

161—3.50(216) Procedure to reopen.**3.50(1)** *Request for reopening of case file within 30 days.*

a. Within 30 days following the notice of the conclusion of the investigation, a party can file an intra-agency appeal. The party shall state the reasons in writing for appeal and submit any additional documentation.

b. The agency shall notify all parties upon receipt of any intra-agency appeal. All parties shall have 14 days to provide any response to the appeal for consideration.

c. Within 30 days of intra-agency appeal, the director or designee shall review the appeal. The director or designee shall affirm, modify, or reverse the agency decision, and remand if necessary. If the case file is remanded, the director or designee shall transfer the case file to investigative staff for further processing.

3.50(2) *Reopening of an administratively closed case file after 30 days.*

a. The agency may reopen a case file at any time a right-to-sue letter could have been issued under Iowa Code section 216.16(3)“a,” unless otherwise provided in these rules, and where the closure was affected by any of the following:

(1) False, fraudulent, or material misrepresentation of information provided to the agency concerning a material issue in the case file by the respondent, a witness, or some other person who is not the complainant;

(2) Error by the agency staff.

b. The director or designee shall consider the information discovered under subparagraphs 3.50(2)“a”(1) and 3.50(2)“a”(2) and determine whether the complaint requires further action.

c. If it is determined that further action is necessary, the parties or their attorneys shall be notified of the reopening of the case file. If requested by the agency, the parties shall have 30 days to submit their written positions regarding the alleged new information.

3.50(3) *No probable cause determination reopening.* The agency may reopen a case file within one year of a no probable cause determination where the determination was affected by any of the following:

a. Fraud perpetrated upon the agency by some person who is not the complainant; or

b. Material misrepresentations.

3.50(4) *Reopening from breach of settlement agreement.*

a. If a party breaches a settlement agreement, the aggrieved party may seek redress with the agency or in district court.

b. If the aggrieved party seeks agency engagement, that party has 90 days from the time of an alleged breach of a settlement agreement to request the case file be reopened to continue the investigative process, but only if all the following apply:

(1) The agency is not a party to the settlement agreement;

(2) The requesting party agrees the settlement agreement is null and void; and

(3) The requesting party waives and releases any rights to seek specific performance or damages for the alleged breach in district court.

c. All parties shall be notified that a request for reopening has been made. A copy of the request for reopening shall be provided to all parties. The parties shall be afforded no less than 14 days and no more than 30 days to submit their written position and any supporting documents regarding the request.

d. The director or designee shall determine if the agreement has been breached or the nonrequesting party failed to negotiate the agreement in good faith. If it is determined that a material breach occurred, the parties or their attorneys shall be notified of the reopening of the case file and the case file will be referred for further processing.

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