

3.3 GENERAL PROCEDURES

Agency investigations are analogous to grand jury proceedings because no case or controversy is necessary to enable the agency to invoke its investigative authority.¹ An agency investigation may be informal and nonadversarial in nature.² Thus, where an agency is required only to have reasonable grounds to believe that there may be a violation of law, the agency is not precluded from proceeding with its investigation on the filing of an affidavit controverting the agency's allegations.³ An agency investigation may not result in a final decision as provided for in Minnesota Statutes section 14.61, since such a decision may only follow an administrative contested case proceeding. Accordingly, the due process requirements relating to agency adjudications do not attach at the investigative stage of proceedings.⁴ For example, the subject of an investigation ordinarily has no right to be apprised of the charges being made, to confront witnesses, or to cross-examine witnesses.⁵

¹ *United States v. Morton Salt Co.*, 338 U.S. 642 (1950).

² *Bhd. of Ry. & S.S. Clerks, Freight Handlers, Express & Station Emps. v. Ass'n for Benefit of Non-Contract Emps.*, 380 U.S. 650, 662 (1965); *see, e.g.*, MINN. STAT. §§ 46.04,.05 (2014) (requiring periodic examinations of financial institutions).

³ *Kohn v. State*, 336 N.W.2d 296 (Minn. 1983).

⁴ *Hannah v. Larche*, 363 U.S. 420, 440 (1960); *Humenansky v. Minn. Bd. of Medical Exam'rs*, 525 N.W.2d 559, 566 (Minn. Ct. App. 1994) (stating that a psychiatrist's protected interest was not implicated because her license to practice was not immediately at stake in the investigatory proceeding).

⁵ *Hannah*, 363 U.S. at 440.