

2024 Current Fiscal Year Report: Assembly of the Administrative Conference of the United States

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1. Department or Agency

Administrative Conference of the United States

2. Fiscal Year

2024

3. Committee or Subcommittee

Assembly of the Administrative Conference of the United States

3b. GSA

Committee No.

73677

4. Is this New Fiscal Year?

No

5. Current Charter

08/03/2022 08/03/2024

6. Expected Renewal Date

7. Expected Term Date

8a. Was Terminated During Fiscal Year?

No

8b. Specific Termination Authority

8c. Actual Term Date

9. Agency

Recommendation for Next Fiscal Year

Continue

10a. Legislation Req to Terminate?

Not Applicable

10b.

Legislation Pending?

Not Applicable

11. Establishment Authority

Statutory (Congress Created)

12. Specific Establishment Authority

5 U.S.C. 591-596

13. Effective Date

07/30/2008

14. Committee Type

Continuing

14c. Presidential?

No

15. Description of Committee

Other Committee

16a. Total Number of Reports

No Reports for this Fiscal Year

17a. Open

0

17b. Closed

0

17c. Partially Closed

0

Other Activities

0

17d. Total

0

Meetings and Dates

No Meetings

	Current FY	Next FY
18a(1). Personnel Pmts to Non-Federal Members	\$0.00	\$0.00
18a(2). Personnel Pmts to Federal Members	\$0.00	\$0.00
18a(3). Personnel Pmts to Federal Staff	\$0.00	\$0.00
18a(4). Personnel Pmts to Non-Member Consultants	\$0.00	\$0.00
18b(1). Travel and Per Diem to Non-Federal Members	\$0.00	\$0.00
18b(2). Travel and Per Diem to Federal Members	\$0.00	\$0.00
18b(3). Travel and Per Diem to Federal Staff	\$0.00	\$0.00
18b(4). Travel and Per Diem to Non-member Consultants	\$0.00	\$0.00
18c. Other(rents,user charges, graphics, printing, mail, etc.)	\$0.00	\$0.00
18d. Total	\$0.00	\$0.00
19. Federal Staff Support Years (FTE)	0.00	0.00

20a. How does the Committee accomplish its purpose?

The statutory purposes of the Administrative Conference are to provide suitable arrangements through which Federal agencies, assisted by outside experts, may cooperatively study mutual problems, exchange information, and develop recommendations for action by proper authorities to the end that private rights may be fully protected and regulatory activities and other Federal responsibilities may be carried out expeditiously in the public interest (5 USC 591). The Act further specifies the objectives of promoting more effective public participation and

efficiency in the rulemaking process; reducing unnecessary litigation in the regulatory process; improving the use of science in the regulatory process; and improving the effectiveness of laws applicable to the regulatory process. The Assembly consists of the 101 Conference members, constituted as specified in the Administrative Conference Act, meeting in plenary session to discuss and adopt recommendations for improving administrative procedures. Plenary sessions are normally scheduled twice each year, to consider draft recommendations proposed by subcommittees.

20b. How does the Committee balance its membership?

The Administrative Conference Act specifies the composition of the membership (5 USC 593). The Act provides for a chairman appointed by the President with Senate confirmation; 10 additional Council members appointed by the President, with the number of government members not to exceed the number of private sector members; members from independent regulatory agencies and from Executive Branch agencies designated by the President; plus not more than 40 members from outside the Federal government, appointed by the Chairman with the approval of the Council. The non-government members include practicing attorneys, scholars in administrative law or government, or others possessing knowledge and experience with respect to Federal administrative procedure. The total membership may not exceed 101.

20c. How frequent and relevant are the Committee Meetings?

The entire Assembly ordinarily meets twice each year. The number of subcommittee meetings is

variable, depending on workload. It is anticipated that each of five subcommittees will meet an average of four times per year, for an estimated total of 20 subcommittee meetings.

20d. Why can't the advice or information this committee provides be obtained elsewhere?

No other Federal entity exists for the purpose of bringing together the public and private sectors on a non-partisan basis, to focus on improving administrative procedures in Federal agencies and the courts, as provided in the Administrative Conference Act (5 USC 591-596).

20e. Why is it necessary to close and/or partially closed committee meetings?

N/A. All meetings of the Assembly are open.

21. Remarks

Designated Federal Officer

Shawne McGibbon General Counsel

Committee Members	Start	End	Occupation	Member Designation
Anderson, James	06/12/2020		Deputy General Counsel, Supervision and Legislation Branch, Federal Deposit Insurance Corporation	Regular Government Employee (RGE) Member
Apol, David	03/30/2015		General Counsel, Office of Government Ethics	Regular Government Employee (RGE) Member
Badejo, Funmi	09/26/2022	09/25/2025	Head of Compliance, Palantir Technologies	Special Government Employee (SGE) Member
Bagenstos, Samuel	06/16/2022		General Counsel, U.S. Dept of Health & Human Services	Regular Government Employee (RGE) Member

Bagley, Nicholas	07/31/2023	06/30/2025	Professor of Law, University of Michigan Law School	Special Government Employee (SGE) Member
Baker, Gregory	03/23/2016		Deputy General Counsel for Administration, Federal Election Commission	Regular Government Employee (RGE) Member
Barnett, Kent	08/28/2019	06/30/2025	Associate Dean for Academic Affairs and J. Alton Hosch Professor of Law, University of Georgia School of Law	Special Government Employee (SGE) Member
Bell, Bernard	05/20/2022	06/30/2025	Professor of Law and Herbert H. Lehman Scholar, Rutgers Law School	Special Government Employee (SGE) Member
Benderson, Eric	11/27/2012		Assistant General Counsel for Litigation and Claims, Small Business Administration	Regular Government Employee (RGE) Member
Blackhawk, Maggie	07/27/2022	06/30/2024	Professor of Law, New York University School of Law	Special Government Employee (SGE) Member
Braden, Susan	08/29/2019	06/30/2025	Jurist-in-Residence, George Mason University Antonin Scalia Law School	Special Government Employee (SGE) Member
Brumfield, Krystal	02/16/2021		Associate Administrator for the Office of Government-wide Policy, U.S. General Services Administration	Regular Government Employee (RGE) Member
Cass, Ronald	08/14/2020	08/13/2024	President, Cass & Associates, PC	Special Government Employee (SGE) Member
Clarke, Kristen	10/05/2022	10/04/2025	Assistant Attorney General for Civil Rights, U.S. Department of Justice	Regular Government Employee (RGE) Member

Cohen, Daniel	05/26/2021		Assistant General Counsel for Regulation, U.S. Department of Transportation	Regular Government Employee (RGE) Member
Cohen, Ilona	12/05/2018	06/30/2024	Chief Legal Officer, Aledade, Inc.	Special Government Employee (SGE) Member
Cole, Michael	01/22/2020		Senior Attorney, Office of General Counsel	Regular Government Employee (RGE) Member
Constantine, Peter	09/06/2018		Associate Solicitor, OLC, Dept. of Labor	Regular Government Employee (RGE) Member
Cooper, Anika	01/26/2015		Deputy General Counsel, Office of General Counsel, Surface Transportation Board	Regular Government Employee (RGE) Member
Datla, Kirti	09/01/2021	06/20/2025	Director of Strategic Legal Advocacy, Earthjustice	Special Government Employee (SGE) Member
Davies, Susan	06/07/2023		Acting Assistant Attorney General, OLP, U.S. Department of Justice	Regular Government Employee (RGE) Member
Davis, Rita	08/25/2023		Deputy General Counsel, U.S. Department of Defense	Regular Government Employee (RGE) Member
Dickey, Jennifer	07/27/2022	06/30/2024	Associate Chief Counsel, U.S. Chamber Litigation Center	Special Government Employee (SGE) Member
Duffy, John	12/06/2018	06/30/2024	Samuel H. McCoy II Professor of Law and Paul G. Maoney Research Professor of Law, University of Virginia School of Law	Special Government Employee (SGE) Member

Engstrom, David	07/15/2020	06/30/2024	Professor of Law, Associate Dean for Strategic Initiatives, and Bernard D. Bergreen Faculty Scholar	Special Government Employee (SGE) Member
Evans, Claire	05/15/2019	06/30/2025	Partner, Wiley Rein LLP	Special Government Employee (SGE) Member
Feldblum, Chai	09/05/2019	06/30/2025	Former Partner, Morgan Lewis & Bockius LLP	Special Government Employee (SGE) Member
Fois, Andrew	05/27/2022	05/26/2027	Chair, Administrative Conference of the U.S.	Regular Government Employee (RGE) Member
Frotman, Seth	05/04/2022		General Counsel, Consumer Financial Protection Bureau	Regular Government Employee (RGE) Member
Garg, Arjun	07/26/2023	06/30/2025	Partner, Hogan Lovells LLP	Special Government Employee (SGE) Member
Gluck, Abbe	07/26/2022	06/30/2024	Professor of Law and Professor of Internal Medicine, Yale University	Special Government Employee (SGE) Member
Grace-Tardy, Ami	08/10/2021		Assistant General Counsel for Legislation, Regulation, and Energy Efficiency, U.S Department of Energy	Regular Government Employee (RGE) Member
Grippando, Gina	07/31/2019		Assistant General Counsel for Administrative Law, U.S. International Trade Commission	Regular Government Employee (RGE) Member
Gupta, Deepak	07/22/2021	06/30/2025	Partner, Gupta Wessler PLLC	Special Government Employee (SGE) Member

Hammond, Emily	07/26/2023	06/30/2025	Glen Earl Weston Research Professor, The George Washington University Law School	Special Government Employee (SGE) Member
Hawley, Carson	05/10/2023		Deputy Asst. General Counsel, Marketing, Regulatory, & Food Safety Programs Division, U.S. Department of Agriculture	Regular Government Employee (RGE) Member
Hipolit, Richard	03/11/2016		Deputy General Counsel for Legal Policy, Department of Veterans Affairs	Regular Government Employee (RGE) Member
Ho, Allyson	12/05/2018	06/30/2024	Partner, Gibson Dunn & Crutcher LLP	Special Government Employee (SGE) Member
Ho, Daniel	07/20/2021	06/30/2025	William Benjamin Scott & Luna M. Scott Professor of Law, Stanford Law School	Special Government Employee (SGE) Member
Hoffman, Janice	03/19/2013		Associate General Counsel, Centers for Medicare and Medicaid Services	Regular Government Employee (RGE) Member
Hough, Erica	10/25/2021		Deputy Associate General Counsel, Federal Energy Regulatory Commission	Regular Government Employee (RGE) Member
Hughey, Phillip	12/05/2022		General Counsel, Federal Trade Commission	Regular Government Employee (RGE) Member
Johnson, Kristin	08/11/2023		Commissioner, Federal Trade Commission	Regular Government Employee (RGE) Member
Johnson, Thomas	07/26/2022	06/30/2024	Partner, Wiley Rein LLP	Special Government Employee (SGE) Member

Kappler, Burke	06/22/2022		Attorney and Chief of Staff, Federal Trade Commission	Regular Government Employee (RGE) Member
Kiernan, Leslie	09/27/2021	09/26/2024	General Counsel, U.S. Department of Commerce	Regular Government Employee (RGE) Member
Kottmyer, Alice	07/11/2013		Attorney Adviser, Office of the Legal Adviser, Department of State	Regular Government Employee (RGE) Member
Laguarda, Fernando	09/26/2022	09/25/2025	General Counsel, AmeriCorps	Regular Government Employee (RGE) Member
Lewis, David	08/01/2022	06/30/2024	Rebecca Webb Wilson University Distinguished Professor, Vanderbilt University	Special Government Employee (SGE) Member
Licht, Jeremy	12/15/2021		Deputy General Counsel for Strategic Initiatives, U.S. Dept of Commerce	Regular Government Employee (RGE) Member
Lietzan, Erika	07/16/2020	06/30/2024	William H, Pittman Professor of Law and Timothy J. Heinsz Professor of Law, University of Missouri School of Law	Special Government Employee (SGE) Member
Limon, Raymond	04/14/2022		Board Member, U.S. Merit Systems Protection Board	Regular Government Employee (RGE) Member
Lin, Elbert	07/16/2020	06/30/2025	Partner, Hunton Andrews Kurth LLP	Special Government Employee (SGE) Member
Lindenmuth, Philip	07/07/2022		Executive Counsel to the Chief Counsel, Internal Revenue Service	Regular Government Employee (RGE) Member

Livermore, Michael	12/05/2018	06/30/2024	Edward F. Howrey Professor of Law, U. of Virginia School of Law	Special Government Employee (SGE) Member
Malawer, Hilary	03/05/2019		Deputy General Counsel, Office of the General Counsel, U.S. Department of Education	Regular Government Employee (RGE) Member
Mancini, Nadine	10/01/2010		General Counsel, Occupational Safety and Health Review Commission	Regular Government Employee (RGE) Member
Mascott, Jennifer	07/19/2021	06/30/2025	Assistant Professor of Law and Co-Executive Director, The C. Boyden Gray Center for the Study of the Administrative State, George Mason University Antonin Scalia Law School	Special Government Employee (SGE) Member
McDonald, Christina	06/24/2014		Associate General Counsel for Regulatory Affairs, Department of Homeland Security	Regular Government Employee (RGE) Member
McFadden, Elizabeth	03/03/2023		Deputy General Counsel for General Law, U.S. Securities and Exchange Commission	Regular Government Employee (RGE) Member
Mednick, David	06/14/2023		Deputy chief Counsel for Program Review, Office of the Chief Counsel, U.S. Food & Drug Administration	Regular Government Employee (RGE) Member
Morgan, Matthew	06/19/2020	06/18/2024	Partner, Barnes & Thornburg LLC	Special Government Employee (SGE) Member
Nagle, Patrick	05/24/2019		Chief Administrative Law Judge, Social Security Administration	Regular Government Employee (RGE) Member

O'Connell, Anne	09/26/2022	09/25/2025	Adelbert H. Sweet Professor of Law, Stanford Law School	Special Government Employee (SGE) Member
Panuccio, Jesse	07/16/2020	06/30/2024	Partner, Boies Schiller Flexner LLP	Special Government Employee (SGE) Member
Papez, Elizabeth	07/16/2020	06/30/2024	Partner, Gibson Dunn & Crutcher LLP	Special Government Employee (SGE) Member
Pasachoff, Eloise	03/11/2019	06/30/2025	Agnes Williams Sesquicentennial Professor of Law, Georgetown University Law Center	Special Government Employee (SGE) Member
Peeler, Raymond	04/18/2022		Associate Legal Counsel, U.S. Equal Employment Opportunity Commission	Regular Government Employee (RGE) Member
Plave, Mitch	02/24/2021		Special Counsel for Bank Activities, Office of the Comptroller of the Currency	Regular Government Employee (RGE) Member
Ray, Paul	07/26/2023	06/30/2025	Director, Thomas A. Roe Institute for Economic Policy Studies, The Heritage Foundation	Special Government Employee (SGE) Member
Rosen, Jeffrey	07/20/2021	06/30/2025	Of Counsel, Cravath Swaine & Moore LLP; and Nonresident Fellow, American Enterprise Institute	Special Government Employee (SGE) Member
Ross, Bertrall	07/16/2020	06/30/2024	Justice Thurgood Marshall Distinguished Professor of Law, University of Virginia School of Law	Special Government Employee (SGE) Member
Rothschild, Roxanne	06/08/2018		Executive Secretary, NLRB	Regular Government Employee (RGE) Member

Schwarz, Jay	08/20/2018		Senior Counsel, Legal Division, Federal Reserve Board	Regular Government Employee (RGE) Member
Serassio, Helen	06/14/2021		Associate General Counsel, U.S. Environmental Protection Agency	Regular Government Employee (RGE) Member
Shah, Nitin	09/26/2022	09/25/2025	Director and Associate General Counsel, Regulatory Affairs & Compliance, Shopify	Special Government Employee (SGE) Member
Shaw, Kate	12/05/2018	06/30/2024	Professor of Law, Yeshiva University Benjamin N. Cardozo School of Law	Special Government Employee (SGE) Member
Sitaraman, Ganesh	07/16/2020	06/30/2024	New York Alumni Chancellor's Chair in Law, Vanderbilt Law School	Special Government Employee (SGE) Member
Smolen, Miriam	04/27/2022		Senior Deputy General Counsel, Federal Housing Finance Agency	Regular Government Employee (RGE) Member
Sohoni, Mila	07/08/2022	06/30/2024	Associate Dean of Faculty and Professor of Law, University of San Diego School of Law	Special Government Employee (SGE) Member
Stack, Kevin	12/05/2018	06/30/2024	Lee S. and Charles A. Speir Professor of Law and Director of Graduate Studies, Vanderbilt Law School	Special Government Employee (SGE) Member
Stanton, Cheryl	08/02/2023	06/30/2025	Chief Legal & Government Affairs Officer, BrightStar Care	Special Government Employee (SGE) Member
Su, Jonathan	10/05/2022	10/04/2025	Partner, Latham & Watkins LLP	Special Government Employee (SGE) Member

Tatham, Stephanie	07/10/2018		Senior Policy Analyst and Attorney, Office of Information & Regulatory Affairs, OMB	Regular Government Employee (RGE) Member
Todd, Kate	08/01/2022	06/30/2024	Partner, Ellis George Cipollone O'Brien Annaguey LLP	Special Government Employee (SGE) Member
Trissell, David	05/15/2018		General Counsel, Postal Regulatory Commission	Regular Government Employee (RGE) Member
Vermeule, Adrian	08/14/2020	08/13/2024	Ralph S. Tyler, Jr. Professor of Constitutional Law, Harvard Law School	Special Government Employee (SGE) Member
Vice, Daniel	04/11/2022		Assistant General Counsel, U.S. Consumer Product Safety Commission	Regular Government Employee (RGE) Member
Vincent, Miriam	11/18/2019		Staff Attorney, Legal Affairs and Policy Division, Office of the Federal Register, National Archives and Records Administration	Regular Government Employee (RGE) Member
Virelli, Louis	07/27/2023	06/30/2024	Professor of Law, Stetson University College of Law	Special Government Employee (SGE) Member
Wasserman, Melissa	07/19/2021	06/30/2025	Charles Tilford McCormick Professor of Law, University of Texas at Austin School of Law	Special Government Employee (SGE) Member
Wiener, Jonathan	08/28/2019	06/30/2025	William R. & Thomas L. Perkins Professor of Law	Special Government Employee (SGE) Member
Yackee, Susan	07/26/2023	06/30/2025	Director and Collins-Bascom Professor of Public Affairs	Special Government Employee (SGE) Member

Yoo, Chin	09/08/2017	Deputy Associate General Counsel, Federal Communications Commission	Regular Government Employee (RGE) Member
Zobler, Marian	05/28/2019	General Counsel, U.S. Nuclear Regulatory Commission	Regular Government Employee (RGE) Member
de la Vega, Scott	03/03/2022	Associate Solicitor for General Law, Office of the Solicitor, U.S. Dept of the Interior	Regular Government Employee (RGE) Member

Number of Committee Members Listed: 96

Narrative Description

The statutory purposes of the Administrative Conference are to provide suitable arrangements through which Federal agencies, assisted by outside experts, may cooperatively study mutual problems, exchange information, and develop recommendations for action by proper authorities to the end that private rights may be fully protected and regulatory activities and other Federal responsibilities may be carried out expeditiously in the public interest (5 USC 591). The Act further specifies the objectives of promoting more effective public participation and efficiency in the rulemaking process; reducing unnecessary litigation in the regulatory process; improving the use of science in the regulatory process; and improving the effectiveness of laws applicable to the regulatory process. The Assembly consists of the 101 Conference members meeting in plenary session to discuss and adopt recommendations for improving Federal administrative procedures. Plenary sessions are normally scheduled twice each year, to consider draft recommendations proposed by subcommittees. Implementation results are estimated since some recommendations may be implemented without notification to ACUS. The agency proactively seeks and tracks implementation to the extent practicable.

What are the most significant program outcomes associated with this committee?

Checked if
Applies

Improvements to health or safety	<input type="checkbox"/>
Trust in government	<input checked="" type="checkbox"/>
Major policy changes	<input type="checkbox"/>
Advance in scientific research	<input type="checkbox"/>
Effective grant making	<input type="checkbox"/>
Improved service delivery	<input checked="" type="checkbox"/>
Increased customer satisfaction	<input checked="" type="checkbox"/>
Implementation of laws or regulatory requirements	<input checked="" type="checkbox"/>
Other	<input checked="" type="checkbox"/>

Outcome Comments

Administrative Conference recommendations may be addressed to Federal agencies, the Congress, the Judicial Conference of the United States or the President. The recommendations may span a broad variety of administrative procedural issues, and are designed to improve administrative procedures in Federal programs. The objectives are to ensure that private rights may be fully protected and regulatory activities and other federal responsibilities may be carried out expeditiously and in the public interest.

What are the cost savings associated with this committee?

Checked if Applies

None	<input type="checkbox"/>
Unable to Determine	<input checked="" type="checkbox"/>
Under \$100,000	<input type="checkbox"/>
\$100,000 - \$500,000	<input type="checkbox"/>
\$500,001 - \$1,000,000	<input type="checkbox"/>
\$1,000,001 - \$5,000,000	<input type="checkbox"/>
\$5,000,001 - \$10,000,000	<input type="checkbox"/>
Over \$10,000,000	<input type="checkbox"/>
Cost Savings Other	<input type="checkbox"/>

Cost Savings Comments

N/A

What is the approximate Number of recommendations produced by this committee for the life of the committee?

Number of Recommendations Comments

The number of recommendations dates from FY2010 when the committee was reestablished.

What is the approximate Percentage of these recommendations that have been or will be Fully implemented by the agency?

0%

% of Recommendations Fully Implemented Comments

N/A

What is the approximate Percentage of these recommendations that have been or will be Partially implemented by the agency?

64%

% of Recommendations Partially Implemented Comments

Most ACUS recommendations are addressed to a broad group of federal agencies, so implementation is a gradual process. The actual percentage is likely higher since Federal agencies do not always report their implementation of ACUS recommendations. Below are selected implementation successes. Contact the agency for additional implementation efforts and additional details. [A] Recommendation (Rec.) 2011-6, International Regulatory Cooperation, was implemented by Executive Order 13609, Promoting International Regulatory Cooperation (77 Fed. Reg. 26413, May 1, 2012). The executive order also cites ACUS as a source of information for the Working Group established by Executive Order 12866. [B] In Nov. 2016, the American Bar Association's (ABA) Section of Administrative Law and Regulatory Practice submitted a report to the President-elect entitled "Improving the Administrative Process," which cited favorably numerous ACUS recommendations; [C] Section 701 of Public Law 114-74, the Bipartisan Budget Act of 2015 (BBA), implements Rec. 2012-8, Inflation Adjustment Act, regarding periodic adjustments of civil money penalties. Most federal agencies have revised their regulations in accord with this Recommendation and subsequent statutory update. The CBO estimated that the BBA, including the provisions on inflation adjustment, would increase government revenue by more than \$1.3 billion over ten years. [D] Specific provisions of Rec. 2011-5, Incorporation by Reference, have been utilized in a variety of contexts: Revisions to OMB Circular A-119 (81 Fed. Reg. 4673, Jan. 27, 2016); rulemaking by the Pipeline and Hazardous Materials Safety Administration (81 Fed. Reg. 20,722, Apr. 8, 2016); Consumer Financial Protection Bureau (79 Fed. Reg. 51,732, Aug. 29, 2014); and

the Office of the Federal Register (79 Fed. Reg. 66,267, Nov. 7, 2014). [E] In February 2013, the ABA's House of Delegates passed resolutions endorsing Rec. 2011-3, which urges Federal government action to minimize government contractor personal conflicts of interest, and Rec. 2012-6, which urges Congress to repeal and replace an outdated law that may unfairly bar certain court claims on procedural grounds. Bills to implement 2012-6 were introduced in both the 113th and 114th Congresses. In the House, the Judiciary Committee favorably reported both bills. [F] In 2014, the Social Security Administration (SSA) adopted a final rule in accord with Rec. 2011-4 on agency use of video hearings (79 Fed. Reg. 35,926, June 25, 2014). Recommendations in a report to SSA were cited by that agency in formulating its rule, issued in 2015, on submission of evidence in disability claims (80 Fed. Reg. 14,828, Mar. 20, 2015). [G] Rec. 2014-4, "Ex Parte" Communications in Informal Rulemaking, was cited in rulemaking notices by the U.S. Sentencing Commission (81 Fed. Reg. 18,695, Mar. 31, 2016) and the Postal Regulatory Commission (81 Fed. Reg. 42,534, June 30, 2016). [H] The Consumer Financial Protection Bureau cited the Conference's model rules for implementing the Equal Access to Justice Act in connection with issuance of its final rule in 2014. [I] On 3/31/16, the United States Sentencing Commission (USSC) issued a NPRM that enacted various amendments to the agency's rules of practice and procedure. Among other things, these amendments were designed to bring the agency's practices into line with several ACUS recommendations. In response to ACUS's social media recommendation, the agency expanded its use of social media to provide notices of upcoming agency meetings. [J] On 3/31/16, the USSC issued a NPRM that enacted various amendments to the agency's rules of practice and procedure. Among other things, these amendments were designed to bring the agency's practices into line with several ACUS recommendations, including ACUS Rec. 2014-2, Government in the Sunshine Act. In response to that recommendation, the agency adopted procedures for providing public notice of the type of business conducted in both public and non-public meetings, circulating relevant documents to the public in advance of public meetings, and memorializing the proceedings of public meetings (via transcript, webcast, or other means). [K] On 10/2/17, the Surface Transportation Board issued a NPRM to "modify its regulations to permit, subject to disclosure requirements, ex parte communications in informal rulemaking proceedings" and "clarify and update when and how interested persons may communicate informally with the Board regarding pending proceedings other than rulemakings." In accordance with Rec. 2014-4, the proposed rule would rescind the agency's prior position prohibiting ex parte contacts in informal rulemaking and implement a "permit-but-disclose" approach. The proposed rule would permit ex parte communication after the publication of an NPRM up to 20 days before the end of the comment period and require that the substance of such communications be summarized and posted in the rulemaking docket. Both the Postal Regulatory Commission and the

USSC took similar actions in adopting the provisions of Recommendation 2014-4 in 2016. [L] On 2/23/17, the Administrative Office of the United States Courts (AO) notified ACUS that Rec. 2016-3, Special Procedural Rules for Social Security Litigation in District Court, had been forwarded to the Chair and Reporters of the Advisory Committee on Civil Rules, and had been docketed and posted on the Federal Rules of Practice & Procedure section of the uscourts.gov website as Docket No. 17-CV-D. The recommendation was subsequently addressed at the April 2017 meeting of the AO's Civil Rules Committee. [M] On 5/10/17, the Coalition of Federal Ombudsmen (COFO) circulated to its members for comment a revised draft of COFO standards for federal ombuds. The new draft fully endorses the content of Rec. 2016-5. [N] In July 2017, the Trump administration released its Unified Agenda. For the first time, agencies posted and made public their list of "inactive" rules-providing notice to the public of regulations still being reviewed or considered. "Inactive" refers to the "pending" rules identified in a 2015 ACUS-sponsored report that were not accessible to the public. Approximately 500 rules are encompassed within this category. This action was consistent with the best practices outlined in ACUS Rec. 2015-1, Promoting Accuracy and Transparency in the Unified Agenda. Conference recommendations and underlying research reports are often cited in House or Senate committee reports on pending legislation and in Federal judicial opinions. Examples include: [O] Recommendation 2014-5, Retrospective Review of Agency Rules, cited by the Senate Homeland Security and Governmental Affairs Committee, Report on S. 1817, Smarter Regulations Act of 2015 (S. Rep. No. 114-282 (2016)). [P] Rec. 2015-1, Promoting Accuracy and Transparency in the Unified Agenda, cited by the House Judiciary Committee, Report on H.R. 1759, the ALERT Act (H.R. Rep. No. 114-238 (2015)). [Q] Rec. 2016-2, Aggregation of Similar Claims in Agency Adjudication, cited by Senior U.S. District Judge Weinstein in a nationwide class action case, *Kurtz v. Kimberly-Clark Corp. et al.*, 14-CV-1142 (E.D.N.Y. June 28, 2016). [R] In written testimony prepared for the U.S. Senate Committee on Commerce, Science, and Transportation in connection with a 2/1/17 hearing, Adam J. White (Research Fellow, Hoover Institution) favorably cited ACUS Recommendation 2014-5 and the associated consultant report in emphasizing the strong expert consensus in favor of retrospective review. White noted that "the vaunted Administrative Conference of the United States . . . has reported on the significant benefits that agencies have reaped from reviewing their own past work." [S] In its 2018 order on "Net Neutrality" the FCC relied on Rec. 2011-1, Legal Considerations in e-Rulemaking, to evaluate the 23 million comments it received. And, in June 2018, the FCC Chairman issued letters to members of Congress citing the Recommendation in support of the manner in which the agency staff reviewed short-form comments in connection with the Net Neutrality Rulemaking. [T] In July 2018, the DEA published a final rule titled "Controlled Substances Quotas: which relies on Rec. 2011-2, Rulemaking Comments, by supporting the proposition that agencies should provide an

explanation when they set a comment period of fewer than 30 days. [U] The Senate Committee report underlying HR 70, the Federal Advisory Committee Act Amendments of 2017, discusses Rec. 2011-7 Federal Advisory Committee Act--Issues and Proposed Reforms, and explains that the legislation seeks to address ACUS's recommendations by improving transparency and increasing diversity in committee membership. [V] CRS relied on Rec. 2012-2, Midnight Rules, in its 2017 report titled Presidential Transitions: Issues Involving Outgoing and Incoming Administrations." Similarly, GAO cited this Recommendation in GAO-18-436T. [W] NIST relied on Rec. 2012-7, Agency Use of Third-Party Programs to Assess Compliance, in a December 2017 Special Publication 2000-02, Conformity Assessment Considerations for Federal Agencies. [X] The 2018 Senate Report for the Regulatory Accountability Act of 2017 relies on the underlying report for Recommendation 2013-2, Benefit-Cost Analysis at Independent Regulatory Agencies. And, in July 2018, the U.S. House of Reps passed the Unfunded Mandates Information and Transparency Act of 2017, which (per Rec. 2013-2) would remove the exemption for independent regulatory agencies that are not currently subject to CBA requirements. Independents would have to conduct CBA for rules with an impact of \$100 million or more per year. [Y] In Nov. 2017, the Better Evaluation of Science and Technology Act was introduced--the bill was consistent with Rec. 2013-3, Science in the Administrative Process, and would require agencies to make relevant scientific studies available for review; and require agencies to provide some evidentiary basis for the rules they promulgate when making decisions based on the weight of scientific evidence. [Z] In June 2018, USDA published a rule (83 Fed. Reg. 26,867) that is consistent with Rec. 2014-1, Resolving FOIA Disputes Through Targeted ADR Strategies. The Recommendation called for agencies to notify requesters of OGIS mediation services as an alternative to litigation, among other things. [AA] In October 2017, the Surface Transportation Board issued a rule to modify its regs to permit ex parte communications in informal rulemaking proceedings and clarify when and how interested persons may communicate informally with the Board regarding pending proceedings other than rulemakings. This accords with Rec. 2014-4, "Ex Parte" Communications in Informal Rulemaking. [BB] In June 2018, the EPA issued an ANPRM (83 Fed Reg 27,524) in which they solicit public comment on whether the agency should require a systematic retrospective review element in new regulations. This regulatory action is consistent with Rec. 2014-5, Retrospective Review of Agency Rules. [CC] In November 2017, the Civil Rules Committee of the Judicial Conference discussed Rec. 2016-3, Special Procedural Rules for Social Security Litigation in District Court. The matter has been taken under advisement and further review is pending. If adopted the Recommendation may reduce backlogs of SSA cases in District Court. In addition, in February 2018, the U.S. District Court for the Southern district of Ohio cited the report underlying the Recommendation, as did the U.S. District Court for the District of South Carolina in Feb. 2018. [DD] In 2018,

CRS cited the report underlying Rec. 2016-5, The Use of Ombuds in Federal Agencies. The CRS report is titled "SBA Office of the National Ombudsman: Overview, History and Current Issues." [EE] In Jan. 2018 SSA issued a final rule (83 Fed. Reg. 30,849) revising its standards of conduct and responsibility for appointed representatives. In citing Rec. 2017-1, Adjudication Materials on Agency Websites, SSA indicated that it will work with ACUS on sub-regulatory guidance on how it will publish Appeals Council decisions that it designates as precedent under its representative conduct provisions. [FF] In January 2018, the Federal Circuit issued an opinion implicating Rec. 2017-5, Agency Guidance Through Policy Statements, in discussing agency guidance and the extent to which it should be binding. In July 2018, the U.S. District Court for the District of Minnesota cited the report underlying Recommendation 2017-5, And, in September 2018, the U.S. House of Representatives passed the GOOD Act, which would implement Rec. 2017-5 by requiring agencies to make their guidance documents available electronically on their websites. The House Committee Report specifically notes that the bill implements part of the Recommendation (H. Rep. 115-972). [GG] In June 2018, DOT announced a pilot program to permit people who are at least 18 years old to drive trucks across state lines--thus implementing Rec. 2017-6, Learning from Regulatory Experience--a recommendation that encourages regulatory experimentation. [HH] On 11/15/18 SSA issued an NPRM to amend its regulations regarding appearances at disability hearings. The proposal seeks to expand the use of video hearings and relies on Rec. 2011-4 and a best practices handbook that grew out of Rec. 2014-7. SSA's Office of Budget estimated that the proposal would result in administrative savings of \$118 over 10 years. [GG] On 7/24/2019, GAO released its third annual report about agency compliance with the Inflation Adjustment Act IAA). The report found that most of the 52 agencies it had reviewed in FY2018 have complied with the law. The IAA was a direct result of Rec. 2012-8 which called for updating inflation measures in agencies' calculations of civil penalties. [II] GAO cited numerous ACUS Recommendations in its own reports and congressional statements--Recs.2012-2, 2012-8 (explained in detail above), 2013-4, and 2014-7. [JJ] On 11/1/2018 a draft proposal to create special rules for social security litigation in district courts was developed by a subcommittee of the Civil Rules Committee of the Administrative Office of the U.S. Courts based on Rec. 2016-3; [KK] On 9/6/2019 the FCC published an NPRM that proposes to implement best practices adopted in Rec. 2016-4 on evidentiary hearings outside the APA. The NPRM also extensively cites the underlying report for this recommendation. [LL] On 12/20/18 DOT issued a memorandum to agency personnel establishing procedures for issuing agency policy statements per Rec. 2017-5. In addition, the recommendation was cited in House Report 115-1095, in multiple law review articles, and in congressional testimony. [LL] On 10/23/18 the FCC published a final rule citing Rec. 2017-6 on learning from regulatory experience. The rule establishes a pilot program and cites the Recommendation as encouraging such

programs. [MM] Rec. 2011-4, Agency Use of Video Hearings: SSA issued a final rule on 12/18/2019 (84 Fed. Reg. 69,298) in which the agency announced measures to improve their video hearing program that are consistent with the ACUS recommendation. [NN] Multiple ACUS recommendations were cited or relied upon by GAO in multiple GAO reports: Rec. 2011-5, Incorporation by Reference of Non-binding Guidance Documents, cited in GAO-20-619; Rec. 2012-8, Inflation Adjustment Act, cited in GAO-20-538R; Rec. 2013-4, Administrative Record in Informal Rulemaking, cited in GAO-19-483; Rec. 2019-1, Agency Guidance Through Interpretive Rules, 2017-5, Agency Guidance Through Policy Statements, and 2014-3, Guidance in the Rulemaking Process, all cited in GAO-20-619; Rec. 2018-6, Improving Access to Regulation, cited in GAO-20-383R; Rec. 2019-1; [OO] Rec. 2013-2, Benefit-Cost Analysis at Independent Regulatory Agencies: FDIC cited this rec. in its study of the appropriate role of Benefit-cost analysis at the FDIC; [PP] Rec. 2014-5, Retrospective Review of Agency Rules: Senate Homeland Security and Governmental Affairs Committee cited recommendation and report in the Report for S. 1420 that would require agencies to formulate a plan for retrospective review when adopting new major rules. In addition, HHS published an NPRM establishing a retrospective review plan and cited 2014-5 twice in its rulemaking; [QQ] Rec. 2014-6, Petitions for Rulemaking: CFTC issued a final rule implementing the recommendation by allowing petitions for rulemaking to be posted on its website; [RR] Rec. 2016-4, Evidentiary Hearings Outside the Administrative Procedure Act: OIRA issued a memorandum implementing EO 13,924 urging agencies to consider several factors broadly consistent with Rec. 2016-4, including prohibitions against ex parte communications and the adoption of evidentiary rules to eliminate confusion and delay; [SS] Rec. 2017-5, Agency Guidance for Policy Statements: Department of Energy issued an NPRM in which it adopted procedures consistent with Recs. 2017-5 and 2019-1; Also, EO 13,891, Promoting the Rule of Law Through Improved Agency Guidance Documents, implements Recs. 2017-5, 2019-1, and 2019-3; [TT] Rec. 2018-5, Public Availability of Adjudication Rules: OIRA issued a memorandum implementing EO 13,924, urging agencies to make their rules of evidence and procedure easily accessible on their websites; [UU] Rec. 2019-2, Agency Recruitment and Selection of ALJs: OPM published an NPRM to implement EO 13,843 excepting ALJs from the civil service per Rec. 2019-2; [VV] Rec. 2019-4, Revised Model Rules for Implementation of the Equal Access to Justice Act: FCC published a final rule implementing ACUS's revised model EAJA rules--an appendix to Rec. 2019-4; [WW] Rec. 2019-7, Acting Agency Officials and Delegations of Authority: HR 6689, Accountability for Acting Officials Act was introduced and incorporated this recommendation. (XX) On 5/27/21, GAO reported that 46 of the 48 agencies it reviewed in 2020 complied with the applicable provisions of the Inflation Adjustment Act. That law calls on agencies to adjust their civil money penalties based on inflation, and is based on Rec. 2012-8, Inflation Adjustment Act. (YY) On 1/5/21, CFPB's

Taskforce on Federal Consumer Financial Law issued recommendations for the CFPB to improve its operations consistent with Rec. 2013-2, Benefit-Cost Analysis at Independent Regulatory Agencies; (ZZ) On 12/31/20, FMCSA issued a final rule updating its rulemaking procedures to explicitly permit petitions for rulemakings to be filed on the agency's website--as recommended in Rec. 2014-6, Petitions for Rulemaking. (AAA) On 4/23/21, the Civil Rules Advisory Committee of the Judicial Conference voted to recommend supplemental procedural rules for social security litigation in district courts as recommended in Rec. 2016-3. And on 6/22/21, the Judicial Conference Committee on Rules of Practice and Procedure voted to recommend approval of the rules by the Judicial Conference. (BBB) On 11/5/20, the OCC, Federal Reserve, FDIC, NCUA, and CFPB published a joint NPRM supporting key principles of Rec. 2017-5, Agency Guidance Through Policy Statements. And, also consistent with Recs. 2017-5 and 2019-1, on 7/14/21, Senate HSGAC favorably reported S. 533, the Guidance Clarity Act of 2021, that would require agencies to post a statement on all guidance documents that they do not have the force and effect of law. (CCC) On 2/22/21, GSA's eRulemaking Program Management Office launched a substantially redesigned Regulations.gov with improved search functionality, thereby incorporating key aspects of Rec. 2018-6, Improving Access to Regulation.gov's Rulemaking Dockets. (DDD) On 10/6/20, the FCC published a final rule implementing specific provisions of the ACUS revised Model Equal Access to Justice Act Rules pursuant to Rec. 2019-4 on that subject. On 5/3/21, OSHR followed suit. (EEE) On 5/3/21, the House Committee on Oversight and Reform held a hearing to discuss HR 2994, the Accountability for Acting Officials Act, and the Act was formally reintroduced the following day. The legislation is consistent with Rec. 2019-7, Acting Officials and Delegations of Authority. (FFF) Between March and Sept. 2021 multiple hearings were held on the Periodically Listing Updates to Management (PLUM) Act. Rec. 2019-8, Public Identification of Agency Officials, called for the PLUM Book to be modernized and aligned with modern data standards, and was cited in the GAO report that was discussed at these hearings. (GGG) In Oct. 2020, GAO released a report highlighting recent changes OPM made to the USAJobs portal that align with Rec. 2019-9, Recruiting and Hiring Agency Attorneys. (HHH) On 3/24/21, DOT amended regulations related to its rulemaking process that maintain specific procedures for petitions for rulemaking and ex parte contacts, as recommended in Rec. 2020-1, Rules on Rulemakings. (III) The 12/3/20 Conference Report for the Nat'l Defense Authorization Act for FY 2021 noted an ACUS report (underlying Rec. 2020-4, Government Contract Bid Protests Before Agencies) and directed DoD to consider the report's recommendations that may improve expediency, timeliness, transparency, and consistence of agency-level bid protests. (JJJ) In 2021, GAO issued a report recommending that agencies notify the public about how they use comment data, consistent with Rec. 2021-1, Managing Mass, Computer-Generated, and Falsely Attributed Comments. (KKK) Recs. 2011-4, Agency Use of Video Hearings,

2014-7, Best Practices for Using Video Teleconferencing for Hearings, and 2021-4, Virtual Hearings in Agency Adjudications, were cited by the NLRB in support of its 11/5/21 ANPRM on the use of video conference technology in certain case proceedings; (LLL) Rec 2014-2, Government in the Sunshine Act, was cited in support of a CRS report on access to government information; (MMM) Rec. 2014-5, Retrospective Review of Agency Rules, was cited by HHS in support of its 11/29/21 NPRM which stated that retro review should be tailored; (NNN) Rec. 2015-1, Promoting Accuracy and Transparency in the Unified Agenda, was relied on by CRS in a 5/23/22 report; (OOO) Rec. 2017-5, Agency Guidance Through Policy Statements and 2019-1, Agency Guidance Through Interpretive Rules, were incorporated in a bill, S. 533, and passed in the Senate on 9/14/22; (PPP); Recommendation 2018-7, Public Private Partnerships, resulted in a MAX.gov page that includes many federal agency contributors (e.g., ODNI, State Dept, NSC, etc.) that share best practices and other resources re PPPs; (QQQ) Rec 2019-3, Public Availability of Agency Guidance Documents, requires SBA to create a website compiling Small Entity Compliance Guides and other information. HR 4877 adopts a similar approach and was passed by the House on 4/26/22; (RRR) Rec 2019-8, Public Identification of Agency Officials, was cited by a member of Congress in support of the PLUM Act that she introduced as a means of modernizing and expanding the Plum Book; (SSS) Rec 2020-3, Agency Appellate Systems, resulted in the CFPB adopting an express regulation on issue exhaustion on 2/22/22, citing ACUS's recommendation to promulgate such procedural regulations. (TTT) Rec 2014-6, Petitions for Rulemaking, informed the President's 4/6/23 Executive order on Modernizing Regulatory Review, which directs agencies to keep a log of petitions for rulemaking under 5 USC 553(e); (UUU) Rec 2016-3, Special Procedural Rules for Social Security Litigation in District Court, took effect nationwide on 12/1/22, following adoption of the rules by the Supreme Court (Note: it's expected that the new rules will result in significant cost savings for both the government and taxpayers and provide needed assistance, particularly for pro se litigants); (VVV) On 7/12/23, the Guidance Out of Darkness (GOOD) Act, HR 890, was favorably reported by a unanimous (41-0) committee vote--it would impose a range of requirements about the public posting of agency guidance documents, and is based partly on Rec 2017-5, Agency Guidance Through Policy Statements and Rec 2019-3, Public Availability of Agency Guidance Documents. There is a Senate companion bill, S. 791, introduced on 3/14/23; (WWW) On May 9, 2023, the HSGAC favorably reported S. 108, the Guidance in Clarity Act. If passed, this bill would implement multiple provisions Rec 2017-5 (see above) and Rec 2019-1, Agency Guidance Through Interpretative Rules and. Among the proposed reforms recommended by ACUS, the bill would require agencies to publish guidance documents online on the date of issuance, indicate on such website if a guidance document has been rescinded, categorize posted documents, post a statement on all guidance documents which clarifies that the documents do not have the force and effect

of law, etc. A house companion, HR 4428 was introduced on 6/30/23; (XXX) On 12/23/22, the President signed the Periodically Listing Updates to Management (PLUM) Act into law which implements Rec 2019-8, Public Identification of Agency Officials--a recommendation that encouraged agencies to publish on their websites basic information about high-level agency leaders and identify vacant leadership positions and acting officials, among other things.

Does the agency provide the committee with feedback regarding actions taken to implement recommendations or advice offered?

Yes ☒ No ☐ Not Applicable ☐

Agency Feedback Comments

The Administrative Conference Act (5 U.S.C. 595) requires the Chairman to make a full report concerning the affairs of the Conference at each plenary session. The Chairman's reports regularly update the Assembly (the advisory committee) on implementation activities.

What other actions has the agency taken as a result of the committee's advice or recommendation?

Checked if Applies

Reorganized Priorities	<input type="checkbox"/>
Reallocated resources	<input type="checkbox"/>
Issued new regulation	<input type="checkbox"/>
Proposed legislation	<input type="checkbox"/>
Approved grants or other payments	<input type="checkbox"/>
Other	<input type="checkbox"/>

Action Comments

N/A

Is the Committee engaged in the review of applications for grants?

No

Grant Review Comments

N/A

How is access provided to the information for the Committee's documentation?

Checked if Applies

Contact DFO	<input checked="" type="checkbox"/>
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Online Agency Web Site
Online Committee Web Site
Online GSA FACA Web Site
Publications
Other



Access Comments

N/A