

Drafting Regulations

Statutory Authority

- Make sure the authorizing statute for the regulation provides the authority to regulate the activity the agency proposes to regulate.
- Citing the Proper Statute as Authority For Adopting Regulations
- Make sure there is specific statutory authority if the regulation Imposes fines, penalties, fees, suspension or revocation of a license, or Affects a party's right to appeal to the court.

Statutory Authority

- Draft the regulation to implement the law as intended by the statute.
- Address each area the statute requires the regulation to specify.
- Do not exceed the scope of authority delegated in the statute.
- Check that effective dates, if included in a regulation, are not retroactive.

Drafting

- Use clear, unambiguous language.
- Use active voice.
- Properly define technical terms and words used in a sense other than their ordinary meaning.
- Check that defined terms appear in the regulation.
- Use terms consistently throughout the regulation.
- Use introductory language that corresponds to the language in the section or the specific subunit of the regulation.
- Do not repeat or paraphrase language in the authorizing statute.