The Administrative Procedure Act governs the way federal agencies can propose and establish regulations

**Agency**

Federal department or group that oversees a particular national issue

Also known as **administrative laws** or **rules**; general statements issued by an agency, board or commission that have the force and effect of law

**Regulations**

Details the process by which agencies create regulations, ensuring proper review and public consideration

**Administrative Procedure Act (APA)**
Federal rulemaking process

Step 1
Agency realizes a rule is necessary

Step 2
Agency proposes rule and solicits comments in the Federal Register

Step 3
Agency collects and reviews comments, preparing final draft of regulation

Step 4
Agency submits rule to Congress and Government Accountability Office, then publishes final rule in Federal Register

Step 5
Regulation enters compliance, interpretation, and review phase

May pass legislation requiring new regulation

May pass resolution of disapproval

May order agency to enact regulation

May ask to review at any point in rulemaking process

May veto regulation

May become involved in questions of legality

Congress

White House

Judicial Branch
Federal rulemaking process: Where can Ambassadors participate?

Ambassadors can share their expertise to influence regulatory oversight.

**Step 1**
Agency realizes a rule is necessary

- Ambassadors can participate in calls and meetings with the Agency

**Step 2**
Agency proposes rule and solicits comments in the Federal Register

- Ambassadors can participate in listening sessions with the Agency during rule making process

**Step 3**
Agency collects and reviews comments, preparing final draft of regulation

- May become involved in questions of legality

**Step 4**
Agency submits rule to Congress and Government Accountability Office, then publishes final rule in Federal Register

- Ambassadors can participate in calls and meetings with the Agency

**Step 5**
Regulation enters compliance, interpretation, and review phase

Congress

White House

Judicial Branch
Case Study 1: BPCI Advanced

• **Major issues**
  - CJR precedence
  - Complexity of the initial application by March 12, 2018
  - Implications of TKA out of Medicare IPO list
  - Lack of clarity on model details
  - Advanced APM thresholds

• **Potential Ambassador Participation**
  - BPCI Advanced FAQ from AAOS
  - Letter, call and in-person meeting with CMMI leadership
Case Study 2: TKA out of the Medicare IPO list

• **Major issues**
  - Misinterpretation of the OPPS 2018 Final Rule
  - Medicare Advantage issues
  - Interplay with the “2-midnight rule”
  - Recovery audits

• **Potential Ambassador Participation**
  - FAQ on Advocacy section of website; circulated nationally; member calls and emails
  - Letters to CMS; Call with CMS Center for Medicare’s Hospital Ambulatory Policy Group/Center for Clinical Standards and Quality/Medicare Advantage
  - In-person meeting with HHS/CMS leadership and White House OMB; follow up from agency