



Iowa General Assembly

2010 Legal Updates

Legislative Services Agency – Legal Services Division

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Purpose. *Legal update briefings are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update briefing is intended to inform legislators, legislative staff, and other persons interested in legislative matters of recent court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although a briefing may identify issues for consideration by the General Assembly, a briefing should not be interpreted as advocating any particular course of action.*

STATE AGENCIES: DELEGATION OF RULEMAKING AUTHORITY

Iowa Supreme Court

July 31, 2009

Wallace v. Iowa State Board of Education

No. 07-0943

http://www.iowacourts.gov/Supreme_Court/Recent_Opinions/20090731/07-0943.pdf

Background. In this action, the Des Moines Independent Community School District (District) challenged the Iowa State Board of Education's authority to promulgate rules limiting the district's discretion to close five schools. The Des Moines School Board, faced with declining enrollments, declining revenues, and increased costs, voted to close certain of its attendance centers. The Department of Education (Department) had promulgated rules setting out seven criteria, which must be substantially met by the local board prior to closure of an attendance center, to ensure that affected pupils and their families have opportunity for input before attendance centers are closed. Although the rules were promulgated in 2003, the policy itself dated back to a 1977 contested case decision.

Issue. The District challenged those rules, contending that the Department lacked statutory authority to promulgate rules regulating school closure decisions by a local district.

Decision. The Department does not have authority to implement rules which create a specific procedure for school closings.

Rationale. The Iowa Supreme Court (Court) described 50 years of precedent concerning delegation of legislative authority. The Court set out the bedrock principle that agency rules are ordinarily given the force and effect of law, provided they are reasonable and consistent with legislative enactments. The Court then enunciated the delegation doctrine that an agency has no inherent power and has only such authority as is conferred by statute or is necessarily inferred from the power expressly granted. The Court stated that to be valid, a rule adopted by an agency must be within the scope of powers delegated to it by statute and when rules adopted by an administrative agency exceed the agency's statutory authority, the rules are void and invalid.

The Court noted that a general grant of rulemaking authority does not grant an administrative agency unlimited power to regulate matters within the agency's expertise. The Court emphasized that although the legislature expressly authorized the Department to adopt rules on a "multitude of subjects," there was no specific authorization for the adoption of rules prescribing the procedure school districts must follow for school closing decisions. The Court contrasted this lack of authority with the broad express powers granted by the legislature to local districts in the establishment and maintenance of attendance centers and concluded that a rational agency could not conclude it had authority to adopt rules prescribing the procedure for school closing.

Comment. The principle established in this decision is that a general grant of rulemaking authority does not necessarily infer an unlimited authority to promulgate rules. This decision does not provide groundbreaking new principles of law, but provides clear insight on how far the Court is willing to go in inferring rulemaking authority which is not explicit in statute. Although not specifically cited, this decision provides an example of the application of the principle of statutory construction, "expressio unius exclusio alterius est"; where the legislature provides a list in statute, it generally means to exclude those topics and terms not on that list. The decision also suggests that the Court will give little weight to even a long-standing policy if it lacks a statutory base.

This decision mirrors the statutory provisions of Iowa Code §17A.23, which states in part:

“An agency shall have only that authority or discretion delegated to or conferred upon the agency by law and shall not expand or enlarge its authority or discretion beyond the powers delegated to or conferred upon the agency.”

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