

# State and Local Government in a Federal System



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NINTH EDITION

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*To my children, John, Amy, and Daniel*

*-D.R.M.-*

*To Daniel Mandelker, mentor extraordinaire*

*and*

*To Frayda Bluestein & Robert Hagemann, exceptional students,  
colleagues and friends*

*-J.W.W.-*

*To Weston Jr., Mary Robin, Frank, and Heidi*

*-J.C.G.-*

*To Ariel and Charlie*

*-E.C.Z.-*

*To Tim and our children, the loves of my life, and in memory of  
my father, Ernest F. Oppliger*

*-C.A.B.-*



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# Preface

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## Viewpoints, Objectives, and Emphasis

The Preface to the first edition of this casebook by its two original co-authors stated our purpose in ways that continue to ring true:

It is reasonable to assume that every casebook has a point of view; it is an equally safe assumption that no casebook could satisfy the point of view, needs, or objectives of every teacher of state and local government law. Within these boundary conditions we have constructed a casebook which has a modest and frequently unobtrusive point of view and which at the same time attempts to provide materials adequate to satisfy the needs and objectives of other teachers.

This point of view is relatively simple and essentially structural. The study of state and local government for law students should be built on a framework of the tri-partite distribution of powers, both vertically and horizontally: the federal-state-local levels of government and their interrelationship, the legislative-executive-judicial branches of government and their interaction.

The book has two principal objectives. First, it focuses on government powers: where they come from, how they operate, and how disputes about such powers are resolved. Second, it addresses the participants in the governance process: who they are, and how they play their roles as entities and individuals. Inevitably, reflection on the governance process results in reflection on the political process, and the interaction of legislators, judges, and members of the executive branch (mayors, governors, and administrative officers). Attention to this intra-governmental distribution of powers stems, of course, from American separation of powers.

Students will also find a good deal more state government law and somewhat less municipal law than is traditional in courses in this area. That also reflects our structural preoccupation. Now, perhaps more than in the latter half of the twentieth century, states occupy a pivotal role in our multi-level structural system. The rhetorical depiction of states as “laboratories” of democracy has never rung more true.

The book is designed for the generalist in state and local government law rather than for the municipal law practitioner. The reasons are twofold.