



*The Executive and Legislative
Branches: SS.7.CG.3.8*
**National Government:
Executive Branch**
READING #3

Name: _____

Date: _____



SS.7.CG.3.8 Benchmark Clarification 3: Students will explain the function of administrative agencies (e.g., advise, make regulations, enforce law and regulations).

The national government has many responsibilities to the citizens of the United States, and the three branches of government can't handle every issue. To mitigate this problem, **administrative agencies** perform specific functions and can be established by the U.S. Constitution, Congress, executive orders, state legislatures, and local lawmaking bodies. These agencies are usually organized under the executive branch and are often associated with a Cabinet position (i.e., the Secretary of Education heads the U.S. Department of Education).

The U.S. Constitution only mentions three branches of government: legislative (Article I), executive (Article II), and judicial (Article III). There is no mention of administrative agencies in the Constitution, but they are sometimes referred to as "the headless fourth branch of government."

The Supreme Court has determined that these agencies are **constitutional** and can make rules with the same authority as the statutes passed by Congress. However, Article I Section 1 of the U.S. Constitution **vests** all granted legislative powers in a Congress, and Article I Section 8 of the U.S. Constitution also includes the **Necessary and Proper Clause**, sometimes called the **Elastic Clause**, which grants Congress the power to make all laws that are "necessary and proper." Therefore, no administrative agency can exist without approval from Congress.

Administrative agencies exist at the national and state levels of government, with specific functions and powers. When Congress gives powers to an agency, the legislation is known as an **enabling act** or **enabling statute**; that broadly defines the task and responsibility the agency has been given that "enables" it to perform its functions. The concept that Congress can delegate power to an agency is known as the **delegation doctrine**.

There are also independent agencies created by Congress as part of the executive branch but are not under the president's direct control. Many of these are **independent regulatory commissions** the president appoints but cannot remove unless they violate something specified under the enabling statute.

Role of Administrative Agencies	
Function	Authority/Power
Legislative	rule-making authority to create specific regulations to help enforce a law.
Executive	authority to enforce regulations/rules, investigate, and prosecute those who violate regulations.
Judicial	authority to hear and settle disputes and issue adjudication .

Usually, an administrative agency will have all three kinds of power: executive, legislative, and judicial, but their power is not unlimited. The **Administrative Procedures Act** governs how administrative agencies propose and establish regulations (rules) and applies to both executive departments and independent agencies.

Differentiating Congress and Administrative Agencies	
Statutes	Regulations
<ol style="list-style-type: none"> 1. Passed by Congress 2. Provided for <i>broad</i> social and economic goals and legal requirements 3. Receive their power from the Constitution 4. Reviewed by courts to determine the constitutionality 5. Representative democracy – Congress acts to represent the will of the people 	<ol style="list-style-type: none"> 1. Issued by administrative agencies 2. Recommend <i>specific</i> legal requirements (regulations) to meet congressional goals 3. Receive their power from Congress 4. Reviewed by courts to determine constitutionality, limits of delegated authority, and whether they are unnecessary and impulsive 5. Participatory democracy – agencies must seek and consider public comment

Examples of Administrative Agencies		
Agency Type	National	Florida
Board	<ul style="list-style-type: none"> • National Labor Relations Board 	<ul style="list-style-type: none"> • Florida Board of Education
Commission	<ul style="list-style-type: none"> • Federal Communications Commission 	<ul style="list-style-type: none"> • Florida Fish and Wildlife Conservation Commission (FWC)
Corporation	<ul style="list-style-type: none"> • Federal Deposit Insurance Corporation (FDIC) 	<ul style="list-style-type: none"> • Florida Division of Corporations
Authority	<ul style="list-style-type: none"> • Tennessee Valley Authority 	<ul style="list-style-type: none"> • Florida Space Authority (FSA)
Department	<ul style="list-style-type: none"> • U.S. Department of Transportation • U.S. Department of Justice • U.S. Department of Education 	<ul style="list-style-type: none"> • Florida Department of Children & Families • Florida Department of Education • Florida Department of Corrections
Administration	<ul style="list-style-type: none"> • Social Security Administration (SSA) • Drug Enforcement Administration (DEA) 	<ul style="list-style-type: none"> • Agency for Health Care Administration (AHCA)
Agency	<ul style="list-style-type: none"> • Central Intelligence Agency (CIA) • Environmental Protection Agency (EPA) 	<ul style="list-style-type: none"> • Florida Agency for Workforce Innovation (AWI)
Service	<ul style="list-style-type: none"> • United States Marshall Service 	<ul style="list-style-type: none"> • Florida Forest Service • Florida Digital Service
Bureau	<ul style="list-style-type: none"> • Federal Bureau of Investigation (FBI) • Federal Bureau of Prisons • Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) 	<ul style="list-style-type: none"> • Bureau of Real Estate Services • Bureau of Educator Certification (BEC)

adjudication - an agency action with the force of law that resolves a claim or dispute between specific individuals in a specific case

administrative agency – an agency established by the U.S. Constitution, Congress, executive orders, state legislatures, and local lawmaking bodies to perform a specific function

Administrative Procedures Act – an act passed by Congress that governs the process by which federal agencies develop and issue regulations

constitutional - something that is in agreement with the U.S Constitution

Delegation Doctrine - a principle limiting Congress's ability to transfer its legislative power to another governmental branch, especially the executive branch.

doctrine - the principles in a system of belief

Elastic Clause - the power of Congress to pass all laws they deem necessary and proper for carrying out its enumerated powers (also known as implied powers)

enabling statute – a statute that establishes the powers and responsibilities of a government agency; also known as “enabling act”

independent regulatory commission - federal agencies that have been established by Congress to have a certain amount of independence from the President.

regulation - a rule that a government agency makes to enforce a law

vested – having an absolute right or title to something