

Chapter 5

Administrative Law

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

For example, Illinois has a statute that provides for a graduated license for teenage drivers ([625 ILCS 5/6-107](#)). The Illinois Department of Transportation made rules, which are authorized by the driving license statute, that describe the specific offenses that would cause a graduated license to be revoked and procedures and criteria for putting that revocation into effect. 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 associated rules that must be considered by someone who needs to know the full requirements of a law. In addition to creating these rules, federal and state agencies usually have general legal authority to make rules about the functions the agency controls. Many state and federal agencies conduct hearings—for example, about benefits, tax assessments, and licensing appeals—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. Often, a good starting place will be a [State of Illinois](#) agency. Sometimes a federal agency will be the best place to start. For example, if the problem involves immigration or Social Security, you may want to start with [U.S. Customs and Immigration Services](#) or the [Social Security Administration](#), respectively. This chapter gives sources and suggestions for researching Illinois state agencies and administrative rules as well as for the federal government. Information about county and municipal administrative agencies is found in [Chapter 6: Municipal Law](#) 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.

Finding Illinois Law

The Illinois state government website also links to the homepage for [Illinois state agencies, boards, and commissions](#). From here, you can locate an agency and go to its website. Most agency websites 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 decision-making 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 the [Illinois government website](#) has links to state agencies page, the executive branch page, and other helpful features like “How Do I?” links for consumers, which provides explanations of how to accomplish things that are governed by executive agencies.

Finding Illinois Administrative Rules

Illinois regulations are available online. A free version of the [Illinois Administrative Code](#) is available at the Illinois General Assembly website, [ilga.gov](#).⁷ The code is published by the Joint Committee on Administrative Rules (JCAR) and allows browsing by title or searching by keyword. Updates to the Illinois Administrative Code are published weekly in 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 relevant agency. If necessary, you can make a [Freedom of Information Act \(FOIA\) request](#).

[Illinois Register](#)

This is a compilation of Illinois administrative law documents. The state website includes archived issues from 2002 to the present in PDF. 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. The online *Register* is an unofficial version, though the Secretary of State’s office strives for accuracy and reliability in this format. The official, print version of the

⁷ While this website is unofficial, it is the most reliable way to access the Code. Official copies of rules can be requested from the Illinois Secretary of State’s Index Department.

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Register 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 reports current Illinois rulemaking and gives citations 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, “[How Rules Are Made in Illinois](#),” 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 IAPA.

[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 to the present can be found online at the Governor’s website. They can be browsed in full text but cannot be searched.

[The Attorney General](#)

Another variety of executive authority comes from the Office of the Attorney General of Illinois. The Attorney General (AG) is a constitutionally established officer and is essentially the lawyer for the state. Although AG opinions are not law, they are viewed as highly authoritative sources 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 AG opinions, and courts often follow them. [Official opinions](#) are available on the state website from 1971 on and are keyword searchable. The AG also renders informal opinion letters, 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 does. 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 rules, create procedures for disputed cases, hold hearings, call witnesses, issue decisions, and more. And, like the states, federal agencies’ actions can be challenged in court. The federal administrative structure is larger than individual state structures, but researching federal administrative law often can be easier because sources are better organized and more available electronically.

Like with 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

the Freedom of Information Act and open government mandates. Most agency pages direct the researcher to underlying statutory authority, relevant regulations, cross-agency issues, and contact information, and they are growing increasingly user-friendly over time. 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, which is updated annually on a rotating schedule, and online. The official online version for the current year, and all years back to 1996, is found at govinfo.gov, the federal government's official website for government information. The C.F.R. can be updated unofficially by using the unofficial eCFR, which is current within a few days. Although the website 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: proposed regulations, notices of hearings, studies and reports, final regulations as soon as they are available, and more. Preambles to final regulations are published 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 if relevant, regarding the purpose and details of a rule. If regulations are challenged in court, preamble information can be important. For searching the *Federal Register* starting in 1994, the best option is federalregister.gov. The *Federal Register* is also found at govinfo.gov, which has the entire digitized run back to its creation in 1936. Old issues can also be found at many large public and university libraries, but the easiest way to search the *Federal Register* is with online sources.

For tracking or commenting on a rulemaking procedure, or researching a closed one, try regulations.gov. This website 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 website. You may need to check specific agency websites for this information, 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 or 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](#)

[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 [whitehouse.gov](#). Executive Orders are also available in the [Federal Register](#). Executive Orders from previous administrations are available from the [National Archives](#).

United States Attorney General

[Official opinions of the U.S. Attorney General](#) from 1977 on are available through 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 suggestions:

- The Law Librarians' Society of Washington, D.C.'s *Legislative Source Book*, available online at llsdc.org/sourcebook, contains an [excellent research guide for 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).