

CHAPTER 8
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The employment appeal board adopts, with the following amendments and exceptions, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are printed in the first volume of the Iowa Administrative Code.

486—8.1(17A,22) Definitions. As used in this chapter:

"Agency." In lieu of the words "(official or body issuing these rules)", insert "employment appeal board".

"Custodian." Delete "the agency" and insert "an agency". Insert "The originating agency, if any, is the custodian of records which are used to carry out functions of the originating agency."

"Originating agency" means the government agency which has authority over and custody of records and for whom the board is performing a service.

486—8.3(17A,22) Requests for access to records.

8.3(1) Location of record. In lieu of the words "(insert agency head)" insert "board". In lieu of the words "(insert agency name and address)" insert "Employment Appeal Board, Lucas State Office Building, Des Moines, Iowa 50319".

8.3(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".

8.3(7) Fees.

c. Supervisory fee. In lieu of the words "(specify time period)" insert "fifteen minutes".

486—8.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. In lieu of the words "(designate office)", insert "the originating agency, to the board".

486—8.9(17A,22) Disclosures without the consent of the subject.

8.9(1) Open records are routinely disclosed without the consent of the subject.

8.9(2) To the extent allowed by law, disclosure of confidential records or exempt 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 8.10(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.

486—8.10(22) Routine use.

8.10(1) Defined. "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.

8.10(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 board 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.

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. 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.

d. 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.

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

486—8.11(22) Consensual disclosure of confidential records.

8.11(1) *Consent to disclosure by a subject individual.* To the extent provided by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 8.7(17A,22).

8.11(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 to the extent permitted by law may be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

486—8.12(22) Availability of records.

8.12(1) *General.* The agency records are open for public inspection and copying unless otherwise provided by rule or law.

8.12(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.

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

c. 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."

486—8.13(22) Personally identifiable information. The department maintains systems of records which contain personally identifiable information.

8.13(1) *Rule-making records.* 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. It cannot be retrieved by an individual identifier. It is not stored in a computer system.

During the rule-writing process, committees are occasionally used to gather basic information. Minutes of committee meetings are available for public inspection. The minutes are retained.

8.13(2) *Contested case records.* Contested case records are maintained in paper and computer 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 records.

Records are collected by authority of Iowa Code section 10A.601. 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 on magnetic cassette tapes or in written transcripts.

These rules are intended to implement Iowa Code sections 22.7 and 22.11 and Iowa Code chapters 10A, 19A, 80, 88, 89A, 89B, 96 and 97.

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