



Purpose of the Iowa Open Records Act

Every person shall have the right to examine and copy a public record and to publish or otherwise disseminate a public record or the information contained in a public record. (Iowa Code § 22.2(1)).

“Public records” include all records, in any form of or belonging to the state or any county, city, or governing body (including school districts) or any board, commission, branch, or council of any of the foregoing. (Iowa Code § 22.3(a)).

“The purpose of the statute is to open the doors of government to public scrutiny [and] to prevent government from secreting its decision-making activities from the public, on whose behalf it is its duty to act.” (*Rathmann v. Bd. Of Dirs.*, 580 N.W.2d 773, 777 (Iowa 1998)).

Requests for Public Records

A. RESPONSES AND DELAYS

- Iowa Code Chapter 22 does not mandate a specific response time to a records request.
- The only time limit included in the Open Records Act is for good-faith, reasonable delay to determine whether a confidential record should be available for inspection (Iowa Code § 22.8(4)(d)).
- A reasonable delay to determine if a record is confidential shall not exceed twenty calendar days, and ordinarily should not exceed ten business days. (Iowa Code § 22.8(4)(e)).
- Additionally, good faith, reasonable delay is permitted to:
 - Seek an injunction (Iowa Code § 22.8(a)).
 - Determine whether the custodian is entitled to seek an injunction (Iowa Code § 22.8(b)).
 - To determine whether a record is public or confidential (Iowa Code § 22.8(c)).
 - Other reasonable exceptions.
- However, the Iowa Supreme Court ruled that Iowa Code § 22.8(4)(d) “is not intended to impose an absolute twenty-day deadline on a government entity to find and produce requested public records, no matter how voluminous the request” (*Horsfield Materials, Inc. v. City of Dyersville*, 834 N.W.2d 444, 461 (Iowa 2013)).
- The Court in *Horsfield* also quotes a longstanding administrative interpretation of the Open Records Act:
 - “Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible.” (*Horsfield* at 461).
- The Official State of Iowa website encourages communication and cooperation between lawful custodians and records requestors to avoid pitfalls left by gaps in the Open Records Act.

B. REASONABLE FEES

- Unless otherwise provided by law, the right to examine a public record shall include the right to examine a public record without charge, while the public record is in the physical possession of the custodian of the public record. (Iowa Code § 22.2(1)).
- Governing bodies are allowed to charge fees for “reasonable expenses of examination and copying,” but the fee “shall not exceed the actual cost of providing the service.” (Iowa Code § 22.3(2)).
- Actual costs are only costs directly attributable to supervising the examination of and making and providing of copies of public records. They do not include ordinary expenses or benefits associated with the administration of the custodian. (Iowa Code § 22.3(2)).

C. REDACTION

- Whether or not redaction is required depends on the nature of the records and/or information (e.g. privileged and/or legally exempt information, information regarding identifiable student(s), personnel records).
- Redaction is dealt with on a case-by-case basis.

D. EXEMPTIONS – CONFIDENTIAL RECORDS (IOWA CODE § 22.7)

- Certain documents and/or information are confidential, and thus exempt from production under the Open Records Act. (Iowa Code § 22.7).

Exemptions include:

- Personal information in records regarding a student, prospective student, or former student.
- Personnel, medical, or other similarly private records.
- Pending litigation.
- Records protected by attorney/client privilege.
- Other limited exceptions.

E. MISCELLANEOUS

- Delay of Record Production – If there is a problem in producing the records according to the timeline previously given to a requestor, it is a good idea to notify the requestor that there will be a new timeline for production.
- Electronic Format – The threshold obligation is to produce electronic records in the format which is readily accessible to the government body (if useable with commonly available data processing software). Note, in certain circumstances, the requestor bears the cost of producing a record in a specifically requested format. (Iowa Code § 22.3A(d)).
- “Job-Performance” Information – In-house, job performance documents are exempt from disclosure under Iowa Code § 22.7 because they fall within the description of “personal information in personnel records.” (See *Des Moines Independent Community School District Public Records v. Des Moines Register & Tribune Co.*, 487 N.W.2d 666, 670 (Iowa 1992)).
- Balancing Test – It is possible that a court will use a “balancing test” weighing the public’s right to know against the government entity’s interest in privacy when ruling on disclosing a record. However, courts will not use this test if a record requested fits into an exemption category under the Iowa Open Records Act. (See *ACLU Found. Of Iowa, Inc. v. Records Custodian*, 818 N.W.2d 231, 233-235 (Iowa 2012)).
- Payroll Information and Sick Leave Benefits – Sick leave benefits (vacation pay, dates, hours) and payroll information (name, department, job title, detailed compensation, etc.) are available to the public. However, personal medical information, address, gender, and other personal information remain confidential – this type of information does not “enlighten the public about the operations or activities of the government.” (See *Clymer v. City of Cedar Rapids*, 601 N.W.2d 42, 47 (Iowa 1999)).

THIS IS A GUIDE IS A SUMMARY ONLY AND NOT LEGAL ADVICE. WE RECOMMEND THAT YOU CONSULT WITH LEGAL COUNSEL TO DETERMINE HOW THIS MAY APPLY TO YOUR SPECIFIC FACTS AND CIRCUMSTANCES