before the appeal board should select one or two persons to serve as primary spokespersons for their position.

5.7(8) The appeal board shall exclude evidence which is irrelevant, immaterial or unduly repetitious.

5.7(9) Written or printed materials shall be in sufficient quantity to supply at least three copies for the appeal board and one copy for the other party to the appeal.

5.7(10) Any party requesting a certified shorthand or court reporter shall make arrangements for such attendance and expense.

5.7(11) At the outset of each hearing, the presiding appeal board officer shall indicate disposition of rulings on procedural questions and outline ground rules and time limitations to seek to give equal opportunity to both parties and basically permit:

- a. Objectors' basic arguments.
- b. Local government officials' basic arguments and rebuttal.

- c.* Rebuttal by objectors.
- d.* Presentation by authorized third party intervenors.
- e.* If desired, closing remarks by objectors.
- f.* If desired, closing remarks by local government officials.
- g.* Time permitting, comments by interested citizens.
- h.* Announcement as to adjournment, filing of additional briefs and the probable timing for the decision.

5.7(12) As deemed necessary, the board may examine the entire budget under appeal including cash reserves (balances), funding sources and expenditures of all types including actual or allowable transfers so those specific items under appeal may be fully examined and evaluated in perspective in arriving at a decision on the appeal.

5.7(13) The board shall listen to testimony and arguments from all those concerned, take the matters under advisement, and make a decision setting out the findings of fact and conclusions of law on which the decision is based.

5.7(14) Appeal board members or the presiding hearing officer shall be free to ask questions of anyone at any point during any hearing.

5.7(15) The parties may agree upon pertinent facts in the proceedings by stipulation in writing filed at any stage in the proceedings or orally made at the hearing.

5.7(16) Any party served notice of hearing may seek to show cause for a continuance to a date certain at or before the time set for hearing.

5.7(17) The appeal board may adjourn a hearing for good cause from time to time, upon request of either party or legal counsel representing the board, for the purpose of a fair hearing.

5.7(18) Upon filing of a request by a third party to intervene, the appeal board chairperson shall determine whether the applicant has a legitimate interest in the proceedings and can contribute materially to the interpretation and settlement of the issues. Both original parties to the appeal shall be advised of participation by a third party. If participation is denied, the written denial shall include reasons.

5.7(19) If a K-12 school budget is appealed, that portion of expenditures attributable to the area education agency shall be defended by a knowledgeable official of the area education agency.

5.7(20) At the conclusion of arguments, each party shall have opportunity to submit written briefs, or additional written briefs if they have already done so. A copy must also be delivered to the other party. The presiding officer shall determine time limits for the additional filings.

5.7(21) Prior to a final decision, the appeal board may reopen a hearing when new pertinent evidence becomes available which could not, with reasonable diligence, have been presented at the original hearing. This hearing need not be held in the county of original jurisdiction.

5.7(22) Any board member who has a possible conflict of interest in any matter resulting in a hearing shall be disqualified from serving during the hearing and from participation in the deliberations and decision resulting from the hearing.

5.7(23) A member of the appeal board does not have a conflict of interest by reason of residency within the geographical boundaries of the local government whose budget is appealed.

543—5.8(24) Decision.

5.8(1) Decisions shall always be in writing and rendered at a time following the hearing.

5.8(2) The decision shall include:

- a.* Identification of parties and basic issues.
- b.* Summary of findings of fact.
- c.* Summary of conclusions of law.
- d.* Decision.
- e.* Reasons for decision.
- f.* Order for implementation of the decision.

5.8(3) The appeal board may approve, disapprove, or reduce items under appeal but in no event may it increase a budget, expenditure, tax levy or assessment or any item contained therein.

5.8(4) The decision is final and binding unless there is a rehearing or appeal to the courts.

5.8(5) Either party may request rehearing, stating the specific grounds thereof and the relief sought, within 20 days after the issuance of the final decision. Such requests shall be deemed denied unless the appeal board sets a rehearing date within 20 days after the request is filed. This hearing need not be held in the county of original jurisdiction.

5.8(6) The appeal board shall notify the county auditor and both parties according to names on the original notices for the hearing. Where other county auditors are affected, they should be promptly informed of the decision and order by the auditor receiving the notice of the decision.

543—5.9(24) Amendments.

5.9(1) Protests of amendments to budgets will be considered within the same general procedures and time constraints as are applicable to original budgets.

5.9(2) Any local budget must be amended by May 31 of the current fiscal year to allow time for a protest hearing to be held and decision rendered before June 30. The amendment of a budget after May 31, which is properly appealed but without adequate time for hearing and decision before June 30, shall be ruled null and void.

These rules are intended to implement Iowa Code sections 24.26 to 24.32.

[Filed 2/12/82, Notice 1/6/82—published 3/3/82, effective 4/7/82]

[Filed emergency 4/15/88—published 5/4/88, effective 4/15/88]

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CHAPTER 6
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The state appeal board hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are printed in the first volume of the Iowa Administrative Code.

543—6.1(17A,22) Definitions. As used in this chapter:

“Agency.” In lieu of the words “(official or body issuing these rules)” insert “state appeal board”. As used in these rules, unless the context otherwise requires, “board” means the state appeal board.

543—6.3(17A,22) Requests for access to records.

6.3(1) Location of record. In lieu of the words “(insert agency head)” insert “state appeal board, department of management”, and in lieu of the words “(insert agency name and address)”, insert “State Appeal Board, Department of Management, State Capitol Building, Des Moines, Iowa 50319”.

6.3(2) Office hours. In lieu of the words “(insert customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)”, insert “8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays”.

6.3(7) Fees.

c. Supervisory fee. In lieu of the words “(specify time period)”, insert “thirty minutes”.

543—6.9(17A,22) Disclosures without the consent of the subject.

6.9(1) Open records are routinely disclosed without the consent of the subject.

6.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

- a.* For a routine use as defined in rule 6.10(17A,22) or in any notice for a particular record system.
- b.* To a recipient who has provided the board with advance written assurance that the record will be used solely as a statistical research or reporting record; provided that the record is transferred in a form that does not identify the subject.
- c.* To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.
- d.* To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.
- e.* To the legislative services agency under Iowa Code section 2A.3.
- f.* Disclosures in the course of employee disciplinary proceedings.
- g.* In response to a court order or subpoena.

543—6.10(17A,22) Routine use.

6.10(1) Defined. “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

6.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

- a.* Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

543—6.11(17A,22) Consensual disclosure of confidential records.

6.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 6.7(17A,22).

6.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the board may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

543—6.12(17A,22) Release to subject.

6.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 6.6(17A,22). However, the board need not release the following records to the subject:

a. The identity of a person providing information to the board need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (See Iowa Code section 22.7(5).)

d. As otherwise authorized by law.

6.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the board may take reasonable steps to protect confidential information relating to another subject.

543—6.13(17A,22) Availability of records.

6.13(1) *General.* Board records are open for public inspection and copying unless otherwise provided by rule or law.

6.13(2) *Confidential records.* The state appeal board may withhold recommendations from the attorney general's office when advice is given regarding appeal board claims, based on attorney/client privilege.

6.13(3) *Authority to release confidential records.* The board may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law.

Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 6.4(17A,22). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 6.4(3).

543—6.14(17A,22) Personally identifiable information. The state appeal board does not maintain any records that could be considered personally identifiable.

543—6.15(17A,22) Data processing systems. None of the data processing systems used by the agency permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

543—6.16(17A,22) Other records. The board maintains a variety of records which do not generally contain information pertaining to named individuals. The board maintains the following records, not heretofore listed, which do not generally contain personally identifiable or confidential information: Minutes from meetings, budget protests, and budget hearings.

543—6.17(17A,22) Applicability. This chapter does not:

1. Require the board to index or retrieve records which contain information about individuals by that person's name or other personal identifier.
2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.
3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the rules of another agency.
4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.
5. Make available records compiled by the board in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency.

These rules are intended to implement Iowa Code section 22.11.

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CHAPTER 7
AGENCY PROCEDURE FOR RULE MAKING

The state appeal board adopts the agency procedure for rule making segment of the Uniform Rules on Agency Procedure printed in the first volume of the Iowa Administrative Code with the following amendments.

543—7.3(17A) Public rule-making docket.

7.3(2) *Anticipated rule making.* In lieu of the words “(commission, board, council, director)”, insert “board”.

543—7.4(17A) Notice of proposed rule making.

7.4(3) *Copies of notices.* In lieu of the words “(specify time period)”, insert “one calendar year”.

543—7.5(17A) Public participation.

7.5(1) *Written comments.* Strike the words “(identify office and address) or”.

7.5(5) *Accessibility.* In lieu of the words “(designate office and telephone number)”, insert “the secretary of the state appeal board at (515)281-3078”.

543—7.6(17A) Regulatory analysis.

7.6(2) *Mailing list.* In lieu of the words “(designate office)” insert “the State Appeal Board, State Capitol, Des Moines, Iowa 50319-0015”.

543—7.10(17A) Exemptions from public rule-making procedures.

7.10(2) *Categories exempt.* In lieu of the words “(List here narrowly drawn classes of rules where such an exemption is justified and a brief statement of the reasons for exempting each of them)”, insert the following:

“a. Rules which are mandated by federal law or regulation in any situation where the department has no option but to adopt specified rules or where federal funding is contingent upon the adoption of the rules;

“b. Rules which implement recent legislation when a statute provides for an effective date which does not allow for the usual notice and public participation requirements;

“c. Rules which confer a benefit or remove a restriction on the public or some segment of the public;

“d. Rules which are necessary because of imminent peril to the public health, safety or welfare; and

“e. Nonsubstantive rules intended to correct typographical errors, incorrect citations, or other errors in existing rules.”

543—7.11(17A) Concise statement of reasons.

7.11(1) *General.* In lieu of the words “(specify the office and address)”, insert “the State Appeal Board, State Capitol, Des Moines, Iowa 50319-0015”.

543—7.13(17A) Agency rule-making record.

7.13(2) *Contents.* Amend paragraph “c” by inserting “state appeal board” in lieu of “(agency head)”.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code section 25B.6.

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