

189—14.6(533) Formal investigations.

14.6(1) *Initiation of formal investigations.* Formal investigations shall begin only upon the issuance of a formal order of investigation signed by the superintendent. Subpoenas for testimony and documents may be issued only after a formal investigation has begun.

14.6(2) *Issuance of formal order.* A formal order of investigation may be issued by the superintendent, and a formal investigation may be made if the superintendent has a reasonable basis to believe that there may be a violation of Iowa Code chapter 533 or that the safety and soundness of a credit union may be threatened based on any of the following: information received from a member of a credit union, from a member of the public, from a federal or a state agency; from the examination of filings, financial reports, or credit union business records; from an examination review, or from some other occurrence or fact. A formal order of investigation shall set forth the possible violations of law as well as a general statement describing the factual basis for the violations. A formal order shall also specify the division officers authorized to issue subpoenas in the formal investigation.

14.6(3) *Presiding officers.* Formal investigatory proceedings may be held before the superintendent, a deputy superintendent, or any division officer so designated by the superintendent in the formal order of investigation.

14.6(4) *Transcripts.* Transcripts, if any, of formal investigative proceedings shall be recorded solely by the official reporter, or by any other person or means designated by the division officer conducting the investigation. Any witness, upon proper identification, shall have the right to inspect the official transcript of the witness's own testimony at the division's offices. A person who has submitted documentary evidence or has testified as a witness in a formal investigative proceeding shall be entitled, upon written request, and at the person's expense, to procure a copy of the documentary evidence produced by the witness or a transcript of the witness's testimony. However, the division may, for good cause, deny the request.

14.6(5) *Rights of witnesses.*

a. Any person who is compelled or requested to furnish documentary evidence or testimony at a formal investigative proceeding shall upon request be shown the division's formal order of investigation. Copies of formal orders of investigation shall not be furnished for their retention to those persons except with the express approval of the superintendent. The superintendent shall not grant approval unless the superintendent is satisfied that there exist reasons for approval which are consistent both with the protection of privacy of persons involved in the investigation and with the unimpeded conduct of the investigation.

b. Any person compelled to appear, or who appears by request or permission of the division, at a formal investigative proceeding may be accompanied, represented and advised by counsel. This means that a witness testifying shall have the right to have an attorney present with the witness during any formal investigative proceeding and to have the attorney:

- (1) Advise before, during, and after the conclusion of the examination,
- (2) Question the client/witness briefly at the conclusion of the examination to clarify any of the answers the client/witness has given, and
- (3) Make summary notes during the examination.

c. Witnesses shall be sequestered and, unless otherwise permitted in the discretion of the division officer conducting the investigation, no person other than the witness's counsel shall be permitted to be present during the witness's examination.

14.6(6) *Service of subpoenas.* Service of subpoenas issued in formal investigative proceedings shall be effected by personal service or by restricted certified mail.

14.6(7) *Nonpublic proceedings.* Except as otherwise provided by law, all formal investigative proceedings shall be nonpublic.

14.6(8) *Enforcement of subpoenas.* If a subpoenaed party fails to comply with a subpoena, the division may enforce the subpoena in district court.