

721—21.100(39A) Issuance of technical infractions.

21.100(1) If the state commissioner becomes aware of an apparent technical violation of a provision of Iowa Code chapters 39 through 53, the state commissioner may administratively provide a written notice and letter of instruction to the commissioner or other responsible person regarding proper compliance procedures.

21.100(2) If a commissioner becomes aware of an apparent technical violation of a provision of Iowa Code chapters 39 through 53, the commissioner shall notify the state commissioner in writing for review pursuant to rule 721—21.102(49). The commissioner shall administratively provide a written notice and letter of instruction to the responsible person regarding proper compliance procedures only if the commissioner has direct supervisory authority over the responsible person.

21.100(3) If the state commissioner sends a notice of such a technical infraction to a commissioner, the state commissioner may require a written explanation of the occurrence and the measures that the person took to redress the issues contained within the notice.

21.100(4) Upon the issuance of a technical infraction to a commissioner, the state commissioner shall also impose a fine not to exceed \$10,000 to be deposited in the general fund. The state commissioner shall impose the fine based on the totality of the circumstances regarding the apparent technical violation of Iowa Code chapters 39 through 53. A commissioner's party affiliation shall not be considered when determining the amount of a fine. The state commissioner may consider the number of technical infractions previously issued to a commissioner when determining the amount of a fine. The state commissioner shall provide an explanation of the amount of the fine in the written notice and letter of instruction.

a. The commissioner shall pay a fine issued pursuant to Iowa Code section 39A.6, in full or file an appeal pursuant to Iowa Code chapter 17A within 60 days. The appeals process shall be the same process outlined in 721—Chapter 3.

b. A commissioner who fails to pay a fine in full that was not dismissed pursuant to Iowa Code chapter 17A shall be suspended from office for a period not to exceed two years pursuant to Iowa Code sections 66.7 and 66.8.

c. If a commissioner is suspended pursuant to Iowa Code section 39A.6, the state commissioner shall direct the deputy of the county commissioner to oversee the functions of the office until the suspension is revoked or the office is vacated and a successor is elected. The state commissioner may direct the state commissioner's staff to assist in the performance of the duties of a suspended commissioner.

21.100(5) Upon issuing a technical infraction, the state commissioner shall immediately inform the attorney general and relevant county attorney if the apparent violation constitutes or may constitute election misconduct under this chapter.

This rule is intended to implement Iowa Code section 39A.6.

[ARC 6063C, IAB 12/1/21, effective 1/5/22]