

PUBLIC INFORMATION ISSUES & PERSONNEL MATTERS

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OPEN MEETINGS

21.1 Intent — declaration of policy.

This chapter seeks to assure, through a requirement of open meetings of governmental bodies, that the basis and rationale of governmental decisions, as well as those decisions themselves, are easily accessible to the people. Ambiguity in the construction or application of this chapter should be resolved in favor of openness.

21.2 Definitions.

As used in this chapter:

2. “*Meeting*” means a gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is deliberation or action upon any matter within the scope of the governmental body’s policy-making duties. Meetings shall not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this chapter.

3. “*Open session*” means a meeting to which all members of the public have access.

21.5 Closed session.

1. A governmental body may hold a closed session only by affirmative public vote of either two-thirds of the members of the body or all of the members present at the meeting. A governmental body may hold a closed session only to the extent a closed session is necessary for any of the following reasons:

a. To review or discuss records which are required or authorized by state or federal law to be kept confidential or to be kept confidential as a condition for that governmental body’s possession or continued receipt of federal funds.

c. To discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation.

f. To discuss the decision to be rendered in a contested case conducted according to the provisions of chapter 17A.

i. 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 and that individual requests a closed session.

2. The vote of each member on the question of holding the closed session and the reason for holding the closed session by reference to a specific exemption under this section shall be announced publicly at the open session and entered in the minutes. A governmental body shall not discuss any business during a closed session which does not directly relate to the specific reason announced as justification for the closed session.

3. Final action by any governmental body on any matter shall be taken in an open session unless some other provision of the Code expressly permits such actions to be taken in closed session.

5. Nothing in this section requires a governmental body to hold a closed session to discuss or act upon any matter.

Relevant Authorities:

It is unlikely that the open meetings law itself provides remedy when a governmental body refuses to close a meeting pursuant to § 21.5(1)(i). Feller v. Scott County Civil Service Commission, 482 N.W.2d 154 (Iowa 1992).

[Iowa] Code subsection 21.5(1)(i) provides the exclusive process for the evaluation of the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered. The application of subsection 21.5(1)(i) cannot be avoided under the guise of a confidential record review or discussion during a closed session conducted pursuant to subsection 21.5(1)(a). Advisory Opinion, Iowa Public Information Board, Feb. 20, 2014.

PUBLIC RECORDS

22.7 Confidential records.

The following public records shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information:

11. *a.* 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. However, the following information relating to such individuals contained in personnel records shall be public records:

(1) The name and compensation of the individual including any written agreement establishing compensation or any other terms of employment excluding any information otherwise excludable from public information pursuant to this section or any other applicable provision of law. For purposes of this paragraph, “*compensation*” means payment of, or agreement to pay, any money, thing of value, or financial benefit conferred in return for labor or services rendered by an official, officer, or employee plus the value of benefits conferred including but not limited to casualty, disability, life, or health insurance, other health or wellness benefits, vacation, holiday, and sick leave, severance payments, retirement benefits, and deferred compensation.

(2) The dates the individual was employed by the government body.

(3) The positions the individual holds or has held with the government body.

(4) The educational institutions attended by the individual, including any diplomas and degrees earned, and the names of the individual’s previous employers, positions previously held, and dates of previous employment.

(5) The fact that the individual was discharged as the result of a final disciplinary action upon the exhaustion of all applicable contractual, legal, and statutory remedies.

22.13 Settlements — government bodies.

When a government body reaches a final, binding, written settlement agreement that resolves a legal dispute claiming monetary damages, equitable relief, or a violation of a rule or statute, the government body shall, upon request and to the extent allowed under applicable law, prepare a brief summary of the resolution of the dispute indicating the identity of the parties involved, the nature of the dispute, and the terms of the settlement, including any payments made by or on behalf of the government body and any actions to

be taken by the government body. A government body is not required to prepare a summary if the settlement agreement includes the information required to be included in the summary. The settlement agreement and any required summary shall be a public record.

Relevant Authorities:

A settlement agreement between a public university and its employee “does not fit cleanly within the category of ‘p]ersonal information in confidential personnel records,’ which is exempted from disclosure under the statute. The agreement does not come within the category of information that courts have found the legislature intended to be kept confidential under the statute. . . .” Doe v. University of Iowa, 828 N.W.2d 326 (Iowa App. 2013).

Information in confidential personnel records revealing gender, home address or birth date is personal information which can be kept confidential under section 22.7. Clymer v. City of Cedar Rapids, 601 N.W.2d 42 (Iowa 1999). Note: The Clymer holding departs from dicta in City of Dubuque v. Telegraph Herald, Inc., 297 N.W.2d 523 (Iowa 1980), which states that personal information in confidential personnel records generally does not include information concerning the employee's name, address, previous employers, education, training, and experience.

Disciplinary information is exempt from disclosure under the Act as personal information in confidential personnel records of public bodies. American Civil Liberties Union Foundation of Iowa, Inc. v. Records Custodian, Atlantic Community School Dist. 818 N.W.2d 231 (Iowa 2012).

Job performance records are personal information exempt from disclosure under Iowa Code section 22.7(11). The records may remain confidential under this section even if the records have been placed in an investigative file rather than placed in the confidential personnel file. Des Moines Independent Community School District v. Des Moines Register & Tribune Co., 487 N.W.2d 666 (Iowa 1992).

The amount of sick leave and vacation leave used by individual public employees is a matter of legitimate concern to the public and is not personal information which can be kept confidential under Iowa Code section 22.7. Clymer v. City of Cedar Rapids, 601 N.W.2d 42 (Iowa 1999).

Employment applications are not personnel records under section 22.7(11). City of Dubuque v. Telegraph Herald, Inc., 297 N.W.2d 523 (Iowa 1980).