

351—11.22(17A,68B) Ex parte communication.

11.22(1) *Prohibited communications.* Following issuance of the notice of hearing, there shall be no communication, directly or indirectly, between any party or representative of any party in connection with any issue of fact or law in a case and any person assigned to render a proposed or final decision or make findings of fact or conclusions of law except upon notice and opportunity for all parties to participate. This does not prohibit persons jointly assigned such tasks from communicating with each other. Nothing in this provision is intended to preclude persons assigned to render a proposed or final decision in a contested case or to make findings of fact or conclusions of law in such a case from seeking the advice or help of persons other than those with personal interest in, or those engaged in personally investigating as defined in subrule 11.8(1), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties as long as that advice or help does not violate Iowa Code subsection 17A.12(8).

11.22(2) *Disclosure of prohibited communications.* Any person who receives a communication prohibited by subrule 11.22(1) shall disclose that communication to all parties. A copy of any prohibited written communication or a summary of any prohibited oral communication shall be submitted for inclusion in the record. Any party desiring to rebut the prohibited ex parte communication must be allowed to do so, upon requesting the opportunity for rebuttal within ten days after notice of the communication. If the effect of an ex parte communication is so prejudicial that it cannot be cured by disclosure and rebuttal, a presiding officer who receives the communication shall be disqualified and the portions of the record pertaining to the communication shall be sealed by protective order.

11.22(3) *Sanctions.* The board and any party may report any violation of this rule to appropriate authorities for any disciplinary proceedings provided by law. The presiding officer or the board may impose appropriate sanctions for violations of this rule. Possible sanctions include a decision against the offending party; censure, suspension, or revocation of the privilege to practice before the board; and censure, suspension, dismissal, or other disciplinary action against board personnel.

11.22(4) *Affidavit.* A party to a contested case proceeding may file a timely and sufficient affidavit alleging a violation of any provision of this rule. The board shall determine the matter as part of the record in the case. When the board makes such a determination with respect to a board member or board employee, that determination shall be subject to de novo judicial review in any subsequent review proceeding of the case.