

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The foster care review board adopts, with the following amendments and exceptions, 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.

489—5.1(22) Definitions. As used in this chapter:

"Agency." In lieu of the words "(official or body issuing these rules)", insert "foster care review board".

"Custodian." In lieu of "the agency", insert "an agency". Insert, "The originating agency, if any, is the custodian of records which are used to carry out functions of the originating agency."

"Originating agency" means the government agency which has authority over and custody of records and for whom the department is performing a service.

[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—5.3(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 "Director, Foster Care Review Board, Lucas State Office Building, Des Moines, Iowa 50319".

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. Monday through Friday, except legal holidays".

5.3(7) Fees.

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

[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—5.6(22) Procedure by which a subject may have additions, dissents, or objections entered into the record. In lieu of the words "(designate office)", insert "the originating agency, or to the director's office".

[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—5.9(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 rule 489—5.10(22) or in the notice for a particular 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.

[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—5.10(22) Routine use. “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.

To the extent allowed by law, the following uses are considered routine uses of all agency records:

1. Disclosure to those officers, employees, agents, and foster care review board members defined in Iowa Code section 237.18 of the agency or the originating 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.
2. 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.
3. 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.
4. 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.
5. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—5.11(22) Consensual disclosure of confidential records.

5.11(1) Consent to disclosure by a subject individual. The subject may consent in writing to agency disclosure of confidential records as provided in rule 489—5.7(22).

5.11(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 involves the agency may be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

5.11(3) Obtaining information from a third party. The foster care review board requests personally identifiable information from third parties during the course of its authorized reviews. Requests to third parties for this information involve the release of confidential identifying information.

[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—5.12(22) Release to subject.

5.12(1) A written request to review confidential records may be filed by the subject of the record. 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).
- 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 investigative reports may be withheld from the subject, except as required by the Iowa Code. (Iowa Code section 22.7(5))
- d. Others 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.

[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—5.13(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. Tax records made available to the agency.
 - c. Exempt records under Iowa Code section 22.7.
 - d. Minutes of closed meetings of a government body. (Iowa Code section 21.5(4))
 - e. 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.”
 - f. Those portions of department staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by department 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.
 (Iowa Code sections 17A.2 and 17A.3)
 - g. Case records and files of the children in care.
 - h. The Foster Care Registry which is a computerized tracking system of the children in care.
 - i. Any other records made confidential by law.
- Iowa Code section 237.21 contains specific authority.

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489—5.14(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. 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. The record systems maintained by the agency are:

1. Files are maintained by the child’s name in the foster care review board offices. Those files are kept in locked filing cabinets. (Iowa Code section 237.18(2)“a”)
2. The Foster Care Registry (Iowa Code section 237.17) is a computerized tracking system of the children reported to the foster care review board. The information of each case is personally identifiable by name.
3. Personnel files for each employee of the foster care review board. These may be confidential pursuant to Iowa Code section 22.7(11).

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These rules are intended to implement Iowa Code sections 237.15 to 237.22, 22.11, and 22.7.

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