

Administrative Agencies

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Administrative Law

- Administrative law occurs out of legislation that is general in language and needs to become more detailed in application. Agencies are created to regulate the various legislature enacted.

- Agencies are created by Congress passing enabling legislation. Enabling legislation specifies the name, purposes, functions, and powers of the Agency being created.
- They can only enact powers expressly given to them through Congress.
- The delegation doctrine establishes Congress' right to create agencies by allowing them to delegate their power thus creating administrative agencies.

- Agencies are still subject to checks and balances
- The Executive branch controls agencies through the president appointing federal officers and through his power to veto enabling legislation or congressional attempts to modify an agencies existing authority
- The Legislative branch can create and also abolish agencies through legislation
- The Judicial branch rules through the courts review of agency actions

NCUA

- In 1934 Franklin D. Roosevelt signed the Federal Credit Union Act allowing the creation of federal credit unions in all states
- The first agency created was called the Bureau of Federal Credit Unions. As credit unions grew, the existing Bureau got overhauled and became a modernized agency called the National Credit Union Administration (NCUA).
- The NCUA regulates and oversees all U.S. Credit union by establishing funds, creating guidelines, and reviewing credit unions annually to ensure they are compliant. These acts became especially important after the 2008 financial crisis.

Judicial Deference to Agency Decisions

- When asked to review agency decisions, courts historically granted deference (significant weight) to the agency's judgment, often citing the agency's great expertise in the subject area of the regulation.
- This deference seems especially appropriate when applied to an agency's analysis of factual questions, but should it also extend to an agency's interpretation of its own legal authority?

Enforcement and Adjudication

- Although rulemaking is the most prominent agency activity, enforcement of the rules is also critical. Often, an agency itself enforces its rules. It identifies alleged violators and pursues civil remedies against them in a proceeding held by the agency rather than in federal court, although the agency's determinations are reviewable in court.
- There are two stages: Investigations (inspections, tests, subpoenas, searches during site inspections and search warrants) and Adjudication (settlements, hearing procedures, agency orders, formal complaints etc)

Public Accountability

- As a result of growing public concern over the powers exercised by administrative agencies, Congress passed several laws to make agencies more accountable through public scrutiny.
- Some of the laws include Freedom of Information Act, Government in the Sunshine Act, Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act and others.