

193E—18.9(17A,272C,543B) Investigation procedures.

18.9(1) *Disciplinary committee.* The commission chair may appoint two members of the commission to serve on a commission disciplinary committee. The chair may appoint a standing committee or may appoint different members to serve on the committee on an as-needed basis. The disciplinary committee is a purely advisory body which shall review complaint files referred by the commission's administrator, generally supervise the investigation of complaints, and make recommendations to the full commission on the disposition of complaints. Except as provided by rule 193E—18.10(17A,272C,543B), members of the committee shall not personally investigate complaints, but they may review the investigative work product of others in formulating recommendations to the commission.

18.9(2) *Committee screening of complaints.* Upon the referral of a complaint from the commission's administrator or from the full commission, the committee shall determine whether the complaint presents facts which, if true, suggest that a licensee may have violated a law or rule enforced by the commission. If the committee concludes that the complaint does not present facts which suggest such a violation or that the complaint does not otherwise constitute an appropriate basis for disciplinary action, the committee shall refer the complaint to the full commission with the recommendation that it be closed with no further action. If the committee determines that the complaint does present a credible basis for disciplinary action, the committee may either immediately refer the complaint to the full commission recommending that a disciplinary proceeding be commenced or initiate a disciplinary investigation.

18.9(3) *Committee procedures.* If the committee determines that additional information is necessary or desirable to evaluate the merits of a complaint, the committee may assign an investigator or expert consultant, appoint a peer review committee, provide the licensee an opportunity to appear before the disciplinary committee for an informal discussion as described in rule 193E—18.10(17A,272C,543B) or request commission staff to conduct further investigation. Upon completion of an investigation, the investigator, expert consultant, peer review committee or commission staff shall present a report to the committee. The committee shall review the report and determine what further action is necessary. The committee may:

- a. Request further investigation.
- b. Determine there is not probable cause to believe a disciplinary violation has occurred and refer the case to the full commission with the recommendation of closure.
- c. Determine there is probable cause to believe that a law or rule enforced by the commission has been violated, but that disciplinary action is unwarranted on other grounds, and refer the case to the full commission with the recommendation of closure. The committee may also recommend that the licensee be informally cautioned or educated about matters which could form the basis for disciplinary action in the future.
- d. Determine there is probable cause to believe a disciplinary violation has occurred and either attempt informal settlement, subject to approval by the full commission, or refer the case to the full commission with the recommendation that the commission initiate a disciplinary proceeding (contested case).
- e. Stay further action on the complaint if, for instance, there is a pending criminal case or civil litigation and the committee feels it would be in the best interest of the public and respondent to await the final outcome of the litigation. Additionally, the committee may stay further action on a complaint when the respondent's license is expired or revoked.

18.9(4) *Subpoena authority.* The commission is authorized in connection with a disciplinary investigation to issue subpoenas to compel witnesses to testify or persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the commission deems necessary as evidence in connection with a disciplinary proceeding or relevant to the decision of whether to initiate a disciplinary proceeding, pursuant to Iowa Code sections 17A.13(1), 272C.6(3) and 543B.36. Commission procedures concerning investigative subpoenas are set forth in 193—Chapter 6.