

Hi, this is Chris Micheli with the Sacramento governmental relations firm of Aprea & Micheli, and an Adjunct Professor at McGeorge School of Law in its Capital Lawyering Program. Today's podcast is looking at the different types of state agencies and their specific authority to engage in the rule-making process. Let's get started.

What are the types of state agencies? Keep in mind that I utilize the term "agency," but in this instance, it encompasses agencies, departments, boards, and commissions.

You might recall that there are over 200 of these rule-making bodies in the State of California at the state government level. There are three types of state agencies. They are the plural executive, independent agencies, and line authority agencies, let's define each one.

The plural executive agency, those are the agencies that have separate constitutional authority executive powers that are overseen by officials or boards that are elected statewide.

There are nine constitutional officers in the State of California, the Governor is the most widely known. Note that our Lieutenant Governor runs separately, that is, not on the same ticket as our governor.

The least known is probably the four members of the State Board of Equalization, and in between, we have a Secretary of State, a Treasurer, a Controller, an Attorney General.

California also has two unique statewide elected officials that are in most other states appointed by the Governor, but in California, they're elected statewide. Those are the Insurance Commissioner and the Superintendent of Public Instruction.

Again, the nine constitutional officers in the state, those are called plural executives. They all have executive powers that are enumerated in the Constitution and in state statute. The second type are independent agencies.

Now, these agencies have separate constitutional or statutory executive powers and they're independent, because they're not within the line authority of the Governor. Examples of these are the Public Utilities Commission, the University of California Board of Regents.

Let me give you an example. The Regents are appointed by the Governor and they're confirmed by the State Senate, but their terms of office are 12 years.

Of course, a Governor in the State of California cannot serve more than two, four-year terms, that is, eight years. You can see by serving a 12-year term on the UC Board of Regents that we clearly establish some independence given to the UC Board of Regents.

Now, the last type of agency is the line authority agency. The reason that we term them "line agencies" is because if you follow the line on a state organization chart, you'll see that they are on a line directly from the Governor, which means these agencies are under the direct control of the Governor. There are two major types.

There are again what we broadly call the agencies, here we refer to the specific agencies - from the Transportation Agency to the Natural Resources Agency. We have 11 of them in the State of California. Those agencies comprise the Governor's cabinet.

They are run by agency secretaries, as well agency under-secretaries, thereafter, there are deputy secretaries, and all of these individuals are appointed by the Governor and confirmed by the State Senate. The agency secretaries are the Governor's appointees and the members of his or her cabinet.

Under each of these dozen or so state agencies are a number of departments. All departments are headed by a director followed by a chief deputy director, and then there are a multitude often of deputy directors in charge of different areas within that individual department.

Those members of state departments, again, the director, the chief deputy, and one or more deputy directors are all appointed by the Governor and confirmed by the State Senate.

Now where can we find the key sources of regulatory information that these different agencies are undertaking? You can find them in two places. First is the wonderful website of the Office of Administrative Law, OAL, which is found at www.oal.ca.gov.

You can also find these sources of regulatory information on the websites of these individual agencies, departments, boards, and commissions. Of course, you can follow them in the CCRs, the California Code of Regulations.

What do we find on the OAL website? You can find proposed regulations that are currently under review by the OAL, proposed emergency regulations currently under review by the OAL. You can find the California Regulatory Notice Register, which is where all the notices go of rule-making.

You can find the actual California Code of Regulations, those 28 titles which embody all of our regulations. You can also find recent eight actions taken on proposed regulations by OAL.

In another section, you can find recent actions taken on proposed emergency regulations by OAL. You can find underground regulation petitions currently under review by the OAL. Last but not least, on the OAL website, you can find agency links to recently approved regulations.

Now as I mentioned before, those 200-plus agencies, departments, boards, and commissions must utilize and follow the state Administrative Procedure Act in their rule-making activities. California's APA contains a number of required procedures for rule-making and administrative hearings that are conducted by all these agencies and departments.

I should note that the APA is found at Chapters 3.5, 4, and 5 of the Government Code, which is Sections 11340 and those that follow. In addition, believe it or not, there are

quite a number of regulations that implement and interpret the APA. The APA-implementing regulations are found at CCR, Title 1, Sections 1 through 120.

Now, interested parties have significant access to and an ability to participate in the rule-making activities of state agencies by virtue of California's APA. In our next podcast, we're going to take a look at how the public participates in those rule-making activities.