

## Red Tape Review Rule Report (Due: September 1, 20 24 )

<b>Department Name:</b>	Dept. of Management	<b>Date:</b>	7/23/2024	<b>Total Rule Count:</b>	18
<b>IAC #:</b>	543	<b>Chapter/ SubChapter/ Rule(s):</b>	6 & 7, being replaced with 5.	<b>Iowa Code Section Authorizing Rule:</b>	25.2(3), 24.30, 24.31, 24.32
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**PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE**

**What is the intended benefit of the rule?**

The proposed rule replaces the board’s fair information practices rules as well as other text related to the implementation of uniform rules.

**Is the benefit being achieved? Please provide evidence.**

Yes. The existing rules have not been the source of any controversy. The update to the rules is simply being made to adapt the rules to EO10 requirements. In fiscal year 2024, the State Appeal Board received 816 claims, of which 647 were tort claims and the remainder general claims. Also in fiscal years 2024, the board authorized payment of \$12,175,831.83 to claimants, with funds being drawn from the General Fund or the Road Use Fund.

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

There are no proposed changes in policy, so not changes in impact on the taxpayers is proposed. The adoption of uniform rules adapts to the rules to the directions provided by the Governor’s office.

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

No change in costs to the SAB or other agencies.

**Do the costs justify the benefits achieved? Please explain.**

Yes, proposed rules will implement mandatory obligations of state entities with the smallest footprint possible.

**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.

**Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language?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]**

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Generally, the proposed rule simple consolidates a group of rules into a new Uniform Rules section and deletes provisions of rules no longer necessary because of the move to Uniform Rules. Otherwise, the rules are just edited to remove restrictive words.

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

All of Chapters 6 and 7.

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

**CHAPTER 5. ADOPTION OF UNIFORM RULES**

The board hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure.

543--5.1 (17A, 22) *Fair Information Practices*. The board adopts the fair information practices segment of the Uniform Rules on Agency Procedure printed in the first volume of the Iowa Administrative Code with the following amendments. For purposes of this rule, the following designations are made:

5.1(1) In lieu of the words "(official or body issuing these rules)," insert "board."

5.1(2) In lieu of the word "agency," insert "board."

5.1(3) In lieu of the words "(insert agency head)," insert "chairperson of the board."

5.1(4) In lieu of the words "(insert agency name and address)," insert "the board at the board's mailing address."

5.1(5) In lieu of the words "(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)," insert "8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays."

5.1(6) In lieu of the words "(specify time period)," insert "thirty minutes."

5.1(7) In lieu of the words "(An agency wishing to deal with search fees authorized by law should do so here.)," delete the statement.

5.1(8) In lieu of the words "(designate office)," insert "the board's executive secretary."

5.1(9) In lieu of the words "(and, where applicable, the time period during which the record may be disclosed)," insert "and, where applicable, the time period during which the record may be disclosed."

5.1(10) In lieu of the words "(Additional requirements may be necessary for special classes of records.)," insert "Additional obligations may be necessary for special classes of records."

5.1(11) In lieu of the words "(Each agency should revise its forms to provide this information.)," delete the statement.

543—5.2(17A,22) *Additional Fair Information Practices -- Uses and Disclosures of Information*.

5.2(1) General. Board records are open for public inspection and copying unless otherwise provided by applicable law.

5.2(2) *Uses and Disclosures of Individually Identifiable Information*. To the extent allowed by law, uses or disclosures of confidential records may occur with or without the consent of the subject. Types of uses or disclosures that occur without the subject's consent include but are not necessarily limited to the following:

- a. Use or disclosure for a routine use in relation to the work of the board, as long as such use or disclosure is made subject to the same confidentiality obligations imposed on the board.
- b. Use or disclosure for statistical research purposes or reporting as long as the information is deidentified in advance.
- c. Use or disclosure for civil or criminal law enforcement activities to the extent authorized by law.
- d. Disclosure to an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual.
- e. Disclosure to the legislative services agency under Iowa Code section 2A.3.
- f. Use or disclosure in the course of employee disciplinary proceedings.
- g. Use or disclosure in response to a court order or subpoena.

5.2(3) *Complaints to public officials*. A letter from a subject of a confidential record held by the board to a public official that seeks the official's intervention on behalf of the subject in a matter that involves the board will, 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.

5.2(4) *Release to subject*. The subject of a confidential record may submit a request to review confidential records about that person. However, the board need not release the record to the subject to the extent that the record is

confidential under applicable law. Records that may be declared confidential include but are not necessarily limited to records that are pre-decisional draft documents, peace officers' investigative reports, records that are subject to the attorney/client privilege, and records that are subject to the attorney work product doctrine. When a record has multiple identifiable subjects with interest in the confidentiality of the record, the board may take reasonable steps to protect confidential information relating to another subject.

5.3. *Petition for Rule Making.* The board adopts the petition for rule making segment of the Uniform Rules on Agency Procedure printed in the first volume of the Iowa Administrative Code with the following amendments. For purposes of this rule, the following designations are made:

5.3(1) In lieu of the word "agency," insert "board."

5.3(2) In lieu of the word "(designate office)," insert "board's mailing address."

5.3(3) In lieu of the phrase "designate official by full title and address," insert "chairperson of the board at the board's mailing address."

5.4 (17A) *Declaratory orders.* The board adopts the declaratory orders segment of the Uniform Rules on Agency Procedure printed in the first volume of the Iowa Administrative Code with the following amendments. For purposes of this rule, the following designations are made:

5.4 (1) In lieu of the words "designate agency," insert "board."

5.4 (2) In lieu of the words "designate office," insert the "board's mailing address."

5.4 (3) In lieu of the words, "(An agency may wish to describe here a simplified alternative petition form that would be more appropriate for some members of its clientele in light of their particular circumstances)," delete this sentence.

5.4 (4) In lieu of the words "Within \_\_\_\_ days (15 or less)" found in rule X.2, insert "Within 15 days."

5.4 (5) In lieu of the words "within \_\_\_\_ days of the filing of a petition" in rule X.3(1), insert "within 15 days of the filing of a petition."

5.4 (6) In lieu of the words "(after time for notice under X.2(17A))," insert "15 days following receipt of notice from the board that a petition has been filed."

5.4 (7) In lieu of the words "(agency name)," insert "board."

5.4 (8) In lieu of the words "(specify office and address)," insert "the board at the board's mailing address."

5.4 (9) In lieu of the words "(designate agency head)" insert the "chairperson of the board."

5.4 (10) In lieu of the words "(uniform rule on contested cases X.12(17A))" and "(contested case uniform rule X.2(17A))," insert "the board's contested case rule."

5.4 (11) In lieu of the sentence "(The agency may specify any provisions of Iowa Code sections 17A.10 through 17A.18 on contested case proceedings to apply to proceedings for declaratory orders.)," delete the statement.

5.4 (12) In lieu of the sentence, "(Where the agency's experience enables it to define in advance other specific reasons for refusing to issue a declaratory order, it should include them here.)," delete the statement.

5.4 (13) In lieu of the phrase, "(who consent to be bound)," insert "who consent to be bound."

5.4 (14) At the end of rule X.12, add the following: "The final ruling of the board is subject to review pursuant to the board's contested case rules."

5.5 (17A) *Board procedure for rule making.* The board adopts the agency procedure for rule making segment of the Uniform Rules on Agency Procedure printed in the first volume of the Iowa Administrative Code with the following amendments. For purposes of this rule, the following designations are made:

5.5(1) In lieu of the words "(commission, board, council, director)", insert "board."

5.5(2) In lieu of the word "agency," insert "board".

5.5(3) In lieu of the words "(specify time period)," insert "one calendar year."

5.5(4) In lieu of the words "(identify office and address) or," insert "the executive secretary at the board's mailing address".

5.5(5) In lieu of the words "(designate office and telephone number)", insert "the executive secretary at (515) 281-3078."

5.5(6) In lieu of the words "(designate office)" insert "the board's mailing address."

5.5(7) In lieu of the words "(List here narrowly drawn classes of rules where such an exemption is justified and a brief statement of the reasons for exempting each of them)", insert the following:

"a. Rules that are mandated by federal law or regulation in any situation where the board has no option but to adopt specified rules or where federal funding is contingent upon the adoption of the rules;

- “b. Rules that implement recent legislation when a statute provides for an effective date that does not allow for the usual notice and public participation obligations;
  - “c. Rules that confer a benefit or remove a limitation on the public or some segment of the public;
  - “d. Rules that are necessary because of imminent peril to the public health, safety or welfare; and
  - “e. Nonsubstantive rules intended to correct typographical errors, incorrect citations, or other errors in existing rules.”
- 5.5(8) In lieu of the words “(specify the office and address),” insert “the board’s mailing address.”
- 5.5(9) In lieu of the words “(agency head),” insert “chairperson of the board.”
- 5.5(10) In lieu of the words “(Alternatively, the agency can maintain the file indefinitely.)” and “(\*NOTE: Alternatively to X.13(2)“j” and the amendment of X.13(4), an agency could keep a separate file of significant written criticisms to rules and maintain those for five years.),” delete the statements.
- 5.5(11) In lieu of the words “(at actual cost),” insert “at actual cost.”

5.6 *Contested Cases.* The board adopts the contested case segment of the Uniform Rules on Agency Procedure printed in the first volume of the Iowa Administrative Code with the following amendments. For purposes of this rule, the following designations are made:

- 5.6(1) In lieu of the words “(agency name)” and/or “agency,” insert “board.”
- 5.6(2) In lieu of the words “(designate official),” insert “chairperson.”
- 5.6(3) In lieu of the words “(specify rule number),” insert “rule.”
- 5.6(4) In lieu of the words “(or such other time period the agency designates),” delete the statement.
- 5.6(5) In lieu of the words “(or its designee),” insert “or its designee.”
- 5.6(6) In lieu of the words “(The agency may specify other good cause by rule.),” delete the statement.
- 5.6(7) In lieu of subrule X.6(4), delete the subrule.
- 5.6(8) In lieu of the words “(specify office and address),” insert “the board’s executive secretary at the board’s mailing address.”
- 5.6(9) In lieu of the words “(designate office),” insert “board’s executive secretary.”
- 5.6(10) In lieu of the words “(or other time period designated by the agency),” delete the phrase.
- 5.6(11) In lieu of the words “Iowa Rule of Civil Procedure 237,” insert “Iowa Rules of Civil Procedure, Division IX, Subdivision D.”
- 5.6(12) In lieu of the words “(45 days),” insert “45 days.”
- 5.6(13) In lieu of the words “(15 days),” insert “15 days.”
- 5.6(14) In lieu of the words “(20 days),” insert “20 days.”
- 5.6(15) In lieu of the words “(or other period of time specified by statute or rule),” delete the phrase.
- 5.6(16) In lieu of the words “(or other time specified by the agency),” delete the phrase.
- 5.6(17) In lieu of the words “(but, unless the defaulting party has appeared, it cannot exceed the relief demanded),” insert “but, unless the defaulting party has appeared, it cannot exceed the relief demanded.”
- 5.6(18) In lieu of the words “(or disclosed),” insert “or disclosed.”
- 5.6(19) In lieu of the words “(agency to designate person to whom violations should be reported),” insert “the chairperson of the board.”
- 5.6(20) In lieu of the words “(board, commission, director),” insert “board.”
- 5.6(21) In lieu of the words “(of the presiding officer),” insert “of the presiding officer.”
- 5.6(22) In lieu of the words “(the agency)(or a quorum of the agency),” insert “the board.”
- 5.6(23) In lieu of the words “(board, commission, director, as appropriate),” insert “board.”

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

#### METRICS

<b>Total number of rules repealed:</b>	<b>18</b>
<b>Proposed word count reduction after repeal and/or re-promulgation</b>	<b>Ch. 5 replaces Ch. 6 and Ch. 7. This results in an increase of 200 words in new Ch. 5 as compared to 6 &amp; 7.</b>
<b>Proposed number of restrictive terms eliminated after repeal and/or re-promulgation</b>	<b>7 (Title 543 will be down to zero restrictive words/phrases)</b>

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

No.