

IOWA PUBLIC INFORMATION BOARD[497]

Notice of Intended Action

**Proposing rule making related to complaints and public records
and providing an opportunity for public comment**

The Iowa Public Information Board (IPIB) hereby proposes to amend Chapter 2, “Complaint Investigation and Resolution Procedures,” and Chapter 4, “Contested Cases,” and to adopt a new Chapter 11, “Public Records,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 23.6(2).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 22 and sections 23.6 and 23.10.

Purpose and Summary

The purpose of this proposed rule making is to update IPIB’s administrative rules to ensure complainants are afforded the processes found in Iowa Code chapter 23, to remove inapplicable rules, and to provide a timeline for government bodies to respond to public records requests.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition IPIB for a waiver of the discretionary provisions, if any, pursuant to 497—Chapter 9.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by IPIB no later than 4:30 p.m. on July 11, 2022. Comments should be directed to:

Hannah Fordyce
Iowa Public Information Board
Wallace State Office Building
502 East 9th Street, Third Floor
Des Moines, Iowa 50319
Phone: 515.725.1782
Fax: 515.725.1789
Email: hannah.fordyce@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows. Persons should call 515.725.1781 at the time of the hearing to be escorted to the conference room.

July 11, 2022
3 p.m.

IPIB Conference Room
Wallace State Office Building, Third Floor
Des Moines, Iowa 50319

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact IPIB and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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).

The following rule-making actions are proposed:

- ITEM 1. Rescind subrule **2.1(6)**.
- ITEM 2. Rescind and reserve rule **497—4.17(17A)**.
- ITEM 3. Adopt the following **new** 497—Chapter 11:

CHAPTER 11
PUBLIC RECORDS

497—11.1(22) Timely compliance with public records requests. Government bodies shall give a high priority to fulfilling requests for copies of public records.

497—11.2(22) Acknowledgment. A government body must acknowledge the receipt of a public records request.

11.2(1) A public records request shall be acknowledged in writing, where contact information has been provided, within two business days after receipt by the lawful custodian, including, but not limited to, in the following circumstances:

- a.* A verbal request, within two business days after a telephone call is received, a voicemail message is received, or an oral request is made in person;
- b.* A request sent by first-class mail, within two business days after the letter is opened;
- c.* A request sent by email, within two business days after the email is opened;
- d.* A request sent by fax, within two business days after the fax is received; or
- e.* A request received by other means, including social media, within two business days after the communication is received.

11.2(2) An acknowledgment must include the name and contact information of the person responsible for processing the public records request.

497—11.3(22) Processing. Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible.

497—11.4(22) Good-faith reasonable delay. In providing prompt access to an open record, or providing access as soon as feasible, for the purpose of examination and copying, the lawful custodian may engage in a good-faith reasonable delay, including for the purposes of:

11.4(1) Seeking an injunction under Iowa Code section 22.8;

11.4(2) Determining whether the lawful custodian is entitled to seek or should seek an injunction;

11.4(3) Determining whether the record requested is a public record or a confidential record; or

11.4(4) Determining whether a confidential record should be available for inspection and copying to the person requesting the right to do so. A reasonable delay for this purpose shall not exceed 20 calendar days and ordinarily not exceed 10 business days.

497—11.5(22) Gathering multiple records in response to a public records request. When multiple records are being gathered in response to a public records request, a necessary delay in providing access to one or more records shall not delay providing access to the balance of the records requested.

497—11.6(22) Factors affecting timely compliance. In assessing whether a government body provided access to records promptly, or as soon as feasible, the following factors may be considered:

11.6(1) The number of records requested;

11.6(2) The difficulty of searching for or retrieving the records requested;

11.6(3) The difficulty of formulating effective search criteria for retrieving electronic records; and

11.6(4) The existence of unforeseen circumstances that reasonably interfered with the lawful custodian's ability to search for or retrieve the requested records.

497—11.7(22) Examining a public record without charge. Nothing in this chapter regarding timely compliance with requests for copies of public records shall adversely affect the right to examine a public record without charge while the record is in the physical possession of the lawful custodian.

These rules are intended to implement Iowa Code chapter 22.