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IPIB AO 2016-01

January 21, 2016

SUBJECT: Personnel Records and Evaluations Confidential

Kevin Kilgore
1695 115th Street
Diagonal, Iowa 50845

Dear Mr. Kilgore:

This opinion is in response to your letter of December 22, 2015, requesting an opinion from the Iowa Public Information Board (IPIB) pursuant to Iowa Code section 23.6 and rule 497—1.2. We note at the outset that IPIB's jurisdiction is limited to the application of Iowa Code chapters 21, 22, and 23, and rules in Iowa Administrative Code chapter 497. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

QUESTIONS:

Your opinion request asks the following questions:

1. What statutory basis exists for personnel records to be confidential?
2. What statutory basis exists for evaluations contained in personnel records to be confidential?

OPINION:

Iowa Code section 22.7(11) sets out the confidentiality of personnel records and evaluations. That section also sets out what information in personnel records shall be made open to public inspection. Iowa Code section 21.5(8) permits a governmental body to hold a closed session to evaluate the professional competency of a person under certain limited conditions.¹ Also, as stated in IPIB AO 2015-08, any documents made available to the public at a public meeting are considered to be public records. As such, if a personnel record is made open and available at a public meeting, the record is no longer confidential under Iowa Code section 22.7(11).

¹ See IPIB 14FO-0002 for further discussion on the limitations of a governmental body utilizing Iowa Code section 21.5(i) to discuss employee evaluations in closed session. Please note that the process for numbering IPIB advisory opinions was changed in 2015.

Board Members

Robert Andeweg • Anthony Gaughan • Jo Martin • Andrew McKean • Gary Mohr • William Monroe
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In closing, if you have any specific examples of items that would you like the Board's guidance on as to whether or not the items would constitute public records or confidential records, we invite you to do so.

BY DIRECTION AND VOTE OF THE BOARD

Suzan Stewart, Chair
Kathleen Richardson, Vice Chair
Robert Andeweg
Anthony Gaughan
Jo Martin
Andrew McKean
Gary Mohr
William Monroe
Peggy Weitzl

Submitted by: W. Charles Smithson, IPIB Director