

NEW SECTION 23.8A Vexatious requester petition.

(a) General rule.--A government body may petition the Iowa Public Information Board for relief from an individual that the government body alleges is a vexatious requester. The petition shall:

(1) Be submitted under oath.

(2) Be provided to the Iowa Public Information Board and to the individual alleged to be a vexatious requester.

(3) Detail the conduct by the individual which the government body alleges demonstrates vexatiousness, including, as appropriate:

(i) The number of requests filed.

(ii) The total number of pending requests.

(iii) The scope of the requests.

(iv) The nature, content, language or subject matter of the requests.

(v) The nature, content, language or subject matter of other oral and written communications to the government body.

(vi) Conduct the government body alleges is placing an unreasonable burden on the government body.

(vii) Conduct the government body alleges is intended to harass the government body.

(viii) Any other relevant information.

(b) Processing requests.--Upon receipt of a petition under subsection (a), the executive director of the Iowa Public Information Board or a designee shall:

(1) Notify the individual alleged to be a vexatious

requester that the individual may, within 10 business days, file a preliminary response to the petition.

(2) Within 15 business days, inform the government body whether pending requests and new requests from the individual alleged to be a vexatious requester should continue to be processed or should be stayed pending resolution of the proceedings under this section. A decision under this paragraph is not appealable.

(c) Initial finding.--The board, after receiving a petition under subsection (a), shall do either of the following:

(1) Determine that, on its face, the petition is legally insufficient or is without merit and that further proceedings are not warranted. In such a case, the board shall deny the petition. The denial shall be in writing and include an explanation of the reasons for the denial.

(2) Determine that, on its face, the petition appears legally sufficient, and could have merit. In such a case the board shall accept the petition, and shall notify the parties of that fact in writing. Upon acceptance, the executive director or a designee shall establish a briefing schedule to provide a fair opportunity for the individual that the government body alleges is a vexatious requester to respond to the government body's petition.

(d) Contested Case determination.--After reviewing the requester's response to the government body's petition, if any, the board shall determine whether a contested case hearing under chapter 17A is warranted and shall notify the parties of the determination.

The executive director of the board or an attorney selected

by the executive director shall present the government body's petition against the requester. The executive director or a designee may admit into evidence testimony, evidence and documents that the executive director believes to be reasonably probative and relevant. If there are no material facts in dispute, the board may order the contested case procedures relating to the presentation of evidence shall not apply as provided in section 17A.10A.

At the termination of the hearing, the board shall, by a majority vote of its members, render a final decision as to the merits of the petition.

(e) Mediation.--At any time during proceedings under this section, the board may recommend that both parties participate in informal assistance under Iowa Code § 23.9. Informal assistance shall only be utilized if both parties agree. If utilized, contested case proceedings shall be stayed for a period of up to 60 calendar days.

(f) Final decision.--Upon the vote of the board to grant the petition, the board may provide appropriate relief commensurate with the vexatious conduct, including, but not limited to, an order that the government body need not comply with future requests from the vexatious requester for a specified period of time, but not to exceed one year.

(g) Appeal.-- A final board order resulting from such proceedings may be enforced by the board in court and is subject to judicial review pursuant to section 17A.19.