

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The Iowa department of revenue 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 printed in the first volume of the Iowa Administrative Code. Uniform Rules X.1(17A,22) to X.8(17A,22) appear as rules 5.1(17A,22) to 5.8(17A,22). The following rules in this chapter may reference rules that have not been adopted and, therefore, the text of such rules is not set forth in this chapter. Reference to these types of rules is only for the purpose of reference and is not intended for the purpose of adopting the referenced rules in their entirety.

701—5.1(17A,22) Definitions. As used in this chapter:

“Agency.” In lieu of “(official or body issuing these rules)” insert “department of revenue.”

701—5.3(17A,22) Requests for access to records.

5.3(1) Location of record. In lieu of “(insert agency head)” insert “director”. In lieu of “(insert agency name and address)” insert “Iowa Department of Revenue, Taxpayer Services, Box 10457, Des Moines, Iowa 50306”.

5.3(2) Office hours. In lieu of “(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. daily excluding Saturdays, Sundays, and legal holidays”.

5.3(7) Fees.

c. Supervisory fee. In lieu of “(specify time period)” insert “one-half hour”. In lieu of “(An agency wishing to deal with search fees authorized by law should do so here.)” insert “An hourly fee may be charged for actual agency expenses in searching for requested records when the time required for searching for a combination of searching, supervision and copying is in excess of one-half hour.”

701—5.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. Strike the words “or to (designate office)”.

701—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 subrule 5.10(1) or in any 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.
- f.* Disclosures in the course of employee disciplinary proceedings.
- g.* In response to a court order or subpoena.

701—5.10(17A,22) Routine use.

5.10(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 laws, Iowa Code chapter 22.

5.10(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 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.

701—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 5.7(17A,22).

5.11(2) *Complaints to public officials.* A letter from the 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.

701—5.12(17A,22) Release to subject.

5.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 5.6(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 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 are otherwise privileged.
- c.* Peace officer’s investigative reports may be withheld from the subject, except as required by Iowa Code. (See Iowa Code section 22.7(5).)
- d.* As otherwise authorized by law.

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

701—5.13(17A,22) Availability of records.

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

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

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

- b.* Records which are exempt from disclosure under Iowa Code section 22.7.
- c.* Minutes of closed meetings of a government body (Iowa Code section 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. (See Iowa Code sections 17A.2 and 17A.3.)
- f.* 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.
- g.* Corporate income return systems, corporate income tax field and office audit systems, related field collections system, and corporate tax error resolution system (Iowa Code section 422.20).
- h.* Individual and fiduciary income returns, individual and fiduciary income tax field and office audit systems, and related field collections system (Iowa Code section 422.20, 422.72, and 450.68).
- i.* Individual income tax withholding system, IA-W4 system, declaration of estimated tax, and withholding penalty waiver systems (Iowa Code sections 422.20 and 422.72).
- j.* Penalty waiver, abatement, and settlement systems (Iowa Code sections 421.5, 422.20, and 422.72).
- k.* Franchise tax returns, audit and collection systems (Iowa Code section 422.72).
- l.* Sales and use tax returns, field and office audit and collections systems, sales tax refund examination system, industrial machinery, equipment, and computer refund systems, and sales and use tax penalty waiver systems (Iowa Code section 422.72).
- m.* Motor vehicle fuel, railway fuel tax, and special fuel tax return and error resolution systems, and related field and office audit and collection systems (Iowa Code section 452A.63).
- n.* Inheritance, generation skipping transfer, qualified use inheritance and estate tax returns, field and office audit systems, and related field collections system (Iowa Code section 450.68).
- o.* Federal and state exchange of information systems (Iowa Code sections 422.20(2) and 422.72).
- p.* Cigarette and tobacco tax systems with related office and field audit and field collections systems (Iowa Code section 22.7(6)).
- q.* Property assessor and deputy assessor examination records systems (Iowa Code section 441.5).
- r.* Central property tax assessments systems (Iowa Code sections 422.20 and 22.7(6)).
- s.* Elderly credit mobile home system (Iowa Code section 425.28).
- t.* Iowa disabled and senior citizen property tax and special assessment credit systems (Iowa Code section 425.28).
- u.* Local option sales and services tax system (Iowa Code section 422.72).
- v.* New job tax credit system (Iowa Code section 422.20).
- w.* Corporate and franchise estimated tax systems (Iowa Code section 422.20).
- x.* Hotel and motel tax system (Iowa Code section 422.72).
- y.* The work product portion of the hearing officer case files (Iowa Code subsection 22.7(4)).
- z.* Permit application and maintenance systems (Iowa Code sections 22.7(6), 452A.63, 422.20, and 422.72).
- aa.* Taxpayer contact systems (Iowa Code subsection 22.7(18) and any relevant tax confidentiality sections).

bb. Centralized payroll and department personnel and payroll systems to the extent covered (Iowa Code subsection 22.7(11)).

cc. Inheritance tax returns, estate tax returns, and generation skipping transfer tax returns (Iowa Code sections 450.68, 450A.12, 450B.7 and 451.12).

dd. Any other records made confidential by law.

5.13(3) Authority to release confidential records. The agency 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 5.4(17A,22). If the agency initially determines that it will release such records, the agency may where appropriate notify interested parties and withhold the records from inspection as provided in subrule 5.4(3).

This rule is intended to implement Iowa Code sections 421.17 and 422.72 and chapters 450, 450A, 450B, and 451 and 2003 Iowa Acts, chapter 178, sections 66 through 121.

701—5.14(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 5.1(17A,22).

5.14(1) Retrieval. Personal identifiers may be used to retrieve information from any of the systems of records that the agency maintains that contain personally identifiable information.

5.14(2) Means of storage. Paper, microfilm, microfiche, and various electronic means of storage are used to store records containing personally identifiable information.

5.14(3) Comparison. Electronic or manual data processing may be used to match, to collate, or to compare personally identifiable information in one system with personally identifiable information in another system of records or with personally identifiable information within the same system.

5.14(4) Comparison with data from outside the agency. Personally identifiable information in systems of records maintained by the agency may be compared with information from outside the agency when specified by law. This comparison is allowed in situations including:

a. Determination of any offset of a debtor's income tax refund or rebate for child support recovery or foster care recovery (2003 Iowa Acts, House File 534, section 86);

b. Collection of taxes by collection agencies (Iowa Code subsection 421.17(22));

c. Calculation of any offset against an income tax refund or rebate for default on a guaranteed student loan (2003 Iowa Acts, House File 534, section 86);

d. Offset from any tax refund or rebate for any liability owed a state agency (2003 Iowa Acts, House File 534, section 86);

e. Offset for any debt which is in the form of a liquidated sum due, owing, and payable to the clerk of district court as a criminal fine, civil penalty surcharge, or court costs (2003 Iowa Acts, House File 534, section 86).

5.14(5) Nature and extent. All of the record systems listed in subrule 5.14(6) contain personally identifiable information concerning matters such as income, property holdings or exchanges, financial transactions, and demographic information such as address and number of dependents.

5.14(6) Records systems with personally identifiable retrieval. The agency maintains the systems of records which contain personally identifiable information as enumerated in the following list. Confidential information as described in subrule 5.13(2) is contained in systems described in the following lettered paragraphs of subrule 5.14(6): "b" through "l," "n," "o," "q," "s," through "v," and "x" through "mm." The legal authority for the collection of the information is listed with the description of the system.

a. Board of tax review agendas, minutes, and presentation materials (Iowa Code section 421.1);

b. Centralized payroll and accounting systems (Iowa Code sections 7A.1, 7A.27, 19A.11, 421.17, 421.32, and 421.40);

c. Corporate income returns, corporate income tax field and office audit systems, related field collections system, and corporate tax error resolution (Iowa Code sections 422.33, 422.41, and 422.85);

- d.* Individual income returns, individual income tax field and office audit systems, and related field collections system (Iowa Code sections 422.5, 422.13, and 422.14);
- e.* Individual income tax withholding system, IA-W4 system, declaration of estimated tax, and withholding penalty waiver systems (Iowa Code sections 422.15 and 422.16);
- f.* Penalty waiver, abatement, and settlement systems (Iowa Code sections 422.25 and 422.28);
- g.* Franchise tax returns and audit and collection systems (Iowa Code sections 422.60, 422.66, and 422.85);
- h.* Sales and use tax returns, field and office audit and collection systems, sales tax refund examinations system, and sales and use tax penalty waivers systems (Iowa Code sections 422.43, 422.54, and 423.2);
- i.* Motor vehicle fuel tax return and error resolution systems, and related field audit and collection systems (Iowa Code chapter 452A);
- j.* Inheritance, generation-skipping transfer, qualified use inheritance and estate tax systems, related field and office audit systems, and related field collections systems (Iowa Code sections 450.66, 450.67, 450.71, 450.81, 450.88, 450.94, 450.97, 450A.8, 450A.11, 450A.12, 450B.7, 451.5, 451.11, and 451.12);
- k.* Federal and state exchange of information systems for tax administration (Iowa Code sections 422.20 and 422.72);
- l.* Cigarette and tobacco tax systems with related office and field audit and field collections system (Iowa Code chapter 453A);
- m.* Hearing officer case files (Iowa Code sections 17A.11 to 17A.18);
- n.* Property assessor assistance, provisional assessor training, and property assessor and deputy assessor examinations (Iowa Code sections 421.25, 441.5, and 441.8);
- o.* Annual assessment sales ratio study system (Iowa Code section 428A.1);
- p.* Declaration of value system (Iowa Code section 428A.1);
- q.* Central property tax assessments (Iowa Code sections 433.1, 433.2, 434.1, 434.6, 434.7, 434.8, 434.9, 434.10, 434.11, 434.14, 437.2, 437.4, 438.3, 438.4, 438.6, and 438.12);
- r.* Real estate transfer tax system (Iowa Code section 428A.1);
- s.* Elderly credit mobile home system (Iowa Code section 435.22);
- t.* Elderly credit special assessment system and Iowa disabled and senior citizen property tax and rent reimbursement credit system (Iowa Code sections 425.25, 425.26, and 425.27);
- u.* Equalization of property appraisals system (Iowa Code subsection 421.17(2));
- v.* Police officers' and firefighters' retirement system (Iowa Code section 411.20));
- w.* Tax policy and interpretation and final orders, decision, and opinion files (Iowa Code section 17A.3);
- x.* Equipment and security inventory systems (Iowa Code sections 7A.30 and 421.17(1));
- y.* Mailing systems for tax forms and newsletters (Iowa Code subsection 421.17(1));
- z.* Permit applications and maintenance systems (Iowa Code subsection 421.17(1));
- aa.* Taxpayer contact systems (Iowa Code subsection 421.17(1));
- bb.* Department personnel, budget, and payroll systems (Iowa Code sections 7A.1, 19A.9(13), 421.17(1), 421.32, and 421.40);
- cc.* Local option sales and services tax system (Iowa Code section 422B.9);
- dd.* Corporate and franchise estimated tax (Iowa Code section 422.85);
- ee.* New jobs tax credit system (Iowa Code subsection 422.33(7));
- ff.* Hotel and motel tax system (Iowa Code section 422A.1);
- gg.* Industrial machinery, equipment, and computers refund system (Iowa Code section 422.47A);
- hh.* Express company tax system (Iowa Code sections 436.3, 436.4, 436.6, and 436.9);
- ii.* Farm machinery and equipment refund system (Iowa Code section 422.47B);
- jj.* Litigation file systems (Iowa Code subsection 421.17(1));
- kk.* Criminal investigation and charge systems (Iowa Code subsection 421.17(1)).

701—5.15(17A,22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 5.1(17A,22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information as discussed in rule 5.13(17A,22). The records listed may contain information about individuals.

1. Administrative records. This includes documents concerning budget, property inventory, purchasing, yearly reports, office policies for employees, time sheets, printing and supply requisitions. (See Iowa Code subsection 421.17(1).)

2. Publications. The agency receives a number of books, periodicals, newsletters, government documents, etc. These materials would generally be open to the public but may be protected by copyright law. (See Iowa Code subsection 421.17(1).)

3. Office publications. This agency issues a variety of materials including newsletters, brochures, and pamphlets, press releases, and statistical reports. (See Iowa Code subsection 421.17(1).)

4. Rule-making records. Public documents generated during the promulgation of agency rules, including notices and public comments, are available for public inspection. (See Iowa Code subsection 421.17(1).)

5. Office manuals. Information in office manuals may be confidential under Iowa Code subsection 17A.2(7), paragraph "f," or other applicable provision of law.

6. Legal library (Iowa Code subsection 421.17(1)).

7. Legislation monitoring system (Iowa Code subsection 421.17(1)).

8. All other records that are not exempt from disclosure by law.

701—5.16(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 possession of the agency which are governed by regulations 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 regulations of the agency.

This rule is intended to implement Iowa Code chapter 22.

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