

IOWA CODE § 80F PROCEDURES

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ABOUT IOWA CODE SECTION 80F

- ENACTED IN 2007, UPDATED 2021;
- PEACE OFFICERS, PUBLIC SAFETY, AND EMERGENCY PERSONNEL BILL OF RIGHTS; AND
- PROVIDES OFFICERS CERTAIN RIGHTS AND PROCEDURAL PROTECTIONS, PARTICULARLY DURING INVESTIGATIONS INTO COMPLAINTS OF ALLEGED MISCONDUCT.

WHEN IS 80F TRIGGERED?

- 80F IS TRIGGERED WHEN A COMPLAINT IS RECEIVED BY A MUNICIPALITY, COUNTY OR STATE AGENCY REGARDING AN OFFICER.
- KEEP IN MIND STATUTORY DEFINITIONS OF “COMPLAINT” AND “OFFICER” TO DETERMINE WHETHER 80F IS TRIGGERED.

DEFINITIONS

- OFFICER: “CERTIFIED LAW ENFORCEMENT, FIRE FIGHTER, EMT, CORRECTIONS OFFICER, DETENTION OFFICER, JAILER, PROBATION OR PAROLE OFFICER, COMMUNICATIONS OFFICER, OR ANY OTHER LAW ENFORCEMENT OFFICER CERTIFIED BY THE IOWA LAW ENFORCEMENT ACADEMY AND EMPLOYED BY A MUNICIPALITY, COUNTY, OR STATE AGENCY.”

DEFINITIONS

- COMPLAINT: “A FORMAL WRITTEN ALLEGATION SIGNED BY THE COMPLAINANT” OR “A WRITTEN STATEMENT BY AN OFFICER RECEIVING AN ORAL COMPLAINT STATING THE COMPLAINANT’S ALLEGATION.”
 - *NEW – STATEMENT MUST BE WRITTEN AND SIGNED BY COMPLAINANT OR OFFICER*

EVENTS THAT DO NOT TRIGGER 80F

- AN UNSIGNED WRITTEN ALLEGATION;
- AN ORAL COMPLAINT;
- AN INFORMAL POST ON A SOCIAL MEDIA;
OR
- A CRIMINAL INVESTIGATION.
- HOWEVER, A CITY CAN CHOOSE TO FOLLOW 80F.

COMPLAINT PROCEDURES

IF A **COMPLAINT** IS RECEIVED BY THE CITY, THERE ARE SEVEN PROCEDURES TO KEEP IN MIND:

1. START WITH AN INFORMAL INQUIRY;
2. CONDUCT FORMAL ADMINISTRATIVE INVESTIGATION IF AN INFORMAL INQUIRY SUGGESTS IT IS NEEDED;
3. AS PART OF THE FORMAL ADMINISTRATIVE INVESTIGATION, CONDUCT AN INTERVIEW OF OFFICER;

COMPLAINT PROCEDURES

4. AUDIO RECORD THE INTERVIEW OF OFFICER
5. NOTIFY OFFICER IMMEDIATELY IN WRITING OF OUTCOME OF INVESTIGATION;
6. IF DISCIPLINED, PROVIDE COMPLETE FILE TO OFFICER UPON REQUEST;
7. HOLD OFF ON DISCIPLINE FOR 10 DAYS IF OFFICER MAKES ALLEGATION.

INFORMAL INQUIRY

- SUPERVISORY OR COMMAND PERSONNEL SHALL MEET WITH OFFICER WHO IS THE SUBJECT OF THE ALLEGATION.
- MEETING IS FOR THE PURPOSE OF RESOLVING THE ALLEGATION OR DETERMINING WHETHER A FORMAL ADMINISTRATIVE INVESTIGATION SHOULD COMMENCE.

FORMAL ADMINISTRATIVE INVESTIGATION

- IF A FORMAL ADMINISTRATIVE ACTION MAY RESULT IN THE REMOVAL, DISCHARGE, SUSPENSION, OR OTHER DISCIPLINARY ACTION, THEN COMMAND PERSONNEL SHALL ORDER AN INVESTIGATION.
- THE INVESTIGATION MUST BE CONDUCTED IN A REASONABLE (BUT UNDEFINED) AMOUNT OF TIME.

INTERVIEW OFFICER

- OFFICER MUST BE PROVIDED WITH A WRITTEN SUMMARY OF COMPLAINT PRIOR TO INTERVIEW.
- IF A COLLECTIVE BARGAINING AGREEMENT APPLIES, COMPLAINT OR WRITTEN SUMMARY MUST BE PROVIDED PURSUANT TO THE PROCEDURES ESTABLISHED UNDER THE CBA.
- IF COMPLAINT ALLEGES DOMESTIC ABUSE, SEXUAL ABUSE, WORKPLACE HARASSMENT, OR SEXUAL HARASSMENT, OFFICER SHALL NOT RECEIVE MORE THAN A WRITTEN SUMMARY OF THE COMPLAINT.
 - *NEW – WORKPLACE HARASSMENT NOW INCLUDED ABOVE.*

INTERVIEW OFFICER

- OFFICER HAS THE RIGHT TO HAVE A UNION REPRESENTATIVE DURING THE INTERVIEW, OR IF NOT A MEMBER OF A UNION, THE RIGHT TO HAVE A DESIGNEE PRESENT, AT OFFICER'S EXPENSE.
- OFFICER HAS THE RIGHT TO HAVE THE ASSISTANCE OF LEGAL COUNSEL, AT OFFICER'S EXPENSE.
 - *NEW – ATTORNEY ALLOWED DURING ALL PROCEEDINGS.*
- *NEW - OFFICER'S LEGAL COUNSEL, UNION REPRESENTATIVE, OR EMPLOYEE REPRESENTATIVE CANNOT BE COMPELLED TO DISCLOSE INFORMATION RECEIVED FROM OFFICER.*

INTERVIEW OFFICER

- THE INTERVIEW MUST BE, AT LEAST, AUDIO-RECORDED.
- OFFICER MUST BE ADVISED TO ANSWER THE QUESTIONS AND ANSWERS WILL NOT BE USED AGAINST THEM IN CRIMINAL PROCEEDINGS
- IF THE INTERVIEW IS CONDUCTED WHILE OFFICER IS OFF DUTY, OFFICER MUST BE COMPENSATED.
- POLYGRAPH EXAMINATIONS ARE NOT PERMITTED.

TIMELY NOTIFY OFFICER

- OFFICER SHALL BE IMMEDIATELY NOTIFIED OF THE RESULTS OF THE INVESTIGATION ONCE IT IS COMPLETE. (IOWA CODE §80F.3)
 - *NEW – NOTIFICATION MUST BE IN WRITING.*

PROVIDE INVESTIGATION FILE

- IF THE INVESTIGATION RESULTS IN THE REMOVAL, DISCHARGE, OR SUSPENSION, OR OTHER DISCIPLINARY ACTION AGAINST OFFICER, COPIES OF COMPLETE FILE SHALL BE TIMELY PROVIDED TO OFFICER UPON REQUEST.
 - *NEW – COMPLETE FILE MUST BE TURNED OVER.*

POST-INVESTIGATION

- IF INVESTIGATION RESULTS IN THE REMOVAL, DISCHARGE, SUSPENSION, OR OTHER DISCIPLINARY ACTION AGAINST AN OFFICER, AND OFFICER ALLEGES A VIOLATION OF 80F, PUNITIVE ACTION SHALL BE WITHHELD FOR 10 DAYS.
- AN ALLEGATION OF A VIOLATION OF THIS SECTION MAY BE RAISED AND GIVEN DUE CONSIDERATION IN ANY PROPERLY AUTHORIZED GRIEVANCE OR APPEAL EXERCISED BY AN OFFICER.

POST-INVESTIGATION

- COMPLAINT AGAINST OFFICER, OFFICER'S STATEMENT, RECORDINGS, OR TRANSCRIPTS MUST BE KEPT CONFIDENTIAL, UNLESS REQUIRED BY LAW OR OFFICER GIVES WRITTEN CONSENT TO DISCLOSE IT.
 - *NEW – OFFICER MUST GIVE CONSENT FOR DISCLOSURE.*
- OFFICER MAY SUE ANY PERSON, GROUP OF PERSONS, ORGANIZATION, OR CORPORATION FOR DAMAGES ARISING FROM THE FILING OF A FALSE COMPLAINT OR FOR ANY OTHER VIOLATION OF CHAPTER 80F.
 - *NEW – OLD LAW ONLY ALLOWED FOR “CITIZEN” TO BE SUED FOR FILING A FALSE COMPLAINT.*

TRAINING (NEW)

- AN AGENCY EMPLOYING OFFICERS SHALL PROVIDE TRAINING TO ANY OFFICER OR SUPERVISOR WHO PERFORMS OR SUPERVISES AN 80F INVESTIGATION.
- AGENCY SHALL MAINTAIN DOCUMENTATION OF ANY 80F TRAINING.
- THE IOWA LAW ENFORCEMENT ACADEMY SHALL ADOPT MINIMUM TRAINING STANDARDS NOT INCONSISTENT WITH THIS SUBSECTION, INCLUDING TRAINING STANDARDS CONCERNING INTERVIEWING AN OFFICER SUBJECT TO A COMPLAINT.

ASSORTED QUESTIONS

DOES EVERY COMPLAINT RISE TO THE LEVEL OF A FORMAL INVESTIGATION?

- **NO.**
 - NOT EVERYTHING IS A *COMPLAINT* AND NOT ALL *COMPLAINTS* WILL RECEIVE A FORMAL INVESTIGATION.
 - INTERNAL DISCIPLINE DOES NOT RISE TO 80F.
 - FIRST STEP IS TO CONDUCT AN INFORMAL INQUIRY TO DETERMINE WHETHER A FORMAL ADMINISTRATIVE INVESTIGATION IS NEEDED.

WHEN A COMPLAINT IS MADE AGAINST OFFICER, WHEN DOES INFORMAL INQUIRY BECOME INTERVIEW?

- **NEVER.**
 - AFTER SUPERVISORY PERSONNEL DETERMINE A FORMAL ADMINISTRATIVE INVESTIGATION IS NEEDED, THEN AN INTERVIEW IS HELD.
 - IT IS DURING THE FORMAL ADMINISTRATIVE INVESTIGATION THAT THE INTERVIEW OCCURS.

IS THERE AN AMOUNT OF TIME AFFORDED AN OFFICER TO PREPARE FOR INTERVIEW?

- **NOT UNDER 80F.**
 - 80F.1 RIGHTS ARE IN ADDITION TO OTHER RIGHTS AN OFFICER MAY HAVE PURSUANT TO A COLLECTIVE BARGAINING AGREEMENT OR OTHER APPLICABLE LAW.
 - *WEINGARTEN*—THERE IS NO BRIGHT LINE TEST; HOWEVER, ALLOWING AN OFFICER TO SPEND FIFTEEN MINUTES OR LESS WITH THE REPRESENTATIVE PRIOR TO (OR AFTER) THE MEETING HAS NEVER BEEN SUCCESSFULLY CHALLENGED.

WHO PAYS FOR ATTORNEY OR UNION REP. TO ATTEND?

- **OFFICER.**
 - 80F ONLY REQUIRES CITY TO ALLOW OFFICER TO BRING AN ATTORNEY AND/OR UNION REPRESENTATIVE TO THE INTERVIEW.
 - 80F DOES NOT REQUIRE CITY TO PAY FOR REPRESENTATIVE.

HOW MANY REPRESENTATIVES ARE OFFICERS AFFORDED DURING THE INTERVIEW?

- **TWO.**
 - OFFICER IS ENTITLED TO HAVE ONE UNION REPRESENTATIVE OR A “DESIGNEE” PRESENT DURING THE INTERVIEW.
 - OFFICER IS ALLOWED TO HAVE ATTORNEY PRESENT.
 - REPRESENTATIVES ARE NOT ALLOWED TO INTERFERE WITH THE INTERVIEW.

HAS AN OFFICER'S RIGHT TO BRING ACTION CHANGED?

- **YES.**
 - OFFICERS CAN POTENTIALLY NOW SUE EVERYONE INVOLVED IN THE INVESTIGATION.
 - OFFICERS CAN POTENTIALLY RECOVER ATTORNEY'S FEES AS DAMAGES.

QUESTIONS?