

2.5 DECISIONS AND ORDERS OF ADMINISTRATIVE AGENCIES

Administrative agency hearings may occur either during the rulemaking process¹ or in the context of contested cases. The contested case or trial-type hearings generally result in a decision or a final order being issued by the agency rather than the administrative law judge.

In 1975, the Minnesota Legislature created the Office of Administrative Hearings (OAH) (formerly the office of hearing examiners) to preside over hearings required by the Minnesota APA. The OAH has rulemaking authority, and its rules, which govern the conduct of rulemaking and contested case hearings, appear in Minnesota Rules chapter 1400. After a contested case hearing, the administrative law judge's report containing findings of fact, conclusions, and a recommendation is filed with the agency, which then makes a final decision.

Some administrative law judge (ALJ) decisions are final rather than advisory. These final decisions and recommended decisions are often available at the OAH website.²

Older opinions are on file at the office, the legislative reference library (LRL) and the law library of William Mitchell College of Law. . Some ALJ decisions are summarized in *Finance and Commerce*. *Lexis Advance* and *WestlawNext* both contain selected Minnesota ALJ decisions. *Bloomberg Law* and *Fastcase* do not yet contain Minnesota ALJ opinions.

Agency decisions are not generally published for distribution but are usually available from the issuing agency, the Minnesota State Documents Center, and sometimes from the Office of Administrative Hearings. Each administrative agency is responsible for maintaining the record of a contested case proceeding, including pleadings, exhibits, briefs, a transcript if one was prepared, and the recommended and final decisions. If no transcript has been prepared, the tapes of the hearing are retained at the Office of Administrative Hearings for five (5) years. Opinions of the State Ethical practices Board and the Department of Human Rights were published in the *State Register* in 1976 and 1977. Now it contains only summaries of the opinions of the State Ethical Practices Board. Some agencies include selected opinions or summaries of opinions in their annual reports (e.g., the Minnesota State Claims Commission Report and early reports of the Minnesota Railroad and Warehouse Commission). Beginning in 1993, the Commissioner of Administration began issuing opinions interpreting the Minnesota Government Data Practices Act.³ These opinions are available from the Department of Administration. .

The Minnesota Department of Administration's Information Policy Analysis Division (IPAD) maintains a topical index of Data Practices Act advisory opinions.⁴ The Public Law Section of the Minnesota State Bar Association (MSBA) publishes an index of

¹ MINN. STAT. §§ 14.14, .25 (2014) both require a hearing if more than twenty-five (25) comments are received on a proposed rule.

² *Opinions Archive*, OFFICE OF ADMINISTRATIVE HEARINGS. [http://mn.gov/oah/administrative-law/Opinions/\(last](http://mn.gov/oah/administrative-law/Opinions/(last) visited Oct. 1, 2014).

³ MINN. STAT. § 13.072, subd. 1 (2014).

⁴ *Advisory Opinions by Topic*, INFORMATION POLICY ANALYSIS DIVISION, MINNESOTA DEPARTMENT OF ADMINISTRATION, <http://www.ipad.state.mn.us/opinions/> (last visited Oct. 1, 2014).

data practices opinions issued as part of their newsletter, the Public Law News.⁵ Selected opinions are summarized in the Administrative Law News, the newsletter of the Administrative Law Section of the Bar Association.⁶

Minnesota has two administrative courts that function in the executive, rather than the judicial, branch of government. The Tax Court⁷ (formerly the Board of Tax Appeals) hears appeals by taxpayers from determinations by the commissioner of revenue with regard to taxes, fees, and assessments. Rules of the tax court are found online and in *Minnesota Rules* chapter 8600. Decisions of the tax court are published on the Tax Court's website, on *Bloomberg Law*, *Lexis Advance* and *WestlawNext*. They may also appear in commercially published legal newspapers. Tax court decisions also appear in the Minnesota coverage of the Commerce ClearingHouse (CCH) Intelliconnect product and Thomson Reuter's Checkpoint.⁸

The workers' compensation court of appeals is an independent appellate tribunal and hears appeals from decisions of compensation judges in the office of administrative hearings. The court's rules appear in Minnesota Rules chapter 9800. Selected opinions are published in *Workers' Compensation Decisions*, which is available the Office of Administrative Hearings website.⁹ William Mitchell College of Law in Saint Paul, Minnesota has the only complete historical collection of Minnesota *Workers' Compensation Decisions*.

A cumulative index for volumes 1 through 22 was prepared by the division of workers' compensation of the department of labor and industry. Indexes for volumes 23 through 34 were prepared by Minnesota Continuing Legal Education (CLE). Minnesota CLE now publishes a Minnesota Workers' Compensation Deskbook¹⁰ and regularly holds CLE's related to workers' compensation topics.

The federal APA governs hearings in most federal agencies. Notices of hearings on proposed rules are published in the *Federal Register*. Decisions and orders of federal agencies in contested cases are published much more widely than are Minnesota agency decisions. Many federal agencies publish reports of their decisions through the United States Government Printing Office.¹¹ These decisions are also frequently included in commercially research databases as well.¹²

⁵ *Public Law Section*, MINNESOTA STATE BAR ASSOCIATION, , <http://msba.mnbar.org/members/committees-sections/msba-sections/public-law-section#.VC4qsRbZ2xU> (last visited Oct. 1, 2014).

⁶ *Administrative Law Section*, MINNESOTA STATE BAR ASSOCIATION, , <http://msba.mnbar.org/members/committees-sections/msba-sections/administrative-law-section#.VC4rkbZ2xU> (last visited Oct. 1, 2014).

⁷ MINNESOTA TAX COURT, <http://www.taxcourt.state.mn.us/> (last visited Oct. 1, 2014).

⁸ These databases are available by subscription or through a local law library.

⁹ *Workers' Compensation*, OFFICE OF ADMINISTRATIVE HEARINGS, , <http://mn.gov/oah/workers/> (last visited Oct. 3, 2014).

¹⁰ *MN Workers' Compensation Deskbook*, MINNESOTA CONTINUING LEGAL EDUCATION, , <http://www.minncle.org/PublicationDetail.aspx?ID=60907> (last visited Oct. 3, 2014).

¹¹ For example, one can access Federal Trade Commission Reports and Decisions & Orders of the NLRB through a search of the *Catalog of U.S. Government Publications*, U.S. GOVERNMENT PRINTING OFFICE, <http://catalog.gpo.gov/F?RN=502967043> (last visited Dec. 2, 2014).

¹² E.g., LAB. REL. REP. (BNA); TRADE REG. REP. (CCH).