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**Civics 101**

**Episode 127: The Federal Register**

**Nick Capodice:** [00:00:10] Hey, is this Jennifer?

**Listener:** [00:00:10] Yes!

**Nick Capodice:** [00:00:11] Hi, this is Nick calling from Civics 101.

**Hannah McCarthy:** [00:00:14] Hey Jennifer I'm on the line too, this is Hannah.

**Nick Capodice:** [00:00:18] So Jennifer you sent us an email asking us about a certain civics thing can you tell us what that is?

**Listener:** [00:00:25] Yeah it's the federal register. And I was wondering, what is the Federal Register, who uses it, how, and why?

**Nick Capodice:** [00:00:34] So I've done a little research on the Federal Register and I'm still in the dark.

**Listener:** [00:00:38] I looked at the Web site and it just says, the journal for the government and I don't know what that means. Are they writing down. Oh I saw senator so-and-so talking to senator so-and-so today? What is it?

**Nick Capodice:** [00:00:54] Do you think there is like an advice column in there. Ask Melania.

[00:01:01] So we're going to try to get to the bottom of this and try to find someone who knows about the Federal Register and maybe somebody who reads it every day.

**Listener:** [00:08:34] That sounds great.

**Ben Henry:** [00:08:34] Hey guys. Before we talk about the Federal Register I have a gift for you.

**Nick Capodice:** [00:08:38] What is it.

**Ben Henry:** [00:08:38] Why don't you open it up?

**Nick Capodice:** [00:08:38] It's a slim volume... It's our very own Federal Register! Look at the color of these pages.

**Hannah McCarthy:** [00:08:38] It's that very thin paper that you should be able to rip out and hand over to a teacher. My goodness what's in it.

[00:08:44] So this thing is printed every single day.

**Nick Capodice:** [00:08:46] Every day. 30000 subscribers in print but much more on digital. Despite literally holding this thing in my hands, I'm still struggling to figure out what it is and why the government publishes it every day.

**Hannah McCarthy:** [00:08:56] Yeah I find it totally perplexing.

**Nick Capodice:** [00:08:58] Now I have a couple of experts who can hopefully illuminate this beautiful document. One of them is Oliver Potts. He just happens to be the director of the Federal Register. He's in charge of the whole shebang. So first off what is this document in my hand?

**Oliver Potts:** [00:09:11] The Federal Register is a publication in print and digital format and it's the official source for government regulations.

**Kevin Kosar:** [00:09:19] And it basically tells you what the executive branch of our federal government is doing and what it's planning to do.

**Nick Capodice:** [00:09:25] That's Kevin Kosar. He's vice president of policy at the R Street Institute, a think tank. And he said any time the executive branch wants to create any kind of new regulation they have to announce it in the Federal Register.

**Hannah McCarthy:** [00:09:37] Ok so I wonder if we could just take a quick tour through the federal register itself like what's actually in it.

**Oliver Potts:** [00:09:43] Well I brought one too. So the first documents in it are presidential documents. And so there is a proclamation here. We also have executive orders. You might have read in the news about the president making it easier to fire federal employees. So there's that executive order, the official text of it is also here with the president's signature and the date.

**Nick Capodice:** [00:10:02] Now this is crucial, presumably, for anyone who's keeping tabs on what exactly the executive branch is up to nowadays. Here's Nick Bellos. He's managing editor of a publication called the Regulatory Review.

**Nick Bellos:** [00:10:13] When I think there are a lot of headlines about how executive agencies federal agencies are perhaps doing or trying to undo the policy measures by the Obama administration the Federal Register is actually going to show you just how the executive branch is doing that.

**Oliver Potts:** [00:10:28] And then there are proposed rules and public notices and final rules.

**Nick Capodice:** [00:10:33] Now here Hannah is the real meat of the Federal Register. These are all the new regulations that the government is thinking about.

**Oliver Potts:** [00:10:41] The proposed rules are put into the federal register because the federal government is required to let the public have input into the rulemaking that they're doing.

[00:10:50] And so there's a notice and comment process in the Federal Register is an important part of that.

**Nick Capodice:** [00:10:55] To clarify everything that's in the Federal Register is coming out of the executive branch which is not as I once thought just the president and the vice president.

**Hannah McCarthy:** [00:11:04] OK. I thought that too.

**Nick Capodice:** [00:11:05] Yeah the executive branch is also all of the agencies, we're talking the EPA, the USDA, the Department of Education. Those also fall into the executive branch and that's what's in the register.

**Hannah McCarthy:** [00:11:13] OK. So no wonder it's so long and complicated. It's dealing with all of those agencies

**Nick Capodice:** [00:11:18] So it's not the Congress and it's not the judicial branch. Those guys have their own records. The next thing I wanted to know from Oliver Potts is who actually reads the Federal Register.

**Oliver Potts:** [00:11:25] It sort of boils down to lawyers and lobbyists. If you're an attorney practicing before a regulatory agency if you have a business that's regulated by a federal agency then you're very interested in what is being published in the Federal Register. It is however geared towards any citizen being able to participate in the rulemaking process.

**Nick Capodice:** [00:11:44] Now I know for a fact that our listeners have opinions about the government and yes we read every e-mail that you send to us. The Federal Register is designed for you so that you can comment directly on regulations while they are still being made.

**Hannah McCarthy:** [00:11:56] Oh that's really cool. Honestly I thought a lot of this was kind of happening in the shadows. So it's really cool to hear that there is this publicly accessible document that allows us to be involved.

**Nick Capodice:** [00:12:05] Yeah it's like. Well you can complain about something on Twitter or leave a comment on Facebook. You can just comment on this policy that's just about to happen.

**Oliver Potts:** [00:12:11] I pulled a couple of examples of things where people might want to be involved directly. Here's a notice from the Department of Energy about an open meeting and if you look a little further into the supplementary information there's a bullet list of what they're going to talk about at the meeting. And I just highlighted update on Radioactive Waste Management complex. If I lived in Idaho where this board meets and where it has jurisdiction that's something I might be interested in. This is a hands on direct way that people can avail themselves of their rights.

**Kevin Kosar:** [00:12:39] And what's wonderful about it is that when you are commentating these comments are being listened to by the people who are making policy. And as part of the process you can see the federal register they will actually respond to your comment.

**Nick Capodice:** [00:12:51] And can anybody leave a comment. Could I write in and say hey I feel X about this certain thing.

**Kevin Kosar:** [00:12:55] Yeah. Yeah. So I mean they get 500 people saying the exact same thing which often happens when interest groups or activist groups you know ask people to comment on a rule. They won't list everybody's name and everybody's same comment, they'll lump them together and then they'll respond.

**Hannah McCarthy:** [00:13:10] Do you think that the Federal Register makes engaging with our federal government much easier than it would be without it? What Would it be like without the Federal Register?

**Kevin Kosar:** [00:13:19] It would be like life before 1935.

**Nick Capodice:** [00:13:21] 1930s, FDR is in office. The three R's: relief reform recovery, the new deal on the way in, the Great Depression slowly on the way out. And in the process we passed a lot of new regulations.

**Oliver Potts:** [00:13:32] And so if you were in a let's say a business that was being regulated by the federal government it was sort of hard to figure out what the current regulation that applied to you was. It certainly was difficult to know what was on its way. They weren't proposed regulations at the time. They could just go into effect so it was required at the time that they be displayed before they were published in the Federal Register. There were people who made their living coming to the Federal Register to the public reading room to actually see what was on display being proposed to go into the Federal Register.

**Nick Capodice:** [00:14:00] Ever since then the Federal Register has been very quietly chronicling every single teeny little regulation and rule change that the government makes. And this is the whole big thing. Regulation, which is all the minor nuts and bolts that tell us how to follow the laws, that is the foundation for all the big flashy political ideas that we talk about.

**Hannah McCarthy:** [00:14:17] So these are the kinds of things that lobbying groups and politicians are going to be really interested in because that's their fodder. Right? That's what's guiding what their platforms are and what decisions they're going to make in the future.

**Nick Bellos:** [00:14:28] Yeah I mean you actually look at the text of these of these bills these laws even though they're really long oftentimes they're not very detailed. Good example is like the clean air act for instance. You know there's a provision in there that says that the EPA must protect public health with an adequate level of safety. Which sounds legalistic and formal but then if you if you think about it like oh well what's the public health with an adequate level of safety. In many ways Congress is pointing to somebody else kind of filling the gap.

**Nick Capodice:** [00:14:49] And this happens over and over again in our government. Congress punts to the executive branch. So Congress says hey we got this big idea. We think it's a good idea but you all figure out the details.

**Nick Bellos:** [00:14:59] There are a lot of pros and cons to the way our system is set up where unelected regulators and bureaucrats we have a lot of control of it. On the one hand it's great because we want specialists like technocrats people who actually know what they're doing to set those standards. The criticism would be you know we didn't elect those scientists. How much how much can we trust them. Who's holding them accountable?

**Hannah McCarthy:** [00:15:14] But I guess in response to that I would say well whoever it is that's ordering the federal register, all these thousands of people are having the Federal Register delivered to them every morning and combing through it online, people like Nick, are the people who are holding them accountable.

[00:15:26] Well that about wraps it up for Civics 101 today. Check out the federal register yourself. Go to Federal Register dot gov. Today's episode of civics on one is produced by the inimitable Ben Henry. Our executive producer is Erika Janik. Our staff includes Justine Paradise, Jimmy Gutierrez, Jacqui Helbert, and Taylor Quimby, Civics 101 is a production of New Hampshire Public Radio.