

## **IOWA PUBLIC INFORMATION BOARD – Rules Committee**

### **MEMBERS**

**Joan Corbin, Pella (Government Representative, 2024-2028)**  
**E. J. Giovannetti, Urbandale (Public Representative, 2022-2026)**  
**Joel McCrea, Pleasant Hill (Media Representative, 2022-2026)**

### **STAFF**

**Erika Eckley, Executive Director**  
**Kimberly Murphy, Deputy Director**  
**Alexander Lee, Agency Counsel**

**Use the following link to watch the IPIB meeting live:**

<https://youtube.com/@IowaPublicInformationBoard>

**Note: If you wish to make public comment to the Board, please send an email to [PIB@iowa.gov](mailto:PIB@iowa.gov) prior to the meeting.**

### **Agenda**

**September 30, 2024, 1:30 – 3:30 p.m.**  
**This meeting will be conducted electronically**

- I. Call to Order
- II. Approval of agenda\*
- III. Approve Minutes from August 15, 2024, Rules Committee Meeting\*
- IV. Public Comment (5-minute limit per speaker)
- V. Review Discussion Guide Packet\*
- VI. Discussion of Timeline and Next Steps\*
- VII. Discussion of Next Committee Meeting
- VIII. Adjourn

**\* Attachment**

# **IOWA PUBLIC INFORMATION BOARD – RULES COMMITTEE**

**August 15, 2024**  
**Unapproved Minutes**

The Iowa Public Information Board Rules Committee met on August 15, 2024, at noon at the offices of the Department of Agriculture and Land Stewardship located at 502 East 9<sup>th</sup> Street, Des Moines. The following Rules Committee members participated: Joan Corbin, Pella; E.J. Giovannetti, Urbandale; Joel McCrea, Pleasant Hill. Also present were IPIB Executive Director, Erika Eckley; IPIB Deputy Director, Kimberly Murphy; IPIB Intern, Erik Johnson. A quorum was declared present.

- I. **Call to Order.** Corbin started the meeting by announcing a late start at 12:18 p.m. due to technical difficulties.
- II. **Approval of Agenda.** On a **motion** by Giovannetti, **second** by McCrea, to adopt the agenda. Unanimously adopted, 3-0.
- III. **Approval of Minutes.** On a **motion** by McCrea, **second** by Giovannetti, to approve the minutes. Unanimously adopted, 3-0.
- IV. **Public Comment.** There was no public comment.
- V. **Overview of Discussion Guide.** Murphy gave an overview of the complaint process and presented the Discussion Guide (attachment). There was Committee discussion.
- VI. **Discussion of Timeline and Next Steps.** Murphy gave an overview of the timeline and next steps, reflecting that the Committee is still on track to meet required deadlines.
- VII. **Discussion of Next Committee Meeting.** Board discussed meeting for two hours at the next meeting of the Committee on September 19, 2024.
- VIII. **Adjourn.** On a **motion** by McCrea, **second** by Giovannetti, to adjourn the meeting. Meeting adjourned.

# Iowa Public Information Board – Rules Committee

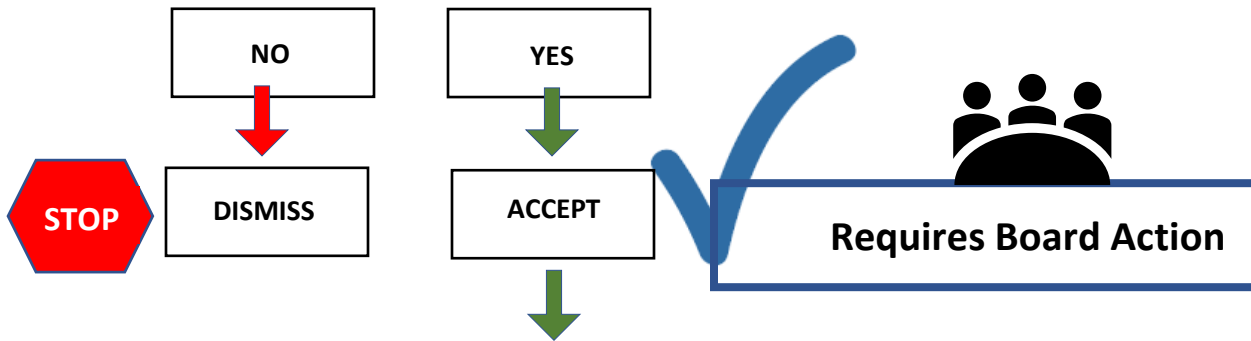
## Discussion Packet – September 19, 2024

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# IPIB Complaint Process Flow Chart

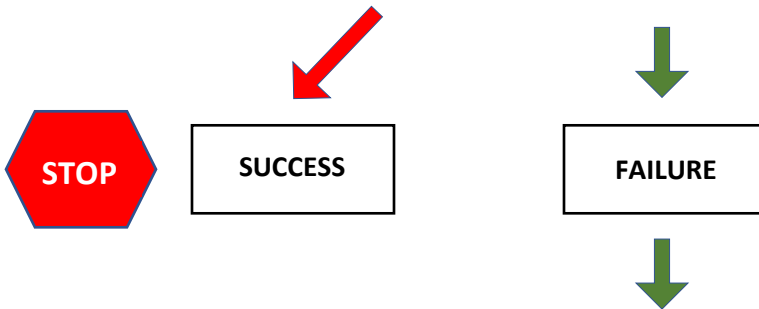
## Step 1: Jurisdiction

- Is the Complaint submitted within 60 days of the alleged violation?
- Is the Complaint within IPIB's jurisdiction?
- Is the Complaint legally sufficient?
- Does the Complaint have merit?



## Step 2: Collaboration

### Informal Resolution



## Step 3: Formal Investigation

Note: Burden of Proof may shift to the Governmental Body during this stage.



### **Formal Investigation Result Options:**

- Redirect for further investigation
- Dismiss for lack of probable cause or jurisdiction
- Dismiss as an exercise of administrative discretion
- Determine that probable cause exists and direct resolution
- Determine that probable cause exists and initiate a contested case

# IPIB Complaint Process Burden of Proof

## Step 1: Jurisdiction (Complainant Facial Burden of Proof)

Chapter 23: Will **ACCEPT** if IPIB determines that the complaint, *on its face*, the complaint meets these requirements:

- Is submitted within 60 days of the alleged violation;
- Is within IPIB's jurisdiction;
- Is legally sufficient; and
- Has merit.

Chapter 23: Will **DISMISS** if IPIB determines that the complaint, *on its face*, the complaint meets these requirements:

- Is submitted after 60 days of the alleged violation;
- Is outside IPIB's jurisdiction;
- Is legally insufficient;
- Is frivolous;
- Is without merit;
- Involves harmless error; or
- Relates to a specific incident that has previously been disposed on its merits by the board or a court.

## Step 2: Collaboration / Informal Resolution (No Burden of Proof)

No burden of proof is applied during Step 2.

## Step 3: Formal Investigation (Shifting Burden of Proof)

Chapter 21.6 outlines the burden of proof for a party seeking judicial enforcement of Chapter 21. By default, this burden of proof is applied to IPIB proceedings:

- The complainant must demonstrate that the governmental body is subject to the requirements of Chapter 21 and has held a closed session. Once this is accomplished, the burden shifts to the governmental body.
- The burden of proof is on the governmental body to demonstrate compliance with Chapter 21.

Chapter 22.10 Chapter 21.6 outlines the burden of proof for a party seeking judicial enforcement of Chapter 22. By default, this burden of proof is applied to IPIB proceedings:

- The Complainant must demonstrate that the governmental body is subject to the requirements of Chapter 22, that the records in question are government records, and that the governmental body refused to make the records available for examination and copying. Once this is accomplished, the burden shifts to the governmental body.
- The burden of proof is on the governmental body to demonstrate compliance with Chapter 22.

## Step 4: Probable Cause Finding (Probable Cause)

- The Board must find that the complaint is within the Board's jurisdiction and that probable cause exists. There is no definition of Probable Cause in Iowa Code chapter 23.

# Discussion Guide – Administrative Rules – Chapter 2

## Complaint Process: Page 1

**NOTE:** This document is a discussion guide used to prompt discussion, questions, and feedback regarding the Complaint process utilized by the Iowa Public Information Board. This is not an administrative rules draft. This is an instrument designed to initiate a discussion of public policy and to determine best practices and approaches regarding the Complaint process.

Capitalized terms reflect terms that are officially defined within the definitions section.

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### Definitions:

“Agency action” is as defined in Iowa Code Chapter 17A.

“Board” means the Iowa Public Information Board created and defined in [Iowa Code section 23.3](#).

“Complaint” means a written and signed document filed with the Board alleging a violation of Chapter 21 or 22, as defined in [Iowa Code Chapter 23](#).

“Complainant” means a person who files a Complaint with the Board, as defined in [Iowa Code Chapter 23](#).

“Form” **FOR DISCUSSION – see below.**

“Meeting” is as defined in [Iowa Code Chapter 21](#).

“Probable cause” means evidence has been provided to demonstrate a reasonable belief that a violation of Chapter 21 or Chapter 22 exists. Probable cause is more than a suspicion and is the presentation of facts that would establish a belief in a reasonable person that a violation occurred.

“Public Records” is as defined in [Iowa Code Chapter 22](#).

“Reasonable Diligence” means the degree of diligence expected from someone of ordinary prudence under the circumstances. [\(NEW - see Timing of Complaint\)](#)

“Respondent” means any agency or other unit of state or local government, custodian, government official, or government employee who is the subject of a Complaint, as defined in Iowa Code Chapter 23.

“Respondent” does not include the judicial or legislative branches of state government or any entity, officer, or employee of those branches, or the governor or the office of the governor as the Board does not have jurisdiction over these bodies pursuant to [Iowa Code Chapter 23.12](#).

### Filing of Complaint:

Any Complainant may file a Complaint with the Board alleging a violation of Iowa Code Chapters 21 or 22. [\(Iowa Code section 23.7\)](#)

# Discussion Guide – Administrative Rules – Chapter 2

## Complaint Process: Page 2

### Timing of Complaint:

The Complainant shall file a Complaint within sixty calendar days from the time the alleged violation occurred or the Complainant could have become aware of the violation with Reasonable Diligence. (Iowa Code section 23.7) Any dispute regarding timing, the Complainant's awareness of the violation, and whether the Complaint meets statutory timing requirements shall be resolved by the Board based on the circumstances of the Complaint. (NEW)

### Form of Complaint: FOR DISCUSSION<sup>1</sup>

A Complaint shall be submitted in writing and on the Form designated by the Board. A Complaint may also be accepted without using the designated Form if the Complaint contains the elements of information required by the Form.

### Content of Complaint: (NEW)

The Complaint shall include in the body of the Complaint or the attachments thereto any information, issues, and arguments that support the Complainant's position. The Complaint may also include any attachments, affidavits, certifications, or other documentation deemed relevant or supportive of the allegations set forth in the Complaint.

- Any amendments to the Complaint received after filing will be reviewed by the Board. The Board, at its discretion, may allow an amendment after filing based on the facts and circumstances of the Complaint.
- The Board, at its discretion, may merge Complaints based on the facts and circumstances of each Complaint.

### Complaint Process:

Upon receipt of a Complaint, the Board will review the Complaint and determine whether the Complaint is accepted or dismissed. (Iowa Code section 23.8)

- **FOR DISCUSSION.** In order to expedite proceedings, the executive director may delegate to designated employees of the Board, at his or her discretion, the task of developing and presenting acceptance and dismissal orders.
- The Board's review of a Complaint for legal sufficiency is not a contested case proceeding and shall be made solely on the facts alleged in the Complaint and the results of the initial review conducted by employees of the Board. (Existing IAC – 2.1(5))

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<sup>1</sup> Need to discuss whether a form should be utilized and the pros and cons of requiring a form. N.J. requires a form, but will accept a case without a form. The form can be found on the website. A Complainant can also call and request that a Complaint Form be mailed.

# Discussion Guide – Administrative Rules – Chapter 2

## Complaint Process: Page 3

### Complaint Process – Dismissal: FOR DISCUSSION<sup>2</sup>.

The Board shall issue a dismissal order if the Board determines that the Complaint, on its face, is outside the Board’s jurisdiction, is legally insufficient, is frivolous, is without merit, involves harmless error, or relates to a specific incident that has previously been finally disposed on its merits by the board or a court. (Iowa Code section 23.8) A copy of the dismissal order shall be provided to the Complainant. The dismissal order shall explain the reasons for the dismissal. (Iowa Code subsection 23.8(2))

### Complaint Process – Acceptance: FOR DISCUSSION<sup>3</sup>.

If the Board determines that the Complaint, on its face, is within the Board’s jurisdiction, appears legally sufficient, and could have merit, the Board will accept the Complaint. Upon acceptance, the Board shall: (Iowa Code subsection 23.8(1))

- Provide notification of acceptance in writing to the Complainant and Respondent. (Iowa Code subsection 23.8(1))
- Provide all available information to the Respondent, including the Complaint and any supporting documentation provided by the Complainant as part of the Complaint. (NEW)
- Request a response to the Complaint from the Respondent. (NEW)

### Respondent’s Response to Complaint: (NEW)

The Respondent, upon request to respond to the Complaint pursuant to [insert above citation], shall submit a written and signed response to the Complaint within fourteen calendar days. The executive director may grant an extension to the Respondent for the Respondent’s response based on a justifiable reason and the facts and circumstances of the Complaint. The Respondent’s response shall include the details of the Respondent’s position for each element of the Complaint and any information, defenses, and arguments that support the Respondent’s position.

### Complainant’s Response to Respondent: (NEW)

The Complainant shall be granted the opportunity to respond to the Respondent’s response.

### Informal Resolution Process:

Following acceptance of the Complaint, the Board, acting through the employees of the Board, shall work with the Complainant and Respondent to develop a resolution in response to the Complaint. (Iowa Code section 23.9)

- If the informal resolution process resolves the Complaint, the Complaint shall be dismissed as resolved by the Board. The Complaint may also be withdrawn by the Complainant. (Iowa Code section 23.10)

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<sup>2</sup> There are some differences in the initial processing of the Complaint for dismissal.

<sup>3</sup> See footnote above.



## Discussion Guide – Administrative Rules – Chapter 2

### Complaint Process: Page 4

- If the Complainant or Respondent decline the informal resolution process or if the informal resolution process fails to resolve the Complaint, the Board shall initiate a formal investigation. ([Iowa Code section 23.10](#))

#### **Formal Investigation:**

If the Complainant or Respondent decline the informal resolution process or if the information resolution process fails to resolve the Complaint, the Board shall initiate a formal investigation to determine whether there is probable cause to believe a violation of Iowa Code Chapter 21 or 22 has occurred. Upon initiating a formal investigation, the Board shall provide notification of a formal investigation in writing to the Complainant and Respondent. ([Iowa Code section 23.10](#))

- During the formal investigation process, the Complainant and Respondent may be asked to provide additional information. Failure to respond to requests for information may result in a finding of probable cause or dismissal of the Complaint. (NEW)
- Formal investigation actions may include, but are not limited to, the following: (NEW)
  - Reviewing applicable laws, rules, regulations, and policies;
  - Requesting statements from the Complainant and Respondent;
  - Submitting verbal or written requests for information to other persons and governmental bodies;
  - Examining and copying relevant records;
  - Issuing investigative subpoenas requiring the production of books, papers, records, electronic records and other real evidence, as well as requiring the attendance and testimony of witnesses;
  - Holding hearings; and
  - Any other methods determined appropriate by the Board.
- Following the formal investigation, the employees of the Board shall make a report to the Board and shall provide a recommendation related to probable cause. (NEW)

#### **Burden of Proof Pursuant to Formal Investigation: FOR DISCUSSION**

For Chapter 21 violations, the Complainant must demonstrate the following to move forward with the Complaint: ([Iowa Code subsection 21.6\(2\)](#))

- The Respondent is subject to the requirements of chapter 21; and
- The Respondent held a Meeting.

If the Complainant demonstrates that the Respondent is subject to the requirements of XXXX, the burden of going forward shall be on the Respondent to demonstrate compliance with the requirements of Chapter 21.

For Chapter 22 violations, the Complainant must demonstrate the following to move forward with the Complaint: ([Iowa Code subsection 22.10\(2\)](#))

# Discussion Guide – Administrative Rules – Chapter 2

## Complaint Process: Page 5

- The Respondent is subject to the requirements of chapter 22;
- The records in question are public records; and
- The Respondent refused to make the public records available for examination and copying by the Complainant.

If the Complainant demonstrates that the Respondent is subject to the requirements of XXXX, the burden of going forward shall be on the Respondent to demonstrate compliance with the requirements of Chapter 22.

### **Settlement:** FOR DISCUSSION

The parties to the Complaint may reach an agreement during the formal investigation process that results in a settlement between the parties. Any settlement reached by the parties is solely between the parties and does not impact the formal investigation conducted by the Board. If a settlement is reached, the Board may dismiss the Complaint, as an exercise of administrative discretion pursuant to XXXX, and terminate the formal investigation. (NEW)

### **Probable Cause Finding:**

Upon receipt and review of the formal investigative report and any recommendations, the Board may:

- Redirect the Complaint for further investigation.
- Dismiss the Complaint for lack of jurisdiction or lack of probable cause to believe there has been a violation of Chapter 21 or 22. The Board shall issue a written dismissal order and a copy of the dismissal order shall be provided to the Complainant and the Respondent. The dismissal order shall explain the reasons for the dismissal.
- Make a determination that probable cause exists to believe a violation has occurred, but dismiss the matter as an exercise of administrative discretion.
  - The Board shall issue a written dismissal order and a copy of the dismissal order shall be provided to the Complainant and the Respondent. The dismissal order shall explain the reasons for the dismissal.
- **FOR DISCUSSION.** Determine that the Complaint is within the Board's jurisdiction and there is probable cause to believe a violation of Chapter 21 or Chapter 22 has occurred and direct civil penalties or other appropriate remedies as provided in subrule [insert civil penalties and other appropriate remedies].
  - The probable cause order shall be provided in writing to the Complainant and Respondent. The probable cause order shall explain the reasons for the probable cause finding.
- Determine that the Complaint is within the Board's jurisdiction and there is probable cause to believe a violation of Chapter 21 or Chapter 22 has occurred and initiate a contested case proceeding.

## Discussion Guide – Administrative Rules – Chapter 2

### Complaint Process: Page 6

- The probable cause order shall be provided in writing to the Complainant and Respondent. The probable cause order shall initiate a contested case proceeding pursuant to Iowa Code Chapter 17A. The Board shall designate a prosecutor and direct the issuance of a statement of charges to initiate the contested case proceeding pursuant to subrule [insert applicable subrule].

#### **Civil Penalties and Other Appropriate Remedies: FOR DISCUSSION**

If it is determined after appropriate board proceedings that a violation of statute or rule under the Board's jurisdiction has occurred, the Board may impose any of the remedies set out in Iowa Code Section 23.6(8) or 23.10(3)(b). ([Iowa Code subsection 21.6 and 22.10](#))

#### **Appeal: FOR DISCUSSION**

Any person or party who is aggrieved or adversely affected by agency action may utilize the remedies provided by Iowa Code Chapter 17A.

# IPIB Chapter 23 Requirements – Page 1

## **Rulemaking Authority - 23.6(2)**

The board shall have all of the following powers and duties:

2. Adopt rules pursuant to chapter 17A calculated to implement, enforce, and interpret the requirements of chapters 21 and 22 and to implement any authority delegated to the board by this chapter.

## **Complaint Adjudication Options (emphasis added) – 23.6(4)**

[Comment: This section of Chapter 23 outlines the four basic options (and corresponding order) for a complaint process once acceptance occurs – Informal resolution, formal investigation, probable cause finding, contested case.]

The board shall have all of the following powers and duties:

4. Receive complaints alleging violations of chapter 21 or 22, seek resolution of such complaints through *informal assistance*, *formally investigate* such complaints, decide after such an investigation whether there is *probable cause* to believe a violation of chapter 21 or 22 has occurred, and if probable cause has been found *prosecute the respondent before the board in a contested case proceeding* conducted according to the provisions of chapter 17A.

## **Adjudication Powers – 23.6(8)**

The board shall have all of the following powers and duties:

8. After appropriate board proceedings, issue orders with the force of law, determining whether there has been a violation of chapter 21 or 22, requiring compliance with specified provisions of those chapters, imposing civil penalties equivalent to and to the same extent as those provided for in section 21.6 or 22.10, as applicable, on a respondent who has been found in violation of chapter 21 or 22, and imposing any other appropriate remedies calculated to declare, terminate, or remediate any violation of those chapters.

## **Filing of complaints with the board – 23.7**

1. The board shall adopt rules pursuant to chapter 17A providing for the timing, form, content, and means by which any aggrieved person, any taxpayer or citizen of this state, the attorney general, or any county attorney may file a complaint with the board alleging a violation of chapter 21 or 22. The complaint must be filed within sixty days from the time the alleged violation occurred or the complainant could have become aware of the violation with reasonable diligence.

## **Initial processing of complaint - 23.8**

Upon receipt of a complaint alleging a violation of chapter 21 or 22, the board shall do either of the following:

1. Determine that, on its face, the complaint is within the board's jurisdiction, appears legally sufficient, and could have merit. In such a case the board shall accept the complaint, and shall notify the parties of that fact in writing.

[Comment: This section of Chapter 23 establishes the initial jurisdiction determination (Step 1). Note that if acceptance occurs (based on jurisdiction), the PARTIES are notified in writing.]

## IPIB Chapter 23 Requirements – Page 2

2. Determine that, on its face, the complaint is outside its jurisdiction, is legally insufficient, is frivolous, is without merit, involves harmless error, or relates to a specific incident that has previously been finally disposed of on its merits by the board or a court. In such a case the board shall decline to accept the complaint. If the board refuses to accept a complaint, the board shall provide the complainant with a written order explaining its reasons for the action.

[Comment: This section of Chapter 23 is the initial jurisdiction determination (Step 1). Note that if denial occurs (based on jurisdiction), the COMPLAINANT ALONE is notified in writing. This represents that evidence is not to be collected from the Respondent until the Complaint is facially accepted.]

### **Informal assistance – 23.9**

[Comment: This is the informal resolution phase that follows acceptance.]

After accepting a complaint, the board shall promptly work with the parties, through employees of the board, to reach an informal, expeditious resolution of the complaint.

### **Enforcement – 23.10**

1. If any party declines informal assistance or if informal assistance fails to resolve the matter to the satisfaction of all parties, the board shall initiate a formal investigation concerning the facts and circumstances set forth in the complaint. The board shall, after an appropriate investigation, make a determination as to whether the complaint is within the board's jurisdiction and whether there is probable cause to believe that the facts and circumstances alleged in the complaint constitute a violation of chapter 21 or 22.

[Comment: This is the formal investigation phase. This occurs if informal resolution fails.]

2. If the board finds the complaint is outside the board's jurisdiction or there is no probable cause to believe there has been a violation of chapter 21 or 22, the board shall issue a written order explaining the reasons for the board's conclusions and dismissing the complaint, and shall transmit a copy to the complainant and to the party against whom the complaint was filed.

3. a. If the board finds the complaint is within the board's jurisdiction and there is probable cause to believe there has been a violation of chapter 21 or 22, the board shall issue a written order to that effect and shall commence a contested case proceeding under chapter 17A against the respondent. If there are no material facts in dispute, the board may order that the contested case procedures relating to the presentation of evidence shall not apply as provided in section 17A.10A. The executive director of the board or an attorney selected by the executive director shall prosecute the respondent in the contested case proceeding. At the termination of the contested case proceeding the board shall, by a majority vote of its members, render a final decision as to the merits of the complaint. If the board finds that the complaint has merit, the board may issue any appropriate order to ensure enforcement of chapter 21 or 22 including but not limited to an order requiring specified action or prohibiting specified action and any appropriate order to remedy any failure of the respondent to observe any provision of those chapters.

[Comment: This is the probable cause finding – Step 4.]

## **IPIB Chapter 23 Requirements – Page 3**

b. If the board determines, by a majority vote of its members, that the respondent has violated chapter 21 or 22, the board may also do any or all of the following:

(1) Require the respondent to pay damages as provided for in section 21.6 or 22.10, whichever is applicable, to the extent that provision would make such damages payable if the complainant had sought to enforce a violation in court instead of through the board.

(2) Void any action taken in violation of chapter 21 if a court would be authorized to do so in similar circumstances pursuant to section 21.6.

(3) Require the respondent to take any remedial action deemed appropriate by the board.

# EO 10 Proposal – All Chapters – First Draft – Page 1

## Chapter 1: Organization and General Administration – Rescind.

2024 Iowa Acts, Senate File 2370, strikes existing law that requires agencies to adopt rules that include a description of the organization, a statement of the mission, and the methods by which and location where the public may obtain information or make submissions or requests. (See Senate File 2370, section 4, which strikes Iowa Code § 17A.3A(a), (b), and (c)).

## Chapter 2: Complaint Investigation and Resolution Procedures – Rescind and replace.

See Discussion Guide.

## Chapter 3: Declaratory Orders – Rescind.

2024 Iowa Acts, Senate File 2370, states that the administrative rules coordinator may adopt uniform rules on agency procedure that are suitable for general applicability to agencies. Such rules may address the subjects of agency procedures for rulemaking, petition for rulemaking, waiver of rules, **declaratory orders**, contested cases, and fair information practices. Senate File 2370 goes on to state that if an agency does not have rules in effect that address a subject within the uniform rules on agency procedure, such uniform rules shall apply to the agency as though the agency had adopted them.

## Chapter 4: Contested Cases – Rescind.

2024 Iowa Acts, Senate File 2370, states that the administrative rules coordinator may adopt uniform rules on agency procedure that are suitable for general applicability to agencies. Such rules may address the subjects of agency procedures for rulemaking, petition for rulemaking, waiver of rules, declaratory orders, **contested cases**, and fair information practices. Senate File 2370 goes on to state that if an agency does not have rules in effect that address a subject within the uniform rules on agency procedure, such uniform rules shall apply to the agency as though the agency had adopted them.

## Chapter 5: Petitions for Rule Making – Rescind.

2024 Iowa Acts, Senate File 2370, states that the administrative rules coordinator may adopt uniform rules on agency procedure that are suitable for general applicability to agencies. Such rules may address the subjects of agency procedures for rulemaking, **petition for rulemaking**, waiver of rules, declaratory orders, contested cases, and fair information practices. Senate File 2370 goes on to state that if an agency does not have rules in effect that address a subject within the uniform rules on agency procedure, such uniform rules shall apply to the agency as though the agency had adopted them.

## EO 10 Proposal – All Chapters – First Draft – Page 2

### Chapter 6: Agency Procedure for Rule Making – Rescind.

2024 Iowa Acts, Senate File 2370, states that the administrative rules coordinator may adopt uniform rules on agency procedure that are suitable for general applicability to agencies. Such rules may address the subjects of **agency procedures for rulemaking**, petition for rulemaking, waiver of rules, *declaratory orders*, contested cases, and fair information practices. Senate File 2370 goes on to state that if an agency does not have rules in effect that address a subject within the uniform rules on agency procedure, such uniform rules shall apply to the agency as though the agency had adopted them.

### Chapter 7: Fair Information Practices – Rescind.

2024 Iowa Acts, Senate File 2370, states that the administrative rules coordinator may adopt uniform rules on agency procedure that are suitable for general applicability to agencies. Such rules may address the subjects of agency procedures for rulemaking, petition for rulemaking, waiver of rules, declaratory orders, contested cases, and **fair information practices**. Senate File 2370 goes on to state that if an agency does not have rules in effect that address a subject within the uniform rules on agency procedure, such uniform rules shall apply to the agency as though the agency had adopted them.

### Chapter 8: Open Meetings – Rescind.

Chapter 8 repeats the requirements of Iowa Code Chapter 21. The Iowa Public Information Board, like all governmental bodies, must comply with all open meeting requirements. Choosing some requirements to highlight in administrative rules, while not referencing others, does not justify the importance of complying with the full chapter. For this reason, it is recommended that Chapter 8 be removed in lieu of full compliance with the existing Chapter 21.

### Chapter 9: Waivers from Administrative Rules – Rescind.

2024 Iowa Acts, Senate File 2370, states that the administrative rules coordinator may adopt uniform rules on agency procedure that are suitable for general applicability to agencies. Such rules may address the subjects of agency procedures for rulemaking, petition for rulemaking, **waiver of rules**, declaratory orders, contested cases, and fair information practices. Senate File 2370 goes on to state that if an agency does not have rules in effect that address a subject within the uniform rules on agency procedure, such uniform rules shall apply to the agency as though the agency had adopted them.

### Chapter 10: Injunction Request Procedure – No Changes.



**NEW CHAPTER: Advisory Opinions**

The former Chapter 1 contained rules regarding the processing of advisory opinions. This content has been moved to its own chapter for ease of use.

1.1 Requirements for requesting board advisory opinions.

1.1(1) *Jurisdiction.* The board will only accept requests for and issue board advisory opinions pertaining to Iowa Code chapters 21 and 22, or rules adopted thereunder. The board shall not have jurisdiction over the judicial or legislative branches of state government or any entity, officer, or employee of those branches, or over the governor or the office of the governor.

1.1(2) *Who may request an advisory opinion.* Any person may request a board advisory opinion construing or applying Iowa Code chapters 21 and 22. The board will not issue an opinion to an unauthorized third party. The board may on its own motion issue opinions without receiving a formal request.

1.1(3) *Form of request.* The request for a board advisory opinion shall pose specific legal questions and should describe any specific facts relating to the questions posed. A request for a board advisory opinion shall be submitted in writing and on the Form designated by the Board. A request for a board advisory opinion may also be accepted without using the designated Form if the request for a board advisory opinion contains the elements of information required by the Form.

1.2 Processing of board advisory opinions.

1.2(1) After receiving a board advisory opinion request, the board's executive director shall cause to be prepared a draft board advisory opinion for board review. If the same or similar issue has been addressed in an opinion of a court, or in an attorney general's opinion, or in another prior advisory opinion, the executive director may respond to the requester by sending a copy of the prior opinion.

1.2(2) Upon an affirmative vote of at least five members, the executive director shall issue a board advisory opinion on behalf of the board. Advice contained in a board opinion rendered to a government official or a lawful custodian of a public record, if followed, constitutes a defense for the government official or lawful custodian before the board to a subsequent complaint that is based on the same facts and circumstances.

1.2(3) Board staff may also provide written advice on routine matters. However, such advice is not a board advisory opinion.

1.2(4) A person who receives a board advisory opinion may, within 30 days after the issuance of the opinion, request modification or reconsideration of the opinion. A request for modification or reconsideration shall be deemed denied unless the board acts upon the request within 60 days of receipt of the request.

## **EO 10 Proposal – All Chapters – First Draft – Page 4**

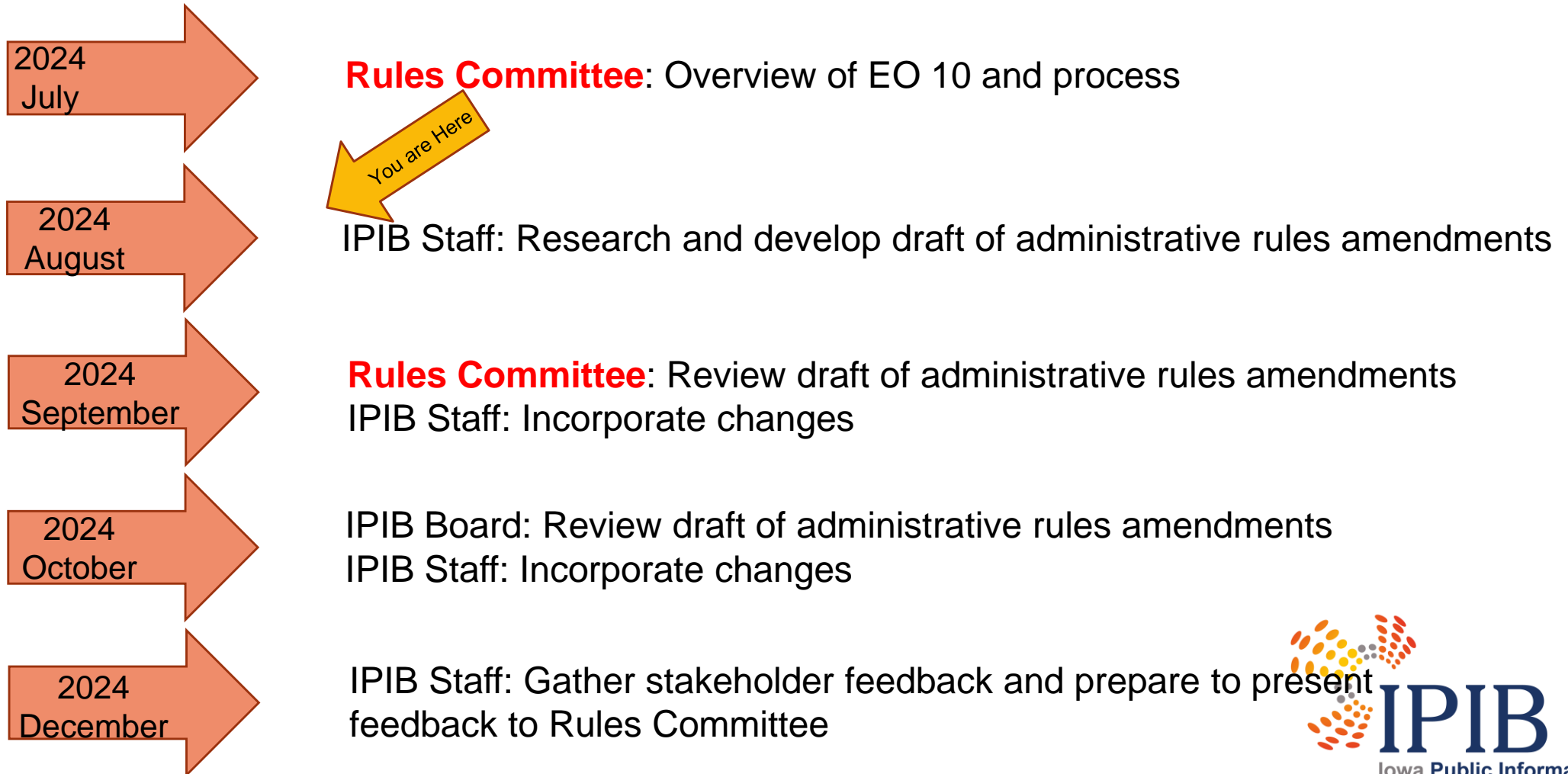
1.2(5) The board may take up modification or reconsideration of a board advisory opinion on its own motion within 30 days after the issuance of a board advisory opinion.

1.2(6) The board aspires to issue an opinion within 30 days after a formal request is made.

1.2(7) Nothing in this rule precludes a person who has received a board opinion or advice from petitioning for a declaratory order pursuant to Iowa Code section 17A.

1.2(8) The board may refuse to issue a declaratory order to a person who has previously received a board opinion on the same question, unless the requester demonstrates a significant change in circumstances from those in the board opinion.

# Detailed Timeline (subject to change)



# Detailed Timeline

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2025  
January

**Rules Committee:** Review stakeholder feedback  
IPIB Staff: Incorporate changes

2025  
February

IPIB Board: Review stakeholder feedback and incorporated changes  
IPIB Staff: Incorporate any additional changes  
IPIB Staff: Begin analysis and Rules Report

2025  
March

**Rules Committee:** Review draft of analysis and Rules Report  
IPIB Staff: Incorporate any changes

2025  
April

IPIB Board: Review draft of analysis and Rules Report  
IPIB Staff: Incorporate any additional changes

2025  
May

IPIB Board: Final review and approval of administrative rules, analysis, and Rules Report

# Detailed Timeline

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2025  
June

IPIB Staff: File analysis and Rules Report

2025  
July

IPIB Staff: Hold public hearings and gather feedback for presentation to the IPIB Board.

2025  
August

IPIB Board: Reviews results of public hearing and considers changes  
IPIB Staff: Incorporate any changes

2025  
September

IPIB Staff: Prepare Notice of Intended Action  
IPIB Board: Review and approve Notice of Intended Action

2025  
October

IPIB Staff: Officially file Notice of Intended Action and maintain communication with IPIB Rules Committee and Board