

CHAPTER 25
PUBLIC RECORDS AND
FAIR INFORMATION PRACTICES

The division of workforce development center administration of the department of workforce development hereby adopts the 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 with the following exceptions and amendments:

877—25.1(22,96) Definitions.

“Agency.” In lieu of the words “(official or body issuing these rules)”, insert “the division of workforce development center administration of the department of workforce development”.

“Person” means an individual, corporation, governmental entity, estate, trust, partnership, association, or any other legal entity.

“Personally identifiable information.” In lieu of the words “an individual in a record which identifies the individual and which is contained in a record system”, insert “a person in a record which identifies the person and which is contained in a record system”.

“Record system.” In lieu of the words “an individual, number, symbol, or other unique retriever assigned to an individual”, insert “a person, number, symbol or other unique retriever assigned to the person”.

877—25.3(22,96) Request for access to records.

25.3(1) Location of record. In lieu of the words “(insert agency head)”, insert “division administrator”. Also, in lieu of the words “(insert agency name and address)”, insert “Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309”.

25.3(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 “customary and usual hours, which are 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays”.

25.3(4) Response to requests. In lieu of the words “X.4”, insert “25.4(22,96)”.

25.3(7) Fees.

c. Supervisory fee. In lieu of the words “(specify time period)”, insert “one-half hour”.

877—25.4(22,96) Access to confidential records. In lieu of the words “rule X.3”, insert “rule 25.3(22,96)”.

877—25.6(22,96) Procedure by which additions, dissents, or objections may be entered into certain records. In lieu of the words “(designate office)”, insert “the Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.”

877—25.7(22,96) Consent to disclosure by the subject of a confidential record. Remove the brackets around “(and, where applicable, the time period during which the record may be disclosed)”. Also, in lieu of the words “(Additional requirements may be necessary for special classes of records)”, insert “If the agency is required to obtain from a third party a confidential record about the subject to establish eligibility under a program administered by the agency, the agency has the authority under Iowa Code subsection 96.11(8) to obtain a confidential record deemed necessary for the administration of Iowa Code chapter 96.”

877—25.8(22,96) Notice to suppliers of information. Insert immediately following “or by other appropriate means”, “including: Form 70-5007, Handbook for Private Employers, to employing units; Form 70-6200, Facts for Workers, to individuals claiming unemployment insurance benefits; Form

70-8005, Release of Information Poster, to individuals applying for employment services; and Form 60-0243, Notification of Information Release; or Form 65-5334, Release of Information, when manual or automated, respectively, prior notice to a person of the release of information to an authorized entity is performed”.

877—25.9(22,96) Disclosure without the consent of the subject.

25.9(1) An open record is routinely disclosed without the consent of the subject.

25.9(2) To the extent allowed by law, disclosure of a confidential record may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without consent of the subject:

a. For a routine use as defined in rule 25.10(22,96); however, Iowa Code subsection 96.11(7) requires notification of the subject prior to some routine uses.

b. To another governmental 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 governmental 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.

c. To an agency of this or another state or of the federal government which administers or operates a program of public assistance or child support enforcement under either federal law or the law of this or another state, or which is charged with a duty or responsibility under any such program, and if that agency is required by law to impose safeguards for the confidentiality of information at least as effective as required under Iowa Code subsection 96.11(7). The requesting agency shall be provided, with respect to any named individual specified, any of the following:

(1) Whether the individual is receiving, has received, or has made application for unemployment compensation under Iowa Code chapter 96.

(2) The period, if any, for which unemployment compensation was payable and the weekly rate of compensation paid.

(3) The individual’s most recent address.

(4) Whether the individual has refused an offer of employment, and, if so, the date of the refusal and a description of the employment refused, including duties, conditions of employment, and the rate of pay.

(5) Wage information.

d. To the legislative services agency under Iowa Code section 2A.3.

e. Disclosure in the course of employee disciplinary proceedings.

f. In response to a court order or subpoena.

g. To the citizens’ aide under Iowa Code section 601G.9(3).

877—25.10(22,96) Routine use.

25.10(1) Defined. “Routine use” means the disclosure of a record without the consent of the subject, 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.

25.10(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, employee, and agent, or on the custodian’s own initiative, determine what constitutes legitimate need to use a confidential record.

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, including disclosure to the county attorney for the county attorney’s use in the performance of duties under Iowa Code subsection 331.756(5).

c. Disclosure of information to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

d. Direct disclosure of information with an attempt to provide notification to the subject and for a purpose consistent with Iowa Code chapter 96 to any of the following:

(1) An agency of this or any other state or a federal agency responsible for the administration of an unemployment compensation law or the maintenance of a system of public employment offices.

(2) The Bureau of Internal Revenue of the United States Department of the Treasury.

(3) The Iowa department of revenue.

(4) The Social Security Administration of the United States Department of Health and Human Services.

(5) An agency of this or any other state or a federal agency responsible for the administration of public works or the administration of public assistance to unemployed individuals.

(6) Colleges, universities and public agencies of this state for use in connection with research of a public nature, provided the agency does not reveal the identity of the subject.

(7) An employee of the department of workforce development, a member of the general assembly, or a member of the United States Congress in connection with the employee's or member's official duties.

(8) A political subdivision, governmental entity, or nonprofit organization having an interest in the administration of job training programs established pursuant to the federal Job Training Partnership Act.

(9) The United States Department of Housing and Urban Development and representatives of a public housing agency. For the purposes of this subparagraph, public housing agency means any agency described in Section 3(b)(6) of the United States Housing Act of 1937, as amended through January 1, 1989.

877—25.11(22,96) Release to a subject.

25.11(1) The subject of a confidential record may file a written request to review a confidential record about that person as provided in rule 25.6(22,96). 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 when the information is authorized to be held confidential pursuant to Iowa Code subsection 22.7(18) or other provision of law.

b. A record need not be disclosed to the subject when it is the work product of an attorney or is otherwise privileged.

c. A peace officer's investigative report may be withheld from the subject, except as required by Iowa Code subsection 22.7(5).

d. As otherwise authorized by law.

25.11(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.

877—25.12(22,96) Availability of records.

25.12(1) General. Agency records are open for public inspection and copying unless otherwise provided by law or rule.

25.12(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. Unemployment insurance tax records made available to the agency and withheld from public inspection pursuant to Iowa Code subsection 96.11(7).

b. Unemployment insurance benefit records, including an initial determination made by the agency's representative under Iowa Code subsection 96.6(2) as to the benefit rights of an individual, made available to the agency and withheld from public inspection pursuant to Iowa Code subsection 96.11(7).

c. Employment records made available to the agency and withheld from public inspection pursuant to Iowa Code subsection 96.11(7).

- d. Sealed bids received prior to the time set for public opening of bids pursuant to Iowa Code section 72.3.
- e. Tax records made available to the agency pursuant to Iowa Code sections 422.20 and 422.72.
- f. Records which are exempt from disclosure under Iowa Code section 22.7.
- g. Minutes of closed meetings of a governmental body pursuant to Iowa Code subsection 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, may be withheld from public inspection when disclosure of these statements would, pursuant to Iowa Code sections 17A.2 and 17A.3:
 - (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.
- j. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code subsection 22.7(4), section 622.10, and section 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.

25.12(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 25.4(22,96). 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 25.4(3).

877—25.13(22,96) 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 25.1(22,96). 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 one record system with personally identifiable information in another record system.

25.13(1) The record systems maintained by the division are:

a. *Employment records.* These records are collected from each individual applying for employment and each employing unit offering employment pursuant to Iowa Code subsection 96.11(7) for the purpose of providing employment services to the individual and the employing unit. For a more complete description of the content of these records, see 877—Chapter 8. These records are stored in an automated data processing system and may be retrieved by a personal identifier.

b. *Other groups of records routinely available for public inspection.* This paragraph describes groups of records maintained by the agency other than in a record system as defined in rule 25.1(22,96):

(1) 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) Policy manuals. Manuals containing the policies and procedures for programs administered by the agency are available in the administrative office of the division. Subscriptions to all or part of the manuals are available at the cost of production and handling. Requests for subscription information should be addressed to the Custodian of the Record, Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309. Policy manuals do not contain information about persons.

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

25.13(2) All 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.

877—25.14(22,96) Applicability. This chapter does not:

1. Require the agency to index or retrieve records which contain information about persons 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 and Iowa Code chapter 96.

3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the 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.

These rules are intended to implement Iowa Code section 22.11 and Iowa Code chapter 96.

[Filed 4/28/97, Notice 2/26/97—published 5/21/97, effective 6/25/97]