

CHAPTER 25
PUBLIC RECORDS AND
FAIR INFORMATION PRACTICES

The credit union division 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.

189—25.1(17A,22) Definitions. As used in this chapter:

“Agency” in these rules means the Iowa credit union division.

189—25.3(17A,22) Requests for access to records.

25.3(1) Location of record. In lieu of the words “(insert agency head)”, insert “superintendent”. In lieu of the words “(insert agency name and address)”, insert “Iowa Credit Union Division, 200 E. Grand, Suite 370, 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 “8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays”.

25.3(7) Fees.

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

189—25.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. In lieu of the words “(designate office)”, insert “Iowa credit union division”.

189—25.9(17A,22) Disclosure without the consent of the subject.

25.9(1) Open records are routinely disclosed without the consent of the subject.

25.9(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 25.10(17A,22) or in any notice given 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.

189—25.10(17A,22) Routine use.

25.10(1) “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.

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 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.

189—25.11(17A,22) Consensual disclosure of confidential records.

25.11(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 189—25.7(17A,22).

25.11(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.

189—25.12(17A,22) Release to subject.

25.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 25.6(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 subsection 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 subsection 22.7(5))

d. As otherwise authorized by law.

25.12(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.

189—25.13(17A,22) Availability of records.

25.13(1) *Open records.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

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

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

c. Minutes of closed meetings of a government body. (Iowa Code subsection 21.5(4))

d. 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 subsection 17A.3(1) "d."

e. 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)

f. All papers, documents, reports, reports of examinations and other writings relating specifically to the supervision and regulation of any state credit union or other person by the superintendent of credit unions pursuant to the laws of this state. (Iowa Code section 533.60)

g. Reports of examinations conducted by the superintendent of credit unions and reports of examinations received by or furnished to the superintendent of credit unions pursuant to Iowa Code section 533.6(2).

h. Information and material in the public file of applications filed with the superintendent pursuant to rule 2.12(17A) deemed by the superintendent to be confidential.

i. All information obtained by examiners and described in Iowa Code section 533.60.

j. All applications, reports, materials, documents, information and other writings obtained from the National Credit Union Administration or authorized account insurer (Iowa Code section 533.64), Federal Reserve Bank, Comptroller of the Currency or any agency of the United States government which would cause the denial of services or information to the agency. (Iowa Code section 22.9; the Privacy Act of 1974, (U.S.C. 522a), and Part 790 of the National Credit Union Administration Rules and Regulations, 12 CFR 790, August 1987)

k. Those personnel records which are confidential under Iowa Code sections 22.7(11), 19A.9 and 19A.15.

l. 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.

m. Any other information made confidential by law.

25.13(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 25.4(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 25.4(3).

189—25.14(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information that is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 189—25.1(17A,22). The credit union division does not currently have a data processing system which matches, collates, or permits the comparison of personally identifiable information in another record system. The record systems maintained by the agency which may contain personally identifiable information are the files of current and former agency employees. This information is collected pursuant to Iowa Code section 533.55 and is subject to the provisions of Iowa Code sections 19A.9 and 19A.15.

189—25.15(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 189—25.1(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 25.13(17A,22). In addition, the

records listed in subrules 25.15(1) to 25.15(4) may contain information about individuals. All records are stored on paper.

25.15(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.

25.15(2) *Credit union review board records.* Agendas, minutes, and materials presented to the credit union review board are available from the office of the credit union division, except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5 or which are otherwise confidential by law. Credit union review board 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 in an automated data processing system.

25.15(3) *Publications.* News releases, annual reports, project reports, agency newsletters, etc., are available from the office of the credit union division.

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.

25.15(4) *Orders issued by the superintendent.* All findings of fact, conclusions of law, and orders issued by the superintendent of credit unions subsequent to a public hearing under the provisions of Iowa Code chapter 17A. These records may contain information about individuals making written or oral comments at the public hearing.

25.15(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.

25.15(6) *Policy manuals.* The agency's employees' manual, containing the policies and procedures for programs administered by the agency, is available in the office of the agency. Subscriptions to all or part of the employees' manual are available at the cost of production and handling. Requests for subscription information should be addressed to Iowa Credit Union Division, 200 E. Grand Avenue, Suite 370, Des Moines, Iowa 50309. Policy manuals do not contain information about individuals.

25.15(7) *Reports to superintendent.* Reports obtained by the superintendent of credit unions pursuant to the provisions of Iowa Code section 533.6(1). These reports are considered open reports.

25.15(8) *Officers, directors and shareholders.* Lists filed with the superintendent of credit unions pursuant to the provisions of Iowa Code section 533.8. These reports are considered open records.

25.15(9) *Other records.* All other records that are not exempted from disclosure by law.

These rules are intended to implement Iowa Code section 22.11.

[Filed 8/5/88, Notice 5/18/88—published 8/24/88, effective 9/30/88]