

CHAPTER 2
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The department of human rights hereby adopts, with the following exceptions and amendments, the uniform rules on agency procedure relating to public records and fair information practices published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.

421—2.1(22) Definitions. As used in this chapter:

“Agency.” In lieu of the words “(official or body issuing these rules)”, insert “department of human rights”.

“Custodian.” In lieu of the words “means the agency”, insert “means the director of the department of human rights”.

“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.

[ARC 6101C, IAB 12/29/21, effective 2/2/22]

421—2.3(22) Requests for access to records.

2.3(1) Location of record. In lieu of the words “(insert agency head)”, insert “director of the department of human rights”. In lieu of the words “(insert agency name and address)”, insert the “Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319”.

2.3(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. Monday through Friday, except legal holidays”.

2.3(6) Copying. In lieu of the words “A reasonable number of copies”, insert “One copy”.

2.3(7) Fees.

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

[ARC 6101C, IAB 12/29/21, effective 2/2/22]

421—2.6(22) Procedure by which additions, dissents or objections may be entered into certain records. In lieu of the words “(designate office)” insert “department of human rights”.

421—2.9(22) Disclosures without the consent of the subject.

2.9(1) Open records. Open records are routinely disclosed without the consent of the subject.

2.9(2) Confidential records. 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 2.10(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 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 an 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.

421—2.10(22) Routine use. To the extent allowed by law, the following uses are considered routine uses of all agency records:

2.10(1) Disclosure to those employees 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 employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

2.10(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.

2.10(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.

2.10(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.

2.10(5) Any disclosure specifically authorized by the statute under which the record was collected or maintained.

421—2.11(22) Consensual disclosure of confidential records.

2.11(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 2.7(22).

2.11(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.

421—2.12(22) Release to subject.

2.12(1) *One subject.* The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 2.6(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.

d. As otherwise authorized by law.

2.12(2) *Multiple subjects.* 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.

421—2.13(22) Availability of records.

2.13(1) *General.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

2.13(2) *Confidential records.* The following records may be withheld from public inspection.

a. Information pertaining to clients receiving advocacy or referral services. (Iowa Code section 216A.6);

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

c. Records which are exempt from disclosure 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 under Iowa Code section 17A.3(1) "d";

f. Those portions of agency staff manuals, instructions or other statements excluded from the definition of "rule." (Iowa Code section 17A.2(7) "f");

g. Records which constitute an attorney work product, attorney-client communications, or which are otherwise privileged. (Iowa Code sections 22.7(4), 622.10, and 622.11 and chapter 622B);

h. Records received from other agencies pursuant to Iowa Code section 216A.136 that are confidential under state or federal law;

i. Personal information in personnel files including, but not limited to, evaluations, discipline, social security number, home address, gender, birth date, and medical and psychological evaluations;

j. Any other records made confidential by law.

2.13(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 2.4(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 2.4(3).

421—2.14(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 as defined in rule 421—2.1(22). For each record system, this rule describes the legal authority for the collection or maintenance of that information; the means of storage of that information and indicates when applicable; if 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; and when the record system is confidential, indicates the statutory authority. The record systems maintained within the agency are:

2.14(1) Personnel records.

a. The agency maintains files containing information about employees, families and dependents, and applicants for staff positions within the agency. These files include, but are not limited to, payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports and other information concerning employees and related issues. Some of this information is confidential under Iowa Code section 22.7(11).

b. The legal authority for maintaining the records for state-funded programs is Iowa Code section 8A.106 and chapter 216A. The legal authority for maintaining the records for federally funded programs is the Omnibus Budget Reconciliation Act, P.L. 97-35; Freedom of Information Act, 5 U.S.C. 552a; Juvenile Justice and Delinquency Prevention Act, P.L. 93-415; Victims Compensation and Assistance Act, P.L. 98-473; and other federal statutes from which federal funds are granted.

c. The information is maintained on paper and some parts are on a data processing system that matches, collates or permits the comparison of some personally identifiable information within the state's automated data processing system.

d. Certain information contained within this record system is confidential under the authority of Iowa Code section 22.7(11).

2.14(2) Advocacy records.

a. The agency maintains files containing information pertaining to clients receiving advocacy or referral services to help alleviate or solve a problem. Such information may include, but is not limited to, names and addresses of clients, documents or other material relating to advocacy issues, social or economic conditions or circumstances of particular clients, department evaluations of information about clients, medical or psychiatric data provided to the department concerning a client, and legal data related to the client. These files may be indexed by advocacy files, client files, interpreting files or any direct service involving individual client assistance set forth in this rule or by statute.

b. The authority for maintaining these records is Iowa Code chapter 216A; the Omnibus Budget Reconciliation Act, P.L. 97-35; Juvenile Justice and Delinquency Prevention Act, P.L. 93-415; Victims Compensation and Assistance Act, P.L. 98-473; and other federal statutes from which federal funds are granted.

c. Information is maintained on paper, electronically, and in other available mediums.

d. Information contained within this record system is confidential under the authority of Iowa Code sections 22.7(18) and 216A.6.

2.14(3) Fiscal records.

a. The agency maintains files containing fiscal information for state-funded programs and federally funded grants or contracts that may contain personally identifiable information.

b. The authority for maintaining these records is Iowa Code chapter 216A and federal statutes from which federal funds are granted.

c. These records are stored on paper and on the state's automated data processing system that matches, collates or permits the comparison of some personally identifiable information.

d. Certain information contained within this record system is confidential under the authority of Iowa Code section 22.7(11).

2.14(4) General correspondence, mailing lists, and program or grant data.

a. The agency maintains correspondence files, grant notices and applications, conference or committee listings and reports, board and commission meeting minutes, mailing lists, program and grant information including surveys or specialized reports and activities that contain some personally identifiable information that may include names, addresses or other descriptive data.

b. The authority for maintaining these records is Iowa Code chapter 216A; the Omnibus Budget Reconciliation Act, as amended, P.L. 97-35; Juvenile Justice and Prevention Act, P.L. 93-415; Victims Compensation and Assistance Act, P.L. 98-473; and other federal statutes from which federal funds are granted.

c. The information is maintained on paper and in computer systems.

d. These records are generally open to the public unless otherwise authorized to be confidential by law.

2.14(5) Criminal and juvenile justice information obtained from other agencies.

a. The agency maintains files containing criminal and juvenile justice information obtained from other agencies to conduct research and evaluations, to provide data and analytical information to federal, state and local governments, and to assist other agencies in the use of criminal and juvenile justice data. These files may contain personally identifiable information.

b. The agency maintains these records pursuant to the authority of Iowa Code sections 216A.136 and 216A.138 and by interagency agreements.

c. The information is maintained on paper, some of which is also in computer files, or in computer files and not on paper, or on a data processing system. Some of these files and systems are capable of matching, collating or permitting the comparison of some personally identifiable information.

d. Certain criminal and juvenile justice information contained within these records and record systems is confidential under state or federal law or rule.

[ARC 6101C, IAB 12/29/21, effective 2/2/22]

421—2.15(22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems retrieved by a personal identifier as defined in rule 2.1(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 2.13(22). All records are stored both on paper and in automated data processing systems, unless otherwise noted.

2.15(1) Administrative records. This includes documents concerning budget, inventory, annual reports, office policies, state forms and reports.

2.15(2) Publications, resource and library materials. This includes books, periodicals, newsletters, government documents and public reports. These materials would generally be open to the public; some may be protected by copyright law.

2.15(3) Office publications. The department distributes to the public a variety of materials including brochures and typed information regarding issues pertinent to its programs or constituent groups. Also included are statistical reports, program reports and news releases.

2.15(4) Rule-making records. These include documents generated during the rule-making process, including public comments, and are available for public inspection.

2.15(5) *All other records.* Records are open if not exempted from disclosure by law.
[ARC 6101C, IAB 12/29/21, effective 2/2/22]

421—2.16(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 in the possession of the agency which are governed by the rules of another agency.
4. Apply to grantees, including local governments or subdivisions thereof, that administer 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 rules of the agency.
6. Require the agency to create, compare, or procure a record solely for the purpose of making it available.

[ARC 6101C, IAB 12/29/21, effective 2/2/22]

These rules are intended to implement Iowa Code chapters 17A, 22 and 216A.

[Filed emergency 8/19/88, after Notice 5/18/88—published 9/7/88, effective 8/19/88]

[Filed 4/29/99, Notice 3/24/99—published 5/19/99, effective 6/23/99]

[Filed 9/12/00, Notice 8/9/00—published 10/4/00, effective 11/8/00]

[Filed ARC 6101C (Notice ARC 6004C, IAB 10/20/21), IAB 12/29/21, effective 2/2/22]