

CHILD ADVOCACY BOARD[489]

[Prior to 3/23/88, see Foster Care Review Board, State[445];
transferred to Inspections and Appeals Department “umbrella” pursuant to 1986 Iowa Acts, chapter 1245, section 549]
[Former Foster Care Review Board[489] renamed Child Advocacy Board[489] by 2002 Iowa Acts, chapter 1162]

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CHAPTER 1
PURPOSE AND FUNCTION
[Prior to 3/23/88, see Foster Care Review Board[445] Ch 1]

489—1.1(237) Purpose. The child advocacy board is established by Iowa Code section 237.16 to carry out all duties described in Iowa Code section 237.18. The board is charged with the responsibility of establishing a foster care registry, establishing local review boards to review cases of children in foster care, establishing a training program for members of the state board, establishing procedures and protocols for administering the local foster care review board and court appointed special advocate program, receiving and administering funds received for the state board's programs and annually reporting findings and making recommendations to the governor, the general assembly, the department, child-placing agencies, and the state court administrator for dissemination to the supreme court and the chief judge of each judicial district.

1.1(1) Location. The child advocacy board is located in the Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; telephone (866)448-4608. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, except on state holidays. The child advocacy board is created within the department of inspections and appeals.

1.1(2) Definitions. The following definitions apply to the rules of the child advocacy board.

"Case permanency plan" means the same as defined in Iowa Code section 232.2(4), except the plan shall also include, but not be limited to:

1. Time frames to meet the stated permanency goal and short-term objectives.
2. The care and services that will be provided to the child, biological parents, the child's fictive kin, and foster parents.
3. The efforts to place the child with a relative or fictive kin.
4. The rationale for an out-of-state placement, and the efforts to prevent such placement, if the child has been placed out of state.

"Child receiving foster care" means a child defined in Iowa Code section 237.15(2) who is described by any of the following circumstances:

1. The child's foster care placement is the financial responsibility of the state pursuant to Iowa Code section 234.35.
2. The child is under the guardianship of the department.
3. The child has been involuntarily hospitalized for mental illness pursuant to Iowa Code chapter 229.
4. The child is at risk of being placed outside the child's home, the department or court is providing or planning to provide services to the child, and the department or court has requested the involvement of the state or local board.

"Court appointed special advocate" means a person duly certified by the child advocacy board created in Iowa Code section 237.16 for participation in the court appointed special advocate program and appointed by the court to carry out the duties pursuant to Iowa Code section 237.24 as enacted by 2022 Iowa Acts, House File 2507, section 65.

"Department" means the department of human services.

"Family" means the social unit consisting of the child and the biological or adoptive parent, stepparent, brother, sister, stepbrother, stepsister, and grandparent of the child.

"Fictive kin" means an adult person who is not a relative of a child but who has an emotionally positive significant relationship with the child or the child's family.

"Local board" means a local citizen foster care review board created pursuant to Iowa Code section 237.19.

"Person or court responsible for the child" means the department, including but not limited to the department of human services, agency, or individual who is the guardian of a child by court order issued by the juvenile or district court and has the responsibility of the care of the child, or the court having jurisdiction over the child.

“*State board*” means the child advocacy board created pursuant to Iowa Code section 237.16.
[ARC 3054C, IAB 5/10/17, effective 6/14/17; ARC 6676C, IAB 11/16/22, effective 12/21/22]

This rule is intended to implement Iowa Code sections 17A.3, 237.15, and 237.16.

[Filed emergency 5/30/85—published 6/19/85, effective 5/30/85]

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[Filed ARC 6676C (Notice ARC 6544C, IAB 9/21/22), IAB 11/16/22, effective 12/21/22]

CHAPTER 2
RULES AND OPERATION FOR THE STATE BOARD
[Prior to 3/23/88, see Foster Care Review Board[445] Ch 2]

489—2.1(237) Membership and term.

2.1(1) *Membership and terms.* The child advocacy board is created within the department of inspections and appeals. The state board consists of nine members appointed by the governor, subject to confirmation by the senate and directly responsible to the governor. One member shall be an active court appointed special advocate volunteer, one member shall be an active member of a local citizen foster care review board, and one member shall be a judicial branch employee or judicial officer appointed from nominees submitted by the judicial branch. The appointment is for a term of four years that begins and ends as provided in Iowa Code section 69.19. Vacancies on the state board shall be filled in the same manner as original appointments are made. An employee of the department of human services or of the department of inspections and appeals, an employee of a child-placing agency, an employee of an agency with which the department of human services contracts for services for children under foster care, a foster parent providing foster care, or an employee of the district court is not eligible to serve on the state board. However, the judicial branch employee or judicial officer appointed from nominees submitted by the judicial branch in accordance with Iowa Code section 237.16(1) shall be eligible to serve on the state board.

2.1(2) *Officers.* The members of the state board shall annually select a chairperson, vice chairperson, and other officers the members deem necessary. The members may be entitled to receive reimbursement for actual and necessary expenses incurred in the performance of their duties, subject to available funding. Each member of the state board may also be eligible to receive compensation as provided in Iowa Code section 7E.6.

2.1(3) *Meetings.* The state board shall meet at least twice a year. Notice of a meeting is published at least seven days in advance of the meeting and will be provided to interested persons upon request. The notice shall contain the specific date, time and place of the meeting. The agenda will be made available to any interested person not less than seven days in advance of the meeting. All meetings will be open to the public, pursuant to Iowa Code chapter 21, unless a closed session is voted by a quorum. The operation of the state board meetings will be governed by the following rules of procedure.

a. A quorum shall consist of a majority of the members. When a quorum is present, a position is carried by an affirmative vote of a majority of the members present.

b. Minutes of state board meetings are prepared and are available at the board office for inspection during office hours. Copies may be obtained without charge by contacting the office.

c. At each meeting the state board shall set the time, date and place of the next meeting.

(1) Notice of the meeting shall be given pursuant to Iowa Code chapter 21.

(2) When the chairperson of the state board determines that a special or electronic meeting is required, the meeting shall be held in accordance with Iowa Code section 21.4 or 21.8.

(3) Persons wishing to appear before the state board shall submit the request to the state board office not less than ten days prior to the meeting. Presentations may be made at the discretion of the chairperson and only upon matters appearing on the agenda. Persons wishing to submit written material should do so at least ten days in advance of the scheduled meeting to ensure that state board members have adequate time to receive and evaluate the material.

(4) Cameras and recording devices may be used at open meetings provided they do not obstruct the meeting. The presiding officer may request a person using such a device to discontinue its use when it is obstructing the meeting. If a person fails to comply with this request, the presiding officer shall order that person excluded from the meeting.

(5) The presiding officer may exclude any person from the meeting for repeated behavior that disrupts or obstructs the meeting.

(6) Cases not covered by these rules shall be governed by Robert's Rules of Order.

2.1(4) Powers and duties. The powers and duties of the state board are enumerated in Iowa Code section 237.18.

This rule is intended to implement Iowa Code sections 17A.3, 237.16, and 237.18.
[ARC 3055C, IAB 5/10/17, effective 6/14/17; ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—2.2(237) Administrator.

2.2(1) The state board appoints an administrator for the child advocacy board. The administrator is responsible for the ongoing administration of the state and local boards' activities and of the court appointed special advocate program.

2.2(2) The administrator:

a. Applies for and administers funds necessary for operations of the child advocacy board and the foster care review board and the court appointed special advocate program.

b. Employs, discharges, trains, and supervises foster care review board and court appointed special advocate program employees.

c. Develops and implements policies and procedures needed to implement requirements of federal law and regulations and state law and administrative rules.

d. Develops and recommends administrative rules for promulgation by the state board as needed to govern the operation of the state board, the foster care review board program and the court appointed special advocate program.

e. Ensures training is provided for state and local board members, court appointed special advocates and coaches and any other volunteers supporting the state board's programs.

f. Ensures that relationships are developed and maintained between the local board and judges, juvenile court referees, local departments, juvenile court services, and advocacy groups.

g. Coordinates efforts to ensure community awareness of state and local boards and the court appointed special advocate program.

h. Works closely with allied agencies and associations to ensure that efforts relating to state and local boards and the court appointed special advocate program are coordinated and consistent.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18(5).
[ARC 3055C, IAB 5/10/17, effective 6/14/17; ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—2.3(237) Foster care registry. The state board shall establish a registry of the placements of all children receiving foster care. The agency responsible for placement shall notify the state board of each placement in accordance with written protocols adopted pursuant to Iowa Code section 237.16(4) as enacted by 2022 Iowa Acts, House File 2390, section 3. The notification shall include information identifying the child receiving foster care and placement information for that child.

This rule is intended to implement Iowa Code sections 17A.3 and 237.17.
[ARC 3055C, IAB 5/10/17, effective 6/14/17; ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—2.4(237) Confidentiality of records—penalty. The state and local boards, court appointed special advocates and coaches and child advocacy employees shall adhere to the confidentiality requirements established in Iowa Code section 237.21.

This rule is intended to implement Iowa Code sections 17A.3 and 237.21.
[ARC 3055C, IAB 5/10/17, effective 6/14/17]

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CHAPTER 3
LOCAL FOSTER CARE REVIEW BOARDS
[Prior to 3/23/88, see Foster Care Review Board[445] Ch 3]

489—3.1(237) Local boards. The child advocacy board shall establish local foster care boards throughout the state. The number of local boards needed and established shall be determined by the child advocacy board based on the number of children in foster care and available funding.

3.1(1) The child advocacy board is responsible for establishment of policy and procedures consistent with the Iowa Code. Local boards are required to comply with policies and procedures. If a local board does not agree with a policy or procedure, the local board may bring that issue to the child advocacy board for discussion and request a change by the board. If the child advocacy board upholds the policy, local boards must comply.

3.1(2) Day-to-day implementation of policy is delegated by the child advocacy board to administrative staff. Staff is responsible for bringing questions about policy issues to the child advocacy board for clarification or changes of policy.

3.1(3) Any written communication from a local review board or local board member, in the member's capacity as a board member, to state officials or media shall be sent to the child advocacy board office and reviewed by the administrator prior to its release.

This rule is intended to implement Iowa Code sections 17A.3 and 237.19.
[ARC 2322C, IAB 12/23/15, effective 1/27/16; ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—3.2(237) Membership.

3.2(1) The child advocacy board delegates responsibility to the administrator to develop and for local board coordinators to implement an application, recruitment, screening and training process for appointments to vacated local board positions:

a. The process includes the coordinator's conducting a personal interview with the applicant, obtaining character references, and completing background checks on the applicant.

b. The process will include consultation between the coordinator and coordinator's direct supervisor.

3.2(2) A person employed by the department of human services or the judicial department, an employee of an agency with which the department of human services contracts for services for children under foster care, a foster parent providing foster care, or a child-placing agency shall not serve on a local board.

3.2(3) Vacancies on a local board shall be filled in the same manner as original appointments are made.

3.2(4) The term of a local board member's appointment shall not exceed four years. The child advocacy board shall fix the tenure of individual appointments so that no more than one-third of the membership's terms expire in a given year. A local board member may serve continuous successive terms.

3.2(5) The administrator shall develop a local board member evaluation process. The local board coordinator shall complete the evaluation process at least once for each local board member during the member's four-year term. The local board coordinator, in consultation with the coordinator's direct supervisor, shall consider the results of the evaluation when determining whether to approve reappointment of the local board member to a successive term. Prior to any reappointment, the member shall complete updated background checks and a progress evaluation.

3.2(6) A quorum is established when a majority of local review board members or alternates are present. A quorum shall be present before cases can be reviewed and recommendations are formulated.

This rule is intended to implement Iowa Code sections 17A.3 and 237.19.
[ARC 2322C, IAB 12/23/15, effective 1/27/16; ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—3.3(237) Removal of a local board member. Rescinded ARC 6676C, IAB 11/16/22, effective 12/21/22.

489—3.4(237) Duties of local board.

3.4(1) Local board reviews. At least every six months, the case of each child receiving foster care assigned to a local board shall be reviewed in accordance with the written protocols adopted pursuant to Iowa Code section 237.16(4) as enacted by 2022 Iowa Acts, House File 2390, section 3, to determine whether satisfactory progress is being made towards the goals of the case permanency plan pursuant to Iowa Code section 237.2. Whenever possible, reviews shall be conducted prior to court review of the cases.

a. Each review will consider the following:

(1) The past, current, and future status of the child and placement as shown through the case permanency plan and case progress reports submitted by the agency responsible for the placement of the child and other information the board may require.

(2) The efforts of the agency responsible for the placement of the child to locate and provide services to the child's biological or adoptive parents, legal guardians, or fictive kin providing the majority of the child's daily food, lodging, and support.

(3) The efforts of the agency responsible for the placement of the child to facilitate the return of the child to the home or to find an alternative permanent placement other than foster care if reunion with the parent or previous custodian is not feasible. The agency shall report to the board all factors which either favor or mitigate against a decision or alternative with regard to these matters.

b. The local board may request an investigation of any problems, solutions, or alternatives with regard to the best interest of the child or of the state.

c. Each review shall include any oral, written, or recorded statements submitted by any person notified pursuant to Iowa Code section 237.20(4).

d. A person who gives an oral statement has the right to representation by counsel at the review. An oral statement may, upon the request of an interested party or upon motion of the local board, be given in a private setting. Local board questions shall pertain to the permanency plan and shall not include issues that do not pertain to the permanency plan.

3.4(2) Findings and recommendations. The local board shall submit the findings and recommendations to the appropriate court and the department within 15 days after the review. The findings and recommendations shall include the proposed date of the next review by the local board. The report to the court shall include information regarding the permanency plan and the progress in attaining the permanency goals. The local board shall send a copy of the findings and recommendations to the persons specified in subrule 3.4(3) within 15 days following the review.

3.4(3) The local board shall notify the following persons at least ten days prior to the review of the case of a child receiving foster care:

a. The person, court, or agency responsible for the child.

b. The parent or parents of the child unless termination of parental rights has occurred pursuant to Iowa Code section 232.117 or chapter 600A.

c. The foster care provider of the child.

d. The child receiving foster care, if the child is 14 years of age or older. The child shall be informed of the review's purpose and procedure, and of the right to have a guardian ad litem present.

e. The guardian ad litem of the foster child. The guardian ad litem shall be eligible for compensation through Iowa Code section 232.141(2).

f. The department.

g. The county attorney.

h. The person providing services to the child.

i. The child's attorney.

j. Any intervenor.

The notice shall include a statement that the person notified has the right to representation by counsel at the review.

3.4(4) The local board shall encourage placement of the child in the most appropriate setting reflecting the provisions of Iowa Code chapter 232.

This rule is intended to implement Iowa Code sections 17A.3 and 237.20.
[ARC 2322C, IAB 12/23/15, effective 1/27/16; ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—3.5(237) Local board coordinator. Rescinded ARC 6676C, IAB 11/16/22, effective 12/21/22.

489—3.6(237) Children eligible for review.

3.6(1) To be eligible for review, the child shall meet the requirements set forth in Iowa Code sections 234.1(2), 234.35 and 237.15.

3.6(2) If the child is not receiving foster care when the six-month review is scheduled, the review may be held if the child has received foster care for a minimum of two months during that six-month period.

3.6(3) If parental rights are terminated, the child's case will continue to be reviewed every six months until the child is placed in an adoptive home and the adoption is finalized.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18.
[ARC 6676C, IAB 11/16/22, effective 12/21/22]

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CHAPTER 4
COURT APPOINTED SPECIAL ADVOCATE PROGRAM

489—4.1(237) Purpose. The child advocacy board is required by Iowa Code section 237.18 to establish procedures and protocols for administering the court appointed special advocate program.

4.1(1) Definitions.

“Administrator” means the person selected by the child advocacy board to lead, direct and manage the staff and programs established by the board.

“Certified,” when used as a descriptor of a court appointed special advocate, means that an applicant has been determined by the child advocacy board to have the required qualifications to become a court appointed special advocate and has completed the application requirements, background checks, screening and selection process and training established pursuant to the rules in this chapter.

“Coach” or *“CASA coach”* means a duly certified court appointed special advocate volunteer who has received additional training to assist the coordinator by overseeing facets of the court appointed special advocate’s case work.

“Coordinator” means the staff member of the child advocacy board who is responsible for planning and implementation of the court appointed special advocate program in a county or cluster of counties in the state.

“Court appointed special advocate” or *“CASA volunteer”* or *“CASA”* or *“advocate”* means a person who is duly certified by the child advocacy board for participation in the court appointed special advocate program and appointed by the court to represent the interest of a child in any judicial proceeding to which the child is a party or is called as a witness or relating to any dispositional order involving the child resulting from the proceeding. Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the duties of a court appointed special advocate with respect to a child pursuant to Iowa Code section 237.24 as enacted by 2022 Iowa Acts, House File 2390, section 15, shall include the following:

1. Conducting in-person interviews with the child every 30 days, if the child’s age is appropriate for the interview, and interviewing each parent, guardian, or other person having custody of the child, if authorized by counsel.
2. Visiting the home, residence, or both home and residence of the child and any prospective home or residence of the child, including each time placement is changed.
3. Interviewing any person providing medical, mental health, social, educational, or other services to the child.
4. Obtaining firsthand knowledge, if possible, of the facts, circumstances, and parties involved in the matter in which the court appointed special advocate is appointed.
5. Attending any depositions, hearings, and trial proceedings in the matter in which the court appointed special advocate is appointed for the purpose of supporting the child and advocating for the child’s protection.
6. Assisting the transition committee in the development of a transition plan if the child’s case permanency plan calls for the development of a transition plan.
7. Submitting a written report to the juvenile court and to each of the parties identified in Iowa Code section 237.21(4) as amended by 2022 Iowa Acts, House File 2390, section 13, prior to each court hearing, unless otherwise ordered by the court. The report shall include, but not be limited to, the identified strengths and concerns of the child and the child’s family, along with recommendations about the child’s placement and best interest.

4.1(2) Program mission. CASA of Iowa trains and supports community volunteers to advocate for a safe and permanent home for children who have experienced abuse and neglect, and works collaboratively to ensure their voice is heard.

4.1(3) Program goal. The CASA program will provide certified advocates for every child who has experienced abuse or neglect and for whom an advocate is authorized by an Iowa court.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18.

[ARC 1375C, IAB 3/19/14, effective 4/23/14; ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—4.2(237) Program requirements.**4.2(1) *Establishing additional procedures and protocols.***

a. The state board is responsible for establishment of procedures and protocols consistent with the Iowa Code.

b. Responsibility is delegated by the state board to the administrator to establish and submit to the board for approval a program policy and procedures manual that provides detailed guidance to child advocacy board staff and volunteers on application of these rules and the statutes that govern the operation of the court appointed special advocate program.

c. Child advocacy board staff and volunteers are required to comply with the protocols and procedures established by the state board and the provisions of the policy and procedures manual established by the administrator and approved by the board.

d. Day-to-day implementation of program policy is delegated by the state board to administrative staff. Staff is responsible for bringing questions about policy issues to the state board for clarification or changes of state policy.

4.2(2) *Operation requirements.*

a. The state board delegates responsibility to the administrator to hire, train, and manage staff throughout the state to implement CASA programming. The administrator shall determine the number of court appointed special advocates or coaches an individual coordinator may supervise.

b. The state board delegates responsibility to the administrator to provide additional information or guidance in the program's policy and procedures manual regarding the analysis of applicant qualifications and requirements for the final selection of CASA volunteers and coaches.

c. The coordinator is responsible for recruiting, screening, selecting, training and supervising court appointed special advocates.

d. The CASA selection is made in a manner that provides the best match available between the knowledge, skills, abilities, and availability of the advocate and the needs of the child. The assignments shall be made in a manner that avoids conflicts of interest, risk to the child's or advocate's safety, and jeopardy to the program's integrity.

e. Upon selection of the CASA who will serve on an individual case, the court and all interested parties are notified of the selection.

f. The selected CASA continues to serve on the case until the assignment is terminated by the court.

4.2(3) *CASA advocate qualifications.* Potential coaches and advocates shall meet the following qualifications:

a. Possess a genuine interest in advocating for children and their rights and needs.

b. Have availability to complete mandatory duties.

c. Commit to serve on a case until terminated by the court.

d. Have the ability to interact with persons involved in the child welfare system.

e. Have the ability to communicate effectively both in verbal and written presentations.

f. Be at least 19 years of age or older.

g. Not be a person employed by the state board, the department of human services, the district court, or an agency with which the department of human services contracts for services for children.

h. Agree to use the child advocacy board's data management system for case work.

4.2(4) *Application requirements for CASA volunteers.* All CASA volunteer applicants shall complete the following requirements:

a. Submit a program application to the program office.

b. Provide the names and addresses of at least three nonrelative personal references.

c. Participate in at least one personal interview with the local coordinator.

d. Complete mandatory CASA preservice training.

e. Take a confidentiality oath, administered by the presiding juvenile court judge, or designee, for whom the CASA will be performing official duties.

f. Authorize a release of information for the CASA program to conduct a complete criminal history check of the applicant's background, including, but not limited to, checking records in the court

jurisdiction in which the applicant has resided, state criminal records, Federal Bureau of Investigation or other national criminal database, sex offender registry, child abuse registry, and social security number verification. Applicants who refuse to sign required background check releases will not be considered for the CASA program.

g. Individuals with a negative background check finding may be approved to be a court appointed special advocate in accordance with the CASA of Iowa child abuse registry/criminal background check exemption policy.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18.
[ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—4.3(237) Training. All child advocacy board staff and court appointed special advocate volunteers shall complete preservice and continuing education requirements.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18.
[ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—4.4(237) Adherence to national guidelines. The National Court Appointed Special Advocate/Guardian ad Litem Association for Children has established a national quality assurance system for CASA programs. The primary goal of the system is to strengthen CASA organizations and support their efforts to provide high-quality child advocacy and achieve the maximum level of excellence. CASA of Iowa shall continue to maintain compliance with the standards and, within the limits of available funding, shall deploy resources to maintain compliance in the future.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18.
[ARC 1375C, IAB 3/19/14, effective 4/23/14; ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—4.5(237) Children eligible for assignment of a court appointed special advocate. CASA of Iowa serves any child for whom the court appoints a court appointed special advocate as long as the resources to do so are available.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18.
[ARC 1375C, IAB 3/19/14, effective 4/23/14; ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—4.6(237) Annual program report. The child advocacy board shall issue an annual report to the general assembly, the governor and the supreme court. The report shall provide information about the number of volunteers providing service through the court appointed special advocate program, the number of children served by the program, and the benefits children and their families have obtained from the program.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18.
[ARC 1375C, IAB 3/19/14, effective 4/23/14]

[Filed ARC 1375C (Notice ARC 1285C, IAB 1/8/14), IAB 3/19/14, effective 4/23/14]
[Filed ARC 6676C (Notice ARC 6544C, IAB 9/21/22), IAB 11/16/22, effective 12/21/22]

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

489—5.1(22) Definitions. As used in this chapter:

“*Agency*” means the child advocacy board.

“*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 an agency or a person lawfully delegated authority by the agency to act for the agency in implementing Iowa Code chapter 22.

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

“*Personally identifiable information*” in these rules 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, that is owned by or in the physical possession of this agency.

“*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.

[ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—5.2(22) Statement of policy. The purpose of this chapter is to facilitate broad public access to open records. It also seeks to facilitate sound agency determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. This agency is committed to the policies set forth in Iowa Code chapter 22; agency staff shall cooperate with members of the public in implementing the provisions of that chapter.

[ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—5.3(17A,22) Requests for access to records.

5.3(1) Location of record. A request for access to a record should be directed to the child advocacy board or the particular agency office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to the Child Advocacy Board, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083. If a request for access to a record is misdirected, agency personnel will promptly forward the request to the appropriate person within the agency.

5.3(2) Office hours. Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

5.3(3) Fees.

a. When charged. The agency may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

b. Copying and postage costs. Price schedules for published materials and for photocopies of records supplied by the agency shall be prominently posted in agency offices. Copies of records may be made by or for members of the public on agency photocopy machines or from electronic storage systems at cost as determined and posted in agency offices by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

c. Supervisory fee. An hourly fee may be charged for actual agency expenses in supervising the examination and copying of requested records when the supervision time required is in excess of one hour. The custodian shall prominently post in agency offices the hourly fees to be charged for supervision

of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of an agency clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function.

d. Advance deposits.

(1) When the estimated total fee chargeable under this subrule exceeds \$25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

[ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—5.4(22) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 489—5.3(17A,22).

5.4(1) Proof of identity. A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

5.4(2) Requests. The custodian may require a request to examine and copy a confidential record to be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

5.4(3) Notice to subject of record and opportunity to obtain injunction. After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

5.4(4) Request denied. When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

- a.* The name and title or position of the custodian responsible for the denial; and
- b.* A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

5.4(5) Request granted. When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

[ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—5.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order, to refuse to disclose that record to members of the public.

5.5(1) Persons who may request. Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order, authorizes the custodian to treat the record as a confidential record, may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

5.5(2) Request. A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the

legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as such a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the agency by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

5.5(3) *Failure to request.* Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the agency does not request that it be withheld from public inspection under Iowa Code sections 22.7(3) and 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

5.5(4) *Timing of decision.* A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

5.5(5) *Request granted or deferred.* If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

5.5(6) *Request denied and opportunity to seek injunction.* If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, such a record shall not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

[ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—5.6(22) Procedure by which a subject may have additions, dissents, or objections entered into the record. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any agency proceeding. Requester shall send the request to review such a record or the written statement of additions, dissents, or objections to the custodian agency. The request to review such a record or the written statement of such a record of additions, dissents, or objections must be dated and

signed by requester, and shall include the current address and telephone number of the requester or the requester's representative.

[ARC 1375C, IAB 3/19/14, effective 4/23/14; ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—5.7(17A,22) Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed (and, where applicable, the time period during which the record may be disclosed). The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. (Additional requirements may be necessary for special classes of records.) Appearance of counsel before the agency on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the agency to disclose records about that person to the person's attorney.

[ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—5.8(17A,22) Notice to suppliers of information. When the agency requests a person to supply information about that person, the agency shall notify the person of the use that will be made of the information, which persons outside the agency might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally, or by other appropriate means.

[ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—5.9(22) Disclosures without the consent of the subject.

5.9(1) Open records are routinely disclosed without the consent of the subject.

5.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

- a. For a routine use as defined in rule 489—5.10(22) or in the notice for a particular system.
- b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.
- c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.
- d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.
- e. To the legislative services agency under Iowa Code section 2A.3.
- f. Disclosures in the course of employee disciplinary proceedings.
- g. In response to a court order or subpoena.

[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—5.10(22) Routine use. "Routine use" means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

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

1. Disclosure to those officers, employees, agents, and child advocacy board members defined in Iowa Code section 237.18 of the agency or the originating agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

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

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

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

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

[ARC 1375C, IAB 3/19/14, effective 4/23/14; ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—5.11(22) Consensual disclosure of confidential records.

5.11(1) *Consent to disclosure by a subject individual.* The subject may consent in writing to agency disclosure of confidential records as provided in rule 489—5.7(22).

5.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

5.11(3) *Obtaining information from a third party.* The child advocacy board requests personally identifiable information from third parties during the course of its authorized reviews. Requests to third parties for this information involve the release of confidential identifying information.

[ARC 1375C, IAB 3/19/14, effective 4/23/14; ARC 6676C, IAB 11/16/22, effective 12/21/22]

489—5.12(22) Release to subject.

5.12(1) A written request to review confidential records may be filed by the subject of the record. The agency need not release the following records to the subject:

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

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

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

d. Others authorized by law.

5.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—5.13(22) Availability of records.

5.13(1) *General.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

5.13(2) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 72.3)

b. Tax records made available to the agency.

c. Exempt records under Iowa Code section 22.7.

d. Minutes of closed meetings of a government body. (Iowa Code section 21.5(4))

e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1) "d."

f. Those portions of department staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by department staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

- (1) Enable law violators to avoid detection;
- (2) Facilitate disregard of requirements imposed by law; or
- (3) Give a clearly improper advantage to persons who are in an adverse position to the agency.

(Iowa Code sections 17A.2 and 17A.3)

g. Case records and files of the children in care.

h. The foster care registry which is a computerized tracking system of the children in care.

i. Any other records made confidential by law.

Iowa Code section 237.21 contains specific authority.

[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—5.14(22) Personally identifiable information—child advocacy board. Transferred to 441—9.17(22), IAC Supplement 6/14/23.

These rules are intended to implement Iowa Code sections 237.15 to 237.22, 22.11, and 22.7.

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