

# Strategic Plan 2020-2023



## Office of Administrative Law State of California

A Tradition of Service for  
Over 40 Years



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## **OAL's Mission**

Established July 1, 1980, the Office of Administrative Law (OAL) ensures that regulations are clear, necessary, legally valid, and available to the public. Since its creation, OAL has been, and continues to be, responsible for reviewing regulations proposed by over 200 state agencies for compliance with the standards set forth in California's Administrative Procedure Act (APA), transmitting these regulations to the Secretary of State, and publishing these regulations in the California Code of Regulations (CCR).

OAL assists state agencies through formal training programs, as well as through other less formal methods, to understand and comply with the APA. OAL also accepts petitions challenging alleged underground regulations - those rules issued by state agencies that meet the APA's definition of a "regulation," but were not adopted pursuant to the APA process and are not expressly exempt from the APA.

OAL also oversees the publication and distribution, in print and on the Internet, of the CCR and the California Regulatory Notice Register.

## **OAL's Vision**

OAL strives to improve the quality of California's regulations by reviewing proposed regulations and approving only those that are legally valid, clear, and supported by an adequate rulemaking record.

OAL will continue to ensure that the public has a meaningful opportunity to comment on proposed regulations and that state agencies consider those comments when developing regulations.

OAL will continue to assist state agencies in complying with the APA through formal and informal training and through the issuance of legal opinions called "determinations," which are issued in response to petitions challenging alleged underground regulations.

OAL will continue to advance awareness of the APA and actively engage the public and OAL's stakeholders in the rulemaking process.

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## OAL's Core Values

- Preserving the rule of law by ensuring that California's regulations are adopted within the parameters set by the Legislature.
- Conducting quality legal work to carry out OAL's statutory duties.
- Engaging the public to demystify the rulemaking process and encourage public participation.
- Increasing transparency and accountability to the public throughout the rulemaking process.
- Promoting respect for, and open communication with, state agencies to encourage collegial and creative problem solving.
- Recognizing and utilizing the unique attributes of OAL employees working individually and as a team to accomplish OAL's mission and vision.
- Fostering a stimulating and supportive work environment that optimizes team building and productivity.

## OAL's Constituents

- **Regulated Public.** This is the broadest category of OAL's constituents. OAL serves as a check on state agencies to prevent overreaching in their efforts to regulate the activities of California residents and businesses. OAL ensures that the regulated public has a meaningful opportunity to comment on proposed regulations and that state agencies consider those comments when developing regulations.
- **Legislature.** The Legislature codified its intent that OAL work closely with the Legislature to accomplish regulatory reform in California. (Gov. Code, sec. 11340.1, subd. (a).) OAL provides technical advice to the Legislature on proposed legislation that affects the rulemaking process and advocates in furtherance of the APA on proposed legislation of importance to OAL.

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- **Administration.** OAL works with the Administration (e.g. Governor's Office) to carry out OAL's policies and provides the Administration with analyses of proposed legislation on subjects within OAL's statutory responsibilities.
  - **Judiciary and Legal Community.** This category includes the courts, lawyers, advocates, and law librarians. OAL provides research services on the history of regulations and provides informal training on the APA and the rulemaking process.
  - **State Agencies.** OAL assists state agencies in their rulemaking efforts, not only through formal training courses, but also informally by helping state agencies to develop rulemaking records that comply with the standards set forth in the APA.
  - **OAL Employees.** OAL's legal team consists of two Legal Analysts, 12 Attorneys, an Assistant Chief Counsel, and the Director of OAL. OAL's administrative duties are handled by a Staff Services Manager II (Supervisory), two Associate Governmental Program Analysts, a Staff Services Analyst, and two Office Technicians.

## Strategic Plan Goals

### Goal #1

**Address the increase in submission of proposed regulations and Public Records Act (PRA) requests.** Since 2013, there has been an approximately 21 percent increase in the number of regulatory actions submitted to OAL for review. Additionally, the number of PRA requests received by OAL has more than quadrupled since 2016. OAL used to receive a few PRA requests each year. As of November 2020, OAL receives numerous PRA requests each week. Since OAL went live with its new data management system in 2015, OAL has been able to track the number of hours attorneys spend responding to PRA requests, which has increased rapidly over the last five years. Responses to requests for documents pursuant to the PRA are also reviewed by the Assistant Chief Counsel before being issued, which taxes OAL's limited resources.

**OAL's solution.** During the FY 18-19 budget process, OAL received authority to hire an additional attorney to help address the increased workload discussed above. OAL anticipates the new attorney will be hired and trained by the end of CY 2020. The new attorney will assist OAL to provide timely reviews of proposed regulations and address the rapidly increasing number of PRA requests received on weekly basis.

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## Goal #2

**Address the backlog of applicants requesting OAL's 3-day APA training course.** OAL offers a 3-day training course for state employees regarding the regulatory process under the APA. OAL also offers a half-day training course regarding underground regulations. In FY 18-19, OAL's 3-day training program had a waiting list of approximately 600 state employees and OAL also had a separate list of requests for individualized, agency-specific training. These trainings provide important information for state employees tasked with drafting regulations.

**OAL's solution.** In October 2019, OAL completed the expansion of its training facility to allow for larger classes. Since that time, OAL has decreased the waiting list for its 3-day training course down to approximately 100 state employees. In March 2020, when in-person meeting restrictions took effect due to the COVID-19 pandemic, OAL pivoted to providing remote training courses (first by teleconference and now via Microsoft Teams). While this training delivery method has been well-received thus far, it does not allow for collaborative group assignments previously utilized in the in-person training course that students found so valuable. OAL is continually working to update its 3-day training course and maximize student engagement.

## Goal #3

**Update OAL's regulations to address changes in technology and other issues identified during OAL's review process.** OAL's regulations have not been substantively revised in over 12 years. OAL intends to update outdated regulations to allow state agencies to submit regulatory actions electronically, increase public involvement, and resolve issues identified during OAL's review process.

**OAL's solution.** In July 2020, OAL adopted emergency regulations to address the need for state agencies to submit regulatory actions electronically. These emergency regulations reflect improvements in technology and the need to make submittal of regulatory actions safer and easier for state agencies in light of the COVID-19 pandemic. Time permitting, OAL attorneys are assigned proposed regulatory updates to address numerous other issues identified during OAL's review process.

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## Goal #4

**Update OAL processes and workplace requirements to address the COVID-19 pandemic and protect OAL employees, the employees of other state agencies, and the general public.** The regulatory process requires OAL to accept submission of regulatory actions and notice packages at OAL's front desk. As a result, OAL employees are routinely in contact with representatives from other state agencies. OAL employees are also in contact with vendors, information technology providers, and members of the public. This contact increases the risk of contracting COVID-19 and other illnesses.

**OAL's solution.** Since March 2020, OAL has expanded its telecommuting authorizations. Approximately 80% of OAL's staff telecommute four days per week. For those staff who are necessary for front desk operations, OAL has provided necessary personal protective equipment, installed protective glass screens at the front desk, and initiated a regular sanitation procedure for OAL's common area. Further, as discussed in Goal #3, OAL adopted emergency regulations allowing for the electronic submission of some regulatory actions and notice packages to decrease the number of in-person visits to the OAL front desk. OAL will continue to monitor the need for additional COVID-19 protections and is currently working to expand the electronic submission process.