



Administrative Rules Overview

6/1/2012



Introduction

- This class covers processes for developing DHS administrative rules and employee and provider manuals.
- This is intended to be an inter-active class. The processes that you will learn continue to change over time. Your input in how those processes may be made better are gratefully acknowledged.
- Target audience: Policy Staff



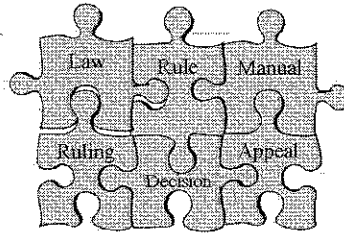
Iowa Department of Human Services

Administrative Procedures Act (APA)

Iowa Code Chapter 17A :

“Iowa Administrative Procedure Act”

Sets minimum procedures for a state agency to follow when it takes action that affects the rights and duties of the public.



Iowa Department of Human Services

Purpose of APA

The purpose of the APA is to increase:

- Legislative oversight of agency actions
- Public accountability for agencies
- Public access to government information
- Public participation in government decision-making



What is a rule?

A rule is a statement of general applicability that:

- Implements Federal or State law or policy, or
- Interprets Federal or State law or policy, or
- Prescribes State law or policy, or
- Describes the agency's:
 - Organization
 - Procedure
 - Practice requirements



When is a rule not required?

Rules are not required for statements concerning:

- Internal management of the agency
- Residents of a state facility
- Prices of goods or services furnished by DHS (as opposed to fees)
- Criteria for audits, inspections, or negotiations



What gives us the right to make rules?

- Rule making is a delegation of legislative authority
- Administrative rules have the force of law
- An administrative agency has no independent law-making power
- Rule making authority must be expressly delegated by statute
- Agencies can act only within the authority of the statute



When is a rule valid?

A rule is valid when:

- It is based on a law that:
 - Is constitutional
 - Specifically authorizes the agency to make rules
- It has completed the required rule-making process
- It is within the authority of the agency and is reasonable



What rules are required?

Rules must describe:

- Agency structure, programs and mission
- Methods for public to get information or make requests
- Nature and requirements of all formal and informal procedures available to the public
- Description of all forms and instructions used by the public
- Standards, principles and procedural safeguards



Where are the rules?

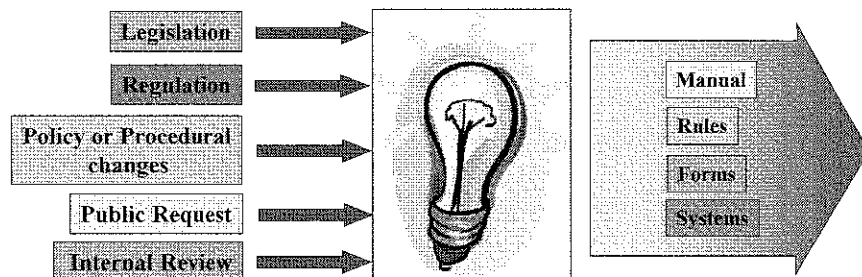
Rules are published by the Legislative Services Agency (LSA) in:

- **Iowa Administrative Code:** The published collection of the administrative rules of all state agencies
- **Iowa Administrative Bulletin:** A biweekly pamphlet announcing rules proposed or adopted by state agencies
- Copies may be found on the DHS Policy Analysis web site: www.dhs.iowa.gov/policyanalysis



Iowa Department of Human Services

What causes a rule to be needed or clarified?



"In the beginning, there was an idea!"



Iowa Department of Human Services

What does DHS have to do to make a rule?

- Identify and develop proposed rule changes
- Publish a notice of proposed changes
- Gather comments from the public
- Submit to administrative and legislative oversight
- Adopt final rules
- Publish final rules



Who has rule-making power?

- Council on Human Services
- Mental Health, Intellectual Disabilities, and Brain Injury Commission
- *hawk-i* Board
 - Decides whether to adopt a rule
 - Decides how a rule should be worded



Who has oversight of rules?

- Council, Board, or Commission
- Administrative rules coordinator
- Attorney General
- Administrative Rules Review Committee (ARRC)
- General Assembly



Iowa Department of Human Services

What's my part in all this?

- Develop policy: decide what to do
- Develop procedures: decide how to do it
- Prepare rule changes
 - Draft changes
 - Prepare rule packet
 - Get administrative & fiscal approval
 - Submit to Policy Analysis
 - Review products
 - Respond to comments



Iowa Department of Human Services

What does Policy Analysis do?

- Work with Policy Staff on proposed rule changes
- Make sure rule is in proper form
- Make sure public hearings are scheduled if needed
- Prepare transmittal forms
- File the rule with Governor's office & Administrative Code Editor
- Maintain public rules docket & web site
- Collect and summarize comments
- Make changes to rules as needed



Iowa Department of Human Services

How long does it take?

For a regular rule:

- 19 days for initial publication
- 35 days for comment
- 19 days for final publication
- 35 days for implementation
- Add in approval by Council, Board, or Commission

(6 months Total Time)



Iowa Department of Human Services

How long does it take?

For an emergency rule:

- Adopted with out notice but implemented regularly (4 months)
- Adopted emergency after notice (4 months)
- Adopted without notice and implemented immediately (2 months)



**When can the process
be shortened?**

- May waive comment period if:
 - Unnecessary
 - Impracticable
 - Contrary to public interest
- May waive implementation period if:
 - Legislation permits it
 - Confers a benefit or removes restriction
 - Imminent peril to public health or safety



What can the rules committee do?

- Direct the agency to do more consensus building on proposed rules
- Delay the effective date of the rule
 - By 70 days
 - Until the end of the next legislative session
- Refer the rule to the General Assembly



What do I submit to change a rule?

- Administrative Rule Transmittal
- Text of proposed changes
- Information on Rules
- Administrative Rules Fiscal Impact Statement

Available at: [Hoover3s1/Policy.771/Rules/help for rules & manual writing/templates](http://Hoover3s1/Policy.771/Rules/help%20for%20rules%20&%20manual%20writing/templates)



How do I write a rule?

- Find your rule-making authority
- Find where your rule fits with current rules
- Make your rule match the structure and terms of the context
- Show deleted text by strike-through or new text by underlining



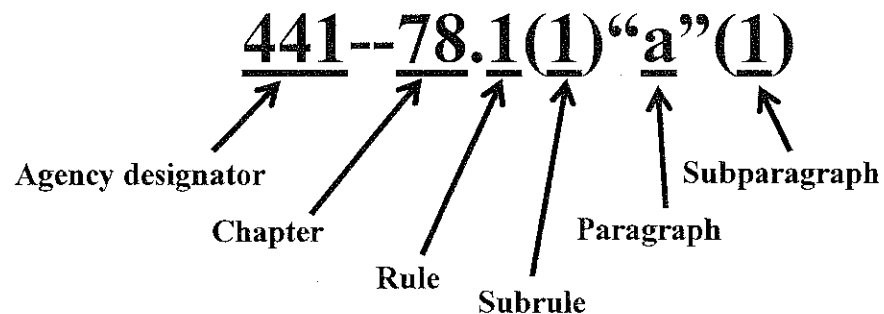
How is a rule structured?

The rule is structured by:

- | | |
|----------------------------|-----------------------|
| • Agency | (Human Services: 441) |
| • Title | (program area) |
| • Chapter | |
| • Division (optional) | |
| • Rule | 441—24.1(225C) |
| • Subrule | 24.3(3) |
| • Paragraph | 24.3(3)“b” |
| • Subparagraph | 24.3(3)“b”(6) |
| • Implementation statement | (by rule or chapter) |



Elements of a rule naming convention





**Where Do I
Get More Information?**

- DHS Policy Analysis web site:
<http://www.dhs.iowa.gov/policyanalysis/>
- Iowa Legislative Services Administrative Rules web site:
<https://www.legis.iowa.gov/law/administrativeRules>
- DHS rules share:
Hoover3s1/Policy.771/Rules