

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rulemaking related to complaints, investigations, and contested case hearings

The Educational Examiners Board hereby amends Chapter 11, “Complaints, Investigations, Contested Case Hearings,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, House File 430.

Purpose and Summary

2023 Iowa Acts, House File 430, directed the Board to adopt rules related to retention of records, public notice, the evaluation of past complaints, and investigations. This rulemaking implements that legislation.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 13, 2023, as **ARC 7194C**. A public hearing was held on January 31, 2024, at 1 p.m. in the Board of Educational Examiners Board Room, 701 East Court Avenue, Suite A, Des Moines, Iowa. No one attended the public hearing. No public comments were received.

Two changes from the Notice have been made to update the Iowa Code citations in rule 282—11.5(256) and to remove the references to 2023 Iowa Acts, House File 430, since that House File has been codified.

Adoption of Rulemaking

This rulemaking was adopted by the Board on February 23, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on April 24, 2024.

The following rulemaking action is adopted:

ITEM 1. Amend subrule 11.4(9) as follows:

11.4(9) Confidentiality. All complaint files, investigation files, other investigation reports, and other investigation information in the possession of the board or its employees or agents, which relate to licensee discipline, are privileged and confidential, and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the respondent and the board and its employees and agents involved in licensee discipline, and are not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. However, investigative information in the possession of the board or its employees or agents ~~which~~ that is related to licensee discipline may be disclosed to appropriate licensing authorities within this state, the appropriate licensing authorities in another state, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license. Records related to written complaints shall be collected and retained and shall be evaluated if a similar complaint has been filed against the same licensed practitioner. A finding of probable cause, a final written decision, and a finding of fact by the board in a disciplinary proceeding is constitute a public record.

ITEM 2. Amend rule 282—11.5(272) as follows:

282—11.5(~~272~~ 256) Investigation of complaints or license reports. The chairperson of the board or the chairperson's designee may request an investigator to investigate the complaint or report received by the board from another state, territory or other jurisdiction concerning license or certificate revocation or suspension pursuant to subrule 11.4(7); providing that the jurisdictional requirements have been met on the face of the complaint. The investigation shall be limited to the allegations contained on the face of the complaint. The investigator may consult an assistant attorney general concerning the investigation or evidence produced from the investigation. Upon completion of the investigation, the investigator shall prepare a report of the investigation for consideration by the board in determining whether probable cause exists. The investigation of the complaint shall be finalized even if the licensed practitioner resigns or surrenders the practitioner's license, certificate, authorization, or statement of recognition during the investigation. The board shall investigate whether or not an administrator who is employed by the school that employs a licensed practitioner who is the subject of an investigation initiated under Iowa Code section 256.160(1) "a" filed a written complaint and whether or not the administrator was required to report to the board pursuant to Iowa Code section 256.160.

[Filed 2/27/24, effective 4/24/24]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/20/24.