

CHAPTER 5  
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES  
[481—Chapter 5 renumbered as 481—Chapter 11, IAB 2/10/88, effective 3/16/88]

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

The department of inspections and appeals adopts, with the following exceptions and amendments, rules of the Governor’s Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices, which are published on the Iowa general assembly’s website at [www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf).

**481—5.1(17A,22) Definitions.** As used in this chapter:

“*Agency*.” In lieu of the words “(official or body issuing these rules)”, insert “department of inspections and appeals”.

“*Custodian*” means an agency, which owns and exercises control over public records. The originating agency, if any, is the custodian of records which are used to perform work or a service for the originating agency.

“*Originating agency*” means any government agency which has requested the department to perform work or a service on its behalf. An originating agency retains custody of all records provided by the originating agency to the department.

**481—5.3(17A,22) Requests for access to records.**

**5.3(1) Location of record.** In lieu of the words “(insert agency head)”, insert “director”. In lieu of the words “(insert agency name and address)”, insert “Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319”.

**5.3(2) Office hours.** In lieu of the words “(insert customary office hours, and if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)”, insert “8 a.m. to 4:30 p.m. Monday through Friday except legal holidays.”

**5.3(7) Fees.**

*c. Supervisory fee.* In lieu of “(specify time period)” insert “one hour”.

**481—5.6(17A,22) Procedure by which a subject may have additions, dissents, or objections entered into the record.** In lieu of the words “(designate office)” insert “the originating agency, or to the director’s office”.

**481—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. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

*a.* For a routine use as defined in rule 481—5.10(17A,22) or in the notice 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 an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

*d.* To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

- e. To the legislative services agency under Iowa Code section 2A.3.
- f. Disclosures in the course of employee disciplinary proceedings.
- g. In response to a court order or subpoena.

[ARC 6862C, IAB 2/8/23, effective 3/15/23]

**481—5.10(17A,22) Routine use.** “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

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

1. Disclosure to those officers, employees, and agents of the department or the originating agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian’s own initiative, determine what constitutes legitimate need to use confidential records.
2. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.
3. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.
4. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.
5. Any disclosure specifically authorized by the statute under which the record was collected or maintained.
6. Information transferred to any originating agency when inspections and appeals department has completed the authorized audit, investigation, or inspection.

**481—5.11(17A,22) Consensual disclosure of confidential records.**

**5.11(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 481—5.7(17A,22).

**5.11(2)** *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official’s intervention on behalf of the subject in a matter that involves the agency may 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.

**5.11(3)** *Obtaining information from a third party.* The department of inspections and appeals occasionally requests personally identifiable information from third parties during the course of its authorized audits, investigations, hearings or inspections. Requests to third parties for this information involve the release of confidential identifying information and shall be made in accordance with the department’s pertinent statutory authority.

**5.11(4)** *Child support recovery unit.* Information shared by or with the child support recovery unit of the department of human services pursuant to Iowa Code chapter 252J shall only be used as set forth in Iowa Code section 252J.2(4).

[ARC 6862C, IAB 2/8/23, effective 3/15/23]

**481—5.12(17A,22) Release to subject.**

**5.12(1)** A written request to review confidential records may be filed by the subject of the record as provided in rule 481—5.6(17A,22). The department need not release the following records to the subject:

- a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.
- b. Records need not be disclosed to the subject when they are the work product of an attorney, or a hearing officer’s personal notations to be used by the hearing officer and not intended for public dissemination; or they are otherwise privileged.

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

d. Others authorized by law.

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

[ARC 6802C, IAB 1/11/23, effective 2/15/23; ARC 6862C, IAB 2/8/23, effective 3/15/23]

**481—5.13(17A,22) Availability of records.** Agency records are open for public inspection and copying unless otherwise provided by rule or law.

**5.13(1) Confidential records.** The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

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

b. Tax records made available to the agency.

c. Exempt records under Iowa Code section 22.7.

d. Minutes of closed meetings of a government body. (Iowa Code section 21.5(5))

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

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

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency. (See Iowa Code sections 17A.2, 17A.3)

g. Confidential records are also described in the rules of each division.

h. 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 Rule of Civil Procedure 1.503(3), 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.

i. Any other records made confidential by law.

Iowa Code sections 10A.105, 22.7, 135B.12, 135C.19, 217.30, and 272C.6 contain specific authority.

**5.13(2)** Reserved.

[ARC 6862C, IAB 2/8/23, effective 3/15/23]

**481—5.14(17A,22) Authority to release confidential records.** The department may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 481—5.4(17A,22). If the department initially determines that it will release these records, the department may notify interested parties and withhold the records from inspection as provided in subrule 5.4(3).

[ARC 6862C, IAB 2/8/23, effective 3/15/23]

**481—5.15(17A,22) 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, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code section 22.7(11).

**481—5.16(17A,22) Personally identifiable information.** The department maintains systems of records which contain personally identifiable information.

**5.16(1) Rule making.** Rule-making records may contain information about people who make written or oral comments about proposed rules. Iowa Code section 17A.4 requires collection and retention of this information.

**5.16(2) Administrative hearings division.** Contested case records are maintained in electronic files and contain names and identifying numbers of people involved. Evidence and documents submitted as a result of a hearing are contained in the contested case file.

Records are collected by authority of Iowa Code chapter 10A. None of the information stored in a data processing system is compared with information in any other data processing system.

Records of hearings are recorded digitally or in written transcripts.

**5.16(3) Appellate defender.** By authority of Iowa Code chapter 13B, the appellate defender maintains information and records relating to criminal and postconviction relief cases that are being appealed. Records contain names and identifying numbers of persons involved in these cases, and are maintained in paper and electronic files. Case information is not stored in a data processing system and cannot be compared with information in any data processing system. By authority of Iowa Code section 915.36, the appellate defender shall not disclose the names of child victims. Presentence investigation reports in the possession of the appellate defender are confidential records pursuant to Iowa Code section 901.4.

Litigation 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's notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain material which is confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain them from the clerk of the appropriate court which maintains the official copy.

**5.16(4) Investigations division.** Files are stored electronically using encrypted cloud storage and state-administered servers. Electronic records are retrievable using a name, social security number, state identification number, or other program identifier, as applicable.

All records are collected and stored by the investigations division pursuant to Iowa Code section 10A.402.

Comparisons between record systems are explained in rule 481—90.8(10A).

**5.16(5) Health facilities division.** Records of the health facilities division are collected pursuant to Iowa Code sections 10A.702, 235E.2, and other entity- and program-specific authority. Records are maintained in paper and electronic files and may contain personally identifiable information. Records may be compared with information on data processing systems, including the direct care worker registry, and may be retrievable by personal identifier. A general list of records considered confidential is available in rule 481—50.8(10A).

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These rules are intended to implement Iowa Code sections 10A.105, 22.7, 22.11, 135B.12, 135C.19, 217.30 and 272C.6.

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