

## OAPA Appeals: Administering Success

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The 20th century saw the radical changes in the way Americans live and work. Industrialization confounded lawmakers, judges and the executive branch alike. Administrative agencies developed to fill the gap. By fusing quasi-legislative and quasi-judicial power with executive authority, an administrative agency could solve modern problems more effectively than traditional state actors. Problems like adulterated food and quack doctors were checked by these nascent agencies.<sup>1</sup> Today, regulatory agencies wield titanic power. It is hard to overstate agency influence at the federal level.<sup>2</sup> At the state level, industrial concerns ranging from motor vehicles to agriculture are all subject to agency regulation.<sup>3</sup> State agencies also regulate professions, like podiatrists, perfusionists and polygraph examiners.<sup>4</sup>

The substantial reach of administrative agencies brings them into conflict with all manner of clients. The next step, or last resort, is an administrative appeal. This article specifically addresses the Oklahoma Administrative Procedures Act (OAPA or act), its scope, and its rules for appeals. It is crucial to understand the OAPA even before an agency makes a potentially adverse ruling. Mistakes early in the process can determine the outcome of appeals taken years later. Careful planning can make all the difference.

### THE SCOPE OF THE OAPA

The OAPA provides the default rules for agency proceedings. Yet the OAPA also provides dozens of built-in exemptions.<sup>5</sup> The scope of the act determines how any given appeal may proceed.

The act is conveniently divided into Article I, governing rule-making or quasi-legislative functions, and Article II, controlling hearing requirements or quasi-judicial functions.<sup>6</sup> By default, all agencies or statutorily-created commissions are subject to the OAPA.<sup>7</sup> Local government bodies, including municipalities and some public trusts, are fully exempt.<sup>8</sup> Meanwhile, some administrative agencies are exempt from one or both articles.

Further complicating the issue, some of these exemptions are limited by subject matter. For example, the Department of Corrections and related officials are exempt from Article I only when crafting "internal management procedures."<sup>9</sup> In reality, some subject matter exemptions are so broad they might as well be full exemptions. The Oklahoma Military Department is only exempt from Article I "to the extent it exer-