

William R. Andersen

*Informal Agency Advice—Graphing the Critical Analysis*

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Abstract by Dipal Shah

In his article, Professor Andersen creates graphic representations of the doctrines dealing with receiving and obtaining informal agency advice in order to clarify the process. Andersen deals with three major issues in the creation of his procedural map. The first is whether an agency needs to comply with any particular procedure before it promulgates advice or guidance. Second is what legal effect the advice has. In the third and final issue, Andersen reacts to whether courts must give the agency guidance or some deference when screening or reviewing agency action flowing from or involving the advice.

Based on these issues, Andersen creates a box chart which graphs critical elements of the informal agency advice process. In addition, Andersen deals thoroughly with the distinction between legislative and interpretive rules, which he comments has created great divides and has led to a myriad of standards. In concluding, Andersen returns to his three primary issues and asserts that legal analysts must use multiple criteria to not only clarify the distinction between legislative and interpretive rules. Andersen argues this clarification would lead to a more comprehensive understanding of informal agency advice.