

**CIVIL RIGHTS, OFFICE OF[161]**

[Prior to 7/23/25, see Civil Rights Commission[161]]

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CHAPTER 1  
RULES OF PRACTICE  
[Prior to 1/13/88, see Civil Rights 240—1.2, Ch 9, Ch 10]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

**161—1.1(216) Organization and administration.**

**1.1(1) Organization.**

*a. Commission.* The Iowa civil rights commission is a seven-member body. Members are appointed by the governor pursuant to Iowa Code section 216.3.

*b. Location.* The Iowa civil rights commission, hereinafter referred to as “commission,” is located on the First Floor, Grimes State Office Building, 400 E. 14th Street, Des Moines, Iowa 50319-1004; telephone (515)281-4121; toll-free in Iowa only 1-800-457-4416; facsimile transmission (fax) (515)242-5840. Office hours are 8 a.m. to 4:30 p.m. Monday through Friday, or the business hours set by the office of the governor or otherwise established by the legislature.

**1.1(2) Administration.** The executive director is responsible for the day-to-day administration of the commission’s activities.

**1.1(3) Electronic attendance of commissioners.**

*a. Notification.* A commissioner wishing to attend the commission meeting by electronic means shall notify the executive director of this intent. The executive director will then take all reasonable measures to ensure that the necessary equipment is available at the site selected for the commission meeting. The commissioner attending by electronic means is responsible for ensuring that adequate equipment is available at the commissioner’s location.

*b. Public participation.* Whenever any commissioners attend by electronic means, public access to the conversation of the commission will be allowed at the location of at least one of the commissioners. Unless good cause requires otherwise, the location where public access to the conversation is provided shall be a location reasonably accessible to the public. If the location is not reasonably accessible to the public, the nature of the good cause justifying inaccessibility shall be stated in the minutes.

*c. Electronic attendance of multiple commissioners.* If at the time a commissioner notifies the executive director of the intent to attend electronically that commissioner’s electronic attendance would mean that four or more commissioners would be attending separately via electronic means, then that commissioner may not attend by electronic means unless the in-person attendance of any four of the commissioners attending the meeting at any of the available meeting sites is impossible or impracticable.

*d. Conducting electronic meeting.* Whenever four or more commissioners are separately attending a commission meeting by electronic means, the commission shall conduct the meeting in accordance with the following requirements:

(1) The commission shall keep detailed minutes of all discussion, all persons present and all action. The commission shall electronically record all proceedings in the meeting and retain such recordings for no less than one year from the date of the meeting.

(2) The minutes of the meeting shall include a statement explaining why a meeting in person was impossible or impracticable.

(3) The public notice of the meeting shall state the location of the meeting to be the location where public access to the conversation is provided.

[ARC 8749B, IAB 5/5/10, effective 6/9/10]

**161—1.2(216) Commission procedure for rule making.** Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

**161—1.3(216) Procedures for oral or written presentations.** Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

**161—1.4(216) Procedure for obtaining declaratory orders.** Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

**161—1.5(216) Forms.** Forms commonly used by the commission are generally available through the commission's Web site or by telephoning the commission staff.

**1.5(1)** "*Charge of Discrimination*," EEOC 5c, for a complaint alleging a discriminatory or unfair practice or act in all jurisdictional areas except housing.

**1.5(2)** "*Housing Discrimination Complaint*," HUD 903, for a complaint alleging a discriminatory or unfair practice or act in the jurisdictional area of housing.

**1.5(3)** "*Authorization Release Form*," to secure authorization for relevant client information.

**1.5(4)** "*Administrative Release Form*," to request a "right to sue" letter.

**1.5(5)** "*Request for Withdrawal of Charge of Discrimination*," is used by the complainant to withdraw the charge of discrimination previously filed.

**1.5(6)** "*Amended complaint*," to amend the charge of discrimination previously filed.

**1.5(7)** "*Forms notebook*." Other forms commonly used by the commission or its staff are compiled within a "forms notebook." The notebook is available for inspection by the public at the commission offices. Copies of the forms notebook can be obtained for an appropriate copying charge.

**1.5(8)** "*Purpose of forms*." The existence of standard forms is for the convenience of the commission, the public, and the parties. The existence of a standard form does not imply that the purpose of the standard form cannot be accomplished through a document in a different form.

[ARC 8749B, IAB 5/5/10, effective 6/9/10]

**161—1.6(216) Referral and deferral agencies.**

**1.6(1)** *Statement of purpose.* It is the purpose of the commission, in adopting these rules to promote the efficient enforcement of the Act. To this end, the commission will use referral and deferral agreements to encourage agencies with similar powers and jurisdiction to:

a. Develop procedures with remedies necessary to ensure the protection of rights secured by the Iowa Civil Rights Act.

b. Increase the efficiency of their operations.

c. Cooperate more fully with the commission in the sharing of data and resources, and

d. Coordinate investigations and conciliations with the commission in order to eliminate needless duplication.

**1.6(2)** *Definitions.*

a. "*Agency*" refers to any agency of municipal government established by ordinance for the purpose of eliminating discrimination on any basis protected by the Act or any state or federal governmental unit with jurisdiction over allegations of discrimination that is capable of obtaining remedies similar to those obtainable by the commission.

b. "*Referral*" means the process by which the commission cross-files a charge of discrimination with a referral agency, which extinguishes the legal ability of the commission to process the charge; provided, however, that the referral agency accepts the referred charge and that the commission has the reciprocal right to accept or reject charges cross-filed by the referral agency.

c. "*Referral agency*" means any agency of local government that has been awarded that status by contract with the commission.

d. "*Deferral*" refers to the process whereby the commission notifies an agency of local, state, or federal government that a complaint has been filed with the commission and that the commission will postpone its investigative activities for a period of 60 days while the deferral agency investigates and attempts to resolve the matter. Extensions of this time period may be granted by the commission or the executive director when just cause is shown by the agency for the time extension requested.

e. "*Deferral agency*" means any agency so designated by contract pursuant to these rules.

**1.6(3)** *Procedure for obtaining referral status.*

a. *Guidelines for designation.* The executive director will evaluate the applications of agencies and may designate agencies as referral agencies where they conform to the following guidelines:

(1) The agency should have professional staff to enable it to comprehensively investigate complaints and to ensure the processing of the charges expeditiously.

(2) The ordinance or enabling legislation under which the agency is established must provide at a minimum the same rights and remedies to discrimination as available under the Act, and

(3) The enabling legislation of the agency shall provide, at a minimum, that the agency may hold public hearings, issue cease and desist orders, and award damages to injured parties which shall include, but are not limited to, actual damages.

*b. Application.* Any agency desiring to be designated as a referral agency by the commission may send a letter of application to the executive director of the commission. Attached to the application must be a copy of the agency's enabling ordinance, a list of its investigatory personnel, the average number of hours worked by each per week, and a report for the previous 12-month period detailing the following:

- (1) The number of cases filed with the agency,
- (2) The number of probable cause and no probable cause findings,
- (3) The number of cases successfully conciliated,
- (4) The number of cases taken to public hearing,
- (5) The average length of time spent investigating each case,
- (6) The cumulative remedies obtained for the previous 12-month period and average remedy obtained per case,
- (7) An assessment of the quality of the agency's investigation,
- (8) The agency's standards to preserve quality investigations, and
- (9) The status of the agency's caseload.

*c. Rejection of application.* Where the executive director determines that an agency does not qualify as a referral agency, the director shall so inform the agency in writing along with the reasons for the agency's rejection.

If the reasons for the agency's rejection are corrected, the agency will then be designated as a referral agency. The executive director's decision may be appealed to the commission at its subsequent regular meeting.

*d. Designation and contract.* Where the executive director determines that an agency is qualified as a referral agency, the director will prepare a contract between the commission and the agency containing the terms on which cases will be referred. Upon execution of the contract, the executive director will designate the agency as a referral agency.

*e. Terms of the referral contract.* The referral contract shall be negotiated with the referral agency, but shall include the following:

- (1) Terms prohibiting a complainant who has filed with the commission from cross-filing with a referral agency and vice versa,
- (2) Terms permitting the commission to refer complaints filed with it to a referral agency for processing and vice versa,
- (3) Terms prohibiting the commission from processing a charge referred to and accepted by the referral agency and vice versa,
- (4) Terms permitting the commission or a referral agency to reject a charge referred to it for processing,
- (5) Terms ending the contract after two years, subject to renegotiation, and
- (6) Any other terms mutually agreed upon.

**1.6(4) Procedure for obtaining deferral status.**

*a. Application.* Any agency desiring to be designated as a deferral agency by the commission may send a letter of application to the executive director of the commission. Attached to the application must be a copy of the agency's enabling legislation or grant of jurisdiction, a list of its personnel and statement indicating their permanent or part-time status, their functions, and a summary of the agency's prior efforts at preventing and eliminating discrimination. The application must also explain how the agency is capable of obtaining remedies substantially similar to those available under the Act.

*b. Guidelines for designation.* The executive director will evaluate the applications of all agencies and may designate deferral agencies where the agencies conform to the following guidelines:

- (1) The agency should have available resources to enable it to investigate complaints to ensure processing within a reasonable period of time,
- (2) The agency's enabling legislation or grant of jurisdiction must permit it to obtain substantially the same remedies as are available under the Act,

(3) The agency must be able to make a diligent effort to investigate and resolve the complaints filed with it, and

(4) The agency is capable of obtaining remedies substantially similar to those available under the Act by informal means.

*c. Rejection of application.* Where the executive director determines that an agency does not qualify as a deferral agency, the director shall so inform the agency in writing along with the reasons for the agency's rejection.

If the reasons for the agency's rejection are corrected, the agency will then be designated as a deferral agency. The executive director's decision may be appealed to the commission at its subsequent regular meeting.

*d. Designation and contract.* Where the executive director determines that an agency is qualified as a deferral agency, the director will prepare a contract between the commission and the agency containing the terms on which cases will be deferred. After execution of the contract, the executive director will designate the agency as a deferral agency.

*e. Terms of the deferral contract.* The deferral contract shall include, subject to negotiations with the agency, the following:

(1) The commission will agree to notify the deferral agency of all complaints filed with the commission which are within the deferral agency's jurisdiction, except where a complainant requests in written form that the deferral agency not be notified.

(2) The deferral agency will agree to aid all complainants whose complaints come within the commission's jurisdiction in completing the commission's complaint forms as well as notarizing them and forwarding the fully executed forms to the commission where the necessity to file a formal complaint exists. If, however, a matter may be resolved informally more expeditiously the deferral agency will simply notify the commission by letter of the complaint and resolution obtained. "Informally resolved complaints" shall refer to complaints that can be resolved within ten days.

(3) The commission will agree to postpone its investigation for at least 60 days of any complaint filed with a deferral agency unless otherwise agreed to by both parties. These waiver agreements will be made on an individual case basis.

(4) The agency will agree not to disclose the filing of a complaint or confidential information pertaining to a complaint until the complaint has been officially set for public hearing.

(5) The commission and the deferral agency shall share copies of all findings, case summaries, and conciliation agreements.

(6) Where a complaint is on file with a deferral agency, the commission will allow the deferral agency access to the contents of the complainant's file provided that the deferral agency allows the commission like privileges and has not previously disclosed confidential information prior to public hearing.

(7) Photocopying of materials from commission files for use by a deferral agency is solely at the discretion of the commission staff, but will not be unreasonably denied. When the commission copies from the agency's file, the agency shall be reasonably compensated for copying costs.

(8) The commission will give substantial weight to the findings of a deferral agency where pertinent and relevant factual evidence exists to support those findings.

(9) The commission will not necessarily be bound by the agency's conclusions of law.

(10) Where a deferral agency reaches a finding of probable cause to support an allegation of discrimination the contract may permit the agency to pursue conciliation, or to refer the case back to the commission for conciliation. The contract may also permit an agency that has attempted conciliation to refer that case back to the commission for public hearing. In no case where a case has been referred back to the commission will it be referred back to the agency. Where a case is conciliated or a hearing is held by the agency or the commission, both will be bound by the final determination.

(11) The period for which the contract will be in effect shall not exceed two years, subject to renegotiation.

(12) The contract may contain other terms agreed to by the parties.

These rules are intended to implement Iowa Code chapter 216.

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Supplement 7/8/26, effective 7/1/26]

<sup>1</sup> Effective date of 161—1.1(1)“b,” 1.5(7) and 1.5(8) delayed 70 days by the Administrative Rules Review Committee at its meeting held March 9, 1993; delayed until adjournment of the 1994 Session of the General Assembly by this Committee May 11, 1993.



CHAPTER 2  
GENERAL DEFINITIONS  
[Prior to 1/13/88, see Civil Rights 240—1.1(601A)]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

**161—2.1(216) Definitions.**

**2.1(1)** Wherever “Act” is used in rules of the commission it shall mean the Iowa Civil Rights Act of 1965, as amended (Iowa Code chapter 216).

**2.1(2)** Unless indicated otherwise, the terms “court,” “person,” “employment agency,” “labor organization,” “employer,” “employee,” “unfair practice,” or “discriminatory practice,” “commission,” “commissioner,” and “public accommodation” shall have the same meaning as set forth in Iowa Code chapter 216.

**2.1(3)** The term “chairperson” shall mean the chairperson of the Iowa civil rights commission; and the term “commissioner” shall mean any member, including the chairperson, of the commission. The vice chairperson of the commission shall serve, in the absence of the chairperson, as acting chairperson; and, in the absence of the chairperson, the vice chairperson shall have all the duties, powers and authority conferred upon the chairperson by the Act and commission rules. At all times it shall be necessary that a quorum be present before the commission can transact any official business.

**2.1(4)** The term “complainant” shall mean the person, as defined in Iowa Code subsection 216.2(11), who makes a complaint of discrimination with the commission.

**2.1(5)** The term “executive director” shall mean an employee of the commission, selected by and serving at the will of the governor, who shall have the duties, powers and authority conferred upon the director by law.

**2.1(6)** Except as provided in paragraph “b,” the term “issuance” shall mean mailing by regular mail or, when required, U.S. certified mail, a document or letter indicating a decision or other administrative action of the commission. When certified mail is required, the date of issuance of a decision or an administrative action of the commission shall be the date the commission mails by U.S. certified mail a document or letter indicating the decision or action. When mailing is by regular mail, the date of mailing is presumed to be the date on the cover letter accompanying the administrative action or decision unless the date is shown to be in error.

*a.* Except as provided in paragraph “b,” the verb “issue” shall mean to mail by regular mail or, when required, by certified mail, a document or letter indicating a decision or other administrative action of the commission. When certified mail is required, the date an administrative action or decision is “issued” shall be the date the commission mails by U.S. certified mail a document or letter indicating the administrative decision or action. When mailing is by regular mail, the date of mailing is presumed to be the date on the cover letter accompanying the document or letter indicating the administrative decision or action, unless this date is shown to be in error.

*b.* When used to refer to a decision to administratively close a case, the term “issuance” and the verb “issue” can mean either the mailing of the document indicating administrative closure by regular mail or the mailing of that document by certified mail. The date an administrative closure is issued is the date the administrative closure is mailed to the complainant. When mailing is by regular mail, the date of mailing is presumed to be the date on the cover letter accompanying the administrative closure unless this date is shown to be in error. When certified mail is required, the date an administrative action or decision is “issued” shall be the date the commission mails by U.S. certified mail a document or letter indicating the decision or action.

*c.* When local mail is permissible, the date of mailing is presumed to be the date on the cover letter.

When used to refer to a subpoena, the term “issuance” and the verb “issue” shall each mean the signing of the subpoena by the issuing authority. The date a subpoena becomes effective is the date service is completed.

**2.1(7)** The term “respondent” shall mean the person, as that term is defined in Iowa Code subsection 216.2(11), against whom the complaint of discrimination is made with the commission.

**2.1(8)** The term “right to sue” shall mean the release issued by the commission stating that the complainant has a right to commence an action in the district court. The term “right to sue” is the same as the “release” or “administrative release” described in Iowa Code section 216.16 and these terms may be used interchangeably.

**2.1(9)** The term “verified” shall mean (a) sworn to or affirmed before a notary public, or other person duly authorized by law to administer oaths and take acknowledgments, or (b) supported by an unsworn declaration which recites that the person certifies the matter to be true under penalty of perjury, states the date of the statement’s execution and is subscribed by the person. Such an unsworn declaration may be in substantially the following form: “I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct. Executed on (date). (Signature).”

**2.1(10)** Final actions. The following procedures shall constitute final actions of the commission:

*a.* The term “administratively closed” shall mean that the commission will cease action on a complaint because, in the opinion of the investigating official, no useful purpose would be served by further efforts. Administratively closing a case is appropriate in circumstances such as the following: The commission staff has not been successful in locating a complainant after diligent efforts; the respondent has gone out of business; a right-to-sue letter has been issued; or after a probable cause decision has been made, it is determined that the record does not justify proceeding to public hearing.

*b.* The term “no jurisdiction” shall mean that the alleged discriminatory act or practice is not one that is prohibited by the Act or where the complaint does not conform to the requirements of the Act.

*c.* The term “no probable cause finding” shall mean the procedure by which a complainant and respondent are notified that the investigating official has found that there is no probable cause to believe that discrimination exists after reviewing an investigation of a complaint.

*d.* The term “satisfactorily adjusted” shall mean that the complainant has indicated in writing that the complaint has been resolved to the satisfaction of the complainant, and that no further action is desired from the commission. Whenever the offer of adjustment by a respondent is acceptable to the investigating official, but not to the complainant, the commission may close the case as satisfactorily adjusted. In a case which has been determined by the commission as having probable cause, the respondent’s signature must be obtained before the case can be considered to be satisfactorily adjusted.

*e.* The term “successfully conciliated” shall mean that a written agreement has been executed on behalf of the respondent, on behalf of the complainant, and on behalf of the commission, the contents of which are designed to remedy that alleged discriminatory act or practice and any other unlawful discrimination which may have been uncovered during the course of the investigation.

*f.* The term “withdrawn” shall mean that a complainant has indicated in writing the desire that no further action be taken by the commission regarding the complaint.

**2.1(11)** Construction of rules. The rules and regulations promulgated by the Iowa civil rights commission shall be liberally construed to effectuate the purposes and provisions of Iowa Code chapter 216.

**2.1(12)** The term “terms and conditions of employment,” shall include but is not limited to medical, hospital, accident and life insurance or benefits, leave, vacations, and other terms, conditions, and privileges of employment.

**2.1(13)** The term “injury” shall mean a loss of pecuniary benefit, rights, or any offense against a person’s dignity.

**2.1(14)** The term “certified mail” shall mean delivery by United States Postal Service mail designated as certified mail.

**2.1(15)** The term “local mail” shall mean Iowa state government local (interoffice) delivery. Local mail is sent and delivered between state government offices in an envelope designated “Local,” without the need for postage.

**2.1(16)** The term “mail or regular mail” shall mean delivery by United States Postal Service mail delivered at regular speed or delivery by courier service.

**2.1(17)** The term “electronic filing” shall mean submission of documents via the online case management system established and utilized by the commission or via another online system. The commission may require proof to ensure the accuracy and validity of online filings, including additional

written verification of the veracity and accuracy of documents filed online. Senders shall include in the subject line of the E-mail the case number, if one exists, and a brief description of the submission. Filings by E-mail must be delivered to a valid E-mail address of current commission staff.

**2.1(18)** The term “electronic signature” shall mean that a person attests to the validity of the electronic documents. Electronic signatures accompany various forms of electronic submissions including, but not limited to, E-mails and submissions made online through the case management system. The commission may permit and accept electronic signatures in E-mails, depending on the type of document. An electronic signature in the case management system consists of a person’s name typed and submitted into the designated field.

**2.1(19)** The terms “written” and “in writing” shall mean the creation of words, phrases, or sentences by any means including, but not limited to, pen and paper, typewriter text, computer discs, computer text, electronic text and any other medium.

[ARC 8746B, IAB 5/5/10, effective 6/9/10; ARC 8748B, IAB 5/5/10, effective 6/9/10; ARC 8747B, IAB 5/5/10, effective 6/9/10]

<sup>1</sup> Objection to 2.1(8) [Prior to 1/13/88 numbered as 1.1(9)] reimposed by ARRC 4/20/88, republished 5/4/88, see full text of objection on following page.

These rules are intended to implement Iowa Code chapter 216.

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On July 11th, 1979, the administrative rules review committee voted the following objections:

The committee objects to ARC 0192, item 1, appearing in Vol. 1, IAB 23 (4-18-79), relating to the definition of terms, on the grounds these provisions are beyond the authority of the commission and unreasonable. Specifically, the committee is concerned with subrules 1.1(8) and 1.1(9) appearing under item 1. Subrule 1.1(8) provides:

The term “retirement plan and benefit system” as used in section 601A.12 of the Code relates only to the discontinuation of employment pursuant to the provisions of such retirement plan or system. A retirement plan or benefit system shall be limited to those plans or systems where contributions are limited to those plans or systems where contributions are based upon anticipated financial costs of the needs of the retiree.

It is the opinion of the committee this subrule exceeds the authority of the commission in that it is an overbroad interpretation of §601A.13, the Code. That section in essence exempts from the provisions of the Act retirement plans or benefit systems which discriminate on the basis of age or sex, unless the plan is a “mere subterfuge”. The exemption does not appear limited to plans or systems “relating only to the discontinuation of employment” or those “where contributions are based upon the anticipated financial costs of the retiree” as the subrule provides. Under the subrule, a plan or system which fails to meet either of the above criteria would apparently automatically be considered unfair discrimination. If the General Assembly had intended this result it would have so provided within the Act.

It is further the opinion of the committee subrule \*1.1(9) defining as “injury”, for which damages may be awarded, an offense against a person’s dignity, is unreasonable in that it provides no ascertainable standard to determine what damage the offended party has suffered. Under the provisions of §601A.15(8) “a”(8) the commission clearly has the authority to award damages for an injury. The committee believes this term to mean that the party has been harmed in some way that damage received can be measured and appropriate recompense awarded for that damage. Dignity, like beauty, is in the eye of the beholder. Absent a showing that physiological or psychological damage has resulted from an “offense against a person’s dignity”, it appears impossible to accurately measure the financial equivalent of such an injury or to award appropriate damages.

- <sup>1</sup> The Administrative Rules Review Committee at its May 21, 1979, meeting delayed the effective date of 240—subrules 1.1(7) to 1.1(9), 1.3(1), 1.8(2) and rules 1.16 and 1.17 70 days.
- <sup>2</sup> The Administrative Rules Review Committee at its February 11, 1988, meeting delayed the effective date of subrule 2.1(8) 70 days.
- <sup>3</sup> Effective date of 161—2.1(4), 2.1(6) to 2.1(11) delayed 70 days by the Administrative Rules Review Committee at its meeting held March 9, 1993; delayed until adjournment of the 1994 Session of the General Assembly by this Committee May 11, 1993.
- <sup>4</sup> Renumbered as 2.1(8), IAC 1/13/88; 2.1(8) renumbered as 2.1(13), IAC 2/17/93.

CHAPTER 3  
COMPLAINT PROCESS

[Prior to 1/13/88, see Civil Rights 240—1.3 to 1.7, 1.16, 1.17]

Chapter rescission date pursuant to Iowa Code section 17A.7: 9/25/29

**161—3.1(216) Initiation of complaint.**

**3.1(1)** *Contents of complaint.* Each complaint should contain the following:

- a. The full name, address, and phone number of the person making the charge;
- b. The full name and address of each respondent;
- c. A clear and concise statement of the facts constituting each alleged discriminatory practice, including pertinent dates, where known;
- d. Where employment discrimination is alleged, the approximate number of respondent's employees.

**3.1(2)** *Technical defects in complaint.* A complaint is sufficient when it includes a written statement that identifies the parties and generally describes the alleged discriminatory actions or practices. Complaints may be amended to cure technical defects or omissions including verification. Such amendments will relate back to the date the complaint was filed.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]

**161—3.2(216) Timely filing of the complaint.**

**3.2(1)** All alleged continuous violations that constitute a pattern or practice are timely if the most recent act occurred within 300 days of filing the complaint.

**3.2(2)** The 300-day filing period is subject to waiver, estoppel, and equitable tolling. Equitable tolling depends upon the facts and circumstances of the case and suspends the running of the filing period for as long as the grounds for tolling exist.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]

**161—3.3(216) Jurisdictional review.** Upon receipt of a submitted complaint form, the executive director or designee shall review the form to determine whether the agency has jurisdiction. A no jurisdiction determination constitutes a final agency action for purposes of judicial review.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]

**161—3.4(216) Amendment process.**

**3.4(1)** *Amendment of complaint.*

a. Complaints or any part thereof may be amended by the complainant or agency prior to the contested case hearing. Complaints may be amended to include additional allegations discovered during investigation. The issues at the contested case hearing shall include facts uncovered during investigation and are not limited to the allegations in the original complaint.

b. Amendments alleging additional discriminatory acts or practices do not relate back to the original complaint. These amendments will only be permitted if the amended complaint could have been filed as a timely complaint on the date the amended complaint was filed.

c. At the contested case hearing, the administrative law judge may amend the complaint at their discretion. Where an amendment is made, the administrative law judge may grant the respondent a continuance if needed to prepare to defend the amended charge.

**3.4(2)** *Amendments adding successor respondents.* The complainant or the agency may at any time amend a complaint to add an alleged successor as a respondent. If a successor is added after issuance of the notice of hearing, the administrative law judge may grant a continuance to allow the successor to prepare its defense.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]

**161—3.5(216) Notice of the complaint.** After jurisdiction is established, the agency will serve a copy of the complaint upon the respondent within 20 days by mail or electronic mail. In the absence of a response from the first named respondent within 90 days, the agency shall serve the complaint on the first-named respondent by certified mail within 20 days and inform complainant by letter of acknowledgment of the

right to withdraw the complaint or to request an administrative release to commence the complainant's own action in Iowa district court in accordance with Iowa Code section 216.16.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]

**161—3.6(216) Preservation of records.**

**3.6(1) *Duty to preserve.*** When a complaint has been served on a respondent, the respondent shall preserve all records relevant to the investigation until the complaint is finally adjudicated, including but not limited to:

*a.* Any books, papers, documents, applications, forms, or records of any form that are relevant to the scope of the investigation.

*b.* Records relating to the complainant, other employees, applicants or members holding or seeking positions similar to that held or sought by the complainant.

*c.* Records relating to other applicants for the same position or membership as the complainant.

**3.6(2) *Failure to preserve.*** At a contested hearing, the administrative law judge may determine a party or agent of the party destroyed evidence relevant to the investigation. The administrative law judge may infer that the destroyed evidence was adverse to the party who destroyed the evidence or whose agent destroyed the evidence. The administrative law judge shall determine whether the destruction was done at a time when the party or agent knew or should have known that the evidence destroyed was relevant to the investigation and whether the explanation for the destruction is unsatisfactory.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]

**161—3.7 to 3.11** Reserved.

**161—3.12(216) Mediation.** Mediation is a free service offered by the agency. Mediation is available to all parties irrespective of representation by counsel. Mediation may encompass all issues in the case that could be investigated. If the parties agree to seek and obtain a global settlement not limited to a resolution of the civil rights issues, the mediation may be expanded to include these collateral claims.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]

**161—3.13** Reserved.

**161—3.14(216) Document submission process.**

**3.14(1) *Methods of filing.*** Any document, including a complaint of discrimination, may be filed by any one of the following methods:

*a.* By in-person delivery to the agency office during set office hours.

*b.* By regular or certified mail.

*c.* By fax. For fax transmissions, the sender may be billed a reasonable fee for each page in excess of five pages.

*d.* By electronic mail to the agency-established electronic mail address.

**3.14(2) *Date of filing.*** The date on which any document is deemed to be filed with the agency is determined according to the following:

*a.* On the date of in-person delivery.

*b.* Any document received by U.S. mail will be filed as of the mailing date pursuant to subrule 3.14(3).

*c.* Any document received by fax will be filed as of the date shown on the face of the fax.

*d.* Any document received by electronic mail will be filed as of the date received.

**3.14(3) *Proof of mailing.*** Proof of mailing includes either a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form: "The undersigned certifies under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Iowa Office of Civil Rights, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321, and to the names and addresses of the persons listed below by depositing a copy thereof (in a United States post office mailbox with correct postage properly affixed or state interoffice mail). (Date) (Signature)."

**3.14(4) Conflict among proofs of mailing.** The date of mailing is the date shown by the postmark. In the absence of a legible postmark, the date of mailing is the date shown by the postage meter mark. In the absence of both a legible postmark and a legible postage meter mark, the date of mailing is the date shown by the affidavit, certificate, or certification of mailing.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]

**161—3.15 to 3.25** Reserved.

**161—3.26(216) Initial investigation of complaint—tier one investigation.**

**3.26(1) Questionnaire.** After receipt of a complaint, the agency may mail to the parties written questionnaires. Complainant and respondent may provide responses in person, by mail or electronic mail.

**3.26(2) Responses to the questionnaire.**

*a.* Questionnaire responses can include written position statements. Questionnaire responses must be accompanied by supportive evidence. Attorney arguments are not considered admissible evidence. Supportive evidence should address the complainant's allegations and how individuals similarly situated to the complainant were treated.

*b.* Questionnaire responses are due 30 days from the mailing of the questionnaire. One oral or written request extension of 30 days or less will be granted on an informal basis without notice to the non-requesting party. A party may assume the first 30-day extension request is approved, unless otherwise notified. Any further request for extension may be subject to review by the executive director or designee and will be granted upon a showing of extenuating circumstances.

**3.26(3) Failure to respond.**

*a. Complainant.* A complaint may be administratively closed if a complainant fails to respond to questionnaires.

*b. Respondent.* A complaint may proceed to further investigation if respondent fails to submit questionnaire responses with supportive evidence.

**3.26(4) Suggested procedure in answering questionnaires** will be provided in the cover letter to the questionnaires.

**3.26(5)** The tier one investigation process will determine whether further investigation is needed. If further investigation is not warranted, the complaint will be administratively closed. Further processing is warranted when the submitted information indicates a reasonable possibility of a probable cause determination or the legal issues in the complaint need development. Respondent's failure to respond to the agency's request for response may also result in referral to a tier two investigation.

**3.26(6)** The agency may issue a request for information for the investigation after the issuance of the tier one determination.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]

**161—3.27 to 3.31** Reserved.

**161—3.32(216) Secondary investigative process—tier two investigation.**

**3.32(1)** After a tier one determination concludes further investigation is warranted, the complaint shall be referred to designated staff for further investigation of the allegations of illegal discrimination, known as a tier two investigation.

**3.32(2)** Staff shall review any documents submitted in response to a request for information and any other documentation submitted by the parties prior to the initiation of the tier two investigation.

**3.32(3)** At the discretion of the investigator, further steps may be taken, including party or witness interviews or the issuance of additional information requests or subpoenas.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]

**161—3.33(216) Conclusion of investigation.** Following the conclusion of a tier two investigation, staff may issue an investigative report that may include findings of fact and legal analysis. The report will result in one or more of the following:

1. An investigative closure,
2. A probable cause or no probable cause recommendation to an administrative law judge, or

3. A no jurisdiction determination.  
[ARC 8198C, IAB 8/21/24, effective 9/25/24]

**161—3.34 and 3.35** Reserved.

**161—3.36(216) Protective orders.** The executive director or designee shall have the authority to issue protective orders in case files when necessary.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]

**161—3.37(216) Investigative subpoenas.**

**3.37(1) Application of rule.** This rule applies to subpoenas served before a notice of contested case hearing pursuant to rule 161—4.2(17A).

**3.37(2) Prior to notice of hearing.** Subpoenas may be issued by the executive director or designee before a notice of a contested case hearing. Only the agency has the right to demand issuance of a subpoena.

**3.37(3) Timing before subpoena is issued.** Where a person fails to provide requested information pursuant to the initial information request or subsequent information requests, a subpoena may be issued. A subpoena may be issued not less than seven days after the initial information request or subsequent information requests have been delivered to the person having possession, custody, or control of the requested materials.

**3.37(4) Contents of subpoena.** Every subpoena shall state the name of the agency and the purpose for which the subpoena is issued. The subpoena shall be directed to a specific person; the person's attorney; or an officer, partner, or managing agent of any entity that is not a natural person. The subpoena for the unknown person having possession, custody, or control of the requested material or real evidence may be directed to the "custodian of records." The subpoena shall command the person to whom it is directed to produce designated books, papers, or other real evidence in the possession, custody, or control of that person at a specified time and place.

**3.37(5) Method and proof of service.** Personal service will be accomplished pursuant to Iowa Rule of Civil Procedure 1.1701(3). Proof of service is by acknowledgment of receipt by the person served or by the affidavit of the person who served the subpoena. Failure to file proof of service does not affect the validity of service.

**3.37(6) Objections to subpoena.**

*a.* An individual who intends not to comply with any part of a subpoena shall promptly petition the executive director to revoke or modify the subpoena. The petition shall separately identify each portion of the subpoena and provide the grounds upon which the petitioner does not intend to comply. A copy of the subpoena shall be attached to the petition. The agency shall mail the final determination of the petition by the executive director or designee to the petitioner.

*b.* The grounds for subpoena modification or revocation are met if the subpoena is:

- (1) Not within the statutory authority of the agency;
- (2) Not reasonably specific;
- (3) Unduly burdensome; or
- (4) Not reasonably relevant to matters under investigation.

*c.* A petition to revoke or modify a subpoena should be captioned "Motion to Quash" or "Petition to Modify/Revoke Subpoena" and include the agency case number.

**3.37(7) Failure to comply.** If an individual fails to comply with a subpoena, the executive director or designee may authorize the filing of a petition for enforcement in the district court.

**3.37(8) Open public records law.** The status of a record as a confidential public record under Iowa Code chapter 22 does not affect the authority of the agency to subpoena and compel the production of that record.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]

**161—3.38(216) Postinvestigation determination.**

**3.38(1)** If a case file is sent to an administrative law judge for a probable cause or no probable cause determination, all parties will be notified of the outcome by written order. The agency will mail the order to all parties.

**3.38(2)** Where the administrative law judge rejects the recommendation of agency staff, the reasons shall be stated in the order.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]

**161—3.39(216) Postprobable cause process.**

**3.39(1)** If the administrative law judge makes a probable cause determination, a staff member shall be assigned to attempt resolution of the case through conciliation. All parties shall be notified of the time and date of any conciliation.

**3.39(2)** The agency will work with the complainant or complainant's attorney to formulate an initial offer. The 30-day conciliation period begins when the offer of settlement is communicated to the respondent or respondent's attorney.

**3.39(3)** The conciliation agreement is effective only after the agreement has been signed by all parties and the executive director or designee on behalf of the agency. A copy of the agreement shall be mailed to all parties.

**3.39(4)** To ensure compliance with a conciliation agreement, the agency shall take appropriate action to ensure compliance, including the filing of an action in district court seeking specific performance of the terms of the conciliation agreement or other remedies that may be available.

**3.39(5)** A respondent may not request reconsideration of a finding of probable cause.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]

**161—3.40 to 3.42** Reserved.

**161—3.43(216) Alternatives to agency process—administrative release/right-to-sue.**

**3.43(1)** *Issuance of right-to-sue letter.* For a right-to-sue letter to be issued, the request must be submitted in writing by the complainant or the complainant's attorney and include the corresponding state and federal case numbers. After a right-to-sue letter has been issued, the case shall be administratively closed.

**3.43(2)** *Exceptions to issuance of right-to-sue.* A right-to-sue letter will not be issued where the agency has determined the complaint is not jurisdictional.

**3.43(3)** *Erroneous right-to-sue.* If the right-to-sue letter was issued erroneously, the right-to-sue letter will be deemed void and the case file reopened if the error is discovered within 90 days after issuance.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]

**161—3.44 and 3.45** Reserved.

**161—3.46(216) Withdrawal process.**

**3.46(1)** *Withdrawal of complaint.* A complainant may withdraw any part of a complaint prior to notice of a contested case hearing. After notice of a contested hearing, a complainant may only withdraw a complaint or any part of a complaint at the administrative law judge's discretion. The agency may continue investigating where deemed in the public interest.

**3.46(2)** *Reopening of a withdrawn complaint.* A complainant may request their withdrawn complaint be reopened within 90 days after closure, only if the agency finds that the request for withdrawal was either not filed voluntarily or was filed as a result of a mistake concerning the effect of the request for withdrawal.

**3.46(3)** *Withdrawal as a term of settlement.* If the withdrawal is filed pursuant to a conciliation, mediation or other settlement agreement, the complainant is barred from applying for reopening on the ground the agreement was not voluntary, unless the district court has first determined the settlement agreement is invalid.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]

**161—3.47(216) Periodic review and administrative closure.**

**3.47(1)** *Periodic evaluation of evidence.* The executive director or designee may periodically review the complaint to determine whether further processing is warranted. When the periodic review occurs prior to the determination of probable cause, then the tier one standard in subrule 3.26(5) applies. A complaint determined to not warrant further processing shall be administratively closed.

**3.47(2)** *Uncooperative complainant.* A case file may be administratively closed at any time if the complainant cannot be contacted after diligent efforts or is uncooperative, causing unreasonable delay in the processing of the complaint.

**3.47(3)** *Involuntary satisfactory adjustment.* A case file may be closed as satisfactorily adjusted when the respondent has made an offer of settlement acceptable to the executive director or designee but not to the complainant. Notice of intended closure shall state reasons for closure and be mailed to the complainant. The complainant is allowed 30 days to provide the written reasons why the case file should remain open. The executive director or designee will review the response and notify the complainant of the decision.

**3.47(4)** *Frivolous complaints.* Following jurisdictional review, the executive director may determine a complaint is frivolous and does not warrant further processing. The executive director shall only make this determination in rare circumstances and shall report the number of occurrences in the annual report. If a case file is closed pursuant to this subrule, the complainant may request a right-to-sue letter pursuant to the terms of Iowa Code section 216.16 and these rules. This rule does not apply to complaints that are eligible for cross-filing with the Department of Housing and Urban Development.

**3.47(5)** *Litigation review.* The complaint may be administratively closed after a probable cause determination has been made when it is determined that the record does not justify proceeding to a public hearing. A complainant may not request to reopen their case file when the file was administratively closed following litigation review.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]

**161—3.48 and 3.49** Reserved.

**161—3.50(216) Procedure to reopen.**

**3.50(1)** *Request for reopening of case file within 30 days.*

*a.* Within 30 days following the notice of the conclusion of the investigation, a party can file an intra-agency appeal. The party shall state the reasons in writing for appeal and submit any additional documentation.

*b.* The agency shall notify all parties upon receipt of any intra-agency appeal. All parties shall have 14 days to provide any response to the appeal for consideration.

*c.* Within 30 days of intra-agency appeal, the director or designee shall review the appeal. The director or designee shall affirm, modify, or reverse the agency decision, and remand if necessary. If the case file is remanded, the director or designee shall transfer the case file to investigative staff for further processing.

**3.50(2)** *Reopening of an administratively closed case file after 30 days.*

*a.* The agency may reopen a case file at any time a right-to-sue letter could have been issued under Iowa Code section 216.16(3) “a,” unless otherwise provided in these rules, and where the closure was affected by any of the following:

(1) False, fraudulent, or material misrepresentation of information provided to the agency concerning a material issue in the case file by the respondent, a witness, or some other person who is not the complainant;

(2) Error by the agency staff.

*b.* The director or designee shall consider the information discovered under subparagraphs 3.50(2) “a”(1) and 3.50(2) “a”(2) and determine whether the complaint requires further action.

*c.* If it is determined that further action is necessary, the parties or their attorneys shall be notified of the reopening of the case file. If requested by the agency, the parties shall have 30 days to submit their written positions regarding the alleged new information.

**3.50(3)** *No probable cause determination reopening.* The agency may reopen a case file within one year of a no probable cause determination where the determination was affected by any of the following:

- a. Fraud perpetrated upon the agency by some person who is not the complainant; or
- b. Material misrepresentations.

**3.50(4)** *Reopening from breach of settlement agreement.*

a. If a party breaches a settlement agreement, the aggrieved party may seek redress with the agency or in district court.

b. If the aggrieved party seeks agency engagement, that party has 90 days from the time of an alleged breach of a settlement agreement to request the case file be reopened to continue the investigative process, but only if all the following apply:

- (1) The agency is not a party to the settlement agreement;
- (2) The requesting party agrees the settlement agreement is null and void; and
- (3) The requesting party waives and releases any rights to seek specific performance or damages for the alleged breach in district court.

c. All parties shall be notified that a request for reopening has been made. A copy of the request for reopening shall be provided to all parties. The parties shall be afforded no less than 14 days and no more than 30 days to submit their written position and any supporting documents regarding the request.

d. The director or designee shall determine if the agreement has been breached or the nonrequesting party failed to negotiate the agreement in good faith. If it is determined that a material breach occurred, the parties or their attorneys shall be notified of the reopening of the case file and the case file will be referred for further processing.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]

**161—3.51 to 3.55** Reserved.

**161—3.56(216) Access to file information.**

**3.56(1)** Disclosure of the existence or contents of a case file is prohibited, except:

a. Upon filing an appeal in district court of a final action, parties and their attorneys may access their case file.

b. When a case has been set for a contested case hearing and notice has been mailed, parties and their attorneys may access their case file through discovery pursuant to rule 161—4.7(17A).

c. Parties and their attorneys may access the case file upon appeal of a decision rendered by an administrative law judge in a contested case. The introduction of documents into evidence from a case file during a contested case hearing does not waive the confidentiality of other documents within that case file.

**3.56(2)** Attorneys seeking access to case files must provide written notification of representation.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]

**161—3.57(216) Miscellaneous.**

**3.57(1)** *Conflicts prohibited.* The administrative law judge designated to issue a determination will not serve as administrative law judge in the contested case hearing for the same case file.

**3.57(2)** *Injunctions.* If the executive director determines that a complainant may be irreparably injured before a contested case hearing, the executive director or designee may direct an attorney for the agency to seek appropriate injunctive relief to preserve the rights of the complainant and the public interest.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]

These rules are intended to implement Iowa Code chapter 216.

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<sup>1</sup> The Administrative Rules Review Committee at its May 21, 1979, meeting delayed the effective date of 240—subrules 1.1(7) to 1.1(9), 1.3(1), 1.8(2) and rules 1.16 and 1.17 70 days.

<sup>2</sup> Effective date of 161—3.2(4), 3.2(5), 3.3(3), 3.4(216), 3.5(216), 3.7(3), 3.8(216), 3.10(216), 3.12(216), 3.13(8) to 3.13(10), 3.14(216) and 3.16(216) delayed 70 days by the Administrative Rules Review Committee at its meeting held March 9, 1993; delayed until adjournment of the 1994 Session of the General Assembly by this Committee May 11, 1993.

CHAPTER 4  
CONTESTED CASES

[Prior to 1/13/88, see Civil Rights 240—1.5(2), 1.5(3), 1.8 to 1.15, 1.18]

Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026. See Uniform Rules on Agency Procedure at 7—Chapters 2500 through 2506 and any corresponding rules adopted by this agency.

CHAPTER 5  
DISCRIMINATION IN AIDING/ABETTING AND RETALIATION  
Reserved



CHAPTER 6  
DISCRIMINATION IN CREDIT  
[Prior to 1/13/88, see Civil Rights 240—Ch 4]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

**161—6.1(216) Definitions.**

“*Credit*” means an amount or limit to the extent a person may receive goods, services or money for payment in the future, and includes but is not limited to, loans for any purpose and in any amount, checking accounts, charge accounts, mortgages and other home financing, credit cards and credit ratings.

“*Credit card*” means a small card (as one issued by hotels, restaurants, stores, petroleum companies or banks) authorizing the person or company named or its agent to charge goods or services or borrow money.

“*Credit institution*” means banks, savings and loan associations, finance companies, credit departments of all retail businesses, credit rating services, credit card issuers, credit bureaus, credit unions and all other loan, credit, financing and mortgaging institutions.

**161—6.2(216) Practices prohibited.**

**6.2(1)** The criteria used to evaluate applicants for credit and the standards necessary to be met by the successful applicants shall be the same regardless of the age, color, creed, national origin, race, religion, marital status, sexual orientation, gender identity, sex or physical disability of the applicant.

**6.2(2)** No credit institution shall require any information, reference or countersignature of any applicant for credit which would not be required of all applicants, regardless of their age, color, creed, national origin, race, religion, marital status, sex or physical disability.

**6.2(3)** It shall be an unlawful practice for any credit institution to discount or disregard the earnings or income of a spouse in computing family income.

**6.2(4)** It shall be an unlawful practice for any credit institution to refuse to loan money or extend credit to a woman solely because she is in the childbearing years or solely because she is divorced, or solely because she is unmarried.

**6.2(5)** It shall be an unlawful practice for any credit institution to extinguish the established credit of any woman upon her marriage or to require that a new account be opened in the husband’s name.

**6.2(6)** It shall be an unlawful practice for any credit institution to refuse to retain any records of credit transactions in the name of a married woman when she so requests in writing.

[ARC 8744B, IAB 5/5/10, effective 6/9/10]

**161—6.3(216) Credit inquiries.**

**6.3(1)** A credit application or credit interviewer may inquire as to age, disability, sex or marital status provided the inquiry is made in good faith for a nondiscriminatory purpose. Any inquiry which expresses directly or indirectly any limitation, specification, or discrimination as to age, disability, sex or marital status shall be unlawful.

**6.3(2)** The information required to be given by the applicant for credit should be limited to what is necessary for determining the applicant’s financial conditions and prospects for repayment regardless of the applicant’s age, color, creed, national origin, race, religion, marital status, sex or physical disability. The consent of a spouse shall not be required where the applicant is otherwise eligible for credit.

**161—6.4(216) Exceptions.**

**6.4(1)** Cosignatures may be required of a married couple intending to establish a joint account with the company or business issuing the credit card.

**6.4(2)** The exception for cosignatures is limited, and the issuer should presume the applicant is seeking a credit card in the applicant’s own name regardless of the marital status of the applicant.

**6.4(3)** These rules shall not prohibit any party to a credit transaction from considering the application to the particular case of Iowa law on dower, title, descent, and distribution, or from taking constructive action thereon.

These rules are intended to implement Iowa Code chapter 216.

[Filed 9/6/74]

[Filed 2/20/78, Notice 1/11/78—published 3/22/78, effective 4/26/78]

[Filed 12/15/87, Notice 8/12/87—published 1/13/88, effective 2/17/88]

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CHAPTER 7  
DISCRIMINATION IN EDUCATION  
Reserved



CHAPTER 8  
DISCRIMINATION IN EMPLOYMENT  
[Prior to 1/13/88, see Civil Rights 240—Chs 2, 3, 5, 6]

Chapter rescission date pursuant to Iowa Code section 17A.7: 9/25/29

**161—8.1(216) Definitions.**

*“Has a record of such an impairment”* means having a history of, or being misclassified as having, a mental or physical impairment that substantially limits a major life activity.

*“Major life activities”* includes but is not limited to caring for oneself, manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

*“Physical or mental impairment”* includes:

1. Physiological disorders or conditions, cosmetic disfigurements, or anatomical loss affecting any of the following systems: neurological; musculoskeletal; special sense organs; respiratory and speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic or lymphatic; skin; and endocrine; or
2. Mental or psychological disorders such as intellectual disabilities, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

*“Regarded as having an impairment”* means:

1. The perception of having an impairment that substantially limits major life activities; or
2. Having an impairment that substantially limits major life activities because of others’ attitudes toward the impairment.

*“Substantially disabled”* means having a physical or mental impairment that substantially limits a major life activity, having a record of such impairment, or being regarded as having an impairment.

[ARC 8199C, IAB 8/21/24, effective 9/25/24]

**161—8.2(216) Bona fide occupational qualifications.**

**8.2(1)** An employer, employment agency, or labor organization may take action otherwise prohibited under commission rules where the protected basis is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business.

**8.2(2)** Bona fide occupational qualifications are narrow in scope and do not include convenience or an employer’s preferences.

**8.2(3)** An employer or employment agency’s following of federal or state statutes or regulations establishing employment standards is not illegal discrimination when the standards are bona fide occupational qualifications.

**8.2(4)** A bona fide occupational qualification will also be recognized where there exist special, individual occupational circumstances such as acting or modeling.

**8.2(5)** Bona fide occupational qualifications do not include assumptions about a protected basis, comparative characteristics of a protected basis, and stereotypes based on a protected basis.

**8.2(6)** No publication shall advertise employment opportunities containing any indication of a preference, limitation, or restriction based upon age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability, unless there is a bona fide occupational qualification.

[ARC 8199C, IAB 8/21/24, effective 9/25/24]

**161—8.3(216) Preemployment inquiries.**

**8.3(1)** Preemployment inquiries into an applicant’s membership in a protected class are not prohibited so far as necessary to determine an applicant’s bona fide occupational qualification for the position. The burden to show the existence of a bona fide occupational qualification shall be on the employer, employment agency, or labor organization.

**8.3(2)** This rule does not prohibit inquiry:

- a. As to whether a job applicant is over 18 years of age, or
- b. For postemployment inquiries regarding age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability for legitimate recordkeeping purposes.

**8.3(3)** An employment interviewer shall not ask about a disability unless the inquiry is made in good faith for a nondiscriminatory purpose.

[ARC 8199C, IAB 8/21/24, effective 9/25/24]

**161—8.4 to 8.10** Reserved.

**161—8.11(216) Reasonable accommodations—assessment and placement.**

**8.11(1)** Employers shall accommodate the known physical or mental limitations of qualified disabled applicants or employees, unless doing so would result in an undue hardship. Employers cannot deny employment opportunities to qualified disabled employees or applicants due to their need for reasonable accommodation.

**8.11(2)** Reasonable accommodation may include:

*a.* Making facilities readily accessible to individuals with disabilities; and  
*b.* Job restructuring, modified work schedules, acquisition or modification of equipment or devices, readers or interpreters, or similar actions.

**8.11(3)** In determining whether an accommodation would impose an undue hardship on an employer, factors to be considered may include:

*a.* The size of the employer, including the number of employees, number and type of facilities, and budget;  
*b.* The nature of the employer's operation, including the composition and structure of its workforce; and  
*c.* The nature and cost of the accommodation.

[ARC 8199C, IAB 8/21/24, effective 9/25/24]

**161—8.12(216) Physical examinations.**

**8.12(1)** If examinations or assessments are required, they should be designed to determine whether an applicant:

*a.* Has the ability to perform the duties of the position.  
*b.* Is qualified to do the work without adverse consequences such as creating a danger to the life or health of others.  
*c.* Is professionally competent or has the necessary skills or ability to become professionally competent to perform the duties of the job.

**8.12(2)** Physical standards for employment must be reasonable and based on complete, factual information about job duties, working conditions, hazards, and essential physical requirements.

[ARC 8199C, IAB 8/21/24, effective 9/25/24]

**161—8.13(216) Disability arising during employment.** When an individual becomes disabled during employment, the employer shall provide reasonable accommodations pursuant to rule 161—8.11(216).

[ARC 8199C, IAB 8/21/24, effective 9/25/24]

**161—8.14 to 8.24** Reserved.

**161—8.25(216) Retirement plans and benefit systems.**

**8.25(1)** An employer shall not be required to:

*a.* Hire back an employee following retirement; or  
*b.* Hire an applicant for employment whose age is the retirement age under the employer's retirement plan or benefit system provided that the plan or system is not a mere subterfuge for the purpose of evading the provisions of the Iowa civil rights Act of 1965.

**8.25(2)** Retirement plans shall not require involuntary retirement of a person under the age of 70 because of the person's age, except where otherwise provided in state law.

**8.25(3)** Mandatory retirement based on age will not be applied to members of the Iowa public employees' retirement system.

**8.25(4)** Employer contributions to insurance, pension, and other programs are not a violation of the Act if those contributions are the same for each employee or if the resulting benefits are equal.

[ARC 8199C, IAB 8/21/24, effective 9/25/24]

These rules are intended to implement Iowa Code chapter 216.

[Filed 12/18/70]

[Filed 9/15/71]

[Filed 10/9/72]

[Filed 12/23/74]

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<sup>1</sup> Effective date of 240—6.2(6) delayed 70 days by the Administrative Rules Review Committee.

<sup>2</sup> Effective date of 8.27(6)“a”(2) and 8.27(6)“b” delayed 70 days by the Administrative Rules Review Committee at their February 11, 1988, meeting.



CHAPTER 9  
DISCRIMINATION IN HOUSING

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

**161—9.1(216) Construction of chapter.**

**9.1(1) Limitation of chapter.** All the rules contained herein apply only to:

a. Complaints which allege a violation of the prohibitions contained in Iowa Code section 216.8 or 216.8A;

b. Complaints which allege a violation of Iowa Code section 216.11 or 216.11A arising out of alleged violations of the prohibitions contained in Iowa Code section 216.8 or 216.8A; and the interpretation of the provisions of the Iowa Code which relate to such complaints or to unfair or discriminatory practices in the area of housing.

**9.1(2) Conflicting rules.** Where a provision of this chapter applies under the terms of subrule 9.1(1) and that provision conflicts with a rule of the commission not contained within Chapter 9, then the provision contained within Chapter 9 shall prevail.

**161—9.2(216) Definitions.** As used in this chapter, the following definitions shall apply:

*“Party”* means any complainants and respondents involved in the complaint of discrimination under investigation.

*“Presiding officer for discovery”* means an administrative law judge employed by the department of inspections and appeals and assigned to render decisions regarding discovery disputes arising in the course of civil rights commission investigations.

**161—9.3(216) Interpretation of various housing provisions.**

*“Aggrieved person.”* As used in the Iowa civil rights Act provisions relating to discrimination in housing, the term “aggrieved person” includes any person who claims to have been injured by a discriminatory housing practice, or any person who believes that that person will be injured by a discriminatory housing practice that is about to occur.

*“Discriminatory housing or real estate practice.”* A person who violates the prohibitions contained in Iowa Code section 216.8 or 216.8A commits an “unfair or discriminatory practice” in the area of housing or real estate. A person who commits a violation of Iowa Code section 216.11 or 216.11A arising out of alleged violations of the prohibitions contained in Iowa Code section 216.8 or 216.8A commits an “unfair or discriminatory practice” in the area of housing or real estate.

*“Dwelling.”* As used in Iowa Code chapter 216, the term “dwelling” means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, or any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

*“Exceptions.”* The exceptions found in Iowa Code sections 216.12(2), 216.12(3), and 216.12(5) do not apply to Iowa Code section 216.8(3) relating to advertising.

*“Handicap.”* As used in Iowa Code section 216.2(5), the term “handicap” with respect to a person means:

1. A physical or mental impairment which substantially limits one or more of such person’s major life activities,
2. A record of having such an impairment, or
3. Being regarded as having such an impairment.

Such term does not include current, illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802).

*“Housing accommodation.”* As used in Iowa Code chapter 216, the term “housing accommodation” has the same meaning as is given the term “dwelling” in this rule.

*“Housing for older persons.”* The exception found in Iowa Code section 216.12(4) is limited to discrimination based upon “familial status.”

*Iowa Code section 216.15A(10)“c.”* The word “continued” as used in this paragraph means “carried on or kept up without cessation.” This paragraph does not refer to the adjournment or postponement of a hearing to a subsequent date or time.

*Iowa Code section 216.16A(1)“a.”* Election to proceed in court. The election to have the charges of a complaint decided in a civil action as provided in Iowa Code section 216.16A(1)“a” is only available where:

1. It is alleged that there has been a violation of some portion of Iowa Code section 216.8 or 216.8A, or
2. It is alleged that there has been a violation of Iowa Code section 216.11 or 216.11A arising out of alleged violations of the prohibitions contained in Iowa Code section 216.8 or 216.8A.

*Iowa Code section 216.16A(2).* The phrase “mediation agreement” in Iowa Code section 216.16A(2) refers to the agreement described in Iowa Code section 216.15A(2)“a” to “e.”

*“Person.”* As used in the Iowa civil rights Act provisions relating to discrimination in housing, the term “person” includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries. The specific inclusion of an individual or entity within this definition of “person” does not imply that that individual or entity is excluded from the definition of “person” in Iowa Code section 216.2(11).

*Referral and deferral to local agencies in housing cases.* If a complaint alleges either a violation of the prohibitions contained in Iowa Code section 216.8 or 216.8A or a violation of Iowa Code section 216.11 or 216.11A arising out of alleged violations of the prohibitions contained in Iowa Code section 216.8 or 216.8A, then deferral and referral of that complaint to a local commission are governed by the provisions of Iowa Code section 216.5(14) and that section takes precedence over Iowa Code section 216.19.

#### **161—9.4(216) Interpretation of provisions affecting court actions regarding alleged discriminatory housing or real estate practices occurring after July 1, 1991.**

**9.4(1)** *Time limitation of rule.* This rule applies only to alleged discriminatory housing or real estate practices occurring after July 1, 1991.

**9.4(2)** *Aggrieved person’s direct action in district court.*

*a. Filing of complaint not necessary.* A complaint which alleges either (1) a violation of the prohibitions contained in Iowa Code section 216.8 or 216.8A, or (2) a violation of Iowa Code section 216.11 or 216.11A arising out of alleged violations of the prohibitions contained in Iowa Code section 216.8 or 216.8A need not be filed with the commission in order for an aggrieved person to seek judicial remedies for that alleged violation. An aggrieved person may file an action alleging such violations directly in district court pursuant to Iowa Code section 216.16A(2).

*b. Effect of commission processing.*

(1) In general. The status of commission processing of a complaint alleging a discriminatory housing or real estate practice does not affect the rights of an aggrieved party to file a civil action under Iowa Code section 216.16A(2) based on that same or any other alleged discriminatory housing or real estate practice.

(2) Exceptions. Commission processing will bar an aggrieved person from filing a civil action under Iowa Code section 216.16A(2) based on an alleged discriminatory housing or real estate practice only where either:

1. The commission has obtained a mediation agreement with the consent of that aggrieved person regarding that alleged discriminatory housing or real estate practice, or
2. The commission has begun a contested case hearing on the record regarding that same alleged discriminatory housing or real estate practice.

*c. Notification of commission.* If a person has filed a complaint alleging a discriminatory housing or real estate practice with the commission and that person subsequently commences a civil action under Iowa Code section 216.16A(2) based on that same alleged discriminatory housing or real estate practice, the aggrieved person is encouraged to immediately notify the Iowa civil rights commission of the filing of the civil action.

*d. Remedies.* In an action filed directly in district court pursuant to Iowa Code section 216.16A(2), the court may, upon a finding of discrimination, order any of the remedies provided for in Iowa Code section 216.17A(6).

**9.4(3) Election to proceed in district court.**

*a. In general.* An aggrieved person on whose behalf a complaint was filed, a complainant, or a respondent may, pursuant to Iowa Code section 216.16A(1), elect to have the allegations asserted in the complaint decided in a civil action in district court. An election is made by filing a written notice of election with the commission. The date of filing of an election is the date the election is received by the commission at its offices in Des Moines. If such an election is made, the commission shall authorize and, within 30 days of the election, the attorney general shall file a civil action in district court on behalf of the aggrieved person. Failure to file within the 30-day period shall not, by itself, prejudice the rights of any of the parties.

*b. Limitation.* An election made under the previous paragraph must be made within 20 days of the receipt by the electing person of the determination of probable cause. The date of election is the date that the written notice of elections is filed with the commission.

*c. Probable cause determination a prerequisite.* No person may make an election pursuant to Iowa Code section 216.16A(1) until the commission has found probable cause regarding the complaint which is the subject of the election.

*d. Notice required.* An election to proceed in district court made under Iowa Code section 216.16A(1) is effective only if the electing person gives notice of the election to the commission and all other complainants and respondents to whom the election relates. Such notice shall be in writing, shall be delivered at the time the election is made, and may be made by regular mail.

*e. Intervention.* Once the commission commences an action in district court pursuant to Iowa Code section 216.17A(1) an aggrieved person may intervene in the action.

**9.4(4) Right-to-sue letter inapplicable.** A complainant need not, and should not, request a right-to-sue letter in order to file a civil action under Iowa Code section 216.16A(2) or to make an election as provided in Iowa Code section 216.16A(1).

**9.4(5) Appointment of attorney by court.** Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may:

*a.* Appoint an attorney for the person, or

*b.* Authorize the commencement or continuation of a civil action under Iowa Code section 216.16A(2) without the payment of fees, costs, or security if, in the opinion of the court, the person is financially unable to bear the costs of such action.

**161—9.5(216) Commission procedures regarding complaints based on alleged unfair or discriminatory practices occurring after July 1, 1991.**

**9.5(1) Time limitation of rule.** This rule applies only to alleged discriminatory housing or real estate practices occurring after July 1, 1991.

**9.5(2) Time limit for administrative complaint.** A complaint which alleges a discriminatory housing or real estate practice is governed by the 300-day time limit provided in 2009 Iowa Code Supplement section 216.15(13).

**9.5(3) Processing of complaint.**

*a. Service.* Upon the filing of a complaint:

(1) The commission shall, not later than ten days after such filing or the identification of an additional respondent under 9.5(3)“d,” serve on the respondent a notice identifying the alleged discriminatory housing practice and advising the respondent of the procedural rights and obligations of respondents under the applicable sections of Iowa Code chapter 216, together with a copy of the original complaint; and

(2) Each respondent may file, not later than ten days after receipt of notice from the commission, an answer to the complaint.

(3) The commission shall, not later than ten days after the filing of a complaint, serve the complainant a notice acknowledging receipt of the complaint and advising the complainant of the time limits and choice of forums provided under Iowa Code chapter 216.

*b. Timely investigation.* The commission will begin the investigation within 30 days of filing. If the commission is unable to complete the investigation within 100 days after the filing of the complaint, the commission shall notify the complainant and respondent in writing of the reasons for not doing so.

*c. Amendments.* Complaints and answers shall be under oath or affirmation and may be reasonably and fairly amended at any time.

*d. Additional respondents.*

(1) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under 9.5(3) "a," to such person from the commission.

(2) Such notice, in addition to meeting the requirements of 9.5(3) "a," shall explain the basis for the commission's belief that the person to whom the notice is addressed is properly joined as respondent.

*e. Closure within one year.* Within one year of the date of receipt of a complaint alleging a discriminatory housing or real estate practice, the commission shall take final administrative action with respect to that complaint unless it is impracticable to do so. If the commission is unable to make final disposition of the case within the one-year period, the commission shall notify the complainant and respondent in writing of the reasons for not doing so.

**9.5(4) Probable cause determination.**

*a. Final investigative report.* After the completion of the commission's investigation, the investigator shall prepare a final investigative report. This final investigative report shall include:

(1) The names and dates of contacts with witnesses excepting those witnesses who request to remain anonymous. The commission, however, may be required to disclose the names of such witnesses in the course of an administrative hearing or a civil action conducted pursuant to the Iowa civil rights Act;

(2) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

(3) A summary description of other pertinent records;

(4) A summary of witness statements; and

(5) Answers to interrogatories.

*b. Determination procedure.* If, after the completion of investigation, a mediation agreement under Iowa Code section 216.15A(2) "a" to "e" has not been executed by the complainant and the respondent and approved by the commission, the commission shall conduct a review of the factual circumstances revealed as part of the investigation.

(1) If the commission determines that, based on the totality of the factual circumstances known at the time of the commission's review, no probable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the commission shall: issue a short and plain written statement of the facts upon which the no probable cause determination was based; dismiss the complaint; notify the aggrieved person(s) and the respondent(s) of the dismissal (including the written statement of facts) by regular or certified mail or personal service; and make public disclosure of the dismissal.

Respondent(s) may request that no public disclosure be made. Notwithstanding such request, the fact of dismissal, including the names of the parties, shall be public information available on request.

The commission's determination shall be based solely on the facts concerning the alleged discriminatory housing practice provided by complainant and respondent(s) and otherwise disclosed during the investigation.

(2) If the commission believes that probable cause may exist to believe that a discriminatory housing practice has occurred or is about to occur, the commission shall forward the matter to the executive director or designee for consideration. In all such cases the executive director or designee shall determine, with advice from the office of the attorney general, whether, based on the totality of the factual circumstances known at the time of the decision, probable cause exists to believe that a discriminatory housing practice has occurred or is about to occur. The determination shall be based solely on the facts concerning the alleged discriminatory housing practice provided by complainant and respondent and otherwise disclosed during the investigation.

*c. Determination of probable cause.* A determination of probable cause shall be followed by the issuance of a probable cause order. A probable cause order:

(1) Shall consist of a short and plain written statement of the facts upon which the commission has found probable cause to believe that a discriminatory housing practice has occurred or is about to occur;

(2) Shall be based on the final investigative report; and

(3) Need not be limited to facts or grounds that are alleged in the complaint. If the probable cause order is based on grounds that are alleged in the complaint, the commission will not issue the probable cause order with regard to those grounds unless the record of the investigation demonstrates that the respondent has been given an opportunity to respond to the allegation.

*d. Timely determination.* The commission shall make the probable cause determination within 100 days after the filing of the complaint unless it is impracticable to do so. If the commission is unable to make the determination within this 100-day period, the commission will notify the aggrieved person and the respondent by regular mail or personal service of the reasons for the delay.

*e. Effect of probable cause determination.* A finding of probable cause regarding a complaint alleging a discriminatory housing or real estate practice commences the running of the period during which an aggrieved person on whose behalf a complaint was filed, a complainant, or a respondent may, pursuant to Iowa Code section 216.16(1), elect to have the charges asserted in the complaint decided in a civil action in district court. If an election is made, the commission shall authorize the attorney general to file a civil action on behalf of the aggrieved person seeking relief. If no election is made, then the commission must schedule a hearing on the charges in the complaint.

*f. Effect of no probable cause determination.* A finding of “no probable cause” regarding a complaint alleging a discriminatory housing or real estate practice results in prompt dismissal of the complaint. If the finding is not reconsidered, the commission may take no further action to process that complaint except as may be necessary to carry out the commission’s administrative functions.

*g. Standard.* The standard to determine whether a complaint alleging a discriminatory housing or real estate practice is supported by probable cause shall include consideration of whether the facts are sufficient to warrant initiation of litigation against the respondent.

**9.5(5) Hearing.**

*a. Conduct.* A contested case hearing regarding a complaint alleging a discriminatory housing or real estate practice is conducted on the same terms and in the same manner as any other contested case hearing conducted by the commission.

*b. Hearing time frames.*

(1) Trial date. The administrative law judge shall commence the hearing regarding a complaint alleging a discriminatory housing or real estate practice no later than 120 days following the issuance of the finding of probable cause, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within 120 days after the issuance of the probable cause order, the administrative law judge shall notify the executive director, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing, of the reasons for not doing so.

(2) Decision date. The administrative law judge shall make findings of fact and conclusions of law within 60 days after the end of the hearing regarding a complaint alleging a discriminatory housing or real estate practice unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within this period, or any succeeding 60-day period thereafter, the administrative law judge shall notify the executive director, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing, of the reasons for not doing so.

**9.5(6) Access to file information in housing cases.**

*a.* Nothing that is said or done in the course of mediation of a complaint of housing or real estate discrimination may be made public or used as evidence in a subsequent administrative hearing under subrule 9.5(5) or in civil actions under Iowa Code chapter 216, without the written consent of the persons concerned.

*b.* Notwithstanding the prohibitions and requirements with respect to disclosure of information contained in paragraph 9.5(6) “a” the commission will make information derived from an investigation, including the final investigative report, available to the aggrieved person and the respondent. Following completion of the investigation, the commission shall notify the aggrieved person and the respondent that the final investigative report is complete and will be provided upon request.



*b.* A party is under a duty seasonably to amend a prior response if the party obtains information upon the basis of which:

- (1) The party knows that the response was incorrect when made; or
- (2) The party knows that the response though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

**161—9.8(216) Protective orders.**

**9.8(1)** Upon motion by a party or by the person from whom discovery is sought or by any person who may be affected thereby, and for good cause shown, the presiding officer for discovery:

*a.* May make any order which justice requires to protect a party or other person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

- (1) That the discovery not be had;
- (2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;
- (3) That the discovery may be had only by a method of discovery other than that selected by the commission;
- (4) That certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;
- (5) That discovery be conducted with no one present except persons designated by the presiding officer for discovery;
- (6) That a deposition after being sealed be opened only by order of a court, a commission contested case presiding officer, or the presiding officer for discovery;
- (7) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way;
- (8) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the presiding officer for discovery.

*b.* Shall limit the frequency of use of the methods described in subrule 9.6(1) if the presiding officer for discovery determines that:

- (1) The discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive;
- (2) The commission has had ample opportunity by discovery in the action to obtain the information sought; or
- (3) The discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the objecting party's resources, and the importance of the issues at stake in the investigation.

**9.8(2)** If the motion for a protective order is denied in whole or in part, the presiding officer for discovery may, on such terms and conditions as are just, order that any party or other person provide or permit discovery.

**9.8(3)** Award of expenses of motion. If the motion is granted, the presiding officer for discovery shall, after opportunity for hearing, require the commission, if it opposed the motion, to pay to the party or other person making the motion the reasonable expenses incurred in obtaining the order, including attorneys' fees, unless the presiding officer for discovery finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust.

If the motion is denied, the presiding officer for discovery shall, after opportunity for hearing, require the party or deponent who made the motion or the party or attorney advising such a motion or both of them to pay to the commission the reasonable expenses incurred in opposing the motion, including attorneys' fees, unless the presiding officer for discovery finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.

If the motion is granted in part and denied in part, the presiding officer for discovery may apportion in a just manner the reasonable expenses incurred in relation to the motion.

**161—9.9(216) Interrogatories.**

**9.9(1) *Availability; procedures for use.*** The commission may serve written interrogatories to be answered by a party or, if the party from whom the information is sought is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party.

Each interrogatory shall be followed by a reasonable space for insertion of the answer. An interrogatory which does not comply with this requirement shall be subject to objection. The interrogatories must be accompanied by a written notice informing the person to whom the interrogatories are directed that a response is mandatory and that sanctions can be levied for a failure to respond.

Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer.

A party answering interrogatories must answer in the space provided or must set out each interrogatory immediately preceding the answer to it. A failure to comply with this rule shall be deemed a failure to answer and shall be subject to sanctions as provided in rule 161—9.16(216). Answers are to be signed by the person making them. Objections, if any, shall be served within 30 days after the interrogatories are served. The commission may move for an order under subrule 9.16(1) with respect to any objection to or other failure to answer an interrogatory.

The commission shall not serve more than 30 interrogatories on any party under the authority of this rule except upon agreement by the person from whom information is sought or leave of the presiding officer for discovery granted upon a showing of good cause. A motion for leave to serve more than 30 interrogatories must be in writing and shall set forth the proposed interrogatories and the reasons establishing good cause for their use.

Notwithstanding the provisions of this subrule the commission may, without limitation on the number of questions, solicit information from the parties in the form of a written questionnaire. The response to these questions, however, cannot be compelled under rule 161—9.16(216).

**9.9(2) *Scope.*** An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the presiding officer for discovery may order that such an interrogatory need not be answered until a later time.

**9.9(3) *Option to produce business records.*** Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, or from a compilation, abstract or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the commission as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the commission reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries. A specification shall be in sufficient detail to permit the commission to locate and identify as readily as can the party served, the records from which the answer may be ascertained.

**161—9.10(216) Requests for admission.**

**9.10(1) *Availability; procedures for requests.*** The commission may serve upon any party a written request for the admission, for purposes of all proceedings relating to the pending complaint only, of the truth of any matters within the scope of rule 161—9.7(216) set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying.

Each matter of which an admission is requested shall be separately set forth.

Notice of the effect of an admission shall be given to the person from whom the admission is sought.

The commission shall not serve more than 30 requests for admission on any party except upon agreement of the party from whom admissions are sought or leave of the presiding officer for discovery granted upon a showing of good cause. A motion for leave of the presiding officer for discovery to serve more than 30 requests for admission must be in writing and shall set forth the proposed requests and the reasons establishing good cause for their use.

**9.10(2)** *Time for and content of responses.* The matter is admitted unless, within 30 days after service of the request, or within such shorter or longer time as the presiding officer for discovery may on motion allow, the party to whom the request is directed serves upon the commission a written answer or objection addressed to the matter, signed by the party or by the party's attorney.

If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify the party's answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that the party has made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; the party may, subject to the provisions of subrule 9.16(3), deny the matter or set forth reasons why the party cannot admit or deny it.

**9.10(3)** *Determining sufficiency of responses.* The commission may move to determine the sufficiency of the answers or objections. Unless the presiding officer for discovery determines that an objection is justified, the presiding officer for discovery shall order that an answer be served. If the presiding officer for discovery determines that an answer does not comply with the requirements of this rule, the presiding officer for discovery may order either that the matter be admitted or that an amended answer be served. The presiding officer for discovery may, in lieu of these orders, determine that final disposition of the request be made at a designated time prior to completion of the investigation. The provisions of paragraph 9.16(1) "d" apply to the award of expenses incurred in relation to the motion.

**161—9.11(216) Effect of admission.** Any matter admitted under rule 161—9.10(216) is conclusively established in all proceedings relating to the pending complaint unless the court or contested case administrative law judge on motion permits withdrawal or amendment of the admission. The court or contested case administrative law judge may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the commission or the party opposing the motion fails to satisfy the court or contested case administrative law judge that withdrawal or amendment will prejudice the commission in maintaining the commission's action on the merits.

**161—9.12(216) Production of documents and things and entry upon land for inspection and other purposes.** The commission may serve on any party a request:

**9.12(1)** To produce and permit the commission, or someone acting on the commission's behalf, to inspect and copy any designated documents (including writings, drawings, graphs, charts, photographs, and other data compilations from which information can be obtained, translated, if necessary, by the party upon whom the request is served through detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things which constitute or contain matters within the scope of rule 161—9.7(216) and which are in the possession, custody or control of the party upon whom the request is served; or

**9.12(2)** Except as otherwise provided by statute, to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of rule 161—9.7(216).

**161—9.13(216) Procedures for documents and inspections.** The request shall set forth the items to be inspected either by individual item or by category and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts.

The party upon whom the request is served shall serve a written response within 30 days after the service of the request. The presiding officer for discovery may allow a shorter or longer time. The response shall state, with respect to each item or category, that inspection and related activities will be permitted

as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified.

The commission may move for an order under rule 161—9.16(216) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

**161—9.14(216) Physical and mental examination of persons.** When the mental or physical condition (including the blood group) of a party, or of a person in the custody or under the legal control of a party, is in controversy, the presiding officer for discovery may order the party to submit to a physical or mental examination by a health care practitioner or to produce for examination the person in the party's custody or legal control. The order may be made only on motion of the commission for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.

**161—9.15(216) Report of health care practitioner.**

**9.15(1)** If requested by the party against whom an order is made under rule 161—9.14(216) or the person examined, the commission shall deliver a copy of the examiner's detailed written report setting out the findings, including results of all tests made, diagnosis and conclusions, together with like reports of all earlier examinations of the same condition. After delivery, if requested by the commission, the party against whom the order is made shall deliver a like report of any examination of the same condition, previously or thereafter made, unless the party shows an inability to obtain a report of examination of a nonparty. The presiding officer for discovery on motion may order a party or the commission to deliver a report on such terms as are just. If an examiner fails or refuses to make a report, a court or administrative law judge hearing a case based on the complaint at issue may exclude the examiner's testimony.

**9.15(2)** By requesting and obtaining a report of the examination so ordered, the party examined waives any privilege the party may have in that action or any other proceeding involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine the party in respect of the same mental or physical condition.

**9.15(3)** This rule applies to examination made by agreement, unless the agreement expressly provides otherwise.

**161—9.16(216) Consequences of failure to make discovery.**

**9.16(1)** *Motion for order compelling discovery.* The commission, upon reasonable notice to the party from whom discovery was sought and all persons affected thereby, may move for an order compelling discovery as follows:

*a. Appropriate officer.* A motion to compel discovery shall be made to the presiding officer for discovery.

*b. Motion.* If a deponent fails to answer a question propounded or submitted under rule 161—9.17(216), or a corporation or other entity fails to make a designation under subrule 9.18(5), or a party fails to answer an interrogatory submitted under rule 161—9.9(216), or if a party, in response to a request for inspection submitted under rule 161—9.12(216), fails to respond that inspection will be permitted as requested or fails to permit inspection as requested, the commission may move for an order compelling an answer, a designation, or an inspection in accordance with the request. When taking a deposition on oral examination, the commission may complete or adjourn the examination before moving for an order.

Any order granting a motion made under this rule shall include a statement that a failure to comply with the order may result in the imposition of sanctions pursuant to rule 161—9.16(216).

In ruling on such motion, the presiding officer for discovery may make such protective order as the presiding officer for discovery would have been empowered to make on a motion pursuant to subrule 161—9.8(1).

*c. Evasive or incomplete answer.* For purposes of this subrule an evasive or incomplete answer is to be treated as a failure to answer.

*d. Award of expenses of motion.* If the motion is granted, the presiding officer for discovery shall, after opportunity for hearing, require the party or deponent whose conduct necessitated the motion or the

party or attorney advising such conduct or both of them to pay to the commission the reasonable expenses incurred in obtaining the order, including attorneys' fees, unless the presiding officer for discovery finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust.

If the motion is denied, the presiding officer for discovery shall, after opportunity for hearing, require the commission to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing the motion, including attorneys' fees, unless the presiding officer for discovery finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.

If the motion is granted in part and denied in part, the presiding officer for discovery may apportion in a just manner the reasonable expenses incurred in relation to the motion.

*e. Notice to party.* If the motion is granted, the presiding officer for discovery shall mail or cause to have mailed a copy of the order to counsel and to the party or parties whose conduct, individually or by counsel, necessitated the motion.

**9.16(2)** *Failure to comply with order.*

*a. Sanctions by court in district where deposition is taken.* If a deponent fails to be sworn or to answer a question after being directed to do so by the presiding officer for discovery, the office of the attorney general may petition for enforcement of that order in the judicial district in which the deposition is being taken. Failure by the deponent to obey an order of enforcement from the district court may be considered a contempt of that court.

*b. Sanctions by the presiding officer for discovery.* If a party or an officer, director, or managing agent of a party or a person designated under subrule 9.18(5) to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under 9.16(1) or under rule 161—9.14(216), the presiding officer for discovery may make such orders in regard to the failure as are just, and among others, the following:

(1) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of any action or proceeding relating to the subject matter of the investigation in accordance with the claim of the party opposing the position of the disobedient party;

(2) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting such party from introducing designated matters in evidence in any action or proceeding relating to the subject matter of the investigation;

(3) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;

(4) In lieu of any of the foregoing orders or in addition thereto, the presiding officer for discovery shall require the disobedient party or the attorney advising such party or both to pay the reasonable expenses, including attorneys' fees, caused by the failure, unless the presiding officer for discovery finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

*c. Enforcement petition.* In addition to any of the alternatives of paragraph "b" above, the office of the attorney general may petition for enforcement of the order compelling discovery in the appropriate judicial district. Failure by a party to obey an order of enforcement from the district court may be considered a contempt of that court.

**9.16(3)** *Expenses on failure to admit.* If a party fails to admit the genuineness of any document or the truth of any matter as requested under rule 161—9.10(216), and if the commission thereafter proves the genuineness of the document or the truth of the matter, the commission may move for an order requiring the party to pay the reasonable expenses incurred in making that proof, including reasonable attorneys' fees. The presiding officer for discovery shall make the order unless the presiding officer for discovery finds that:

- a.* The request was held objectionable pursuant to rule 161—9.10(216),
- b.* The admission sought was of no substantial importance,
- c.* The party failing to admit had reasonable ground to believe that the party might prevail on the matter, or

d. There was other good reason for the failure to admit.

**9.16(4)** *Failure of party to attend at own deposition or serve answers to interrogatories or respond to request for inspection.* If a party or an officer, director, or managing agent of a party or a person designated under subrule 9.18(5) to testify on behalf of a party fails to appear before the officer who is to take the person's deposition, after being served with a proper notice; or to serve answers or objections to interrogatories submitted under rule 161—9.9(216), after proper service of the interrogatories; or to serve a written response to a request for inspection submitted under rule 161—9.12(216), after proper service of the request, the presiding officer for discovery on motion of the commission may make such orders in regard to the failure as are just, and among others it may take any action authorized under 9.16(2)“b”(1) to (4).

The failure to act described in this subrule may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order as provided by rule 161—9.8(216).

**9.16(5)** *Motions relating to discovery.* No motion relating to depositions or discovery shall be filed or considered by the presiding officer for discovery unless the motion alleges that the movant has made a good-faith but unsuccessful attempt to resolve the issues raised by the motion with counsel for the party or entity whom the motion concerns without intervention of the presiding officer for discovery.

#### **161—9.17(216) Depositions upon oral examination.**

**9.17(1)** *When depositions may be taken.* The commission may take a deposition in an investigation of a complaint of housing discrimination at any time during the pendency of that investigation.

**9.17(2)** *Recording.* The administrative law judge charged with the duty of determining probable cause under Iowa Code subsection 216.15(3) may order that the testimony at such an investigative deposition be recorded by other than stenographic means, in which event the order shall designate the manner of recording the deposition, and may include other provisions to ensure that the recorded testimony will be accurate and trustworthy. If the order is made, the party from whom discovery is sought or the deponent may nevertheless arrange to have a stenographic transcription made at that party's or deponent's own expense. An order of the administrative law judge is not required to record testimony by nonstenographic means if the deposition is also to be recorded stenographically.

**9.17(3)** *Place of deposition.*

a. Oral depositions may be taken only within this state.

b. If the deponent is a party or the officer, partner or managing agent of a party which is not a natural person, the deponent shall be required to submit to examination in Polk County, unless otherwise ordered by the presiding officer for discovery.

**9.17(4)** *Failure to attend; expenses.* If the commission official fails to attend and proceed with a noticed deposition and the party from whom discovery is sought attends in person or by attorney pursuant to the notice, the presiding officer for discovery may order the commission to pay to such party the reasonable expenses incurred by the party and the other party's attorney in attending, including reasonable attorneys' fees.

**9.17(5)** *Depositions by telephone.* Any deposition permitted by these rules may be taken by telephonic means.

When the commission intends to take the deposition of any person upon oral examination by telephonic means, the commission shall give reasonable notice thereof in writing to any party who is to be deposed and to any other deponent. Such notice shall contain all other information required by subrule 9.18(1) and shall state that the telephone conference will be arranged and paid for by the commission. No part of the expense for telephone service shall be taxed as costs.

If the commission desires to present exhibits to the witness during the deposition, copies shall be sent to the deponent and any party who is to be deposed, prior to the taking of the deposition.

Nothing in this rule shall prohibit a party from whom the discovery is sought or counsel for that party or for the deponent from being in the presence of the deponent when the deposition is taken.

**161—9.18(216) Notice for oral deposition.**

**9.18(1)** Whenever the commission desires to take the deposition of any person upon oral examination, the commission shall give reasonable notice in writing to the deponent and any party who is to be deposed. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs.

**9.18(2)** If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.

**9.18(3)** The notice to a party deponent may be accompanied by a request made in compliance with rules 161—9.12(216) and 161—9.13(216) for the production of documents and tangible things at the taking of deposition. The procedure of rule 161—9.13(216) shall apply to the request.

**9.18(4)** No subpoena is necessary to require the appearance of a party for a deposition. Service on the party or the party's attorney of record of notice of the taking of a deposition of the party or of an officer, partner or managing agent of any party who is not a natural person, as provided in 9.18(1), is sufficient to require the appearance of a deponent for the deposition.

**9.18(5)** A notice or subpoena may name as the deponent a public or private corporation or a partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the witness will testify. A subpoena shall advise a nonparty organization of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the organization. This subrule does not preclude taking a deposition by any other procedure authorized in these rules.

**161—9.19(216) Conduct of oral deposition.**

**9.19(1)** *Examination; recording examination; administering the oath; objections.* Examination of witnesses by the commission may proceed as permitted at the hearing. The commission investigator or other officer before whom the deposition is to be taken shall put the witness under oath and shall personally, or by someone acting under the investigator or officer's direction and in the investigator or officer's presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other means ordered in accordance with subrule 9.17(2). All objections made at the time of the examination to the qualifications of the investigator or other officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the investigator or officer upon the deposition. Evidence objected to shall be taken subject to the objections.

**9.19(2)** *Motion to terminate or limit examination.* At any time during the taking of the deposition, on motion of the party being deposed or other deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the presiding officer for discovery may order the commission to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in rule 161—9.8(216). If the order made terminates the examination, it shall be resumed thereafter only upon the order of the presiding officer for discovery. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

If the motion is granted, the presiding officer for discovery shall, after opportunity for hearing, require the commission to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorneys' fees, unless the presiding officer for discovery finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust.

If the motion is denied, the presiding officer for discovery shall, after opportunity for hearing, require the moving party or the attorney advising the motion or both of them to pay to the commission the reasonable expenses incurred in opposing the motion, including attorneys' fees, unless the presiding officer for discovery finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.

If the motion is granted in part and denied in part, the presiding officer for discovery may apportion in a just manner the reasonable expenses incurred in relation to the motion.

**161—9.20(216) Reading and signing depositions.**

**9.20(1)** *Where reading or signing not required.* No oral deposition reported and transcribed by an official court reporter or certified shorthand reporter of Iowa need be submitted to, read or signed by the deponent.

**9.20(2)** *Submission to witness; changes; signing.* In other cases, if and when the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by the witness, unless such examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the witness is ill or dead or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission, the investigator or officer shall sign it and state on the record the fact of the waiver or of the illness, death, or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor. The deposition may then be used as fully as though signed unless on a motion to suppress the tribunal hearing the motion holds that the reason given for the refusal to sign requires rejection of the deposition in whole or in part.

**161—9.21(216) Certification and return; copies.**

**9.21(1)** When the deposition is transcribed, the investigator or other officer shall certify on the deposition that the witness was duly sworn and that the deposition is a true record of the testimony given by the witness. Documents and things produced for inspection during the deposition shall, upon the request of the investigator, be marked for identification and annexed to the deposition, except that:

*a.* The person producing the materials may substitute copies to be marked for identification, if the investigator is provided fair opportunity to verify the copies by comparison with the originals;

*b.* If the person producing the materials requests their return, the investigator shall mark, copy, and, at some time prior to the completion of the investigation, return them to the person producing them. The materials may then be used in the same manner as if annexed to the deposition.

**9.21(2)** Upon payment of reasonable charges therefor, the commission shall furnish a copy of the deposition to the party who was deposed or to the deponent.

**161—9.22(216) Before whom taken.** The officer taking the deposition shall not be a party, a person financially interested in the action, an attorney or employee of any party, an employee of any such attorney, or any person related within the fourth degree of consanguinity or affinity to a party, a party's attorney, or an employee of either of any party.

**161—9.23(216) Deposition subpoena.**

**9.23(1)** The commission may issue subpoenas for persons named in and described in a notice to take depositions under rule 161—9.18(216). Subpoenas may also be issued as provided by statute or by rule 161—3.14(216).

**9.23(2)** No resident of Iowa shall be subpoenaed to attend a deposition out of the county where the deponent resides, or is employed, or transacts business in person.

**161—9.24(216) Costs of taking deposition.** Costs of taking and proceeding to procure a deposition shall be paid by the commission.

**161—9.25(216) Irregularities and objections.**

**9.25(1)** *Notice.* All objections to any notice of taking any depositions are waived unless promptly served in writing upon the commission.

**9.25(2)** *Officer.* Objection to the commission investigator or other officer's qualification to take a deposition is waived unless made before such taking begins, or as soon thereafter as objector knows it or could discover it with reasonable diligence.

**9.25(3) *Taking depositions.*** Errors or irregularities occurring during an oral deposition as to any conduct or manner of taking it, or the oath, or the form of any question or answer, and any other errors which might thereupon have been cured, obviated or removed, are waived unless seasonably objected to during the deposition.

**161—9.26(216) Service of discovery.** Service of documents pertaining to discovery procedures described in this chapter, other than subpoenas, may be accomplished by the same means as in rule 161—4.6(17A).

**161—9.27(216) Appeals.** Appeals from an imposition of sanctions by the presiding officer for discovery under rule 161—9.16(216) are filed and processed in the same manner as appeals under rule 161—4.23(17A). Appeals from other decisions rendered by the presiding officer for discovery are filed and processed in the same manner as appeals under rule 161—4.25(17A).

**161—9.28(216) Representation of commission.** At all discovery hearings, motions, and appeals, including those proceedings before the presiding officer for discovery, the commission may be represented by a member of the attorney general's office.

These rules are intended to implement Iowa Code sections 216.5(13), 216.8 and 216.8A.

**Appendix A****Form 1****Request for Assistance Animal as a Reasonable Accommodation in Housing:**  
**Health Care Professional Form**

Requester's Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ E-mail: \_\_\_\_\_

I, \_\_\_\_\_, intend to request that \_\_\_\_\_

permit me to keep an assistance animal as a reasonable accommodation in housing for my disability. In connection with that application, I am requesting that you complete this form regarding my disability.

\_\_\_\_\_  
Requester's Signature\_\_\_\_\_  
Date**TO BE COMPLETED BY HEALTH CARE PROFESSIONAL**

1. Does the individual identified above have a disability?

 Yes  No

2. If yes, is the need for an assistance animal related to that disability? For example, does or would an assistance animal alleviate one or more of the symptoms or effects of the disability?

 Yes  No

By signing below, the undersigned health care professional/licensee certifies that he/she 1) has met with the patient or client in person or by telemedicine, 2) is sufficiently familiar with the patient or client and the disability, **and** 3) is legally and professionally qualified to make the finding.

Health Care Provider's Name (printed): \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

References: Iowa Code sections 216.8B and 216.8C

Resources: <https://icrc.iowa.gov/>, 515-281-4121, 1-800-457-4416

This document may contain privileged and confidential information and/or protected health information intended solely for the use by the recipient housing provider. Please exercise care to avoid dissemination.

[ARC 4970C, IAB 3/11/20, effective 4/15/20]

[Filed 7/17/92, Notice 6/10/92—published 8/5/92, effective 9/9/92]

[Filed 12/17/92, Notice 9/30/92—published 1/6/93, effective 2/10/93]

[Filed 1/29/93, Notice 11/25/92—published 2/17/93, effective 3/24/93]

[Filed 6/25/99, Notice 5/19/99—published 7/14/99, effective 8/18/99]

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[Filed Emergency ARC 4552C, IAB 7/17/19, effective 6/26/19]

[Filed ARC 4970C (Notice ARC 4551C, IAB 7/17/19), IAB 3/11/20, effective 4/15/20]

CHAPTER 10  
DISCRIMINATION IN PUBLIC ACCOMMODATIONS  
[Prior to 1/13/88, see Civil Rights 240—Ch 7]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

**161—10.1(216) Statement of purpose.** The commission's purpose in adopting these rules is to provide guidelines on what actions or activities may produce a discriminatory impact in public accommodations.

**161—10.2(216) Discrimination prohibited.** No person shall be discriminated against on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability by any public accommodation by:

**10.2(1)** Providing any disposition, service, financial aid, or benefit to an individual which is different, or is provided in a different manner, from that provided to other members of the general public, except to reasonably accommodate a member of the protected classes who otherwise might be totally precluded from receiving a benefit, access to, or participation in a program.

**10.2(2)** Subjecting any individual to segregation or separate treatment in any matter related to that individual's receipt of any disposition, service, financial aid, or benefit provided to other members of the general public.

**10.2(3)** Restricting an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any disposition, service, financial aid, or benefit provided to other members of the general public.

**10.2(4)** Treating an individual differently from others in determining whether that individual satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any disposition, service, financial aid, function, or benefit available to other members of the general public.

**10.2(5)** Denying an individual an opportunity to participate in a program through the provision of service or otherwise afford that individual an opportunity to do so which is different from that afforded to other members of the general public.

[ARC 8744B, IAB 5/5/10, effective 6/9/10]

These rules are intended to implement Iowa Code chapter 216.

[Filed 3/28/79, Notice 12/13/78—published 4/18/79, effective 5/23/79<sup>1</sup>]

[Filed emergency 7/20/79—published 8/8/79, effective 7/20/79]

[Filed 2/27/80, Notice 8/8/79—published 3/19/80, effective 4/23/80]

[Filed 12/15/87, Notice 8/12/87—published 1/13/88, effective 2/17/88]

[Filed 1/29/93, Notice 11/25/92—published 2/17/93, effective 3/24/93]

[Filed ARC 8744B (Notice ARC 8573B, IAB 3/10/10), IAB 5/5/10, effective 6/9/10]

<sup>1</sup> Effective date of Ch 7 delayed by the Administrative Rules Review Committee 70 days. Effective date of 7.2(1) and 7.3 delayed by the Administrative Rules Review Committee until 45 days after convening of the next General Assembly.



CHAPTER 11  
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

**161—11.1(17A,22,216) Definitions.** As used in this chapter:

“*Agency*” means the Iowa civil rights commission.

“*Confidential record*” means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“*Custodian*” means the executive director, or a person lawfully delegated authority by the executive director to act for the agency in implementing Iowa Code chapter 22.

“*Open record*” means a record other than a confidential record.

“*Personally identifiable information*” means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

“*Record*” means the whole or a part of a “public record” as defined in Iowa Code section 22.1.

“*Record system*” means any group of records under the control of the agency from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

**161—11.2(17A,22,216) Statement of policy.** Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

**161—11.3(17A,22,216) Requests for access to records.** Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

**161—11.4(17A,22,216) Access to confidential records.** Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

**161—11.5(17A,22,216) Requests for treatment of a record as a confidential record and its withholding from examination.** Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

**161—11.6(17A,22,216) Procedure by which additions, dissents, or objections may be entered into certain records.** Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

**161—11.7(17A,22,216) Consent to disclosure by the subject of a confidential record.** Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

**161—11.8(17A,22,216) Notice to suppliers of information.** Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

**161—11.9(17A,22,216) Disclosures without the consent of the subject.** Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

**161—11.10(17A,22,216) Routine use.** Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

**161—11.11(17A,22,216) Consensual disclosure of confidential records.** Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

**161—11.12(17A,22,216) Availability of records.** Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

**161—11.13(17A,22,216) Personally identifiable information.** This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 161—11.1(17A,22,216). Unless otherwise stated, the authority for this office to maintain the record is provided by Iowa Code chapter 216, the statutes governing the subject matter of the record, and the enabling statutes of the agency client, where applicable. The record systems maintained by the agency shall include but are not limited to the following:

**11.13(1) Investigatory files.** These files or records contain information collected or generated by Iowa civil rights commission staff or commissioners relating to any step in the complaint process beginning with the consideration or contemplation of filing a complaint up to the issuance of a notice of public hearing. Most of these records are paper files. However, some case management records and other records are in computer form. Those files are commonly indexed by the name of the opposing party. Some files are indexed by subject matter, witness, agency or other category.

**11.13(2) Litigation files.** These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include pleadings, briefs, depositions, discovery material, docket sheets, documents, general correspondence, attorney-client correspondence, attorneys' notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. Most of these records are paper files. However, some case management records and other records are in computer form. The files are generally maintained by division and are commonly indexed by the name of the opposing party. Some files are indexed by subject matter, witness, agency, or other category. The files contain materials which are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court which maintains the official copy.

**11.13(3) Records.** State of Iowa files are a subpart of the complaint file system and contain general information on an individual or business including correspondence, investigative information, agency subpoenas, demands for information and responses. Work product information contained in the state of Iowa file is considered confidential. The records are subject to the same confidentiality provisions as are complaint files.

**11.13(4) Personnel files.** The Iowa civil rights commission and individual divisions maintain files containing information about employees and applicants for positions with the agency. The files contain payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code section 22.7(11).

**161—11.14(17A,22,216) Other groups of records.** This rule describes groups of records maintained by the agency other than record systems as defined in rule 161—11.1(17A,22,216). The records listed may contain information about individuals. Unless otherwise designated, the authority for this office to maintain the record is provided by Iowa Code chapter 216, the statutes governing the subject matter of the record. Those privileges may render some or all of the following information confidential whether or not asserted in the description of the record. All records are stored both on paper and in automated data processing systems unless otherwise noted.

**11.14(1) Administrative records.** This includes documents concerning budget, property inventory, purchasing, yearly reports, office policies for employees, time sheets, printing and supply requisitions.

**11.14(2) Publications.** The office receives a number of books, periodicals, newsletters, government documents, etc. These materials would generally be open to the public but may be protected by copyright law. Most publications of general interest are available in the state law library.

**11.14(3) Office publications.** This office issues a variety of materials including press releases, statistical reports, Iowa civil rights commission case reports and annual reports.

**11.14(4) Rule-making records.** Official documents executed during the promulgation of agency rules and public comments are available for public inspection.

**11.14(5) Office manuals.** Information in office manuals such as the investigator handbook are available for public inspection.

**11.14(6) All other records.** Records are open if not exempted from disclosure by law.

**161—11.15(17A,22,216) Data processing systems.** The data processing systems used by the agency compare personally identifiable information in one record system with personally identifiable information in another record system.

**161—11.16(17A,22,216) Applicability.** Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

**161—11.17(17A,22,216) Access to file information.** Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

[Filed emergency 5/13/88—published 6/1/88, effective 7/1/88]

[Filed 12/22/89, Notice 6/14/89—published 1/10/90, effective 2/14/90]

[Filed 1/29/93, Notice 11/25/92—published 2/17/93, effective 3/24/93<sup>1</sup>]

[Filed ARC 8733B (Notice ARC 8560B, IAB 3/10/10), IAB 5/5/10, effective 6/9/10]

[Content rescinded by 2026 Iowa Acts, Senate File 2463, section 4—editorially removed in IAC Supplement 7/8/26, effective 7/1/26]

<sup>1</sup> Effective date of 161—11.17(2), 11.17(4) and 11.17(5) delayed 70 days by the Administrative Rules Review Committee at its meeting held March 9, 1993; delayed until adjournment of the 1994 Session of the General Assembly by this Committee May 11, 1993.



CHAPTERS 12 to 14  
Reserved



CHAPTER 15  
MISCELLANEOUS PROVISIONS  
[Prior to 1/13/88, see Civil Rights 240—Ch 11]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

**161—15.1(216) Partial invalidity.** If any provision of commission rules shall be held invalid, the remainder of the rules shall not be affected thereby. The invalidity of any of the rules with respect to a particular person or under particular circumstances shall not affect their application to other persons or different circumstances.

**161—15.2(216) Availability of rules.** Copies of commission rules shall be available to the public on request.

**161—15.3(17A,ExecOrd11) Waiver of requirements imposed by commission rule.** Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

These rules are intended to implement Iowa Code chapter 216.

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[Content rescinded by 2026 Iowa Acts, Senate File 2463, section 4—editorially removed in IAC Supplement 7/8/26, effective 7/1/26]



CHAPTERS 16 to 2505  
Reserved



CHAPTER 2506  
CONTESTED CASES

Chapter rescission date pursuant to Iowa Code section 17A.7: 6/30/31

The Uniform Rules on Agency Procedure, 7—Chapters 2500 through 2506, are rules generally applicable to agencies pursuant to Iowa Code section 17A.24. Additions, exceptions, or amendments to the corresponding chapter are below.

[ARC 0377D, IAB 6/24/26, effective 6/30/26]

**161—2506.26(17A) Final decision.**

**2506.26(2)** When the commission does not preside over receiving evidence, the presiding officer will issue a proposed decision. The proposed decision becomes the final decision of the commission without further proceedings unless there is an appeal of the proposed decision to the commission, or review of the proposed decision on the commission's own motion, in accordance with rule 161—2506.27(17A).

[ARC 0377D, IAB 6/24/26, effective 6/30/26]

**161—2506.27(17A) Appeals and review.**

**2506.27(1)** *Appeal by party.* Any adversely affected party may appeal a proposed decision to the commission within 30 days after the decision is issued.

**2506.27(2)** *Review.* The commission may initiate review of a proposed decision on its own motion at any time within 30 days following the issuance of such a decision.

**2506.27(3)** *Notice of appeal.* An appeal of a proposed decision is initiated by filing a timely notice of appeal with the commission. The notice of appeal is to be signed by the appealing party or a representative of that party and contain a certificate of service. The notice will specify:

- a. The parties initiating the appeal;
- b. The proposed decision or order appealed from;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- d. The relief sought; and
- e. The grounds for relief.

**2506.27(4)** *Requests to present additional evidence.* A party may request to submit additional evidence. The request must be filed with the notice of appeal, if by an appealing party, or within 14 days of service of the notice of appeal, if by a non-appealing party. The commission will take additional evidence only if the party establishes that the evidence is material, that good cause existed for its not being presented at the hearing, and that the party has not waived the right to present the evidence. The commission may remand a case to the presiding officer to take additional evidence or may itself preside at the taking of additional evidence.

**2506.27(5)** *Scheduling.* The commission will issue a schedule for consideration of the appeal.

**2506.27(6)** *Briefs and arguments.* Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs will include any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument will be filed with the briefs. The commission may resolve the appeal on the briefs or provide an opportunity for oral argument. The commission may shorten or extend the briefing period as appropriate.

[ARC 0377D, IAB 6/24/26, effective 6/30/26]

**161—2506.29(17A) Stays of commission actions.**

**2506.29(1)** *When available.*

a. Any party may petition the commission to stay the effect of an order, or for other temporary remedies, pending review of the order by the commission. The petition must be filed with the notice of appeal and must state the reasons justifying a stay or other temporary remedy. The commission may rule on the stay or authorize the presiding officer to do so.

*b.* Any party may petition the commission for a stay, or other temporary remedies, pending judicial review of all or part of that proceeding. The petition must state the reasons justifying a stay or other temporary remedy.

**2506.29(2)** *When granted.* The presiding officer or commission will consider the factors listed in Iowa Code section 17A.19(5)“c” when deciding whether to grant the stay or other temporary remedy.

**2506.29(3)** *Vacation.* The presiding officer or commission may vacate a stay or other temporary remedy on the motion of the commission or any other party.

[ARC 0377D, IAB 6/24/26, effective 6/30/26]

[Filed Emergency ARC 0377D, IAB 6/24/26, effective 6/30/26]