

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

[Prior to 5/18/88, see Higher Education Loan Authority[480], subrule 1.2(5)]

The Iowa higher education loan authority hereby adopts the rules of procedure to implement public records law and fair information practices Act segments of the Uniform Administrative Rules which are printed in the first Volume of the Iowa Administrative Code, with the following amendments.

284—5.1(261A) Definitions. As used in this chapter:

“Agency” or “authority” means the Iowa higher education loan authority.

284—5.3(261A) Requests for access to records.

5.3(1) Location of record. A request for access to a record should be directed to the office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to the Iowa Higher Education Loan Authority, 309 Equitable Building, Des Moines, Iowa 50309. The authority will forward the request to the appropriate person.

5.3(2) Office hours. Records shall be made available during all customary office hours, which are 8:30 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays and holidays as designated by the authority.

5.3(7) Fees.

c. Supervisory fee. Reserve for future use.

d. Advance deposits. Reserve for future use.

284—5.6(261A) Procedure by which additions, dissents, or objections may be entered into certain records. In lieu of the words “(designate office)” insert “Iowa Higher Education Loan Authority, 309 Equitable Building, Des Moines, Iowa 50309.”

284—5.9(261A) 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 5.10(261A) 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.

284—5.10(261A) 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 law, 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 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.

284—5.11(261A) 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(261A).

5.11(2) *Complaints to public officials.* A letter from a subject of 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.

284—5.12(261A) 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(261A). 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 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 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.

284—5.13(261A) 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 inspections. Records are listed by category, according to the legal basis for withholding them from public inspection.

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

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

c. 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.

d. Tax records made available to the agency.

e. 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).

284—5.14(261A) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected and maintained by the agency. This rule describes the legal authority for the collection of that information and the means of storage of that information.

5.14(1) Education loans. The agency maintains files containing information about education loans which are made by an institution to a student or parents of a student as provided by Iowa Code sections 261A.4 and 261A.7. The records include information which is exempt under Iowa Code section 22.7. Education loan files are not contained in a data processing system.

5.14(2) 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).

284—5.15(261A) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 5.1(261A). 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(261A). The records listed may contain information about individuals.

5.15(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.

5.15(2) Authority records, agendas, minutes, and materials presented to the authority are available from the office of the authority.

5.15(3) Publications. News releases, annual reports, project reports, and agency newsletters, etc., are available from the office of the authority.

5.15(4) Statistical reports. Periodic reports of statistics records for various agency problems are available from the office of the authority.

5.15(5) Loans. Records on institutions receiving loans for facilities or student loans are available through the office of the authority. The information is collected under the authority of Iowa Code chapter 261A.

5.15(6) All other records that are not exempted from disclosure by law.

284—5.16(261A) Data processing systems. The data processing system used by this agency does not permit the comparison of personally identifiable information.

284—5.17(261A) 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 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 rules of the agency.

These rules are intended to implement Iowa Code section 261A.7.

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