

A Guide to Careers in Administrative Law



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Acknowledgements

Many thanks to all of the students, alumni, faculty, Wasserstein Fellows, and others working in the administrative law field who shared their thoughts, experiences, and expertise with the authors: Angela Brooks, Danny Chou, Abigail Elias, Mark Freeman, Janeen Hayat, Brandon Hofmeister, Evan Hochberg, Blan Holman, Michael Kirkpatrick, Ross Kirschner, Kamaria Kruckenberg, John Lavinsky, Rebecca Leventhal, Craig Levine, Shawne McGibbon, Stephanie Martin, Quentin Palfrey, Sabeel Rahman, Todd Rakoff, Nate Sabel, Marilyn Sager, Glen Shor, Judith Starr, Janice Steinschneider, Julie Straus, Karen Timberlake, Karen Tseng, and Joseph Wender. We could not have written this guide without your valuable input. We are especially grateful to Judith Starr, Karen Tseng, Mark Freeman, Brandon Hofmeister, and Michael Kirkpatrick, who contributed personal narratives. Finally, the authors would like to thank Catherine Pattanayak for providing advice, support, resources, and feedback during the writing of this guide.

CHAPTER 1

ADMINISTRATIVE LAW

WHAT IS ADMINISTRATIVE LAW?

In his work with the Southern Environmental Law Center, **Blan Holman** advocates preserving and strengthening the regulations that protect our environment. **Judith Starr '85**, General Counsel of the Pension Benefit Guaranty Corporation, helps ensure that retirees receive their due benefits from private pension funds. **Craig Levine**'s role as Senior Counsel and Policy Director at the New Jersey Institute for Social Justice allows him to push for improvements to the juvenile justice system. **Karen Tseng '05** of the Massachusetts Attorney General's Office works to protect consumers from deceptive products masquerading as health insurance. What do these public interest lawyers, working in different settings and issue areas, have in common? All of them use the tools of administrative law to effect positive change in policies and regulations.

Although most people do not realize it, administrative law affects our lives in numerous ways. Administrative law comes into play at any point where a government agency steps in to alter the legal rights of citizens, corporations, or other entities.¹ It influences the formation of rules that govern everything from food labels to public benefits to nuclear waste disposal.

Administrative law refers generally to the laws and legal principles governing the creation, administration and regulation of government agencies at the federal, state, and local levels. It is essentially “the powers granted to administrative agencies, the substantive rules that such agencies make, and the legal relationship between such agencies, other government bodies, and the public at large.”² Federal, state, and local agencies are granted their power by Congress, state legislatures, or city councils, through statutory law under which regulations are then promulgated. In other words, it is the job of federal, state, or local legislative bodies to come up with statutory law (which is inherently abstract and general), following which the pertinent agencies promulgate more specific and pragmatic regulations. Government agencies must draft and execute their regulations without stepping outside of Constitutional parameters or statutory law.

“Administrative law...[controls] how government operates. It’s how these various agencies—the SEC, NLRB, DOL, etc.—are supposed to [function].”

~ **Professor Todd Rakoff**,
Harvard Law School

To further understand this sometimes confusing practice area, it may be helpful to consider an analogy to the process of constructing a bridge. Government agencies draft rules to regulate the areas of activity that fall under their jurisdiction. These rules serve as the bridge that connects the

¹ Keith Werhan, *Principles of Administrative Law* (2008), p. 2.

² Cornell Law School, “Administrative Law,” http://topics.law.cornell.edu/wex/administrative_law.

broad objectives of statutes on paper to the specific realities of the outside world. Administrative law is like the blueprint for the bridge, dictating the angle at which each beam must sit and the order in which each support should be laid. That is, it prescribes how agencies must write their regulations and incorporate public input. Policymakers in government agencies are the architects who envision the final result (what the bridge should look like), while administrative lawyers are the engineers who make sure that the structure adheres to protocol and is sound and stable.

One of the statutes that codify the limits of governmental agency action is the Federal Administrative Procedure Act (APA). This act is the major source for federal administrative law, and parallel acts exist at the state and local levels. The APA ensures a certain degree of uniformity and openness in the rulemaking procedures used by federal agencies. For example, the APA demands that agencies go through what is called Notice and Comment Rulemaking. During this process, federal agencies first publish proposed rules and regulations in the *Federal Register* journal, a serial akin to “the government’s official newspaper,” according to HLS **Professor Todd Rakoff**. For a period of time after this initial notice, the agency welcomes public comments. Afterwards, having reviewed all of the comments and made changes, the agency publishes a final rule or regulation in the *Code of Federal Regulations*. The various steps mandated by the APA and its parallel procedural laws at the state and local level provide a multitude of entry points and opportunities for lawyers to shape, critique, challenge, and defend administrative action.

The purpose of this guide is to provide you with a sense of the range of career opportunities in administrative law. Because administrative law applies to so many substantive areas in every branch and level of government—and draws the energies and attention of outside advocacy organizations—the roles of lawyers involved in this field are incredibly diverse. As a result, while there are few who would call themselves strictly administrative lawyers, it is likely that most government lawyers, and many outside government as well, do work related to administrative law at some point in their careers.

The first half of this guide describes different types of administrative law practice; the second provides tips and suggestions for making yourself a competitive candidate in the administrative law hiring arena. Throughout the guide, you will find insights from lawyers in various government and non-governmental practice settings. The lawyers featured in this guide all work with diverse facets of administrative law, ranging from the promulgation and enforcement of regulations to writing policy and conducting investigations of regulatory violations. Each of these practitioners will offer a different perspective on the role of administrative law in federal, state, and local government as well as in nonprofits and private public interest firms. We hope that the personal stories and practical advice of these administrative lawyers will provide a helpful introduction to careers in this important and diverse field.

ROLES OF AN ADMINISTRATIVE LAWYER

Administrative lawyers work in a wide variety of capacities, spanning multiple levels and branches of government and a host of extra-governmental organizations. Those who write agency regulations might be the most likely to call themselves administrative lawyers, but practitioners of administrative law may also fill a multitude of other roles, including analyzing and commenting on proposed rules and prosecuting, defending, or adjudicating cases involving regulations or their violation.

Writing Regulations

The process of rulemaking, or writing agency regulations, is the activity most typically associated with administrative law. There are perhaps tens of thousands of rules and regulations issued by federal, state, and local agencies. While some of the more routine regulations have been written by non-lawyers filling in an approved template, most new regulations require the special attention and legal expertise of administrative lawyers working in the agency. Lawyers seeking to write regulations must develop excellent legal drafting abilities in order to pursue this career path.

Counseling Agency Staff and Officials

Administrative lawyers may also provide legal advice to agency staff and experts to ensure that proposed rules are lawful, logical, and substantively correct. Administrative lawyers in regulatory counsel positions, for instance, work alongside scientists and other technical experts to assist them in formulating the first draft of new regulations. Those agency staffers charged with developing or modifying agency policy within the constraints of relevant statutes require the assistance of lawyers familiar with proper legal protocol and phrasing. These administrative lawyers help agency policymakers ensure that their policies will actually have the desired effect. Think back to the metaphor of the bridge: while the agency's policy "architects" may know what they would like the bridge to look like, it is up to the lawyer "engineers" to ensure that it will stand up and hold weight.

"[In drafting regulations,] you have the substantive expert who puts in the substance, and we [the regulatory counsel] make sure it says what they mean it to say."

~ Janice Steinschneider '88,
Regulatory Counsel,
FDA Center for Veterinary Medicine

Commenting on Regulations

Those involved in administrative law may also take part in commenting on regulations. According to the APA, there must be a period during which a proposed regulation is made available for public comment. This is an important process that provides an opportunity for interests outside the government itself to lobby for particular modifications to proposed rules. During the comment period, anyone, including private firms and NGOs, can submit desired changes to proposed agency rules before they are made final. Even before the proposed regulations are made public, however, internal comments and modifications will be incorporated into the rule. The Office of Management and Budget (OMB), for instance, submits its own set of comments to any agency seeking to promulgate a rule. Thus, there are significant opportunities in the OMB for administrative lawyers to analyze proposed rules and address any legal, practical, or constitutional problems they see. Commenting on regulations—whether to ensure their legal soundness or to promote a particular policy agenda—is a significant part of administrative law practice.

Organizing Regulatory Hearings

As part of the "Notice and Comment" phase of rulemaking, agencies must sometimes, though not always, hold hearings to allow parties affected by or otherwise interested in a new or revised

regulation to provide their feedback. Young administrative attorneys might also take part in organizing these regulatory hearings. This type of work could involve preparing the hearing notice, authoring an agenda, publicizing the hearing, or reaching out to important interest groups affected by the proposed rule.

Analyzing Public Comments

After the public comments have been submitted, agency lawyers will take part in assessing this feedback on the proposed regulations. Agency lawyers will have to consider both the policy implications and the legal feasibility of incorporating recommended changes. Once the agency has updated the rule in response to public input, the OMB will again review the rule, now in its modified form, before the rule is officially published and promulgated.

Investigation and Oversight

There are also opportunities for lawyers to conduct investigations: on both oversight and investigative committees on Capitol Hill, in state legislatures, and within an agency inspector general's office. One of the tasks of the inspector general's office is to make sure that government departments and agencies are interpreting and utilizing administrative regulations correctly. For example, the Department of Justice's Office of the Inspector General may investigate the FBI's counterterrorism program to see if it is complying with the statutory limitations Congress has mandated for the FBI. On the legislative side, administrative lawyers working with, for example, the Senate Select Committee on Intelligence, would also monitor the FBI and other intelligence-gathering bodies through investigations and hearings. Oversight positions allow lawyers to take part in large scale investigations, helping to review documents, conduct depositions, interview witnesses, and write up reports.

Challenging or Defending Agency Regulatory Action

Aspiring trial lawyers will find that administrative law offers opportunities to challenge or defend agency regulatory action or inaction via litigation. If an agency's rulemaking oversteps the bounds set by statutes, or if, conversely, the agency fails to enact adequate regulations, outside parties can challenge the agency in court. Potential challengers might include private entities like corporations, or non-profit groups and associations who are advocating for their members' interests through the regulatory process. Many of these non-profits or associations will have counsel who can take legal action if they believe agencies are exceeding their statutory or constitutional limits, or not functioning according to their legal mandates. On the other side of the litigation, agency counsel or Department of Justice (DOJ) attorneys will be charged with defending the agency from outside challenges.

Prosecuting or Defending Regulatory Violations

After rules have been promulgated, it is up to the agencies—as well as to DOJ or the state Attorney General's (AG's) office—to enforce those regulations. Agencies must monitor the entities that they regulate in order to ensure regulatory compliance. Just as with statutory law, violations of administrative law can result in suits that require lawyers on both sides. Although prosecution work

is generally carried out by trial lawyers from DOJ or state AG's offices, it is often up to the administrative lawyers to prepare the case, discuss settlement, and arrange the witnesses.³ **Nate Sabel '05** works with the Office of Criminal Investigations in the Food and Drug Administration. "I'm primarily a criminal litigator," says Sabel. "I help...investigate and bring federal criminal cases against corporations and individuals in violation of federal food and drug law."

Participating in Administrative Hearings

Administrative lawyers may also focus on representing their agency, special interest association, or client in administrative hearings. Parties who believe that the agency's rules were applied to them unfairly can request a hearing before an Administrative Law Judge (ALJ) affiliated with that agency. During these hearings, administrative lawyers can represent either the agency or the affected individual, company, or organization. This is one area of practice in which private public interest firms might become involved in administrative law (for example, by representing plaintiffs in cases of benefits denial).

Serving as an Administrative Law Judge

Administrative Law Judges (ALJs) bear the responsibility of adjudicating within the agency in cases where outside parties challenge the application of agency rules. Although they are agency employees, they are designed to be independent actors who must resolve disputes between government agencies and those affected by agency decisions. ALJs may work at the federal or state level. Their tasks include administering oaths, issuing subpoenas, handling depositions, managing the hearings, holding conferences between the parties, and, ultimately, making either a decision or a recommendation, depending on their specific powers in the agency context.⁴

WHY WORK IN ADMINISTRATIVE LAW?

From the foregoing list of roles, it should be clear that because administrative law intersects with almost any kind of government work—in addition to affecting private corporations, NGOs, and other actors—there are countless possibilities for attorneys to engage with aspects of this field. But why choose administrative law? Careers in this area carry a number of advantages that make them an attractive option for law graduates. Both the qualities of the job itself and the good work-life balance it typically permits give administrative lawyers just cause to praise their practice area.

Importance of the Work

A position in administrative law offers students and graduates the opportunity to conduct work of great significance to society at large. Administrative lawyers serve the critical function of interpreting statutes—which, as a result of political compromise required for passage, may be somewhat vague—

³ James T. O'Reilly, *Careers in Administrative Law and Regulatory Practice* (2010), p. 8.

⁴ David H. Rosenbloom, *Administrative Law for Public Managers* (2003), pp. 101-102.

and transforming them into specific rules that determine how the original statutes will actually affect citizens. “[In administrative law,] we’re talking about what agencies in the U.S. government have the power to do,” says **Mark Freeman ’03**. “The agency has made some kind of a determination—a grant or denial of benefits to a person, or a rule that’s going to affect millions of people, and the question is whether they had the power to do it.... [T]hat’s important by definition,” Freeman points out.

The regulatory functions of agencies have great power to improve the lives of citizens, if properly executed. This means that the role of the administrative lawyer is crucial. As **Abigail Elias ’76** of the Ann Arbor City Attorney’s Office puts it, “Every level of government needs the best legal services possible. ...The better the [legal] services, the better the services the government entity will be able to provide, and the better the quality of life in that community.” Implementing effective regulations can be an extremely rewarding enterprise, as **Janice Steinschneider ’88**, with the Center for Veterinary Medicine at the FDA, notes. Steinschneider says that that the public service aspect was what drew her to work in government and rule-making in the first place. “If someone is selling a product that is hurting people,” she explains, “I like taking it off the market.”

Quality of the Work

Administrative law work, especially in government settings, can expose young lawyers to a broad array of issues and a high level of early responsibility. **Ross Kirschner**, formerly with the Senate Permanent Subcommittee on Investigations, believes that, in this line of work, “You get a significantly greater amount of responsibility at a younger age than you would at a firm.” **Evan Hochberg ’04** of the New York City Law Department explains that “at the same time you get exposure to a very broad set of issues, there is also an ability to really get things done, by being a part of an endeavor that strives for a clear goal.”

Mark Freeman ’03 remarks that his work in the Civil Appellate section of the Department of Justice is “absolutely fascinating.” Working in DOJ’s Civil Appellate section, or in many other positions that involve administrative law, allows young lawyers to manage and lead their own legal work. After only six years at DOJ, Freeman has already argued over 30 cases before federal courts of appeals. Says Freeman, “What I do every day is not write stuff for other people, but rather I write briefs and make strategic decisions about my [own] cases.”

Julie Straus ’07 of DOJ’s Federal Programs Branch, which defends federal agencies in suits challenging their administrative action or inaction, also believes that the quality of work is what attracts so many people to the field. She remarks that, while there are always several sources of support in your office or people reviewing your work to give you feedback, there is also a lot of responsibility on the shoulders of young attorneys. “Young attorneys come here because they don’t want to write memos for mid-level associates,” Straus comments. “They want to jump right into legal work.” **Stephanie Martin ’87** of the Federal Reserve Board concurs. “In a big firm,” she says, “you might not be as involved in the upper level conversations, but I think you get more

“Young attorneys come here because they don’t want to write memos for mid-level associates—they want to jump right into legal work.”

~ **Julie Straus ’07**, Department of Justice Federal Programs Branch

opportunities to do that in a government agency.” For attorneys looking for high levels of responsibility and in-depth legal work, as well as the opportunity to be involved with a field that affects the lives of millions of America’s citizens, administrative law may be an exciting and rewarding career path.

Diversity of Issues

Because of the breadth of the administrative law field and the sheer number of government agencies that must write, assess, and defend their regulations, administrative advocacy work embraces a vast spectrum of issue areas. Administrative law is not inherently connected to any particular substantive area—rather, it can be and is applied to every field. From entertainment and communications, to food and medicine, to banking and finance, to intelligence and security, every substantive issue area imaginable interfaces with administrative law. The diversity of issue areas within and among government agencies and advocacy organizations is a very attractive feature of administrative practice.

While some agencies have a narrow substantive focus, others cover a wider swath. The Office of Management and Budget (OMB) is one example of a government office that encompasses a diverse set of issues. **Rebecca Leventhal ’11**, a former summer intern at the OMB Office of the General Counsel, comments:

You really confront a diversity of issues in OMB. You are able to focus on certain questions and procedures with respect to certain areas (e.g., budget and regulation questions), but you are also exposed to a whole host of issues because you see budget questions across the agencies. You also see all sorts of regulation questions, and you see executive orders of every sort of substantive area. So while some of the areas are familiar, you also are getting to answer many new questions and learn new things.

For students and young attorneys who value issue area diversity at their workplace, administrative law might be an ideal practice area.

Substantive Areas of Interest

Administrative law practice also affords many opportunities for lawyers to specialize in and pursue particular substantive issue areas—such as education, health, or the environment—that especially interest them. According to **Joseph Wender ’08**, administrative law work on the Hill allows attorneys to focus on any area of interest they desire. He explains that “there are opportunities to work on a substantive area of interest because on the Hill you have *every* issue. Congress legislates on everything—labor, education, foreign affairs policy, etc.” Similarly, state legislatures and local government bodies also address many specific issue areas in their statutes and regulations. **Abigail Elias ’76** explains that, in her work with the Ann Arbor City government, “there is a lot of diversity of topics and issues, but within municipal offices each attorney can generally specialize in one, a couple, or a few substantive areas of municipal law.”

For those interested in non-profit work, **Kamaria Kruckenberg ’08** with the Poverty & Race Research Action Council (PRRAC), observes that, even in her smaller organization, there is usually

flexibility in the types of work that staff members can do. She explains that she has been able to focus on her significant interests, such as civil rights, constitutional law issues, and traditional racial justice issues.

Conversely, lawyers who pursue their passion in a specific policy area will often find that their work intersects with administrative law. **Janice Steinschneider '88** thinks that, sometimes, “people forget that lawyers aren’t just lawyers but often have training in something else.” **Blan Holman**, senior attorney with the Southern Environmental Law Center, says, “I wanted to practice public interest environmental law in the South... I was drawn to administrative law because I was practicing environmental law.” Thus, for those seeking work in a specific substantive area of interest in the administrative law field, it might make sense to gain internship and coursework experience in that issue area, and then pursue work in government agencies or non-governmental organizations focused on that same set of issues. Honing your interests is important both for deciding which issue areas or positions to pursue and for becoming a competitive applicant for a substantively-focused government agency or NGO position.

Quality of Life

Generally speaking, administrative law practice offers a high quality of life. **Mark Freeman '03** explains that the quality of life in his position is certainly better than in private practice: “While I don’t get paid as much as a lawyer at a big law firm in DC, I leave at 5:00 PM every day and am able to pick up my kids from daycare and spend time with them and my family.” **Kamaria Kruckenberg '08** comments that one of the main advantages of her work is the flexibility in scheduling hours: “I’m really happy to be on this side. For me working in a firm was never something I considered because it wasn’t a sustainable lifestyle for me.”

There are, of course, administrative law positions with long hours, remarks **Ross Kirschner** of his work on the Senate Permanent Subcommittee on Investigations, but he explains that “administrative work is something people truly enjoy and find fulfilling; moreover, when there are long hours this means that something important is going on, which is motivation in and of itself to stay late at work.” **Evan Hochberg '04**, with the New York City Law Department, concurs that the quality of life is generally good. He explains that “while we work very hard and people [in the law department] are committed to their work, people here do have families with young children and balancing work and private life tends to be very easy.”

Flexibility in Practice

There is a common misconception that practice in administrative law only involves drafting regulations in government agencies under the APA and similar state laws. On the contrary, administrative law practice allows for a wide range of work, at all levels of government, as well as in the non-governmental and private sectors. While those practicing administrative law do often work on rulemaking, there are also countless opportunities in counseling government agency staff and administrative officials, commenting on others’ regulations, organizing regulatory hearings, and analyzing public comments on proposed regulations. Additionally, lawyers can litigate, challenging or defending agency regulatory action (or inaction), as well as prosecuting or defending regulatory violations.

Another way in which the administrative law field is very flexible is that it permits administrative lawyers, if they so choose, to work in a variety of settings throughout their career. Because the basic principles of administrative law remain constant across different agencies, and because skill sets of administrative lawyers—writing, advising, litigating—are highly transferable, administrative law allows its practitioners to shift jobs from agency to agency, between executive and legislative practice, from federal to state or local settings, or from government to non-profit or private practice.

Geographic Flexibility

The flexibility in practice also translates into geographic flexibility for administrative lawyers. Administrative lawyers practice everywhere that government—federal, state, or local—can reach. For this reason, an administrative law career can truly take you anywhere in the United States.

“[A]lthough most administrative lawyers work and live around D.C.,” explains **Abigail Elias ’76**, “every level of government needs the best legal services possible.” There are positions available in executive offices, legislatures, and agencies in every state. State Attorneys General’s offices offer opportunities beyond the federal Department of Justice to practice government litigation. Local government inherently provides unparalleled geographic flexibility. Just like the federal and state governments, local governments have an array of agencies and offices, such as city attorney offices, city councils, city offices of the inspector general, and city law departments, among others. While geographic connections might be a necessary hiring qualification in smaller municipalities, cities with large legal markets such as New York and San Francisco attract lawyers from all over the country and the world.

If federal work especially compels you, there are U.S. Attorney’s Offices and regional outposts of most other federal agencies—the Federal Trade Commission, the Department of Labor, the Environmental Protection Agency, and the Internal Revenue Service, to name a few—in districts all over the country. Similarly, non-governmental groups and advocacy organizations need not be based in Washington, DC, yet can still interact with federal, state, or local government and thus intersect with administrative law.

Psychological Rewards

Those who practice administrative law for the government, a non-profit organization, or a private public interest firm enjoy the psychological rewards that often accompany public interest work. As **Mark Freeman ’03** explains:

The advantage of practicing administrative law is the reality of public service. It is its own reward. At the DOJ you are representing what the government and your client agencies believe to be the public interest, not a narrow interest of some particular corporation that doesn’t like a rule. This is what is better for the American people, and while you may not agree with your [government agency] client, you are [working] in the cause of what people believe to be the public good.

Administrative lawyers need not practice in government in order to reap the psychological rewards of working in the public interest, however. **Blan Holman** of the Southern Environmental Law

Center also finds his work highly rewarding. “Our cases can have a real impact on resource protection,” he says. “[T]hat is satisfying.”

Abigail Elias ’76, who works in municipal administrative law, says, “The best part about the work is the fact that the job is in the public sector so the work done benefits the community by assisting the City government and staff in their mission to provide services efficiently and effectively.” The ability to engage profoundly in a wide range of issue areas affecting the public interest, coupled with reasonable hours and a flexible work schedule, makes administrative law a highly desirable field for young attorneys to pursue.

CHAPTER 2

CAREER OPPORTUNITIES IN FEDERAL GOVERNMENT

Both the executive and the legislative branches of the federal government offer numerous opportunities for lawyers to engage in administrative practice of one kind or another. From drafting regulations to conducting oversight and investigations into agency practices, the activities of federal government administrative lawyers are many and varied.

Quick Tip: Remember that federal employment does not always require relocation to Washington, DC. Administrative lawyers may also work in the regional offices of many federal agencies.

EXECUTIVE BRANCH

High-level Executive Office: Office of Management and Budget

The Office of Management and Budgets is a Cabinet-level office and the largest office within the Executive Office of the President of the United States. Its primary mission is to assist the President in overseeing the preparation of the federal budget and to supervise its administration in Executive Branch agencies. In order to formulate the President's spending plan, the OMB evaluates the effectiveness of agency programs, policies and procedures; it also assesses competing funding demands among agencies and helps set funding priorities. Furthermore, the OMB ensures that agency reports, rules, testimony, and proposed legislation are consistent with the President's budget and with Administration policies. Finally, the OMB manages and coordinates the Administration's procurement, financial management, information, and regulatory policies. The goal of the OMB's work is to help improve administrative management to reduce any unnecessary burdens on the public.

The Office of Management and Budget exposes interns and graduates to just about every issue area in federal government. The OMB's Office of General Counsel (OGC) has five primary areas of responsibility: 1) overseeing the federal budget; 2) overseeing management issues; 3) reviewing regulations (e.g., working with the Office of Information and Regulatory Affairs); 4) reviewing legislation; and 5) writing executive orders. "OMB is a fascinating place," says **Rebecca Leventhal '11**, a former intern at the OMB OGC. She explains:

I was drawn to OMB because it touches on just about every substantive issue that the Federal government is doing. My work involve[d] several projects, mostly dealing with major policy initiatives of the Administration that OMB is working on in coordination with the agencies. I ...also had a fair amount of involvement in the budget process, which ... involved revising OMB guidance budget proposals and budget implementation. Finally, I ...worked on writing executive orders, analyzing novel budget questions, and reviewing proposed rules. ...I think it is amazing what an enormous effect decisions on budget questions or rulemakings can have on so many people. It is really interesting to think about the implications of different

decisions and how one effort intersects with or complicates so many legal questions across the administration of the federal government.

Another division of the Office of Management and Budget that offers exposure to administrative and regulatory practice is the Office of Information and Regulatory Affairs (OIRA). **Sabeel Rahman '12**, a summer 2010 intern at OIRA, describes the OMB as a “regulatory traffic cop before the Notice and Comment process and before the final rule is published in the *Federal Register*.” He describes the role of OIRA as follows:

OIRA reviews proposed agency rules and regulations from a policy stand point as well as for overall impact analysis. When presented with a proposed regulation, OIRA acts as a traffic cop, figuring out what the rule is and what are the possible legal or policy issues. Essentially, they figure out who has equity at stake so that they can involve them and not step on anyone’s foot. So we loop in relevant voices in OMB and the White House, as well as other agencies.

After the rule is circulated around the OMB, other agencies, and White House bodies, the agency collects their comments in order to correct any major problems with the proposal before the Notice and Comment period. After they do so, the rule is then published in the *Federal Register* for the official Notice and Comment period mandated by the APA. “[W]hen the agency fixes the proposed rule after the Notice and Comment period,” Rahman explains, “it is then circulated again within OMB for commenting before it can be published as a final rule or regulation.”

Entry-level attorneys in OIRA would most likely work as “desk officers”—OIRA representatives who act as a link between OMB and each of the other agencies. Sabeel Rahman describes the position:

Each staff person works with an agency, and this is a fluid roster which rotates frequently as there are issue or personnel changes. As a desk officer for an agency, you’re the point person for that agency when OIRA wants to know what the agencies are up to. When an agency is working on a rule, ...they know that you [as the desk person] will be the one running the review of the rule and negotiating changes. You are essentially shepherding the review process along, scheduling meetings, circulating the rule, and writing the comments.

Lawyers considering a position at OIRA should bear in mind that the work is often much more policy-oriented than legal. While OIRA staffers do screen legal issues, and might consult with the OMB OGC, they tend to review regulations from a policy standpoint, bearing in mind the broader directives of the current Administration. However, for entry-level attorneys seeking a position with a lot of responsibility and a fluid roster of issue areas and agencies with which to work, OIRA might offer an ideal internship or job opportunity.

“[I]t is amazing what an enormous effect decisions on budget questions or rulemakings can have on so many people.”

~ **Rebecca Leventhal '11**, Office of Management and Budget OGC Intern

In-house Agency Counsel

Work within a federal agency might be considered the center of the administrative law world. According to an HLS alum who works for a federal government agency, “anyone in a government agency at one point or another has to deal with administrative law, particularly if you work on rule making, which the great bulk of us do.” In these positions, issues of administrative law arise on a daily basis. What is this rule? What is its proper interpretation? What is exempt from notice and comment under the APA? What is good cause under the APA? Student interns and attorneys will confront these questions—and carry out other tasks such as counseling agency officials, investigating and prosecuting regulatory infractions, or helping defend the agency in judicial or administrative hearings—if they choose to pursue government agency work.

Stephanie Martin ’87, Associate General Counsel at the Federal Reserve Board, participates in a broad range of rulemaking responsibilities in the area of banking and financial services. Her work encompasses rules that govern banks and bank holding companies, as well as mortgages and credits cards. The Board also regulates the government check and wire transfer system and international banking activity of U.S. and foreign banks on American soil. Martin describes her job as a “whole alphabet soup of financial services and banking rule making.” Almost all of these rules go through the APA rule making process, where they are put out for comments, the comments are considered, and a final rule is published. As Martin’s work demonstrates, the APA issues that students learn about in law school actually do arise in the core of the rulemaking process.

However, while agency positions involve almost continuous work on regulations, promulgating new rules is only one component of agency efforts. As an attorney for an agency, you will often be confronted with issues related to rules that are not currently in the drafting stages. The interpretation of existing rules and the execution of enforcement actions against companies, banks, and other non-governmental entities that violate rules also constitute daily activities for some agency attorneys.

Nate Sabel ’05, who currently works as a criminal litigator for the FDA’s Office of Criminal Investigations, conducts investigations and brings federal criminal cases against corporations and individuals in violation of the Federal Food and Drug Act. He explains that administrative rulemaking is increasingly infrequent for the FDA, with the exception of the implementation of recent tobacco legislation, and that much enforcement work is based on rules that have been in place for some time. There have been some recent clarifications to FDA regulations, but major rulemaking generally occurs only when there is new legislation requiring it. Thus, when considering agency internships or post-graduate work, students and attorneys should reflect on what work types most interest them—whether that means rulemaking, revisions of regulations, or enforcement activities—and choose their agency accordingly.

Quentin Palfrey ’02, as the Deputy General Counsel for Strategic Initiatives at the Department of Commerce, assists the General Counsel in overseeing a large law department and interpreting legislation from which regulations are promulgated. The broad mandate of the Commerce Department means that lawyers and policymakers within it must create and promulgate regulations across a vast spectrum of issue areas. “The Commerce Department is huge,” Palfrey explains:

We have...a series of subunits within the Commerce Department...the Patent and Trademark Office and the International Trade Administration, the National Oceanographic and Atmospheric [Administration], the Census—we have all of these

agencies that fall under the Commerce secretary. [E]ach of those entities...house their own regulatory authorities, which we oversee. So we regulate fisheries, for example, under the responsibilities of the National [Oceanographic and] Atmospheric [Administration], but we also regulate export controls under the Bureau of Industry and Security.

Thus, in a large department with such wide-ranging responsibilities, the OGC helps perform quality control and “crisis problem management,” while also overseeing the legislative and regulatory efforts of the Department.

Smaller federal agencies, too, offer some unique opportunities for engagement with the administrative law field. **Shawne McGibbon**, now General Counsel of the Administrative Conference of the United States, a fifteen-person federal agency that consults with other agencies to improve administrative and operational procedures, found her passion for administrative law while working in the Office of Advocacy in the Small Business Administration. The mission of the Office of Advocacy, she explains, “was to monitor federal agencies’ compliance with the Regulatory Flexibility Act, the law that requires federal agencies to assess the impact of their regulations on small business before they promulgate them. So without undermining their [the agencies’] regulatory objectives, the idea is to create less burdensome alternatives for small businesses to comply with.” McGibbon initially worked as the Chief Counsel’s sole adviser on food, drug, and health regulations. “So that meant,” she explains, “that I monitored all of the regulations that came out of HHS and FDA and USDA and the Consumer Product Safety Commission—you name it. It was a lot of regulations. I probably reviewed over five hundred regulations annually.” Nevertheless, the psychological rewards of this work more than compensated for the large volume of regulation reading, says McGibbon:

“I would get calls from small business owners [saying,] ‘You’re my hero!’”

~ **Shawne McGibbon**,
General Counsel, Administrative
Conference of the United States

I found it immensely rewarding. I had an opportunity to work with small businesses directly; I worked with their trade association representatives; I worked with people throughout the federal agencies in my area of work; I worked with the highest level officials in the Office of Management and Budget in their regulatory shop [OIRA]. And I found that I was able to make a huge difference. ...I would get calls from small business owners [saying,] ‘You’re my hero!’

McGibbon’s experiences are just one example of how smaller or less well-known federal agencies can offer excellent opportunities for their agency counsel to participate in the administrative and regulatory processes. If you are interested in federal agency work, you should investigate the full A to Z list of federal agencies at http://www.usa.gov/Agencies/Federal/All_Agencies/index.shtml.

In sum, the work of an agency attorney puts him or her into daily contact with statutes, regulations, and administrative procedures. For those whose interests lie in pure administrative law, positions with an in-house agency counsel might offer the best opportunities for rulemaking and promulgating regulations, in addition to advisory and enforcement roles.

Government Litigation: The Department of Justice

The primary responsibility of DOJ is to litigate on behalf of the United States. DOJ attorneys litigate in federal and state courts, as well as in Administrative or Article I Courts, where appointed judges adjudicate on the meanings or force of regulations. Students interested in combining administrative law work with government litigation at the federal level may want to consider opportunities with the Federal Programs Branch and Civil Appellate Staff, both contained within DOJ's Civil Division. The Civil Division "represents the United States, its departments and agencies, Members of Congress, Cabinet Officers, and other federal employees in any civil or criminal matter within its scope of responsibility," which includes areas of national policy.⁵ As in most government agencies, administrative law plays a central role at DOJ's Civil Appellate Staff and Federal Programs Branch.

The Civil Appellate Section is responsible for representing federal agencies in the federal courts of appeals. Daily responsibilities for those conducting appellate work for the Civil Division may include not only litigating appeals but also supporting the Solicitor General's Office through drafting documents such as filings, merits, and amicus briefs. The Solicitor General is charged by statute with making the determination of which issues to appeal on behalf of the U.S. whenever the government loses a case, so appellate work could also consist of making strategic decisions and recommendations to the Solicitor General regarding how the government should appeal when it loses a case—or whether to appeal at all. **Mark Freeman '03**, who works in the Civil Appellate Section, explains that his work representing federal agencies and offices in the federal courts is often controlled by principles of administrative law. "That is to say," Freeman clarifies, "no party can just sue the government because they do not like the decision, but rather there are systematic ways in which the law recognizes particular types of errors for which plaintiffs can get relief." A solid understanding of the principles of administrative law allows Freeman and other Civil Appellate attorneys to evaluate the merits of cases brought against federal agencies' regulatory activities.

The Federal Programs Branch also provides students and graduates with opportunities for government litigation focused on administrative issues, but at the trial court level. Located within the Civil Division, the Federal Programs Branch "litigate[s] on behalf of approximately 100 federal agencies, the President and Cabinet officers, and other government officials."⁶ Although the Federal Programs Branch also affirmatively pursues regulatory violations, **Julie Straus '07** explains that it primarily engages in defensive litigation, such as defending agencies' actions or federal statutes. "Often challenges are brought under administrative law," says Straus, "when an individual or group of plaintiffs challenge a regulation and argue that it oversteps the bounds of the agency powers." Straus recalled one case in which the FDA was the Federal Program Branch's client and a group of plaintiffs challenged federal drug laws, asserting that their religious beliefs required them to use a Schedule I controlled substance. Straus elaborates:

A case like this requires daily cooperation with the agencies and their staff, who have the subject matter expertise and are extremely familiar with the laws and regulations that their agency administers. The Federal Programs Branch attorneys rely on this

⁵ Department of Justice, <http://www.justice.gov/civil/common/about.html>.

⁶ Department of Justice, http://www.justice.gov/civil/fedprog/fedprog_home.html.

expertise to guide them to the right regulations and statutes, allowing them to handle the actual litigation, write briefs, take depositions, and develop the litigation strategy.

Thus, the field of administrative law has roles for both specialists who are immersed in a substantive policy area and generalists who assist multiple agencies in settling administrative disputes. Litigators in the Federal Programs Branch—the generalists—work closely with agency counsel—the specialists—to successfully defend cases brought against the government.

Both the Civil Appellate Staff and the Federal Programs Branch provide students and graduates with invaluable government litigation experience. For those interested in defending federal law and agency regulations (rather than actually promulgating them), these practice settings offer an excellent opportunity to explore another facet of administrative law.

Legal Positions Outside of an Agency's General Counsel's Office

In addition to working in the Office of General Counsel (OGC) for an agency, lawyers may opt to pursue several other administrative law careers within the federal agency of their choice. Acting as regulatory counsel, serving as an Administrative Law Judge (ALJ), or working in the Office of the Inspector General (OIG), for instance, offer alternatives to OGC positions.

While attorneys in the OGC speak for the agency and make the official statements about the interpretation of statutes and regulations, agency regulatory counsel provide support to the substantive experts in an agency, helping those experts improve the legal sufficiency of their work. This task involves helping agency officials come up with policy options or strategic approaches to achieve a regulatory end. Thus, regulatory counsel come into frequent contact with administrative law and rulemaking processes. **Janice Steinschneider '88**, who currently works as regulatory counsel for the Center for Veterinary Medicine at the FDA, says, “We help the substantive experts draft the regulatory documents before they submit [them] to the OGC so that they are legally correct and sufficient. So it’s sort of like we’re a quasi-legal regulatory and policy adviser to the scientists and other regulatory folks who work here.” Regulatory counsel are the first line of defense against legal errors that might arise in the rulemaking process. Once the policy is submitted to the OGC for review, the General Counsel will analyze the persuasiveness of the argument and definitively determine if the agency has the authority to promulgate such a regulation.

While regulatory counsel operate on the front end of the rulemaking process, administrative law judges (ALJs) step in much later, when a decision under a regulation already in force has been challenged. ALJs are independent, objective decision-makers within the agency, who preside over administrative hearings in which parties adversely affected by particular regulations can raise objections. In total, about thirty executive agencies in the federal government employ administrative law judges.⁷ The majority of ALJs work for the Social Security Administration (SSA), the Department of Labor, and the National Labor Relations Board (NLRB).⁸ Like judges in the Judicial Branch, many of these “Article I” (Executive Branch) judges take on clerks. A clerkship with an ALJ

⁷ Northeastern University School of Law, <http://www.northeastern.edu/law/pdfs/career-services/app-aljclerkship.pdf>.

⁸ *Ibid.*

would be a valuable way for a young lawyer to gain exposure to the process of administrative adjudication, as well as the substantive regulations of a particular agency.

Another internal but independent body within agencies is the Office of the Inspector General. Offices of the Inspector General (OIGs) serve as the internal auditors for each government department, investigating allegations of waste, corruption, abuse, fraud, and misconduct that may have taken place within an agency. Daily responsibilities of an attorney with the OIG include: documenting requests and reviews, interviewing witnesses, analyzing evidence, and writing detailed reports. The largest Office of the Inspector General in the federal government is that of the U.S. Department of Health and Human Services,⁹ but OIGs are found throughout government.

John Lavinsky '07 works in the DOJ OIG. He explains that Offices of the Inspector General sometimes investigate less serious offenses—like the misreporting of time and attendance—but they also inquire into a wide range of more serious allegations. In the case of the DOJ OIG, says Lavinsky, these accusations have in the past included “warrantless wiretapping, the firing of U.S. Attorneys for political reasons, or the politicized hiring in the DOJ Honors Program.” Lavinsky explains that the OIG’s role in the field of administrative law is to gather “facts that will help us decide whether [agency offices and personnel] are properly and effectively using the regulation that governs their activities.” Lawyers in Offices of the Inspector General must possess a solid understanding of administrative procedure so that they can identify deviations from protocol within the agency.

LEGISLATIVE BRANCH

Capitol Hill: Regulatory Oversight and Investigations

The work of the U.S. Senate and House of Representatives is divided among several dozen committees and subcommittees. Standing committees usually have legislative jurisdiction, and their subcommittees focus on specific areas of the committee’s tasks. In addition, there are select and joint committees that handle special or shared duties and housekeeping responsibilities. While the major function of Congress is to write legislation, Congress also has subpoena power and the ability to conduct investigations. In order to monitor the executive agencies that fall under their area of expertise, Congressional oversight committees and subcommittees can gather information and reports from agencies’ OIGs, or hold hearings and call in agency officials to testify. From an administrative law perspective, these oversight and investigative functions are significant—a part of the system of checks and balances among the branches of government. The oversight process allows Congress to track the ways in which executive agencies are applying the provisions of statutory law and ensure that the intentions of a particular statute are preserved in the regulations that follow from it.

Quick Tip: To learn about clerkship opportunities with ALJs, check USAJobs for postings, or contact the agency at which you would like to clerk. Check out Northeastern Law School’s list of ALJ clerkship contacts [here](#) and NALP’s spreadsheet of ALJ clerkships [here](#).

⁹ U.S. Department of Health and Human Services, <http://oig.hhs.gov/about-oig/about-us/index.asp>.

Joseph Wender '08, a former member of the Oversight and Investigations Staff of the House Committee on Transportation and Infrastructure explains that, because Congressional legislation embraces all issue areas, work on the Hill allows attorneys to expose themselves to whichever substantive area most interests them. In 2010, he explained, much of the focus of the Committee on Transportation and Infrastructure was on the Recovery Act, known more commonly as the Stimulus Bill. As Wender explained,

The Recovery Act made billions of dollars available to help stimulate the economy, in particular by restoring and expanding infrastructure such as highways, roads, and bridges. There was a one year deadline on getting the funds approved on infrastructure and transportation projects by the Department of Transportation and parallel state agencies. By bringing federal and state officials in front of the Committee monthly, the rate at which the stimulus money was under contract moved much more quickly.

In this case, the oversight task of the committee was to ensure that the process of translating the statute (the Recovery Act) into specific rules and funding allocations moved smoothly and efficiently through federal and state Executive Branch agencies.

Ross Kirschner, who worked on the Senate Permanent Subcommittee on Investigations, helped conduct in-depth, large-scale investigations that focus on contracts and financial and tax powers. He remarks that a typical day could include writing questions for depositions or subpoena letters, reviewing documents, interviewing witnesses, and writing pieces of a report. Says Kirschner, “We’re allowed to spend a lot of time and dig deep and figure out what went wrong and what can be made better.”

According to **John Lavinsky '07**, there is much overlap between the work conducted in oversight and investigative committees and the work of an Inspector General and OIG staff. For example, the DOJ OIG often investigates for a year what oversight committees can only investigate for a couple of weeks. As OIG investigations are more thorough, their attorneys often publish reports and testify to oversight committees about their findings. Afterwards, oversight committees frequently use these OIG reports as their facts. This provides an excellent example of the easily transferable administrative law skills. According to Lavinsky, “There is an oversight and investigation community of lawyers that moves around [various positions] pretty fluidly.”

“We’re allowed to... dig deep and figure out what went wrong and what can be made better.”

~ **Ross Kirschner**, Senate
Permanent Subcommittee on
Investigations

CHAPTER 3

CAREER OPPORTUNITIES IN STATE GOVERNMENT

Although there are numerous opportunities to practice administrative law at the federal level, it is important to remember that work for the federal government is not the only available career path. **Danny Chou '94** recalls that, when he was graduating from law school, his job search focused almost exclusively on federal positions. Now, however, he advises current law students and young lawyers to think more broadly about their choices when considering administrative law careers. “[H]aving worked for the state and worked for the local governments,” says Chou, “I think...a lot of times you can do much more to change people’s lives on the local level or on the state level than on the federal level, and you can see the results much more clearly and have a more direct impact on people’s lives.” The next two chapters of this guide are devoted to administrative law career possibilities in non-federal government settings, beginning with positions in state government.

“In ... state government, you can have a much bigger impact more quickly.”

~ **Brandon Hofmeister '04**,
Michigan Office of the Governor

EXECUTIVE BRANCH

Governor’s Office

High-level executive office at the state level is an excellent place for young attorneys to gain experience in administrative law.

Governors typically retain a legal office of attorney-advisors, who interact with the state legislature as well as with state-level executive agencies. For instance, legal counsel for the governor may work with legislators, agency staff, and other interest groups to craft legislation and implement the Executive’s policy priorities. Working in the governor’s office exposes attorneys to administrative law and rulemaking, numerous areas of substantive interest, and policy crafting and implementation.

Brandon Hofmeister '04 has held multiple legal positions within the office of the Governor of Michigan. While serving as Special Counsel for Energy and Climate Policy in the Governor’s Office, Hofmeister explains, he “reported directly to [former] Governor [Jennifer] Granholm and served as a member of her nine-person executive team.” He adds:

In that role, I was her primary advisor on all energy and climate matters, focusing on clean energy economic development and policy implementation. Essentially, I directed the work of state departments. On the policy side, I took part in negotiating, drafting, and implementing a comprehensive energy regulatory reform package. This package included requirements for utilities to produce renewable energy and create rebate programs encouraging customers to be more energy efficient. It also completely changed some of the administrative processes of utility regulation in Michigan. In doing so, the Michigan Public Service Commission, the

agency that regulates utilities, fundamentally changed the way utilities are regulated to encourage investments in energy efficiency.

Hofmeister has also worked as deputy legal counsel for the Governor. In that position, he says, “we advised the Governor on a wide range of constitutional, legislative, and administrative issues. For example, I performed comprehensive research on the legal authority to continue certain important government functions despite the lack of an appropriation—as part of government shutdown in Michigan.” As Hofmeister’s experience shows, work in a governor’s office provides opportunities for both generalist and specialist administrative law work.

Counsel for State Agencies

Counsel for state agencies have similar roles and responsibilities to those of agency lawyers at the federal level. They assist the agency policy makers in assuring the legal sufficiency of the regulations that they promulgate. Their daily tasks may include drafting rules, advising substantive experts, soliciting and evaluating public comments, defending their agencies, or helping prepare cases against entities that are violating state regulations.

Karen Timberlake ’95, who served as legal counsel for the Wisconsin Health Services Department before becoming Secretary of that agency, explains that the role of a legal counsel involves making sure proposed regulations do not step beyond state or federal law. She provides an example from the mental health arena:

One thing the Health Services Department did recently is change how we regulate mental health treatment clinics. Our division of mental health and substance abuse came up with the first draft of the administrative rules. Then it was the role of the agency lawyers to do an overview of the proposed regulation, seeing if they did not run afoul of some provision of state or federal law that we knew governed mental health treatment clinics.

Having an excellent legal team is essential to state agency effectiveness, says **Glen Shor ’96**, Executive Director of Massachusetts’s Commonwealth Health Insurance Connector. Notes Shor, “I have a great general counsel, two assistant general counsels who work for him, and a whole appeals unit that tie together the legal aspects of what we do with the policy aims we’re trying to accomplish.” As at the federal level, counsel for state agencies advise on the legal issues that may arise from regulations drawn up by substantive experts. This process ensures that the final regulations that the state agency promulgates will carry sufficient legal force to achieve the intended results.

Government Litigation: State Attorneys General Offices

For attorneys looking to participate in government litigation at the state level, state Attorneys General Offices offer ideal and challenging positions that often involve administrative practice. State Attorneys General (AG) Offices defend state government agencies accused of promulgating inappropriate, insufficient, or overzealous regulations.

Just as in the federal Department of Justice, lawyering in a state AG's office may provide opportunities to work very intensively in a succession of interesting issue areas, as new cases involving different agencies arise. **Karen Timberlake '95**, formerly an Assistant Attorney General in Wisconsin, frequently worked with the Administrative Law Unit of the office. "This work," Timberlake notes, "mostly involved defending state statutes and state agency programs against various legal and constitutional challenges." Timberlake says:

In Wisconsin, the lawyers at the AG's office are a litigation counsel, mostly to agencies whose administrative actions of one sort or another had been challenged. Our role was to defend them under Wisconsin's administrative procedure act, which is not unlike the federal act. Most often, challenges would be brought up by people who thought they were being aggrieved by some sort of agency action. For example, in the Health Services Department, we are responsible for the state Medicaid program. Consequently, if there are people who feel they are being wrongfully denied a Medicaid service, they have a fair hearing opportunity with administrative law judges from different state agencies. If the plaintiffs do not get the results they want at the hearing, they then have a right to seek judicial review in Wisconsin's trial circuit courts.

Lawyers from the Wisconsin Attorney General's Office would then represent the agency in court.

On the affirmative side, state AG's offices also prosecute companies or other regulated bodies that violate agency rules. **Karen Tseng '05**, Assistant Attorney General in the Health Care Division of the Massachusetts Attorney General's Office, explains, "If there is any business out there that is breaking a law, whether it's a statute or a regulation, we prosecute them in one of six interrelated fields...environmental protection, health care, antitrust, insurance and financial services, consumer protection, and civil rights." Thus, Tseng and her co-workers in the Public Protection and Advocacy Bureau are able to specialize in policy areas that particularly interest them. Says Tseng, "If there is a regulation in health care ... that says [pharmaceutical companies] must disclose any gifts that [they] have made to doctors—and those gifts are illegal—and there's a pharma company that is going around buying doctors lunches and giving them other freebies, that would be something that the Health Care Division specifically would look at." Tseng's work also frequently focuses on addressing many of the issues that have arisen in the wake of recent health care reform in Massachusetts. Her position thus allows her to combine policy work—including research into rising health care costs—with more traditional prosecution activities. For more information on state AG work, check out the organization profile below or read Karen Tseng's narrative in Chapter 9 of this guide.

Organization Profile

The Massachusetts Attorney General's Office

The Massachusetts Attorney General—the “chief lawyer and law enforcement officer of the Commonwealth”—defends state agencies and prosecutes actors who violate their regulations, among a host of other duties. The Massachusetts AG’s office is composed of five bureaus, including the Government Bureau and the Public Protection and Advocacy Bureau. The Government Bureau, which is responsible for defending state agencies in civil litigation, has an Administrative Law and Trial unit that would be an optimal setting to gain practice experience in state-level administrative litigation. The Public Protection and Advocacy Bureau, which houses six interlinked subject matter divisions, brings affirmative cases on behalf of the public against violators of state regulations and statutes. The Massachusetts Attorney General’s Office has a particularly high reputation for cutting-edge legal and policy work. Assistant Attorney General **Karen Tseng ’05** attests that she regularly uses an array of legal tools to make positive change in the health care policy and regulatory arena, for instance. Those interested in gaining early exposure to AG work should consider applying for a summer internship or the **Role of a State Attorney General** clinic.

See the Massachusetts AG’s [website](#) and Chapters 7 and 9 of this guide for more information.

Other Legal Positions

Attorneys looking for state-level legal positions outside of the agency OGC or AG’s office may find employment in a state Office of the Inspector General or as a state administrative law judge.

State governments often have an Office of the Inspector General—typically with a legal wing—to oversee the prevention and detection of fraud, waste, and abuse in state government. Administrative lawyers with an interest in investigations, oversight, and enforcement will likely find OIG work an appealing career option. Not all state OIGs operate in the same fashion, but many of them will have jurisdiction over multiple state agencies and offices, allowing lawyers in these positions to gain exposure to multiple areas of administrative and regulatory activity as they investigate allegations of wrongdoing.

State ALJs are different from federal ones because their powers are not established by federal statute. Nevertheless, most U.S. states have a statute (similar to the federal APA) that requires ALJs to adjudicate in certain administrative hearings. State ALJs will often be employed by state agencies that are responsible for distributing a benefit, such as workers’ compensation; when citizens appeal a benefits denial, an ALJ will determine whether the benefit was rightfully or wrongfully denied. In Washington State, for instance, ALJs in the Office of Administrative Hearings (OAH) hear cases involving unemployment insurance, child support, and public assistance.¹⁰ State ALJs’ power and prestige vary; in some state law contexts, they have almost no power at all, and their decisions are essentially recommendations. Where state ALJs have more power, however, their function is quite similar to that of their peers on the federal level.

¹⁰ Washington State Office of Administrative Hearings, <http://www.oah.wa.gov/>.

LEGISLATIVE BRANCH

In addition to working for a state agency, governor's office, or attorney general's office, aspiring administrative attorneys can try out positions within state legislatures. As in federal government, state legislatures' work intersects frequently with administrative law. At the state level, legislatures issue statutes that are then passed on to state agencies to implement. To do so, the state agencies promulgate regulations. Administrative law bears on both policy-making and oversight functions of the legislature. As state legislators and their staffs formulate statutes, they must consider the influence of administrative factors, or their statutes may not have the effects they intend. After statutes have been passed and regulations promulgated, state legislatures follow up with oversight and investigation to ensure that agencies are properly executing the law.

Legislators' Personal Staff

For those interested in approaching public policy with rulemaking considerations in mind, positions as personal staff for state legislators might be ideal points of entry into the wider world of administrative law. **Angela Brooks '05**, who has worked as legal counsel in the Massachusetts State Senate, says, "Working with a state senator, we develop the more abstract [statutory] law, and it's the state agencies like the Executive Office of Education or the Executive Office of Public Safety and Security who then promulgate regulations." Still, drafting legislation requires careful deliberation and maneuvering to produce the intended regulations. Brooks elaborates, "While we work on legislation with an eye towards achieving the policy goals we want to achieve, we are also thinking about our work from an administrative law perspective. We have to be clear about what we want so that our legislation can't be interpreted in a different way once it gets implemented."

Working as a legal counsel at the state level requires personal qualities of patience and compromise. Discussing a racial profiling bill that she and her office have been working on, Angela Brooks remarks that it "required us to deal with a lot of political back and forth." She observes:

This is what happens when you deal with policy and lots of politics. It causes you to work with those who oppose your bill to come up with something that is palatable to both sides. As a result, there are lots of meetings with various groups and much redrafting of the bill to keep the core of what we want but also to meet those who oppose us half way.

Also, because the governor may change in the next election, state legislators and their counsel want to ensure that the bills they enact will still have the intended regulatory outcomes, even if the implementation inclinations of the executive change.

Committees

Those who would prefer to focus on oversight activities rather than policymaking may also find engaging work in state legislatures. Like the U.S. Congress, state legislatures work on a committee system. These committees conduct investigations and oversight, among other tasks. Each committee has jurisdiction over a specific issue area. In the Texas state legislature, for instance, there

are standing committees on Agriculture and Livestock, Environmental Regulation, Public Health, Government Efficiency and Reform, and Urban Affairs, to name just a few. Committees may either have their own staff or make use of the personal staffs of the associated state legislators. In either case, working with a particular committee can provide opportunities to engage in administrative law work by reviewing agency practices to ensure compliance with administrative procedural requirements.

4 CHAPTER

CAREER OPPORTUNITIES IN LOCAL GOVERNMENT

Local governments, particularly in larger cities, are comprised of components that mirror the government branches at higher levels. The mayor of the city serves as the chief executive. A city council, like Congress or a state legislature, enacts municipal ordinances that parallel state or federal laws. Local agencies—whether associated with a city, a county, or another jurisdictional unit—regulate specific areas of activity at the local level. Some cities, such as New York, even have their own Administrative Procedure Acts to guide the formation of local agency regulations. For more information about opportunities in local government, please see OPIA’s specialty guide to careers in state and local government (http://www.law.harvard.edu/current/careers/opia/planning/career-resources/docs/statelocal_09.pdf).

CITY ATTORNEY’S OFFICES

Like the Department of Justice at the federal level, city law departments or City Attorney’s Offices advise and represent local executive agencies in legal proceedings and provide legal counsel on the drafting of municipal regulations, in keeping with local administrative procedural practice.

Abigail Elias ’76, who works as Deputy Chief at the Ann Arbor City Attorney’s Office, considers her practice to be very much like being in-house counsel to a private business (further demonstrating that administrative law skills are useful in almost any practice setting). Describing her position, she says:

My work is varied, and includes contracts or issuing revenue bonds, litigation, collective bargaining negotiations, zoning and planning law, city code enforcement, assisting drafting ordinances, and labor arbitrations, among others. My primary area of responsibility, aside from assisting the city attorney with office management issues, is in the public services area, whose operations include the water, sanitary sewer and storm sewer systems, streets and sidewalks, and ADA [Americans with Disabilities Act] compliance for curb ramps.

Evan Hochberg ’04 and **Janeen Hayat ’08**, both with the New York City Law Department, provide various services to their city and office. Hochberg explains that his office has three primary functions: “1) offering advice to the Mayor and the agencies in New York City; 2) helping the Mayor and agencies in the drafting or reviewing of legislation; and 3) ...approv[ing] of all rules that the city agencies issue.” This type of work has allowed Hochberg to develop expertise in certain specific areas, such as gun control and environmental issues. Hochberg explains:

I have done a lot of work on the issue of brownfields, which are pieces of land that have some degree of environmental contamination such that there are limitations on how they can be developed. Consequently, I worked on a law that established the

Office of Environmental Remediation to focus on the remediation of these brownfields. I then worked with this office on a number of rules and programs that they're developing to tackle this issue, such as the Local Brownfields Clean Up Program, which is a way for property owners to remediate their land under the supervision of this office and receive certain benefits from doing so.

Janeen Hayat remarks that the role of administrative law on the local level is similar to its function at higher levels of government: the city council passes local laws, and city agencies promulgate rules to enforce these laws. "Part of my job here," says Hayat, "is to review these rules and make sure that they are operationally feasible and that they make sense." She explains:

There's a whole process on how to do this laid out in the City Administrative Procedure Act, and all rule making here is subject to that act. Recent developments in New York City administrative law include the creation of a regulatory review panel that is still ongoing to try to make rules and regulations more streamlined and accessible to the business community, which often tends to be the most heavily regulated. Part of this initiative had been to put all the rule making online, because part of the City Administrative Procedure Act process is to give public notice and hold a hearing on proposed rules, and making this accessible online allows it to reach more people.

Danny Chou '94, who works as the Chief of Complex and Special Litigation in the San Francisco City Attorney's Office, appreciates that his job provides the opportunity to try "to make people's lives better...through government work." One of his office's chief responsibilities is defending the San Francisco city government against lawsuits. Says Chou, "Most of our defense cases implicate certain city agencies and we obviously have to learn about how the agency operates, [and] what it does, as it relates to the particular lawsuit."

However, in addition to defensive work, Chou explains, "San Francisco has a long history of believing that you can use litigation to improve people's lives in certain situations" by bringing affirmative cases in the public interest. In fact, Chou's office can even sue regulatory bodies at other levels of government for failing to enforce the law adequately. After a recent gas pipeline explosion, for instance, the San Francisco City Attorney's Office sent notice of intent to sue letters to the California Public Utilities Commission and the federal Pipeline and Hazardous Materials Safety Administration under the Pipeline Safety Act. By not properly enforcing safety regulations, Chou points out, these federal and state agencies "may be jeopardizing people's lives who live under these pipelines." When state or federal regulatory bodies fail to meet their obligations to the citizenry, the City Attorney's Office can step in to enforce the rights of local residents. Thus, administrative litigation at the local level can have significant, far-reaching impacts.

OTHER CITY AGENCIES

Various types of local government bodies—such as school districts, counties, townships, and city councils—deal with regulations, whether they assist in rulemaking or must simply comply with them. The City of Chicago, for instance, has over forty different departments, from Animal Care and Control to the Mayor's Office for People with Disabilities to the Office of the Inspector General (*see insert below*). In many cases, the local city law department will assist agencies with defensive litigation

or the drafting of regulations, but some local government bodies also have their own in-house counsel to help perform these tasks.

Organization Profile

**The City of Chicago
Office of the Inspector General**

Like Offices of the Inspector General in federal agencies, the Chicago OIG is charged with oversight and investigation duties with the goal of ensuring transparency, accountability, and integrity in government functions—including the creation and application of regulations. Unlike most of its federal counterparts, however, the Chicago OIG’s jurisdiction extends over multiple departments and their associated issue areas. The legal wing of the OIG assists with complex investigations and works with prosecutors in cases of criminal misconduct. Chicago’s OIG has a hiring system that is separate from that of the rest of the city in order to remain as independent as possible from politicized hiring pressures.

See <http://chicagoinspectorgeneral.org/> for more information.

LOCAL TIES?

Geographic connections may be important when applying for some positions in local government. Employers might be curious as to why you are applying to their particular office if you do not appear to possess any local connections. Candidates will by no means be discounted if they are from different localities, but government employers will want to know why you want to work in their city specifically. **Karen Timberlake ’95**, who works as Deputy Secretary at the Wisconsin Health Services Department explains that “geographic connections fit into the category of showing a commitment.”

The significance of local ties does vary. **Janeen Hayat ’08**, with the New York City Law Department, argues:

The importance of geographic connections really depends on the place. It’s not that important in New York because there is an understanding that it’s a big city and no one doubts that you want to be there. Geographic connections are a lot more important in Boston and Miami; for example, I found in Boston there was a lot of weight given to the fact that you went to a Boston law school when you were applying to city government. I felt this even at the law firm I worked at in Boston. I feel like in cities that aren’t very large, if you’re not from there people ask a lot about why you decided to move there and there is a little bit of confusion.

Karen Timberlake ’95 agrees, stating that you might have to show some vested interest, such as a family, professional, or other personal connection, in the locality where you are applying to work. Students by no means should be discouraged from applying; but as always, you should be honest in your application and interview about the reasons for your interest in the position.

5 CHAPTER

NON-GOVERNMENTAL CAREER OPPORTUNITIES

Aspiring administrative lawyers need not confine their job searches to the government sector alone. Careers in nonprofits, associations, and private public interest firms also offer plenty of opportunities for law students and attorneys to pursue administrative law work.

NONPROFITS

Attorneys may opt to work for nonprofit organizations, where they can comment on agency rule making, advocate for changes in rules, and participate in agency adjudication. Lawyers for nonprofits have the ability to deal with a wide range of issues, ranging from constitutional law issues to regulatory considerations. Nonprofits may challenge agency regulations or advocate for new ones. For instance, former Wasserstein Fellow **Blan Holman** of the Southern Environmental Law Center says of his organization, “We are involved in state and federal rulemakings, attempting to get regulations that protect the environment and warding off attempts to weaken standards.”

Alternatively, lawyers can work as legal counsel for regulated entities to advise on continued compliance with regulations.

Working for an advocacy organization carries certain advantages over practicing administrative law for the government. As Blan Holman observes, “Advocacy groups can represent their clients and an agenda unbound by restrictions—inertia, precedent, political constraints, resources—that sometimes constrain agencies.”

Although many nonprofit advocacy groups are policy organizations, legal work plays a crucial role in amending or promoting these policies. **Kamaria Kruckenberg '08**, a Policy Associate at PRRAC, actively works to change administrative regulations. Speaking about her work with PRRAC, Kruckenberg comments:

“We work in areas of employment, criminal and juvenile justice, ... and economic development...all in service of greater opportunity for cities and their residents.”

~ Craig Levine,
New Jersey Institute for Social Justice

We are a civil rights organization, focused primarily on segregation issues, working in the areas of housing, education, employment, and health. Most of our advocacy work relates to housing and urban development. We basically try to make policies that will promote integration for people of color and the poor. Right now, we’re working on a policy proposal that would create a new program at HUD to create housing vouchers for families with kids who are suffering from health issues related to where they live, such as lead poisoning and asthma.

Nonprofits may attempt to effectuate change at the federal, state, or local level. In fact, former Wasserstein Fellow **Craig Levine** of the New Jersey Institute for Social Justice insists that “there’s a lot more need for [administrative advocacy] on the municipal and state levels than exists [at present]. There [is] a lot of administrative advocacy on the federal level, but...it is an underattended area on the state and local levels.” Advocacy organizations that research state or local level policies and submit detailed comments during the rulemaking process may be able to create significant, observable changes in their communities. Levine’s work at the New Jersey Institute for Social Justice aims to do just that. “I direct the legal program at the Institute,” Levine explains, “so I have the responsibility for...all of the organization’s legal and policy advocacy. [W]e work in a range of areas...[but] they’re united by the idea of expanding urban opportunity. We work in areas of employment, criminal and juvenile justice, ...child welfare...and economic development...all in service of greater opportunity for cities and their residents.”

Of administrative advocacy in particular, Levine says, “It’s an opportunity to get things done in a way that many public interest advocates often don’t think about. So [administrative advocacy has] certainly been a useful tool for us that I think we should continue to use.” One significant victory for the New Jersey Institute for Social Justice was in the area of juvenile detention regulations. “Pursuant to the standard administrative notice and comment period,” Levine says, “we submitted detailed comments in support of a proposed regulatory change that would limit the amount of time for which someone in a juvenile facility could be placed in isolation for a disciplinary infraction.” Their comments helped effect a substantial reduction in that upper limit, which came down from 30 days to less than a week. Successes such as this one show that, while direct legal services may be invaluable importance an individual client, effective administrative advocacy can have much farther-reaching effects. “When you’re able to change a rule or an agency’s practice or policy,” Levine observes, “you’ve changed something that’s really going to endure and affect a lot of people.”

ASSOCIATIONS

There are also special interest associations, such as the American Diabetes Association, that advocate for their members’ interests in the regulatory process. Associations can serve as watchdogs and make sure agencies are acting properly, while also advocating for their own policy platforms. Some, like trade associations, might advocate on behalf of a collection of regulated entities, to have input into regulations on a product or service. Associations’ activities might involve challenging agency action in state and federal courts or advocating for regulatory change.

PRIVATE PUBLIC INTEREST FIRMS

There are also opportunities to pursue administrative law careers in the private sector, with private public interest law firms. Plaintiff’s firms frequently become involved in the administrative process by challenging agencies’ applications of their own regulations. For instance, a private public interest firm might represent a union in an administrative hearing before the National Labor Relations Board or the Department of Labor. For more information on this topic, please consult OPIA’s *Private Public Interest and Plaintiff’s Firm Guide* at http://www.law.harvard.edu/current/careers/opia/planning/career-resources/docs/2008private_pi_guide.pdf.

OTHER PRIVATE SECTOR SETTINGS

Corporations or other institutions that are regulated by agency rules may have in-house counsel to help them navigate the intricacies of the regulatory system. In addition, many corporate law firms specialize in administrative practice. For students who are unsure about whether they want to begin their career in the public sector, working in one of these settings can provide a valuable leg-up in the lateral hiring process.

Julie Straus '07 suggests that those who are contemplating a career in government but are not absolutely certain about their path might gain relevant exposure in a DC-based law firm. “Certainly the law firms in DC do a lot more work that interacts with federal government,” says Straus. She continues:

I do think it's good for someone who is not sure if they want to go into government. They can work at a firm like this and incorporate administrative law into private firm practice... [Y]ou become familiar with law and regulations, [so] this might be valuable for someone who wants to go into [DO]'s] Federal Programs or other government work...

If your ultimate career goal is to work in the public sector after several years in private practice, such private sector experience can help make you a competitive candidate for lateral hiring into government or other settings.

CHAPTER 6

NON-LEGAL CAREER OPPORTUNITIES

POLICY-SIDE WORK

Policy-side work, such as setting agency policy or determining what to regulate and what the content of the regulations should be, occurs at all levels of government. Many high-level positions in both federal, state, and local government bodies and non-governmental organizations demand an ability to oversee the development of a policy agenda while keeping the realities of administrative protocol in mind.

Karen Timberlake '95, Secretary of the Wisconsin Department of Health Services, writes the policy for her department. She explains the intersection of policy and administrative legal work in her agency as follows:

I do the policy making and determine the direction we're taking for the agency. It is then up to the lawyers and program staff to figure out how to get this done. This involves intersecting with the administrative law rule making process and making sure we get the rules and regulations we want. If we don't, we navigate our way to the legislature to get the statutory framework changed if it's not lining up with what we want to do from a programmatic standpoint. As secretary, I run the agency and work directly for the governor. In my state there are fifteen cabinet agencies, so there are fifteen secretaries like me who report to the governor and guide the direction and policy of their respective agencies.

Karen Timberlake and other agency leaders work to bring together statutes on the one hand and regulations on the other to advance a particular policy agenda. While the bulk of this policy work may be non-legal, regulations and statutes play a crucial role in helping government organizations execute their agendas.

Glen Shor '96, Executive Director of the Commonwealth Health Insurance Connector Authority, heads a Massachusetts office that has played a significant role in state health care reform. "As a policy-making body and as a health insurance exchange," says Shor, "we are making decisions, running programs embodied in contracts, [exercising]...regulatory authority, [and] in some instances...functioning as sort of an agency adjudicatory body." Specifically, the Connector must continually refine the regulations determining who is exempt from mandatory adult health coverage under Massachusetts state law. Although Shor does not do legal work himself, he oversees the policy and regulatory activities of his organization. "We [at the Health Connector] are very actively engaged not just in running our health insurance programs but also... in the larger conversation in Massachusetts about how to contain health care costs while maintaining if not improving the quality of care our people enjoy," Shor explains. He greatly appreciates the opportunity that policy work provides for making significant positive impacts in people's lives. "The thing that I have always enjoyed most about working in public policy...and on public policy projects that are ambitious,"

Shor says, “is [that] they make differences in the lives of people. They make people’s lives better. Getting health insurance in the hands of people who didn’t formerly have it is life-changing for them.”

Policy considerations are also a significant part the agenda of many non-governmental advocacy organizations. **Craig Levine** of the New Jersey Institute for Social Justice explains that much careful thought goes into choosing the most appropriate advocacy strategy after conducting a comprehensive policy analysis:

First, we will do a pretty thorough analysis of the issue—both a substantive analysis of what we want to change and why, and then also a political analysis of how heavy a lift would it be to achieve what we’re trying to achieve. And then we’ll decide whether it’s a change that’s best pursued quietly and under the radar or through a more high-profile advocacy campaign.

The former, more low-profile strategy typically involves interfacing with government regulatory bodies through methods such as commenting on rules. Policy strategists in advocacy organizations have to work with legal advisers like Levine in order to create significant change.

CHAPTER 7 PREPARING FOR A CAREER

There are a number of steps you can take during law school to build up the knowledge and experience necessary to become a top-notch administrative lawyer. The first section of this chapter, “Building Skills and Assets,” describes the qualities and qualifications that agencies and organizations will be looking for when they hire individuals in this field. The remainder of the chapter suggests some different ways to go about obtaining those skills. These strategies include selecting useful courses, pursuing clinical opportunities, completing relevant internships, joining student or professional organizations, and utilizing the substantial resources that Harvard Law School offers.

BUILDING SKILLS AND ASSETS

Having the skills of an administrative lawyer means having the skills of a good lawyer overall. Consequently, building the skill set of an administrative lawyer is a great investment in your future, no matter what you ultimately pursue. Many of the skills that administrative lawyers must develop will transfer over to any substantive field of law, even private practice. According to **Abigail Elias ’76**, “In all government positions, the writing, analytic, research, litigation, and client relations skills translate well” for use in a variety of practice settings. For more information about what skills and experiences to highlight in your job applications, see the “Hiring Tips” section of Chapter 8 of this guide.

Quick Tip: Good writing skills are the single most important quality that government employers seek in new hires.

Writing Skills

Strong writing skills are a very desirable asset. Young administrative lawyers need to possess the ability to render complex technical material into clear legal writing. Government employers stress the significance of good writing—which includes everything from mastering basic mechanics to forging clear connections between facts and legal theory—over almost all other skills and qualifications. Journal work, clinics, and research assistantships can all be ways to develop and showcase your legal writing talents.

Academic Record

The importance of coursework and grades will vary by employer. In some of the most competitive honors programs, for example, grades will carry more significant weight in the hiring process. However, other factors, such as work experience or a demonstrated commitment to public interest, can weigh in your favor even if you do not have perfect grades. In addition, certain agencies will want to see that you took advantage of course offerings in their area of work and may lay more emphasis on your performance in those specific classes than on your overall transcript.

Kamaria Kruckenberg '08 of PRRAC comments that research and writing skills, as well as issue area knowledge, were important qualifications for working in her organization:

As a half-think tank and half-advocacy organization, we do a lot of research to back up our advocacy. So you should get experience doing research definitely. You should also definitely take relevant classes. I took a class on poverty law which taught me how government agencies work. In general, if you want to go into any kind of policy work doing administrative kind of work, you need to take the traditional classes but also classes that let you deal with the issues and write on them and engage with them. This will help you deal with them in real life as you will learn to understand where people are coming from on certain issues. When you work with agency employees, they come from different backgrounds and you must become familiar with their opinions in order to communicate with them.

One way to demonstrate to potential employers that you have gained a nuanced understanding of the variety of perspectives that carry weight in your field is through a strong and relevant academic record.

Personal Attributes

Those working in administrative law must be able to speak diplomatically and negotiate effectively. **Professor James T. O'Reilly** of the University of Cincinnati College of Law explains, "Diplomacy skills are very important because the individual entering the administrative agency role will be a lawyer for some very strong-willed career officials, negotiating against some very strong-willed private sector opponents."¹¹ Because regulations affect millions of people, as well as powerful private actors, rule making will require skills in conflict resolution and compromise. "Most importantly," says **Nate Sabel '05** of the FDA, "successful candidates tend to be particularly strong communicators both in writing and in person, as well as able to navigate extremely complex legal issues." Professor O'Reilly also stresses patience and prudence, noting that administrative lawyers work toward results that have long-term benefits to the system, even though their efforts may take a long time to come to fruition.¹²

Public Interest Track Record

Employers place different weights on the importance of a public interest background. **Karen Tseng '05** of the Massachusetts Attorney General's Office and **Danny Chou '94** of the San Francisco City Attorney's Office both state that their agencies are more than willing to hire lawyers who have worked in a private firm. However, **Mark Freeman '03** of the Department of Justice notes that a public interest background is frequently an important qualification for administrative law positions in the public sector:

We're looking for really qualified people, and we want to believe that you are interested in working for the government. If you spend your summers doing corporate transaction work, your resume might look a little funny. However, if you

¹¹ James T. O'Reilly, *Careers in Administrative Law and Regulatory Practice* (2010), p. 40.

¹² *Ibid.*, pp. 39-41.

can give a good explanation, it's possible we'll hire you anyway. There are of course some public interest organizations who want to see a real commitment to their cause. But even at DOJ, some demonstration of an interest in public service is useful.

Government employers—especially when hiring entry-level attorneys—want to see that you are not merely applying to their positions as a second choice to law firm work. With great competition for government employment in particular, a strong public interest track record can make your application stand out.

Kamaria Kruckenberg with PRRAC remarks that her non-profit values skill in research and writing above all, in addition to strong public interest credentials. “In my experience,” she says, “they didn’t care too much about grades. Rather, they wanted to see what you were doing during your summers, if you had received awards, and other experiences like that.” A track record of public interest internships and clinics shows public interest employers that you are truly invested in their field of work, while also developing skills and substantive knowledge relevant to their practice.

Substantive Background

Certain lawyers hoping to work in administrative law should plan to acquire some substantive knowledge or prior training in their field of interest. Those aiming for federal agencies such as the Treasury Department or Department of Health and Human Services, for instance, will be much more competitive if they bring knowledge of finance or healthcare, respectively, to the agency.

Quentin Palfrey '02 of the Department of Commerce agrees that a substantive background can be important in the hiring process. “If you want to work for the Patent and Trademark Office,” he explains, “then having a familiarity with patent law would be helpful. [W]hile we do some hiring at the department level, most opportunities are at the bureau level, and individual bureaus have criteria that line up with their work.” **Stephanie Martin '87** of the Federal Reserve Board explains, “Applicants need to show an interest in what we’re doing here by doing some homework.

[G]ood analytical and writing skills are also important, as they are at firm. What would tip the scale in your favor is an interest in or aptitude for what we do here at the agency.” Similarly, **Janice Steinschneider '88** of the FDA explains, “When I was involved in hiring law students and I looked at resumes, I would look for someone who showed interest in health or science issues... You need to...[show] you have attraction to the substantive issue or knowledge of it.” **Nate Sabel '05**, also of the FDA, encourages students to display an “articulated interest and background [in] public health law.”

While strong analytical and excellent legal research and writing skills, as well as patience, determination, and oral fluency may prepare you for a career in administrative law, some substantive knowledge might be what separates you from other applicants. Furthermore, it is important that you are genuinely interested in what your employer does, so that you will actually enjoy your work.

“What would tip the scale in your favor is an interest in or aptitude for what we do here at the agency.”

~ **Stephanie Martin '87**,
Federal Reserve Board

One way to gain both the skills and the substantive background that will make your application stand out is to make savvy decisions about your law school courses.

COURSES

HLS courses are some of the greatest resources for students interested in administrative law. All HLS students are required to take **Legislation and Regulation**. This class will serve as an excellent base for future courses in administrative law or substantive issue areas. According to **Professor Todd Rakoff**, those interested in this field should build on their Legislation and Regulation course by taking the foundational courses in administrative law and structural constitutional law, and then courses dealing with a specific body of regulation, such as labor law, environmental law, or securities. HLS students have the advantage of choosing courses from a curriculum unrivaled in its breadth and depth. We encourage students to pursue their own substantive interests when selecting from the wide range of course options. Learning about a specific set of regulations will help you narrow your focus when researching internship or job opportunities and give you an edge in the application and interviewing process.

CLINICS

HLS students in their second and third years will also have the opportunity to learn from the Clinical Legal Education Program. There are nearly 30 in-house clinics and hundreds of externship opportunities available to students. Students who wish to pursue clinical projects during school breaks can consult <http://www.law.harvard.edu/academics/clinical/students/funding.html> to learn about funding opportunities.

Some clinics will allow HLS students to delve more deeply into administrative law. Students interested in administrative law specifically might consider **Government Lawyer: Semester in Washington** and **Role of the State Attorney General**. The Government Lawyer clinic places students in federal government offices where lawyers conduct research and provide legal advice and assistance on policy, legislative, or regulatory matters. The State Attorney General clinic offers students an opportunity to work in one of the many offices of the Massachusetts Attorney General, which include divisions devoted to health care, consumer protection, and environmental protection.

Depending on your substantive interests, other relevant clinics might include:

- **Child Advocacy Program**
- **Cyberlaw Clinic**
- **Education Law Clinic**
- **Employment Law Clinic**
- **Environmental Law and Policy Clinic**
- **Government Lawyer: The Prosecutor**
- **Harvard Legal Aid Bureau**
- **Harvard Negotiation and Mediation Clinical Program**
- **Health, Disability, and Planning**
- **Judicial Process in Community Courts**
- **Post-Foreclosure Eviction Defense Housing Clinic**

- **Predatory Lending Prevention/Consumer Protection Clinic**
- **Supreme Court Clinic**
- **Transactional Law Clinics**

You can view the full list of clinics here:

<http://www.law.harvard.edu/academics/clinical/clinics/index.html>.

INTERNSHIPS

Like clinics, which offer academic credit, non-credit summer internships and term-time externships will help you gain exposure and experience in the administrative law field while strengthening your public interest track record. These experiences will help you figure out which issue areas you find most interesting and perhaps which agency or organization would most appeal to you. “Summer internships are incredibly valuable,” says **Mark Freeman ’03**. “That is how I got interested in the DOJ.” Internships and externships, like clinical experiences, allow students to try out various practice settings, as well as gain practical skills and build a network of contacts. Consult OPIA’s public interest jobs database at <https://ldap.law.harvard.edu/> to research potential internship placements.

RESEARCH ASSISTANTSHIPS

Another way to build the writing skills required of an administrative lawyer is to serve as a research assistant for a faculty member. Students interested in a particular field should look for opportunities to combine that substantive interest with some writing focused on administrative law. Professors Matthew Stephenson, Todd Rakoff, and Jody Freeman all teach in the administrative law field and would be helpful people to consult with questions about academic research projects in administrative law.

STUDENT ORGANIZATIONS AND ACTIVITIES

Like summer internships and term-time clinics, on-campus extra-curricular activities provide opportunities to build up subject matter expertise and acquire critical skills in writing and research. Harvard Law School has numerous student organizations, including service-oriented and professional interest clubs. Journal work can also be a particularly valuable experience, and the *Law Review* is not the only way to gain legal writing credentials. Many different Harvard journals deal with administrative law issues. Listed below are several of them. For more information, visit <http://www.law.harvard.edu/current/orgs/journals/index.html>.

Journals

- **Environmental Law Review**
- **Civil Rights-Civil Liberties Law Review**
- **Harvard Law & Policy Review**
- **Journal on Law and Public Policy**
- **Negotiation Law Review**

- **Unbound: Harvard Journal of the Legal Left**
- **Journal of Law and Technology**
- **Journal on Legislation**
- **National Security Journal**

PROFESSIONAL ORGANIZATIONS

Professional organizations offer a great opportunity to connect with lawyers practicing administrative law. Many bar associations have administrative law sections, in addition to subject matter committees that address issues like environmental, financial, or health care law and regulation. Joining these groups and attending the conferences that they hold is one way to learn more about the field. In addition, professional organizations are an important means of networking, which we discuss further in the following section.

- **American Bar Association (ABA): Administrative Law and Regulatory Practice Section:** The Administrative Law Section provides a forum to share new ideas and the most recent information on substantive and procedural developments in Administrative Law and Regulatory Practice. For more information, visit <http://www.abanet.org/adminlaw/>.
- **Federal Bar Association:** The Federal Bar Association would be a helpful resource for those interested in practicing administrative law with a federal agency. Check out <http://www.fedbar.org/> to learn more.
- **State Bar Administrative or Public Law Committees:**
 - State Bar of California Public Law Section: <http://publiclaw.calbar.ca.gov/>
 - Illinois State Bar Association Administrative Law Section: <http://www.isba.org/sections/adminlaw>
 - Maryland State Bar Association Administrative Law Section: http://www.msba.org/sec_comm/sections/admin/
 - Massachusetts Bar Association Public Law Section: <http://www.massbar.org/member-groups/sections/public-law>
 - New York State Bar Association Committee on Attorneys in Public Service: http://www.nysba.org/AM/Template.cfm?Section=Committee_on_Attorneys_in_Public_Service_Home&Template=/CM/HTMLDisplay.cfm&ContentID=26590
 - Virginia Bar Association Administrative Law Section: <http://www.vba.org/displaycommon.cfm?an=1&subarticlenbr=7>
 - And many more...
- **Local Bars:** Not every local bar association will have an administrative law section or committee, but many will have member groups that focus on the legal issues of a particular substantive area, such as health or environmental law. Explore the options available through your local bar association or the bar associations of municipalities where you might want to practice. Links to a few major metropolitan bar associations appear below.
 - Bar Association of Baltimore City: <http://www.baltimorebar.org/>
 - Boston Bar Association: <http://www.bostonbar.org/>
 - The Chicago Bar Association: <http://www.chicagobar.org/AM/Template.cfm>
 - Los Angeles County Bar Association: <http://www.lacba.org/>
 - New York City Bar Association: <http://www.abcny.org/>
 - The Bar Association of San Francisco: <http://www.sfbar.org/>

NETWORKING

Networking can be one of the most useful skills for landing a position in administrative law. There are numerous effective ways to network and increase your circle of contacts in the professional world, from cultivating connections on LinkedIn to consulting Harvard Law School's alumni directories (*see the following section*). In government law practice, networking often gets you in the door and may eventually help you land a job interview.

“You have to be a bit more pro-active and search out people,” says **Mark Freeman '03**. “If you have the ability to do an internship, the networking opportunities are significant. Folks in DC are very willing to just meet you for coffee or yogurt, as many of them started as unpaid interns...[themselves]. People remember their experiences and are willing to chat with others.” **Shawne McGibbon**, General Counsel of the Administrative Conference of the United States, recalls that she got her current position by persistently attending meetings, talks, and hearings and introducing herself to agency personnel. Capitol Hill is one practice setting in particular where networking is a key ingredient to a successful job search.

Though the practice settings may be different, the significance of networking persists throughout the state and local government and nonprofit sectors as well. **Kamaria Kruckenberg '08** offers a perspective on her experiences networking in the nonprofit world: “Knowing people and talking to people—this is how people get jobs, it really is. You of course need to be super qualified, but it really helps to know people. The first people who jump out in hiring are the ones [for whom we] have gotten a call from someone saying they know the applicant.” **Angela Brooks '05**, legal counsel for a Massachusetts state senator, agrees: “My strategy is to talk to as many people as you can. It may require more time but you just never know who is going to be the person to lead you to the person who will lead you to your job. Someone who might seem twelve steps removed might be in fact a lot closer.”

Many administrative lawyers, including **Glen Shor '96** and **Karen Tseng '05** specifically recommend the informational interview as a networking tool. “Doing informational interviews is critical,” Tseng asserts. Opening up a conversation with people in your field is a great way to hold yourself out as a potential candidate to fill vacancies. Tseng explains that people are usually willing to set up an informational lunch even if there is no opening in their organization at that time. “They’ll keep you in mind, if you make an impression, when an opening does come up,” Tseng explains. **Kamaria Kruckenberg '08** affirms this position: “Informational interviews are great,” she says. “People love being asked their opinions.”

John Lavinsky '07 (from the DOJ OIG) remarks that there are three main groups that young attorneys or students should reach out to:

- 1) reach out to peers who you have an affiliation with, such as friends or those who shared a common experience with you such as graduating from HLS;
- 2) reach out through your recommenders from previous jobs; [and]
- 3) when you're ready to apply for a specific job, ...figure out if you know somebody or a friend of a friend in the office that you're applying to. You should talk to them about the job, find out what credentials they look for in the office, and then ask for their assistance to get your

resume some attention. This last step is most important, as we get so many applications here, so getting your resume to the top of the pile is key.

While demonstrable skills, a public interest track record, and an impressive academic transcript are certainly desirable qualities in an applicant, relying on your network may be the most important method for actually landing an interview and, ultimately, a position. See the following section on Harvard Law School resources for more networking ideas.

HOW HARVARD LAW SCHOOL CAN HELP

Harvard Law School offers numerous financial and advising resources that can support you in preparing for a career in administrative law.

Summer Public Interest Funding (SPIF)

HLS offers plenty of financial resources to allow students to pursue unpaid government and nonprofit work. The Summer Public Interest Funding (SPIF) program provides funds to HLS students pursuing public interest positions during the summer. Because a large number of these positions are unpaid, the SPIF program was developed to make it financially feasible for students to accept unpaid or low paying public interest positions for the summer. HLS has the most comprehensive support for summer public interest work of any law school, and students should take advantage of this incredible resource. Students can use SPIF funding to support internships in government agencies, nonprofits, or other administrative law practice settings. For more information on the SPIF program, please visit <http://www.law.harvard.edu/current/sfs/spif/index.html>.

Low Income Protection Plan (LIPP)

The Low Income Protection Plan (LIPP) allows HLS graduates to pursue public interest related work. Given the expensive price tag of a legal education, careers in government and non-governmental organizations might not be feasible for many HLS graduates if not for this loan repayment assistance program. LIPP helps relieve the financial burden of a law school education for JD graduates accepting full-time government, non-profit, or academic jobs. Students participating in LIPP pay a portion of their income towards their annual loan repayment obligations; LIPP then covers the remainder. Graduates may enter this program at any time after graduation if they meet the job, debt, and income requirements. For more information, see <http://www.law.harvard.edu/current/sfs/lipp/index.html>.

Heyman Summer Internships

The Heyman Summer Internship is designed to encourage law students to spend one or more of their law school summers in federal government. HLS 1Ls or 2Ls who have secured or are pursuing federal government summer jobs or internships are eligible to apply in late winter each year. Heyman Summer Interns receive a small stipend and participate in networking and programming with Heyman Fellows and other federal officials. Go to

<http://www.law.harvard.edu/academics/fellowships/heyman/narratives.php> for more information on this program.

Heyman Fellowships

The Heyman Fellowship is designed to afford financial support and a community of peers to recent HLS graduates who have secured a position in federal government. Approximately ten to fifteen Heyman Fellowships are awarded each spring to graduating 3Ls and graduates from the prior two years. In exchange for the financial support, Heyman Fellows agree to spend at least three years in federal government and to act as mentors to Harvard Law students and graduates interested in federal government work. Each Heyman Fellow will receive an honorarium of \$5,000. In addition, selected Heyman Fellows are eligible to receive loan repayment assistance of up to \$25,000 over the duration of their Fellowship, depending on their overall debt load.

Heyman Fellows are expected to act as mentors to HLS students and participate in activities throughout the year, such as the Heyman Fellowship Annual Dinner in Washington D.C. each fall and panels at HLS, where the fellows share their experiences with current students. Visit <http://www.law.harvard.edu/academics/fellowships/heyman/description.php> for more information.

Alumni Networking Opportunities

HLS alumni hold varied positions in a wide range of administrative law practice settings. Harnessing this built-in network can be a powerful way to make useful contacts.

The Heyman Fellows provide an incredible network, not just because they are in federal government positions, but especially because they have agreed to serve as mentors to HLS students and graduates. This program creates a supportive peer community of HLS graduates in federal public service. Students interested in administrative law, or in any other kind of government work, are encouraged to reach out to Heyman Fellows (<http://www.law.harvard.edu/current/careers/opia/fellowships/hls-specific-fellowship-opportunities/heyman-fellowship/current-&-past-heyman-fellows.html>) to learn more about their careers in federal government.

HLS students and graduates have access to another excellent networking and mentoring source through the Alumni Advising Network. The Alumni Advising Network is a database of HLS alumni who volunteer to share information about specific careers, job search strategies, practice areas and other related topics with HLS students. The Alumni Advising Network is not a job bank, but rather a network of contacts in a variety of fields and geographic locations. Alumni have the ability to edit directory information, search for other alumni, and volunteer to serve as advisers to members of the HLS community. We encourage you to explore the AAN (<https://hlsconnect.com/>) for HLS alumni working in administrative law positions. Current students can request a username and password from the Alumni Advising Center at alumnionline@law.harvard.edu.

Advising Resources

The Bernard Koteen Office of Public Interest Advising is also a great resource for students and alumni exploring careers in administrative law. Two of the office's advisers, Catherine Pattanayak and Joan Ruttenberg, specialize in government careers and can put you in touch with contacts working in administrative law on the federal, state, and local levels. OPIA also has a dedicated alumni adviser, Carolyn Stafford Stein, who can help guide you through career transitions. You can set up an individual meeting with these advisers through the OPIA website.

8 CHAPTER

LANDING A JOB

You have decided you want to work in the administrative law field, taken advantage of opportunities in law school, and built up a base of skills and experience—what comes next? This chapter discusses job search and hiring processes for positions in administrative law.

THE JOB SEARCH

There are several different approaches to the job search process in the administrative law field. If you had enjoyable experiences before or during law school working in a particular field, consider starting your search with agencies that regulate that field. Your substantive knowledge and prior contacts will be valuable assets when you apply.

For students who are passionate about administrative law but are uncertain about what substantive area they would prefer, engaging in some strategic thinking could be a productive way to identify job opportunities. Former Wasserstein Fellow **Blan Holman**'s advice: "Look for non-obvious agencies. [The] USDA, for example, has administrative cases. Don't just go for [the] EPA." You may be able to find accessible avenues to very rewarding careers in administrative law by seeking out positions in less well-known government entities.

Quick Tip: Government employers who are dealing with a large volume of applications may read your resume before your cover letter or writing sample. Make sure your resume highlights the knowledge and experience that is most relevant to the position; otherwise, the employer might not read your cover letter at all.

USA.gov maintains listings of different government bodies that can be an excellent starting point for a job or internship search. You can view the independent agencies and government corporations at <http://www.usa.gov/Agencies/Federal/Independent.shtml>. Most people will recognize the names of organizations like the National Labor Relations Board or the Central Intelligence Agency, but other, less familiar agencies may be equally germane to administrative law careers. For instance, the Federal Mine Safety and Health Review Commission, which describes itself as "an independent adjudicative agency that provides administrative trial and appellate review of legal disputes arising under the Federal Mine Safety and Health Amendments Act of 1977," is a small federal government body composed primarily of ALJs and devoted entirely to administrative adjudications. Some dedicated sleuthing can turn up great opportunities that might not immediately come to mind. For more ideas, check out *Chapter 10: Organizations* and *Chapter 11: Resources* at the end of this guide.

PUTTING YOUR BEST FACE FORWARD: HIRING TIPS

Once you have identified some agencies or organizations to which you plan to apply, the next step is to demonstrate to employers that you are an attractive candidate with the skills and background for the job. In general, **Karen Timberlake '95** explains, “students need to show to us as hiring managers that they actually care about and are interested in the broader goals of government, which are to do some good for people.” Beyond this, though, students will find that what employers are looking for in the administrative law field is not unlike what is expected from applicants in other fields of law. As **Mark Freeman '03** explains, “DOJ is no different than any big law firm in terms of what we look for. Good grades are important, clerkships are valuable, as well as some kind of journal work if not law review. DOJ doesn’t have any particular things that we look for, aside from an obvious interest in government service. We expect you to have good qualifications as a lawyer.”

One of the keys to showcasing your talents and knowledge for potential employers lies in putting together a professional, descriptive, specific resume. Do not make your resume a “general resume with general stuff,” as one government employer put it. Tailor your resume to the position for which you are applying. Employers spend only a couple of minutes per resume, and many government employers—particularly those who receive large numbers of applications—say that they read the resume before the cover letter or writing sample. Therefore, it is extremely important to include and highlight your most relevant experiences (those that pertain most closely to the job for which you are applying) directly in your resume. Do not make the employers “dig” for your relevant background and experience.

In addition to the resume, however, the cover letter and writing sample are also important. The cover letter in particular should detail your specific substantive background and interest in the job, describing in greater depth the most relevant experiences you have highlighted in your resume. Be sure to follow directions for the writing sample: do not submit ten pages if the employer requested five. Both of these documents should demonstrate a clear, readable writing style.

HLS alumni stress the importance of cultivating relationships and maintaining a network as a means of helping to get your foot in the door—and distinguishing your resume from those of other applicants. **Marilynn Sager**, who has worked in state government, believes that “Relationships with people are supremely important. A recommendation goes a long way—most employers right now have far more applicants than openings.” Other government employers agree that an unsolicited phone call from a reference in favor of a particular applicant can make a huge difference. A good word from someone in your network may be the key to landing your desired job. For more suggestions on networking, please refer back to the “Networking” section in Chapter 7.

Finally, before you apply to a position, do some homework to inform yourself about the agency or organization’s mission and current work. “When applying,” advises **Nate Sabel '05**, “I would suggest reaching out to an alum currently in the office before your interview to get a sense of what

Quick Tip: Clerkships are viewed favorably by many government employers, the DOJ included. “I would say that the vast majority of attorneys here at DOJ Federal Programs who came through the Honors Program had a federal clerkship before they applied,” explains **Julie Straus '07**. Thus, pursuing a clerkship after law school might make you more competitive in the Honors Program hiring process.

might be most important in the hiring process.” Even if you are unable to speak directly to an individual at the organization, some thorough internet research can also be a productive way to prepare for interviews. Demonstrating to potential employers that you have taken the time to learn about their organization in some depth will give you a definite advantage in the hiring process.

WHERE THE JOBS ARE: ENTRY-LEVEL HIRING

There are numerous entry points to administrative law work. Two of the most common methods of accessing entry-level public interest employment are government honors programs and fellowships, which are both discussed below. In general, students need to conduct a significant amount of research on the offices, agencies, or organizations to which they would like to apply. Some agencies will have summer programs and on-campus recruiting, while others will offer fellowships, post jobs, or rely primarily on informal hiring practices (*see “Informal Avenues,” below*). Students will need to do some research on the opportunities that most interest them and figure out which hiring processes are most relevant to those positions.

Honors Programs

Because most agencies prefer to hire lawyers with several years of experience, government honors programs represent the chief hiring vehicle for entry-level attorneys at the state and federal level.

Perhaps the most well known post-graduate honors program is the DOJ Honors Program. Additional information on the application process can be found in OPIA’s ***DOJ SLIP and Honors Program Application Guide***. You are only eligible to apply to the DOJ Honors Program if you have just graduated or if you are coming out of a clerkship or certain types of fellowships.

Students should research the DOJ Honors Program and other honors programs to learn more; some agencies and offices will have them while others will have more insular hiring processes. Federal agencies that have hired at the entry level in the past include:

- **Army Corps of Engineers**
- **Central Intelligence Agency**
- **Comptroller of the Currency**
- **Environmental Protection Agency (in multiple locations)**
- **Equal Employment Opportunity Commission**
- **Federal Communications Commission**
- **Federal Deposit Insurance Commission**
- **Federal Trade Commission, Bureau of Competition**
- **Department of Homeland Security**
- **Department of Housing and Urban Development**
- **Department of the Interior**
- **Internal Revenue Service**
- **Department of Justice**
- **Department of Labor**
- **National Labor Relations Board**

- **Nuclear Regulatory Commission**
- **Securities and Exchange Commission**
- **Department of State**
- **Department of Transportation**

Some state and local government bodies also offer honors programs. State Attorneys General Offices in California, Oregon, Maryland, Massachusetts, Ohio, and Washington, for instance, have programs to hire entry-level attorneys straight out of law school or clerkships. The New York City (NYC) Law Department conducts on-campus interviewing for both permanent positions and a summer honors program that, for some students, may lead to an offer for post-graduate employment. **Evan Hochberg** at the NYC Law Department explains, “There are a lot of different divisions here, and the availability of new attorneys varies widely. Some divisions always need more people. The smaller ones tend to deal with administrative law, and whether they are hiring anyone out of law school depends on the year.” Thus, you should regularly check the websites of agencies at which you might want to work, as new hiring opportunities might arise at any time.

OPIA’s *Careers in State and Local Government* guide, available at http://www.law.harvard.edu/current/careers/opia/planning/career-resources/docs/statelocal_09.pdf, provides additional detail about opportunities at the state and local level. To find out the most updated information about honors programs at all levels of government, consult the University of Arizona College of Law Government Honors and Internship Handbook (the “Arizona Guide”) at <http://www.law.arizona.edu/career/honorshandbook.cfm>.

Fellowships

One- or two-year fellowships offer great opportunities for entry-level attorneys to join the administrative law field. There are three types of fellowships for which students may apply. First, government fellowships such as the Presidential Management Fellows Program are an excellent way for attorneys to break into public policy positions. Second, certain advocacy organizations and private public interest law firms may fund their own fellowships to hire entry-level personnel for a specified period of time. Finally, third-party fellowships such as the Skadden Fellowship or the Equal Justice Works Fellowship offer financial sponsorship to new attorneys who wish to pursue particular projects in existing public interest organizations.

Government fellowships are one way to launch a career in administrative law work. The Presidential Management Fellows Program (PMF) is a prestigious two-year paid government fellowship sponsored by the Office of Personnel Management for graduates who want to work with a federal agency. Following a rigorous assessment process, fellows are selected and can then seek placements with agencies such as the Departments of State, Agriculture, Commerce, and Defense, as well as the EPA, FBI, and NASA, among others. After the two year fellowship, the fellows are generally offered full-time permanent positions with their agency. More information on the PMF and application process can be found at <https://www.pmf.opm.gov/>. For those who would prefer to gain experience on the legislative side, the Congressional Black Caucus Foundation, the Congressional Hispanic Caucus Institute, and the Asian Pacific American institute for Congressional Studies all offer fellowships that expose recent graduates to a variety of policy areas, including many that are highly relevant to the administrative law field.

These federal opportunities are not the only government fellowships available, however. State legislative fellowships, such as the California Senate Fellows program, the New York State Senate graduate fellowships, and the Ohio Legislative Service Commission Fellowship, provide another point of access for those seeking careers in government lawyering. The two-year Capital City Fellows program in the District of Columbia hires 3Ls and recent graduates to work in a selection of local agencies, including the Department of Human Services, the Office of the Chief Financial Officer, and the Office of the City Administrator. You can read more about these and other government fellowships at the state and local level in OPIA's *Careers in State and Local Government* guide, available at http://www.law.harvard.edu/current/careers/opia/planning/career-resources/docs/statelocal_09.pdf.

Public interest advocacy organizations may also fund fellowships for entry-level attorneys. **Kamaria Kruckenberg '08** of PRRAC says that her organization has traditionally offered a grant-funded fellowship. "My organization offered a fellowship position, and that is how I was able to transition over to my current position," she explains. Thus, even though fellowships within organizations may be advertised as term-limited, there are often opportunities to convert to a permanent position within the organization at the end of the fellowship term.

Third-party sponsored fellowships allow new attorneys to design their own public interest projects and carry them out at organizations that may not have the financial resources to pay a fellow themselves. **Karen Tseng '05** launched her career as a Skadden Fellow at the WilmerHale legal services center. The experience that she gained during her fellowship—doing her own jury trial, for instance—made her a particularly attractive candidate for her current position in the Massachusetts Attorney General's Office.

A list of some policy-related fellowships both inside and outside of government can be found at <http://www.law.arizona.edu/publicpolicyhandbook/>. HLS affiliates may contact OPIA for the username and password. OPIA's searchable public interest jobs database (<https://ldap.law.harvard.edu/>) also lists numerous fellowships and their application guidelines. For advice on crafting a winning fellowship proposal, please consult OPIA's *Insider's Guide to Writing a Successful Fellowship Application* at <https://www.law.harvard.edu/current/careers/opia/fellowships/secure/fellowshipguide10.pdf>. HLS students and alumni can also set up a meeting with OPIA's fellowships adviser, Judy Murciano, on the OPIA website.

Informal Avenues

Not every government agency and non-profit organization hires through formal processes. In fact, much hiring of experienced attorneys (and, less frequently, of entry-level attorneys) is done on an informal, word-of-mouth basis. As a result, graduates need to develop and utilize their networking skills in order to find out about job openings in offices that they are interested in.

On Capitol Hill, these informal methods are particularly important. "On the Hill," explains **Joseph Wender '08**, "there aren't really any forums or networks for jobs. That's the thing with the Hill, there's nothing formal about it. Hiring is very byzantine and chaotic and informal. Every single office hires on its own schedule and there are no main hiring units. Furthermore, every committee hires differently." While some fellowships, such as the Congressional Black Caucus and

Congressional Hispanic Caucus fellowships, do offer a few graduates a formal entry point, doing some dedicated networking on the Hill—a series of informational interviews, for example—can be just as effective in securing a position.

The best thing students can do to find out about openings outside of on-campus recruiting and interviewing is to reach out to their network, check all local, state, and federal government websites for postings, and listen for positions through word of mouth. (For HLS students, this might mean subscribing to and reading OPIA's jobs e-mails, for instance.) Some offices hire lawyers directly out of law school, while others typically do not. Similarly, some will have honors or summer programs while others will not. With a little bit of research, you can identify the usual hiring practices of organizations where you would like to work and tailor your efforts accordingly.

LATERAL HIRING

Government employers and advocacy organizations will seek similar skill sets in lateral hires as they do in entry-level attorneys; however, they will expect greater substantive experience from laterals. **Stephanie Martin** explains, “Usually [with lateral hiring] we’re trying to fill a hole, so we want someone who can hit the ground running. We want the same skills essentially, but with relevant experience in the field.” In general, especially in government agencies, there is not much turnover for laterals, so the demand for jobs typically exceeds the available supply. Therefore, it is critical to make your application stand out with relevant experience and great references (*see “A Word on References” below*).

A Word on References: References are a particularly important component of job applications for lateral hires. Be aware that negative feedback from a reference may be very difficult for the employer to get out of his or her head when considering you as a candidate. Some employers may take the time to figure out whether a judge you clerked for or another employer is typically difficult to work with and temper their interpretation of your reference’s comments accordingly. However, given the great volume of applications—and the fact that employers are looking for reasons *not* to pick a particular candidate (so that they can narrow down the field)—it is safer to assume that bad references will dramatically reduce your chance of getting the position. Make sure you know what your references will say before you list them.

Be aware that some government hiring committees will “develop references.” If you list one person in a particular office where you worked, they may ask, when they call the reference, to speak with another person in that office as well. Government employers want to get a sense of whether you are a good person to work with; they do so partially by ascertaining whether the comments of your colleagues are consistent.

In some more specialized areas, the community of lawyers in the field may be quite small and close-knit. Someone on your hiring committee might call another person in that community who has worked with you, even if you do not list him or her as a formal reference. Keep this in mind as you move through your career. Unprofessional behavior like renegeing on an accepted offer can have negative fallout later; conversely, making a good impression and being a friendly, useful coworker in each of your jobs will certainly have a positive impact.

CHAPTER 9

NARRATIVES

KAREN TSENG '05

Health Care Division, Office of the Massachusetts Attorney General

Leading up to and during law school, I knew that my interests lay with civil rights, human rights, and other public interest causes. Following graduation, I completed a federal clerkship with the U.S. Court of Appeals for the Ninth Circuit and applied for one of a select number of public interest fellowships funded by top U.S. law firms. I was awarded a Skadden Fellowship, for which I had designed a project to defend consumers from predatory mortgage foreclosures. I worked in the Predatory Lending/Consumer Protection Clinic at the WilmerHale Legal Services Center in Boston's Jamaica Plain neighborhood, where I represented working poor homeowners and taught consumer financial services law and civil litigation skills to law students. After two and a half years there, I transitioned to the Attorney General's Office, where I have continued to work on consumer protection issues while shifting my focus from housing to another critically important social good: health care.

Within the Massachusetts Attorney General's Office, I work in the Health Care Division of the Public Protection and Advocacy Bureau. As an Assistant Attorney General in the Health Care Division, I engage in a variety of work ranging from traditional law enforcement and investigation to regulatory and policy activities. If there is a company or set of companies that we have reason to believe engaged in unlawful conduct, I would issue subpoenas and investigate that conduct, and possibly file a lawsuit. I can do this on my own, with sister states, or in parallel with the federal government (if, for example, a national or multinational corporation, like a pharmaceutical company, engages in similar misconduct, such as false advertising, across multiple states). In these cases, there can be positive synergy between my office's work and the work of federal or other state authorities. In addition to investigation and litigation, another part of my job involves developing a public record for potential policy or regulatory solutions. Health care is an issue area that is particularly rich in potential policy work. Massachusetts enacted universal health care reform in 2006, so we are about five years ahead of the feds. As a result, we have already begun to respond to the host of questions that are raised by implementing universal coverage, protecting consumers, and addressing health care cost containment. For example, one unique statute passed in 2008 calls upon the Attorney General's Office to conduct an annual review of rising health care costs. Under this statute, we can issue subpoenas to health insurance companies and health care providers requiring

"I engage in a variety of work ranging from traditional law enforcement and investigation to regulatory and policy activities."

~ Karen Tseng '05,
Assistant Attorney General in the Health
Care Division

them to provide documents, information, and testimony—all under oath—so we can move beyond anecdotes to get at the underlying data and facts of health care cost drivers. Unlike our traditional subpoena authority, where we have a belief of wrongdoing that causes us to investigate a particular company, under the 2008 statute, the basis for subpoenas is not any suspicion of misconduct. Instead, it is a broad mandate to conduct an annual fact-based review of health care cost drivers to inform the Commonwealth as it addresses escalating health care costs. We have even found market participants to be receptive to our subpoenas in that they are a unique tool to cut through webs of confidentiality to illuminate practices that have had a negative or dysfunctional impact on the health care market. Both years that we have issued our annual report on health care cost drivers, we have been asked to work with the legislature to craft statutory solutions based on our findings. Last summer, I drafted new health care legislation to ensure that health care prices that are negotiated between insurance companies and hospitals or physicians are made public. This kind of transparency provides consumers and other stakeholders with information critical to understanding costs to the system of paying providers widely differing prices.

The Massachusetts Attorney General's Office has a strong reputation for high quality, cutting edge work. When sub-prime lending developed as a critical problem, this office was among the first to respond with a battery of legal and policy initiatives. Similarly, in the health care arena, our work is not limited to litigation against individual industry participants, but also involves larger market oversight, often culminating in regulatory or policy change. As another example, after universal health care was enacted in Massachusetts, we saw an increase in the marketing of medical discount card plans as health insurance. These products are not insurance; they function as membership plans that can (but do not always) provide slight discounts off the list price for certain medical services. In response to the proliferation of false advertising of these types of products (which companies were marketing using terms such as "universal coverage" and "no copayments"), my office took a multi-pronged approach: we sued companies engaged in unlawful marketing practices, obtained restitution for individual consumers through mediation, and enacted regulations to make it clearer that deceptive marketing of these types of products is illegal under existing law.

The Massachusetts AG's office is closer to the ground than federal agencies and has different authority than nonprofits and other organizations to effect systemic change. For example, while nonprofits can craft proposed regulations as well as file class action lawsuits, our office can issue regulations directly as well as bring lawsuits on behalf of the public. This is a unique position from which to shape broad, positive change. It is also exciting and satisfying to be able to use a full spectrum of legal and policy tools creatively to address issues of central importance to the livelihood and well-being of Massachusetts residents. It keeps all of us at the AG's office on our feet in that we are doing something different every day.

At the same time, working at the AG's office allows me to have a life outside of work. I'm a mom and a regular person. Although my hours are not nine to five because I choose to be very engaged in what I do, there can also be flexibility. In my office, as compared to a private firm, there are differences in culture, expectations, and level of autonomy that together create an environment that highly favors a healthy work-life balance.

If I decide to become a career health care attorney—and that is a question I am pondering right now—my work as an AAG has prepared me to transition in at least a couple different directions. I could pursue a position at the U.S. Department of Health and Human Services or Department of Justice, as the federal government catches up to Massachusetts in the implementation of health care

reform. Alternatively, I could remain here in Massachusetts and shift from my current roles as a prosecutor and regulator to working on behalf of one of the stakeholders in the health care system. That might mean representing a major hospital that is struggling to remain viable while navigating a complex regulatory and market environment, or it might mean working for a major health insurance company to ensure sound and lawful business practices. Whatever path I take, the skills and knowledge I have gained from serving as an AAG will enable me to continue to work effectively for the public good.

JUDITH R. STARR '85 **General Counsel, Pension Benefit Guaranty Corporation**

I always have had an interest in administrative law, and my federal government career has given me a great opportunity to help shape it. After law school, I clerked for a federal district judge and then spent five years in private practice as a litigator with a mid-size firm in Los Angeles. Upon returning to my home base of D.C. in 1991, I joined the Securities and Exchange Commission. For several years I defended the agency's rulemakings and administrative decisions before courts of appeals throughout the country, and also handled appeals of enforcement actions. I then became a lead trial counsel in the Division of Enforcement. This was a great job, which gave me the chance to advocate for the flexible use of equitable remedies to prevent unjust enrichment and help fraud victims. My portfolio ultimately included: breaking offshore asset protection trusts set up by malefactors to transfer assets across the globe, using constructive trusts to reach fraud proceeds in the hands of donee beneficiaries, and successfully asserting the civil contempt remedy against SEC judgment debtors who fraudulently tried to insulate their assets. In addition, a federal judge appointed me to be a Special Assistant United States Attorney to prosecute a criminal contempt case against one of our most notorious fraudsters. I also created the Division's bankruptcy enforcement program to prevent bankruptcy filings from derailing ongoing investigations. I am pleased to say the program is still going strong without me.

"I have one foot in each world: the public sector, where we issue regulations...and the private sector, where we have an investment portfolio to manage and corporate governance issues to address."

~ Judith R. Starr '85, General Counsel,
Pension Benefit Guaranty Corporation

In the aftermath of 9/11, like many people, I wanted to do more to help. In December 2001, I became Chief Counsel to the Department of Treasury's Financial Crimes Enforcement Network (FinCEN). FinCEN is the U.S. financial intelligence unit, one of over 100 such units in the world, which gather and disseminate financial intelligence to domestic and international law enforcement. It is also where administrative and criminal law meet. The Patriot Act required us to craft dozens of new regulations and procedures to enhance the ability of law enforcement to follow the financial trail of terrorists and money launderers. It required a great deal of balancing of benefits and burdens, along with a careful attention to individual privacy rights. We didn't always get it right the first time, and I came to appreciate the notice and comment process for the help it gave when we started to veer off course. During this process I also encountered the oddest administrative law tool I ever saw – a cross between an enforcement action and a regulation – the designation process for

jurisdictions and/or financial institutions of major money laundering concern. Making an individual designation actually required a rulemaking. Determining how to properly use this tool Congress gave us was a difficult task, particularly because it often involved the use of classified information. Ultimately, we created a process that worked, with sound evidentiary standards, and which provided an effective means for isolating problem banks and others from the U.S. financial system. We also expanded the reporting system for suspicious transactions, and helped train law enforcement personnel on its effective use.

In 2005, I left FinCEN to become General Counsel of the Pension Benefit Guaranty Corporation (PBGC). PBGC is a particularly interesting creation – a federal corporation, which is a government agency, with a board of directors composed of three cabinet secretaries (Labor, Treasury, Commerce) and a presidentially-appointed, Senate-confirmed Director. PBGC insures private defined benefit plans. When a company that has such a plan goes bankrupt, PBGC takes over the plan as its trustee and pays benefits up to the legal limits (currently \$54,000/year). PBGC is not backed by the full faith and credit of the U.S. Government, but is funded by premiums paid by plan sponsors, the assets it inherits from terminated plans, recoveries from sponsors of those plans, and investment income on its \$75 billion portfolio. As PBGC's General Counsel, I have one foot in each world: the public sector, where we issue regulations and make administrative determinations, and the private sector, where we have an investment portfolio to manage and corporate governance issues to address (I also serve as secretary to our Board of Directors). In addition to overseeing a full-service legal department, I also oversee our Appeals Board, which renders final agency action on administrative appeals from agency decisions on benefits and employer liability, and our Disclosure Division, which handles FOIA and Privacy Act requests. As a member of the Corporation's executive management committee, I provide advice and input on all major policy issues. PBGC faces many challenges to fulfill its mission of encouraging the continued maintenance of defined benefit plans. Our established notions of retirement security are under siege in the current budget environment and the agency is trying to find ways to shore them up with the limited toolkit it has. This requires working with all its stakeholders as well as the other agencies that handle retirement security issues. It is a challenge worth meeting.

Law students (and other career changers who may be reading) – the federal government is an amazing place to practice law. As you can see from my experience, it is far from monolithic. The missions of the different federal agencies vary enormously, and they all provide important services to someone. You can make a difference and also obtain a great deal of intellectual stimulation. Your colleagues are motivated and smart. You will not make the kind of money you would in the private sector, but the pay is decent and the job security is better. So take an internship, an externship, a law clerkship, come in through an honors program, or do what I did and lateral in after you have picked up some useful skills in the private sector. I highly recommend it.

BRANDON HOFMEISTER '04

Former Deputy and Special Counsel to the Governor of Michigan

I have always been broadly interested in politics and government and committed to public service in my career choices. I worked in the Clinton White House as an intern in the health care policy office for two summers as a college student and got a taste of federal government work there. I found it exciting but ultimately a bit removed from actually helping people—so much of DC is obsessed the current news cycle, and the work can tend to revolve around moving large budget line items. When

I was looking for job opportunities after graduating from law school, DC was dominated by leaders of a different political persuasion than me, so going there was not very appealing. State government offered a role that was more directly related to the issues I cared about—education, health care, economic development—particularly in my home state of Michigan. What’s more, a Harvard degree can really open doors in places outside of the coasts—it’s more unique, and you really stand out. It allowed me to ascend to a very senior role much faster than I probably could have in Washington.

During my second summer of law school, I worked as a law clerk to then-Michigan Governor Jennifer Granholm ’87. Networking was the key to securing this post: Wasserstein Fellow Jim Tierney introduced me to the Governor’s legal counsel. The ability to work for free with HLS Summer Public Interest Funding made me a very attractive candidate (and I was quite persistent). I clerked for a U.S. District Court judge after graduation, helped in part by a recommendation from the Governor. When I was leaving the clerkship, a deputy legal counsel position opened up almost simultaneously in the Governor’s legal office, which was fortunate, and I took it.

My duties as deputy legal counsel were quite broad. The lawyers in my office served as general advisors to the Governor on a wide range of constitutional, legislative, and administrative issues. The office of legal counsel drafted all gubernatorial executive directives and executive orders, reviewed interlocal agreements, made recommendations on pardons and commutations, and served as the primary lead for emergency management operations. We oversaw a number of important statewide litigation matters—working with the litigators in the Department of the Attorney General in a manner similar to in-house counsel in a corporation deals with outside counsel. Occasionally we had to file our own briefs in opposition to the state’s Attorney General on hot button issues such as affirmative action and gay rights. In the legislative realm, we often worked with legislators, department staff, and interest groups to craft legislation and implement the Governor’s policy priorities. The Governor’s lawyers also worked closely with the communications staff—helping guide what could and couldn’t be said publicly about the important issues of the day.

“On the policy side, my work involved negotiating, drafting, and implementing a once-in-a-generation comprehensive energy regulatory reform package.”

~ **Brandon Hofmeister ’04**, Former Special Counsel to the Governor of Michigan

In addition, there were a number of special projects that the Governor entrusted her legal team to handle. I spent almost two years mediating a messy contract dispute between the biggest hospital and medical school in Detroit, which had huge implications for access to medical care in the state’s largest city and medical education statewide. When the Governor geared up to exercise her authority to remove the Mayor of Detroit from office, she turned to her legal team to design a fair administrative hearing process. The mayor resigned a day into the hearing and has since been indicted on federal corruption charges.

I spent my final year in the administration as Special Counsel for Energy and Climate Policy, reporting directly to Governor Granholm and serving as a member of her nine-person executive team. In that role, I was her primary advisor on all energy and climate matters, which was probably her top priority during that period. I focused on clean energy economic development and policy implementation, directing the work of state agencies. In economic development, that means

creating economic incentives and shepherding them through the legislature, as well as networking and meeting with business leaders to draw them to Michigan. On the policy side, my work involved negotiating, drafting, and implementing a once-in-a-generation comprehensive energy regulatory reform package. This package included requirements for utilities to produce renewable energy and create rebate programs encouraging customers to be more energy efficient. It also completely changed some of the administrative processes of utility regulation in Michigan. The Governor asked the Michigan Public Service Commission, the agency that regulates utilities, to overhaul the way utilities are regulated to encourage investments in energy efficiency (known in the field as “decoupling”). I led the implementation of this policy despite some entrenched feelings of opposition among the agency staff.

Governor Granholm also led an aggressive and controversial push against the permitting of new coal-fired power plants in Michigan, using tools from administrative law. I designed and executed this strategy—unearthing some lightly-used legislative authority and implementing it in a unique way through an executive directive. The executive directive created a new administrative process that had the Michigan’s energy regulators report to the environmental regulators on the need for new coal-fired power plants and alternative methods of meeting power needs as part of the environmental permitting process.

I’m now an Assistant Professor of Law at Wayne State University in Detroit, focused on energy and climate regulatory law and policy. Entering academia was not a career move that I would have anticipated when I was in law school. But my priorities have changed. I used to think I wanted to run for office myself (and saw the Governor’s office as an excellent way to meet Michigan’s political power players, which it was). Having seen it up close, I don’t think running for office is for me. As a professor in Michigan, I can stay involved in politics and policy, and potentially jump back into state or federal government service in the future.

MICHAEL KIRKPATRICK

Public Citizen Litigation Group

My entire career has been devoted to public interest law, both inside and outside of government. I began my career as a staff attorney with the Farm Worker Division of Texas Rural Legal Aid (TRLA), where I litigated employment and civil rights cases on behalf of migrant, transnational, and contingent workers. I later served as a senior trial attorney with the Civil Rights Division of the U.S. Department of Justice, litigating employment discrimination cases against state and local government employers under Title VII of the Civil Rights Act, and defending the constitutionality of federal affirmative action programs.

I now work as an attorney at the Public Citizen Litigation Group (PCLG) in Washington, DC, a position that allows me to draw on my litigation background to effect positive change through the administrative law process. I was drawn to PCLG because of its reputation for high quality work on important and cutting-edge issues, its focus on impact litigation, and the fact that PCLG is a general practice public interest law firm. While most public interest law firms are dedicated to practice in a particular subject matter (e.g., civil rights, environmental, immigration, etc.), PCLG takes on issues that cut across many different areas of practice. Further, PCLG is the litigating division of Public Citizen, a multi-issue advocacy organization. Public Citizen is often involved in the rulemaking process through the submission of comments in response to proposed rules, and by filing petitions

for rulemakings or calling for a particular agency action. PCLG represents the other divisions of Public Citizen at all stages of the administrative law process.

Working as a PCLG attorney, I litigate public interest cases at all levels of the federal and state judiciaries. My main job responsibilities involve writing briefs and presenting oral arguments in cases that are either on appeal or are pending decision from a trial court on a dispositive motion. Less frequently, I am involved in trials and discovery. In the administrative law field, my work involves challenges to agency rulemaking where a rule does not go far enough in protecting public safety, or where a government program is being administered in a way that is contrary to what Congress intended. I have also been involved in several cases that challenged agency action that was unreasonably delayed. My administrative law cases have involved a variety of subject matters including drug safety, nuclear reactor licensing, trade adjustment assistance, emergency housing assistance, and worker health and safety standards.

For example, in *Asociacion de Trabajadores Fronterizos v. Department of Labor*, I represented an association of trade-dislocated workers who had been denied effective job training benefits because of their limited English proficiency. We alleged that the U.S. Department of Labor (DOL) had systematically violated the Trade Act by failing to ensure that Spanish-speaking workers who lost their jobs in the wake of NAFTA received the vocational training to which they were entitled under the Trade Adjustment Assistance program. Although the program was intended to provide effective job retraining to workers who lose their jobs because of trade agreements, the DOL sent thousands of Spanish-speaking trade-dislocated workers to remedial English classes that did not help the workers learn new job skills. The case was resolved after DOL agreed to spend \$6.5 million on new job training for workers who previously received deficient training, and to make nationwide policy changes to end each of the agency practices that the workers alleged were unlawful.

Administrative law is an attractive practice area because it cuts across many different subject matters. It is particularly appealing to public interest lawyers because most cases involve an administrative record that is already developed; thus, the high cost and extended duration of discovery can often be avoided, which is important for organizations with limited financial resources. Finally, and most importantly, challenges to government action (or inaction) can often result in major changes in policy that affect a very large number of people for an extended period of time. Thus, through the strategic use of administrative law cases, the public interest lawyer can have a huge impact with relatively few resources.

Working at PCLG has some unique advantages that make the work rewarding and exciting. In a public interest organization, there is far less bureaucracy than in government. Thus, decisions can be made much more quickly. Also, the political realities that often constrict government agencies are generally not an issue for advocacy organizations. At Public Citizen, we work on a wide range of issue areas, including drug and medical device safety, occupational safety and health, energy, auto

“I litigate public interest cases at all levels of the federal and state judiciaries... In the administrative law field, my work involves challenges to agency rulemaking where a rule does not go far enough in protecting public safety.”

~ **Michael Kirkpatrick**, Attorney at the
Public Citizen Litigation Group

and highway safety, government transparency, and trade policy. In addition, PCLG often represents other public interest groups in challenges to agency action. In those cases, we lend our expertise in administrative law to the subject matter expertise of the other organizations. The opportunity to have a large impact across diverse issue areas, despite resource limitations, has been a very rewarding part of working in administrative law.

MARK FREEMAN '03

Civil Appellate Staff, Department of Justice

I had given little thought to government work before I spent a summer in law school at the U.S. Attorney's Office for the District of Massachusetts. The work appealed to me immediately. Even as an intern, I had substantive legal responsibility for aspects of a high-profile case. I thought, why should I go to a law firm and write memos for the senior attorneys handling the interesting work, when I could go into government and do the interesting work myself? After graduating from HLS and clerking for the Hon. Sandra Lynch of the United States Court of Appeals for the First Circuit, I applied to join the Justice Department through the Attorney General's Honors Program.

I am now an appellate attorney for the Civil Division of the Justice Department. My office represents the United States, federal agencies, and federal officers in civil cases in the federal courts of appeals. Our cases involve everything from constitutional challenges to federal statutes to challenges to the validity of agency regulations to tort suits against the United States. Administrative law – along with constitutional law and the minutiae of federal jurisdiction – is the bread and butter of our practice. The variety and complexity of the work is difficult to overstate. My work cuts across nearly every substantive area of federal civil law and involves nearly every executive department. Name a cabinet agency and I've probably defended it in litigation. I'm still discovering new sub-agencies that I didn't know existed (typically I learn of their existence when someone sues them and they lose in district court). My office also makes key strategic recommendations to the Solicitor General regarding whether to appeal adverse decisions against the United States, and if so on what grounds.

“Many lawyers spend their days trying to shift piles of money from one large company to another. I spend mine litigating on behalf of the United States, defending what the elected representatives of the American people have decided, through their appointed agencies, is in the best interests of the nation. That is hard to beat.”

~ **Mark Freeman '03**, Department of
Justice Civil Appellate Staff

I suspect law school students think administrative law is more difficult than it [really] is.... The fundamental questions are what legal issues executive agencies get to decide, when and by what procedures they can make those decisions, and how much deference the judicial branch owes to the decisions they make. As a lawyer for the executive branch, my bottom-line answer to those questions is usually fairly straightforward, regardless of the particular agency or administrative policy that is at issue. Persuading the court to accept my answer is usually where the challenge lies.

Working for the government does involve its fair share of challenges. Especially in recent years, resource constraints have been severe. Opponents in litigation will sometimes argue that the government has an unfair advantage because of its supposed tremendous resources and deep pockets. They should spend a day litigating in my shoes. I do my own photocopying, record-keeping, and filing. When the federal rules of appellate procedure require me to submit an appendix, I stand in front of the photocopier and copy the necessary record materials, then scan and number the pages myself. Having to deal simultaneously with the substantive and logistical complexities of legal practice is a challenge that my friends in private practice don't generally face. And, of course, there are the irritations and pointless rules that are the inescapable byproducts of any large organization – and the Department of Justice is an especially large one.

Still, I don't regard the choice between public and private employment as a close one, at least not at this stage of my career. I have a varied and challenging practice and possess a degree of personal responsibility for my cases that I still find daunting. In the last seven years, I have personally argued something like 40 cases in the federal courts of appeals, including at least two damages cases with more than a billion dollars at stake and several first-impression constitutional questions. My days at the office are spent writing my own briefs and legal memoranda, debating problems with colleagues, and making strategic decisions about my own cases. I don't have to keep track of my time in six-minute increments. And I am still able to leave work several days a week at 5:00pm to pick up my kids from daycare.

The opportunity to handle my own cases early in my career is what brought me to the Department of Justice, and the chance to do fascinating work with interesting people and still have a life outside of the office is most of what keeps me there. But I would be remiss if I did not add that public service has been its own reward. Many lawyers spend their days trying to shift piles of money from one large company to another. I spend mine litigating on behalf of the United States, defending what the elected representatives of the American people have decided, through their appointed agencies, is in the best interests of the nation. That is hard to beat.

CHAPTER 10

ORGANIZATIONS

A great way to explore careers in administrative law is to read about the different organizations that employ administrative lawyers. Here, we have included some suggestions about how to research federal, state, and local government agencies to learn more about opportunities in the field.

FEDERAL

Below, you will find links to the websites of the major executive agencies and their subsidiaries. If there are certain substantive areas that compel you, we suggest that you do some research on agencies in those fields. Attorneys practice administrative law at each one of these departments, but applicants will have a significant advantage if they apply having already gained some substantive experience in the issue areas of the agency.

- **Office of Management and Budget (OMB)**
<http://www.whitehouse.gov/omb/>
- **Department of Agriculture (USDA)**
<http://www.usda.gov/wps/portal/usda/usdahome>
- **Department of Commerce (DOC)**
<http://www.commerce.gov/>
- **Department of Defense (DOD)**
<http://www.defense.gov/>
- **Department of Education (ED)**
<http://www.ed.gov/>
- **Department of Energy (DOE)**
<http://www.energy.gov/>
- **Department of Health and Human Services (HHS)**
<http://www.hhs.gov/>
- **Department of Homeland Security (DHS)**
<http://www.dhs.gov/index.shtm>
- **Department of Housing and Urban Development (HUD)**
<http://portal.hud.gov/portal/page/portal/HUD>
- **Department of Justice (DOJ)**
<http://www.justice.gov/>
- **Department of Labor (DOL)**
<http://www.dol.gov/>
- **Department of State (DOS)**

- <http://www.dol.gov/>
- Department of the Interior (DOI)
<http://www.doi.gov/>
- Department of the Treasury
<http://www.ustreas.gov/>
- Department of Transportation (DOT)
<http://www.dot.gov/about.html>
- Department of Veterans Affairs (VA)
<http://www.va.gov/>

STATE

Because of the vast number of state departments and agencies, we have provided you with the links to each state's government website. There, you will easily find links to each state's executive agencies as well as to the offices of the governor.

- Alabama: <http://www.alabama.gov/portal/index.jsp>
- Alaska: <http://www.alaska.gov/>
- Arizona: <http://az.gov/>
- Arkansas: <http://portal.arkansas.gov/Pages/default.aspx>
- California: <http://www.ca.gov/>
- Colorado: <http://www.colorado.gov/>
- Connecticut: <http://www.ct.gov/>
- Delaware: <http://delaware.gov/>
- District of Columbia: <http://dc.gov/DC/>
- Florida: <http://www.myflorida.com/taxonomy/government/>
- Georgia: <http://www.georgia.gov/00/home/0,2061,4802,00.html>
- Hawaii: <http://www.ehawaii.gov/dakine/index.html>
- Idaho: <http://www.idaho.gov/>
- Illinois: <http://www2.illinois.gov/Pages/default.aspx>
- Indiana: <http://www.in.gov/>
- Iowa: <http://www.iowa.gov/>
- Kansas: <http://www.kansas.gov/index.php>
- Kentucky: <http://kentucky.gov/Pages/home.aspx>
- Louisiana: <http://www.louisiana.gov/>
- Maine: <http://www.maine.gov/portal/index.php>
- Maryland: <http://www.maryland.gov/Pages/default.aspx>
- Massachusetts: <http://www.mass.gov/>

- Michigan: <http://www.michigan.gov/>
- Minnesota: <http://www.minnesota.gov/>
- Mississippi: <http://www.mississippi.gov/>
- Missouri: <http://www.mo.gov/>
- Montana: <http://mt.gov/>
- Nebraska: <http://www.nebraska.gov/>
- Nevada: <http://www.nv.gov/>
- New Hampshire: <http://www.nh.gov/>
- New Jersey: <http://www.state.nj.us/nj/gov/>
- New Mexico: <http://www.newmexico.gov/>
- New York: <http://www.state.ny.us/>
- North Carolina: <http://www.ncgov.com/>
- North Dakota: <http://www.nd.gov/>
- Ohio: <http://ohio.gov/>
- Oklahoma: <http://www.ok.gov/>
- Oregon: <http://www.oregon.gov/>
- Pennsylvania: http://pa.gov/portal/server.pt/community/pa_gov/2966
- Puerto Rico: <http://www.gobierno.pr/gprportal/inicio>
- Rhode Island: <http://www.ri.gov/>
- South Carolina: <http://sc.gov/Pages/default.aspx>
- South Dakota: <http://sd.gov/>
- Tennessee: <http://www.tennessee.gov/>
- Texas: <http://www.texas.gov/en/Pages/default.aspx>
- Utah: <http://www.utah.gov/index.html>
- Vermont: <http://www.vermont.gov/portal/>
- Virginia: <http://www.virginia.gov/cmsportal3/>
- Washington: <http://access.wa.gov/>
- West Virginia: <http://www.wv.gov/Pages/default.aspx>
- Wisconsin: <http://www.wisconsin.gov/state/index.html>
- Wyoming: <http://www.wyoming.gov/>

LOCAL

Like state government, local government provides boundless opportunities for law students and young attorneys to delve into administrative law. If local government interests you, we suggest that you do some research on the municipalities where you would like to work. Check out their websites, learn about their government, and look around for any openings.

11

CHAPTER

RESOURCES

To learn more about careers in administrative law or to start looking for openings, check out the informational and job search resources below.¹³

INFORMATIONAL RESOURCES

ABA, Administrative Law Section: <http://www.abanet.org/adminlaw/>

The Administrative Law Section provides a forum to share new ideas and the most recent information on substantive and procedural developments in Administrative Law and Regulatory Practice.

Federal Bar Association: <http://www.fedbar.org/>

The FBA, founded in 1920, is dedicated to the professional development of all attorneys involved in federal law. We encourage students to take advantage of this resource's vast network of federal practitioners as well as its "Continuing Legal Education" program at both the national and chapter levels.

Federal Careers for Attorneys

Federal Careers for Attorneys, an online periodical published by Westlaw and accessible with a Westlaw password, is a unique resource for students interested in the array of legal careers available in the Federal government. While this periodical does not include job postings, it provides a structural overview of the executive branch by department/agency, a description of each department/agency's law offices, and information on U.S. cities with Federal legal offices. You can search Federal Careers by issue area and by state. See <http://lawschool.westlaw.com/shared/marketinfodisplay.asp?code=cr&id=5&subpage=1>.

Federal Times: <http://www.federaltimes.com/>

A source of news on the federal government, including sections on personnel, agency news, and careers.

FedScope: <http://www.fedscope.opm.gov>

This site, published by the U.S. Office of Personnel Management, provides data on federal hiring trends.

¹³ These resources have been compiled from various sources, including the 2011-12 *Arizona Guide* "Trends in Hiring" page and OPIA's "Federal Government Job Search Resources" handout.

Government Executive: www.govexec.com/

This e-publication features a variety of good information, including a “News by Agency” page and a “Jobs” column.

NALP Guide: <http://www.nalp.org/lawstudentsgraduates>

NALP provides a variety of useful resources for law students and recent graduates. You can join NALP’s Public Service Section and sign up for the Public Service Discussion List. The NALP Federal Employment Guide, produced in collaboration with the Partnership for Public Service and the ABA Government and Public Sector Lawyers Division, is a comprehensive source of information on Federal departments and agencies as well as the Federal hiring process. Download the guide here:

http://www.pslawnet.org/uploads/NALP_Federal_Legal_Employment_Opportunities_Guide_-_2010-11.pdf.

Partnership for Public Service: <http://ourpublicservice.org/OPS/>

The Partnership for Public Service is a nonprofit, nonpartisan organization that seeks to revitalize the federal government by encouraging young students and graduates to serve and transform the way government works. The Partnership annually ranks the best places to work for in the federal government. At their Center for Government Leadership, they offer programs for employees at all levels, including two-day seminars designed to build specific skills and the *Excellence in Government Fellows* program, where teams of federal employees spend a year trying to solve agency problems through projects and coursework.

PSLawNet: <http://www.pslawnet.org/>

PSLawNet offers helpful information about government and nonprofit work. Click on “Career Central” and check out various links, including “Government Careers,” which contains resources on local, state and federal government hiring. PSLawNet has both a Federal Government Resources page and a State and Local Government Resources page, which provide an overview of attorney work in the government and information on hiring processes. See: <http://pslawnet.org/federalgovernmentresources> and <http://pslawnet.org/stateandlocalgovernmentresources>.

USA.gov: <http://www.usa.gov>

The official website of the U.S. government contains an A-Z index of federal departments and agencies. See: <http://www.usa.gov/Agencies/federal.shtml>.

Vault Guides: <http://www.vault.com/wps/portal/usa>

Vault guides provide background information about a vast number of careers and industries. Those interested in administrative law may find the “Vault Guide to Government Agency Careers” and the “Vault Guide to Capitol Hill Careers” especially useful.

JOB SEARCH RESOURCES

General

- The University of Arizona College of Law **Government Honors and Internship Handbook** (the “Arizona Guide”) provides an online listing of summer and permanent attorney positions for 1Ls, 2Ls, and 3Ls in government agencies at the federal, state, and local levels. Contact OPIA for Harvard’s username and password. See: <http://www.law.arizona.edu/career/honorshandbook.cfm>.
- The University of Arizona College of Law **Public Policy Handbook** is a great source for policy-oriented internships and fellowships in both government and non-government settings. Contact OPIA for Harvard’s username and password. See: <http://www.law.arizona.edu/publicpolicyhandbook/>.
- **Careers in Government** offers an on-line job board devoted to public sector employment. See: <http://www.careersingovernment.com/>.

Federal Government

- **“Where the Jobs Are,”** a report published by the Partnership for Public Service, lists the number of attorneys employed by each Federal agency, identifies regional offices, and highlights areas with the highest concentration of agency workers. See: www.wherethejobsare.org.
- The **Federal Yellow Book** and the **Federal Regional Yellow Book**, available online and in hard copy in the OPIA office, contain invaluable contact information for staff at Federal departments and agencies. See: <http://ldi.bvdep.com/version-715/default.asp?UserId=84049&CompanyId=24518&DfltProdId=1&BookFilter=-1&curp=1&fhp=1>. Off-campus access to the Yellow Books is password-protected; you may log on using the same username and password you use to access OPIA’s job search database.
- **USAJobs.gov**, the official job site of the United States Government, contains a searchable database of listings for open Federal positions. You can search for positions by location, agency, and other criteria. See: www.usajobs.gov. Note that very few Department of Justice positions are listed here; instead, visit the DOJ Office of Attorney Recruitment and Management homepage (<http://www.usdoj.gov/oarm/>) for information on Honors Program and lateral hiring.
- The **Federal Jobs Digest**, “America’s leading Federal employment newspaper,” also contains a searchable database of open Federal positions. See: <http://www.jobsfed.com/>.

- The **Opportunities in Public Affairs** website lists public affairs job openings in the Washington, DC area, including government affairs positions and positions on Capitol Hill. See: <http://www.opajobs.com/>.
- **Hillzoo** provides listings for Democratic and Republican positions on Capitol Hill, as well as off-the-Hill political, lobbying, and policy/legislative jobs. See: <http://www.hillzoo.com/>.
- The **Senate and House Employment Bulletins** advertise staff vacancies on Capitol Hill. See: http://www.senate.gov/visiting/common/generic/placement_office.htm (Senate) and <http://www.house.gov/cao-hr/> (House).

State and Local Government

- **Govtjobs.com** lists opportunities in government in cities, counties, states, executive search firms, advertising agencies and other governmental jurisdictions. See: <http://www.govtjobs.com/>.
- **National Conference of State Legislatures** is a job clearinghouse for state legislature positions, both legal and non-legal, and public policy positions. See: <http://www.ncsl.org/Default.aspx?TabID=305&tabs=1027,78,589#1027>.