

Red Tape Review Rule Report (Due: September 1, 2024)

Department Name:	Iowa Board of Educational Examiners	Date:	07/08/2024	Total Rule Count:	16
IAC #:	282	Chapter/ SubChapter/ Rule(s):	Chapter 5	Iowa Code Section Authorizing Rule:	22.11
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PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule chapter is intended to benefit lowans who want access to records maintained by the Board of Educational Examiners.

Is the benefit being achieved? Please provide evidence.

Yes. We receive public records requests.

What are the costs incurred by the public to comply with the rule?

Fees will be determined as provided in rule 281—Chapter 5.

What are the costs to the agency or any other agency to implement/enforce the rule?

The Board is responsible for providing access to records maintained by the Board. Fees paid cover these costs.

Do the costs justify the benefits achieved? Please explain.

Yes. We receive public records requests.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The statue requires rules.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board has removed unduly restrictive rules language, removed outdated or obsolete programs, made reference to uniform rules when applicable, and renumbered rules.

RULES PROPOSED FOR REPEAL (list rule number[s]):

5.1 through 5.16

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The board of educational examiners hereby adopts, with the following exceptions and amendments, the Uniform Rules of Agency Procedure relating to public records and fair information practices, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the General Assembly's website.

282—5.1(22,256) Exceptions and additions.

5.1(1) *Definition of "Agency."* In lieu of the words "(official or body issuing these rules)", insert "Board of Educational Examiners".

5.1(2) *Request for access to record.* In lieu of the words "(insert agency head)", insert "office where the record is kept". In lieu of the words "(insert agency name and address)", insert "Board of Educational Examiners, 701 East Court Avenue, Suite A, Des Moines, Iowa 50309".

5.1(3) *Office hours.* In lieu of the words "(insert customary office hours and, if the agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)", insert "any time from 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays".

5.1(4) *Fees.* Fees will be determined as provided in rule 281—Chapter 5.

5.1(5) *Procedure by which additions, dissents, or objections may be entered into certain records.* In lieu of the words "(designate office)", insert "the office of the executive director of the board".

282—5.2(22,256) Disclosures without the consent of the subject.

5.2(1) Records that are not confidential are routinely disclosed without the consent of the subject.

5.2(2) Records that are confidential will be disclosed outside of the board only with the consent of the subject of the record or in circumstances in which consent of the subject is not legally necessary.

282—5.3(22,256) Availability of records. Board records are open for public inspection and copying unless otherwise provided by rule or law. The board may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in uniform rule X.4(17A,22). If the board initially determines that it will release these records, the board may, where appropriate, notify interested parties and withhold the records from inspection as provided in this chapter.

282—5.4(22,256) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in uniform rule X.1. For each record system, this rule describes the legal authority for the collection of that information, and indicates whether a data processing system matches, collates, or

permits the comparison of personally identifiable information in one record system with that in another record system. The record systems maintained by the agency include:

5.4(1) *Cases dismissed.* These records contain data supplied by persons or parties filing complaints and responses with the board, and contain personally identifiable information such as student name(s), teacher name, administrator name, addresses, disciplinary records, and investigatory reports. This information is collected pursuant to Iowa Code chapter 256 and this chapter, and is stored electronically; most of the data are on an automated data processing system.

5.4(2) *Cases decided.* These records contain data supplied by persons or parties filing complaints and responses with the board and contain personally identifiable information such as student name(s), teacher name, administrator name, addresses, disciplinary records, and investigatory reports. This information is collected pursuant to Iowa Code chapter 256 and this chapter and is stored electronically; most of the data are on an automated data processing system.

5.4(3) *Litigation files.* These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorney's notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials which are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court which maintains the official copy.

282—5.5(22.256) Other groups of records. This rule describes groups of records maintained by the board other than record systems as defined in rule 5.1(256). These records are routinely available to the public. However, the board's files of these records may contain confidential information, which will be addressed as provided in this chapter. The records listed may contain information about individuals.

5.5(1) *Rule making.* Rule-making records may contain information about individuals making written or oral comments on proposed rules or proposing rules or rule amendments. This information is collected pursuant to Iowa Code sections 17A.3, 17A.4, and 17A.7. These records are stored electronically and not in an automated data processing system.

5.5(2) *Board records.* Records contain agendas, minutes, and materials presented to the board. Records concerning closed sessions are exempt from disclosure under Iowa Code subsection 21.5(4). Board records contain information about people who participate in meetings. This information is collected under the authority of Iowa Code section 21.3. Board records are not stored in an automated data processing system.

5.5(3) *Publications.* Publications include brochures, annual reports, video tapes, and other informational materials which describe various agency programs. Agency publications may contain information about individuals, including agency staff or members of the board. This information is not stored in an automated data processing system.

5.5(4) *Statistical reports.* Periodic reports of agency decisions are available from the board. Statistical reports are not stored in an automated data processing system.

5.5(5) *Address lists/directories.* The names and mailing addresses of members of boards in other states, professional organizations, public press, and members of the general public evidencing interest in particular events of the agency are maintained in order to provide mailing labels for mass distribution of literature. This information is collected under the provisions of Iowa Code chapter 256.

5.5(6) *Case decisions and declaratory rulings.* All final orders, decisions and rulings are available for public inspection in accordance with Iowa Code section 17A.3. These records may contain personally identifiable information regarding individuals who are the subjects of the appeals or rulings. This information is collected pursuant to Iowa Code chapters 17A and 256 and 282—Chapter 5 and is not stored in an automated data processing system.

5.5(7) *Board budget records.* These records contain data used by the board to develop annual budgets. These records are stored electronically and not in an automated data processing system.

282—5.6(256) Consensual disclosure of confidential records.

5.6(1) Consent to disclosure by a subject. To the extent permitted by law, the subject may consent in writing to the agency the disclosure of their confidential records.

5.6(2) Complaints to public officials. A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

282—5.7(22,256) Applicability. This chapter does not:

1. Compel the board to create a record that does not otherwise exist.
2. Require the board to index or retrieve records which contain information about individuals by that person's name or other personal identifier.
3. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.
4. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the board which are governed by the rules of another agency.
5. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.
6. Make available records compiled by the board in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings is governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency.

These rules are intended to implement Iowa Code section 22.11

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	9
Proposed word count reduction after repeal and/or re-promulgation	1067
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	2

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

None