

DAP BASICS: Sources of Law

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SOURCES OF LAW

- Statute
 - 42 U.S.C. §§ 401 et seq. (Title II); 42 U.S.C. §§ 1381 et seq. (Title XVI/SSI)
- Regulations
 - 20 C.F.R. Part 404 (Title II); 20 C.F.R. Part 416 (Title XVI)
- Case law
- Social Security Rulings (SSR)/Acquiescence Rulings (AR)
- POMS
- HALLEX
- Available at www.ssa.gov

POMS

- Program Operations Manual Systems (“POMS”)
 - Used by FOs as internal guidance to interpret rules and regulations
 - Available on www.ssa.gov
 - Publicly available version does not include internal data entry and material designated as sensitive content instructions
- POMS periodically supplemented with Emergency Messages (EMs)

POMS, cont.

- POMS not binding on the Commissioner and has no legal force
 - *Tejada v. Apfel*, 167 F.3d 770, 775 (2d Cir. 1999)
 - It can be used as evidence of SSA's construction of its authorizing statute or regulations, and as such, possibly entitled to deference
 - *Fowlkes v. Adamec*, 432 F.3d 90, 97 (2d Cir. 1992)
- Regulations and SSRs constitute official interpretation of the Act

HALLEX

- Hearings and Appeals, Litigation and Law (“HALLEX”)
 - Manual used by hearing offices (OHOs) to interpret rules and regulations
 - Available on www.ssa.gov
- Usually most relevant for procedural issues

SSRs

- Social Security Ruling (“SSR”)/Acquiescence Ruling (“AR”)/Emergency Message (“EM”)
 - Published periodically by SSA in the Federal Register.
 - SSRs explain agency policy
 - ARs are circuit court rulings with which the agency does not agree but will follow in a particular circuit
 - No significant weight is usually accorded to caselaw unless there is an AR
 - SSR 96-1p
- Available on www.ssa.gov

Other Resources

- Empire Justice Center
 - Recorded trainings - <https://empirejustice.org/training/>
 - Disability Law News - <https://empirejustice.org/our-newsletter/>
- Legal Services of New York City (LSNYC)
 - Recorded trainings - <https://www.learningcenter.legalservicesnyc.org/>
- Social Security Administration
 - <https://www.ssa.gov/ssi/text-understanding-ssi.htm>
- Justice in Aging
 - <https://justiceinaging.org/>
 - 2017 SSI Basics training - <https://justiceinaging.org/ssi-basics-training-final-4-11-17/>
- National Organization of Social Security Claimants' Representatives (NOSSCR)
 - <https://nosscr.org/research-advocates/>
- Social Security News (Charles Hall blog)
 - <https://socsecnews.blogspot.com/>