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# BASIC ADMINISTRATIVE LAW FOR PARALEGALS

FOURTH EDITION



Wolters Kluwer  
Law & Business

ASPEN PUBLISHERS

**Basic Administrative Law  
for Paralegals**

**Fourth Edition**

**Anne Adams**



**Wolters Kluwer**

Law & Business

AUSTIN BOSTON CHICAGO NEW YORK THE NETHERLANDS

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New York, NY 10011-5201

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Aspen Publishers  
Attn: Order Department  
PO Box 990  
Frederick, MD 21705

Printed in the United States of America.

1 2 3 4 5 6 7 8 9 0

ISBN 978-0-7355-7773-2

#### Library of Congress Cataloging-in-Publication Data

Adams, Anne, date

Basic administrative law for paralegals / Anne Adams. — 4th ed.  
p. cm.

Includes index.

ISBN 978-0-7355-7773-2 (pbk.)

1. Administrative law — United States. 2. Legal assistants — United States — Handbooks, manuals, etc. I. Title.

KF5402.A75 2009

342.73'06 — dc22

2009018403

# **Basic Administrative Law for Paralegals**

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## To Mary, Emily, and Mulligan

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# Preface

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Administrative law is valuable to all paralegals because administrative agencies interact with all of the other paralegal fields. Today's competitive professionals demand paralegals with knowledge and practical experience.

For the instructor, the teaching resources include reinforcement tools: fill-in worksheets, key terms crosswords, take-home exams, and research projects that may be completed in the book. There are also projects for library and Internet research.

To enhance the paralegal's legal studies, this revised text highlights the practical experience of Internet administrative agency websites with their individual news, rules, documents, and forms. There are also cites with documents in the *Federal Register* and access to court case decisions.

The readers of this textbook will discover well-thought-out reinforcement exercises to enhance their knowledge of administrative law. Readily available references to topics and pages ease the mastery of the subject. Also provided are exercises and examples of the practical aspects of the paralegal's work life. The Fourth Edition includes the updated **Electronic Workbook on CD**, as a classroom and home study aid. This workbook focuses on Internet-based exercises exploring laws, rules, and agencies. It also includes information on agency websites, agency organization, and possible career options.

There are several features in the text to further illustrate and explain administrative law. **STUDENT PRACTICE** is an enhancement exercise that may be performed in the classroom, as a written assignment or as voluntary practice for individual students. The **CONCEPTS JOURNAL** is a practical experience that enables each student to observe, analyze, and write on a pertinent topic in administrative law. The **ADVANCED STUDIES** is an entirely separate section at the end of each chapter that may be assigned in or outside of class. This expansive section offers a hands-on approach to documents and concepts and presents an opportunity for more in-depth study.

May 2009

Anne Adams



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# 1

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## Administrative Law and Administrative Agencies

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### ARTICLE ONE

*All Legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives . . .*

*The Congress shall have power to lay and collect taxes . . . provide for the common defense and general welfare of the United States . . . regulate commerce . . . **make rules for the government . . . make all laws** which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any Department or Officer thereof.*

—United States Constitution

### CHAPTER OBJECTIVES

Administrative law defines the legal powers of government agencies. Questions answered in this chapter include:

- What is administrative law?
- What is an administrative (government) agency?
- What are the major areas of administrative law?
- What are substantive and procedural laws?
- Why do legislatures create administrative agencies?
- What is an enabling act/statute?
- What are the powers of agencies?



## CHAPTER OVERVIEW

Congress may pass a new statute creating agencies (sometimes called departments or commissions) to solve problems. For example, to solve widespread environmental pollution, Congress passed a law in 1970 creating the United States Environmental Protection Agency (EPA). Prior to the creation of the EPA, environmental problems were handled by five different federal agencies. As part of the law creating the EPA, the Department of Agriculture's registration of pesticides and the Department of Interior's water pollution control programs became functions of the EPA. Modern agencies are often formed by transferring some of the powers in the statutes of established agencies to the new agency. The authority to register pesticides was contained in the statute creating the Department of Agriculture and transferred to the EPA through a reorganization plan within the law of 1970, which created the EPA.

A new agency, such as the EPA, then follows the established laws in its area of expertise (environmental protection for EPA) and develops new standards and makes new rules and regulations. Agencies on state and local levels operate in similar fashion; the state legislature passes a law creating the agency and the agency upholds laws in its area of expertise and makes rules and regulations to implement the laws. The laws creating agencies and the laws upheld by agencies are referred to as administrative laws; the government agencies as administrative agencies. Administrative law and administrative agencies are important in the daily operation of federal, state, and local governments for matters ranging from national defense to changing electric utility rates to licensing drivers.

### A. Explanation of Administrative Law

The laws that define the legal powers of government agencies and the limits of these powers are collectively called **administrative law**. The administrative law sets out the means agencies may pursue to apply these powers and the remedies people may seek if injured by an action or decision of an agency using these powers.

#### 1. Acts and Statutes

The administrative authority is derived from the **enabling act** (also called **statute** or **law**), which creates the agency. The enabling act defines the agency's role or mission. The Department of Agriculture was created