

CHAPTER 12
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The public employment relations board adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules on Agency Procedure relating to public records and fair information practices which is printed in the first volume of the Iowa Administrative Code.

621—12.1(20,22) Definitions. As used in this chapter:

“Agency” in these rules means the public employment relations board.

“Routine use” in these rules 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 or is maintained. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

621—12.3(20,22) Requests for access to records.

12.3(1) Location of records. In lieu of the words “(insert agency head)”, insert the words “Chairperson, Public Employment Relations Board, 510 East 12th Street, Suite 1B, Des Moines, Iowa 50319”. The second and third sentences of subrule 12.3(1) are not adopted.

12.3(2) Office hours. In lieu of the words “all customary office hours, which are (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 the words “the agency’s customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays”.

12.3(7) Fees.

c. Supervisory fee. Delete the words “when the supervision time required is in excess of (specify time period)” and the words “(An agency wishing to deal with search fees authorized by law should do so here.)”

621—12.6(20,22) Procedure by which additions, dissents or objections may be entered into certain records. In lieu of the words “custodian or to (designate office)”, insert the words “chairperson of the agency”.

621—12.9(20,22) Disclosures without the consent of the subject.

12.9(1) Open records are routinely disclosed without the consent of the subject.

12.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. The following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 621—12.1(20,22) or in any 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 identifying 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.

621—12.10(20,22) Routine use. To the extent allowed by law, the following uses are considered routine uses of all agency records:

12.10(1) 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.

12.10(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.

12.10(3) Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

12.10(4) 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.

12.10(5) 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.

12.10(6) Any disclosure specifically authorized by the statute under which the record was collected or maintained.

621—12.11(20,22) Consensual disclosure of confidential records.

12.11(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 621—12.7(20,22).

12.11(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 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.

621—12.12(20,22) Release to subject.

12.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 621—12.6(20,22). 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 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.

12.12(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.

621—12.13(20,22) Availability of records.

12.13(1) *General.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

12.13(2) *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 621—12.4(20,22). 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 12.4(3).

- 12.13(3) Chart.** ¹ This subrule lists the agency's records in chart form and provides in:
- a. Column one, a description of the nature and content of the record or record system.
 - b. Column two, whether the record or record systems are open for public inspection, confidential, or are partly open and partly confidential.
 - c. Column three, the legal basis for asserting a record or record system is confidential in whole or in part.
 - d. Column four, whether the record or records can be accessed by a personal identifier.
 - e. Column five, a description of the nature and extent of personal information that can be found in the record or record system, if any.
 - f. Column six, the legal authority, where appropriate, relied upon by the agency for collection of personally identifiable information.
 - g. Column seven, the method of storage of the record or record system.

¹ See chart following rule 621—12.15(20,22).

621—12.14(20,22) Data processing systems. None of the data processing systems used by the agency permit the electronic or mechanical comparison of personally identifiable information in one record system with personally identifiable information in another record system.

621—12.15(20,22) 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 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.

Key: O = Open
 C = Confidential Records (may or shall be withheld from public inspection)
 O/C = Partly Open, Partly Confidential
 N/A = Not Applicable
 Y = Yes
 N = No
 P = Paper Medium or microfilm
 C = Data Processing medium

Note: All numerical citations are to the Iowa Code unless otherwise shown

Nature & Description of Record	Type of Record	Confidentiality Authority	Access by Personal Identifier?	Contains Personal Info?	Personally Identifiable Collection Authority	How Stored?
<p>I. Complaint Case Files</p> <p>A complaint that any person, organization or public employer has violated the Public Employment Relations Act (Act) may be filed by any person, employee organization or public employer. These files contain information which pertains to the alleged violation of the Act, its investigation and resolution, and appeals within the agency. During the investigatory/mediation stage the file may contain mediator notes which are confidential.</p>	O/C	22.7(20), 20.1(4), 20.6(5), IAC 621—subrule 7.3(4).	Y/N Y - only if complainant or respondent is an individual.	Y - names, address and telephone number of individuals. May also include transcript testimony and exhibits containing personal information.	20.1(2), 20.6(4), 20.11, IAC 621—8.6(20).	P
<p>II. Bargaining unit, representation, decertification, unit reconsideration, amendment of unit, unit clarification, revocation of certification and amendment of certification case files.</p> <p>These documents are the record of the agency establishment of appropriate bargaining units, conduct of secret ballot elections and monitoring of the merger, affiliation and disaffiliation of certified labor organizations. These files may contain mediator notes which are confidential. Representation and decertification files contain a “show of interest” in which public employees indicate by an original signature whether they wish to be represented by or decertify a certified labor organization. “Show of interest” records are confidential.</p>	O/C	22.7(20), 20.1(4), 20.6(5), IAC 621—subrule 7.3(4). IAC 621—subrule 4.3(3).	Y/N - only if petitioner is an individual.	Y - names, address and telephone number of individuals. May also include transcript testimony and exhibits containing personal information.	20.1(1), 20.13-15, 20.6(4).	P
<p>III. Negotiability Dispute Case Files</p> <p>A petition for an expedited ruling on a negotiability dispute may be filed by a public employer or certified employee organization requesting the agency to determine whether a specific contract proposal is a mandatory, permissive, or illegal subject of bargaining under Section 9 of the Public Employment Relations Act. Such files contain documents concerning the agency’s determination of that question.</p>	O	N/A	N	Y - names, addresses, and telephone numbers of the parties’ representatives.	20.6(4)	P

<p>IV. Declaratory Order Case Files</p> <p>Any person, public employer or employee organization may petition the agency to issue a declaratory order as to the applicability of a statute, rule or order within the primary jurisdiction of the agency. Such files contain documents concerning the proceedings, including the agency's determination.</p>	O	N/A	Y/N Y - only if petitioner is an individual.	Y - names, addresses and telephone numbers of individuals.	20.6(4)	P
<p>V. Contract Negotiation Impasse Case Files</p> <p>As the first step in the performance of their duty to bargain, the public employer and the certified employee organization shall agree upon impasse procedures to assist the parties in concluding a collective bargaining agreement. These files contain the request for impasse services, relevant correspondence and mediator notes which are confidential.</p>	O/C	22.7(20), 20.1(4), 20.6(5), IAC 621—7.3(4).	N	Y - names, addresses and telephone numbers of individuals or parties' representatives.	20.1(4), 20.19, 20.20-22	P/C
<p>VI. Neutral Files</p> <p>The agency maintains biographical data on qualified mediators, fact-finders and interest arbitrators to assist in resolving contract disputes. The agency also maintains a list of qualified grievance arbitrators to issue decisions concerning grievances arising under a labor agreement and a list of teacher termination adjudicators selected pursuant to Chapter 179, <u>The Code</u>.</p>	O	N/A	Y	Y - names, addresses, telephone numbers and biographical data of neutrals.	20.1(4), 20.6(3), 20.20-22	P/C
<p>VII. Employee Organization Files</p> <p>The Public Employment Relations Act requires each certified employee organization to file certain information with the agency. These files contain an employee organization's constitution and bylaws, annual financial report and audit, and order of certification and amendments thereto, if any.</p>	O	N/A	N	Y - names, addresses and telephone numbers of relevant employee organization officers and representatives.	20.25	P
<p>VIII. State Employee Appeals of Grievance Decisions and Disciplinary Action Case Files</p> <p>Certain state employees have the statutory right to appeal to the agency from a response from the director to the Iowa Department of Personnel regarding the employee's grievance, discharge, suspension or demotion.</p>	O/C	22.7(11), 19A.15.	Y	Y - names, addresses and telephone numbers of individuals. May also include transcript testimony and exhibits containing personal information.	20.1(3) 19A.14(1)(2)	P

IX. Index and Digest of Grievance Arbitration Decisions	O	N/A	Y/N Y - only if grievant is identified in the title of the arbitration decision.	Y - names, addresses and telephone numbers of individuals. May also include transcript testimony and exhibits containing personal information.	20.1(3)	P
The agency maintains as a part of its Information Service a digest and subject matter index of decisions issued by grievance arbitrators. This information is located at the agency office, community college libraries, the Drake University and University of Iowa law libraries and the University of Iowa business school library.						
X. Wage and Benefit Contract Summaries	O	N/A	N	N	20.1(5)	P
The Public Employment Relations Act requires the agency to collect and disseminate information concerning the wages, hours and other conditions of employment of public employees. This information, which is identified by employer/certified employee organization, is part of the agency's Information Service located at the agency office, community college libraries, Drake University and University of Iowa law libraries and the University of Iowa business school library.						
XI. Agency Personnel Files	O/C	22.7(11)	Y/N Y - only for current employees.	Y - names, addresses and telephone numbers of individuals, payroll records, biographical information, medical information, performance reviews and evaluations, disciplinary information, information required for tax withholding and other information concerning the agency/employee relationship.	20.5(1), 20.5(4).	P
The agency maintains files containing information regarding employees, their families and dependents, and applicants for positions with the agency, some of which is confidential.						
XII. Litigation Files	O/C	22.7(4)	Y/N Y - if a party to the litigation is an individual.	Y - names, addresses and telephone numbers of individuals. May also include transcript testimony and exhibits containing personal information.	20.1(6), 20.11(10), 20.11(11), 20.11(4).	P
These files contain information regarding litigation or anticipated litigation involving the agency. In addition to briefs, correspondence, research materials, etc., these files contain materials which are confidential as attorney work product and attorney-client communications.						

<p>XIII. Internal Agency Records</p> <p>These records include agendas, minutes and materials presented to the agency, including documents generated during the promulgation of rules.</p>	O/C	21.5	N	Y - these records may contain information regarding individuals who participate in agency meetings.	21.3	P
<p>XIV. Administrative Records</p> <p>These records include documents concerning the budget, property inventory, purchasing, time sheets, printing and supply requisitions.</p>	O	N/A	N	N	N/A	P

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