

Federal Advisory Committees

Restoring the role of independent expert advice in government

Federal advisory committees help safeguard public health and well-being by ensuring that agencies have access to relevant evidence and advice when making decisions. However, recent actions have reduced their role and independence. To restore public confidence and ensure agencies can make informed decisions, the administration should rescind damaging directives that restrict committee membership and activity, and should instruct agencies to improve transparency and conflict-of-interest management. These recommendations have strong support from science, public health, human rights, environmental, and good-government organizations.

Background

Federal advisory committees (FACs) are a cost-effective way for agencies to receive valuable advice from subject matter experts. Scientific and technical advisory committees provide independent reviews of the evidence and offer advice. Other committees provide an avenue for agencies to receive feedback from key stakeholder groups, such as women serving in the armed forces or representatives from agricultural and rural communities.

To realize the many benefits FACs can deliver, agencies must renew FACs that continue to serve a valuable purpose (while allowing expiration of those whose work is no longer needed), establish new FACs when warranted, and fill vacancies with well-qualified members. To preserve confidence in FACs, agencies must operate them transparently, achieve balance in membership in terms of points of view and committee functions, and manage conflicts of interest.

The 2019 executive order “Evaluating and Improving the Utility of Federal Advisory Committees” ([EO 13875](#)) required each agency to cut its FACs by one-third, and arbitrarily capped the number of all FACs at 350. At the Environmental Protection Agency (EPA), then-Administrator Scott Pruitt tilted FAC membership sharply in favor of industry by considering receipt of an EPA grant a conflict of interest that precludes a researcher from serving on an advisory

committee—but not considering industry funding or employment to be a similar conflict.

Recommendations for the Next Presidential Term

1. Rescind the executive order requiring elimination of FACs and encourage restoration of necessary eliminated committees. (first 30 days)

When the next term begins, the president should issue a new executive order rescinding EO 13875 and encourage agencies to re-establish still-necessary FACs that were eliminated because of that order.

2. Reverse the EPA directive barring agency grant recipients from serving on FACs. (first 30 days)

EPA leadership should rescind the October 2017 directive “*Strengthening and Improving Membership on EPA Federal Advisory Committees*” and issue a statement affirming that receipt of an agency grant does not represent a conflict of interest that precludes FAC service.

3. Direct agencies to increase transparency around FAC composition and member selection. (first year)

The president should issue an executive order instructing agencies to:

- Publish clear criteria for nominating and selecting qualified committee members, prohibiting current members from having veto power over candidates.
- After selecting the first round of candidates for membership, make that roster public and request comments.
- Identify and make public the process used for committee formation, including how agencies screen members and assess committees for balance.

- Publish background information on each committee member on a public online portal (e.g., integrity.gov), including information on qualifications, employers, and funding sources for the previous five years, along with any conflict-of-interest waivers granted.
 - When allowing FACs to expire, archive their websites and all related documents so agencies and the public can still access the information.
- 4. Encourage the Office of Government Ethics to provide guidelines on conflicts of interest. (first year)**
- The president should encourage the Office of Government Ethics to provide agencies with clear guidelines that:
- Explicitly define what constitutes a conflict of interest and transparently outline the degree to which a conflict of interest would disqualify a nominee from participating on a committee.
 - Direct agencies to clarify their criteria for appointing advisory committee members as individuals or as organization representatives, and take steps to ensure that conflicts of interest are properly scrutinized.
 - For committees with a mission solely dedicated to providing objective scientific advice (as opposed to committees designed to gather input from diverse stakeholders), ensure members are appointed as special government employees and vetted for financial conflicts of interest. They should recuse themselves from scientific discussions with which they have a direct conflict of interest, and those recusals should be announced to the public at the start of meetings and be included on meeting notes, reports, and other documents.
- Ensure that scientists who have taken public positions on issues or received government funding for scientific work are not excluded from advisory committees because of unfounded concerns about bias.
- 5. Direct the White House Office of Science and Technology Policy (OSTP) to identify ways for FACs to address cross-cutting issues. (first year)**
- The president should direct the OSTP to help agencies determine whether and how new FACs could help fill interagency needs on issues that cut across multiple agencies' responsibilities.
- 6. Establish a process for dealing with complaints regarding FACs. (first year)**
- Instruct agencies to identify outstanding complaints made against existing FACs, investigate those complaints, and take corrective action where warranted.*

Additional Resources

- [“77 Groups Join to Counter Trump Administration Attack on Science Advice”](#) (2019 press release from the Union of Concerned Scientists)
- [Abandoning Science Advice](#) (2018 report from the Union of Concerned Scientists)
- Brennan Center for Justice recommendations: see [Proposal 4 in Proposals for Reform Volume II: National Task Force on Rule of Law & Democracy](#) and forthcoming report on executive actions (scheduled for Summer 2020 release)

Endnotes

1. For example, the Center for Reproductive Rights has written to the Secretary of State to allege that the Department of State's Commission on Unalienable Rights violates the Federal Advisory Committee Act (FACA) because “it is duplicative of an existing government bureau; the State Department failed to follow FACA requirements in the formation of the Commission; and as a consequence the Commission does not have a balanced membership.”

ENDORSED BY

Brennan Center for Justice / Californians for Pesticide Reform / Center for Biological Diversity / Center for Reproductive Rights / Citizens for Responsibility and Ethics in Washington (CREW) / Climate Science Legal Defense Fund / Environmental Protection Network / Equity Forward / FracTracker Alliance / Friends of the Earth / Government Accountability Project / Government Information Watch / Greenpeace USA / Inland Ocean Coalition / Jacobs Institute of Women's Health / Milwaukee Riverkeeper / National Center for Health Research / National Children's Campaign / National Federation of Federal Employees / National Freedom of Information Coalition / National Nurses United / National Parks Conservation Association / National Sustainable Agriculture Coalition / National Women's Health Network / Ocean Conservation Research / Oceana / Oceanic Preservation Society / Open the Government / Pesticide Action Network / Power to Decide / Public Citizen / Public Employees for Environmental Responsibility / Revolving Door Project / Society of Professional Journalists / United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) / Union of Concerned Scientists / Virginia Association of Biological Farming