

CHAPTER 2
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

[781—Ch 2 renumbered as 781—Ch 9, IAB 5/18/88, effective 6/22/88]

The treasurer of state hereby 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.

781—2.1(17A,22) Definitions.

"Agency." In lieu of the words "(official or body issuing these rules)", insert "department of the treasurer of state".

781—2.3(17A,22) Requests for access to records.

2.3(1) Location of record. In lieu of the words "(insert agency name and address)," insert "Department of Treasurer of State, State Capitol Building, Des Moines, Iowa 50319." In lieu of words "(agency name)," insert "department".

2.3(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. daily, excluding Saturdays, Sundays, and legal holidays."

2.3(7) Fees.

c. Supervisory fee. In lieu of "(specify time period)", insert "one-half hour".

781—2.6(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 "to the director's office".

781—2.9(17A,22) Disclosures without consent of the subject.

2.9(1) Open records are routinely disclosed without the consent of the subject.

2.9(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 2.10(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 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.

781—2.10(17A,22) Routine use.

2.10(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.

2.10(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, state and local 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.

781—2.11(17A,22) Consensual disclosure of confidential records.

2.11(1) *Consent to disclose 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 2.7(17A,22).

2.11(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 involved 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.

781—2.12(17A,22) Release to the subject.

2.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 2.6(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 the 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 section 22.7(5))

d. As otherwise provided by the law.

2.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to correct confidential information relating to another subject.

781—2.13(17A,22) Availability of records.

2.13(1) *General.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

2.13(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 selection for professional services. (Iowa Code section 72.3)

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

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

d. Second injury fund records which represent and constitute the work of an attorney, which are related to litigation or claim made by or against the fund. (Iowa Code section 22.7(4))

e. Records of unclaimed property examinations during the period of examination pursuant to the treasurer's authority to examine holders. (Iowa Code section 556.23)

f. Records of identity of owners of public bonds or obligations maintained as provided in Iowa Code section 76.10 or by the issuer of the public bonds or obligations. However, the issuer of the public

bonds or obligations and a state or federal agency shall have the right of access to the records. (Iowa Code section 22.7(17))

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

h. 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.”

i. 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)

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 records made confidential by law.

2.13(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 2.4(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 2.4(3).

781—2.14(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 2.1(17A,22). Unless otherwise stated, the authority for this office to maintain the record is provided by Iowa Code chapter 12 and statutes governing the subject matter of the record. For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in another record system. The record systems maintained by the agency are:

2.14(1) Unclaimed property—missing owner records. Records containing lists of names, addresses, city, and ZIP codes of persons who have abandoned cash, stock or safe deposit contents. The list contains the amount abandoned and the date such was reported to the treasurer. These records are available for viewing on microfiche in the treasurer’s office and on printouts at state and county fairs statewide. This personally identifiable information is collected under the authority of Iowa Code chapter 556 and is maintained on paper, microfiche, and an automated data processing system.

2.14(2) Unclaimed property-holder reports. These annual reports are filed by financial institutions, insurance companies, and corporations. The original report is filed by name and is available on paper only. These records are collected under the authority of Iowa Code chapter 556.

2.14(3) Pledging of public funds. Records containing the name of federally insured bank, bank office, or credit union approved by the treasurer of state to accept the deposits of public funds in excess of federal insurance. Also included are the approved custodians which act as a safekeeping agent for the treasurer of state in holding collateral pledged by a depository to secure deposits of public funds. These records contain personally identifiable information collected under the authority of Iowa Code chapter 453. The information is maintained on paper.

2.14(4) Linked deposit programs. Records containing linked deposits made by the treasurer of state under the horticulture and alternative crop program or the targeted small business program including

information regarding the nature, terms, and amounts of the loans upon which the linked deposits were based and the names of the eligible borrowers to which the loans were made. The records include signed applications, agreements, correspondence, and program reports. These records contain personally identifiable information on the borrower and the lender, collected under the authority of Iowa Code section 12.43. The information is maintained on paper and on a word processor.

2.14(5) *Records of disclosure of information from persons or financial institutions regarding their open-end credit, credit cards, and financial services.* These records contain personally identifiable information, collected under the authority of Iowa Code section 12.27. The information on credit cards is kept on paper and in an automated data processing system. The financial services and open-end credit information is maintained on paper only. These records are filed by names of institutions or persons reporting.

2.14(6) *Request for proposal (RFP).* Records of solicitations to vendors to submit proposals for providing professional services. These records may contain personally identifiable information, collected under the authority of Iowa Code sections 12.30, 97A.7, and 602.9111. The information is maintained on paper and filed by vendor's name. Sealed bids received prior to selection will be confidential under the authority of Iowa Code section 72.3. Also to be considered by the treasurer of state are requests from vendors who have submitted business information, desiring to have all or part of that information treated as confidential.

2.14(7) *Report on state and local government bonding activities.* Records of information regarding outstanding obligations. These records contain personally identifiable information collected under the authority of Iowa Code section 12.30. The information is filed by the name of political subdivisions, instrumentalities, agencies, and authorities of the state and is maintained on paper and in an automated data processing system.

2.14(8) *South Africa-related investments and deposits.* Records include a list of companies that do business in or with the Republic of South Africa maintained for the purpose of which state funds and funds administered by the state shall not be invested or deposited in financial institutions or companies making loans or doing business with or in the Republic of South Africa. These records contain personally identifiable information, collected under the authority of Iowa Code sections 12A.1 through 12A.5. The information is maintained on paper and a word processing system, filed by company name. The list is developed with reference to information obtained from the United States Department of Commerce and Arthur D. Little, Inc., and other authoritative sources.

2.14(9) *Personnel files.* These files contain information about employees, families and dependents, and applicants for positions with the agency. The files include payroll records, biological information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports; table of authorized positions, and other information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code section 22.7(11).

2.14(10) *Second injury fund records.* Second injury fund records setting forth the balance, income, source of income, and payments out of the fund. Records include copies of notices of petition, industrial commissioner rulings, appeals filed, and appeal decisions all filed by claimant name. These records contain personally identifiable information, collected under the authority of Iowa Code sections 85.63 through 85.69. The information is maintained on paper and certain parts are included on a word processing system. Records which represent and constitute the work of an attorney, which are related to litigation or claim made by or against the fund are considered confidential under the authority of Iowa Code section 22.7(4). All final orders are open to the public.

2.14(11) *Iowa centennial memorial scholarship.* Records on persons applying for and receiving scholarships from the Iowa centennial memorial foundation. These records include applications, letters of recommendation, grade transcripts, statements of expenses and awards, and essays. The records contain personally identifiable information, collected under the authority of Iowa Code section 504.32. The information is maintained on paper only.

2.14(12) Clerk of court reports. Records of filing fees and court costs reported and remitted monthly by the clerk of court to the treasurer of state. These records may contain personally identifiable information, collected under the authority of Iowa Code sections 602.8105, 602.8106, and 602.8108. The information is maintained on paper only and is filed by county name.

2.14(13) Forgery files. Records concerning repayment for a forged state warrant investigated by the department of inspections and appeals. These records may include photocopies of forged warrants, correspondence, and copies of transmittal receipts to show repayment. These records are filed by claimant's name. This information, collected under the authority of Iowa Code section 12.3, is maintained on paper only.

2.14(14) Financial reports. Financial reports of distributions to cities and counties of the dollar amounts distributed from road use tax, liquor tax, franchise tax, hotel-motel tax, local sales and services tax and flood control. These records may contain personally identifiable information and are filed by county or city name or by a code number. Road use tax information is collected under the authority of Iowa Code chapter 312, liquor tax under Iowa Code section 125.59, franchise tax under Iowa Code section 422.64, hotel-motel tax under Iowa Code section 422A.2, local sales and services under Iowa Code sections 422B.8 through 422B.10, and flood control under federal Code 33 USC 701c 3. These records are maintained on paper and in an automated data processing system.

2.14(15) Records of redeemed warrants filed by warrant number. Locating information is maintained so photocopies of warrants may be made when deemed necessary. These records are collected under the authority of Iowa Code section 12.3. These records are maintained on paper and an automated data processing system and filed by warrant number. Locating information is kept on microfiche. Microfilmed warrants which may contain personally identifiable information, such as to whom the warrant was issued, are kept at the state records center.

2.14(16) Records of invest-in-Iowa program. Records of Iowa banks, savings and loans, and credit unions which have certificates of deposit from the treasurer of state. These records contain personally identifiable information, collected under the authority of Iowa Code section 12.8. These records are maintained on paper and on a word processing system, filed by institution name.

2.14(17) Bank records. Records of bank statements on the general operating accounts, filed by bank name and date. These records contain personally identifiable information, collected under the authority of Iowa Code section 12.10. The records are maintained on paper only.

2.14(18) Loan agreements. Records of agreements executed with brokers in order for borrowing of securities, filed by broker name. These records contain personally identifiable information, collected under the authority of Iowa Code section 12.8. The records are maintained on paper only.

2.14(19) Receipts transmittal letters of moneys deposited by state agencies. These records are filed by agency name and by date, collected under the authority of Iowa Code section 12.10. These records are maintained on paper and on an automated data processing system.

2.14(20) Public bonds and obligations. Records of identity of owners of public bonds or obligations maintained as provided in Iowa Code section 76.10 or by the issuer of the public bonds or obligations. These records contain personally identifiable information, collected under the authority of Iowa Code sections 76.10 and 12.26 through 12.30. These records are confidential under Iowa Code section 22.7(17). However, the issuer of the bonds or a state or federal agency may obtain information as necessary under Iowa Code section 76.11.

2.14(21) Missing shareholders of liquidated corporation file. This file is a listing of last known name, address, city, ZIP code, and dollar amount owed for persons who are entitled to proceeds from closed corporations. The file lists names collected for the past 20 years. After 20 years, ownership reverts to the state and the file is abolished. The file is maintained on a word processor and is available on paper for review by appointment made with the unclaimed property division in the Hoover Building. The file is collected under Iowa Code section 496.101. This information is not maintained in an automated data processing system.

781—2.15(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

2.1(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 2.13(17A,22). In addition, the records may contain information about the individuals. Unless otherwise designated, the authority for this office to maintain the record is provided by Iowa Code chapter 12 and the statutes governing the subject matter of the record. All records are stored both on paper and in automated data processing systems unless otherwise noted.

2.15(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 in an automated data processing system.

2.15(2) Council and commission records. Agendas, minutes, and materials presented to the Iowa centennial memorial foundation and rates set by the state rate setting committee are available from the office of treasurer of state, except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 2.15 or are otherwise confidential by law. Council and commission 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.

2.15(3) Publications. News releases, annual reports, project reports, agency newsletters, official statements, etc., are available from the office of the treasurer of state. Brochures describing various agency programs are available at the office of treasurer of state. 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 in an automated data processing system.

2.15(4) Appeal decisions and advisory opinions. All final orders, decisions and opinions are open to the public.

2.15(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.

2.15(6) Policy manuals. The agency employees' manual, containing the policies and procedures for programs administered by the agency, is available from the office of treasurer of state. Policy manuals do not contain information about individuals.

2.15(7) Administrative records. This includes documents concerning budget, property, inventory, purchasing, yearly reports, office policies for employees, time sheets, printing and supply requisitions.

2.15(8) Other records. All other records that are not exempted from disclosure by law.

781—2.16(17A,22) Data processing systems. None of the data processing systems used by the agency permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system as described in 2.14(17A,22).

781—2.17(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 administration 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 or

constitutional principles, statues, rules of discovery, evidentiary privileges, and applicable rules of the agency.

These rules are intended to implement Iowa Code section 22.11.

[Filed 4/28/88, Notice 3/23/88—published 5/18/88, effective 6/22/88]