

**282—11.4(17A,256) Complaint.**

**11.4(1)** *Who may initiate.* The following entities may initiate a complaint:

- a. Licensed practitioners.
- b. School human resource directors.
- c. Recognized educational entities or local or state professional organizations.
- d. Local boards of education.
- e. Parents or guardians of students involved in the alleged complaint.
- f. The executive director of the board of educational examiners if the following circumstances have been met:

been met:

(1) The executive director receives information that a practitioner:

1. Has been convicted of a felony criminal offense, or a misdemeanor criminal offense wherein the victim of the crime was 18 years of age or younger, and the executive director expressly determines within the complaint that the nature of the offense clearly and directly impacts the practitioner's fitness or ability to retain the specific license(s) or authorization(s) that the practitioner holds; or

2. Has been the subject of a founded report of child abuse placed upon the central registry maintained by the department of health and human services pursuant to Iowa Code section 232.71D, and the executive director expressly determines within the complaint that the nature of the offense clearly and directly impacts the practitioner's fitness or ability to retain the specific license(s) or authorization(s) that the practitioner holds; or

3. Has not met a reporting requirement stipulated by Iowa Code section 256.160, Iowa Code section 279.43, 281—subrule 102.11(2), 282—Chapter 11, or 282—Chapter 25; or

4. Has falsified a license or authorization issued by the board; or

5. Has submitted false information on a license or authorization application filed with the board; or

6. Does not hold the appropriate license for the assignment for which the practitioner is currently employed; or

7. Has assigned another practitioner to perform services for which the practitioner is not properly licensed; or

8. Has failed to comply with a board order as prohibited by 282—paragraph 25.3(7) “c”; and

(2) The executive director verifies the information or the alleged misconduct through review of official records maintained by the board, a court, the department of health and human services registry of founded child abuse reports, the practitioner licensing authority of another state, the department of education, the local school district, area education agency, or authorities in charge of the nonpublic school, or the executive director is presented with the falsified license; and

(3) No other complaint has been filed.

g. The department of transportation if the licensee named in the complaint holds a behind-the-wheel instructor's certification issued by the department and the complaint relates to an incident or incidents arising during the course of driver's education instruction.

h. An employee of the department of education who, while performing official duties, becomes aware of any alleged misconduct by an individual licensed under Iowa Code section 256.146.

**11.4(2)** *Form and content of the complaint.*

a. The complaint will be in writing and signed by at least one complainant who has personal knowledge of an alleged violation of the board's rules or related state law or an authorized representative if the complainant is an organization. (An official form may be used. This form may be obtained from the board upon request, and a typed signature may be accepted.)

b. The complaint will show venue as “BEFORE THE BOARD OF EDUCATIONAL EXAMINERS” and will be captioned “COMPLAINT.”

c. The complaint will contain the following information:

(1) The full name, address and telephone number of the complainant.

(2) The full name, address and telephone number, if known, of the respondent.

(3) A concise statement of the facts that clearly and specifically apprises the respondent of the details of the alleged violation of the criteria of professional practices or the criteria of competent performance and the relief sought by the complainant.

(4) An explanation of the basis of the complainant's personal knowledge of the facts underlying the complaint.

**11.4(3)** *Required copies—place and time of filing the complaint.*

a. A copy of the complaint will be filed with the board.

b. The complaint will be delivered personally, electronically, or by mail to the office of the board. The current office address is 701 East Court Avenue, Suite A, Des Moines, Iowa 50309.

**11.4(4)** *Amendment or withdrawal of complaint.* A complaint or any specification thereof may be amended or withdrawn by the complainant at any time unless the complaint was filed in accordance with the required reporting requirements set forth in Iowa Code sections 256.146, 260.160, and 279.73. The parties to a complaint may mutually agree to the resolution of the complaint prior to a finding of probable cause unless the complaint was filed in accordance with the required reporting requirements set forth in Iowa Code sections 256.146, 256.160, and 279.73. The resolution must be committed to a written agreement and filed with the board. The agreement is not subject to approval by the board but will be acknowledged by the board and may be incorporated into an order of the board.

**11.4(5)** *Respondent entitled to copy of the complaint.* Immediately upon the board's determination that jurisdictional requirements have been met, the respondent will be provided a copy of the complaint or amended complaint and any supporting documents attached to the complaint at the time of filing.

**11.4(6)** *Voluntary surrender of license—agreement to accept lesser sanction.* A practitioner may voluntarily surrender the practitioner's license or agree to accept a lesser sanction from the board prior to or after the filing of a complaint with the board without admitting the truth of the allegations of the complaint if a complaint is on file with the board. In order to voluntarily surrender a license or submit to a sanction, the practitioner must waive the right to hearing before the board and notify the board of the intent to surrender or accept sanction. The board may issue an order permanently revoking the practitioner's license if it is surrendered, or implementing the agreed upon sanction. The board may decline to issue an agreed upon sanction if, in the board's judgment, the agreed upon sanction is not appropriate for the circumstances of the case.

**11.4(7)** *Investigation of license reports.*

a. Reports received by the board from another state, territory or other jurisdiction concerning licenses or certificate revocation or suspension will be reviewed and investigated by the board in the same manner as is prescribed in these rules for the review and investigation of written complaints.

b. Failure to report a license revocation, suspension or other disciplinary action taken by licensing authority of another state, territory or jurisdiction within 30 days of the final action by such licensing authority will constitute cause for initiation of an investigation.

**11.4(8)** *Timely resolution of complaints.* Complaints filed with the board will be resolved within 180 days unless good cause can be shown for an extension of this limitation. The board will provide notice to the parties to a complaint prior to taking action to extend this time limitation upon its own motion.

**11.4(9)** *Confidentiality.* Confidentiality requirements are set forth in Iowa Code section 256.158. Records related to written complaints will be collected and retained and will be evaluated if a similar complaint has been filed against the same licensed practitioner. A finding of probable cause, a final written decision, and a finding of fact by the board in a disciplinary proceeding constitute a public record.

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