

Waiver for Administrative Rules and Procedural Laws Frequently Asked Questions

What is a “procedural law”?

Statutes are laws that apply to all citizens and cover a variety of topics, including the following: the Legislature, the executive branch, state departments, the judiciary and courts, tax policy, public safety and police authority, towns, cities, counties, commerce and trade, private property and private rights, civil injuries and remedies, and crimes against people and property and the penalties associated with them.

Put simply a “procedural law” is a part of a statute that outlines how a certain required outcome is to be performed when the local government is delivering a service.

A purely hypothetical example might be if a law says that local governments must use a certain kind of truck to plow snow. The “procedure” would be the part about the truck (how the outcome, plowing snow, is achieved). A waiver for the “truck” requirement could be issued if the local government could show that the new proposed procedure would still achieved the desired outcome.

In short, the State Auditor cannot waive an intended outcome, only any mandated procedures outlined in statute to achieve those outcomes. That is why the waiver law requires the local government submit a plan to ensure that the desired outcome is achieved, even if it is being done a different way.

For more information on statutes please go to: <http://www.leg.state.mn.us/leg/statutes.asp>.

What is an “administrative rule”?

An administrative rule is a general statement adopted by a state agency to make the law it enforces or administers more specific or to govern the agency’s organization or procedure.

An agency may adopt a rule only after the legislature has enacted a law granting this authority to the agency. An agency rule that is adopted under the rulemaking provisions of Minnesota Statutes, chapter 14, has the force and effect of law. *Rulemaking in Minnesota: A Guide* explains each step of the rulemaking process in Minnesota. For more information please see: https://www.revisor.leg.state.mn.us/revisor/pubs/arule_drafting_manual/ruleguide.htm.

The State Auditor may only waive an administrative rule if a local government has already been turned down by the state agency making the rule in question.

Is this the same as a “Mandate Reform Proposal”?

No. A mandate reform proposal is a resolution put forward by a local government proposing a change or repeal of a state mandate, which is communicated to the state via the State Auditor’s office. It can cover any topic, and can therefore be very broad and expansive. These proposals are basically suggestions to the legislature on mandate reform made via “government-to-government” communication.

On the other hand, a waiver request, by its nature, must be very specific and can only be applied in a limited number of circumstances.

Of course, it’s possible that a local government may request a waiver and also submit a mandate reform proposal covering the same specific topic. It’s important to note that one could potentially carry the weight of law (waiver application) while the role of the other is to foster communication between and state government and local governments.