

Red Tape Review Rule Report

(Due: September 1, 2025)

Department Name:	Iowa Ethics and Campaign Disclosure Board	Date:	August 27, 2025	Total Rule Count:	Start: 7 End: 6
IAC #:	351—9.1 through 351—9.6	Chapter/ SubChapter / Rule(s):	Chapter 351 Subchapter 9	Iowa Code Section Authorizing Rule:	68B.32A, 68B.32B
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PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Subchapter 9 is intended to provide requirements for complaint investigation and resolution.

Is the benefit being achieved? Please provide evidence.

The benefit is being achieved by the rules offered for re-promulgation, as they have been cited by the Board and used for administrative guidance on many occasions.

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

The public does not incur costs to comply with any of the rules in Subchapter 8.

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

All costs to implement Subchapter 9 are in the normal course of agency business.

Do the costs justify the benefits achieved? Please explain.

As noted, there are no additional costs; nominal costs incurred ensure executive branch government transparency and accountability.

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.

Aside from the elimination of obsolete, outdated, inconsistent, redundant, or unnecessary language (as noted below), the rules as offered for re-promulgation are the least restrictive way to offer guidance.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language?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

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

1. Throughout: removal of redundant and unnecessary language; alignment with EO10 goals of removing restrictive terminology.
2. 9.1(1) clarifies what constitutes form deficiency.
3. 9.1(2) clarifies the complaint acceptance process.
4. 9.1(3) removes unnecessary reference to code.
5. 9.1(4) clarifies appeal rights.
6. 9.1(5) removes unnecessary reference to code.
7. 9.2(1) removes redundant information.
8. 9.3(5) increases the amount that can be retained by the Agency for assessed penalties.

9. 9.3(7) increases the amount that may be assessed as a civil penalty for a violation.
10. 9.5(2) moves a prior section to a new section.
11. 9.6 removes unnecessary reference to code.

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

9.2(1), 9.3

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

Attached with suggested changes.

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

METRICS

Total number of rules repealed:	2
Proposed word count reduction after repeal and/or re-promulgation	-75
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	- 19

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

With regard to subchapter 9, there are no additional changes recommended for codification.

CHAPTER 9
COMPLAINT, INVESTIGATION, AND RESOLUTION PROCEDURES

351—9.1(68B) Complaints.

9.1(1) Form. A complaint ~~shall~~ will be on forms provided by the board and ~~shall~~ will be certified under penalty of perjury. The complaint ~~shall~~ will contain all information required by Iowa Code section 68B.32B(1). The complainant may attach up to 20 pages of supporting documents to the complaint. The Board's legal counsel will review the complaint for sufficiency of form. If the complaint is deficient as to form, the complaint will be returned to the complainant with a statement of deficiency. In addition to the requirements listed in 68B.32B, the following complaints will be deemed deficient as to form:

- a. Complaints not within the jurisdiction of 68A or 68B;
- b. Complaints with no foundation in law or fact; or
- c. Duplicative complaints filed by the same complainant.

9.1(2) Board acceptance. ~~A complaint shall not be deemed accepted by the board until completion of the legal review required by Iowa Code section 68B.32B(4). If the board's legal counsel opines that the complaint contains a legally sufficient allegation, the complaint is deemed accepted. If the board's legal counsel opines that the complaint does not contain a legally sufficient allegation and the board, upon review, makes a determination that the complaint does contain a legally sufficient allegation, the complaint is then deemed accepted. A complaint will be deemed accepted if, after legal review by the board's legal counsel, review by the chairperson, and a vote of the board, it is determined the complaint contains the requirements as listed in 68B.32B(4). If both the board's legal counsel and the board opine that the complaint does not contain a legally sufficient allegation, the complaint shall will be dismissed.~~

9.1(3) Notice. Notice to the subject of a complaint is made only when a complaint is accepted, subject to the conditions of Iowa Code section 68B.32B(3). ~~A complaint is a public record, subject to the conditions of Iowa Code section 68B.32B(11).~~

9.1(4) Board review. The board's review of a formal complaint for legal sufficiency is not a contested case proceeding and ~~shall will~~ be made solely on the ~~facts alleged in contents of~~ the complaint. Dismissal for lack of legal sufficiency is not subject to appeal.

9.1(5) Information provided to board. The board may, on its own motion and without the filing of a complaint, initiate investigations into matters that the board believes may be subject to the board's jurisdiction. ~~As provided in Iowa Code section 68B.32B(7), persons may provide information to the board for possible board initiated investigation instead of filing a complaint.~~

351—9.2(68B) Investigations—board action.

9.2(1) Referral to staff. ~~Upon a determination that a complaint contains a legally sufficient allegation, the board shall refer the complaint to staff for investigation.~~

9.2(12) Board-initiated investigation. ~~In addition to investigations of legally sufficient complaints, On its own motion~~ the board may, on its own motion, refer to staff for investigation matters that the board believes may be subject to the board's jurisdiction, ~~including matters brought to the board's attention by members of the public.~~

9.2(23) Subpoenas. Investigations may include the issuance and enforcement of investigative subpoenas requiring the production of ~~books, papers, records, and other~~ real evidence, as well as requiring the attendance and testimony of witnesses.

9.2(34) Completion. Upon completion of an investigation, staff ~~shall~~ will make a report to the board and the board's legal counsel may provide a recommendation for board action.

9.2(45) Board action. Upon receipt and review of the ~~staff~~ investigative ~~findings report~~ and any recommendations, the board may:

- a. Redirect the matter for further investigation;
- b. Dismiss the matter for lack of probable cause to believe a violation has occurred;
- c. Dismiss the matter without a determination regarding probable cause as an exercise of administrative discretion;
- d. Make a determination that probable cause exists to believe a violation has occurred and direct administrative resolution of the matter as provided in ~~subrule~~ 351–9.4(2); or
- e. Make a determination that probable cause exists to believe a violation has occurred and direct the issuance of a statement of charges to initiate a contested case proceeding.

~~**351—9.3(68B) Grounds for disciplinary action.** The board may impose discipline against a person subject to the board's jurisdiction who commits a violation of Iowa Code chapter 68A, Iowa Code chapter 68B, Iowa Code section 8.7, or rules adopted by the board.~~

~~This rule is intended to implement Iowa Code section 68B.32A(9).~~

351—9.34(68B) Disciplinary remedies; administrative resolution of enforcement matters.

9.34(1) Action after hearing. If it is determined after a contested case proceeding that a violation of statute or rule under the board's jurisdiction has occurred, the board may impose any of the actions set out in Iowa Code section 68B.32D, including as a remedial action the assessment of direct costs related to the hearing for printing, postage, long-distance telephone charges, witness fees, and compensation paid to the presiding officer.

9.34(2) Administrative resolution. Violations may be handled by administrative resolution rather than through the full ~~investigative and~~ contested case proceeding process. The board may order administrative resolution by directing that the person take specified remedial action. The board may also order administrative resolution by issuing a letter of reprimand or by imposing a civil penalty as set out in ~~subrule~~ 351–9.4(7).

9.34(3) Response to administrative resolution. A person subject to board discipline may accept administrative resolution, ~~but is not required to do so~~. If the person accepts the administrative resolution by complying with the directed remedial action or accepting a letter of reprimand, the matter ~~shall~~ will be closed. If the person wishes to appeal the administrative resolution, the person ~~shall~~ will make a written request to the executive director for a contested case proceeding and ~~shall~~ will submit the request within 30 days of the date of the correspondence informing the person of the board's decision.

9.34(4) Statement of charges. The board ~~shall~~ will issue a statement of charges upon timely receipt of a request for a contested case proceeding to appeal ~~an~~ the administrative resolution. The contested case ~~shall~~ will be conducted in accordance with the provisions in 351—Chapter 11. The board's legal counsel ~~shall~~ will have the burden of proving the violation. Failure to challenge the administrative resolution through a request for a contested case proceeding is a failure to exhaust administrative remedies for purposes of seeking judicial review.

9.34(5) Automatic civil penalties. The board may administratively resolve late-filed reports by the assessment of automatic civil penalties, subject to the civil penalty waiver process, ~~as set out by board rule~~. The board may retain ~~two~~ five dollars of any civil penalty that is ultimately not waived by the board or by a court of law as return receipts covering incidental costs such as printing and postage. The remainder of the civil penalty ~~shall~~ will be deposited in the state general fund.

9.34(6) Admonishment. The board may admonish any person who it believes has committed a minor violation to exercise care. An admonishment is not discipline and is not subject to a contested case proceeding appeal.

9.34(7) Civil penalty for violation. If the board determines that probable cause exists to believe that a violation of any statute or rule under its jurisdiction has occurred, except for a late-filed disclosure report, the board may order administrative resolution of the violation by imposing a civil penalty not to exceed \$~~10~~500. A person assessed a civil penalty may appeal the decision by requesting within 30 days of the date of the correspondence informing the person of the board's decision a contested case proceeding to be held under the process set out in ~~subrule~~ 351–9.4(4).

351—9.45(68B) Settlements. Settlements may be negotiated during an investigation or after the commencement of a contested case proceeding. Negotiations ~~shall will~~ be conducted between the board’s legal counsel and any person subject to the investigation or contested case proceeding or their legal representatives. A settlement ~~shall will~~ be in writing and is subject to approval of ~~a majority of~~ the board. If the board declines to approve a proposed settlement, the settlement ~~shall will~~ be of no force or effect.

351—9.65(68B) ~~Whistle-blower protection~~ Protections for complaints made in good faith. ~~A person who discharges or discriminates against an employee because the employee filed a complaint, provided information to the board for a possible board-initiated investigation, or provided information during the course of a board investigation shall be subject to the board’s complaint process if the employee filed the complaint or provided the information in good faith. If it is determined after a contested case proceeding that a person has impermissibly discharged or discriminated against an employee, the board may impose sanctions as set out in Iowa Code section 68B.32D.~~

9.5(1) Good faith definition. For purposes of 68B.32A(14) ~~this rule~~, “good faith” means that any statements or materials in a complaint, in information provided to the board for a possible board-initiated investigation, or provided in information during the course of a board investigation were made or provided with a reasonable belief that such statements or materials were true and accurate.

9.5(2) Protections. A person who discharges or discriminates against an employee because the employee filed a complaint or provided information during the course of a board investigation may be subject to the board’s complaint process if the employee filed the complaint or provided the information in good faith. If it is determined after a contested case proceeding that a person has impermissibly discharged or discriminated against an employee under this rule, the board may impose sanctions as set out in Iowa Code section 68B.32D.

This rule is intended to implement Iowa Code sections 68B.32A(14) and 68B.32B.

351—9.76(68B) Providing false information to the board during an investigation. A person providing false information to the board during a board investigation of a potential violation of Iowa Code chapter 68A or 68B, ~~Iowa Code section 8.7,~~ or rules adopted by the board ~~shall will may~~ be subject to the complaint or administrative resolution process as provided under Iowa Code chapter 68B and rule 351—9.4(68B). For purposes of this rule, “providing false information” means the intentional providing of a false material statement of fact, falsely denying knowledge of a material fact, or providing a material statement of fact with a reckless disregard for the truth of the statement.

This rule is intended to implement ~~2009~~ Iowa Code ~~Supplement~~ sections 68B.32A and 68B.32B.

~~These rules are intended to implement Iowa Code section 68B.32B.~~