

The Iowa Administrative Procedures Act

The Iowa Administrative Procedures Act (IAPA), Iowa Code Chapter 17A, in conjunction with an agency's enabling legislation, work together to guide an agency's adoption and implementation of administrative rules.

IAPA – A Minimum Procedural Code

The Iowa Administrative Procedures Act (IAPA) establishes specific procedures which must be followed by state agencies adopting administrative rules. The IAPA is a “minimum procedural code.” This means the IAPA is concerned with how an agency creates its policy through rule-making rather than the specific policy implemented through adopting administrative rules.

Elements of rulemaking established by the IAPA are found in Iowa Code sections 17A.4 through 17A.8. State agencies are required to adopt procedural rules for:

1. Organization and operation of the agency,
2. Procedures to be used by the public in dealing with the agency (including a description of all forms used by the public), and
3. General standards and safeguards relating to the law administered by the agency.

An Agency's Rulemaking Authority, Scope, and Constraints

An agency's “enabling legislation”, the statutory provisions establishing the agency, its actions and the scope of authority, determines whether rules are required. An agency may create its policy either through rulemaking (i.e.: adopting general policies similar to statutes) or on a case-by-case basis based on individual facts and circumstances.

The IAPA requires that a structure be set out in rule to guide decision making. For example, agencies are required to establish in rule:

- Grant program eligibility criteria and application procedures.
- Regulatory programs compliance standards and permitting procedures.
- Appeal or review procedures available to the public.

An administrative agency does not have any independent law-making power. An agency has only that authority that is either “expressly delegated” or “delegated by necessary implication.”

Delegation of rulemaking authority

An enabling statute may provide an express delegation of rulemaking authority or mandate rulemaking. Even so, express delegations contain some limitations. If the statute merely authorizes rulemaking (“may promulgate”) but does not mandate it, the agency remains free to create its policy either by rule or on a case-by-case basis. The scope of a delegation is determined to a great extent on whether ruling-making authority is granted generally to implement an entire chapter of the Code or limited to a specific section or sections of a statute. An agency has only

the authority delegated to it, and cannot expand that delegation beyond the language of the enabling statute.

The delegation of authority to an administrative agency must contain a clear delineation of legislative policy and substantive standards to guide the agency in its implementation of that policy. However, precise substantive guidelines or standards are not required in the legislation if adequate procedural safeguards are provided. The procedural safeguards must advance the legislative purpose and must preclude arbitrary, capricious or illegal conduct by the agency. The IAPA is essentially a complete set out procedural safeguards that channels agency discretion and provides a mechanism for judicial review. Strict compliance with the rulemaking procedures is not required to establish a valid rule, the IAPA requires only substantial compliance {§17A.4(3)}.

Four-Part Test for Validity of a Rule

Administrative rules cannot conflict with statutory provisions or amend or nullify legislative intent . When determining the scope of an agency's rulemaking authority the initial step is to examine the statutory language itself to determine whether the delegation itself is lawful. As recently as 1994 the Iowa Supreme Court has struck down legislative delegations of authority that were excessive.

There is a four-part test to determine the validity of an administrative rule. Each part of the test is closely tied to the scope of authority of an agency.

- The statute itself must be constitutional;
- The statute must specifically authorize the promulgation of administrative rules either expressly or by necessary implication;
- The procedure specified for the promulgation of rules must be followed;
- The adopted rule must be within the authority of the agency and be reasonable.