

CHAPTER 7
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Chapter exempt from chapter rescission pursuant to Iowa Code section 17A.7

The Iowa division of banking hereby adopts, with the following exceptions and amendments, the Uniform Rules of Agency Procedure relating to public records and fair information practices, which are published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf. [ARC 4056C, IAB 10/10/18, effective 11/14/18]

187—7.1(17A,22) Definitions. As used in this chapter:

“Agency” means the Iowa division of banking.

“Superintendent” means the superintendent of banking.

187—7.3(17A,22) Requests for access to records.

7.3(1) Location of records. A request for access to a record should be directed to the office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to the Iowa Division of Banking, 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309-1827. If a request for access to a record is misdirected, agency personnel will promptly forward the request to the appropriate person within the agency.

7.3(2) Office hours. Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays and legal holidays.

7.3(7) Fees.

c. Supervisory fee. In lieu of “(specify time period)” insert “one-half hour”. Delete the parenthetical sentence at the end of the paragraph.

187—7.9(17A,22) Disclosures without the consent of the subject.

7.9(1) Open records are routinely disclosed without the consent of the subject.

7.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 187—7.10(17A,22) or in any notice given for a 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.

187—7.10(17A,22) Routine use.

7.10(1) “Routine use” means the disclosure of a record without the consent of the subject or subjects for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

7.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

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

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

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

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

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

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

187—7.11(17A,22) Consensual disclosure of confidential records.

7.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 187—7.7(17A,22).

7.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may, 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.

187—7.12(17A,22) Release to subject.

7.12(1) The subject of a confidential record may file a written request to review confidential records about that person, as provided in rule 187—7.6(17A,22). However, the agency need not release the following records to the subject:

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

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

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

d. As otherwise authorized by law.

7.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

187—7.13(17A,22) Availability of records.

7.13(1) *Open records.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

7.13(2) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Tax records made available to the agency (Iowa Code sections 422.20 and 422.72).

b. Records which are exempt from disclosure under Iowa Code section 22.7.

c. Minutes of closed meetings of a government body (Iowa Code subsection 21.5(4)).

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

e. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial

disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

- (1) Enable law violators to avoid detection;
- (2) Facilitate disregard of requirements imposed by law; or
- (3) Give a clearly improper advantage to persons who are in an adverse position to the agency (Iowa Code sections 17A.2 and 17A.3).

f. All papers, documents, reports (including shareholder lists furnished to the superintendent pursuant to Iowa Code section 524.541), reports of examinations and other writings relating specifically to the supervision and regulation of any state bank or other person by the superintendent pursuant to the laws of this state (Iowa Code section 524.215).

g. Reports of examinations conducted by the superintendent and reports of examination received by or furnished to the superintendent pursuant to Iowa Code section 524.217.

h. All information obtained by examiners and described in Iowa Code section 524.212.

i. All applications, reports, materials, documents, information and other writings obtained from the Federal Deposit Insurance Corporation, Federal Reserve Bank, Comptroller of the Currency or any agency of the United States government which would cause the denial of services or information to the agency. (Iowa Code section 22.9; the Privacy Act of 1974 (5 U.S.C. 552a) and Part 310 of the Federal Deposit Insurance Corporation Rules and Regulations (12 CFR 310).)

j. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

k. Any other information made confidential by law.

187—7.14(17A,22) 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 rule 187—7.1(17A,22). The division of banking does not maintain groups of records to be retrieved by individual identifiers. Division records concerning regulated entities may contain financial and other personal information about individuals who are officers, shareholders, employees, or customers of regulated entities or do business with them. The division of banking does not currently have a data processing system which matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the agency are:

7.14(1) Personnel files. The agency maintains files containing information about employees, families and dependents, and applicants for positions with the agency. The files include an individual's employment history, such as hiring and recruitment correspondence, salary, payroll and benefit information, record of personnel actions, military status, affirmative action statistics, education and training completed, professional certification achievements, professional organizational involvement, performance evaluation reports, and other information concerning the employer-employee relationship. This information is collected pursuant to Iowa Code section 524.208, and some of the information is confidential under Iowa Code sections 22.7(11) and 22.7(18). The information is maintained on paper; and certain parts are also contained on the agency's data processing system, as well as the state's mainframe automated data processing system.

7.14(2) Payroll records. Records showing individual earnings, hours worked, leave usage, class, position, salary range, deductions, net pay with agency summaries, and other related information. These records contain personally identifiable information collected under the authority of Iowa Code section 524.208, and some of the information may be confidential under Iowa Code section 22.7(11). The information is maintained on paper, with certain records maintained on the state's payroll automated data processing system.

187—7.15(17A,22) Other groups of records routinely available for public inspection. This rule describes groups of records maintained by the agency other than record systems as defined in rule 187—7.1(17A,22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information. In addition, the records listed in subrules 7.15(1) to 7.15(4) may contain information about individuals.

7.15(1) Rule making. Rule-making 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. This information is not stored on an automated data processing system.

7.15(2) Banking council records. Agendas, minutes and materials presented to the Iowa division of banking council are available from the office of the Iowa division of banking, except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5, or which are otherwise confidential by law. Banking council records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not retrieved by individual identifier and is not stored on an automated data processing system.

7.15(3) Publications. News releases, annual reports, project reports, agency newsletters, etc., are available from the office of the Iowa division of banking.

Agency news releases, project reports, and newsletters may contain information about individuals, including agency staff or members of agency councils or committees. This information is not retrieved by individual identifier and is not stored on an automated data processing system.

7.15(4) Orders issued by the superintendent. All findings of fact, conclusions of law, and orders issued by the superintendent subsequent to a public hearing under the provisions of chapter 17A, except as otherwise provided by law. (See Iowa Code section 17A.3.) These records may contain information about individuals.

7.15(5) Published materials. The agency 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.

7.15(6) Policy manuals. The agency's employees' manual, containing information concerning policies and procedures for programs administered by the agency, is available in the office of the agency. Policy manuals do not contain information about individuals.

7.15(7) Reports to superintendent. Reports obtained by the superintendent pursuant to the provisions of Iowa Code section 524.220. These reports are considered open records.

7.15(8) Officers and directors. Lists of officers and directors filed with the superintendent pursuant to the provisions of Iowa Code section 524.541. These reports are considered open records, with the exception that lists of shareholders are confidential and not open to the public.

7.15(9) Other. All other records that are not exempted from disclosure by law.

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187—7.16(17A,22) Applicability. This chapter does not:

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

These rules are intended to implement Iowa Code section 22.11.

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