

CHAPTER 1
ORGANIZATION AND GENERAL ADMINISTRATION

497—1.1(23) Board description.

1.1(1) The Iowa public information board is established by Iowa Code chapter 23 and consists of nine members, including a chairperson.

1.1(2) The term “board” shall mean the Iowa public information board.

1.1(3) Board members are appointed by the governor for staggered terms of four years and are subject to confirmation by the senate. No more than three members appointed shall be representatives from the media, including newspapers, and no more than three members appointed shall be representatives of cities, counties, and other political subdivisions of the state.

1.1(4) On an annual basis at the board’s first meeting on or after July 1, the members shall elect a chairperson and vice chair. The board shall also employ a person who shall be an attorney admitted to practice law before the courts of Iowa to serve as the executive director of the board. The chairperson and vice chair may be reelected or elected to a different office. If the chairperson is absent, the vice chair shall act as chairperson.

1.1(5) Vacancies on the board are filled in the same manner as regular appointments. Appointees who fill vacancies serve for the balance of the term.

1.1(6) The board shall meet at least quarterly and at the call of the chairperson.

1.1(7) Five board members constitute a quorum for conducting board business.

1.1(8) The board is available to assist in achieving compliance with open meetings and public records laws in alternative ways. Information is available on the board’s website at ipib.iowa.gov. The members of governmental bodies and the public may call the board for informal answers to questions during office hours from 8 a.m. to 4:30 p.m. on Monday through Friday at (515)725-1781. Written guidance about compliance with the open meetings and public records laws may be provided by advisory opinions (see rules 497—1.2(23) and 497—1.3(23)) or by declaratory orders (see rules 497—3.1(17A) to 497—3.8(17A)). In addition, complaints may be filed alleging violations of open meetings or public records laws under rule 497—2.1(23).

This rule is intended to implement Iowa Code chapter 23.

[ARC 0741C, IAB 5/15/13, effective 7/1/13; ARC 1091C, IAB 10/16/13, effective 11/20/13; ARC 2271C, IAB 12/9/15, effective 1/13/16]

497—1.2(23) Requirements for requesting board advisory opinions.

1.2(1) *Jurisdiction.* The board will only accept requests for and issue advisory opinions pertaining to Iowa Code chapters 21 and 22, or rules adopted thereunder. The board shall not have jurisdiction over the judicial or legislative branches of state government or any entity, officer, or employee of those branches, or over the governor or the office of the governor.

1.2(2) *Who may request an advisory opinion.* Any person may request a board advisory opinion construing or applying Iowa Code chapters 21, 22, and 23. An authorized agent may seek an opinion on behalf of any person. The board will not issue an opinion to an unauthorized third party. The board may on its own motion issue opinions without receiving a formal request. The board may issue declaratory orders with the force of law pursuant to Iowa Code section 17A.9.

1.2(3) *Form of request.* The request for an advisory opinion shall pose specific legal questions and should describe any specific facts relating to the questions posed. Requests shall be sent to the board as provided in subrule 1.3(1).

This rule is intended to implement Iowa Code section 23.6.

[ARC 0741C, IAB 5/15/13, effective 7/1/13; ARC 2088C, IAB 8/5/15, effective 9/9/15; ARC 4101C, IAB 10/24/18, effective 11/28/18]

497—1.3(23) Processing of advisory opinion requests.

1.3(1) Requests for board advisory opinions may be mailed to the Iowa Public Information Board, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. Requests may also be submitted by fax to (515)725-1789 or by email to ipib@iowa.gov.

1.3(2) After receiving an opinion request, the board's executive director shall prepare a draft opinion for board review. If the same or similar issue has been addressed in an opinion of a court, or in an attorney general's opinion, or in another prior advisory opinion, the executive director may respond to the requester by sending a copy of the prior opinion. Upon an affirmative vote of at least five members, the executive director shall issue a board advisory opinion on behalf of the board. Advice contained in a board opinion rendered to a government official or a lawful custodian of a public record, if followed, constitutes a defense for the government official or lawful custodian before the board to a subsequent complaint that is based on the same facts and circumstances. Board staff may also provide written advice on routine matters. However, such advice is not an advisory opinion of the board.

1.3(3) A person who receives a board advisory opinion may, within 30 days after the issuance of the opinion, request modification or reconsideration of the opinion. A request for modification or reconsideration shall be deemed denied unless the board acts upon the request within 60 days of receipt of the request. The board may take up modification or reconsideration of an advisory opinion on its own motion within 30 days after the issuance of an opinion. The board aspires to issue an opinion within 30 days after a formal request is made.

1.3(4) Board advisory opinions are open records and shall be made available at the board office and via the board's website at ipib.iowa.gov.

1.3(5) Nothing in this rule precludes a person who has received a board opinion or advice from petitioning for a declaratory order pursuant to Iowa Code section 17A.9. The board may refuse to issue a declaratory order to a person who has previously received a board opinion on the same question, unless the requester demonstrates a significant change in circumstances from those in the board opinion.

1.3(6) On an annual basis, the board shall review the advisory opinions issued for that year and determine which opinions should be adopted into rule pursuant to the procedures in Iowa Code chapter 17A.

This rule is intended to implement Iowa Code section 23.6.

[ARC 0741C, IAB 5/15/13, effective 7/1/13; ARC 1091C, IAB 10/16/13, effective 11/20/13; ARC 2088C, IAB 8/5/15, effective 9/9/15]

497—1.4(23) Conflict of interest.

1.4(1) Definition. "Conflict of interest" means that a board member, an employee of the board, a board member's immediate family, or an immediate family member of an employee of the board has a significant personal, financial, or employment relationship with: a person who has requested an advisory opinion; a person who has petitioned for a declaratory order; a complainant; or a government employee or official or a governmental body that would be directly impacted by an advisory opinion, a declaratory order, or a complaint. For purposes of this rule, "immediate family" means the same as "immediate family members" in Iowa Code section 68B.2(11).

1.4(2) Procedures. As soon as a member of the board or an employee of the board becomes aware of a conflict of interest, the member or employee of the board shall follow these procedures:

a. If the conflict is known before a meeting, the member or employee of the board shall fully disclose the interest to the board at the board's next meeting.

b. If the conflict is discovered during a meeting, the member or employee of the board shall orally inform the board of the nature of the conflict as soon as the conflict is discovered.

c. The board member or employee of the board who has the conflict shall not participate in discussion or vote on any advisory opinion, declaratory order, or complaint. An announced conflict shall be reported in the board's minutes and the minutes shall reflect the matters on which the board member or employee of the board abstained from participating.

1.4(3) State code of ethics. Board members and employees of the board shall comply with the state code of ethics found in Iowa Code chapter 68B and in the corresponding administrative rules adopted by the Iowa ethics and campaign disclosure board.

[ARC 0741C, IAB 5/15/13, effective 7/1/13; ARC 2090C, IAB 8/5/15, effective 9/9/15; ARC 2536C, IAB 5/11/16, effective 6/15/16]

This rule is intended to implement Iowa Code sections 23.6 and 68B.2A.

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