

FEDERAL ADVISORY COMMITTEE ACT

5 U.S.C. Appendix 2 §§ 1-15, October 6, 1972, as amended 1976, 1980 and 1982.

Overview. This Act governs the establishment of and procedures for committees that provide advice to the federal government. Advisory committees may be established only if they will serve a necessary, nonduplicative function. These committees automatically terminate in two years unless specifically renewed or otherwise provided in their authorizing legislation.

Findings/Policy. Congress found that there are numerous committees, boards, commissions, councils and similar groups that provide a useful means of furnishing expert advice, ideas and diverse opinions to officers and agencies in the federal executive branch. Congress further found that: ▶ the need for many existing advisory committees has not been adequately reviewed; ▶ committees should be established only when essential and should be kept to the minimum number necessary; ▶ committees should be terminated when they no longer carry out their purposes; ▶ uniform procedures should govern the establishment, operation and duration of committees; ▶ Congress and the public should be kept informed of the number, purpose, membership, activities and costs of committees; ▶ committees should be advisory only. § 2.

Selected Definitions. ▶ Administrator: Administrator of General Services. ▶ Advisory committee: a committee board, board, commission, council, conference, panel, task force or other similar group, or a subcommittee or subgroup thereof, which: 1. Is intended to provide advice or recommendations to the President or a federal agency or officer; 2. Is established by statute or reorganization plan, the President or an agency, or used by the President or an agency; and 3. Is not composed exclusively of full-time federal employees. The term excludes the Advisory Commission on Intergovernmental Relations and the Commission on Government Procurement. § 3.

Scope of the Act. The Act and regulations or orders issued under it apply to every advisory committee, unless Congress specifically provides otherwise. The Act excludes: ▶ advisory committees established or used by the Central Intelligence Agency or the Federal Reserve System; ▶ local civic groups providing a public service to a federal program; ▶ state or local committees providing advice to state or local officials or agencies. § 4.

Committee Requirements. The Act requires standing committees of the Senate and the House of Representatives continually to review the activities of advisory committees under their jurisdiction to determine whether they should be abolished or merged, whether their responsibilities should be revised and whether they perform a necessary function. Prior to establishing an advisory committee, the standing committee must determine whether the functions of the proposed committee could be performed by an agency or existing committee. Legislation establishing a committee must: ▶ contain a clearly defined purpose for the committee; ▶ require the membership to be fairly balanced in points of views; ▶ assure the committee will render independent judgment; ▶ contain provisions on authorization of appropriations, the dates report must be submitted, the duration of the committee, and adequate staffing and funding. To the extent applicable, these guidelines must be followed by the President, agency heads and other federal officials in creating an advisory committee. § 5.

Responsibilities of Federal Officials. The President may delegate authority for evaluating and taking action on public recommendations made by Presidential advisory committees. Within one year after receiving a committee report, the President or delegate must report to Congress on actions taken on the committee's recommendations. The President also must report annually to Congress on the activities, status and changes in the composition of advisory committees over the preceding year. The report must include a list of the committees abolished by the President and, in case of committees established by statute, a list of the committees the President recommends be abolished. § 6.

The Administrator must annually review the activities and responsibilities of all advisory committees to determine whether they are carrying out their purposes, whether their responsibilities should be revised, and whether they should be merged with other committees or abolished. The Administrator must establish administrative guidelines, management controls, and rates of pay for committees and assist them in improving their performance. § 7.

Agency heads must promulgate uniform guidelines and controls for advisory committees established by the agency, and these guidelines must be consistent with those issued by the Administrator. Agencies must maintain systematic information on the nature, functions and operations of committees within their jurisdiction. § 8.

Committee Establishment and Procedures. Advisory committees can be established only if specifically authorized by statute or by the President, or if determined by an agency head to be in the public interest in connection with the agency's legal duties. Committees must be strictly advisory unless otherwise specified in statute or Presidential directive. A charter containing committee responsibilities and timeframes must be filed with the Administrator or agency head for each advisory committee prior to its meeting or taking action. § 9.

Advisory committee meetings must be open to the public with public notice provided; interested persons must be permitted to appear before the committee; detailed minutes must be kept of meetings; and committee reports, minutes, transcripts, studies and other documents must be available for public inspection and copying. A federal officer or employee must be designated to chair or attend committee meetings, which can only be held at the request of or with approval of a designated officer or employee. §§ 10-11.

The Act requires agencies and the General Services Administration to maintain financial records of advisory committees and provide support services. The Administrator is required to file copies of committee reports and background papers with the Library of Congress. §§ 12-13.

Termination of Committees. Each advisory committee terminates two years after its establishment unless renewed by the President or a federal officer prior to its expiration, for committees established by the President or a federal officer, or as otherwise provided for by law, for committees established by Congressional act. Committees renewed by the President or a federal officer can continue for successive two-year periods if renewed prior to the end of each period. § 14.

Editor's Note. The Unfunded Mandates Reform Act of 1995 specifically excludes from the requirements of the Federal Advisory Committee Act meetings held exclusively between federal officials and elected members of state, local and tribal governments, or their designated employees, where the purpose of the meetings is to exchange views, information or advice on the management or implementation of federal programs with intergovernmental responsibilities. See 2 U.S.C. § 1534. A number of the other statutes summarized in this Handbook establish advisory committees but do not refer explicitly to the Federal Advisory Committee Act. The current status of those committees is rarely clear from the face of the statutes establishing them.