

**701—5.5(17A,22,99G,123,421-454) Requests for treatment of a record as a confidential record and its withholding from examination.** The department may treat a record as confidential and withhold it from examination only as authorized by Iowa Code sections 22.7, 99G.34, 123.38A, 422.20, and 422.72; other applicable provisions of law; or an order.

**5.5(1)** *Requests related to records submitted as part of an appeal or contested case.* Any person who seeks to request confidential treatment for any document submitted as part of an appeal or contested case filed under 701—Chapters 6 and 7 must file a motion for redaction as described in rule 701—7.8(17A).

**5.5(2)** *Requests for confidential treatment of any other record.* Any person who seeks to request confidential treatment of any record that has not been submitted as part of an appeal or contested case filed under 701—Chapters 6 and 7 must follow the following procedure:

*a. Persons who may request.* Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order authorizes the custodian to treat the record as a confidential record may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

*b. Request.* A request that a record be treated as a confidential record and be withheld from public inspection shall:

- (1) Be in writing;
- (2) Be filed with the department using the one of the methods in subrule 5.3(2), excluding submission by telephone;
- (3) Set forth the legal and factual basis justifying such confidential record treatment for that record;
- (4) Include the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request;
- (5) Include a signed certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts;
- (6) Specify the precise period of time for which that treatment is requested;
- (7) If possible, include a copy of the record for which confidential record treatment is being sought with the request.

*c. Failure to request.* Failure to request confidential treatment for a record does not preclude the custodian from treating it as a confidential record unless otherwise provided by law. However, absent a request as outlined in this rule, the custodian of records may proceed as if there is no objection to the record's disclosure.

*d. Timing of decision.* The custodian may decide whether to disclose a record or a portion of a record to members of the public when a request for confidential record treatment is filed or when the custodian receives a request for access to the record by a member of the public.

*e. Request granted or deferred.* If a request for confidential record treatment is granted, or if action on a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record.

*f. Request denied and opportunity to seek an injunction.* If a request for confidential record treatment is denied, the custodian will notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8 or other applicable provision of law. However, such a record will not be withheld from public inspection for any period of time if the custodian determines that the requester has no reasonable grounds to justify the treatment of that record as a confidential record. The custodian will notify the requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

This rule is intended to implement Iowa Code chapters 17A, 22, 99G, 123, and 421 through 454.  
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