

Chapter 5

Administrative Law

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When Congress or state legislatures enact statutes, more details frequently are needed to effectively carry out the provisions of those laws. Rules made by government agencies that give more specificity to a statute are one example of administrative law. And, just as statutes are law, so are administrative rules -- or regulations, as they are sometimes called. Rules and regulations fill in the details of a statute.

For example, Illinois has a statute that controls the licensing of drivers and provides for a graduated license for teenaged drivers (625 ILCS 5/6-107). The Illinois Department of Transportation made rules, which are authorized by the driving license statute and describe the specific offenses and procedures and criteria that would cause a graduated license to be revoked. Those rules are found in Chapter 92 of the Illinois Administrative Code. The citation to the relevant Illinois Administrative Code section looks like this: 92 Ill. Adm. Code 1040.28.

Federal and state statutes often have regulations that must be considered by someone who needs to know all the requirements of a law. And, a federal or state agency usually has general legal authority to make rules about the functions the agency controls. For example, many state and federal agencies conduct hearings -- about benefits, tax assessments, and licensing appeals, for example -- and these procedures are controlled by administrative laws and agency rules, as well as by statutes.

Usually, the best way to start searching for help with an administrative law question is to locate the agency that governs the issue. Sometimes, a federal agency will be the best place to start -- for example, if the problem involves immigration or Social Security. Often, a good starting place will be the State of Illinois, or a county or city government agency. This chapter gives sources and suggestions for researching Illinois state agencies and administrative rules, and also for the federal government. Information about county and municipal administrative agencies is found in Chapter 6 of this guide.

Illinois Administrative Law Resources

A simple way to begin administrative law research online in Illinois is to look at the website for the [executive branch of government](#). The page has a link to the [Illinois Handbook of Government](#), which describes the structure of state government and has extensive background and contact information for the executive branch, including state agencies.

The Executive Branch site also links the homepage [for Illinois state agencies, boards and commissions](#). From here, you can locate an agency and go to its website. Most agency sites have information about the statutes that empower the agency, details about what the agency does, consumer information, links to agency rules, case decisions, forms, publications, and contact

information. If an agency conducts hearings and does not publish its decisions in full-text online, it may provide lists of decisions and will give contact information for locating copies of the full decisions.

Here are some examples of Illinois agencies with rulemaking and decisional authority:

- [Illinois Commerce Commission](#)
- [Illinois Department of Healthcare and Family Services](#)
- [Illinois Department of Insurance](#)
- [Illinois Department of Human Rights](#)
- [Illinois Department of Revenue](#)
- [Illinois Department of Labor](#)

The main page for Illinois government has links to the state agencies page, the executive branch page, and also to other helpful features, such as “How Do I?” links for consumers, with explanations of how to accomplish things that are governed by executive agencies.

Finding Illinois Administrative Rules

Illinois regulations are available on the web. The official version of the [Illinois Administrative Code](#) is at the Illinois General Assembly site, www.ilga.gov. The code is published by the Joint Committee on Administrative Rules (JCAR), and allows browsing by title, and keyword searches. Updates to the Illinois Administrative Code are published daily in the online [Illinois Register](#), and every week in the printed version of the *Illinois Register*.

Here is a list of free, online resources for finding and updating Illinois administrative regulations:

[Illinois Administrative Code](#)

The current version is available online. Older versions are not online and may be difficult to find in print. The Illinois Administrative Code was printed and updated irregularly in the past. If you need an older regulation, the best source is the agency. If necessary, a [Freedom of Information Act \(FOIA\) request](#) can be made.

[Illinois Register](#)

The official, weekly compilation of Illinois administrative law documents; the state website includes archived issues from 2002 to the present (in PDF files). The Register publishes notices of proposed rulemaking, emergency rules, notices of comment periods and hearings on proposed rulemaking, and other information about rulemaking in-progress. Final rules are published in the Register with the date they will become effective. Print versions of older *Registers* can be found in law libraries, university libraries, and larger public libraries. Coverage of older issues varies depending on the institution.

[The Flinn Report](#)

This weekly current awareness publication (PDF file) reports current Illinois rulemaking and gives cites to issues of the *Illinois Register*.

JCAR

The Joint Committee on Administrative Rules (JCAR) is the bipartisan legislative committee that oversees administrative rulemaking in Illinois. The JCAR website contains several helpful links, including a PDF document, “Illinois Rulemaking Process,” that presents a straightforward explanation of the regulatory process in Illinois and the importance of public participation.

Illinois Administrative Procedure Act

The Illinois Administrative Procedure Act (IAPA), 5 ILCS 100/, is the state statute that controls many procedural requirements for rulemaking and agency hearings. It is always a good idea to check the agency website for additional information about other statutes or rules that apply. Many agencies are governed by specific statutes beyond the Illinois APA.

The Governor

The Governor of Illinois, as the chief executive of the state, can issue orders that have the effect of law. Executive Orders and Administrative Orders issued by Governors from 1999-present can be found online at the government website. They can be browsed in full text, but cannot be searched electronically.

The Attorney General

Another variety of executive authority comes from the Office of the Attorney General of Illinois. The Attorney General is a constitutionally established officer, and basically is the lawyer for the state. Although AG opinions are not law, they can be viewed as a highly authoritative source of guidance. They are issued on questions of law that have not yet been settled by the courts or by statute. While not binding, administrative agencies routinely abide by Attorney General opinions, and courts often follow them. Official opinions are available on the state website from 1971-present, and are keyword searchable. Informal opinion letters also are rendered, but they are not published and are more difficult to find.

Federal Administrative Law Resources

Agencies of the federal government work in much the same way as the state model. The executive branch of government has authority, based in constitutional and statutory law, to carry out the functions of government, give detail to federal statutes via regulations, create procedures for disputed cases, hold hearings, call witnesses, issue decisions, investigate, grant or revoke licenses, determine particular constituent benefits, enforce taxing powers, etc. And, like the states, federal agencies’ actions can be challenged in court. The federal administrative structure is larger, but researching federal administrative law often can be easier, because sources are better organized and more reachable electronically.

Like Illinois, starting your federal research with agency webpages is often the best way to determine what agency controls the issue. Federal agency pages are increasingly prioritized around Freedom of Information Act and open government mandates. Most agency pages direct the researcher to underlying statutory authority, relevant regulations, cross-agency issues, contact information, etc., and generally are much more user friendly than just a few years ago. Several websites assist citizens’ participation in the rulemaking process – via electronic comment submission and much greater access to data the agencies collect in the process of rulemaking.

Finding Federal Regulations

The *Code of Federal Regulations* (C.F.R.) contains final regulations. Like the Illinois Administrative Code, it is arranged by *subject* into Titles (Illinois has chapters). Currently, there are 50 C.F.R. Titles. The C.F.R. is available in print, updated annually on a rotating schedule, and also online. The official online version for the current year, and all years back to 1996, is found at [FDSys](#), the federal government's official site for government information. The C.F.R. can be updated unofficially by using the [unofficial Electronic CFR](#), which is current within a few days. Although the site is unofficial, it is a government source, and the updated regulations can be confirmed in the *Federal Register*.

The *Federal Register* is published every business day by the U.S. Government Printing Office. It is also available online. Like the *Illinois Register*, the *Federal Register* publishes documents throughout the rulemaking process: notices of hearing and comment, notices of proposed regulations, studies, reports, investigation results, etc., as well as the final regulations as soon as they are available. Preambles to final regulations are published only in the *Federal Register*, not in the C.F.R., and trace the regulatory history of a newly finalized rule. Preambles often contain valuable information about the intent of the agency, and the President, regarding the purpose and details of a rule. If regulations are challenged in court, preamble information can be important. Like the C.F.R., the *Federal Register* is found at [www.fdsys.gov](#), which has the current day back to 1994. The print version has existed since 1936, and old issues can be found at many large public and university libraries, and on subscription databases. The easiest way to search the *Federal Register* is via online sources.

For tracking or commenting on a rulemaking procedure, or researching a closed one, try <http://www.regulations.gov>. This site allows comments by the public on proposed regulations, as well as the opportunity to read comments submitted by others, reports, and other evidence submitted in the rulemaking process. Many closed rulemaking dockets are also on the site. Also, check specific agency websites, since some agencies do not submit to regulations.gov. It is not mandatory for all agencies to post rulemaking files there.

Agency decisions and other agency documents can be found at the federal agency websites. Agencies have varying practices regarding whether and how many decisions/guidance documents they post. Freedom of Information requests can be made for particular decisions or documents you may be seeking. Search the agency pages, contact agency personnel, and read the FOIA procedures for the agency. Many agency pages also provide links to the federal administrative procedure statutes.

Websites to help locate federal agencies

[A-Z Index of United States Government Departments and Agencies](#)

[Agency Index at the Washburn School of Law](#)

[The University of Virginia School of Law Library list of federal agency decisions](#)

The *United States Government Manual* is the official handbook of the federal government. It provides details about agency functions and structure.

Presidential Materials

Executive Orders and other documents are available for the current administration on www.whitehouse.gov. Executive Orders from previous administrations are available from the [National Archives](#).

The United States Attorney General

[Official opinions of the U.S. Attorney General](#) are available from 1977 from the U.S. Department of Justice. The [U.S. Office of Legal Counsel's electronic reading room](#) has other materials, including legal opinions, which have not been selected for official publication. These selected documents “have been released as a matter of discretion and posted publicly because they are the subject of repeated requests or may be of significant public or historical interest.”

Secondary Sources

There are many secondary sources available that can help you navigate federal and Illinois administrative law. Here are a few:

- The Law Librarians' Society of Washington, D.C. Legislative Sourcebook, available online at <http://www.llsdc.org/sourcebook/>, contains an excellent [research guide to the Code of Federal Regulations and the Federal Register](#).
- William A. Price, editor, *Handbook of Illinois Administrative Law* (2d. ed., Illinois State Bar Association, 2008).
- Mark E. Wojcik, *Illinois Legal Research* (2d. ed., Carolina Academic Press, 2009).