

PAROLE BOARD[205]

Rules transferred from agency number 615 to 205 to conform with the reorganization numbering scheme in general.

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CHAPTER 1
ORGANIZATION AND GENERAL ADMINISTRATION

[Prior to 2/22/89, Parole, Board of[615] Chs 1 and 2]

205—1.1(904A) Board description.

1.1(1) The board of parole is established by Iowa Code chapter 904A and consists of five members, including a chairperson and vice chairperson.

1.1(2) Requirements for the composition of the board and the selection of a chairperson, a vice chairperson, and board members are set out in Iowa Code chapter 904A.

1.1(3) As used in the rules of the board of parole, the term “board” means the Iowa board of parole.
[ARC 8436C, IAB 12/11/24, effective 1/15/25]

205—1.2(904A) Board responsibilities. The statutory responsibilities of the board are set out in Iowa Code chapter 904A.

[ARC 8436C, IAB 12/11/24, effective 1/15/25]

205—1.3(904A) Business location and hours. The board’s business office address is Jessie Parker Building, 510 East 12th Street, Des Moines, Iowa 50319; telephone 515.725.5757. Business hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

[ARC 8436C, IAB 12/11/24, effective 1/15/25]

205—1.4(904A) Board meetings.

1.4(1) Meetings. The board may conduct the following meetings:

a. Business meeting. The board may meet each month to consider rules, procedures and other matters.

b. Public hearing. The board may conduct a public hearing to solicit input and comment on parole and work release procedures.

c. Board session. Board sessions will be held each month at any location designated by the chairperson. A board session may include:

- (1) Parole and work release case reviews;
- (2) Parole and work release interviews;
- (3) Parole rescission;
- (4) Parole discharge reviews; and
- (5) Executive clemency reviews.

1.4(2) Quorum.

a. A majority of the members of the board constitutes a quorum.

b. The chairperson designates panels composed of at least three board members to conduct board sessions except as provided herein.

1.4(3) Majority vote. All questions are decided by a majority vote of the members.

1.4(4) Minutes. The board keeps copies of the minutes of board meetings on file at the business office. The list of individuals considered by the board for action constitutes the minutes of a board session.

1.4(5) Public notice and agenda. The board establishes the date, time, and location of all meetings. The board gives public notice of all meetings pursuant to Iowa Code chapter 21. The board mails copies of, or provides by electronic means, notices of public meetings and a tentative agenda to news media that have so requested. When it is determined that an emergency meeting is required, the board notifies any news media that have requested notification as soon as the need for an emergency meeting has been decided. The nature of the emergency will be stated in the minutes.

1.4(6) Public access to meetings. Members of the public have access to board meetings as provided in Iowa Code chapter 21. Persons wishing to appear before the board will submit their requests to the business office not less than three days prior to the business meeting. Members of the public wishing to attend board meetings conducted in department of corrections penal institutions should consult, in advance, department of corrections administrative rules relating to visitation and public access.

1.4(7) Electronic meetings. The board may conduct a meeting by electronic means as provided in Iowa Code section 21.8.

[ARC 8436C, IAB 12/11/24, effective 1/15/25]

These rules are intended to implement Iowa Code chapter 904A.

[Filed 7/26/76, Notice 1/26/76—published 8/9/76, effective 9/13/76]

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[Filed 6/4/04, Notice 4/28/04—published 6/23/04, effective 7/28/04]

[Filed 9/21/06, Notice 7/5/06—published 10/11/06, effective 11/15/06]

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[Filed ARC 8436C (Notice ARC 8209C, IAB 9/18/24), IAB 12/11/24, effective 1/15/25]

CHAPTER 2
AGENCY PROCEDURE FOR RULE MAKING

The board of parole hereby adopts, with the following amendments, the uniform rules on agency procedure relating to agency procedure for rule making, published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website.

[ARC 3297C, IAB 8/30/17, effective 10/4/17; ARC 6968C, IAB 4/5/23, effective 5/10/23]

205—2.3(17A) Public rule-making docket.

2.3(2) *Anticipated rule making.* In lieu of the words “(commission, board, council, director)”, insert “board of parole”.

205—2.5(17A) Public participation.

2.5(1) *Written comments.* In lieu of the words “(identify office and address)”, insert “Chairperson of the Board of Parole, Jessie Parker Building, 510 East Twelfth Street, Des Moines, Iowa 50319”.

[ARC 3297C, IAB 8/30/17, effective 10/4/17]

205—2.6(17A) Regulatory analysis.

2.6(2) *Mailing list.* In lieu of the words “(designate office)”, insert “Board of Parole, Jessie Parker Building, 510 East Twelfth Street, Des Moines, Iowa 50319”.

205—2.11(17A) Concise statement of reasons.

2.11(1) *General.* In lieu of the words “(specify the office and address)”, insert “the Chairperson of the Board of Parole, Jessie Parker Building, 510 East Twelfth Street, Des Moines, Iowa 50319”.

[ARC 3297C, IAB 8/30/17, effective 10/4/17]

These rules are intended to implement Iowa Code chapter 17A.

[Filed 2/6/89, Notice 12/28/88—published 2/22/89, effective 3/29/89]

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[Filed 9/21/06, Notice 7/5/06—published 10/11/06, effective 11/15/06]

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[Filed ARC 6968C (Notice ARC 6824C, IAB 1/11/23), IAB 4/5/23, effective 5/10/23]

CHAPTER 3
PETITIONS FOR RULE MAKING

The board of parole hereby adopts, with the following amendments, the uniform rules on agency procedure relating to petitions for rule making, published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website.

[ARC 3297C, IAB 8/30/17, effective 10/4/17; ARC 6968C, IAB 4/5/23, effective 5/10/23]

205—3.1(17A) Petition for rule making. In lieu of the words “(designate office)”, the text should read “Board of Parole, Jessie Parker Building, 510 East Twelfth Street, Des Moines, Iowa 50319”.

In lieu of the words “(AGENCY NAME)”, the heading on the petition form should read “BEFORE THE BOARD OF PAROLE OF THE STATE OF IOWA”.

205—3.3(17A) Inquiries. In lieu of the words “(designate official by full title and address)”, the text should read “the Chairperson of the Board of Parole, Jessie Parker Building, 510 East Twelfth Street, Des Moines, Iowa 50319”.

[ARC 3297C, IAB 8/30/17, effective 10/4/17]

These rules are intended to implement Iowa Code chapter 17A.

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[Filed 9/21/06, Notice 7/5/06—published 10/11/06, effective 11/15/06]

[Filed ARC 3297C (Notice ARC 3117C, IAB 6/21/17), IAB 8/30/17, effective 10/4/17]

[Filed ARC 6968C (Notice ARC 6824C, IAB 1/11/23), IAB 4/5/23, effective 5/10/23]

CHAPTER 4

DECLARATORY ORDERS

The board of parole hereby adopts, with the following amendments, the uniform rules on agency procedure relating to declaratory orders, published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website.

[ARC 3297C, IAB 8/30/17, effective 10/4/17; ARC 6968C, IAB 4/5/23, effective 5/10/23]

205—4.1(17A) Petition for declaratory order. In lieu of the words “(designate agency)”, the text should read “board of parole”. In lieu of the words “(designate office)”, the text should read “Board of Parole, Jessie Parker Building, 510 East Twelfth Street, Des Moines, Iowa 50319”.

In lieu of the words “(AGENCY NAME)”, the heading on the petition form should read “BEFORE THE BOARD OF PAROLE OF THE STATE OF IOWA”.

205—4.2(17A) Notice of petition. In lieu of the words “(designate agency)”, the text should read “board of parole”.

205—4.3(17A) Intervention.

4.3(1) In lieu of the word “days”, the text should read “20 days”.

4.3(2) In lieu of the words “(designate agency)”, the text should read “the board of parole”.

4.3(3) In lieu of the words “(designate office)”, the text should read “Board of Parole, Jessie Parker Building, 510 East Twelfth Street, Des Moines, Iowa 50319”. In lieu of the words “(designate agency)”, the text should read “board of parole”. In lieu of the words “(AGENCY NAME)”, the text should read “BEFORE THE BOARD OF PAROLE OF THE STATE OF IOWA”.

205—4.4(17A) Briefs. In lieu of the words “(designate agency)”, the text should read “board of parole”.

205—4.5(17A) Inquiries. In lieu of the words “(designate official by full title and address)”, the text should read “the Chairperson of the Board of Parole, Jessie Parker Building, 510 East Twelfth Street, Des Moines, Iowa 50319”.

[ARC 3297C, IAB 8/30/17, effective 10/4/17]

205—4.6(17A) Service and filing of petitions and other papers.

4.6(2) *Filing—when required.* In lieu of the words “(specify office and address)”, the text should read “Board of Parole, Jessie Parker Building, 510 East Twelfth Street, Des Moines, Iowa 50319”. In lieu of the words “(agency name)”, the text should read “board of parole”.

4.6(3) *Method of service, time of filing, and proof of mailing.* Method of service, time of filing and proof of mailing shall be as provided in the contested cases segment of the Uniform Rules on Agency Procedure.

205—4.7(17A) Consideration. In lieu of the words “(designate agency)”, the text should read “board of parole”.

205—4.8(17A) Action on petition.

4.8(1) In lieu of the words “(designate agency head)”, the text should read “chairperson of the board of parole”.

4.8(2) The date of issuance of an order or of a refusal to issue an order is as defined in the contested cases segment of the Uniform Rules on Agency Procedure.

205—4.9(17A) Refusal to issue order. In lieu of the words “(designate agency)”, the text should read “board of parole”.

205—4.12(17A) Effect of a declaratory order. In lieu of the words “(designate agency)”, the text should read “board of parole”.

These rules are intended to implement Iowa Code chapter 17A.

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[Filed 9/21/06, Notice 7/5/06—published 10/11/06, effective 11/15/06]

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[Filed ARC 6968C (Notice ARC 6824C, IAB 1/11/23), IAB 4/5/23, effective 5/10/23]

CHAPTER 5 FAIR INFORMATION PRACTICES

[Prior to 2/22/89, Parole, Board of[615] Ch 14; see also 205—Ch 6]

The board of parole hereby adopts, with the following exceptions and amendments, the uniform rules on agency procedure relating to fair information practices, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website.

[ARC 8437C, IAB 12/11/24, effective 1/15/25]

205—5.1(17A,22) Definitions. As used in this chapter:

“Agency” means the board of parole.

“Confidential records” means records as defined under Iowa Code sections 22.7, 22.8, 904.601, 904.602, and 904.603.

“Open records” means those records that are defined by Iowa Code section 22.7, 22.8, 904.601, or 904.602 or any other provision of the law.

[ARC 8437C, IAB 12/11/24, effective 1/15/25]

205—5.2(17A,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 will cooperate with members of the public in implementing the provisions of that chapter.

[ARC 8437C, IAB 12/11/24, effective 1/15/25]

205—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 office where the record is kept. Records of current inmates, work releasees, and parolees are maintained in the office of the Board of Parole, Jessie Parker Building, 510 East 12th Street, Des Moines, Iowa 50319; telephone 515.725.5757.

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

5.3(3) *Request for access.* Requests for access to records may be made in writing, in person, by telephone, or by electronic means if the request is for open record information. Requests should identify the particular records sought by name or description in order to facilitate the location of the record. Mail requests should include the name, address, and telephone number of the person requesting the information. A person is not required to give a reason for requesting an open record.

5.3(4) *Response to requests.* The custodian is authorized to grant or deny access to the record according to the provisions of Iowa Code chapter 22 and sections 904.601, 904.602, and 904.603 and this chapter. The decision to grant or deny access may be delegated to one or more designated employees. Unless the size or nature of the request requires time for compliance, the agency should comply with the request as soon as practicable. However, access to such a record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4) or for good cause. The agency should promptly inform the requester of the reason for the delay. A request to review a confidential record should be in writing and enumerate the specific grounds justifying access to the confidential record and should provide any proof necessary to establish relevant facts prior to receiving access to the record.

5.3(7) Fees.

c. Hourly fee. A reasonable hourly fee may be charged for actual agency expenses in providing requested records when the time required is in excess of 30 minutes. That hourly fee will not be in excess of the hourly wage of an agency employee who ordinarily would be appropriate and suitable to perform this function. Reasonable costs may also be assessed for copying and providing records through means other than electronic mail.

[ARC 8437C, IAB 12/11/24, effective 1/15/25]

205—5.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination.

5.5(5) *Request granted or deferred.* If a request for 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 placed in the agency's public file in lieu of the original record. If the agency subsequently receives a request for access to the original record, the agency will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record.

[ARC 8437C, IAB 12/11/24, effective 1/15/25]

205—5.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. 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 the subject of such a record to alter the original copy of that record or to expand the official record of any agency proceeding. Requesters should send the request to review such a record or the written statement of additions, dissents, or objections to the custodian or to the Board of Parole, Jessie Parker Building, 510 East 12th Street, Des Moines, Iowa 50319. 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 the requester, and should include the current address and telephone number of the requester or the requester's representative.

[ARC 8437C, IAB 12/11/24, effective 1/15/25]

205—5.7(17A,22) Consensual disclosure of confidential records.

5.7(1) *Consent to disclose by a subject individual.* To the extent allowed by law, the subject may consent in writing to agency disclosure of confidential records.

5.7(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official that seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

5.7(3) *Obtaining information from a third party.* The board is required to obtain information to assist in making decisions regarding classification, programming, security, and administrative management. Requests to third parties for this information may involve the release of confidential information about individuals. Except as provided by law, the board may make these requests only when the individual has authorized the release.

[ARC 8437C, IAB 12/11/24, effective 1/15/25]

205—5.8(17A,22) Routine use. To the extent allowed by law, the following uses are considered routine uses of all agency records:

5.8(1) Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

5.8(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.

5.8(3) Disclosure to the department of inspections, appeals, and licensing for matters in which it is performing services or functions on behalf of the agency.

5.8(4) Transfers of information within the agency, to other state agencies, or to units of local government as appropriate to administer the program for which the information is collected.

5.8(5) 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.

5.8(6) Any disclosure specifically authorized by the statute under which the record was collected or maintained.

[ARC 8437C, IAB 12/11/24, effective 1/15/25]

205—5.9(17A,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. Below are instances when disclosure, if lawful, will generally occur without notice to the subject:

- a.* For a routine use as permitted by law and in the particular record 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 the head 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.
- h.* In the course of ordinary deliberations during an open meeting.

[ARC 8437C, IAB 12/11/24, effective 1/15/25]

205—5.10(17A,22) Release to subject.

5.10(1) The subject of a confidential record may file a written request to review confidential records about that person. However, the board 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 sections 22.7(18) and 904.602.
- b.* Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.
- c.* Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code.
- d.* Other records as otherwise authorized by law need not be released.

5.10(2) When a record has multiple subjects with interest in the confidentiality of the record, the board may take reasonable steps to protect confidential information relating to another subject.

[ARC 8437C, IAB 12/11/24, effective 1/15/25]

205—5.11(17A,22) Availability of records.

5.11(1) *Open records.* Board records are open for public inspection and copying unless otherwise prohibited by current rule or law.

5.11(2) *Confidential records.* Public records as identified in Iowa Code section 22.7 may be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information.

[ARC 8437C, IAB 12/11/24, effective 1/15/25]

205—5.12(17A,22) Personally identifiable information.

5.12(1) *Personally identifiable information.* This rule describes the nature and extent of personally identifiable information that is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in this rule. For each record system, this rule:

- a.* Describes the legal authority for the collection of that information and the means of storage of that information; and

b. Indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

5.12(2) *Litigation files.* These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorney notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials that 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 requesting copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court that maintains the official copy.

5.12(3) *Personnel files.* The agency maintains files containing information about employees, families and dependents, and applicants for positions with the agency. The files include payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, and tax withholding information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code section 22.7(11).

[ARC 8437C, IAB 12/11/24, effective 1/15/25]

205—5.13(17A,22) Other groups of records available for public inspection—policies and procedures (excluding security), meeting minutes. This rule describes groups of records maintained by the board other than record systems as previously defined. These records are routinely available to the public. However, the board's files of these records may contain confidential information, as discussed in rule 205—5.11(17A,22). The following records are available:

5.13(1) *Rulemaking records.* Rulemaking records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4.

5.13(2) *Board meeting records.* Agendas, minutes, and materials presented to the board are available from the board's business office, except those records concerning closed sessions that are exempt from disclosure under Iowa Code section 21.5(4) or that are otherwise confidential by law. Board meeting records contain information about people who participate in meetings. The information is collected pursuant to Iowa Code section 21.3. This information is not retrieved by an individual identifier.

5.13(3) *Publications.* News releases, annual reports, project reports, and related documents are available from the board office. Board news releases, annual reports, and project reports may contain information about individuals, including board staff or members of the board councils or committees. This information is not retrieved by an individual identifier.

5.13(4) *Statistical reports.* Periodic reports of the board for various board programs are available from the board office. Statistical reports do not contain personally identifiable information.

5.13(5) *Grants.* Records on persons receiving grants for various projects or programs are available through the board's business office. These records may contain information about employees or a grantee. This information is not retrieved by an individual identifier and is not stored on an automated data processing system. The information is collected under the authority of Iowa Code chapter 904.

5.13(6) *Published materials.* The board uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

5.13(7) *Policy manuals.* The board employees' manual, containing procedures describing the board's regulations and practices, is available. Subscriptions to all or part of the employees' manual are available at the cost of production and handling. Requests for subscription information should be addressed to the board office. Policy manuals do not contain information about individuals.

5.13(8) *Other records.* All other records that are not exempt from disclosure by law are available from the board office.

[ARC 8437C, IAB 12/11/24, effective 1/15/25]

205—5.14(17A,22) Applicability. This chapter does not:

5.14(1) Require the agency to index or retrieve records that contain information about an individual by that person's name or other personal identifier.

5.14(2) Make available to the general public records that would otherwise not be available under the public records law, Iowa Code chapter 22.

5.14(3) Govern the maintenance or disclosure of, notification of, or access to records in the possession of the agency that are governed by the regulations of another agency.

5.14(4) Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

5.14(5) Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings are governed by applicable legal and constitutional principles, rules of discovery, evidentiary privileges, and applicable regulations of the agency.

[ARC 8437C, IAB 12/11/24, effective 1/15/25]

These rules are intended to implement Iowa Code section 22.11 and chapter 17A.

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CHAPTER 6

PUBLIC COMMUNICATIONS AND RECORDS

205—6.1(22) General. The public may obtain information or make submissions to the board through the board's business office.

[ARC 8438C, IAB 12/11/24, effective 1/15/25]

205—6.2(22) Communications from persons other than victims.

6.2(1) Written communication. Communications by a person other than a victim, as defined in Iowa Code section 915.10, concerning an inmate, parolee, or work releasee should be in writing so that the communication may readily be made a permanent part of the case file. Oral communications concerning an inmate, parolee, or work releasee by a person other than a victim will be heard only with the consent of the board.

6.2(2) Disclosure to inmate. The board will place a written communication concerning an inmate, parolee, or work releasee in the case file.

[ARC 8438C, IAB 12/11/24, effective 1/15/25]

205—6.3(22) Examination of board records.

6.3(1) General. The public may examine and copy public records belonging to the board pursuant to Iowa Code chapter 22 at the board's business office. An individual wishing to examine or copy a record in person should schedule an appointment with the board's business office a minimum of three working days prior to the date on which the individual will review the information in question. When making the appointment, the requesting party should specifically indicate the information desired. Complete inmate files will not be released except by court order. When photocopies of documents or copies of audiotapes or videotapes are provided, the board may require the requester to pay the cost of the copies plus a reasonable charge for copying pursuant to 205—subrule 5.3(7). The board may refer anyone requesting information that has been generated by a source outside the board to the agency or individual that generated the information.

6.3(2) Lawful custodian. The chairperson or the chairperson's designee as the lawful custodian of the records will be responsible for implementing the board's rules regarding disclosure of public records and coordination of staff in this regard and generally ensuring compliance by the staff with public records disclosure requirements.

[ARC 8438C, IAB 12/11/24, effective 1/15/25]

205—6.4(904) Disclosure of information regarding inmates and parolees.

6.4(1) Public information. Iowa Code section 904.602(1) defines what information regarding individuals receiving services from the department of corrections may be disclosed by the board to anyone who requests such information.

6.4(2) Confidential information regarding inmates and parolees. Iowa Code section 904.602(2) defines information regarding individuals receiving services from the department of corrections that is confidential and will not be disclosed to the public.

a. Correspondence of a personal or confidential nature as determined by the board or the department directed to the board or the department of corrections from an individual's family, victims, or employers is confidential.

b. Communications to the board by members of the public other than public officials to the extent that the board believes that those members of the public would be discouraged from making the communications if the communications were available for general public examination is confidential.

c. Victim registrations pursuant to 205—Chapter 7. A record containing information that is both public and confidential that is reasonably segregable is not confidential after deletion of the confidential information.

6.4(3) Exceptions. The board may disclose confidential information described in subrule 6.4(2) as follows:

a. The board may release statistical information that does not identify particular individuals.

b. The board may disclose information to the department of corrections; public officials for use in connection with their duties relating to law enforcement, audits, and other purposes directly connected with the administration of their programs; and public and private agencies providing services to individuals. Those receiving information are subject to the same standards as the board in dissemination and redissemination of information.

c. The board may disclose information when necessary for civil or criminal court proceedings pursuant to court order. The board may seek to have the court limit disclosure of confidential information.

d. The board will give a supervised individual or former supervised individual access to the individual's own records in the custody of the board, except for those records that could result in physical or psychological harm to the individual or others, and disciplinary reports. Upon written authorization by a supervised individual or former supervised individual, the board may release information to any party included in the written release. This information is restricted to that which the individual can obtain.

[ARC 8438C, IAB 12/11/24, effective 1/15/25]

These rules are intended to implement Iowa Code chapter 22 and sections 904.601, 904.602, and 904A.4.

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CHAPTER 7 VICTIM NOTIFICATION

205—7.1(915) Definitions. The definitions for “notification,” “registered,” “victim,” and “violent crime” are set forth in Iowa Code section 915.10 and are incorporated herein.

“*Parole interview*” means an interview conducted by the board to consider an inmate’s prospects for parole pursuant to Iowa Code section 906.5.

[ARC 8439C, IAB 12/11/24, effective 1/15/25]

205—7.2(915) Victim registration. A victim may register by filing a written request-for-registration form with the county attorney. The procedures are set out in Iowa Code section 915.12.

[ARC 8439C, IAB 12/11/24, effective 1/15/25]

205—7.3(915) Victim notification. The board will notify a registered victim of a violent crime not less than 20 days prior to conducting an interview with the inmate and will inform the victim that the victim may submit an opinion concerning the release of the inmate in writing prior to the interview or may appear personally or by counsel at the interview to express an opinion concerning the inmate’s release.

[ARC 8439C, IAB 12/11/24, effective 1/15/25]

205—7.4(915) Notification of decision. Whether or not the victim appears at the interview or expresses an opinion concerning the offender’s release on parole, the board will notify the victim of the board’s decision regarding release of the offender.

[ARC 8439C, IAB 12/11/24, effective 1/15/25]

205—7.5(915) Written opinions concerning release. A registered victim may submit a written opinion concerning the release of the inmate to the board’s business office prior to the parole interview. The written opinion will be made a permanent part of the inmate’s file and shall be reviewed when the board considers the inmate’s prospects for parole.

[ARC 8439C, IAB 12/11/24, effective 1/15/25]

205—7.6(915) Appearances at parole interviews.

7.6(1) A registered victim of a violent crime may appear in person, personally or by counsel, at a parole interview to express an opinion concerning the release of the inmate.

7.6(2) Parole interviews are generally conducted by electronic means and governed by Iowa Code chapter 21.

7.6(3) A registered victim of a violent crime should contact the board’s business office or victim liaison at least three days prior to the start of the parole interview to ensure that the board has the proper information to allow the victim to participate in the meeting.

7.6(4) During the parole interview, the board will permit the victim or victim’s counsel to express an opinion concerning the release of the inmate.

[ARC 8439C, IAB 12/11/24, effective 1/15/25]

205—7.7(915,22) Disclosure of victim information. Information regarding a registered victim, as well as the existence of a registered victim in a particular case, is confidential and will not be disclosed to the public. A victim’s registration, and the substance of any opinion submitted by the victim regarding the inmate’s release, will not be disclosed to the inmate.

[ARC 8439C, IAB 12/11/24, effective 1/15/25]

These rules are intended to implement Iowa Code chapter 915.

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CHAPTER 8 PAROLE AND WORK RELEASE CONSIDERATIONS

205—8.1(906) Purpose of parole and work release considerations. The board shall determine whether there is reasonable probability that an inmate committed to the custody of the department of corrections who is eligible for parole or work release can be released without detriment to the community or the inmate. The board considers the best interests of society, and parole or work release is not granted as an award of clemency.

[ARC 8440C, IAB 12/11/24, effective 1/15/25]

205—8.2(904,906) Parole and work release eligibility.

8.2(1) Mandatory sentences. The board will not grant parole to an inmate serving a mandatory minimum sentence. The board will not grant work release to an inmate serving a mandatory minimum sentence unless the inmate is within six months of completing the mandatory minimum portion of the sentence. A parole or work release granted contrary to this rule will be rescinded. Mandatory minimum sentences are set out in the Iowa Code and are incorporated herein.

8.2(2) Release to residential facility first. A person on parole or work release who is serving a sentence under Iowa Code section 902.12 shall begin parole or work release in a residential facility operated by the department of corrections.

8.2(3) Parole to detainer. The board may grant parole to an inmate against whom a detainer has been placed by another jurisdiction. A person paroled who has a detainer lodged against the person under the provisions of Iowa Code chapter 821 may be paroled directly to the receiving state rather than to a residential facility operated by the department of corrections.

8.2(4) Parole to other states. The board may grant parole to another state pursuant to the provisions of the interstate compact for adult offender supervision set forth in Iowa Code chapter 907B.

[ARC 8440C, IAB 12/11/24, effective 1/15/25]

205—8.3(904A) Risk assessment. The board will assess the risk of an inmate committed to the custody of the department of corrections. The board will review a risk assessment instrument approved by the board.

[ARC 8440C, IAB 12/11/24, effective 1/15/25]

205—8.4(906) Parole and work release considerations.

8.4(1) Case reviews. The board may review the records of an inmate committed to the custody of the department of corrections and consider the inmate's prospects for parole or work release at any time. The board will notify an inmate only if the inmate is granted parole or work release, except as provided in subrule 8.14(3).

8.4(2) Interviews. The board may, in its discretion, interview an inmate committed to the custody of the department of corrections at any time.

8.4(3) Frequency of inmate review. The board will review the status of each inmate who is eligible for parole annually as directed by the Iowa Code and shall provide the inmate with notice of its parole or work release decision. The board will not place an inmate on work release for longer than 6 months in any 12-month period unless approval is given by a majority of the full board.

8.4(4) Annual review not required. Inmates who are not currently eligible for parole because of Iowa Code section 906.5(1) "a" are excepted from the annual review requirement of subrule 8.4(3).

8.4(5) Department initiated review. The department of corrections may recommend an inmate for parole or work release consideration at any time.

[ARC 8440C, IAB 12/11/24, effective 1/15/25]

205—8.5(906) Parole and work release information. The board will notify the department of corrections when an inmate is to be considered for parole or work release. The receipt of notice by the department of corrections constitutes a request for updated information on the inmate. The board will request information required for parole or work release decision making. The department of corrections will furnish updated information to the board.

[ARC 8440C, IAB 12/11/24, effective 1/15/25]

205—8.6(906) Interview notice. The board or the board's designee will notify an inmate to be interviewed for parole or work release consideration of the time and purpose of the interview. Notice given to the department of corrections is considered notice to the inmate. Not less than 20 days prior to the interview, the board will also notify the department of corrections of the scheduling of the interview, and the department shall make the inmate available to the board for the interview. The interview may be conducted electronically by videoconference. However, if health, safety, or security conditions require moving the inmate to another institution or facility prior to the scheduled interview, the department of corrections will notify the board.

[ARC 8440C, IAB 12/11/24, effective 1/15/25]

205—8.7(906) Continuance. The board may reschedule or continue a parole or work release interview upon its own motion or upon a showing of good cause, as determined by the board.

[ARC 8440C, IAB 12/11/24, effective 1/15/25]

205—8.8(906) Factors considered in parole and work release decisions.

8.8(1) Release considerations. The board may consider the following factors and others deemed relevant to the parole and work release decisions:

- a. Previous criminal record;
- b. Nature and circumstances of the offense;
- c. Recidivism record;
- d. Convictions or behavior indicating a propensity for violence;
- e. Participation in institutional programs, including academic and vocational training;
- f. Psychiatric and psychological evaluations;
- g. Length of time served;
- h. Evidence of serious or habitual institutional misconduct;
- i. Success or failure while on probation;
- j. Prior parole or work release history;
- k. Prior refusal to accept parole or work release;
- l. History of drug or alcohol use;
- m. A parole plan formulated by the inmate;
- n. General attitude and behavior while incarcerated;
- o. Risk assessment.

8.8(2) Psychological and psychiatric evaluations. The board may request a complete psychiatric or psychological evaluation of an inmate whenever, in the opinion of the board, it would be beneficial to the board's decision. The board may routinely request an evaluation of an inmate convicted of a crime involving sexual abuse or personal violence or of an inmate who has committed assaults or violent acts while incarcerated.

[ARC 8440C, IAB 12/11/24, effective 1/15/25]

205—8.9(906) Information disclosure to inmate. The board normally considers only information that has been reviewed by the inmate, except when the board deems such review not feasible. The information is considered only if the following safeguards are followed:

8.9(1) The staff of the department of corrections discusses the information with the inmate and discloses to the inmate any factual allegations if the disclosure can be done in a manner that protects confidential sources.

Factual allegations include but are not limited to:

- a. Any statements attributed to the inmate;
- b. Any allegations of criminal or antisocial behavior with or without court conviction from within or without the institution;
- c. Any allegations of threats made by the inmate;
- d. Any allegations of drug addiction or alcoholism;
- e. Any allegations regarding family history, employment or education;
- f. The inmate's disciplinary record at the institution.

8.9(2) If any information from outside institutions under the supervision of the department of corrections is to be considered by the board, and it is necessary to protect the source, the inmate will be informed of at least the following:

- a. The general substance of the information;
- b. The number of communications;
- c. The type of communications.

The inmate will be given the opportunity to respond to the information.

8.9(3) The inmate's reports from institutions under the supervision of the department of corrections, including reception reports, progress reports, medical reports, and social information or reports, should, to the extent possible, be structured so as to separate opinion from factual information. The factual information will be made available for review by the inmate; opinion information shall be confidential. Psychiatric or psychological test results or diagnoses may be deemed confidential.

[ARC 8440C, IAB 12/11/24, effective 1/15/25]

205—8.10(906) Interview procedure. The board may, in its discretion, interview the inmate and consider the inmate's records with respect to history, current situation, parole and work release prospects, and other pertinent matters. If the inmate is interviewed, the board or board panel will give the inmate ample opportunity to express views and present materials.

[ARC 8440C, IAB 12/11/24, effective 1/15/25]

205—8.11(906) Case review procedure. The board or board panel may consider the inmate's records and other information with respect to history, current situation, parole and work release prospects, and other pertinent matters. A case review may take place at any time and is in addition to any other required review.

[ARC 8440C, IAB 12/11/24, effective 1/15/25]

205—8.12(906) Conduct at parole proceedings.

8.12(1) Parole interview proceedings are open meetings and generally conducted by electronic means and governed by Iowa Code chapter 21.

8.12(2) The board panel or panel's designee will maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

8.12(3) Parole interviews are conducted electronically via videoconference. All interested persons should contact the board's business office prior to the start of the hearing to ensure that the persons have the proper information to allow the persons to view the proceedings online. Such information will also be maintained on the board's website: bop.iowa.gov.

8.12(4) Spectators, other than registered victims, do not participate in the parole proceedings.

[ARC 8440C, IAB 12/11/24, effective 1/15/25]

205—8.13(904,906) Parole authorized following work release.

8.13(1) The board grants parole to an inmate on work release status if at least three members of the board agree that the inmate can be released without detriment to the community or to the inmate. If three members do not agree, the board will deny parole.

8.13(2) The board grants parole or work release to an inmate if at least three members of the board agree that the inmate can be released without detriment to the community or to the inmate. If three members do not agree, the board will deny parole or work release.

8.13(3) The board may determine if an inmate is required to provide a physical specimen to be submitted for DNA profiling as a condition of parole or work release. The board considers the deterrent effect of DNA profiling, the likelihood of repeated violations by the offender, and the seriousness of the offense. When funds have been allocated from the general fund of the state, or funds have been provided by other public or private sources, the board will order DNA profiling, if appropriate.

[ARC 8440C, IAB 12/11/24, effective 1/15/25]

205—8.14(906) Notice of parole and work release decisions.

8.14(1) The board will give notice of a decision to grant parole by issuing an order for parole to the facility where the inmate in question is incarcerated.

8.14(2) The board will give notice of a decision to grant work release by issuing an order for work release to the facility where the inmate in question is incarcerated.

8.14(3) The board will give notice of a decision to deny parole or work release by issuing a notice of parole or work release denial to the facility where the inmate in question is incarcerated.

8.14(4) The board need not disclose a decision to grant or deny parole or work release to anyone other than the inmate in question and the facility where the inmate is incarcerated until at least two working days have elapsed from the date of the decision.

[ARC 8440C, IAB 12/11/24, effective 1/15/25]

205—8.15(906) Parole authorized following work release.

8.15(1) The board may, at the time of granting work release, grant an offender parole contingent upon successful completion of work release. Whenever the board grants parole contingent upon successful completion of work release, it will indicate in the offender's file any special conditions for parole and that parole is contingent upon successful completion of work release.

8.15(2) The residential manager makes a determination whether the offender has successfully completed the work release. For the purpose of this rule, successful completion of work release means, at a minimum, the absence of any violent acts or threats of violence by the offender from the time the work release was authorized and either (1) the offender has completed all board-recommended programs or (2) the offender has enrolled in all recommended programs not completed and is making satisfactory progress toward completion and the facility is able to arrange for continued program participation while the offender is on parole. When an offender successfully completes the work release program, the residential manager shall certify that fact to the board in a written or electronic certification. Upon receipt of the certification, the chairperson or the chairperson's designee will cause a parole order to be issued and forwarded to the residential facility where a parole agreement will be executed by the offender with such parole conditions as the board may require in its original release decision. Parole is effective only upon execution of the parole order and agreement by the parole officer and the parolee. No further action is required by the parole board for said parole. Before the parole becomes effective, the chairperson or the chairperson's designee may refer the case back to the board for further consideration. Nothing in this rule shall prevent the parole board from considering revocations of work release or parole for violations of the parole order, agreement, or any other provision of law, as otherwise provided in the board's administrative rules.

8.15(3) If the residential manager does not certify that an offender has successfully completed work release within the six-month limit established in Iowa Code section 904.904, and if the offender's work release has not otherwise been revoked, the offender's case will be reviewed by the board. The board may grant parole, extend work release, refer the offender back to prison, or take any other action authorized by law.

8.15(4) The grant of parole contingent upon successful completion of work release will comply with subrules 8.13(1) and 8.13(2).

8.15(5) An offender who has been granted parole contingent upon successful completion of work release and who fails to successfully complete work release for whatever reason will be reviewed for further release consideration according to the board's administrative rules.

8.15(6) Parole granted under this rule is administered and supervised according to the board's administrative rules, 205—Chapters 10 and 11.

[ARC 8440C, IAB 12/11/24, effective 1/15/25]

These rules are intended to implement Iowa Code chapters 904, 904A, and 906.

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◇ Two or more ARCs

CHAPTER 9 CERTIFICATES OF EMPLOYABILITY

205—9.1(906) Definitions. As used in this chapter:

“Direct relationship” means that the nature of criminal conduct for which the eligible offender was convicted has a direct bearing on the offender’s fitness or ability to perform one or more of the duties or responsibilities necessarily related to the certificate of employability sought.

“Eligible offender” means a person who has been convicted of one or more eligible crimes and has been sentenced to the custody of the director of the department of corrections. Persons required to register under Iowa Code chapter 692A are ineligible for the certificate of employability program.

“Employment” means any occupation, vocation, or employment or any form of vocational or educational training. For the purposes of this chapter, “employment” shall not include membership in any law enforcement agency.

“Private employer” means any person, company, corporation, labor organization or association.

“Public agency” means the state or any local subdivision thereof or any state or local department, agency, board or commission.

[ARC 8441C, IAB 12/11/24, effective 1/15/25]

205—9.2(906) Certificates of employability.

9.2(1) The provisions of this chapter apply to any application by an eligible offender to any public agency or private employer for employment, except where a mandatory forfeiture, disability or bar to employment is imposed by law and has not been removed by an executive pardon. The provisions of this chapter also apply to an application to a licensing agency by an eligible offender to obtain licensure required for employment.

9.2(2) When a certificate of employability is presented to a public agency, the licensing agency cannot deny a license based on the felony conviction or based on a lack of good moral character unless the agency makes a determination that there is a direct relationship between the offense and the license sought or that the issuance of the license involves unreasonable risk to property or the safety and welfare of specific individuals or the general public.

9.2(3) A certificate of employability does not prevent any judicial, administrative, licensing or other body, board or authority from relying upon the conviction specified therein as the basis for the exercise of its discretionary power to suspend, revoke, refuse to issue or refuse to renew any license, permit or other authority or privilege in accordance with the provisions set out in this chapter.

[ARC 8441C, IAB 12/11/24, effective 1/15/25]

205—9.3(906) Issuance of a certificate of employability. The department of corrections issues a certificate of employability at the time of release to an eligible offender who:

9.3(1) Receives a parole, work release, or early discharge from the board; and

9.3(2) Successfully completes one of the following:

- a. Department of corrections registered apprenticeship program; or
- b. National Career Readiness Certificate and the life skills program.

[ARC 8441C, IAB 12/11/24, effective 1/15/25]

205—9.4(906) Certificate not to be deemed a pardon. Nothing contained in this chapter is deemed to alter, limit, or affect the manner of applying for pardons to the governor, and no certificate issued hereunder is deemed or construed to be a pardon.

[ARC 8441C, IAB 12/11/24, effective 1/15/25]

These rules are intended to implement Iowa Code section 906.19.

[Filed ARC 7742B (Notice ARC 7337B, IAB 11/19/08), IAB 5/6/09, effective 6/10/09]

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CHAPTER 10
PAROLE AND WORK RELEASE SUPERVISION

[Prior to 2/22/89, see Parole, Board of[615] Ch 6]

205—10.1(906) Release processing. Following the issuance of an order for parole or work release by the board, the inmate will be processed for release pursuant to the rules and procedures of the department of corrections.

[ARC 8442C, IAB 12/11/24, effective 1/15/25]

205—10.2(906) Parole supervision. An inmate granted parole or work release is under the supervision of the department of corrections or a receiving state pursuant to the interstate compact for adult offender supervision. Parole supervision continues until the expiration of the maximum sentence, subject to early discharge by the board or the district department.

[ARC 8442C, IAB 12/11/24, effective 1/15/25]

205—10.3(906) Parole or work release agreement. A parole or work release agreement containing standard and special conditions of parole or work release will be prepared without unreasonable delay following the board's issuance of the order for parole or work release. The board may change these standard conditions from time to time. Special conditions of parole may be imposed at any time in accordance with the needs of the parolee as determined by the board and the department of corrections. The parole or work release agreement may provide for a search process and procedure of the parolee or work releasee. The parole or work release does not commence until the inmate has signed the agreement unless as otherwise prescribed by law. If the inmate is on work release status at the time parole is granted, the inmate remains on work release status until the parole agreement is signed by the parole officer and the inmate.

[ARC 8442C, IAB 12/11/24, effective 1/15/25]

These rules are intended to implement Iowa Code chapters 906 and 907B.

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CHAPTER 11
PAROLE REVOCATION

[Prior to 2/22/89, Parole, Board of[615] Ch 7]

205—11.1(906) Voluntary termination of parole. Any voluntary termination of parole should be executed in writing by the parolee, reviewed by the parole officer, and approved by an administrative parole judge at a hearing. Upon the execution of the voluntary termination of parole, the parole officer files preliminary parole violation information. If a parolee's parole is terminated, the parolee shall be returned to the custody of the department of corrections as soon as practicable. The parolee will receive credit for the time spent on parole prior to the voluntary termination of parole as determined by the administrative parole judge.

[ARC 8443C, IAB 12/11/24, effective 1/15/25]

205—11.2(908) Work release day reporting revocation. When a work release day reporting inmate is subject to revocation of day reporting status, the work release day reporting inmate is entitled to all procedural protections afforded parolees pursuant to Iowa Code chapter 908 and rules 205—11.3(908) through 205—11.11(908).

[ARC 8443C, IAB 12/11/24, effective 1/15/25]

205—11.3(908) Revocation initiated. Parole revocation procedures are initiated only as provided by Iowa Code chapter 908, which this rule is intended to implement.

[ARC 8443C, IAB 12/11/24, effective 1/15/25]

205—11.4(908) Revocation of parole. The board or its administrative parole judge, for good cause shown, may revoke any parole previously granted. Good cause for revocation of parole includes the violation of a condition or conditions of the parole agreement or parole plan. Parole revocation procedures, including the parole revocation hearing, are governed by Iowa Code chapter 17A.

[ARC 8443C, IAB 12/11/24, effective 1/15/25]

205—11.5(908) Parole violations.

11.5(1) The parole officer should report to the board any parolee who is reasonably believed to have engaged in any of the following types of behavior:

- a.* Violation of any federal or state laws that would be a felony or aggravated misdemeanor in the state of Iowa.
- b.* Any violent, assaultive, or threatening conduct.
- c.* Possession, control, or use of any firearms, imitation firearms, explosives, or dangerous weapons as defined in federal or state statutes.
- d.* Any unapproved contact with a victim, a victim's family, or with minors.
- e.* A parolee whose whereabouts are unknown and who has been unavailable for contact for 30 days, or about whom reliable information has been received indicating that the parolee is taking flight or absconding.

11.5(2) The parole officer or supervisor is authorized to report any other parolee misconduct or pattern of misconduct not required to be reported above.

[ARC 8443C, IAB 12/11/24, effective 1/15/25]

205—11.6(908) Parole violation report. The parole violation report is a document prepared by the parole officer on a form or medium provided by the board specifying the parole violation charges against a parolee and containing or referring to information known to the parole officer relevant to the charges.

11.6(1) Violation report update. A violation report update may be submitted to report sufficient new information or evidence that proves or disproves violations previously charged; report new violations; note court action on charges that are being prosecuted in a criminal proceeding; expand, clarify, or correct information in an earlier report; provide the board with information not related to the violation but that may affect the board's decision regarding the appropriate disposition; provide additional requested information to the board at any time; or change the parole officer's recommendation. The parole officer files a violation

report update upon the apprehension of a parolee on absconder status. The violation report update is served in accordance with subrule 11.7(1).

11.6(2) Recommendations. The parole officer will review the information available and, upon consultation of policy and with the supervisor or designee, make evidence-based, informed recommendations as to the appropriate action necessary to deal with the alleged violation.

11.6(3) District review.

a. Parole officer's responsibility. After discovery of information indicating a possible violation(s) of parole and determination by the parole officer that the violation(s) must be reported to the board, the parole officer prepares a parole violation report.

b. Parole supervisor review. After the preparation of a parole violation report, the supervisor reviews the report.

[ARC 8443C, IAB 12/11/24, effective 1/15/25]

205—11.7(908) Parole revocation hearing. Following submission of a parole officer's request for a parole revocation hearing, the parole officer schedules the parole revocation hearing and creates the notice of parole revocation hearing. The parole revocation hearing is held in any county in the same judicial district as that in which the alleged parole violator had the initial appearance, or in the county from which the warrant for the arrest of the alleged parole violator was issued, unless proper venue is waived by the parolee.

11.7(1) Parole revocation hearing notice. The parole officer or board's designated officer serves the written notice to the parolee and parolee's attorney, if applicable, of the date, time, and place of the parole revocation hearing, which:

a. Includes a complete copy of the report of violations, and updated report if applicable, including all documents referred to therein except confidential material defined in 205—subrule 6.4(2).

b. Is served upon the parolee by personal service. The notice may be served by any person 18 years of age or older at least seven days prior to the parole revocation hearing unless the parolee waives the right to seven days' advance notice.

c. Informs the parolee of the purpose of the hearing, the violations of parole conditions alleged, the circumstances of the alleged violations, the possible action that may be taken as a result of the revocation proceedings, and the following rights to which the parolee is entitled at the parole revocation hearing:

(1) To appear and speak on the parolee's own behalf and to be aided by an interpreter if aid is determined to be necessary by the administrative parole judge.

(2) To be represented by an attorney or, if the parolee is indigent, the right to be represented by an attorney pursuant to Iowa Rule of Criminal Procedure 2.28 and Iowa Code section 908.2A.

(3) To remain silent.

(4) To present witnesses to testify on the parolee's behalf as to matters relevant to the alleged violation of parole.

(5) To confront and cross-examine adverse witnesses unless the administrative parole judge determines that such witnesses would be subjected to risk of harm.

(6) To present documentary evidence and any relevant material or information.

11.7(2) Testimony at parole revocation hearing. All testimony is under oath.

11.7(3) Parole revocation hearing recorded. Parole revocation hearings are electronically recorded. The recording or transcription thereof is filed and maintained by the board for at least five years from the date of the parole revocation hearing.

11.7(4) Witnesses segregated. The administrative parole judge on the judge's own motion or on the request of the parolee, parolee's counsel, or any representative of the state may order witnesses to be segregated except that the parole officer, parolee, and counsel may be present at all times at the hearing.

11.7(5) Parole revocation hearing evidence. The admissibility of evidence at parole revocation proceedings is governed by Iowa Code section 17A.14.

a. Documentary evidence. The parole officer ensures that all relevant documentary evidence is available at the hearing and has been made available to the parolee and the parolee's attorney prior to the hearing unless designated confidential. This evidence includes the violation report and statements of

witnesses. When relevant documentary evidence is not available, the parole officer shall specify what evidence is unavailable and why.

b. Physical evidence. Physical evidence is ordinarily not required at the hearing. The parole officer may bring physical evidence to the hearing if the parolee has requested it or it appears necessary for the hearing, security is not endangered, and there is no other means of presenting the information.

11.7(6) Witnesses.

a. Parolee request. A parolee may request either friendly or adverse witnesses. If a witness is requested by the parolee or the parolee's attorney, the parolee or the parolee's attorney shall notify the parole officer prior to the hearing.

b. Parole officer request. If, in preparing the case prior to the hearing, the parole officer requires a particular witness to demonstrate essential facts of violation, attendance of that witness may be requested by the officer even though the parolee has not requested that witness. If a witness is requested by the parole officer, the officer will notify the parolee or the parolee's attorney.

c. Witnesses' transportation. All witnesses provide their own transportation.

d. Fearful witnesses. All witnesses who refuse to attend the hearing either because they would be subjected to risk of harm if their identities were disclosed or who, even if their identities were known, fear for their safety should they attend the hearing will be interviewed by the parole officer prior to the hearing, and their information and the reasons for their fear will be documented in writing or on the record. The officer assesses whether this testimony is necessary to proceed with prosecution of parole violations. If there are other alleged violations that merit a recommendation of revocation, this testimony may not be necessary. The administrative parole judge determines whether good cause exists to excuse a witness's attendance and documents the decision, including the reasons.

e. Interviewing witnesses. A parolee or the parolee's attorney has the right to speak to possible witnesses, but it is completely within the discretion of an individual witness whether to speak to or disclose the witness's whereabouts to a parolee or the parolee's attorney. The parole board staff will not attempt to influence the witness's decision.

11.7(7) Subpoenas—general. Subpoenas may be issued by the board to require the attendance of witnesses or the production of documents at parole revocation hearings.

a. Who may request. The parolee, the parolee's attorney, parole officer, or board staff may request that a subpoena be issued. The requested witness(es) should be contacted prior to issuance of the requested subpoena. If the parolee is pro se, the parole officer may need to make contact.

b. To whom made. Requests may be made directly to the administrative parole judge, the board's designated officer, or the parole officer, as appropriate. The parole officer provides the necessary information to the board in order to process the request.

c. When made. The request will be made prior to the scheduled hearing.

d. Subpoena duces tecum. The request for a subpoena duces tecum includes a declaration in support of the request. The declaration includes good cause for production of documentary evidence and specifies precisely the documentary evidence to be produced, the relevance and materiality of that evidence to the hearing, and verification that the requested witness has possession or control of the documentary evidence.

e. Costs. The board does not pay subpoena service fees, witness fees, or witness transportation expenses.

11.7(8) Continuances.

a. A hearing may be continued by the presiding administrative parole judge for good cause shown, either upon the presiding judge's own motion or upon the request of a party. A party's request for continuance will be made in writing to the administrative parole judge prior to the hearing. Each party may be granted a continuance. Further continuance may be granted for good cause.

b. If, because of an emergency or other good cause, a party having received timely notice is unable to attend the hearing or to request continuance within the allotted time, the presiding administrative parole judge may continue the hearing and schedule another hearing with notice to all interested parties.

c. Notice of continuance may be served upon the parolee's attorney of record for the parole revocation proceeding, in lieu of personal service upon the parolee.

d. If the notice of continuance includes allegations of violations beyond those contained in the original notice of hearing, it must be served upon the parolee or the parolee's attorney of record in accordance with subrule 11.7(1).

11.7(9) *Areas of responsibility.* The following areas of responsibility will apply for a parole revocation hearing.

a. The parole officer is responsible for the following:

- (1) Coordinating and scheduling location, security, and control of the parole revocation hearing;
- (2) Preparing notice of hearing forms and causing the notices to be served;
- (3) Notifying the parolee's attorney of record of the hearing date, time, and place;
- (4) Notifying all necessary state witnesses of the hearing date, time, and place;
- (5) Processing any required subpoenas on behalf of the state;
- (6) Ensuring that all relevant state documents, forms, and materials are available at the hearing;
- (7) Attending the hearing;
- (8) Arranging security for posthearing transfer of the parolee in the event incarceration is ordered;
- (9) Ensuring that a copy of the hearing summary and order is forwarded to the county jail or other institution housing the parolee, if applicable.

b. The administrative parole judge or the board's designated officer is responsible for maintaining records on all hearings and filing final orders in the electronic document management system (EDMS).

11.7(10) *Parole revocation hearing.*

a. At the conclusion of the adjudication stage of the hearing, the administrative parole judge determines whether the parolee has violated the conditions of parole and verbally advises the parolee of the decision.

b. If the administrative parole judge determines that the parolee has not violated the conditions of parole, the judge orders the parolee released from custody and continued on parole.

c. If the administrative parole judge finds that the parolee has violated a condition or conditions of parole, the judge makes one of the following dispositions at the parole revocation hearing:

- (1) Revocation of parole;
- (2) Revocation of parole with the parolee placed on work release;
- (3) Reinstatement of parole with the previous parole conditions;
- (4) Reinstatement of parole with a modification of the parole conditions;
- (5) Continuation of the dispositional portion of the hearing.

d. The administrative parole judge determines from the record established at the revocation hearing the date(s) of violation of parole. The judge also determines the number of days of parole that are not counted toward the discharge of the parolee's sentence. This number includes any of the days after the date of first violation during which the parolee was not incarcerated.

11.7(11) *Parole revocation—hearing summary and order.* The administrative parole judge or the board's designated officer shall forward a copy of the hearing summary and order to the parolee officer and the parolee's attorney, if applicable, as soon as reasonably feasible following the parole revocation hearing. The parole officer or the parolee's attorney, or both, ensures that the parolee receives a copy of the hearing summary and order. The summary of the parole revocation shall consist of a summary of the proceeding and shall contain the judge's findings of fact, conclusions of law and disposition of the matter.

11.7(12) *Motions and requests.* Any motion or request shall be submitted to the administrative parole judge or the board's designated officer, with copies to all parties, prior to the hearing. The parolee or parolee's attorney may submit any motion or request directly to the administrative parole judge, or designee, or through the parole officer. The board is not a designated party in EDMS and does not receive EDMS notifications.

[ARC 8443C, IAB 12/11/24, effective 1/15/25]

205—11.8(908) Appeal or review.

11.8(1) The order of the administrative parole judge shall become the final decision of the board unless, within ten days of the date of the decision, the parole violator appeals the decision or a panel of the board reviews the decision on its own motion.

11.8(2) On appeal or review of the judge's decision, the chairperson or board panel's designee has all the power that the administrative parole judge would have in initially making the revocation hearing decision. The record on appeal or review shall be the record made at the parole revocation hearing conducted by the administrative parole judge. An appeal must be received at the parole business office or postmarked by the applicable date or the appeal will not be considered. An order continuing disposition or an order finding probable cause to believe an interstate compact parolee violated parole conditions is not a final order and therefore is not appealable. The board shall give notice of its decision to the parolee. The process for filing an appeal of an order of the administrative parole judge is set out in 205—Chapter 14.

[ARC 8443C, IAB 12/11/24, effective 1/15/25]

205—11.9(908) Interstate compact parole revocation probable cause hearings. The board of parole may conduct interstate compact parole probable cause hearings under the same procedures as the Iowa parole revocation hearings.

11.9(1) *Interstate compact parole revocation probable cause hearings.* The board of parole, or an administrative parole judge, may conduct a probable cause hearing for a parolee from another state who is on parole in Iowa under the terms of the interstate compact on probation and parole according to the same procedures that govern parole revocation hearings for Iowa parolees who are on parole in Iowa.

11.9(2) *Interstate compact parole revocation hearings.* If an Iowa parolee was on parole outside the state of Iowa through the interstate compact on probation and parole and has been returned to Iowa following a finding of probable cause in the receiving state, a parole revocation hearing is conducted for the parolee at the Iowa facility where the parolee is incarcerated. This hearing is conducted according to the same procedures as those specified for hearings conducted for Iowa parolees who are on parole in the state of Iowa.

[ARC 8443C, IAB 12/11/24, effective 1/15/25]

205—11.10(908) Parolee convicted of new offenses. A parolee who is found guilty of a new offense or who pleads guilty to a new offense, including a simple misdemeanor, has no right to the adjudication stage of the parole revocation hearing with regard to the new offense.

[ARC 8443C, IAB 12/11/24, effective 1/15/25]

205—11.11(908) Waivers.

11.11(1) The parole officer informs the parolee of the parolee's rights at a revocation hearing if the parolee does not have an attorney.

11.11(2) The parole officer also informs the parolee of the opportunity to waive the parolee's right to personal appearance and consent to a parole revocation hearing that is conducted over the telephone if the parolee does not have an attorney.

11.11(3) If the parolee executes a waiver of the right to personal appearance and consent to parole revocation hearing to be conducted over the telephone, the parole revocation hearing is scheduled and conducted as a routine parole revocation hearing. If the parolee does not execute a waiver of the right to personal appearance and consent to parole revocation hearing to be conducted over the telephone, then the hearing is scheduled and may, at the discretion of the administrative parole judge, be conducted electronically by videoconference.

[ARC 8443C, IAB 12/11/24, effective 1/15/25]

205—11.12(908) Conviction of a felony or aggravated misdemeanor while on parole. When a parolee is convicted and sentenced to incarceration in Iowa for a felony or aggravated misdemeanor committed while on parole, or is convicted and sentenced to incarceration in any other state of the United States or a foreign country for an offense committed while on parole and that if committed in Iowa would be a felony or aggravated misdemeanor, the parolee's parole shall be deemed revoked as of the date of the commission of the offense. The definition and requirements for an automatic revocation of parole are set out in Iowa Code sections 908.10 and 908.10A. The administrative parole judge determines the date of commission of the felony or aggravated misdemeanor offense and the date of subsequent incarceration in a state institution. Time loss will be the time between these two dates, except that the parolee receives credit for any time the parolee was incarcerated between these two dates.

[ARC 8443C, IAB 12/11/24, effective 1/15/25]

These rules are intended to implement Iowa Code chapters 906 and 908.

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◇ Two or more ARCs

CHAPTER 12
PAROLE DISCHARGE

[Prior to 2/22/89, Parole, Board of[615] Ch 8]

205—12.1(906) Discharge from parole supervision.

12.1(1) *Statutory discharge.* The board discharges a parolee from parole supervision when the term of the parolee's sentence expires.

12.1(2) *Early discharge.* The board or the supervising district department may discharge a parolee from parole supervision prior to the expiration of the term of the parolee's sentence when the board or district department determines that the parolee is able and willing to fulfill the obligations of a law-abiding citizen without further supervision.

[ARC 8444C, IAB 12/11/24, effective 1/15/25]

205—12.2(906) Persons not eligible. A parolee convicted of a violation of Iowa Code section 709.3, 709.4, or 709.8 committed on or with a child or a person serving a sentence under Iowa Code section 902.12 is not eligible to be discharged from parole until the person's term of parole equals the period of imprisonment specified in the person's sentence, less all time served in confinement.

[ARC 8444C, IAB 12/11/24, effective 1/15/25]

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CHAPTER 13
EXECUTIVE CLEMENCY

[615—Ch 14 transferred to 205—Ch 5, IAB 2/22/89]
[Prior to 4/5/23, see 201—Chapter 14]

205—13.1(902) Interviews of inmates serving life terms without the possibility of parole. The board will not grant a parole or work release to a class “A” felon serving a life term without the possibility of parole unless the governor commutes the sentence to a term of years. Administrative rules relating to the parole and work release consideration of an inmate sentenced to an indeterminate term do not apply to an inmate sentenced to a life term without the possibility of parole.

[ARC 8445C, IAB 12/11/24, effective 1/15/25]

205—13.2(902) Review of inmates serving life terms. The board may, at its discretion, review the record of a class “A” felon serving a life term.

[ARC 8445C, IAB 12/11/24, effective 1/15/25]

205—13.3(914) Executive clemency applications.

13.3(1) Applications to the board.

a. A person convicted of a criminal offense may apply to the board for a recommendation to the governor for a reprieve, pardon, commutation of sentence, or remission of fines and forfeitures at any time following the person’s conviction.

b. An application for a pardon or commutation of sentence should be on the form provided by the board. The form may be obtained by contacting the board’s business office or the office of the governor.

c. An application for a reprieve or remission of fines and forfeitures should be in writing.

d. The applicant will submit the executive clemency application to the board’s business office.

13.3(2) Applications to the governor. Upon the request of the governor, the board will take charge of all correspondence in reference to an executive clemency application filed with the governor and will provide the governor with the board’s advice and recommendation.

13.3(3) Restoration of citizenship.

a. A person convicted of a criminal offense may apply for restoration of citizenship at any time following the discharge of the person’s sentence.

b. A person applying for restoration of citizenship will submit the form to the governor. This form may be obtained from the governor’s office or from the board.

[ARC 8445C, IAB 12/11/24, effective 1/15/25]

205—13.4(914,902) Board investigation. The board may investigate an application with respect to history, current situation, parole prospects and other pertinent matters. The board may consider the application or recommendation, transcripts of judicial proceedings and all documents submitted with the application, and other documents as the board determines is appropriate, and may interview, directly or through the board’s agent, public officials, victims, and witnesses and other individuals as the board determines is appropriate.

[ARC 8445C, IAB 12/11/24, effective 1/15/25]

205—13.5(914,902) Executive clemency recommendations.

13.5(1) Decision.

a. The board may recommend that the governor grant commutation of sentence to a class “A” felon serving a life term when the board agrees that the inmate should be considered for release on parole.

b. The board shall recommend that the governor grant executive clemency to a person other than a class “A” felon serving a life term when the board agrees that the person has demonstrated that the person will become or continue to be a law-abiding citizen.

c. The board may utilize the resources of the department of public safety for assistance with any part of the board’s investigation.

13.5(2) Notice of board recommendation. The board will give notice of an executive clemency recommendation to the office of the governor and, if requested, to the inmate or applicant.

13.5(3) *Board consideration following commutation.* The board will consider the parole and work release prospects of an inmate whose sentence has been commuted by the governor.

13.5(4) *Executive clemency reconsiderations.*

a. The board may reconsider a positive or negative recommendation prior to the governor's decision when previously unknown and material information comes to light, material actions or events relevant to the application occur, the governor directs the board to further investigate the application, or good cause is otherwise shown. The procedures for reviewing an executive clemency application shall apply to the reconsideration of a recommendation.

b. The board may amend its recommendation as deemed appropriate.

[ARC 8445C, IAB 12/11/24, effective 1/15/25]

205—13.6(902,915) Commutation procedure for class “A” felons.

13.6(1) *Initial review.* The board, or its designee, will initially review an application for commutation to determine whether the inmate is eligible to apply for commutation pursuant to Iowa Code section 902.2. If the inmate is not eligible to apply for commutation, the board will return the application to the applicant.

13.6(2) *Parole board commutation investigation process.*

a. If the applicant is eligible to apply for commutation, the board will conduct an investigation pursuant to subrule 13.6(2).

b. The board may consider any documents the board deems appropriate, including but not limited to the application and attached documents; transcripts of judicial proceedings; corrections information; and written recommendations, statements, and interviews of the offender, public officials, victims, and witnesses.

c. The board may interview the applicant prior to submitting the board's recommendation to the governor. The board may interview any other person the board deems appropriate, including but not limited to public officials, victims, and witnesses.

d. The board will attempt to provide notice of the commutation interview to any individual who would qualify as a victim under Iowa's victim notification law. Notice will be by regular mail to the last-known address or by electronic mail. The notice will provide a specified amount of time for the victim to provide a statement to the board regarding the application for commutation.

e. The board may hold a public hearing to receive comments from the general public on an application for commutation. The determination to hold a public hearing to receive public comments is solely at the discretion of the board.

13.6(3) *Recommendation and report.*

a. Any decision to recommend commutation for a class “A” felon will be by majority vote. The board may continue the matter until such time as the board may determine by majority vote.

b. The board may consider any factor it deems appropriate when considering commutation, including but not limited to the nature and circumstances of the crime, the number of years the applicant has served, the applicant's previous criminal record, the applicant's conduct while confined, the impact on the victim, and the public interest.

c. The board will prepare a written report of its findings and recommendations and forward its report to the governor.

d. In making such a recommendation, the board will also indicate the existence of any registered victims and communicate any opinions expressed by those victims regarding release of the inmate.

13.6(4) *Board consideration following commutation.* The board will consider the parole and work release prospects of any inmate whose life sentence has been commuted by the governor. The grant of commutation does not require the board to grant parole or work release. The board will consider parole or work release pursuant to the standards in 205—Chapter 8.

[ARC 8445C, IAB 12/11/24, effective 1/15/25]

These rules are intended to implement Iowa Code sections 902.2, 902.4, and 904A.4(7) and chapters 914 and 915.

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CHAPTER 14 APPEAL OF DECISIONS

[Prior to 2/22/89, Parole, Board of[615] Ch 9]
[Prior to 4/5/23, see 201—Chapter 15]

205—14.1(17A) General. An inmate, parolee, or work releasee may appeal any action of the board staff or board that affects that person except a decision to schedule a hearing or a work release transfer hearing decision, any commutation-related action, an appeal decision, or the decision to conduct an appearance by electronic means.

[ARC 8446C, IAB 12/11/24, effective 1/15/25]

205—14.2(17A) Grounds. The general grounds for an appeal are claims that an action of the board staff or board was:

1. In violation of constitutional or statutory provisions;
2. In excess of the statutory authority of the board;
3. In violation of a board rule;
4. Made upon unlawful procedure;
5. Affected by other error of law;
6. Unsupported by evidence or based on incorrect or incomplete information that, if correct or complete, might have resulted in a different action; or
7. Unreasonable, arbitrary, or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of decision.

[ARC 8446C, IAB 12/11/24, effective 1/15/25]

205—14.3(17A) Filing an appeal.

14.3(1) An appeal is filed in writing and includes:

- a. The nature of the board action that is the subject of the appeal.
- b. The particular agency action that is the subject of the appeal.
- c. The grounds on which relief is sought.
- d. The relief sought.

14.3(2) All grounds should be included in the same appeal, and all necessary documents and information will be attached to the appeal.

14.3(3) The appeal is submitted to the business office. An appeal is received at the parole board office, or postmarked, within ten days of the receipt of notice of the action appealed. The board is not required to consider untimely appeals.

[ARC 8446C, IAB 12/11/24, effective 1/15/25]

205—14.4(17A) Board review and decision. The board of parole, a designee of the board, or a panel of three or more members of the board will review the appeal. The chairperson, the chairperson's designee, or the panel may affirm, modify, or reverse the action being appealed or may defer the action for further consideration, including granting the inmate, parolee, or work releasee an appearance before the board. The board will give notice to the inmate, parolee, or work releasee of the board's decision.

[ARC 8446C, IAB 12/11/24, effective 1/15/25]

These rules are intended to implement Iowa Code chapter 17A.

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CHAPTER 15 WAIVERS

[Prior to 4/5/23, see 201—Chapter 16]

205—15.1(17A) Definition. For purposes of this chapter, “waiver” means action by the board that suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person.

[ARC 8447C, IAB 12/11/24, effective 1/15/25]

205—15.2(17A) Scope. This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the board in situations where no other more specifically applicable law provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this chapter with respect to any waiver from that rule.

[ARC 8447C, IAB 12/11/24, effective 1/15/25]

205—15.3(17A) Applicability. The board may grant a waiver from a rule only if the board has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. The board may not waive requirements created or duties imposed by statute.

[ARC 8447C, IAB 12/11/24, effective 1/15/25]

205—15.4(17A) Criteria for waiver. The criteria for granting a waiver are set out in Iowa Code section 17A.9A and are incorporated herein.

[ARC 8447C, IAB 12/11/24, effective 1/15/25]

205—15.5(17A) Filing of petition. A petition for a waiver must be submitted in writing to the board as follows:

15.5(1) Contested cases. If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case.

15.5(2) Other. If the petition does not relate to a pending contested case, the petition may be submitted to the board’s chairperson.

[ARC 8447C, IAB 12/11/24, effective 1/15/25]

205—15.6(17A) Content of petition. A petition for waiver includes the following information where applicable and known to the requester:

1. The name, address, and telephone number of the person or entity for which a waiver is requested, and the case number of any related contested case.
2. A description and citation of the specific rule from which a waiver is requested.
3. The specific waiver requested, including the precise scope and duration.
4. The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in Iowa Code section 17A.9A. This statement will include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.
5. A history of any prior contacts between the board and the petitioner relating to the regulated activity affected by the proposed waiver, including a description of any notices of violation, contested case hearings, or investigative reports relating to the regulated activity within the past five years.
6. Any information known to the requester regarding the board’s treatment of similar cases.
7. The name, address, and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the granting of a waiver.
8. The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.
9. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

10. Signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver.

[ARC 8447C, IAB 12/11/24, effective 1/15/25]

205—15.7(17A) Additional information. Prior to issuing an order granting or denying a waiver, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the board may, on its own motion or at the petitioner's request, schedule a telephonic, electronic, or in-person meeting between the petitioner and the board's chairperson, a committee of the board, or a quorum of the board.

[ARC 8447C, IAB 12/11/24, effective 1/15/25]

205—15.8(17A) Notice. The board will acknowledge a petition upon receipt. The board ensures that, within 30 days of the receipt of the petition, notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law. In addition, the board may give notice to other persons. To accomplish this notice provision, the board may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the board attesting that notice has been provided.

[ARC 8447C, IAB 12/11/24, effective 1/15/25]

205—15.9(17A) Hearing procedures. The provisions of Iowa Code sections 17A.10 through 17A.18A regarding contested case hearings apply to any petition for a waiver filed within a contested case and also apply to board proceedings for a waiver when the board so provides by rule or order or is required to do so by statute.

[ARC 8447C, IAB 12/11/24, effective 1/15/25]

205—15.10(17A) Ruling. An order granting or denying a waiver will be in writing and contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

15.10(1) Board discretion. The final decision on whether the circumstances justify the granting of a waiver will be made at the sole discretion of the board, upon consideration of all relevant factors. Each petition for a waiver is evaluated by the board based on the unique, individual circumstances set out in the petition.

15.10(2) Burden of persuasion. The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the board should exercise its discretion to grant a waiver from a board rule.

15.10(3) Narrowly tailored exception. A waiver, if granted, will provide the narrowest exception possible to the provisions of a rule.

15.10(4) Administrative deadlines. When the rule from which a waiver is sought establishes administrative deadlines, the board balances the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

15.10(5) Conditions. The board may place any condition on a waiver that the board finds desirable to protect the public health, safety, and welfare.

15.10(6) Time period of waiver. A waiver is not permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the board, a waiver may be renewed if the board finds that grounds for a waiver continue to exist.

15.10(7) Time for ruling. The board may grant or deny a petition for a waiver as soon as practicable but, in any event, will do so within 120 days of its receipt unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the board will grant or deny the petition no later than the time at which the final decision in that contested case is issued.

15.10(8) When deemed denied. Failure of the board to grant or deny a petition within the required time period will be deemed a denial of that petition by the board. However, the board remains responsible for issuing an order denying a waiver.

15.10(9) Service of order. Within seven days of its issuance, any order issued under this chapter will be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

[ARC 8447C, IAB 12/11/24, effective 1/15/25]

205—15.11(17A) Public availability. All orders granting or denying a waiver petition are indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying waiver petitions are public records under Iowa Code chapter 22. Some petitions or orders may contain information the board is authorized or required to keep confidential. The board may accordingly redact confidential information from petitions or orders prior to public inspection.

[ARC 8447C, IAB 12/11/24, effective 1/15/25]

205—15.12(17A) Submission of waiver information. Within 60 days of granting or denying a waiver, the board will make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information. The submission will identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the authority's actions on waiver requests. If practicable, the report will also detail the extent to which granting a waiver has established a precedent for additional waivers and the extent to which the granting of a waiver has affected the general applicability of the rule itself.

[ARC 8447C, IAB 12/11/24, effective 1/15/25]

205—15.13(17A) Cancellation of a waiver. A waiver issued by the board pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the board issues an order finding any of the following:

1. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or
2. The alternative means for ensuring that the public health, safety, and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or
3. The subject of the waiver order has failed to comply with all conditions contained in the order.

[ARC 8447C, IAB 12/11/24, effective 1/15/25]

205—15.14(17A) Violations. Violation of a condition in a waiver order is treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

[ARC 8447C, IAB 12/11/24, effective 1/15/25]

205—15.15(17A) Defense. After the board issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

[ARC 8447C, IAB 12/11/24, effective 1/15/25]

205—15.16(17A) Judicial review. Judicial review of a board's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

[ARC 8447C, IAB 12/11/24, effective 1/15/25]

These rules are intended to implement Iowa Code chapter 17A.

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CHAPTER 16

WAIVER AND VARIANCE RULES

Transferred to 205—Chapter 15, **ARC 6968C**, IAB 4/5/23, effective 5/10/23