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# Iowa Sunshine Laws

Iowa Public Information Board

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Revised May 2026

# DISCLAIMER

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This presentation is not intended to serve as legal advice. You should consult with your government entity's attorney about specific situations you encounter.

# TODAY'S TRAINERS

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# IOWA PUBLIC INFORMATION BOARD

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- Enacted in 2013, the Iowa Public Information Board provides:
  - ***an official, efficient and free legal resource for citizens and government officials***
- To ask questions about Iowa open meetings and records laws, and to address complaints about alleged violations of the laws.
- The board is one of a few agencies in the nation with the authority to advise and enforce the state's sunshine laws.

# IPIB BOARD MEMBERS

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Joan Corbin, Pella - Government Representative

E. J. Giovannetti, Urbandale - Public Representative

Barry Lindahl, Dubuque - Government Representative

Catherine Lucas, Johnston – Government Representative

Monica McHugh, Zwingle - Public Representative

Luke Martz, Ames - Public Representative

Jackie Schmillen, Urbandale - Media Representative

Board meetings are typically the 3<sup>rd</sup> Thursday of the month.

Livestreamed and available at

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

# IPIB STAFF

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# WHAT WE WILL COVER TODAY

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## 1. Open Meetings under Chapter 21

- Definition of a governmental body, meeting, and deliberation
- How to address social gatherings and electronic communications
- The legal requirements of open meetings and closed sessions

## 2. Public Records under Chapter 22

- What is a public record
- Legal requirements for producing public records
- Reasonable fees for production
- Confidential records and redaction

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# Open Meetings 101

Iowa Code Chapter 21

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“Ambiguity in the construction or application of this chapter should be resolved in favor of openess.”

Iowa Code Section 21.1

# ROAD MAP TO OPEN MEETINGS

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- 1. Are you a governmental body?**
  - Only governmental bodies are subject to open meeting laws.
- 2. Are you holding a meeting?**
- 3. Are you complying with all legal requirements for a meeting?.**
- 4. Are you holding a closed session?**
  - If yes, there are specific requirements that must be met.

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# WHAT IS A GOVERNMENTAL BODY?

# GOVERNMENTAL BODIES

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- Boards, Councils and Commissions created by law or appointed by other governing bodies
- Bodies created by the Board of Regents or a president of a university
- Advisory boards, advisory commissions, and task forces created by state or local governments to develop and make public policy recommendations
- Non-profit corporations (other than a fair) who are supported with property tax revenue and licensed to conduct pari-mutual betting
- Non-profit corporations licensed for gambling pursuant to chapter 99F
- Governing bodies of drainage or levee districts
- Advisory boards, advisory commissions, advisory committees, task forces created through 28E agreements or by statute or executive order of state or subdivision to develop and make recommendations on public policy

Iowa Code § 21.2

# BEST PRACTICES

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1. Allowing the public to observe the deliberations will add to the “buy in” necessary to enact any decision or recommendation made by the body.

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# HOLDING A MEETING

# MEETINGS

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## **A meeting requires the following:**

1. A formal or informal gathering of members of a governmental body;
2. Participation that constitutes a majority of the members;
3. Deliberation or actions occurs; and
4. Deliberation or action is within the scope of the governmental body's "policy-making duties."

Iowa Code § 21.2(2)

*See also* 1981 Iowa Attorney General Opinion 162 (1981).

# MEETINGS

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- If there is deliberation or action upon any matter within the scope of the body's policy-making duties by a majority of the members, then it is considered a meeting.

*See also Iowa Public Information Board Advisory Opinion 24AO:0001,  
Requirements for Work Sessions*

# DELIBERATION

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- Deliberation = any discussion of members' opinions, even if it's merely hypothetical or final action is reserved for a later meeting
- “Informational” Sessions = members receive information with no deliberation, but best practice is generally to save it for an official meeting, as it is very easy to accidentally share opinions and create a meeting

# DELIBERATION BEST PRACTICE

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1. Save it for an official meeting, as it is very easy to accidentally share opinions and create a meeting
2. If conducting an informational session, take in the information received and ask clarifying questions if needed, but avoid providing any commentary
  - Avoid:
    - “I think we should..”,
    - “I feel this could...”,
    - “I support/won’t support this...”,
    - “My opinion on this matter is...”,
    - “I want to take a poll/see what you all are thinking”

# SOCIAL GATHERINGS

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- A gathering becomes a “meeting” when a quorum of officials engage in discussion on matters over which they exercise judgment.
  - Deliberation: “if the members of the governmental body engage in any discussion that focuses at all concretely on matters over which they exercise judgment or discretion.”

*Hutchison v. Shull*, 878 N.W.2d 221, 231 fn. 1 (Iowa 2016).

# MINISTERIAL PURPOSES

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- Excluded from Chapter 21, is a “a gathering of members...for purely ministerial...purposes...”

Iowa Code § 21.2

- “Purely ministerial purposes” = certain government business which does not involve *any* official discretion, such as processing payroll or signing documents which have already been approved.

Iowa Public Information Board Advisory Opinion 24AO:0004

# BEST PRACTICE

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1. Provide notice that members of the governmental body will be attending
2. Do not sit together or gather in a majority at the event
3. If together, keep conversation topics away from government business.

See Iowa Public Information Board Advisory Opinion 24AO:0004

# EMAIL AND TEXT

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Can members e-mail or text each other concerning governmental business?

- Every situation is fact specific, and it is easy to send an e-mail to all members just to share relevant information on a topic without the intent to avoid Chapter 21.
- If members want to share an opinion or debate policy, they should save that discussion for the open session.
- Emails and texts are public records.

# BEST PRACTICE

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1. If information needs to be shared with members, send an email using BCC to the members to prevent an unintended discussion through “reply all.”

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# LEGAL REQUIREMENTS FOR MEETINGS

# NOTICE

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## Public notice MUST

1. Be posted at least 24 hours before the meeting starts
2. Give the date, time, place and a tentative agenda.
3. Be sent to any news organization requesting it.
4. Be physically posted in a prominent place accessible to the public at the governmental body's office.
  - (If no office is available, notice should be prominently placed at the location where the meeting will be held.)

Iowa Code § 21.4

# BEST PRACTICE

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1. Posting on the inside of a glass door at the governmental body's office will create physical accessibility to a posting.
2. Posting on a website, community calendar, or at the post office, in addition to the required government office, are all ways to promote transparency in government.

# AGENDAS

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Include:

1. All items to be covered during the meeting
2. Descriptions with sufficient information to “apprise the public” of the information to be discussed
3. Specifically state any issues to be discussed in open or in closed sessions

Iowa Code § 21.4

*KCOB/KLVN, Inc. v. Jasper Cnty. Bd. of Sup’rs*, 473 N.W.2d 171, 174 (Iowa 1991).

# AGENDAS

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Meetings can only cover the items posted on the agenda in advance.

Except:

- An emergency item that can't be deferred for twenty-four hours.
- Examples: Health & safety matters; significant financial loss

Iowa Code § 21.4

# MINUTES

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The public record of a governmental body's activities and decisions.

Minutes must include:

1. the date, time and place of the meeting,
2. the members present, and
3. the action taken at any meeting
4. all votes must be recorded

\*Minutes become public record as soon as they are complete and must be published as required by law, in the appropriate newspaper.

# MEMBERS' ELECTRONIC ACCESS

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- Governmental bodies “shall provide for hybrid meetings, teleconference participation, virtual meetings, remote participation, and other hybrid options for the members...”
- Option must be provided even if not requested.
- Governmental bodies must provide at least one of them.
- Governmental bodies do not have to provide all electronic meeting options.

Iowa Code § 21.8

See Iowa Public Information Board Advisory Opinion 24AO:0006 - Electronic Meetings

# PUBLIC ELECTRONIC ACCESS

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- Governmental bodies must provide “public access to the conversation of the meeting to the extent reasonably possible.”

Iowa Code § 21.8(1)(a)

- Depending on the electronic access method used, consider allowing an option to watch through live-streaming or listen through teleconference call.
- Section 21.8(1)(a) does not require a virtual platform for public comment
- Include any electronic access option being provided to the public in the meeting notice.

See Iowa Public Information Board Advisory Opinion 24AO:0006 - Electronic Meetings

# PUBLIC PARTICIPATION

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- Members of the public have no specific right to participate in the discussion of an item under Chapter 21
  - Public comments do not have to be placed in the minutes.
- Minutes only need to include the actions taken and other information required in Chapter 21.
  - A governmental body may make and enforce reasonable rules for the conduct of its meetings to assure those meetings are orderly, and free from interference or interruption by spectators.
  - Must be uniformly enforced and not based on the content of the message.

See Iowa Code 21.7  
*Peterson v. City of Newton*

# PUBLIC RIGHTS AT OPEN MEETING

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- All members of the public have access to an open meeting of the governmental body.
- Mtg must be held at a time/place reasonably accessible to the public and at a time reasonably convenient to the public,
- While the public does not have a specific right to participate in the discussion of a meeting, the public does have the right to use cameras or recording devices at the open meeting.

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# HOLDING A CLOSED SESSION

# CLOSED SESSIONS

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- Only after an open session vote of **two-thirds** of the members of the body or all members present +
- After identifying a permissible reason:
  1. To review or discuss a record which is required or authorized by state or federal law to be kept confidential or as a condition to retain federal funding;
  2. To discuss application for a patent;
  3. To discuss strategy with counsel on matters that are currently or may imminently be in litigation;
    - Counsel must be identified and present in some capacity.

Iowa Code § 21.5(1)

# CLOSED SESSIONS (CONT.)

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4. To discuss contents of a licensing examination, initiate disciplinary investigation or proceeding if the body is involved with licensing or examining;
5. To conduct a hearing or discuss whether to conduct a hearing to suspend or expel a student unless the student and/or parent wants the meeting to remain open;
6. To discuss the decision to be rendered in a contested case;
7. To avoid disclosure of specific law enforcement matters which if disclosed would enable law violators to avoid detection or facilitate disregard of requirements imposed by law.

Iowa Code § 21.5(1)

# CLOSED SESSIONS (CONT.)

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8. To evaluate the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered *when necessary to prevent needless and irreparable injury to that individual's reputation* + **that individual requests a closed session.**
  - ***Teig v. Loeffler*** – a governmental body may close session for an interview at the request of an interviewee without finding a specific danger to reputation in advance due to the nature of a hiring interview.

Iowa Code § 21.5(1)

# CLOSED SESSIONS (CONT.)

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9. To discuss the purchase or sale of real estate.
10. To discuss records concerning security procedures and emergency preparedness for the protection of government employees, visitors, people under the care and protection of the government and its property.
11. To discuss patient care quality and process improvement initiatives in a meeting of a public hospital that if disclosed might harm the hospital's competitive position.

Iowa Code § 21.5(1)

# CLOSED SESSIONS (CONT.)

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- Nothing in Iowa Code 21 *requires* a governmental body to hold a closed session to discuss.
- \*Other sections of the Iowa Code may permit a government agency to close a meeting OR exempt meetings from the requirements of the open meetings law.

Iowa Code § 21.5(6)

# CLOSED SESSION PROCEDURES

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- No additional topics beyond those given as a reason for closed session can be discussed.
- Recent district court case- Dewitt School Board- “The scope of the meeting was breathtaking in contrast to its stated purpose.”
- Closed session must be recorded and “detailed minutes” taken.
  - Must be retained for at least one year and are not public record.
- Members may not be excluded from the closed session (unless a conflict exists)
- Final action must happen in open session.

Iowa Code § 21.5(2)-(5)

# EXEMPT SESSIONS

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A meeting of a governmental body to discuss strategy in matters relating to employment conditions of employees of the governmental body who are not covered by a collective bargaining agreement under chapter 20 is exempt from this chapter. For the purpose of this section, “employment conditions” mean areas included in the scope of negotiations listed in section 20.9:

- Wages
- Hours
- Vacations
- Insurance
- Holidays
- Leaves of absence
- Shift differentials
- Overtime compensation
- Supplemental pay
- Seniority
- Transfer procedures
- Job classifications
- Health and safety matters
- Evaluation procedures
- Procedures for staff reduction
- In-service training
- Grievance procedures for resolving any questions arising under the agreement
- Other matters mutually agreed upon

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# Public Records 101

Iowa Code Chapter 22

# ROAD MAP TO PUBLIC RECORDS

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- 1. Has a request been made for a public record?**
  - Define a public record.
- 2. Who can obtain public records?**
- 3. How does a government body comply with legal requirements for producing public records?**
- 4. What exemptions exist for the production of public records?**
  - Determine which records can be lawfully withheld.
- 5. What happens if a government body does not comply with transparency requirements?**
  - Understand legal enforcement and penalties for non-compliance.

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# WHAT IS A PUBLIC RECORD?

# PUBLIC RECORDS

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- All government bodies, officials and employees are covered by Chapter 22.
- **“Public Record”** includes:
  - Documents, tape or other information stored or preserved in any medium of or belonging to a government body
  - Electronic communication such as e-mails, websites, or texts
  - All records relating to the investment of public funds

Iowa Code § 22.1(3)

# MIXING PUBLIC AND PRIVATE RECORDS

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- When determining whether a record, including electronic, is a public record –
  - It is the content of the record, not where it is located that determines whether something is a public record.
- Emails from a private email address related to public business can be public records and a private communication on a public email could be determined to not be a public record.

See *Kirkwood Institute v. Sand*, 6 N.W.3d 1 (Iowa 2024);

IPIB Advisory Opinions 24AO:0007 and 24AO:0008

# BEST PRACTICES

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1. Keep public and private communications separate.
2. Do not deny records requests solely because the records exist on a personal device.
3. Each governmental body should develop a policy governing the use of private devices for government business.
  - Could require that the government body or lawful custodian have access to private devices, establish the specifics of access, and procedures for retrieval.
  - Consider consulting legal counsel if there is a question regarding disclosure.

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# WHO CAN OBTAIN PUBLIC RECORDS?

# WHO HAS THE RIGHT TO EXAMINE PUBLIC RECORDS?

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- **Anyone** can examine, photograph or copy a public record while the public record is in the physical possession of the government body.
- The government body cannot prevent examination of the records by contracting with a nongovernment entity to create, hold, or store those records.
- If it's a public document for one person, then it is available to everyone!
  - \*Remember, public documents can be posted on the internet, shared with anyone, etc.

Iowa Code § 22.2(6)

# MUST A REQUEST BE BY AN IDENTIFIABLE INDIVIDUAL?

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Although “person” is not defined in Chapter 22, Iowa Code defines “person” to mean “individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.”

## **A requestor of public records:**

1. can remain anonymous
2. does not need to provide a contact name or physical address
3. is not required to show ID
4. is not required to fill out a form
5. must provide enough information to receive the information sought, such as an email address, if necessary

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# **HOW DOES A GOVERNMENT BODY COMPLY WITH LEGAL REQUIREMENTS FOR PRODUCING PUBLIC RECORDS?**

# RESPONSIBILITIES OF LAWFUL CUSTODIAN

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- “Lawful custodian” = the government body currently in physical possession of the public record or the body “owning” the record.
- Every government body must
  - 1) delegate to particular officials or employees the responsibility of implementing Chapter 22; and
  - 2) publicly announce who holds that responsibility.
- If one government body stores records as an agent for another, the lawful custodian is still the owner, not the agency/body providing storage.

Iowa Code § 22.1(2)

# TIMELINE FOR A RESPONSE

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- No specific deadline outlined in the code
- If a request is routine, provide it immediately or as soon as possible
- A good faith delay is allowed to
  1. Seek an injunction against examination
  2. Determine whether the body is entitled to seek an injunction
  3. Determine whether the record in question is a public record or confidential.
  4. A reasonable delay for this purpose ordinarily should not exceed 10 business days and cannot exceed 20 calendar days.
  5. Determine whether a confidential record should be available for inspection and copying to the person requesting it

\*Iowa Code § 22.8(4)(d) does not require an absolute twenty-day deadline on a government body to find and produce requested public records, no matter how voluminous the request.

See *Horsfield Materials, Inc. v. City of Dyersville*, 834 N.W.2d 444 (Iowa 2013).

Iowa Code § 22.8(4)

# BEST PRACTICE

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1. Acknowledge request promptly.
  2. For unclear requests:
    - Ask for clarifying information
    - Kindly request the sender enumerate the specific records requested in the body of the email.
    - Offer the option to mail if email seems to be causing challenges
  3. Confirm intent to provide records and anticipated timeline.
  4. Clarify any confusion in the request to ensure the correct records are being collected.
  5. Update requestor on progress or delays.
  6. Use 'rolling production' if not all records are available right away.
- Iowa Supreme Court decisions have raised questions regarding “unreasonable delay” and the factors that justify a delay.

*See Belin v. Reynolds*, 989 N.W.2d 166 (Iowa 2023)

*Kirkwood Inst. v. Sand*, 6 N.W.3d 1 (Iowa 2024).

IPIB Advisory Opinion 24AO:0010

# SUPERVISION AND FEES FOR PRODUCTION

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- Custodian may charge a “reasonable fee” for record production.
  - Must be the actual costs + directly attributable to retrieving or copying
  - No flat fees, overhead costs or employee benefits
- Communicate fee estimate in advance.
- Fulfillment may be made contingent upon pre-payment of a fee.
- < 30 minutes = lawful custodian shall make “every reasonable effort” to provide the record at no cost other than actual copying costs.

\*Fees cannot exceed the **actual cost** of providing the service and cannot include the costs of ordinary administrative office expenses, such as insurance, depreciation, etc.

# FEES - ATTORNEY REVIEW OF PUBLIC RECORDS

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- Attorneys representing government bodies can charge for time spend reviewing public records
- Limits:
  - Only for the redaction or review of legally protected confidential information
  - Only charge for the time an attorney spends actually redacting or reviewing confidential information.

Iowa Code § 22.3(2)

IPIB Advisory Opinion 23AO:0002 – *Costs for Legal Services*

25AO:0001 - *Fees Charged by County Attorneys as Lawful Custodians*

# BEST PRACTICE

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1. Have a Chapter 22 fee policy in place in advance.
2. Provide a fee estimate for a request before beginning production.
3. If the fee is too high for a requestor, discuss narrowing the request or starting with priority records to create access to records to the extent possible.

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# **WHAT EXEMPTIONS EXIST FOR CONFIDENTIAL PUBLIC RECORDS?**

# COMMON CONFIDENTIAL RECORD EXEMPTIONS

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- Chapter 22.7 has a list of 75+ (and growing) types of records that are confidential (exceptions) under the open records law!
- The most commonly utilized exemptions include:
  - Personal student information in school records (22.7(1))
  - Medical records (22.7(2))
  - Trade secrets protected by law (22.7(3), defined in Chapter 550)
  - Attorney work product related to litigation or any claim made by or against a public body (22.7(4))
    - \*The Iowa Supreme Court has also recognized confidentiality from attorney-client privilege, despite its absence in Chapter 22
  - Appraisal information for the sale or purchase of property for public purposes prior to execution or submission of appraisal (22.7(7))

# COMMON CONFIDENTIAL RECORD EXEMPTIONS, CONT.

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- Criminal identification files of law enforcement agencies (22.7(9))
- Library records which could be used to identify a patron (22.7(13))
- Examinations, including cognitive examinations of law enforcement, if disclosure would interfere with their purposes (22.7(19))
- Medical examiner reports, including investigative reports (22.7(40))
- Security information related to the protection of life or property (22.7(50))
- Intelligence data on criminal activity (22.7(55))
- Information in a record which would permit a governmental body to hold a Section 21.5 closed session, until final action is taken (22.7(60))

\*Additional laws may also contain provisions establishing confidentiality.

\*Some of these exemptions may have exceptions or special rules!

# CONFIDENTIAL PERSONNEL RECORDS

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- Personal information in confidential personnel records of government bodies relating to identified or identifiable individuals who are officials, officers, or employees of the government bodies is confidential.
- EXCEPT The following information in personnel records is public:
  - employee's name
  - compensation employment dates and positions held
  - educational background
  - previous employment
  - whether the individual resigned in lieu of termination, was discharged, or was demoted as the result of a disciplinary action, and the documented reasons and rationale

Iowa Code § 22.7(11)

# PERSONS OUTSIDE GOVERNMENT

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- Received from a person outside government;
- Communication not required by law or rule +
- The lawful custodian could reasonably determine that the person would be dissuaded from reporting if the communication is made public.
  - Information contained in the communication is a public record to the extent that it can be disclosed *without directly or indirectly indicating the identity of the person outside of government.*
  - Information contained in the communication is a public record to the extent that it indicates the date, time, specific location, and immediate facts and circumstances surrounding the occurrence of a crime or other illegal act, except to the extent that its disclosure would plainly and seriously jeopardize a continuing investigation or pose a clear and present danger to the safety of any person.

Iowa Code § 22.7(18)

# PERSONS OUTSIDE GOVERNMENT

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- Job applications from external candidates (not currently employed by the government body)
  - Can be confidential pursuant to Iowa Code § 22.7(18) if reason to believe disclosure would discourage outsiders from future communications.
- Does not apply to internal government body candidates because they have an “arrangement for compensation” with the government body.
  - *See Teig v. Chavez*, 8 N.W.3d 484 (Iowa 2024)
- Does not apply to applications to fill an elected office.

See *Dierks v. Scott County*, No. 23–1729 (Feb. 14, 2025)  
Iowa Code § 22.7(18)

# “DRAFT” RECORDS

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- Can withhold “tentative, preliminary, draft, speculative, or research material, prior to its completion for the purpose for which it is intended.”

Iowa Code § 22.7(18)

- Does not apply to public records that are actually submitted for use by government bodies or that are used in the formulation, recommendation, adoption of government policy or action.

See Iowa Code § 22.7(65).

# RELEASE OF CONFIDENTIAL RECORDS

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- Iowa public records law allows the release of confidential information when:
  - Ordered by a court,
  - Released by the lawful custodian of the records, or
  - Released by another person duly authorized to release such information.

Iowa Code § 22.7

# WHEN REDACTION IS REQUIRED

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- Records cannot be withheld because they contain both non-confidential and confidential material.
- Government bodies need to ensure examination of a public record is possible and need to find a way to remove or redact confidential material from records if applicable. See Iowa Code § 22.3A(2).

# BEST PRACTICES

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1. Treat each record individually. Confidentiality claims should be tied to the specific record.
2. If a record is being withheld due confidentiality, clearly articulate that the document(s) is being withheld and the legal authority for withholding it.
3. If no record exists, then clearly articulate that there is no record.

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**WHAT HAPPENS IF A GOVERNMENT  
BODY DOES NOT COMPLY WITH  
TRANSPARENCY REQUIREMENTS?**

# PENALTIES AND SANCTIONS

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- The law provides for civil lawsuits & complaints with the IPIB.
- Penalties
  - Fees (Chapter 21) - \$500-\$2,500, \$5,000-\$12,500 for knowing participation
  - Fees (Chapter 22) - \$100-\$500, \$1,000-\$2,500 for knowing participation
  - Other Penalties - may issue an injunction ordering compliance, order payment of costs/attorney fees, and remove repeat violators

# PENALTIES AND SANCTIONS

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- Ignorance of the law is not a defense, but damages will not be assessed against officials who
  - voted against the violation,
  - refused to participate in the violation,
  - engaged in efforts to resist the violation, or
  - relied upon a formal opinion of the attorney general, the advice of an attorney provided in writing or memorialized in a meeting or the Iowa Public Information Board.

Iowa Code § 21.6.

# Training requirement (HF706)

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- Public officials who are newly elected / appointed *after* 7/1/25 & are members of governmental bodies
- Must be completed within 90 days of the time the member a) takes their oath of office, b) assumes the responsibilities of their position, or c) is elected
- Training information is available on IPIB's website

# CONTACT US WITH ANY QUESTIONS

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# QUESTIONS?

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