

CHAPTER 9
COMPLAINT, INVESTIGATION, AND RESOLUTION PROCEDURES

[Prior to 9/9/87, Campaign Finance Disclosure[190] Ch 1]
[Prior to 3/30/94, Campaign Finance Disclosure Commission[121] Ch 1]
[Prior to 8/21/02, see 351—Ch 1]
[Prior to 9/17/03, see 351—Ch 5]

Chapter rescission date pursuant to Iowa Code section 17A.7: 6/3/31

351—9.1(68B) Complaints.

9.1(1) Form. A complaint will be on forms provided by the board and will be certified under penalty of perjury. The complaint will contain all information required by Iowa Code section 68B.32B(1). The complainant may attach up to 20 pages of supporting documents to the complaint. The Board's legal counsel will review the complaint for sufficiency of form. If the complaint is deficient as to form, the complaint will be returned to the complainant with a statement of deficiency.

9.1(2) Board acceptance. A complaint will be deemed accepted if, after legal review by the board's legal counsel, review by the chairperson, and a vote of the board, it is determined the complaint contains the requirements as listed in Iowa Code section 68B.32B(4). If both the board's legal counsel and the board opine that the complaint does not contain a legally sufficient allegation, the complaint will be dismissed.

9.1(3) Notice. Notice to the subject of a complaint is made only when a complaint is accepted, subject to the conditions of Iowa Code section 68B.32B(3).

9.1(4) Board review. The board's review of a formal complaint for legal sufficiency is not a contested case proceeding and will be made solely on the contents of the complaint. Dismissal for lack of legal sufficiency is not subject to appeal.

9.1(5) Information provided to board. The board may, on its own motion and without the filing of a complaint, initiate investigations into matters that the board believes may be subject to the board's jurisdiction.

[ARC 0240D, IAB 4/29/26, effective 6/3/26]

351—9.2(68B) Investigations—board action.

9.2(1) Board-initiated investigation. In addition to investigations of legally sufficient complaints, the board may, on its own motion, refer to staff for investigation matters that the board believes may be subject to the board's jurisdiction.

9.2(2) Subpoenas. Investigations may include the issuance and enforcement of investigative subpoenas requiring the production of real evidence as well as requiring the attendance and testimony of witnesses.

9.2(3) Completion. Upon completion of an investigation, staff will make a report to the board, and the board's legal counsel may provide a recommendation for board action.

9.2(4) Board action. Upon receipt and review of the investigative findings and any recommendations, the board may:

- a. Redirect the matter for further investigation;
- b. Dismiss the matter for lack of probable cause to believe a violation has occurred;
- c. Dismiss the matter without a determination regarding probable cause as an exercise of administrative discretion;
- d. Make a determination that probable cause exists to believe a violation has occurred and direct administrative resolution of the matter as provided in subrule 9.3(2); or
- e. Make a determination that probable cause exists to believe a violation has occurred and direct the issuance of a statement of charges to initiate a contested case proceeding.

[ARC 0240D, IAB 4/29/26, effective 6/3/26]

351—9.3(68B) Disciplinary remedies; administrative resolution of enforcement matters.

9.3(1) Action after hearing. If it is determined after a contested case proceeding that a violation of statute or rule under the board's jurisdiction has occurred, the board may impose any of the actions set out in Iowa Code section 68B.32D, including as a remedial action the assessment of direct costs related to the

hearing for printing, postage, long-distance telephone charges, witness fees, and compensation paid to the presiding officer.

9.3(2) *Administrative resolution.* Violations may be handled by administrative resolution rather than through the full contested case proceeding process. The board may order administrative resolution by directing that the person take specified remedial action. The board may also order administrative resolution by issuing a letter of reprimand or by imposing a civil penalty as set out in subrule 9.3(7).

9.3(3) *Response to administrative resolution.* A person subject to board discipline may accept administrative resolution. If the person accepts the administrative resolution by complying with the directed remedial action or accepting a letter of reprimand, the matter will be closed. If the person wishes to appeal the administrative resolution, the person will make a written request to the executive director for a contested case proceeding and will submit the request within 30 days of the date of the correspondence informing the person of the board's decision.

9.3(4) *Statement of charges.* The board will issue a statement of charges upon timely receipt of a request for a contested case proceeding to appeal an administrative resolution. The contested case will be conducted in accordance with the provisions in Iowa Code chapter 17A. The board's legal counsel will have the burden of proving the violation. Failure to challenge the administrative resolution through a request for a contested case proceeding is a failure to exhaust administrative remedies for purposes of seeking judicial review.

9.3(5) *Automatic civil penalties.* The board may administratively resolve late-filed reports by the assessment of automatic civil penalties, subject to the civil penalty waiver process. The board may retain \$10 of any civil penalty that is ultimately not waived by the board or by a court of law as return receipts covering incidental costs such as printing and postage. The remainder of the civil penalty will be deposited in the state general fund.

9.3(6) *Admonishment.* The board may admonish any person who it believes has committed a minor violation to exercise care. An admonishment is not discipline and is not subject to a contested case proceeding appeal.

9.3(7) *Civil penalty for violation.* If the board determines that probable cause exists to believe that a violation of any statute or rule under its jurisdiction has occurred, except for a late-filed disclosure report, the board may order administrative resolution of the violation by imposing a civil penalty not to exceed \$1,000. A person assessed a civil penalty may appeal the decision by requesting within 30 days of the date of the correspondence informing the person of the board's decision a contested case proceeding to be held under the process set out in subrule 9.3(4).

[ARC 0240D, IAB 4/29/26, effective 6/3/26]

351—9.4(68B) Settlements. Settlements may be negotiated during an investigation or after the commencement of a contested case proceeding. Negotiations will be conducted between the board's legal counsel and any person subject to the investigation or contested case proceeding or the person's legal representatives. A settlement will be in writing and is subject to approval of the board. If the board declines to approve a proposed settlement, the settlement will be of no force or effect.

[ARC 0240D, IAB 4/29/26, effective 6/3/26]

351—9.5(68B) Protections for complaints made in good faith.

9.5(1) *Good faith definition.* For purposes of Iowa Code section 68B.32A(14), "good faith" means that any statements or materials in a complaint, in information provided to the board for a possible board-initiated investigation, or provided in information during the course of a board investigation were made or provided with a reasonable belief that such statements or materials were true and accurate.

9.5(2) *Protections.* A person who discharges or discriminates against an employee because the employee filed a complaint or provided information during the course of a board investigation may be subject to the board's complaint process if the employee filed the complaint or provided the information in good faith. If it is determined after a contested case proceeding that a person has impermissibly discharged or discriminated against an employee under this rule, the board may impose sanctions as set out in Iowa Code section 68B.32D.

This rule is intended to implement Iowa Code sections 68B.32A(14) and 68B.32B.

[ARC 0240D, IAB 4/29/26, effective 6/3/26]

351—9.6(68B) Providing false information to the board during an investigation. A person providing false information to the board during a board investigation of a potential violation of Iowa Code chapter 68A or 68B or rules adopted by the board will be subject to the complaint or administrative resolution process as provided under Iowa Code chapter 68B and rule 351—9.3(68B). For purposes of this rule, “providing false information” means the intentional providing of a false material statement of fact, falsely denying knowledge of a material fact, or providing a material statement of fact with a reckless disregard for the truth of the statement.

This rule is intended to implement Iowa Code sections 68B.32A and 68B.32B.

[ARC 0240D, IAB 4/29/26, effective 6/3/26]

These rules are intended to implement Iowa Code section 68B.32B.

[Filed July 3, 1974]

[Filed 10/28/75, Notice 8/25/75—published 11/17/75, effective 12/22/75]

[Filed emergency 2/11/76—published 3/8/76, effective 2/11/76]

[Filed emergency 4/1/76—published 4/19/76, effective 4/1/76]

[Filed 11/6/81, Notice 9/30/81—published 11/25/81, effective 1/1/82]

[Filed 8/21/87, Notice 6/17/87—published 9/9/87, effective 10/14/87]

[Filed 4/23/92, Notice 2/19/92—published 5/13/92, effective 6/17/92]

[Filed 9/23/93, Notice 4/28/93—published 10/13/93, effective 11/17/93]

[Filed 3/11/94, Notice 1/5/94—published 3/30/94, effective 5/4/94]

[Filed 7/29/94, Notice 5/25/94—published 8/17/94, effective 9/21/94]

[Filed 12/1/95, Notice 10/25/95—published 12/20/95, effective 1/24/96]

[Filed 3/3/99, Notice 1/13/99—published 3/24/99, effective 4/28/99]

[Filed 8/1/02, Notice 6/26/02—published 8/21/02, effective 9/25/02]

[Filed 8/28/03, Notice 7/23/03—published 9/17/03, effective 10/22/03]

[Filed 1/28/05, Notice 11/10/04—published 2/16/05, effective 3/23/05]

[Filed 9/25/06, Notice 8/2/06—published 10/25/06, effective 11/29/06]

[Filed 4/2/08, Notice 2/13/08—published 4/23/08, effective 5/28/08]

[Editorial change: IAC Supplement 4/8/09]

[Filed ARC 7993B (Notice ARC 7808B, IAB 6/3/09), IAB 7/29/09, effective 9/2/09]

[Filed ARC 7991B (Notice ARC 7810B, IAB 6/3/09), IAB 7/29/09, effective 9/2/09]

[Filed ARC 9037B (Notice ARC 8803B, IAB 6/2/10), IAB 8/25/10, effective 9/29/10]

[Filed ARC 1389C (Notice ARC 1019C, IAB 9/18/13), IAB 4/2/14, effective 5/7/14]

[Filed ARC 0240D (Notice ARC 0096D, IAB 3/4/26), IAB 4/29/26, effective 6/3/26]