

Hi. This is Chris Micheli with the Sacramento governmental relations firm of Aprea & Micheli, and an adjunct professor at McGeorge School of Law in its Capital Lawyering Program.

Today's podcast is on the role of the capital lawyer. Around the state capital in California, we occasionally hear about the work of capital lawyers. Who are they, and what do they do?

Here at McGeorge School of Law, they're training individuals to be successful capital lawyers, describing them as those who attain the fundamental knowledge and skills that are essential to lawyering in California State government.

Of course, these individuals could also practice law at the local or federal levels of government, as well as in the executive, legislative, or judicial branches of federal or state governments.

Some of the foundational skills that capital lawyers possess include the following. Public policy research, development, and analysis skills, appreciation for the various policy-making venues so that a proper determination can be made as to which venue or venues provide the best chances for client success.

Research at the local, state, and federal government levels, verbal and written advocacy and negotiation skills in different policy-making venues, and knowledge about multiple areas of law and public policy issues that are unique to government and the public sector.

It is particularly important for these individuals to understand the policy-making venues and processes of all three levels of government, because none operate in a vacuum.

For example, federal laws, programs, and funding decisions are generally implemented by state and local governments. Those federal laws have a huge impact on the state and its local communities.

Similarly, the state and local governments do not have exclusive control of the policy-making agenda. In fact, they share it with the federal government.

Moreover, even within a level of government, there are different branches of government that provide different venues for capital lawyering skills to be utilized. The most obvious examples are lawmaking in the legislative branch and rulemaking in the executive branch's regulatory entities.

As a result, a well-prepared capital lawyer will be able to work within these different and rather unique policy-making venues. There are numerous opportunities for engagement by the capital lawyer.

Examples of capital lawyering careers could include in the California legislature, as committee consultants, staff to legislative leaders and individual legislators, staff to party caucuses or other legislative support agencies such as the Office of Legislative Counsel.

For the governor in such areas as legal affairs, legislative affairs, or appointments. In state agencies, of which there are more than 200 with rulemaking authority, as attorneys, advocates, administrative law judges, ALJs, enforcement officers, and other similar positions.

For businesses and nonprofits that seek to influence policy on both legislative and regulatory matters, they can serve as advocates or analysts. For private law firms, they could work as attorneys that specialize in political and government law, and at lobbying firms, as lobbyists or policy analysts who are retained to influence policy on both legislative and regulatory matters.

As others have often observed, capital lawyering practice revolves around public policy development, regardless of whether one participates as an elected or appointed official, as a staff attorney for a government agency, a legislative aide or a committee consultant at the legislature, or as an advocate or an attorney in a firm that specializes in government practice.

All of these capital lawyers are involved in developing or implementing public policy. This often proves to be a very rewarding career for many capital lawyers.

Moreover, regardless of whether the public policy is in the form of legislation or regulations, executive orders, court orders, or other types of policy edicts issued by the government, they all come about as a result of processes for public policy development. The capital lawyer can and does play a crucial role in the development of these policies.

One unique capital lawyering career is that of the legislative lawyer. What does a legislative lawyer do?

While the role and the title may differ a bit from state to state, legislative lawyers often provide nonpartisan legislative drafting services for members of that state's legislature, including drafting of bills and resolutions, as well as related legal guidance.

At the federal level, legislative lawyers provide these same types of services for members of the US House and the US Senate.

Practicing legislative law can be challenging at times, but also very rewarding.

Legislative lawyers are often at the forefront of the development of the law, because they provide legal guidance to help their clients determine whether legislation may be needed to address an identified public policy problem, or help them predict how a court might decide a case of first impression involving new or existing laws.

In addition, legislative lawyers and lawyering requires one to navigate a complicated web of constitutional law, state and federal laws, and numerous administrative regulations.

Some of the common issues that arise as a legislative lawyer involve legal doctrines such as the separation of powers, privacy, and the federal preemption of state or local

laws. A state's constitution can also include drafting hurdles such as higher voting thresholds for certain types of legislation.

The role of the capital lawyer can be varied and interesting, whether working in the executive or legislative branch, or for local, state, or federal government. For those interested in combining law and public policy, working in and around government is a wonderful opportunity to have an impact on laws and policies.

I hope you've enjoyed this brief presentation on the role of capital lawyers.