ADMINISTRATIVE LAW RESEARCH

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Spring 2015
Rule making
→ C.F.R.
→ Federal Register (F.R.)

Adjudication
→ Reported orders
Administrative Procedure Act:

Agency must:

- Notify the public when it plans to make new regulations or change existing ones
- Publish proposed regulations and solicit comments before regulations become final
- Publish final regulations before they go into effect

A.P.A., 5 U.S.C. §§ 500-559
Example: Family and Medical Leave Act

Congress mandated that

- an employer allow an employee with a “serious health condition” to take unpaid medical leave, 29 U.S.C. §§ 2611-2612,
- the Secretary of Labor to promulgate regulations “necessary to carry out” the Act. 29 U.S.C. § 2654.

The Department of Labor wrote regulations defining what “serious health condition” means.

- 29 C.F.R. § 825.113-115
SOURCES FOR FEDERAL REGULATIONS
The Family and Medical Leave Act of 1993, 78 Fed. Reg. 8834 to 8947 (February 6, 2013)
29 C.F.R. § 825.100 (2014)

Title 29: Broad subject area of regulations
Chapter V: Rules of individual agency
Part 825: Rules on a single program or function
Section 100: One provision of program/function rules
2014: Code edition

Subpart A—Coverage Under the Family and Medical Leave Act

§ 825.100 The Family and Medical Leave Act.

(a) The Family and Medical Leave Act of 1993, as amended, (FMLA or Act) allows eligible employees of a covered employer to take job-protected, unpaid leave, or to substitute appropriate paid leave if the employee has earned or accrued it, for up to a total of 12 workweeks in any 12 months (see §825.200(b)) because of the birth of a child and to care for the newborn child, because of the placement of a child with the employee for adoption or foster care, because the employee is needed to care for a family member (child, spouse, or parent) with a serious health condition, because the employee’s own serious health condition makes the employee unable to perform the functions of his or her job, or because of any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a military member on active duty or call to covered active duty status (or has been notified of an impending call or order to covered active duty). In addition, eligible employees of a covered employer may take job-protected, unpaid leave, or substitute appropriate paid leave if the employee has earned or accrued it, for up to a total of 26 workweeks in a single 12-month period to care for a covered servicemember with a serious injury or illness. In certain cases, FMLA leave may be taken on an intermittent basis rather than all at once, or the employee may work a part-time schedule.

SOURCE: 78 FR 8902, Feb. 6, 2013, unless otherwise noted.
Important to remember:

• Should not read a regulation in isolation from other sections in the same part.

• Read provisions that come before and after the section you’ve zeroed in on during your research.
  • E.g., definitions section
How to find regulations

- If you want only final, current and binding regulations, use **CFR**:
  - **Find by citation**: From cases, annotated statute, secondary source
  - **Keyword search**: legal databases, government sites
  - **Subject search**: Index, Table of Contents

- If you want notices, comments, proposed regulations, use **Federal Register**
  - By citation, keyword search, or subject search
Administrative Decisions and Orders
Administrative Decisions and Related Court Cases

- Agency Websites (also likely to find regulations here)
- Legal Databases: Westlaw, Lexis, Bloomberg Law, etc.
- Print: Reports of Decisions

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REALCOMP II, LTD., Petitioner, v.
FEDERAL TRADE COMMISSION, Respondent.

No. 09-4596.

United States Court of Appeals, Sixth Circuit.

Decided and Filed: April 6, 2011.

Background: Association of real-estate brokers petitioned for review of order of the Federal Trade Commission (FTC) which determined that association engaged in unfair competition in violation of FTC Act by adopting anti-competitive website policy which prohibited information about nontraditional listings on association’s multiple listing service (MLS) from being displayed.

1. Antitrust and Trade Regulation

On judicial review of a decision of the Federal Trade Commission (FTC), the legal issues are for the courts to resolve, although even in considering such issues the courts are to give some deference to the FTC’s informed judgment that a particular commercial practice is to be condemned as unfair. Federal Trade Commission Act, § 5(c), 15 U.S.C.A. § 45(c).

2. Antitrust and Trade Regulation

The Federal Trade Commission’s (FTC’s) findings of fact are conclusive on judicial review if supported by substantial evidence. Federal Trade Commission Act, § 5(c), 15 U.S.C.A. § 45(c).

3. Antitrust and Trade Regulation

On judicial review of the Federal Trade Commission’s (FTC’s) findings of
FDsys

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- Retrieve information by browsing collection, by citation, or keyword
CODE OF FEDERAL REGULATIONS (ANNUAL EDITION)

The Code of Federal Regulations (CFR) annual edition is the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation. The 50 subject matter titles contain one or more individual volumes, which are updated on a calendar year, on a staggered basis. The annual update cycle is as follows: titles 1-16 are revised as of January 1; titles 17-27 are revised as of April 1; titles 28-41 are revised as of July 1; and titles 42-50 are revised as of October 1. Each title is divided into chapters, which usually bear the name of the issuing agency. Each chapter is further subdivided into parts that cover specific regulatory areas. Large parts may be subdivided into subparts. All parts are organized in sections, and most citations to the CFR refer to material at the section level. About the Code of Federal Regulations (annual edition).
ELECTRONIC CODE OF FEDERAL REGULATIONS

Electronic Code of Federal Regulations (e-CFR)

e-CFR Data is current as of March 18, 2015

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  • Chapter 9
– CALI Lesson:
  • Researching Federal Administrative Regulations