



## Administrative Agency Definition

The Iowa Administrative Procedures Act (IAPA), Iowa Code section 17A.2 (1) definition of an “administrative agency” is both “inclusive” and “exclusive” in its coverage. The IAPA defines an “administrative agency” of state government as: “***Each board, commission, department or other administrative office or unit of the state.***” This coverage is “inclusive” because it applies to any administrative unit, regardless of its name or its location within an umbrella state agency.

At the same time, the IAPA definition of an “administrative agency” is exclusive because it excludes certain groups from its coverage. For example, “Agency” does not cover the general assembly, the judicial department or any of its components, the office of consumer advocate, the governor or a political subdivision of the state or its offices and units.

The judicial department has a complete exemption for the court itself and any administrative agencies within that branch of government. The Iowa General Assembly and the Governor have less encompassing exemptions which do not specifically exempt agencies housed within those two bodies. Of the 120 or so rulemaking entities in the executive branch of government, only the office of the consumer advocate is exempted from the IAPA.

Because “***administrative unit***” is essentially any government entity that has the authority to affect the rights of individuals through rulemaking, adjudication or its informal actions it excludes purely advisory groups.

The words “***of the state***” clearly exclude any unit of local government such as cities, counties or school boards. As a result, the administrative rulemaking process applies only to state agencies.

## Quorum Requirement for Agency Action

For administrative agencies that are headed by a board or a commission, Iowa Administrative Procedures Act (IAPA), Iowa Code section 17A.2 (1) “quorum requirement “is significant. This requirement states that: “Unless otherwise provided by statute no less than two-thirds of the members eligible to vote of a multimember agency constitute a quorum authorized to act in the name of the agency.”

The words “no less” mean that any fractions are to be rounded up to the nearest whole number, not merely rounded off. For example, in a five member board two-thirds translates into 3.33 members, this is rounded up to four members, not down to three. This means the board or commission of the agency cannot move forward with rulemaking authority or actions without meeting the quorum requirement.

## Iowa General Assembly Administrative Rules Review Committee

Standard voting procedure for legislative bodies, taken from Mason’s Manual of Legislative Procedure and Roberts Rules of Order, Newly Revised, call for a simple majority of those voting. The Iowa General Assembly’s Administrative Rules Review Committee (ARRC) has adopted a more restrictive policy concerning quorums. The ARRC insists that any action taken

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by a board or commission be based on a majority vote of the entire board or commission. The ARRC will object or take other action on any rule that allows board or commission action based on a majority of those present and voting.

The principle behind this requirement is that policies that have the force and effect of law should be considered and approved by a full majority of the body. The objection to using the principle of simple majority is that this policy could allow an actual minority of the board or commission to establish policy simply if several members abstained from voting.

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