

ARC 8143B

EDUCATIONAL EXAMINERS BOARD[282]**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 11, "Complaints, Investigations, Contested Case Hearings," Iowa Administrative Code.

The proposed amendment changes the manner by which a respondent receives a copy of a complaint filed with the Board. Under current board practice, the respondent receives a copy of the complaint at the beginning stage of the investigation. With this change, the respondent will receive a copy only after the Board has found probable cause.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at any of the public hearings that will be held Tuesday, September 29, 2009; Wednesday, September 30, 2009; and Thursday, October 1, 2009, at 1 p.m.

On Tuesday, September 29, 2009, the first public hearing will be held over the Iowa Communications Network (ICN) from 1 to 2 p.m., with the origination site in the ICN Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views orally or in writing. The following ICN sites will be available for the September 29, 2009, hearing:

Room 818, Smith Wellness Center
Iowa Lakes Community College
3200 College Drive
Emmetsburg

Room 101, Guthrie Center High School
906 School Street
Guthrie Center

Turner Room, Green Valley AEA 14
1405 N. Lincoln
Creston

Room 206, Northwest AEA
1520 Morningside Avenue
Sioux City

Room 402, Building D
Northwest Iowa Community College - 1
603 W. Park Street
Sheldon

Room 204, Library Building
Prairie Lakes AEA 8 - Fort Dodge
Iowa Central Comm. College Campus
1 Triton Circle
Fort Dodge

State Room, AEA 267
Regional Office - Clear Lake
9184B 265th Street
Clear Lake

Nishna Valley Jr-Sr High School
58962 380th Street
Hastings

On Wednesday, September 30, 2009, the second hearing will be held in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa from 1 to 2 p.m., at which time persons may present their views orally or in writing.

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On Thursday, October 1, 2009, the third public hearing will be held over the Iowa Communications Network (ICN) from 1 to 2 p.m., with the origination site in the ICN Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views orally or in writing. The following ICN sites will be available for the October 1, 2009, hearing:

Room 528, North Campus/Trustee Hall
Southeastern Community College - 1
1500 West Agency
West Burlington

Great Prairie AEA - 1
2814 N. Court Street
Ottumwa

Central High School
425 E. 11th Street
DeWitt

Solon Public Library
320 West Main Street
Solon

Area Education Agency 267
Regional Office - Marshalltown
909 S. 12th Street
Marshalltown

West High School
Baltimore and Ridgeway
Waterloo

Fayette Community Library
104 W. State Street
Fayette

At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearings.

Any person who intends to attend a public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, October 2, 2009. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend subrules 11.4(3) to 11.4(5) as follows:

11.4(3) Required copies—place and time of filing the complaint.

a. ~~In addition to the original, a sufficient number of copies~~ A copy of the complaint must be filed ~~to enable service of one copy to each of the respondents and retention of 12 copies for use by~~ with the board.

b. The complaint must be delivered personally or by mail to the office of the board. The current office address is the Grimes State Office Building, Third Floor, Des Moines, Iowa 50319-0147.

c. Timely filing is required in order to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may have been significantly altered during the period of delay. The conduct upon which it is based must have occurred or been discovered by the complainant within three years of filing of the complaint unless good cause is shown for an extension of this limitation.

~~11.4(4) Service of complaint. The board or a designee of the board shall serve a copy of the complaint upon the respondent by one of the following means:~~

a. ~~Personal service as provided in the Iowa Rules of Civil Procedure; or~~

b. ~~Certified mail, return receipt requested; or~~

c. ~~First class mail; or~~

d. ~~Publication, as provided in the Iowa Rules of Civil Procedure.~~

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~~11.4(5)~~ 11.4(4) *Amendment or withdrawal of complaint.* A complaint or any specification thereof may be amended or withdrawn by the complainant at any time. The parties to a complaint may mutually agree to the resolution of the complaint at any time in the proceeding prior to issuance of a final order by the board. The resolution must be committed to a written agreement and filed with the board. The agreement is not subject to approval by the board, but shall be acknowledged by the board and may be incorporated into an order of the board.

11.4(5) Form and content of the complaint notice to the respondent.

a. The complaint notice to the respondent shall be in writing.

b. The complaint notice to the respondent shall contain the following information:

(1) The full name, address, and telephone number, if known, of the respondent.

(2) A concise statement of the facts which clearly and specifically apprises the respondent of the details of the alleged violation of the criteria of professional practices or the criteria of competent performance.

(3) An explanation of the facts underlying the complaint.

(4) A citation to the specific rule or law which the complainant alleges has been violated.