

CHAPTER 2  
COMPLAINT INVESTIGATION AND RESOLUTION PROCEDURES

**497—2.1(23) Complaints.**

**2.1(1) Form.** A complaint shall be written and signed by the person filing the complaint on forms provided by the board. The complaint shall allege a violation of Iowa Code chapter 21 or 22; provide specific facts in support of the allegation, including the identification of persons and government entity involved in the alleged violation; and provide the specific relief sought.

**2.1(2) Board acceptance or dismissal.** Upon receipt of a written complaint alleging a violation of Iowa Code chapter 21 or 22, the board shall either:

*a.* Accept the complaint, following a review of the allegations on their face, having determined that the complaint is within the board's jurisdiction, appears legally sufficient, and could have merit; or

*b.* Dismiss the complaint, following a review of the allegations on their face, having determined that the complaint is outside the board's jurisdiction, appears legally insufficient, is frivolous, is without merit, involves harmless error, or relates to a specific incident that has previously been disposed of on its merits by the board or a court.

**2.1(3) Delegation.** In order to expedite proceedings, the board may delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board. The board's staff may conduct an initial review of the complaint and obtain more information to assist in the decision to accept or dismiss the complaint.

**2.1(4) Notice.** If the complaint is accepted, the board shall notify the parties in writing. If the complaint is dismissed, the board shall notify the complainant in writing and explain its reasons for dismissal.

**2.1(5) Board review.** The board's review of a formal complaint for legal sufficiency is not a contested case proceeding and shall be made solely on the facts alleged in the complaint and the results of the initial review conducted by the board's staff.

This rule is intended to implement Iowa Code section 23.8.  
[ARC 0741C, IAB 5/15/13, effective 7/1/13; ARC 2089C, IAB 8/5/15, effective 9/9/15]

**497—2.2(84GA,ch1115) Investigations—board action.**

**2.2(1) Referral to staff.** Upon acceptance of a complaint, the board shall work with the executive director toward an informal, expeditious resolution. If the complaint is not resolved, the staff shall initiate an investigation to determine whether there is probable cause to believe a violation of Iowa Code chapter 21 or 22 has occurred.

*a. Statements inadmissible and confidential.* Statements made in the course of discussions undertaken to attempt to reach an informal, expeditious resolution cannot be admitted in subsequent contested case proceedings and shall not be related by any participating board member or staff to nonparticipating board members who may later be assigned to hear and decide the contested case.

*b. Board member participation.* A board member who participates in discussions undertaken to attempt to reach an informal, expeditious resolution shall not participate in subsequent contested case proceedings or any appeal from a proposed decision to the full board.

**2.2(2) Subpoenas.** Investigations may include the issuance and enforcement of investigative subpoenas requiring the production of books, papers, records, electronic records and other real evidence, as well as requiring the attendance and testimony of witnesses.

**2.2(3) Completion.** Upon completion of an investigation, staff shall make a report to the board and may provide a recommendation for board action.

**2.2(4) Board action.** Upon receipt and review of the staff investigative report and any recommendations, the board may:

- a.* Redirect the matter for further investigation;
- b.* Dismiss the matter for lack of probable cause to believe a violation has occurred;
- c.* Make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion, dismiss the matter; or

*d.* Make a determination that probable cause exists to believe a violation has occurred, designate a prosecutor and direct the issuance of a statement of charges to initiate a contested case proceeding.  
[ARC 0741C, IAB 5/15/13, effective 7/1/13]

**497—2.3(84GA,ch1115) Civil penalties and other appropriate remedies.** If it is determined after a contested case proceeding that a violation of statute or rule under the board's jurisdiction has occurred, the board may impose any of the remedies set out in 2012 Iowa Acts, chapter 1115, section 9(8) or section 13(3b).  
[ARC 0741C, IAB 5/15/13, effective 7/1/13]

**497—2.4(84GA,ch1115) Settlements.** Settlements may be negotiated during an investigation or after the commencement of a contested case proceeding. Negotiations shall be conducted between the prosecutor and a governmental body or government official against whom a complaint has been filed.

**2.4(1) Board member participation.** The board may designate the chairperson or another board member to participate in settlement negotiations after initiation of a contested case.

**2.4(2) Ex parte communications.** If settlement negotiations are undertaken after a contested case has been initiated, the respondent may be required to waive any objections to ex parte communications concerning settlement discussions.

**2.4(3) Approval.** A settlement shall be in writing and is subject to approval of a majority of the board. If the board declines to approve a proposed settlement, the settlement shall be of no force or effect.  
[ARC 0741C, IAB 5/15/13, effective 7/1/13]

These rules are intended to implement 2012 Iowa Acts, chapter 1115.

[Filed ARC 0741C (Notice ARC 0644C, IAB 3/20/13), IAB 5/15/13, effective 7/1/13]

[Filed ARC 2089C (Notice ARC 2011C, IAB 5/27/15), IAB 8/5/15, effective 9/9/15]