

How Do Health Departments Implement and Enforce the Law? Overview of Administrative Law: Part 3

Full Script

Introduction & Presentation Overview

Slide 1

Welcome to the Public Health Law Academy's training addressing the question, **How Do Health Departments Implement and Enforce the Law?** This training – Part 3 in a three-part series on administrative law – is tailored from a training that was developed by ChangeLab Solutions and the Public Health Law Program at the Centers for Disease Control and Prevention.

You might be asking, “Why do I need to take this course?” If so, we would ask, “Do you work in or with a health department? Are you involved in issuing permits and licenses to businesses and institutions such as tobacco retailers, child care providers, and hospitals? Do you inspect food establishments, septic systems, or rental housing to protect the public from health risks? Have you ever issued a citation to enforce public health and safety standards, or have you participated in an administrative hearing in which a member of the public challenged their citation?” This training focuses on the laws that govern how health departments carry out these common regulatory activities and discusses how public health practitioners can promote health equity in their day-to-day work. It's critical for public health practitioners to understand this area of law – which is called *administrative law* – because it touches nearly every aspect of modern life, and public health practitioners encounter it every day.

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Before we begin, one of the content developers – ChangeLab Solutions – wants me to remind you that the information provided in this training is for informational purposes only and does not constitute legal advice. ChangeLab Solutions does not enter into attorney-client relationships.

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Furthermore, the other content developer – the Centers for Disease Control and Prevention – want me to remind you that while every effort has been made to verify the accuracy of these materials, legal authorities and requirements may vary from jurisdiction to jurisdiction. The contents of this presentation have not been formally disseminated by the Centers for Disease Control and Prevention and should not be construed to represent any agency determination or policy. Always seek the advice of an attorney or other qualified professional with any questions you may have regarding a legal matter.

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Before you take this training, we encourage you to watch Parts 1 and 2 of this series.

Part 1 addresses the question **What Legal Powers Do Health Departments Have?** It defines administrative law and discusses why administrative law is important for public health and health equity. It also discusses key limits that administrative law imposes on public health authority.

Part 2 addresses the question **How Do Health Departments Create Regulations, Policies, and Guidance Documents?** and explores how administrative law plays out in practice in state and local health departments. This part outlines the process that health departments should generally use in order to comply with administrative law principles when creating regulations, and it identifies steps that health departments can take to promote health equity throughout the rulemaking process. Part 2 also discusses how health departments can promote equitable outcomes and smooth implementation of public health laws by issuing policies and guidance documents.

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In today's training, we will continue to discuss common regulatory activities carried out by state and local health departments. After reviewing an overarching framework for agency activities and other key concepts from Part 2, we'll discuss the following new topics:

- First, we'll explore permits and licenses, including their purpose and function and the administrative law principles that guide when and how health departments can issue them. We'll also discuss strategies to make licensing more equitable.
- Next, we'll identify key legal and equity considerations for health departments when conducting investigations and inspections, and we'll highlight some best practices to promote fairness for people who are subject to inspections.
- Finally, we'll explore how health departments can equitably enforce public health laws, from educating members of the public about legal requirements to avoid violations in the first place, to seeking nonpunitive alternatives to penalties during administrative enforcement proceedings after violations occur.

We note that tribal and territorial health departments also encounter administrative law in their day-to-day work; however, this training series is focused specifically on state and local administrative law.

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The five activities that we discuss in Parts 2 and 3 of this training series fall along a continuum – from making laws to implementing and enforcing them. The fact that agencies engage in such a broad spectrum of regulatory activities is one reason why administrative law – and the limits it imposes on agencies' authority – is important for public health practitioners to understand.

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In this part of the training, we'll also explore how health departments can engage community members and promote health equity while carrying out these common regulatory activities in line with administrative law principles.

In Part 1, we introduced a frequently cited definition of health equity from Dr. Paula Braveman, one of the nation's leading experts on health equity and health disparities. She and her colleagues explain, "Health equity means that everyone has a fair and just opportunity to be as healthy as possible. This requires removing obstacles to health such as poverty, discrimination, and their consequences, including powerlessness and lack of access to good jobs with fair pay, quality education and housing, safe environments, and health care."

Part 1 also explained that equity is slightly different from equality. An intervention focused on equality would apply the same, one-size-fits-all solution to everyone, irrespective of need. This approach can sometimes leave people behind or even widen health disparities. An intervention focused on advancing health equity recognizes that people who have the fewest resources require greater, not just equal help in order to equalize their opportunities.

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To help you get started, we encourage you to think about how the regulatory activities highlighted in today's discussion can incorporate the following equity-promoting strategies, which were introduced in Parts 1 and 2 of this series:

- Engaging community members
- Building partnerships
- Inviting varying perspectives
- Considering how you use data to identify inequities or track unintended consequences
- Equitably directing resources
- Promoting systems thinking
- Evaluating outcomes and being accountable for decisions that affect the public

As we go through the training, we'll provide equity practice tips, and we'll highlight opportunities for health departments to apply equity-promoting strategies like these in their day-to-day work. We also encourage you to think of examples from your own experience.

Note that the administrative law principles governing the activities of public health agencies vary from jurisdiction to jurisdiction, so it's always important to consult an attorney licensed in your state.

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Before we dive in, let's take a moment to review some concepts that were introduced in Part 2.

True or false? Creating regulations relates to health departments' power to make laws.

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The answer is "True". A regulation is a law drafted and finalized by an administrative agency, such as a health department, based on a delegation of authority from a legislative body, such as a city council or a state legislature. Accordingly, creating regulations falls at the beginning of the continuum of agency activities because it relates to health departments' power to make laws.

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The rulemaking process includes which of the following steps?

- A. Conduct research and draft the text of the proposed regulation
- B. Provide public notice and an opportunity to comment
- C. Revise and finalize the regulation
- D. Both A (conduct research and draft a regulation) and C (revise and finalize the regulation)
- E. All of the above: Answers A, B, and C

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If you selected E, you're correct! Part 2 of this series outlines five basic steps in the rulemaking process:

1. Conduct extensive research
2. Draft the text of the proposed regulation
3. Provide notice to the public
4. Provide an opportunity for public comment
5. Revise and finalize the regulation

Some of these steps – such as providing public notice of a proposed regulation and an opportunity to comment – are typically mandated by state administrative procedure acts or local administrative rules. Other steps – such as conducting extensive research – are simply a good idea to ensure that a regulation is rational and based on evidence, which can help protect public interests and can also be important if the regulation is challenged in court. Because steps 3 and 4 are bedrock administrative law requirements, the process of issuing regulations is often called *notice-and-comment rulemaking*.

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Part 2 of this series also discusses how health departments can go beyond these minimum steps to ensure that everyone who'll be affected by a proposed regulation has an opportunity to provide feedback and help decide on the best regulatory solutions. Some strategies include . . .

- Using an equity assessment tool to analyze the impacts of a proposed regulation on groups experiencing disadvantage;
- Engaging in negotiated rulemaking or informal consultations with affected stakeholders while drafting the proposed regulation; and
- Providing various opportunities for community members to offer feedback on a proposed regulation – for example, focus groups or listening sessions.

Achieving health equity requires eliminating the fundamental drivers of health inequity – such as structural discrimination and especially structural racism, which law professor Ruqaiijah Yearby has described as “the way our systems are structured to advantage the group in power and disadvantage racial and ethnic minorities.” Some other drivers of health inequity are income inequality and poverty, disparities in opportunity, disparities in political power, and governance that limits meaningful participation. Without representative government and meaningful input from people at the bottom of the sociopolitical ladder, laws and policies will continue to disproportionately benefit stakeholders who have greater power to participate in and influence legal and political processes. Administrative law and additional strategies that health departments can use to engage stakeholders in regulatory activities can help reverse these trends and address the two drivers of health inequities emphasized on this slide:

- Disparities in political power
- Governance that limits meaningful participation

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Here's a final review question:

True or false? Writing policies and guidance documents relates to health departments' power to implement public health laws.

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The answer is “True”. Writing policies and guidance documents falls in the middle of the continuum of agency activities because it relates to health departments' power to implement public health laws – both legislation and regulations. Unlike regulations, policies and guidance documents lack the force and effect of law, so an agency doesn't have to use notice-and-comment procedures before issuing them.

Policies and guidance documents can facilitate smooth implementation of public health laws by increasing public understanding of the laws or by providing guidelines for agency employees on how to run public health programs. Policies and guidance documents can promote health equity by minimizing the likelihood of punitive enforcement actions, establishing internal agency practices to assess how regulatory decisions might disproportionately affect specific groups, and setting guidelines for agency officials' use of discretion in enforcement.

Part 1: When and how can health departments issue permits and licenses?

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Now that we've finished our review, let's begin today's training by discussing another regulatory activity commonly carried out by health departments: issuing permits and licenses.

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This topic falls in the middle of the continuum of agency activities because it relates to implementation.

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As we discussed earlier, legislation establishes public health programs and delegates authority to agencies to do certain things, like create regulations to fill in the details of how the public health programs will be run. To implement the standards and requirements set out in legislation and regulations, agencies need a tool to ensure that regulated individuals and entities will comply. This need is where permits and licenses come into play. In general, permits and licenses require a person or business to get advance permission to engage in an activity – such as selling tobacco products; operating a restaurant or tattoo parlor; constructing a new septic system; or engaging in nursing, dentistry, and similar occupations.

Laws often prohibit a public health agency from issuing a permit or license until the agency has confirmed compliance with all relevant standards. For example, a retail food establishment typically must submit to an inspection and meet construction, plumbing, and equipment standards before being allowed to operate. Furthermore, permits and licenses are often linked to routine inspections or renewal requirements, providing additional opportunities for public health agencies to ensure compliance. For example, professionals such as nurses, dentists, and pharmacists typically must renew their licenses periodically and must complete continuing education to qualify for renewal.

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Health departments can use permits and licenses as an opportunity to build relationships with regulated parties and to provide technical assistance, which can go a long way toward ensuring compliance with legal requirements. Part 2 of this training series noted that in some cases, violations occur – and penalties are imposed – not because of intentional misconduct but because of a lack of understanding on the part of an individual, property owner, or business. When issuing permits and licenses, government officials can work closely with applicants to educate them about how to comply and can share guidance documents, hold workshops or training sessions, or provide other resources to explain the law in plain language.

Technical assistance can be offered to all license applicants as a matter of course – instead of being provided only upon request – to ensure that health departments are reaching new business owners, people for whom English is a second language, and other people who might need help with licensing requirements. Technical assistance can promote health equity by minimizing the likelihood of punitive enforcement actions, improving community relations, promoting transparency, and creating support for public health laws – all of which are key elements of good governance. Although providing education and technical assistance requires up-front investment of resources, it can save government resources in the long run by helping to avoid the costs of punitive enforcement actions, including the costs of overseeing hearings when business owners challenge their citations. We'll cover enforcement procedures in more detail later on.

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Some of you may be wondering, “When can a public health agency issue permits and licenses?” Good question! A public health agency’s authority to issue permits or licenses will be spelled out in a piece of legislation or in regulations that implement it. For example, the Oklahoma Administrative Code authorizes the state department of health to issue licenses to operate body piercing and tattoo establishments. The regulation also outlines requirements that an applicant must satisfy before receiving a license – such as submitting to an inspection by the department and paying a fee. Before implementing a permit or license program, a public health agency should always confirm that legislation confers such authority and that the program itself is consistent with any specific requirements the legislation establishes.

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Legislation or regulations may also describe basic procedures or guidelines that public health agencies must follow when making licensing decisions. Note that these procedures often are not covered by state administrative procedure acts. Rather, they may appear in substantive legislation addressing specific topics within a public health agency’s authority.

In Oakland, California, a tobacco retailer licensing ordinance outlines grounds on which the Oakland Police Department (which oversees tobacco retail licensing) can deny a license – for example, when an applicant provides incomplete or inaccurate information or when an applicant seeks a license for a type of tobacco retailing that is specifically prohibited, such as mobile vending.

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To see how licensing decisions work, let's revisit Wendy. We introduced Wendy in Part 2 of this training series. She has a degree in public health and works for her state's public health department. Her boss has tasked her with developing and implementing new food safety regulations for mobile food establishments such as food trucks and produce carts, to fill in the details of a statute that the state legislature has recently enacted. To ensure compliance with the minimum standards, the statute and regulations require all mobile food establishments to obtain a license from the local health department in the jurisdiction where the mobile food establishment operates.

Note that even though Wendy is working on mobile vending laws that apply statewide, such laws create a role for other levels of government – that is, cities and counties – in implementing and enforcing the laws. In our example with Wendy, the statewide legislation and regulations create a role for local health departments: oversight of licensing for mobile food establishments. It's common to see this type of relationship and allocation of power between state and local governments in implementing and enforcing statewide public health laws; keep an eye out for examples in your own jurisdiction.

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Since the statewide regulations took effect, Wendy has been providing technical assistance to local health officials to help them implement the licensing requirements. She has developed three basic recommendations to help ensure that decisions to issue or deny a mobile vending license comply with state laws governing mobile food vendors. Additionally, she has developed a list of ways that local health officials can go beyond the basic requirements in order to support health equity.

Note that state or local laws – or constitutional concepts such as due process – may impose additional guidelines for public health officials to follow when deciding whether to suspend or revoke a license for a violation. We'll address these considerations later when we discuss enforcement actions. This current section will focus only on a public health agency's initial decision to issue or deny a permit or license upon receiving an application.

Note that your jurisdiction may have different legal requirements or best practices, and the requirements may vary depending on the type of license. It's always best to consult with legal counsel to confirm the appropriate steps for issuing or denying a permit or license.

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First, Wendy recommends that local health departments in her state provide notice of the minimum requirements to obtain a license to operate a mobile food facility so that potential applicants will understand what they need to do to qualify. The requirements to obtain a license are typically established in a state or local law, either in the legislation authorizing mobile vendors or the regulations that implement the legislation.

As a best practice, Wendy recommends that local health departments provide this notice on their website, in brochures or guidance documents, or in application packages that explain the license requirements in plain language. Such informational materials can be produced in formats that are accessible to people with disabilities and in multiple languages so that they're accessible to people who speak limited English. As mentioned earlier, health departments can also proactively offer workshops, trainings, or other types of outreach events and technical assistance so that individuals and business owners understand what they need to do to qualify for and maintain a permit or license.

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Second, Wendy advises that health departments should clearly communicate their reasons for denying a license, in writing. In Wendy's state, providing such written notice is required under state statutes governing mobile vendors. Be sure to check the requirements in your jurisdiction, which could be spelled out in state statutes, local ordinances, or state or local regulations governing different types of permitting and licensing programs.

Even if providing written notice of the reasons for denying a license is not legally required, a public health agency could adopt a best practice of providing written notice or issue an internal agency guidance document that makes it a requirement for employees.

Providing a clear reason for denying a license could be as simple as checking a box on a form to indicate which requirements an applicant failed to satisfy, or it could take the form of a short written explanation. Whatever the approach, stating the reasons for denying a license helps applicants learn what specific actions they need to take to correct the deficiency. Moreover, requiring public health officials to provide their reasons for denying licenses in writing is a strong incentive for them to make rational, evidence-based decisions. Sound decision making can help minimize bias and promote government transparency and accountability to the public, which are important determinants of health equity.

Written explanations of licensing decisions can also be important if an applicant decides to file a legal challenge. Sometimes, state or local law gives an applicant the right to request an administrative hearing in order to contest a license denial. We'll talk more about administrative hearings when we get to the section on enforcing public health laws. Here's the key thing to note right now: stating the reason for denying a license helps to show a hearing officer or a court that the public health agency was acting rationally – that is, on the basis of solid evidence.

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Finally, Wendy emphasizes that local health departments should treat all license applicants equally. In other words, local health departments should be fair and impartial when determining whether an applicant satisfies the minimum license requirements. An applicant can legally challenge a license denial if they believe that the agency has failed to engage in fair and impartial decision making or has improperly denied a license because of the applicant's race, gender, or other status that is protected under state civil rights laws or the Equal Protection Clause of the US Constitution.

In addition to abiding by federal and state civil rights laws that require everyone to be treated equally, a public health agency could consider adopting internal requirements and allocate funding for ongoing evaluation of licensing decisions. The evaluation would assess whether underserved populations – including people who have experienced injustices and structural discrimination – are denied permits or licenses at disproportionate rates. An agency could then use that information to update licensing practices to ensure that the benefits and advantages a permit or license confers are equitably distributed. For example, a public health agency could consider requiring trainings for officials who oversee licensing, to minimize bias and structural discrimination in licensing decisions.

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I want to pause here to provide a content warning for the following slide, which discusses racially motivated mistreatment of Chinese American citizens by government officials. The details of the case depict racism, xenophobia, and violations of individual liberties guaranteed by the US Constitution. These details have been included as an example of blatant violation of the Equal Protection Clause and to help ensure that such an incident never happens again.

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One example of an equal protection challenge to a local licensing requirement is *Yick Wo versus Hopkins*. In 1880, the City & County of San Francisco Board of Supervisors adopted a local ordinance that prohibited anyone from maintaining a laundry in the county without the board's consent, unless the laundry was constructed of brick and stone. The purported purpose of the law was to protect the public's health and safety by reducing the risk of fire. However, after the ordinance was adopted, the board denied all laundry license applications submitted by Chinese owners and granted all but one of the applications submitted by white owners. Yick Wo was one of the Chinese laundry owners whose license was denied. He challenged the ordinance, arguing that its administration by the board of supervisors violated his constitutional rights. On appeal, the US Supreme Court ruled in Yick Wo's favor, concluding, "No reason [for the denial of licenses to Chinese owners] exists except hostility to the race and nationality to which the petitioners belong. . . . The discrimination is, therefore, illegal, and the public administration which enforces it is a denial of the equal protection of the laws."

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Here's a quick question to review what we've discussed.

True or false? Agencies use permits and licenses to ensure compliance with public health laws.

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The answer is “True.” In general, permits and licenses require a person or business to get advance permission to engage in an activity, and laws often prohibit a public health agency from issuing a permit or license until the agency has confirmed compliance with all relevant standards.

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This next question might be a bit tricky.

Here’s the checklist we introduced at the beginning of this training. Which of these items relate to the best practices for equitable licensing that we just discussed?

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There are many ways to think about this, and there’s no definitive answer here. However, some possible choices are bolded.

For example, we talked about how health departments can use permits and licenses as an opportunity to cultivate ongoing relationships with regulated parties. Department staff can offer technical assistance and information about license requirements to all applicants as a matter of course rather than only to those who request it. We also highlighted how health departments can create informational material on the requirements to obtain a license and make it available to the public in simple language, in multiple languages, in formats accessible to persons with disabilities, online, in brochures, in guidance documents, and in application packets. These practices relate to items 1, 2, and 5 of the checklist: engaging community members, building partnerships, and equitably directing agency resources.

In addition, we discussed health departments’ obligation to treat all license applicants equally, regardless of their race, gender, or other legally protected status. And we noted that health departments can commit to evaluating their licensing decisions to ensure that the benefits and advantages that licenses confer are equitably distributed among all applicants. These practices relate to items 5 and 7 in the checklist: equitably directing resources, evaluating outcomes, and holding those in power – including health departments themselves – accountable to the residents they serve.

We encourage you to reflect on what other creative strategies you can use to promote health equity when issuing permits and licenses or engaging in other regulatory activities. This training likely only scratches the surface!

Part 2: What are key legal and equity considerations when conducting investigations and inspections?

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Let's move on to our next topic: investigations and inspections, which are another set of administrative law tools to ensure compliance with public health standards.

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On the continuum of agency activities, investigations and inspections relate primarily to implementation of public health laws. However, they appear farther along the continuum, close to enforcement. Once a person or entity has received a permit or license to engage in an activity, public health officials may conduct inspections to confirm that the entity is complying with license requirements. If inspectors identify a violation, they may issue a warning or citation. We'll cover procedures related to violations in the next section of this training. Right now, we'll focus on procedures that public health officials may or must use when carrying out inspections to monitor ongoing compliance.

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Before considering procedural issues related to investigations and inspections, let's define and distinguish the terms. An *investigation* is a way for public health agencies to learn facts about a situation that might threaten public health. For example, if a public health agency suspects a foodborne disease outbreak, it may investigate to identify the source of contamination and the people at risk. The investigation may include interviews with affected people and tracebacks of food items through the distribution chain. In addition, the health department may conduct an environmental assessment to identify factors that might have contributed to contamination.

Public health officials also conduct investigations outside the context of food safety. For example, when there are outbreaks of infectious disease, such as COVID-19, epidemiologists may investigate to identify the source of the outbreak and to prevent additional cases.

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In contrast, an *inspection* is a visit to a regulated facility or business, which may operate under a permit or license, to determine whether its operations comply with regulatory standards. For purposes of administrative law, an inspection is one type of investigation. We'll focus primarily on inspections in this section of the training.

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Public health agencies conduct inspections to ensure health and safety at a range of locations and institutions – from environmental health inspections of housing, to inspections of institutions such as hospitals, child care centers, labs, and nursing homes, to inspections of service establishments such as restaurants and tattoo parlors. Public health officials may also inspect infrastructure, such as sewage and septic systems.

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To see how conducting inspections can work in practice, let's check in with Wendy again.

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Over the past several months, Wendy has been providing technical assistance to Jackie, who is a local environmental health official in the City of Innovation. Since Wendy's new regulations for mobile food establishments took effect, the City of Innovation has been working hard to implement them. The city has issued a number of licenses to food trucks and produce carts in accordance with the statewide statutes and related regulations. Recently, Jackie received several complaints from members of the public about one of the newly licensed vendors. She would like to conduct an inspection of the vendor's mobile facility to assess whether the vendor is complying with food safety standards. Jackie has consulted with the city attorney's office to learn about any procedural issues before she and her team start conducting inspections. And Jackie has contacted Wendy to learn what other cities are doing and whether there are any best practices that Jackie's team should adopt.

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Wendy draws on her experience in working with other cities as well as advice from the state health department's legal team to identify three steps that Jackie should be aware of. Jackie's first task is to confirm that the local health department where she works has authority to inspect mobile food establishments. Authority to conduct inspections is typically granted in a piece of legislation or regulations governing a particular activity. If a legislative body or properly promulgated regulations have not authorized an agency to conduct inspections, the agency has no legal authority to do so. Legislation and regulations authorizing inspections typically also define how frequently inspections may occur – whether on a recurring, periodic basis or in response to citizen complaints. These laws may also address other procedural issues, such as whether random or unannounced inspections are allowed.

Jackie learns from Wendy that a state statute grants authority to local governments to implement and enforce standards for food safety and sanitation. Among other things, the law gives local health departments authority to enter and inspect licensed mobile food establishments once per year when mobile vendors renew their licenses and at other times in response to citizen complaints.

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Authority to conduct inspections can also derive from local laws. For example, in Austin, Texas, a local ordinance empowers the local health authority to inspect a food enterprise – including a mobile food establishment – during regular business hours or at another reasonable time, to determine compliance with local laws governing food and food handlers.

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Jackie's next task is to determine whether she must obtain an administrative search warrant before inspecting the mobile food facility. Jackie decides to consult with the city attorney's office for help in answering this question. She learns that an administrative search warrant is a court order authorizing the examination or inspection of private property.

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Jackie also learns that warrants are related to the Fourth Amendment to the US Constitution and similar provisions in state constitutions. The Fourth Amendment generally prohibits “unreasonable searches and seizures” without a warrant. Let’s unpack what this means in plain language: in general, government employees, such as police officers, code enforcement officers, or environmental health inspectors, must obtain a warrant *before* entering private property to search for evidence of a crime or evidence that a public health law has been violated. For purposes of this training, we’ll focus on administrative search warrants rather than criminal search warrants, which are issued to police to search for evidence of a crime.

In the next few slides, we’ll cover some key exceptions to the warrant requirement.

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Whether an administrative search warrant is required to conduct an inspection depends on several factors. First, Jackie learns that she does not need to obtain a warrant if she gets permission ahead of time to enter private property. The consent or permission to enter property must be given voluntarily. In addition, the person who can give permission varies, depending on the type of property.

- For regulated private and public establishments open to the public – such as food trucks and brick-and-mortar restaurants – the owner, manager, or person in charge can generally give permission.
- For private property that is not housing, the owner, the occupant, or the occupant’s representative can generally give permission.
- For housing, the occupant or the occupant’s representative (not the owner or property manager) can generally give permission.
- For public buildings, the manager or person in charge can generally give permission.

If public health officials receive permission from the appropriate person, they do not need to obtain a warrant before conducting an administrative inspection.

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Next, Jackie learns that courts have established that warrants are typically *not* required for public health inspections if . . .

- The property to be inspected is part of an activity or industry that has traditionally been heavily regulated and in which the government has a substantial interest in oversight – for example, hospitals, food manufacturing facilities, and restaurants;
- The health department is relying on a law that provides adequate notice of warrantless searches – in other words, the law specifically authorizes inspections and provides parameters or procedures for officials to follow in conducting the inspection; and
- The inspection is necessary to achieve government oversight.

In Jackie’s case, a warrant is probably not required because food trucks are part of a heavily regulated industry; the underlying laws in her state authorize inspections and outline basic procedures, such as when the inspections may occur; and the government has a substantial interest in inspecting mobile vendors to ensure public health and welfare.

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Jackie also learns that a warrant might not be required in emergency situations so dangerous that they require public officials to repair or eliminate a condition immediately. For a condition to be an emergency, it must pose an imminent threat to the public's health, safety, or welfare. For example, fire inspectors can likely conduct a warrantless search of a burning building to determine the cause of a fire. And environmental inspectors can likely conduct a warrantless search of a commercial property and seize samples to determine the source of an environmental hazard – such as a toxic contaminant leaking into a public waterway – to mitigate and prevent ongoing threats to public health and safety. To be prudent, public health inspectors should always check with legal counsel before executing a warrantless search and seizure.

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Finally, Jackie learns from Wendy and the city attorney about some best practices that she can use to help achieve equity and fairness for people who are subject to inspections.

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To ensure basic fairness to regulated establishments, Jackie can use the following best practices:

- Conduct the inspection at a reasonable time – for example, during the facility's normal business hours
- Provide proper identification and credentials upon arriving to conduct the inspection
- Keep a clear record of observations and any violations of food safety regulations
- Provide the facility with a copy of the record at the end of the inspection, and specify next steps, including a timeline for remedying any violations

Steps like these can help to balance individual rights against the government's interest in conducting inspections. They can also promote good governance and health equity – for example, by helping the person who is subject to inspection come into compliance and by minimizing punitive enforcement actions.

Note that some of these steps may be required by legislation or regulations authorizing public health inspections. Recall the example we considered earlier from Austin, Texas, where a local ordinance authorizes health inspections of food establishments only during regular business hours or at a reasonable time. These steps can also be outlined in internal agency guidance documents for inspection and enforcement officials if they are not established in state or local law.

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Jackie also learns about various tools she can use to ensure that people who have historically experienced structural discrimination and racism are not disproportionately singled out for inspections and resulting enforcement actions. For example,

- Jackie can track and evaluate her department's performance, to assess whether establishments owned or operated by people of color or people who belong to other historically underserved groups are being disproportionately selected for inspections and enforcement, and she can make changes to departmental practices as necessary to avoid inequities. Note that evaluation requirements can be included in legislation or regulations authorizing inspections, which can help to ensure that evaluation efforts receive adequate funding and resources and occur on a regular basis.
- Jackie can provide periodic trainings to inspection and enforcement officials on how to limit bias during inspections and how to enforce public health laws equitably. In the context of food safety inspections, such trainings could include, for example, strategies for navigating different cultural practices for food handling.
- Jackie can also outline the content of such trainings in internal agency guidance documents that are distributed to all inspection and enforcement officials.

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Before moving on, let's review what we've learned in this section with a quick question:

Before conducting an inspection, public health officials should . . .

- A. Confirm their authority to conduct inspections
- B. Determine whether a warrant is required
- C. Ask for permission to enter the property to be inspected
- D. Both A (confirm their authority to conduct inspections) and B (determine whether a warrant is required).

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If you selected D, you're correct! At a minimum, before conducting an inspection of private property, public health officials should confirm their authority to conduct inspection activities and determine whether a warrant is required. Consulting an attorney can help answer these questions, especially if a public health official hasn't previously carried out inspections for the type of property at issue – for example, private housing or a restaurant.

In regard to answer C, note that public health officials can always ask for permission to enter a property to be inspected; however, permission isn't necessary for every inspection. For example, if one of the three exceptions to the warrant requirement applies, like the exception for heavily regulated industries, public health officials can carry out an inspection regardless of whether they have received permission to enter.

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Here's another question to prompt reflection:

We've just discussed some strategies to make inspection practices more equitable. Which of the structural drivers of health inequity do they address?

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There's no single right answer, but two possibilities are emphasized here. Health departments can track and evaluate inspection practices to assess whether people of color and other historically underserved groups are being unfairly selected for inspections. Health departments can also train inspectors on how to minimize racial or ethnic biases. These strategies can help reverse structural discrimination within health departments.

Opening and running a business is one critical way for individuals and families to expand their economic opportunities and build wealth. If inspections are unfairly focused on business owners from Black, Indigenous, or other communities of color – either intentionally or unintentionally – the inspections may worsen income inequality and poverty.

We encourage you to reflect on other ways that inspection practices can be improved in order to minimize health inequities.

Part 3: How can health departments equitably enforce public health laws?

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The final topic for today's training is enforcing public health laws.

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On our continuum of agency activities, interpreting and enforcing public health laws is the final step. As we will discuss, however, the process of enforcement actually begins much earlier. In fact, we touched on enforcement when discussing each of the previous steps in the continuum!

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Because this topic is a bit complex, we'll break it down into three questions:

- How is enforcement related to health equity?
- What are the traditional pathways of enforcement?
- How does administrative enforcement work in practice?

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Let's dig into the first question: How is enforcement related to health equity?

Over the years, public health laws have catalyzed major health improvements for communities across the country. On any given day, it's common for people to live in homes that meet safety codes, drink or brush their teeth with fluoridated tap water, buckle their seat belts after getting into a car, eat food labeled with nutritional facts and expiration dates, and enter smoke-free buildings. Most would agree that without enforcement – or, framed a little differently, a means of incentivizing compliance – these public health laws are much less likely to have their intended effect. At the same time, however, enforcement actions taken in the name of public health can sometimes harm, discriminate against, or undermine the health of the very people whom the laws are meant to protect. In fact, enforcement that is carried out inequitably can often create, maintain, or worsen health inequities.

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Inequitable enforcement can harm public health through overenforcement, in which some communities – such as low-income communities and communities of color – are disproportionately affected by punitive enforcement approaches. For example, data show that people of color and residents who have low income are disproportionately affected by fees and fines for low-level offenses such as traffic violations. These fines and fees can affect credit scores, plunge families into debt, result in loss of a driver's license, or lead to incarceration. All of these outcomes can have a negative impact on health.

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Inequitable enforcement can also harm public health through underenforcement, in which some communities experience inconsistent enforcement of laws designed to protect their health and economic security. For example, studies have demonstrated that major environmental laws designed to ensure clean air, safe drinking water, and protections from toxic chemicals are less frequently enforced in and communities of color and communities of people with low income than in other areas. This inequity has negative impacts on health: research shows that people of color are much more likely to live near polluters and breathe polluted air, and people in poverty are exposed to more fine particulate matter than people living above the poverty line. These same underserved communities face elevated risks of cancer, asthma, and other diseases, in part because of environmental pollution.

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Equitable enforcement, in contrast, is a process of incentivizing compliance with the law while considering and minimizing harms to groups experiencing disadvantage. To pursue such an approach, a health department can consider equity at the level of the agency's overall enforcement strategy as well as at the level of individual enforcement actions. A health department can also consider equity at all stages of enforcement – from determining when to enforce a law (and against whom) to deciding which penalties or alternative enforcement tools to use.

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To make the concept of equitable enforcement more concrete, let's consider some practical strategies. As noted earlier, we touched on enforcement when we discussed each of the previous steps on the continuum of agency activities.

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In Part 2 of this training series, we talked about agencies' power to make law by creating regulations. The process of equitable enforcement can begin here. If a legislative body delegates authority to a health department to draft regulations – including the authority to decide how those regulations will be enforced – the health department can think carefully and strategically about the following questions:

- Who will be doing the enforcement? For example, will citations be issued by code enforcement officers, health department officials, or some other entity?
- Who will enforcement focus on? Will the law penalize the individuals the law is meant to protect or the businesses and institutions that are causing the problem in the first place? For example, many tobacco control policies seek to reduce tobacco use and initiation by punishing the people who use tobacco rather than the tobacco industry and retailers. Laws that penalize minors for possession, use, and purchase of tobacco products – known as *PUP laws* – are one such instance. Some enforcement mechanisms – such as tobacco retailer licensing and restrictions on flavored tobacco products – focus on the tobacco industry and retailers who sell to youth. These mechanisms are more just and more effective than those that regulate the behavior of people who use tobacco products, which are addictive by design.
- What will the penalties be? Will there be a range of possible sanctions? And will sanctions include nonpunitive alternatives, such as warnings, education, or community service?
- Does the regulation require ongoing data collection, monitoring, and evaluation to assess whether enforcement approaches are working effectively or are having unintended consequences? Including evaluation requirements in the regulation itself can ensure that evaluation is funded along with implementation of the policy.

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It's important to acknowledge that health departments may not have the authority or flexibility to think through all of these issues because enforcement mechanisms may be determined by a legislative body and defined in statutes and ordinances. Recall the New York City “green carts” example we discussed in Part 2 of this series, in which the New York City Council had previously adopted ordinances that made unlicensed street vending a crime punishable by a fine of up to \$1,000 or imprisonment. In that case, the New York City Board of Health did not have the authority to define alternative penalties or enforcement procedures for unlicensed street vending.

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Part 2 also noted that health departments can issue internal agency documents that establish guidelines for officials to follow when exercising their discretion on when and how to enforce public health laws. Guidance documents can also establish internal agency processes for evaluating or assessing the impacts of past or future enforcement actions – for example, by using an equity assessment tool.

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Earlier in this Part 3 training, we discussed how health departments can use permitting and licensing as an opportunity to educate applicants on how to qualify for and maintain licenses. For example, health departments can proactively share guidance documents, hold workshops or trainings, or provide other forms of technical assistance to help explain the licensing process in plain language. Resources can be provided in formats that are accessible to speakers of languages other than English and persons with disabilities. This type of community outreach can go a long way toward ensuring compliance with the law and avoiding violations and punitive enforcement actions.

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This training also identifies equitable enforcement strategies for conducting public health inspections. For example, health departments can evaluate their inspection practices to assess whether establishments that are owned or operated by people of color or people who belong to other historically underserved groups are being disproportionately selected for enforcement actions. Health departments can also provide periodic trainings to government officials on how to limit bias during inspections and enforcement actions.

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That was a lot of information, so let's quickly recap.

True or false? Equitable enforcement is a process that begins long before any alleged violations occur.

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The answer is "True." Equitable enforcement can be defined as a process of incentivizing compliance with the law while considering and minimizing harms to communities that have been disproportionately affected by structural racism, poverty, and other drivers of health inequity. This process begins when laws are being drafted and penalties and enforcement mechanisms are selected. The process of equitable enforcement continues throughout the implementation phase as government officials conduct community outreach, participate in trainings to minimize bias, and evaluate their actions to identify and assess whether disproportionate or discriminatory enforcement is occurring.

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In the rest of this section, we'll pick up this process where we just left off. Specifically, we'll focus on what happens *after* a violation occurs.

Public health officials respond to violations in a variety of ways – for instance, by issuing citations that impose administrative penalties on regulated entities or by suspending or revoking permits. Sometimes, public health officials oversee administrative hearings in which members of the public challenge enforcement actions. In this capacity, public health officials must interpret and apply public health laws to a particular situation and affirm, modify, or vacate the penalty. Because public health officials often undertake a variety of roles in the enforcement process, it's important for them to understand the administrative law principles and procedural rules that apply, in order to minimize their legal liability, ensure that individual rights are protected, and promote health equity.

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The possible penalties or consequences for violating a public health law are spelled out in the law itself, which may authorize one or more types of enforcement options. In general, there are three possible pathways for enforcement: civil, criminal, and administrative.

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For example, as you can see on this slide, San Francisco's permit regulations for mobile food facilities include an enforcement clause that authorizes criminal, civil, and administrative monetary penalties – or fines – for any person who violates the licensing requirements. The code also includes a separate section explaining that the Department of Public Health may suspend or revoke a mobile food facility's permit, after providing notice and an opportunity for a hearing, if the permit holder violates the code requirements or state law.

Consequences for violating a public health law can also include nonpunitive alternatives to fines and license suspensions, such as an order requiring a person who violated a law to participate in an education or community service diversion program. In addition, a law or local policies may allow decision makers to take an individual's ability to pay into account when determining the amount of a civil, criminal, or administrative fine.

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In today's training, we're going to focus on administrative enforcement, because that is where administrative law comes into play. A comprehensive discussion about the differences between the three enforcement pathways and the rationale for and implications of using different types of enforcement approaches is outside the scope of this training. For purposes of our discussion, we'll just briefly touch on some of the key differences to highlight how administrative enforcement is unique.

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Civil enforcement actions are typically initiated when a government attorney – such as a city attorney, county counsel, or state attorney general – files a lawsuit in *civil court* alleging that an individual has violated a law and requesting that a penalty be imposed consistent with the provisions in the relevant law. In some cases, private citizens may also be authorized to initiate civil enforcement actions. In addition to civil fines, which we mentioned earlier, some public health laws allow a civil court to issue an *injunction*, which is an order requiring somebody to do something or stop doing something – for example, an order requiring a mobile food vendor to cease conduct that violates applicable law, such as vending in locations that would block fire fighters' access to nearby buildings.

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When a public health law allows for *criminal enforcement*, a prosecuting attorney – such as a district attorney or a prosecutor in the state’s office of the attorney general – initiates a lawsuit against the alleged violator in *criminal court*, as opposed to civil court. Notably, the penalty for a criminal violation can include imprisonment, which is never the case for civil or administrative violations. Although some public health laws include criminal enforcement as a possible consequence for violations, enforcement officials should use discretion and always consider the possible adverse consequences of these types of sanctions. Overreliance on criminal enforcement can worsen inequities and prompt unnecessary interactions with law enforcement in disproportionately affected communities, which may already mistrust police and other government officials because of historical and current mistreatment and persistent disparities in the criminal legal system.

Note that while some public health agencies employ attorneys who may initiate and oversee civil or criminal enforcement actions, this approach is uncommon. Typically, when legislation authorizes civil or criminal enforcement options, public health agencies partner with government attorneys in different departments, to whom they may refer alleged civil or criminal violations for further action if appropriate. For example, one of Alabama’s public health statutes authorizes public health officials to conduct investigations in response to complaints about certain types of conduct and then to refer alleged violations to the county or city attorney, who then exercises discretion in determining whether to initiate enforcement proceedings.

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Administrative enforcement is a specialized type of civil enforcement. However, in contrast to civil enforcement actions, when a local public health law authorizes *administrative enforcement* of a particular requirement, local administrative agencies are often responsible for the entire enforcement process – from investigating violations and gathering evidence, to issuing citations for violations of legal requirements, to participating in and potentially overseeing administrative hearings in which members of the public challenge their citations. In other words – although there might be some variation across agencies, laws, and jurisdictions – administrative enforcement actions generally do not initially involve a trial in a civil or criminal court. Rather, they may involve an *administrative hearing*, which is a trial-like process that takes place before an administrative hearing officer or in an administrative law court. As we’ll discuss later, the person or panel overseeing the hearing typically works for a state or local agency and might not have formal legal training, unlike a traditional judge.

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The procedures that apply to administrative enforcement actions can be covered by state administrative procedure acts and statutes or regulations governing particular activities – all of which can vary across jurisdictions. In addition, the procedures for administrative enforcement can be affected by constitutional due process requirements, which we introduced in Part 1 of this training series.

Due process looks at the fairness and reasonableness of government actions that may affect life, liberty, or property interests – such as revoking a license, imposing a fine or penalty, or shutting down a business because of a health or safety violation. The requirements of procedural due process are flexible and can vary depending on factors such as the nature of the private interest affected by the punitive government action. For example, imagine that an enforcement official ordered a mobile food vendor to pay a small fine for a minor violation, like failing to sanitize cutting boards and knives at the appropriate frequency. Now, imagine that an enforcement official inspected a different mobile food vendor and seized and destroyed food items that were exposed to widespread rodent and insect infestation – and then permanently shut down the business. The vendor in the second example may be entitled to more rigorous procedural safeguards than the vendor in the first example because shutting down a business and seizing food items entails more significant property interests than having to pay a small fine.

Although the details vary, at a minimum, due process generally requires advance notice of the government's decision to impose a penalty, as well as an opportunity for a hearing conducted by an impartial decision maker. When more significant personal interests are at stake, however, a person may be entitled to more detailed procedures such as the right to be represented by an attorney at an administrative hearing, the right to cross-examine the government's witnesses, or the right to appeal an administrative decision to a traditional civil or criminal court.

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Before we move on, let's pause for a quick review question:

True or false? Administrative enforcement actions are initiated when a government attorney files a lawsuit in court.

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The answer is "False." Although the details vary, administrative enforcement actions generally do not initially involve a trial in a civil or criminal court. When a public health law authorizes administrative enforcement of a particular requirement, administrative agencies are often responsible for the entire enforcement process – from investigating violations and gathering evidence, to imposing penalties or revoking permits for violations of legal requirements, to overseeing administrative hearings and deciding whether the penalty or consequence should be upheld.

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This brings us to our final question: How does administrative enforcement work in practice?

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To explore this topic, let's revisit Jackie in the City of Innovation. When we left off, Jackie had just learned about the steps for inspecting mobile food facilities, such as food trucks. Now that Jackie has conducted a few inspections, she'd like to issue a citation to a food truck operator to remedy food safety violations she identified. For such food truck violations, state and local laws in Jackie's state authorize local health departments to issue administrative citations that do one or more of the following:

- Impose administrative penalties of up to \$1,000 per day for each violation
- Suspend or revoke a mobile vending license
- Order a food vendor to participate in food safety trainings run by the local health department

A city attorney has explained to Jackie that state statutes and local rules, as well as constitutional due process requirements, obligate her to use specific procedures to impose any of these administrative penalties. Let's unpack the enforcement process that Jackie must follow, step by step.

Note that administrative enforcement procedures vary by jurisdiction and by subject area or type of law. Health officials should always consult with an attorney licensed in their jurisdiction to learn what requirements apply.

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Jackie has already completed the first step of the administrative enforcement process: conducting an inspection and gathering evidence to demonstrate a violation. Specifically, Jackie wrote observations of a food truck operator's improper food storage practices on an inspection sheet and took photographs as additional documentation.

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Next, Jackie and her colleagues must assess the evidence to confirm the violation of state laws governing mobile food vendors. If they determine that a violation exists, they can issue to the alleged violator a written citation that

- Provides notice of the specific violation;
- States the penalty that will be imposed – an administrative fine, a temporary or permanent loss of license, or an order to attend a food safety training; and
- Explains that the food truck operator can request an administrative hearing to challenge the violation within 15 business days from the date of the citation.

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Note that at this step in the enforcement process, Jackie and her colleagues can consider whether nonpunitive alternatives to issuing an administrative citation might be appropriate under the circumstances. The laws in Jackie's state give her the authority to exercise this type of enforcement discretion, and a statewide guidance document that Wendy issued outlines factors for local health departments to consider when deciding what types of consequences to impose.

Jackie notes that although her inspection generated sufficient evidence to demonstrate that the mobile vendor violated food safety requirements, this is the vendor's first violation, and the issue is relatively minor. Based on the statewide guidance document, she decides to issue a notice that imposes a fine at the lowest end of the range of permissible sanctions and orders the vendor to participate in a mandatory food safety training course. The notice she issues to the vendor also explains how the vendor can request a hearing to contest the citation within the timeframe specified by law.

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If the mobile vendor requests a hearing within the requisite timeframe, the relevant hearing agency must hold one. If no hearing is requested, the agency may simply impose the penalty specified by law. The hearing agency may be the health department, the local board of health, a specific administrative law department, or some other government body. An administrative hearing is a trial-like process in which the hearing agency and the alleged violator can present evidence to a hearing officer, whose task is to weigh the evidence and decide whether a violation has actually occurred. The hearing officer – sometimes called an *administrative law judge*, or ALJ – is not an actual judge and may or may not have formal legal training. Who can serve as a hearing officer varies across jurisdictions and depends on the type of law at issue.

Even though an administrative hearing is not a court proceeding, the hearing must meet certain fairness standards to protect people's due process rights. The types of procedures required will vary greatly, depending on the jurisdiction and the type of violation, but at a bare minimum, they must include the ability for alleged violators to present their side of the story before an impartial decision maker. Alleged violators may also have the right to be represented by an attorney at the hearing.

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In Jackie's case, the mobile vendor who received the citation requests a hearing with the health department, which is the entity designated as the hearing agency for mobile vending violations in the City of Innovation. Local ordinances specify that hearings on contested food safety violations will be overseen by the department's director, who acts as the hearing officer. The director has a degree in public health but does not have any formal legal training. At the hearing, Jackie and her colleagues present their evidence demonstrating a food safety violation and explain the reasoning behind the penalty they imposed. The mobile food vendor is not represented by an attorney and argues that the violation was a one-off occurrence because of some equipment malfunctions. The vendor requests that the monetary penalty be rescinded but agrees to participate in the food safety training course.

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After the hearing, the hearing officer must weigh the evidence and decide whether a violation has occurred and whether the penalty is appropriate. In general, the burden of proof at an administrative hearing is a preponderance of the evidence, meaning that the side with more than 50 percent of the proof wins. The hearing officer's written decision affirming, modifying, or rejecting the penalty should, as a best practice, include specific "findings of fact" based on the evidence presented. In other words, the decision should clearly explain what happened, outline all of the conduct relevant to the violation, and explain what evidence supports that version of the facts. The written decision doesn't have to be long; it could be just a bulleted list. But at a minimum, it should include a basic finding that a violation did or did not occur and why. That way, the basis for the decision will be clear if there is an appeal to a reviewing body or a court of law.

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Let's return to our example. After considering the evidence and arguments that Jackie and the mobile vendor presented, the health department director decides to uphold the citation but agrees to eliminate the monetary penalty. Accordingly, the only consequence for the vendor's violation is an order to participate in a food safety training course and fix the malfunctioning equipment. The director's decision includes a short list with a few bullet points highlighting the evidence that shows that a violation occurred. The decision also cites the provisions of state law that give the department discretion to determine an appropriate consequence for the violation and outlines the factors the director considered in deciding to forgo issuing a monetary penalty. For example, the director notes that this is the vendor's first violation and that the issue for which the vendor was cited is relatively minor.

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Now, let's review the final step in the administrative enforcement process. After a decision is issued, the losing party generally has a right to appeal. Often, the losing party must seek an additional level of review by another government agency before appealing to a court of law. This requirement is called *exhaustion of remedies*.

If the matter does ultimately end up in court, the court will consider only the evidence that was presented and the issues that were raised during the initial administrative hearing – so it's important to get everything out on the table during the administrative enforcement proceedings. A reviewing court generally will overturn an administrative decision for only four reasons:

1. The hearing agency didn't have authority to enforce the ordinance in the first place.
2. The hearing agency failed to follow proper procedures, such as providing a fair hearing.
3. There is no evidence in the record from the administrative hearing to support the hearing officer's decision.
4. The hearing officer's decision is arbitrary, capricious, or irrational.

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In the City of Innovation, administrative hearing decisions can be appealed to the city council, per the city's mobile food facility ordinance and local rules, which are based on state law. So in Jackie's case, if the mobile vendor wants to appeal the director's decision, the vendor must first make an appeal to the city council before appealing the unfavorable decision to the courts. Here, however, the vendor is happy with the result, and no further appeal is filed.

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Let's consider one last review question to wrap up this section.

At a minimum, in administrative enforcement actions, constitutional due process usually requires . . .

- A. Notice of an agency's determination that a violation has occurred
- B. An opportunity for a hearing before an impartial decision maker
- C. The right to an attorney
- D. Both A (notice of an agency's determination that a violation has occurred) and B (opportunity for a hearing before an impartial decision maker).

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If you selected D, you're right! Under the Fifth and Fourteenth Amendments of the US Constitution, the government cannot deprive individuals of life, liberty, or property without due process of law. Although the requirements of due process are flexible and vary according to circumstances, at a minimum, they generally require, first, notice that an agency determined that a violation has occurred and, second, an opportunity for alleged violators to challenge the decision and tell their side of the story to an impartial decision maker. An alleged violator may have additional procedural rights – such as the right to representation by an attorney – based on topic-specific legislation or regulations, but these rights are not a minimum requirement of procedural due process.

Final Takeaways & Acknowledgments

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This concludes Part 3 of our three-part series on administrative law.

Here is a recap of what we discussed in this part:

We began by exploring the process that health departments generally should use to issue permits and licenses, which includes confirming their authority to issue permits and licenses in the first place and following best practices to promote health equity.

Next, we looked at the process for conducting investigations and inspections. We covered administrative search warrant requirements and exceptions, along with best practices to achieve fairness and equity for people who are subject to inspections.

Finally, we discussed how health departments enforce public health laws. We learned about the connections between enforcement and health equity, introducing the concept of equitable enforcement. We then discussed the traditional pathways for enforcement and took a deeper dive into how administrative enforcement works in practice.

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Individuals who work as public health practitioners, lawyers, and policy experts in state, tribal, local, and territorial health departments need measurable skills to move their careers forward. CDC's Public Health Law Program developed the Public Health Law Competency Model to help guide practitioners in their career trajectories. This module of the Public Health Law Academy covers the four competencies listed on this slide, to build skills in public health law for public health practitioners. We want to note that these are not the objectives for this course but are general public health law competencies suitable for public health professionals at all career levels, from students to entry-level staff to supervisors and executive-level managers.

The four competencies are

- Defining basic constitutional concepts that frame the everyday practice of public health;
- Describing public health agency authority and limits on that authority;
- Identifying legal tools and enforcement procedures available to address day-to-day (non-emergency) public health issues; and
- Distinguishing public health agency powers from those of other agencies, legislatures, and the courts.

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