

Hi, this is Chris Micheli with the Sacramento governmental relations firm of Aprea & Micheli and an adjunct professor at McGeorge School of Law. Thanks for joining today's podcast on the separation of powers doctrine in the state of California. Separation of powers, what is it? What does it mean exactly? Essentially, the powers of government are provided to separate branches of government to operate.

These powers are set forth in the California Constitution and are granted to the three branches of government: legislative, executive, and judicial. The separation of powers doctrine essentially provides that those who exercise power in one branch of government cannot exercise the powers of the other two branches of government.

The United States Constitution does not contain any express language dealing with the separation of powers of the federal government. On the other hand, California's separation of powers doctrine is set forth in Article III, Section 3 of the state constitution. Section 3 provides specifically that the powers of state government are legislative, executive, and judicial.

Persons charged with the exercise of one power may not exercise either of the others except as permitted by this constitution. In addition to the three articles of the state constitution dealing with the three branches of state government establish the specific and respective roles of the three branches. For example, Article IV, Section 1 of the California Constitution provides "the legislative power of this state is vested in the California Legislature, which consists of the Senate and Assembly, but the people reserve to themselves the powers of initiative and referendum."

Thereafter in Article V, Section 1, the state constitution provides "the supreme executive power of this state is vested in the governor. The governor shall see that the law is faithfully executed." In Article VI, Section 1 provides that "the judicial power of the state is vested in the Supreme Court, courts of appeal, and superior courts, all of which are courts of record." In the California Constitution, the three branches of state government are clearly established and their roles are specified.

As a result, the separation of powers can be readily ascertained, but the three branches sometimes operate in a manner that may overlap another branch's role in government. Essentially, separation of powers is a legal doctrine that refers to the division of governmental responsibility that is set forth in the constitution for the distinct role of each branch of state government. That also limits each branch from exercising the main functions of the other two branches of state government.

This doctrine also provides for our system of checks and balances, so that no branch has total control over the reins of state government. Despite the separation of core powers of government, in reality, there is some overlap because each branch does provide that check and balance. For example, in the legislative process, while the legislature writes and passes the bills, the governor can sign or veto those measures.

Once enacted the courts can validate or invalidate those laws passed by the Legislature and signed by the governor. In addition, while the courts generally interpret the laws, so too the executive branch, through its administrative agencies, will also interpret the laws and how they enforce them and by the means of adopting

regulations, that is exercising their quasi-legislative role, to implement the statutes that were enacted by the legislature.

When a state agency enforces the statute or gives meaning to the law, it exercises a quasi-judicial role, and therefore, partially overlaps, with the judicial branch's jurisdiction. That is the real work of the separation of powers doctrine here in the State of California. Thanks for joining the podcast. Hope you enjoyed it.