

THE FEDERAL ADVISORY COMMITTEE ACT (FACA)

Assistant Secretary – Indian Affairs

Office of Regulatory Affairs and Collaborative Action

U.S. Department of the Interior



FACA – Origin and Purpose

Advisory committee members provide expertise that gives federal officials access to information and advice on a broad range of issues affecting federal policies and programs.

FACA was enacted in 1972 to ensure that advice from advisory committees is relevant, objective and open to the public.

FACA affords the public an opportunity to provide input into a process that may form the basis for government decisions.



What is an Advisory Committee?

An advisory committee is:

- “Any committee, board, commission, council, panel, task force, or other similar group, or any subcommittee or other subgroup” which is
 - “established” or “utilized” by one or more agencies in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government
 - Except for a committee composed wholly of full-time, or permanent part-time, officers of employees of the Federal Government.

For Indian Affairs, advisory committee membership is generally a group of designated representatives of federally recognized Tribes, such as Tribal leaders, Tribal representatives (e.g., council, elders, school board, etc.), IA program staff, Interior bureau/office, non-Interior federal agencies, and other stakeholders (i.e., parents of students attending BIE-funded schools, etc.).



What does FACA require?

Among other things:

“The function of advisory committees should be advisory only...all matters should be determined, in accordance with law” by a federal official.

No advisory committee may be established unless:

- Mandated by statute or the President
 - Non-Discretionary Advisory Committee, or
- Specifically authorized by law under specific authorization from Congress or determined by an agency to be in the public interest and with timely notice published in the Federal Register.
 - Discretionary Advisory Committee



What does FACA require?

No meetings or action may take place unless a Charter has been signed by the Secretary of the Interior and filed with the U.S. General Services Administration (GSA).

Timely notice of each meeting shall be published in the Federal Register.

Each meeting “shall be” open to the public.

“Interested persons” must be allowed to “attend, appear before, or file statements with” an advisory committee “subject to reasonable rules”



A note on “open to the public”

Each advisory committee meeting must be open to the public;
BUT this requirement does not apply to:

- (1) *preparatory work*** – meetings of two or more committee or subcommittee members convened solely to gather information, conduct research, or analyze relevant issues and facts in preparation for a meeting of the advisory committee, or to draft position papers for deliberation by the advisory committee; ***or***
- (2) *administrative work*** – meetings of two or more committee or subcommittee members convened solely to discuss administrative matters of the advisory committee or to receive administrative information from a Federal official.



What does FACA require?

Records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by each committee shall be available for public inspection and copying.

Detailed minutes shall be kept, including a record of persons present, matters discussed, and conclusions reached, as well as copies of all reports received, issued, or approved by the committee.



What does FACA require?

A designated officer or employee of the Federal Government Designated Federal Officer (DFO) must “chair or attend each meeting of each advisory committee.

Such DFO may adjourn any meeting when determined to be in the public interest. No meetings may be held unless called by the DFO and with an agenda approved by the DFO.

Each advisory committee shall terminate no later than two years after establishment unless renewed or otherwise provided by law.



Relevant Federal Requirements

Federal Advisory Committee Act (FACA)

- [5 U.S.C., App. As amended by 5 U.S.C. 1001 *et seq.*](#)
- [41 CFR Part 102-3 – Federal Advisory Committee Management](#)



Contact Information

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