

FACA Essentials at EPA for Federal Advisory Committee Members



What is FACA and to whom does it apply?

Congress passed the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, in 1972, to create an orderly procedure by which Federal agencies may seek collective advice from federal advisory committees. FACA establishes procedures for the management of federal advisory committees, ensures transparency of advisory committee decision-making, and ensures balanced representation on advisory committees. When a Federal agency establishes a group (or manages and controls a group established by a non-federal entity) to obtain collective advice, the agency may be required to comply with FACA if the group has one or more members who are not Federal government employees.

FACA ensures that committees convened to give group advice are accountable to the public by maximizing public access to advisory committee deliberations and minimizing the influence of special interests through balanced committee membership. In addition, the Act seeks to reduce wasteful expenditures and improve the overall administration of advisory committees.

Today, an average of 1,000 advisory committees with more than 60,000 members advise the President and the Executive Branch agencies on a variety of issues. Advisory committees are established by one of four authorities – Presidential authority, statutory requirement, statutory authority, and Federal Agency discretion.

Federal advisory committees are an important tool within EPA for building consensus and providing input and recommendations from EPA's diverse customers, partners, and stakeholders. EPA manages approximately 22 committees, which play a strategic role in the

Agency to carry out its mission to protect human health and the environment. EPA's advisory committees have about 8 sub-committees providing advice to the advisory committees on specific issues. In 2013 the Agency held 69 committee meetings. These meetings include approximately 648 scientists, public health officials, industry representatives, academics, citizens, Tribal groups, and stakeholders.

What are your responsibilities as a new federal advisory committee member?

The primary responsibilities of federal advisory committee members are to:

- Attend and participate in committee meetings.
- Study any review material in advance of the meetings.
- Be willing to engage in an exchange of views and perspectives and search for consensus solutions, where appropriate.
- Represent your constituent group if you are appointed as a representative member, or provide your best independent judgment if appointed as a special government employee.
- Comply with the applicable ethics in government laws if appointed as a special government employee.
- Cooperate with your committee's Designated Federal Officer.
- Serve on the committee for your appointed term, or if you find you cannot serve, resign from the committee.
- Refrain from any language or activities that would compromise the civility of the committee.

- Maintain an environment that promotes the participation of individuals regardless of race, color, national origin, age, sex, religion, disability, sexual orientation, genetic information, prior EEO activity, status as a parent or marital status.

What are the main requirements for committee operations under FACA?

Each committee must have a Designated Federal Officer (DFO) or Federal employee to attend each meeting. Meetings may not be conducted in the absence of that officer or employee. 5 U.S.C. App.2 § 10(e).

Committee meetings must be announced in advance and open to the public, unless designated as closed for national security, or other appropriate reasons. The public shall be provided an opportunity to voice comments to the committee. 5 U.S.C. App.2 § 10(a).

All committee documents provided to or prepared by the committee, including reports, transcripts, drafts, minutes, working papers, and agenda must be made available for public inspection and copying, unless they can be withheld under the Freedom of Information Act. 5 U.S.C. App.2 § 10(b).

The committees must be “fairly balanced” in the points of view represented for the functions to be performed. 5 U.S.C. App.2 § 5 (b)(2) & 5(c).

How does FACA impact collaborative processes at EPA?

EPA has been a leader among Federal agencies and departments in using collaborative approaches to environmental problem-solving. Collaborative processes can take many forms and can be either formal or informal.

In general, FACA applies to collaborative efforts when all of the following criteria are met:

- 1) EPA establishes (organizes or forms) or utilizes (exerts “actual management or control” of) a group;

- 2) The group includes one or more individuals who are not government employees;
- 3) The product of the collaboration is group advice for EPA, another federal agency, or the President.

What are the types of members appointed to federal advisory committees?

Your functions as a committee member may differ depending on the type of membership under which you were invited.

Representative members are selected to represent the point of view of a group. Representative Members may represent groups or organizations, such as industry, labor, consumers, or any other recognizable group of persons having an interest in matters before the committee.

Special Government Employee (SGE) members are appointed to provide the Agency with their own best independent judgment based on their individual expertise. As an SGE member, you are speaking for yourself as an expert in your field.

Regular Government Employee (RGE) members are individuals employed by the Federal Government 5 U.S.C. 2105.

Where can you find further information on FACA?

Federal Advisory Committee Act
http://www.epa.gov/ofacmo/faca/fed_adv_comm_act.htm

Information on EPA’s Federal Advisory Committees
<http://www.epa.gov/ofacmo/faca/>

or

Office of Diversity, Advisory Committee Management and Outreach
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.,
MC-1601M
Washington D.C. 20460