

## Administrative Law

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### What is Administrative Law?

- Body of Rules, Orders, and Decisions
- Administrative Agencies (Federal and State)
- Must have Enabling Legislation
- A Fourth Branch of Government

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### Two Types of Administrative Agencies

- Executive Agencies
  - Under President or Governor
- Independent Regulatory Agencies
- Not Directly Accountable to Legislative or Executive Branch
  - E.g., Securities and Exchange Commission

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## Source of Delegation Power to Administrative Agencies

- Article I, Section 8 of Constitution
  - Vest them with Rulemaking, Enforcement, and Adjudication Powers

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## Agency Investigations

- Subpoena Duces Tecum
  - Produce records
- Subpoena Ad Testificatum
  - Provide Testimony
- Search Warrants
  - Unless Industry Highly Regulated, such as Firearms or Alcohol

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## Agency Adjudication

- Formal Complaint Filed
- Administrative Law Judge
- Initial Order
- Final Order
  - may be appealed to Court

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## Limitations of Agency Power

- Judicial Controls
  - Standing to Sue
  - Actual Controversy
  - Exhausted Administrative Remedies
    - Defers to Agency as expert in finding facts
- Executive Controls
  - President or Governor appoints top officials
- Legislative Controls
  - Enabling legislation, budgets, freeze new rules

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## Public Accountability

- Freedom of Information Act (FOIA)
  - Requires Feds (and States with similar Legislation) to disclose informative with certain Restrictions and Guidelines
- “Sunshine” Legislation
  - Agency Meetings must be
    - (1) announced public
    - (2) open for public observation
    - certain exceptions

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