

Hi, this is Chris Micheli with the Sacramento governmental relations firm of Aprea & Micheli and an adjunct professor at McGeorge School of Law. Thanks for joining today's podcast. We're going to look at the use of definitions in legislation. As you might imagine, definitions can play an important role in legislation. Defining words or phrases is done to provide the reader of the legislative text with clear guidance regarding how these words or phrases are to be understood and used in the forthcoming legislation.

Where there are multiple definitions, they are most often found near the beginning of legislative text. This is because it makes it easier for readers and instructs the reader how these words or phrases should be used when they're reading the remainder of the statutory provisions. Now in some jurisdictions including the United Kingdom, definitions are actually placed at the end of legislation, and that's pursuant to their own parliamentary practice. That is not the case in California.

Now, the Athabasca University's Graduate Diploma in Legislative Drafting Program spent some time describing the use of definitions of legislation. And they find that these definitions can perform two different functions. They call them labeling and stipulating. A labeling definition's purpose is to allow the term to be used instead of a longer sentence. It has to set forth the definition repeatedly throughout the legislative text.

On the other hand, a stipulating definition's purpose is to provide a specific meaning for the defined term or phrase as it's going to be used in the forthcoming legislation. For purposes of drafting definitions of state legislation, bill drafters obviously need to follow the drafting guidelines of their respective jurisdictions. But much of this area is common among the different states. For example, drafters generally develop definitions in the planning stage where they prepare legislation getting ready to draft and they anticipate that certain words or phrases will have to be defined in the statute.

Of course, when they're actually drafting, they'll also figure out that certain words or phrases have to be utilized and defined in order to help explain how a word or phrase is going to be used in the legislative facts. Now, in some legislation, there's an entire definition section getting California generally at the beginning. After that, the word or phrase is defined and that word or phrase is placed in quotation marks, and that's the California drafting style. In some different jurisdictions, they utilize boldfaced or italics instead for the word or phrase that's going to be defined. Now generally across all jurisdictions, that first word is not begun with a capital letter and they don't include a definite article the word the, or an indefinite article a or and in the definitions.

So, what are some of the types of definitions that we cover and find in legislation? The first is a comprehensive definition, which as you would imagine, it's a complete statement of what the defined term actually means. Another is a restricting definition where the effort is to limit the use of a term to a specific context particularly with that specific legislation. There's also an enlarging definition which is intended to extend the usual definition of a word. Then there's an excluding definition that's basically used to remove something from the usual meaning of the word or phrase. And there's a referential definition which basically utilizes a defined term that's from a different area of the statutes. And this section specifically refers to that particular definition and where it is found elsewhere in the law.

Now, as a general rule of legislative drafting, at least for a comprehensive definition, the drafter is supposed to use the word includes. So this word means the following. When you use the word includes, it's not comprehensive, generally it's not viewed that way. And of course a drafter never wants to use a phrase that's needs and includes that combines both of those. Also, a definition is not required when you're merely repeating a dictionary definition, because essentially judges and reading statutes are going to expect a definition to be contained in the statute when for example the common dictionary definition is not being used.

As you can see definitions of origin phrases play an important part in statutes particularly where these words or phrases don't use their common ordinary, perhaps dictionary meaning. When a drafter defines a term of a legislative text, then that word has to be used the same manner throughout the entirety of the text of the statute of the legislative measure. That's our brief overview of the use of definitions in legislation. Thanks for joining.