

implementation

The process by which a law or policy is put into operation by the bureaucracy.

iron triangles

The relatively stable relationships and patterns of interaction that occur among an agency, interest groups, and congressional committees or subcommittees.

HOW THE BUREAUCRACY WORKS

WHEN CONGRESS CREATES any kind of department, agency, or commission, it is actually delegating some of its powers listed in Article I, section 8, of the U.S. Constitution. Therefore, the laws creating departments, agencies, corporations, or commissions carefully describe their purpose and give them the authority to make numerous policy decisions, which have the effect of law. Congress recognizes that it does not have the time, expertise, or ability to involve itself in every detail of every program; therefore, it sets general guidelines for agency action and leaves it to the agency to work out the details. How agencies execute congressional wishes is called **implementation**, the process by which a law or policy is put into operation.

Historically, political scientists attempting to study how the bureaucracy made policy investigated what they termed **iron triangles**, a term that was used to refer to the relatively stable relationships and patterns of interaction that occurred among federal

workers in agencies or departments, interest groups, and relevant congressional subcommittees (see Figure 9.4). Today, however, iron triangles no longer dominate most policy processes, although some persist, such as the relationship between the Department of Veterans Affairs, the House Committee on Veterans Affairs, and the American Legion and the Veterans of Foreign Wars, the two largest veterans groups. Both individual veterans and organizations such as these continually lobby or are in contact with the federal employees who are responsible for promulgating rules and implementing policies that affect veterans on a daily basis.

Many political scientists examining external influences on the modern bureaucracy prefer to examine **issue networks**. In general, issue networks, like iron triangles, include agency officials, members of Congress (and committee staffers), and interest group lobbyists. But, they also include lawyers, consultants, academics, public relations specialists, and sometimes even the courts. Unlike iron triangles, issue networks are constantly changing as members with technical expertise or newly interested parties become involved in issue areas.

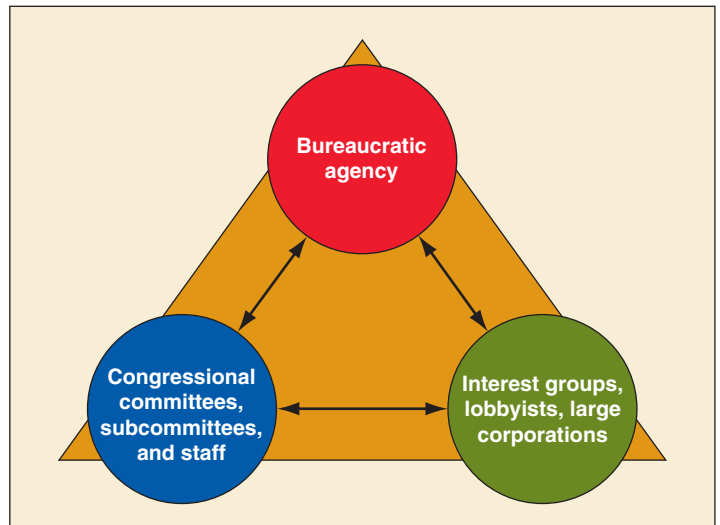
As a result of the increasing complexity of many policy domains, many alliances have also been created within the bureaucracy. One such example is **interagency councils**, working groups that bring together representatives of several departments and agencies to facilitate the coordination of policy making and implementation. Depending on how well these councils are funded, they can be the prime movers of administration policy in any area where an interagency council exists. The U.S. Interagency Council on the Homeless, for example, was created in 1987 to coordinate the activities of the more than fifty governmental agencies and programs that work to alleviate homelessness.

In areas where there are extraordinarily complex policy problems, recent presidential administrations have created policy coordinating committees (PCCs) to facilitate interaction among agencies and departments at the subcabinet level. These PCCs have gained increasing favor post-9/11. For example, the PCC on Terrorist Financing, which includes representatives from the Departments of Treasury, State, Defense, and Justice, along with the CIA and FBI, conducted a study that recommended to the president that he ask the Saudi government to take action against alleged terrorist financiers.¹⁹ Similarly, in the wake of the 2003 *Columbia* space shuttle disaster, a PCC on space was created to review NASA's evaluation of why the disaster occurred.²⁰

Making Policy

The end product of all of these decision-making bodies is policy making. Policy making and implementation take place on both informal and formal levels. Practically, many decisions are left to individual government employees on a day-to-day basis. Department of Justice lawyers, for example, make daily decisions about whether or not to prosecute someone. Similarly, street-level Internal Revenue Service agents make many decisions during personal audits. These street-level bureaucrats make policy on two levels. First, they exercise wide discretion in decisions concerning citizens with whom they interact. Second, taken together, their individual actions

FIGURE 9.4 An Iron Triangle. ■



issue networks

The loose and informal relationships that exist among a large number of actors who work in broad policy areas.

interagency councils

Working groups created to facilitate coordination of policy making and implementation across a host of governmental agencies.

■ Mars Exploration project members speak to the press at NASA's Jet Propulsion Laboratory in Pasadena, California, shortly before the Mars landing of the "rover" named Spirit, in January 2004. While on its mission, the Spirit was able to take more than 30,000 photos of the planet.

Photo courtesy: Mark J. Terrill/AP/Wide World Photos



administrative discretion

The ability of bureaucrats to make choices concerning the best way to implement congressional intentions.

rule making

A quasi-legislative administrative process that has the characteristics of a legislative act.

regulations

Rules that govern the operation of a particular government program that have the force of law.

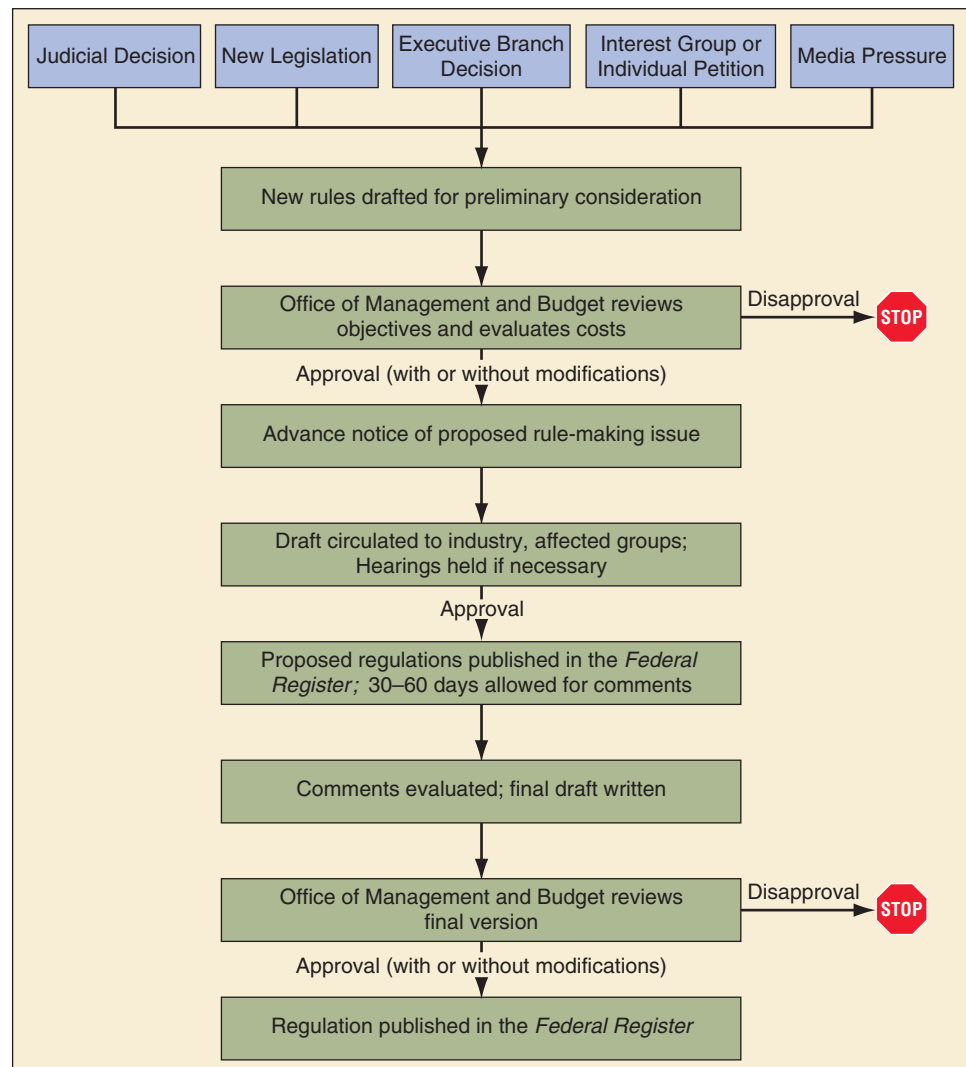
add up to agency behavior.²¹ Thus, how bureaucrats interpret and how they apply (or choose not to apply) various policies are equally important parts of the policy-making process.

Administrative discretion, the ability to make choices concerning the best way to implement congressional or executive intentions, also allows decision makers (whether they are in a Cabinet-level position or at the lowest GS levels) a tremendous amount of leeway. It is exercised through two formal administrative procedures: rule making and administrative adjudication.

Rule Making. **Rule making** is a quasi-legislative administrative process that results in regulations and has the characteristics of a legislative act. **Regulations** are the rules that govern the operation of all government programs and have the force of law. In essence, then, bureaucratic rule makers often act as lawmakers as well as law enforcers when they make rules or draft regulations to implement various congressional statutes. The rule-making process is illustrated in Figure 9.5. Some political scientists say that rule making “is the single most important function performed by agencies of government.”²²

Because regulations often involve political conflict, the 1946 Administrative Procedures Act established rule-making procedures to give everyone the chance to participate in the process. The act requires that: (1) public notice of the time, place, and nature of the rule-making proceedings be provided in the *Federal Register*; (2) interested par-

FIGURE 9.5 How a Regulation Is Made. ■





ENFORCING GENDER EQUITY IN COLLEGE ATHLETICS

In 2004, there were approximately 150,000 female student-athletes, a number up dramatically from 1971, when there were only about 30,000 women participating in collegiate athletics.^a Male participation has grown much more slowly, while the number of women's teams in the National Collegiate Athletic Association nearly doubled between 1971 and 2002, from 4,776 to 8,414.^b A major source of that difference? The passage in 1972 of legislation popularly known as Title IX, which prohibits discrimination against girls and women in federally funded education, including athletic programs. This legislation mandates that "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance." It wasn't until December 1978—six years after passage of Title IX—that the Office for Civil Rights in the Department of Health, Education, and Welfare released a policy interpretation of the law, dealing largely with the section that concerned intercollegiate athletics.^c More than thirty pages of text were devoted to dealing with a hundred or so words from the statute. Football was recognized as unique, because of the huge revenues it produces, so it could be inferred that male-dominated football programs could continue to outspend women's athletic programs. The more than sixty women's groups that had lobbied for equality of spending were outraged and turned their efforts toward seeking more favorable rulings on the construction of the statute from the courts.

Increased emphasis on Title IX enforcement has led many women to file lawsuits to force compliance. In 1991, in an effort to trim expenses, Brown University cut two men's and two women's teams from its varsity roster. Several women students filed a Title IX complaint against the school, arguing that it violated the act by not providing women varsity sport opportunities in relation to their population in the university. The women also argued that cutting the two women's programs saved \$62,000, whereas the men's cuts saved only \$16,000. Thus, the women's varsity programs took a bigger hit, in violation of federal law.

A U.S. district court refused to allow Brown to cut the women's programs. A U.S. court of appeals upheld that action, concluding that Brown had failed to provide adequate opportunities for its female students to participate in athletics.^d In 1997, in *Brown University v. Cohen*, the U.S. Supreme Court declined to review the appeals court's decision.^e This put all colleges and universities on notice that discrimination against women would not be tolerated, even when, as in the case of Brown University, the university had expanded sports opportunities for women tremendously since the passage of Title IX.

Women have made significant strides on all college campuses, but true equity in athletics is still a long way away at many colleges and universities. Although the number of women participating in college level sports is increasing, the proportion of women coaches is decreasing (at the same time the pool of women who could be coaches is increasing). Most colleges still provide far fewer opportunities to women, given their numbers in most universities, and enforcement still lags. This disparity has required groups including the National Women's Law Cen-



Photo courtesy: Karen O'Connor

Women's Participation in college sports such as soccer has increased dramatically since passage of Title IX.

ter to take the lead in the *Brown* case and to spend millions of dollars in legal fees to press for fuller enforcement, because Title IX is not self-enforcing.^f Individual colleges and universities must comply with the law, aggrieved students must complain of inequities, and the Department of Education's Office of Civil Rights must enforce the law. This may become more difficult, given the mixed messages being put out by the Bush administration. In 2002, for example, the National Wrestling Coaches Association filed suit against the Department of Education, arguing that Title IX guidelines force universities to discriminate against low-profile men's sports such as wrestling. To the surprise of many women's rights organizations, the Bush administration asked the court to dismiss the wrestling challenge. The government brief, however, offered no praise or support for Title IX, leaving its supporters wary of future administration actions. This case was later dismissed on procedural grounds.

In early 2003, after holding hearings on Title IX throughout the United States, a commission appointed by the Bush administration recommended to the secretary of education that enforcement of Title IX's requirements that provide opportunities for women in athletics be weakened to account for perceived differences in interest in athletics between male and female college students. The recommendation was greeted with protest from women members of the House, who held their own hearings in support of Title IX. Public support for Title IX is quite high. A 2003 Roper poll found that 61 percent of the public viewed Title IX favorably.^g

^aIntercollegiate Athletics: Status of Efforts to Promote Gender Equity, General Accounting Office, October 25, 1996.

^bBill Pennington, "Colleges: More Men's Teams Benched as Colleges Level the Playing Field," *New York Times* (May 9, 2002): A1.

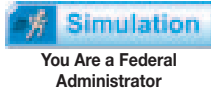
^cSee Joyce Gelb and Marian Lief Palley, *Women and Public Policies* (Charlottesville: University of Virginia Press, 1996), ch. 5.

^d*Cohen v. Brown University*, 101 F.3d 155 (1996).

^e20 U.S.C. 1186 (1997).

^f<http://www.edc.org/WomensEquity/resource/title9/report/athletic.html>.

^gPublic Opinion Online, Accession Numbers 0418720 and 0418721.



ties be given the opportunity to submit written arguments and facts relevant to the rule; and, (3) the statutory purpose and basis of the rule be stated. Once rules are written, thirty days generally must elapse before they take effect.

Sometimes an agency is required by law to conduct a formal hearing before issuing rules. Evidence is gathered, and witnesses testify and are cross-examined by opposing interests. The process can take weeks, months, or even years, at the end of which agency administrators must review the entire record and then justify the new rules. Although cumbersome, the process has reduced criticism of some rules and bolstered the deference given by the courts to agency decisions. Many Americans are unaware of the opportunities available to them to influence government at this stage. As illustrated in *On Campus: Enforcing Gender Equity in College Athletics*, women's groups and female athletes testified at hearings held around the country urging Secretary of Education Rodney Paige not to revise existing Title IX regulations. Change could have affected their ability to play sports or receive college athletic scholarships.²³

administrative adjudication

A quasi-judicial process in which a bureaucratic agency settles disputes between two parties in a manner similar to the way courts resolve disputes.

Administrative Adjudication. **Administrative adjudication** is a quasi-judicial process in which a bureaucratic agency settles disputes between two parties in a manner similar to the way courts resolve disputes. Administrative adjudication is referred to as *quasi* (Latin for “seemingly”) judicial, because law-making by any body other than Congress or adjudication by any body other than the judiciary would be a violation of the constitutional principle of separation of powers.

Agencies regularly find that persons or businesses are not in compliance with the federal laws the agencies are charged with enforcing, or that they are in violation of an agency rule or regulation. To force compliance, some agencies resort to administrative adjudication, which generally is less formal than a trial. Several agencies and boards employ administrative law judges to conduct the hearings. Although these judges are employed by the agencies, they are strictly independent and cannot be removed except for gross misconduct. Congress, for example, empowers the Federal Trade Commission (FTC) to determine what constitutes an unfair trade practice.²⁴ Its actions, however, are reviewable in the federal courts. So are the findings of the EEOC and Social Security judges.