

Accountability Report Card Summary 2018
Iowa

Iowa has an average state whistleblower law:

- Scoring only 57 out of a possible 100 points; and
- Ranking 29th out of 51 (50 states and the District of Columbia).

Iowa has fair coverage (21 out of 33 possible points) with a fair degree of usability (18 out of 33) and remedies (17 out of 33), plus 1 bonus point for employee notice of whistleblower rights.

Iowa's full Whistleblower Report Card
Narrative summary of Iowa's law

page 2
page 5

Iowa Accountability Index Report card

Coverage, Usability & Strength — Rating on a 100 Point Scale
 Financial and Other Provisions for Public Officers and Employees- Iowa Code § 70A.28
 -.29 (2011)
 False Claims Act, Iowa Code § 685.3(4) (2011).

A Breadth of Coverage (33 points possible from 10 factors).

Does the statute cover disclosures of –

Factor	Maximum Points	Awarded Points
1. Violation of state or federal law, rules or regulations	6 points	6 points ¹
2. Gross mismanagement	3 points	3 points
3. Abuse of authority (including violations of agency policy)	3 points	3 points
4. Waste of public funds or resources	3 points	3 points
5. Danger to health and/or public safety and/or environment	5 points	5 points
6. Communication of scientific opinion or alteration of technical findings	5 points	0 points
7. Breaches of professional ethical canons	5 points	0 points

Does the statute provide –

8. Employee may refuse to carry out illegal or improper orders	1 point	0 points
9. Prohibition on “gag orders” to prevent employee disclosures	1 point	1 point ²
10. Whistleblower protection does not preclude collective bargaining or other rights	1 point	0 points
	<u>Maximum Score</u> <u>33 points</u>	<u>Awarded Score</u> <u>21 points</u>

¹ A protected disclosure includes information which the public employee reasonably believes evidences “a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety.” Iowa Code § 70A.28

² Head of a state department or agency, or a person who serves in a supervisory capacity within the executive or legislative branch of state government shall not prohibit an employee of the state from disclosing information to any other state official or law enforcement agency if the employee reasonably believes the information evidences one of the Factors in 1, 3, 4, or 5 above. Iowa Code § 70A.28(1).

B. Usability: Scope of Protection (33 points possible from 10 factors)

Do the laws protect disclosures made to –

Factor	Maximum Points	Awarded Points
1. Any person or organization, including public media	24 points	0 points

Or does the statute protect disclosures made to –

2. Any state executive or legislative body or person employed by such entities	4 points	4 points ³
3. Testimony in any official proceeding	4 points	0 points
4. Any state or federal law enforcement or investigative body or entity or its employees	3 points	3 points
5. Any federal or non-state governmental entity	3 points	0 points ⁴
6. Co-workers or supervisors within the scope of duty	3 points	0 points
7. Anyone as provided in paragraphs 2 thru 6 (above) without prior disclosure to another state official or supervisor	3 points	3 points

Does the state law –

8. Require an investigation by state auditor or other investigative entity of whistleblower disclosures	1 point	0 points
9. Have a statute of limitations of one year or longer for filing complaints	3 points (2 points if 6 months or longer and 1 point if 60 days or longer)	3 points ⁵
10. Allow qui tam or false claim actions for recovery of “bounty” in cases of fraud against the state	5 points (2 points if a qui tam statute of limited scope)	5 points ⁶
	<u>Maximum Score</u>	<u>Awarded Score</u>

³ Iowa Code § 70A.28, .29.

⁴ Statute does not refer to federal or non-state government entity.

⁵ A civil action under this chapter may not be brought more than six years after the date on which the violation of section 685.2 is committed, or more than three years after the date when facts material to the right of action are known or reasonably should have been known by the official of state charged with responsibility to act in the circumstances, but in no event more than ten years after the date on which the violation is committed, whichever occurs last. Iowa Code Ann. § 685.4 (2012)

⁶ False Claims Act, Iowa Code § 685.3(4) (2012).

	33 points	18 points
--	------------------	------------------

C. Strength: Remedies against retaliation (33 points possible from 11 factors)

Does the statute provide for –

Factor	Maximum Points	Awarded Points
1. Prohibition on retaliatory actions affecting a state employee's terms and conditions of employment	4 points	2 points ⁷
2. Opportunity for administrative challenge	4 points	3 points ⁸
3. Opportunities for court challenge	4 points	4 points ⁹
4. Trial by jury	3 points	0 points
5. Burden shifting upon prima facie showing.	1 point	0 points
6. Make whole remedies (court costs, attorney fees, back pay; restoration of benefits, etc.)	3 points	3 points ¹⁰
7 Actual/compensatory damages	3 points	0 points
8. Interim relief, injunction or stay of personnel actions	3 points	3 points ¹¹
9. Transfer preference for prevailing whistleblower or ban on blackballing	3 points	0 points
10. Punitive damages or other fines and penalties	2 points	2 points ¹²
11. Personnel actions against managers found to have retaliated	3 points	0 points
	<u>Maximum Score</u> 33 points	<u>Awarded Score</u> 17 points

Bonus Point (1 point): Posting or employee notice of whistleblower rights required.

Factor	Maximum Score	Awarded Score
Posting	1 point	1 point ¹³

⁷ A full 4 points were not awarded. The statute only prohibits a state employer from discharging an employee from, or taking or failing to take action regarding an employee's appointment to, promotion or proposed promotion to, or any advantage in, any position in state employment. Iowa Code § 70A.28.

⁸ The prohibition on reprisals can be enforced by an employee "through an administrative action pursuant to the requirements of this subsection if the employee is not a merit system employee or an employee covered by a collective bargaining agreement." Iowa Code § 70A.28(6).

⁹ Prohibition on reprisals can be enforced through a civil action. Iowa Code § 70A.28(5)

¹⁰ Iowa Code § 70A.28(5)(a).

¹¹ Iowa Code § 70A.28(5)(b).

¹² Any person who violates restrictions on disclosure of information or prohibitions on reprisals commits a simple misdemeanor. Iowa Code § 70A.28(4).

¹³ "The director of the department of administrative services, the legislative council, and the state board of regents, shall provide procedures for notifying new state employees of the provisions of this section and shall conduct promotional campaigns to provide information to state employees. Iowa Code § 70A.28(8).

appropriate remedies. Decisions by the public employment relations board constitute final agency action.

These provisions do not apply if the disclosure of the information is prohibited by statute. The public employer must provide notice to new employees of their rights and obligations under the statute, and must also periodically provide all employees with this information. Iowa also allows for awards to qui tam plaintiffs.