



# **State Advisory Committee Handbook**

**United States Commission on Civil Rights  
February 1998**

## **U.S. Commission on Civil Rights**

The U.S. Commission on Civil Rights is an independent, bipartisan agency first established by Congress in 1957 and reestablished in 1983. It is directed to:

- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, disability, or national origin, or by reason of fraudulent practices;
- Study and collect information relating to discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice;
- Appraise Federal laws and policies with respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice;
- Serve as a national clearinghouse for information in respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin;
- Submit reports, findings, and recommendations to the President and Congress;
- Issue public service announcements to discourage discrimination or denial of equal protection of the laws.

### **Members of the Commission**

Mary Frances Berry, *Chairperson*

Cruz Reynoso, *Vice Chairperson*

Carl A. Anderson

Robert P. George

A. Leon Higginbotham, Jr.

Constance Horner

Yvonne Y. Lee

Russell D. Redenbaugh

Ruby G. Moy, *Staff Director*



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# THE UNITED STATES COMMISSION ON CIVIL RIGHTS

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The U.S. Commission on Civil Rights is an independent, bipartisan factfinding agency first established under the Civil Rights Act of 1957. On November 30, 1983, the Commission was reestablished under the United States Commission on Civil Rights Act of 1983 (P.L. 98-183). By the terms of the 1983 act, as amended by the Civil Rights Commission Amendments Act of 1994 (P.L. 103-419), the Commission is authorized to:

- Investigate allegations in writing that citizens are being deprived of their right to vote because of race, color, religion, sex, age, disability, or national origin, or as a result of any pattern or practice of fraud;

- Study legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;

- Appraise Federal laws and policies with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;

- Serve as a national clearinghouse for civil rights information;

- Submit reports of its activities, findings, and recommendations to the President and Congress; and

- Prepare and issue public service announcements and advertising campaigns to discourage discrimination or denials of equal protection of the law.

The Commission is not an enforcement agency and has no power to apply specific remedies in individual cases. Complaints about denials of rights are referred to appropriate Federal agencies for action.

## ACTIVITIES

The Commission holds factfinding hearings relating to discrimination or the denial of equal

protection of the laws under its jurisdiction. Under its subpoena power, the Commission seeks facts from public officials, minority-group members, and other citizens representing diverse interests and points of view. The Commission also sponsors national, regional, and State conferences and consultations as part of its factgathering and as a method of disseminating information to specialized audiences. These sessions bring together Federal, State, and local officials, community leaders, and representatives of business, labor, civil rights, and other groups.

The Commission conducts extensive research and investigations regarding discrimination or the denial of equal protection of the laws in such fields as voting, education, employment, health services, housing, and the administration of justice. The Commission also evaluates the Federal effort to further equal opportunity. These projects normally culminate in Commission reports, which may contain findings and recommendations for resolving certain problems. The Civil Rights Acts of 1960, 1964, 1965, 1968, 1970, and 1972, the Voting Rights Acts of 1965, 1970, 1975, and 1982, some Presidential Executive orders, and various court decisions reflect findings and recommendations resulting from Commission hearings and studies.

The Commission also addresses specific civil rights policy issues through formal public statements. In addition, the Commission gathers and publishes information on civil rights laws and procedures for addressing problems under those laws.

## PUBLICATIONS

A complete list of Commission publications, including State Advisory Committee (SAC) reports, is available from the Commission. Advisory Committee members routinely receive many Commission publications.

## **ORGANIZATION**

There are eight Commissioners; four are appointed by the President and four by the Congress. They meet monthly to set policy for the Commission and conduct periodic hearings, consultations, and conferences.

The Staff Director, appointed by the President with a concurring vote of the Commissioners, is the chief operating officer of the Commission with overall responsibility for developing and managing the programs and staff of the agency. Staff in the Office of the Staff Director are responsible for media and congressional relations. The Regional Programs Coordination Unit coordinates for the Staff Director regional matters, such as preparation for the Commissioners of recommendations for SAC membership and of SAC reports for publication. The functions of the regional offices, which support directly SAC activities, are described below.

The following offices report to the Staff Director:

The Office of General Counsel provides legal services and advice to the Commissioners, the Staff Director, and the other offices of the Commission. The office is responsible for preparing legal and quasi-legal positions, statements, and memoranda and for carrying out Commission hearings. The office is responsible for assuring Commission compliance with the requirements of the Freedom of Information Act, the Privacy Act, the Ethics in Government Act, and the Government in the Sunshine Act, and for representing the Commission in administrative proceedings.

The Office of Civil Rights Evaluation monitors, evaluates, and reports on Federal enforcement of civil rights laws and refers complaints alleging denial of civil rights from out-

side the Commission to other Federal agencies.

The Office of Management assists the Staff Director with management of the agency and is responsible for budget, finance, personnel, procurement, administrative services, information resource management, internal controls, and the National Clearinghouse Library.

## **REGIONAL OFFICES**

Six regional offices have been established within the Office of the Staff Director to provide support to the State Advisory Committees and to perform other functions for the Commission that are described below. The locations of the regional offices and the States they serve are listed in appendix A. The regional offices have many functions:

- To provide staff support to the Advisory Committees and information to the Commission on local, State, and regional civil rights issues;

- To monitor the field programs of Federal agencies with respect to civil rights;

- To disseminate information to the public about civil rights problems and proposed solutions to those problems;

- To assist in designing and carrying out Commission programs at the local, State, regional, and national levels; designing and undertaking followup activities to Commission hearings; and developing and implementing recommendations for Commission studies and hearings;

- To maintain liaison with State and local governments, public agencies, and private groups and to appraise their activities with regard to civil rights; and

- To receive complaints and refer them to appropriate agencies or to the Commission's central office.



# STATE ADVISORY COMMITTEES

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## CREATION AND FUNCTIONS

State Advisory Committees are established in each State and the District of Columbia in accordance with enabling legislation and the Federal Advisory Committee Act (which is explained below) to advise the Commission on matters pertaining to discrimination or denials of equal protection of the laws because of race, color, religion, sex, national origin, age, disability, or in the administration of justice, and to aid the Commission in its statutory obligation to serve as a national clearinghouse for information on those subjects.

Commission regulations call for each Advisory Committee to:

- Advise the Commission in writing of any information it may have respecting any alleged deprivation of citizens' right to vote and to have the vote counted by reason of color, race, religion, sex, national origin, age, or handicap, or that citizens are being accorded or denied the right to vote in Federal elections as a result of patterns or practices of fraud or discrimination;

- Advise the Commission concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, national origin, age, or handicap or in the administration of justice; and as to the effect of the laws and policies of the Federal Government with respect to equal protection of the laws;

- Advise the Commission upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress;

- Receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials about matters pertinent to inquiries conducted by the State Advisory Committee;

- Initiate and forward advice and recommendations to the Commission about matters that the Advisory Committee has studied; and

- Assist the Commission in the exercise of its clearinghouse function.

## MEMBERSHIP

All State Advisory Committees to the Commission operate under appropriate statutes, rules, and regulations of the Commission, as well as the Federal Advisory Committee Act. Each Committee is chartered and its members appointed by the Commission for a 2-year term. Interim appointments and separations may be submitted to and approved by the Commission to replace members who resign or those whose membership is terminated by the Commission.

Requests to the Commission to terminate membership will be made for any member whose attendance at meetings of the Advisory Committee is negligible, or whose activities constitute a violation of the laws, rules, regulations, or written policies that govern the Commission and its Advisory Committees. Specifically, the Commission will be asked to terminate the membership of any person who misses three consecutive meetings of an Advisory Committee for reasons unacceptable to the other members, or if a person, *acting in his or her capacity as an Advisory Committee member*, communicates directly with Federal, State, or local elected and appointed officials, apart from the established process for incorporating material pertinent to such officials in advice the Committee prepares for the Commission. Advisory Committee members are not restricted or restrained, however, from the freedom to express directly to anyone views they may hold *as private citizens* as long as they clearly avoid any impression that they are communicating as members of an Advisory Committee to the U.S. Commission on Civil Rights.

The Commission has established standards to ensure that membership on the Advisory Committees is diverse and reflects persons with skills to facilitate the work of the

Committee. Advisory Committees reflect the bipartisan character of the Commission. Committees also have a broad cross section of representation based upon such factors as age, religion, disability, business, and labor. This diversity gives Advisory Committees the benefit of a wide range of knowledge, experience, and perspective on many subjects in developing findings or recommendations after conducting factfinding activities. The broad representation should also help ensure that advice will be given serious consideration by government officials and the public. See appendix B for Prospective Member Biographical Data Form (CCR Form 16).

The basic size of an Advisory Committee is 11 members. More members may be appointed (up to a total of 19) where warranted. Within budgetary and staff resources, each Advisory Committee is expected to meet twice annually and to conduct a project during its 2-year term.

#### **OFFICERS**

The officers of each Advisory Committee are the Chairperson, who is appointed by the Commission, the Vice Chairperson, and such other officers as deemed advisable, who are elected by vote of the Committee. Chairpersons may serve no more than two consecutive terms. The Chair, or in his or her absence the Vice Chair, may, after receiving the approval of the designated Commission staff person:

- Call meetings of the Committee;
- Preside over meetings of the Advisory Committee;
- Appoint all subcommittees of the Advisory Committee; and
- Perform such other functions within the authority of the Federal Advisory Committee Act as the Committee may authorize or the Commission may request.

Procedures for meetings of Advisory Committees are outlined in appendix C.

#### **ACTIVITIES**

Advisory Committee activities cover a broad range of civil rights concerns, supporting national projects of the agency as well as identifying and reporting on civil rights issues at the State and local levels.

A major Advisory Committee function is to study and report on issues in the State. These reports are often published and circulated widely—to government officials at all levels, educational institutions, labor, industry, and the general public. State Advisory Committee recommendations to Federal officials are forwarded only by the Commission upon Commissioner review and endorsement of such recommendations.

The Commission's publication program places great emphasis on informing the general public as well as government officials and local leaders. Contact with news media is encouraged for the broadest dissemination of reports.

Regional office staff and Advisory Committee members on occasion take part in the data-collection process related to Commission projects; they distribute information and follow up on Commission reports and statements; they maintain liaison and monitor developments on the regional, State, and local levels; and upon their own initiative, they share information and opinions on civil rights issues with the Commissioners. In short, the regional staff and Advisory Committees are the eyes and ears of the Commission in every State of the country and the District of Columbia.

#### **Program Planning**

Based on the program adopted by the Commissioners, the regional offices and Advisory Committees may be involved in the research components of some national projects and in followup to many national projects.

The regional offices and Advisory Committees also plan regional and local projects based on an assessment of regional and local civil rights issues.



### **Data Collection**

For Commission projects, regional offices and Advisory Committees will, where appropriate, assist in gathering information through interviews, workshops, and factfinding meetings (informal hearings), and in the preparation of reports. Advisory Committee reports to the Commission may be incorporated into Commission reports or may be issued as individual reports to the Commission.

### **Commission Reports and Statements**

Advisory Committee involvement may include:

- Review and comment on drafts of Commission statements and reports upon request;
- Followup on Commission projects at regional, State, and local levels by means of factfinding consultations, conferences, workshops, seminars, and meetings with officials of public and private agencies and organizations; and
- Dissemination of information to the public.

### **Liaison and Monitoring**

Advisory Committees may:

- Interpret to the public the role of the Commission and its position on civil rights issues:
  - Maintain contact with public and private agencies on the regional, State, and local levels and monitor civil rights issues;
  - Conduct short-term studies of civil rights issues at the regional, State, and local levels to keep the Commission informed of recent and current developments;
  - Prepare reports and other forms of advice to the Commission that may include findings and recommendations to be disseminated to the public after such documents have been reviewed by the Staff Director and their publication accepted by the Commissioners; and
  - Undertake regional office projects to support Commission programs.
- Advisory Committees advise the Commission only with regard to matters within the Commission's jurisdiction, such as:
- The status of civil rights in the region and the individual States;

- Local and regional developments in civil rights that have national impact; and
- The civil rights efforts of regional, State, and local agencies and groups.

### **STATE ADVISORY COMMITTEE REPORTS** **General**

Advisory Committees present their advice to the Commissioners in a variety of forms, including formal factfinding reports and briefing memoranda. These documents are adopted by a recorded vote of the members of an Advisory Committee, and dissenting statements pertinent to the topic of the report, if any, may be appended. Before publication and release, formal reports undergo a legal sufficiency review and are submitted to the Office of the Staff Director for review of their appropriateness and compatibility with Commission standards. They are then forwarded to Commissioners for their consideration. Following this final review, accepted reports will be prepared for public distribution by the Regional Programs Coordination Unit of the Office of the Staff Director. Briefing memoranda are not distributed publicly.

Advisory Committees also submit to the Commissioners reports of conferences, consultations, and community forums. The proceedings or summary reports of these projects are issued upon Commissioner acceptance. These documents do not include Advisory Committee findings or recommendations.

These activities are undertaken following adoption of a project proposal by a vote of all members. The project proposal, which must be approved by the Office of the Staff Director, describes the issue to be examined and the sources and methodology to be used.

### **Legal Sufficiency Review**

The legal sufficiency review is the process by which an Advisory Committee's report is reviewed to determine its compliance with Commission legal standards.

The Commission requires that a right of response be extended to any person if a Commission report tends to defame, degrade, or incriminate that person. The Commission

will consider the replies of all those persons who are offered an opportunity to respond to defamatory, degrading, or incriminating statements. Although the Commission's regulations require this procedure only for persons referred to in Commission reports, the Commission has extended this procedure to cover State Advisory Committee, as well as Commission, reports.

The terms defame, degrade, and incriminate are not easily defined and require legal interpretation based on varying fact situations and evolving case law. The task of determining whether statements contained in Commission publications fall within the meaning of these protective provisions is initially delegated to the originating office and is subject to final review by the Office of General Counsel.

With respect to Advisory Committee publications, the initial review is the responsibility of an attorney assigned by the General Counsel.

Legal sufficiency review is a means to ensure a high standard of accuracy in Commission publications. Advisory Committee reports often involve subjects related to or controlled by statutes, regulations, rules, case law, or general legal concepts. One major element of a legal sufficiency review is to determine whether legal sources are used appropriately and are properly cited. Suggestions, recommendations, findings, conclusions, and statements that are connected with legal source material must be properly linked with that source material so as to reflect accurately the law with regard to the subject being discussed.

# ADMINISTRATION AND OPERATION OF ADVISORY COMMITTEES

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## TRAVEL AND REIMBURSEMENT

Advisory Committee members are reimbursed by the Commission through a per diem subsistence allowance and for travel expenses at rates not to exceed those prescribed by Congress for government employees for the following activities only:

- Attendance at authorized meetings; and
- Activities specifically requested and authorized by the Commission.

Advisory Committee members are responsible for traveling only to those meetings that are authorized and for preparing their travel vouchers promptly to claim reimbursement. Normally, travel vouchers are collected at the close of each meeting by a staff member in attendance. In addition to preparing a travel voucher, each member must sign Attendance Form CCR-50 and indicate thereon if a claim for reimbursement will be filed (appendix D).

Advisory Committee members may be reimbursed for the following:

- Commercial travel to and from authorized meetings at the lowest available rate, e.g., tourist, coach;

- Use of a private vehicle for official travel when it is in the best interests of the government and the round trip does not exceed 500 miles;

- Use of a rental car when it is in the best interests of the government and prior approval has been granted by the regional office director; regional staff will provide instructions and assistance to members requiring use of a rental car;

- Per diem allowance at the rate current at the time of travel. Rates vary depending upon whether an overnight stay is involved and upon the geographical area. Regional staff will provide current-applicable per-diem rates to Advisory Committee members.

The travel voucher used is form AD-616 and is shown front and back in appendix E. All members have been furnished a sample copy

as a guide for preparing this form, and staff will be happy to provide further assistance.

## MAIL PRIVILEGE

As representatives of a Federal agency, Advisory Committee members may use Commission letterhead and envelopes for official business. Official Commission stationery is to be used only for business communications that emanate from or bear the signature of a duly appointed member of an Advisory Committee. Except for business correspondence among members of the same Committee, all letters written on Commission letterhead must have prior clearance from the regional office director and a copy must be forwarded to the regional office.

## COMMUNICATION WITH FEDERAL, STATE, AND LOCAL ELECTED OFFICIALS

In the past, considerable concern has been expressed by the Commission regarding the contacting of elected officials by Advisory Committee members. Advisory Committee members, when acting in their official capacity, are clearly prohibited from engaging in lobbying, i.e., using appropriated funds to target a particular group of legislators and conducting a campaign to influence their views on specific legislation. Furthermore, the Federal Advisory Committee Act specifies that Advisory Committees are established to advise only the parent agency, not the general public or elected officials. Thus, to avoid inappropriate activities, all planned contacts by Advisory Committee members with Federal, State, and local officials, including legislators, in their official capacity as Advisory Committee members, should be discussed in advance with the regional office director.

Such activities are permissible if they are incidental to the Advisory Committee's reporting to the Commission. Appearances at legislative hearings require careful coordination with the Staff Director. The responsibility

to clear such matters with the Staff Director lies with the regional office director.

Advisory Committee statements should deal with matters studied by the Advisory Committee or the Commission. Statements may not be targeted toward a particular group of legislators. Finally, the statements should indicate whether the position expressed has been endorsed by the Commission or is solely that of the Advisory Committee.

### **USE OF VOLUNTEERS**

Whether Advisory Committees may accept the services of volunteers is not clearly resolved by the Commission statute, which states, "The Commission shall not accept or utilize services of voluntary or uncompensated personnel. . . ." A series of General Counsel memoranda and opinions indicates that the Commission and the Advisory Committees can request and use the work product of private agencies and individuals when this work product is or would be produced in the normal course of the agencies' or individuals' work. Thus, the Commission and Advisory Committees can request published and unpublished reports and compilations of data, but probably not the production of reports requiring extensive original research.

It is certain that Advisory Committees cannot accept voluntary services that replace or duplicate functions performed by Commission staff. Committee members can consult with individuals about areas in which they have special knowledge but cannot ask experts to do the kind of investigations that staff conduct before a factfinding meeting, even when the preparation of a statement requires some initial research.

Often an effective way for Committees to increase the impact of their efforts is to couple them with the efforts of other agencies, public or private, which can contribute to a joint project using staff, resources, or powers that State Advisory Committees lack. This process is not entirely free of complications, and the best procedure to follow involving the use of volunteers or their work products is to con-

sider it on a case-by-case basis in consultation with the regional office staff.

This discussion does not apply to governmental agencies or employees acting in an official capacity. All Federal agencies are required by statute to cooperate fully with the Commission, and Advisory Committees may make reasonable and relevant requests of State or local governments for the use of information, data, and reports. These requests, however, should go through regional staff.

### **NEWS RELEASES**

News releases on Advisory Committee activities are prepared by regional office staff and cleared with the Committee Chairperson. Before release they are submitted to the Office of the Staff Director.

News conferences held to discuss the findings and recommendations contained in an Advisory Committee report or other forms of advice to the Commission may be scheduled only after the document has been reviewed by the Commissioners and the Staff Director has approved publication and distribution. In such cases Advisory Committees should clear planned public comments with staff and invite staff comment, but Advisory Committee leaders should conduct news conferences and serve as chief speakers. The staff role is to respond to technical questions and interpret agency positions as needed.

### **QUESTIONNAIRES**

All Advisory Committee questionnaires and checklists must be cleared through the appropriate regional office before dissemination. Both the Commission and its Advisory Committees are bound by the Paperwork Reduction Act of 1980, which requires that the U.S. Office of Management and Budget must first approve the distribution of a questionnaire to 10 or more respondents. The distribution of 10 or more uncleared questionnaires is a violation of Federal law.

## **MISCELLANEOUS**

Presenting a statement at an Advisory Committee meeting is not in itself a federally protected activity. State Advisory Committees should operate on the assumption that there are no Federal criminal sanctions for reprisals against persons testifying at Committee fact-finding meetings, although, depending upon the nature and extent of any reprisal, there may be a Federal statute violated.

The U.S. Justice Department can, upon official request, represent State Advisory Committee members if a suit is brought against them for actions taken as Committee members. Advisory Committee members are immune from suit in libel for the issuance of reports or statements as Committee members. These Federal protections are extended because Advisory Committee members are agents of the United States when acting in an official capacity.

The Commission's authorizing statute contains a provision prohibiting the Commission and its Advisory Committees from inquiring into certain affairs of some private organizations, such as membership practices or internal operations of fraternal organizations,

college or university fraternities or sororities, private clubs, or religious organizations. There is also a provision prohibiting the Commission and its Advisory Committees from appraising, studying, or collecting information concerning abortion.

State Advisory Committee members are exempt from criminal liability for conflict of interest violations. Prospective members who represent a foreign government or subsidiary thereof, including business subsidiary, should discuss such relationships with the regional director or their own attorney before accepting appointment, since the Office of Legal Counsel of the Justice Department has ruled that participation of such individuals on Federal Advisory Committees may violate the Constitution and subject the individual to criminal penalties.

Members will be expected to recuse themselves from participation in a Committee activity where such participation, because of a member's occupation or other factors, would give the appearance of a loss of impartiality or of a conflict of interest.

# LAWS AFFECTING ADVISORY COMMITTEE OPERATIONS

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The conduct of an Advisory Committee is controlled by the Commission's statute, rules, and regulations, the Federal Advisory Committee Act (FACA), the Government in the Sunshine Act, and the Privacy Act (PA). Staff is responsible for proper operations under these authorities, but Committee members should be familiar with their provisions.

## THE FEDERAL ADVISORY COMMITTEE ACT

Enacted in 1972, FACA prescribes certain ground rules that govern all of the Commission's Advisory Committees. This act provides that, with few exceptions, all meetings of Advisory Committees will be open to the public. In requiring open meetings, Congress wanted to discourage any situation in which Advisory Committees would meet, deliberate, and advise parent agencies in private.

Another FACA provision that relates directly to operations includes the public's right to inspect and copy Committee records, reports, minutes, agenda, working papers, drafts, transcripts, and appendices (subject to Privacy Act limitations and the assertion of Freedom of Information Act exemptions described below).

The General Services Administration (GSA) has general authority to prescribe regulations and provide administrative control and uniformity in the activities of Advisory Committees under FACA. Among the many provisions in the act or its implementing regulations that most directly affect the State Advisory Committees are:

- An Advisory Committee or subcommittee cannot conduct a meeting in the absence of a designated Federal employee.

- The term of an Advisory Committee is limited to 2 years unless it is rechartered.

- All meetings must be conducted in accordance with an agenda approved by a Com-

mission staff person that lists the matters to be considered at the meeting.

- Advisory Committee meetings may be held only with the approval of and subject to the control of a designated Federal officer.

- The public must be notified of a scheduled Committee or subcommittee meeting at least 15 days before the meeting date by a notice published in the *Federal Register*.

- Members of the public may file statements with the Committee or, at the discretion of the attending designated Commission staff person, appear before it.

- Detailed minutes of each Advisory Committee meeting must be kept, including an account of the Committee members and staff present; a description of matters discussed and conclusions reached; copies of all reports received, issued, or approved by the Advisory Committee; and a listing of the members of the public who address the Committee.

- The Chairperson must certify the accuracy of the minutes.

- Public participation in meetings should be facilitated by scheduling meetings at reasonable times and in rooms chosen to accommodate the number of persons expected.

- It is up to the agency head to determine whether meetings may be closed to the public consistent with the provisions of FACA and the Government in the Sunshine Act.

## Conducting State Advisory Committee Meetings Under FACA

The Advisory Committees meet to plan programs, discuss projects, establish priorities, gather factual data, and review reports and findings and recommendations of those reports before forwarding them to the Commission. All Advisory Committee meetings and conferences are authorized by the Committee Management Officer (who has been delegated that authority by the Staff Director),



who also is responsible for placing notices of meetings in the *Federal Register*.

The Staff Director is authorized to determine whether a meeting can be closed. Meetings can only be closed pursuant to the statutory standards set forth in the Federal Advisory Committee Act and the Government in the Sunshine Act.

After consultation with the legal staff of the Commission, authorization to close all or part of a meeting may be granted, in writing, by the Staff Director.

If all or part of any meeting of an Advisory Committee or subcommittee is closed to the public, the Committee or subcommittee that held such meeting shall publish, at least annually, a summary report of the activities conducted at such meeting.

All other Advisory Committee meetings are open to the public. In addition to notice in the *Federal Register*, a notice to the public by news release or other appropriate means is required. The notice must contain a statement of the purpose of the meeting, a summary of the agenda, and the time, place, date, and specific location of the meeting.

There are several instances when a gathering of two or more Committee members is not required to be announced to the public. These gatherings do not constitute formal meetings because the members present do not make decisions. One situation involves investigative interviews by Advisory Committee members. Another example is a procedural planning meeting (or briefing session), during which procedures for an impending or imminent fact-finding meeting (or informal hearing) or community forum are discussed. A third example involves followup activities such as interviews with public officials or other persons. Although not defined as formal meetings that require advance notice in the *Federal Register*, those three activities also must receive prior authorization by the Staff Director.

A quorum for meetings consists of one-half or more of the membership or five members, whichever is the lesser. However, for fact-finding meetings, described in the following section, a quorum consists of three members.

#### **Factfinding Meetings (Informal Hearings)**

Advisory Committees and subcommittees may hold meetings for the purpose of inviting government officials and private citizens to present information on subject matter under study by the Committee or subcommittee.

This procedure has been used often by Advisory Committees in gathering and/or confirming data upon which to base their findings and recommendations. Similar in format to a Commission hearing, there are several important legal differences between the two procedures. First, the Commission may subpoena witnesses to attend its hearings. Advisory Committees have no such power. Second, the Commission takes its testimony from witnesses under oath. Advisory Committees cannot administer oaths. Finally, the Commission's regulations prevent witnesses at its hearings from making defamatory remarks about other persons in public. When the Commission determines that the public record requires information contained in statements that may tend to defame, degrade, or incriminate a person, it must follow the protective procedures outlined in the Commission's regulations. Advisory Committees are also required by Commission regulation to provide defame and degrade protections during fact-finding meetings.

Instead of the formal procedures that the Commission must follow, Advisory Committees may and should be able to provide defame and degrade protection through careful preparation (premeeting interviews) to ensure that statements focus on issues rather than personalities at factfinding meetings. When this cannot be done without compromising an investigation, alternatives should be pursued. The person who may be defamed should be provided an opportunity to speak at the meeting, or the defamatory statement can be used only in a written report, rather than in an open public meeting, with a right of response provided to the person defamed in accordance with the procedures governing such responses. Staff will provide guidance in handling such matters.

## **THE FREEDOM OF INFORMATION ACT**

FACA and the Freedom of Information Act of 1967, as amended in 1974, require public disclosure of Advisory Committee records, unless they come within one of nine specified exemptions. Advisory Committees have no direct responsibility under the FOIA except to channel FOIA requests through the appropriate regional office director to the Solicitor of the Commission.

## **THE GOVERNMENT IN THE SUNSHINE ACT**

The Government in the Sunshine Act requires that every meeting of a Federal agency headed by two or more members be open to the public. There are 10 specific exemptions from this requirement, and as provided in FACA, these exemptions apply to Advisory Committee meetings. These exemptions roughly parallel the nine exemptions in the Freedom of Information Act. The exemptions most likely to pertain to the Commission and its Advisory Committees include those specified by statute, such as defame and degrade materials, accusing a person of a crime, a clearly unwarranted invasion of personal privacy, and releasing information when its disclosure is likely to frustrate significantly the implementation of a proposed agency action. If a meeting or part of a meeting is closed, a copy of that determination must be made available to the public on request and the meeting notice published in the *Federal Register* must cite the specific exemptions used from the Government in the Sunshine Act.

## **THE PRIVACY ACT**

Advisory Committees are subject to the provisions of the Privacy Act (PA) with respect to the information they gather and the process by which they gather and disseminate it. The responsibility for determining what information may or must be withheld and what information may or must be provided, pursuant to requests under the Privacy Act, has been placed with the Commission's Solicitor.

Under the provisions of the Privacy Act, agencies that collect information on persons

retrievable by the names of the persons are required to publish a notice in the *Federal Register* of the file systems in which such information is kept. The Commission has published such a list. It includes, among others, complaint files kept in regional offices and retrievable by the names of complainants, background information on Advisory Committee members maintained in the Washington headquarters offices and retrievable by the names of the committee members, and Committee project files, including interview reports, open meeting files, and other records.

The PA *Federal Register* notice also contains a description of the routine uses that may be made of the information collected from persons. Disclosure of records in a manner other than those listed as routine uses, or specifically excepted by the PA, will subject the agency to civil liability. If unauthorized disclosure is made by an officer or employee of the Commission, that officer or employee may be subject to criminal liability. The Commission must keep accurate records of disclosure of information contained in its records systems.

Furthermore, the Privacy Act confers upon persons a right to view records maintained on them and a limited right to correct information that they feel is erroneous.

When collecting information on persons, the Commission and its Advisory Committees must limit the records to material relevant to the agency's purpose; collect the information, to the greatest extent possible, directly from the person; and disclose to all persons from whom information is sought:

- The authority under which the information is being sought and whether the disclosure of the information is mandatory or voluntary;

- The purpose for which the information sought is intended to be used; and

- The routine uses to be made of the information.

To comply with this last series of requirements, the Commission has published forms that must be given to interviewees at the time interviews are conducted. When necessary,

Advisory Committee members will be supplied with these forms and with instructions on their use by regional office staff before undertaking a field interview. The PA notice requirements cover all forms of information gathering, including telephonic and written communications.

The Commission has established rules that govern disclosure of information under the Privacy Act. If an Advisory Committee member receives a PA request, it should be sent to the legal staff of the Commission through the

regional office director. (A requester should be informed that the proper procedure is to send a Privacy Act request to the Commission's legal staff in Washington.) No attempt should be made to answer the request directly, since formal identification procedures must be followed before any personal information may be divulged. An attempt to be helpful by giving out information without following procedures set forth in Commission Privacy Act regulations could constitute a violation of law.

## **Appendix A**

### **REGIONAL OFFICES**

The Commission's six regional offices are staffed by a director, civil rights analysts, and other administrative personnel. They coordinate the Commission's operations in their regions and assist the State Advisory Committees in their activities.

#### **Eastern Regional Office**

U.S. Commission on Civil Rights  
624 Ninth St., N.W., Suite 500  
Washington, D.C. 20425  
Ki-Taek Chun, Director  
(202) 376-7533

Connecticut  
Delaware  
District of Columbia  
Maine

Maryland  
Massachusetts  
New Hampshire  
New Jersey  
New York

Pennsylvania  
Rhode Island  
Vermont  
Virginia  
West Virginia

#### **Southern Regional Office**

100 Alabama St., Suite 1840T  
Atlanta, Georgia 30303  
Bobby Doctor, Director  
(404) 562-7000

Florida  
Georgia

Kentucky  
North Carolina

South Carolina  
Tennessee

#### **Midwestern Regional Office**

55 West Monroe St., Suite 410  
Chicago, Illinois 60603  
Constance D. Davis, Director  
(312) 353-8311

Illinois  
Indiana

Michigan  
Minnesota

Ohio  
Wisconsin

**Central Regional Office**

U.S. Commission on Civil Rights  
Gateway Tower II  
400 State Avenue, Suite 908  
Kansas City, Kansas 66101-2406  
Melvin L. Jenkins, Director  
(913) 551-1400

Alabama  
Arkansas  
Iowa

Kansas  
Louisiana  
Mississippi

Missouri  
Nebraska  
Oklahoma

**Rocky Mountain Regional Office**

1700 Broadway, Suite 710  
Denver, Colorado 80290  
John Dulles, Director  
(303) 866-1040

Colorado  
Montana

North Dakota  
South Dakota

Utah  
Wyoming

**Western Regional Office**

U.S. Commission on Civil Rights  
3660 Wilshire Blvd., Suite 810  
Los Angeles, California 90010  
Philip Montez, Director  
(213) 894-3437

Alaska  
Arizona  
California  
Hawaii

Idaho  
Nevada  
New Mexico  
Oregon

Texas  
Washington

**Appendix B**

<b>U.S. COMMISSION ON CIVIL RIGHTS</b> <b>PROSPECTIVE ADVISORY COMMITTEE MEMBER BIOGRAPHICAL INFORMATION REQUEST</b>			
<b>PART I</b>			
Please read the following carefully before completing Part II of this form.			
<p><b>TO ALL PROSPECTIVE MEMBERS OF ADVISORY COMMITTEES:</b></p> <p>Pursuant to the Civil Rights Act of 1957 as amended, the Commission on Civil Rights has established advisory committees in the 50 States and the District of Columbia. The establishment and operation of all advisory committees in the Executive Branch is governed by the Federal Advisory Committee Act, Public Law 92-463. Among its many requirements, that statute requires that the membership of an advisory committee be balanced—that is, that it fairly and equitably represent, to the extent feasible, all the various interests that may be affected by the committee's work under the Commission's jurisdiction. Therefore, in the appointment of members to its advisory committees, an important goal of the Commission is to obtain representation by men and women from a broad range of social, religious, ethnic, age, and disability backgrounds. In addition, an effort is made to ensure broad community representation from broad business and labor groups and organizations. Since the Commission</p>		<p>is by statute bipartisan, it is also appropriate that advisory committee membership be balanced in political affiliation.</p> <p>In view of the above, two items of information that we seek on the biographical form are your religious preference and your political affiliation. Because of the Privacy Act of 1974, however, we need your permission to keep this information. The Privacy Act prohibits an agency of the Government from keeping information on how a person exercises the rights guaranteed by the first amendment to the Constitution unless, as in this instance, that person expressly authorizes the agency to do so. It is generally considered that the right of religious freedom and the right to join and support a political party derive from the first amendment rights of free speech and assembly. Hence, the biographical form also contains a statement that we ask that you sign authorizing the U.S. Commission on Civil Rights to maintain information about your political affiliation and your religious preference.</p>	
<p><b>* EXPLANATION OF RACE/ETHNIC BACKGROUND ABBREVIATIONS</b></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; padding: 5px;"> <p><b>AJ AMERICAN INDIAN, NATIVE AMERICAN, OR ALASKAN NATIVE.</b> A person having origin in any of the original peoples of North America and who maintains cultural identification through tribal affiliation or community recognition.</p> <p><b>A ASIAN or PACIFIC ISLANDER.</b> A person having origins in Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, Samoa, and Guam.</p> </td> <td style="width: 50%; vertical-align: top; padding: 5px;"> <p><b>B BLACK or AFRICAN AMERICAN.</b> A person having origins in any of the black racial groups of Africa.</p> <p><b>H HISPANIC.</b> A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race.</p> <p><b>W WHITE, not of Hispanic origin.</b> A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.</p> </td> </tr> </table>		<p><b>AJ AMERICAN INDIAN, NATIVE AMERICAN, OR ALASKAN NATIVE.</b> A person having origin in any of the original peoples of North America and who maintains cultural identification through tribal affiliation or community recognition.</p> <p><b>A ASIAN or PACIFIC ISLANDER.</b> A person having origins in Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, Samoa, and Guam.</p>	<p><b>B BLACK or AFRICAN AMERICAN.</b> A person having origins in any of the black racial groups of Africa.</p> <p><b>H HISPANIC.</b> A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race.</p> <p><b>W WHITE, not of Hispanic origin.</b> A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.</p>
<p><b>AJ AMERICAN INDIAN, NATIVE AMERICAN, OR ALASKAN NATIVE.</b> A person having origin in any of the original peoples of North America and who maintains cultural identification through tribal affiliation or community recognition.</p> <p><b>A ASIAN or PACIFIC ISLANDER.</b> A person having origins in Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, Samoa, and Guam.</p>	<p><b>B BLACK or AFRICAN AMERICAN.</b> A person having origins in any of the black racial groups of Africa.</p> <p><b>H HISPANIC.</b> A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race.</p> <p><b>W WHITE, not of Hispanic origin.</b> A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.</p>		
<p><b>† DEFINITION OF DISABILITY</b></p> <p>"Disability" ("differently abled," "otherwise abled") is a physical or mental impairment that substantially limits one or</p>		<p>more major life activity, a record of such an impairment, or being regarded as having such an impairment.</p>	
<p>CCR Form 16 (rev. October 1997)</p>			



**U.S. COMMISSION ON CIVIL RIGHTS  
PROSPECTIVE ADVISORY COMMITTEE MEMBER BIOGRAPHICAL INFORMATION REQUEST**

**PART II**

Enter information requested on the front and reverse sides of this part of the form, separate from Part I and return to the U.S. Commission on Civil Rights

NAME (True Ms., Dr etc.) (First, Middle, Last)		ADDRESS (Home) <input type="checkbox"/> Check here if mailing address	
TELEPHONE _____ FAX _____		Street _____	
Res _____ Bus _____		City _____	
AGE <input type="checkbox"/> Under 35 <input type="checkbox"/> Under 40 <input type="checkbox"/> 40-60 <input type="checkbox"/> Over 60		State _____ Zip _____	
E-mail: _____			
SEX <input type="checkbox"/> Male  <input type="checkbox"/> Female	POLITICAL AFFILIATION <input type="checkbox"/> Democrat <input type="checkbox"/> Independent <input type="checkbox"/> Republican  <input type="checkbox"/> Other _____	RACE/ETHNIC BACKGROUND* <input type="checkbox"/> AI <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> H <input type="checkbox"/> W  <input type="checkbox"/> Other _____	
RELIGION <input type="checkbox"/> Catholic <input type="checkbox"/> Jewish <input type="checkbox"/> Protestant <input type="checkbox"/> Muslim <input type="checkbox"/> Hindu <input type="checkbox"/> Nat. Amer. <input type="checkbox"/> Buddhist <input type="checkbox"/> Grk./Rus./Armn. Orthodox <input type="checkbox"/> Other	EDUCATION <input type="checkbox"/> High school graduate <input type="checkbox"/> Some college <input type="checkbox"/> College degree <input type="checkbox"/> More than one degree	DISABILITY† <input type="checkbox"/> Disability	
CURRENT OCCUPATION OR TITLE		SOCIAL SECURITY NUMBER (For travel authorization and reimbursement)	
EMPLOYER AND ADDRESS <input type="checkbox"/> Check here if mailing address			
ACTIVITIES, PUBLICATIONS, OR INTERESTS RELEVANT TO MEMBERSHIP ON ADVISORY COMMITTEE			

[FORM CONTINUES]

\*See Part I of this form  
CCR Form 16 (rev. October 1997)

†See Part I of this form

**U.S. COMMISSION ON CIVIL RIGHTS  
PROSPECTIVE ADVISORY COMMITTEE MEMBER BIOGRAPHICAL INFORMATION REQUEST**

**PART II (continued)**

**ACTIVITIES RELEVANT TO ADVISORY COMMITTEE MEMBERSHIP (continue if necessary)**

**PRIVACY ACT STATEMENT**

The collection of information requested on this form is governed by the provisions of the Privacy Act of 1974, P.L. 93-579. It is to be used as background information regarding prospective members of advisory committees. This Commission will not disclose such infor-

mation to anyone outside of the agency without first obtaining your permission. Information on sex, race, religion, political affiliation, and disability is requested for the purpose of obtaining balance in those areas on advisory committees.

**AUTHORIZATION TO MAINTAIN POLITICAL, RELIGIOUS,  
AND DISABILITY INFORMATION**

Pursuant to the Privacy Act's provision on the maintenance by Government agencies of information describing how an individual exercises rights guaranteed by the first amendment, I authorize the U.S. Commission on Civil Rights to maintain information on my political affiliation, religious preference, and disability status.

Please sign after reading Part I of this form.

**SIGNATURE** \_\_\_\_\_

**DATE** \_\_\_\_\_

## Appendix C

### U.S. COMMISSION ON CIVIL RIGHTS STATE ADVISORY COMMITTEES: PROCEDURES FOR MEETINGS

These guidelines for the procedures for meetings of State Advisory Committees have been prepared as authorized by the Federal Advisory Committee Act, Commission regulations and the Commission *State Advisory Committee Handbook*. The purpose of adopting these procedures is to provide a framework of formality and regularity for Committee meetings and to promote smooth operation of the meetings with a view to maintaining a workable level of decorum on the part of participating members of the Committee.

#### Meetings of State Advisory Committees

**Section 1 *Title of Rules*** These rules shall be designated:

The United States Commission on Civil Rights State Advisory Committee Meeting Procedures Guidelines.

#### **Section 2 *Convening of a Meeting***

- (a) Meetings will be convened by the designated Commission Officer, or with the approval of such Officer by the Chairperson at a time and place convenient to the members and in a facility adequate for attendance by members of the public;
- (b) A designated Commission Officer will attend and maintain overall direction of each Committee meeting.

#### **Section 3 *Agenda of a Meeting***

- (a) The agenda for each meeting will be prepared by the designated Commission Officer. The Officer will review and consider suggestions from members for items to be included on a meeting agenda;
- (b) The meeting agenda will be provided to the membership by the Officer no later than 14 days prior to a meeting.

#### **Section 4 *Quorum***

A quorum for a business meeting consists of one-half or more of the members of the Committee or five members, whichever is lesser. A quorum for a Committee fact-finding meeting consists of three members.

#### **Section 5 *Order of Business***

Pursuant to the direction of the Commission Officer:

- (a) Call to order by the Chairperson;
- (b) Reading of the minutes of the previous meeting by the Committee Secretary or other Committee Officer in the absence of a Secretary;
- (c) Approval of the minutes of the previous meeting;
- (d) Report by the Commission Officer respecting administrative or other matters of interest to the members;
- (e) Reports by any relevant subcommittees or by members on items of interest to the members;
- (f) Open discussion of continuing projects;
- (g) New business—proposals for new projects.

#### **Section 6 *Adjournment***

- (a) Upon the completion of the regulation agenda the meeting will be adjourned by the Commission Officer;
- (b) At any point during the meeting procedure the Commission Officer may adjourn the meeting if the Officer determines that such adjournment is in the public interest;

#### **Section 7 *Order and Decorum***

- (a) The Chairperson shall take such measures as may be necessary to ensure that the business of the Committee is conducted in an orderly fashion and may require members of

the Committee to preserve decorum in debate;

- (b) In the event that a member or members refuse to conduct themselves in a manner conducive to the process of the Committee business, the Chairperson may order them to cease such interference with the conduct of the meeting and may in the case of continuing misconduct order the expulsion of the member from participation in the meeting;

- (c) The Commission Officer will ensure that the orders of the Chairperson issued pursuant to (a) and (b) above are carried out by the members and in the case of an expulsion of a member by the Chairperson the Officer will undertake such steps, including seeking assistance from security personnel, to effectuate such expulsion.

**Appendix D**

**LIST OF SAC MEMBERS IN ATTENDANCE AT**

\_\_\_\_\_ (State)

**ADVISORY COMMITTEE MEETING**

Held at \_\_\_\_\_ on \_\_\_\_\_  
 (City) (Date)

Meeting began at \_\_\_\_\_ o'clock and ended at \_\_\_\_\_ o'clock

Member	Member's city	Form AD-616 attached	No claim to be filed

This completed form must be attached to compiled forms AD-616s.  
 Forward to Budget and Finance Division, Office of Management.





SOCIAL SECURITY NO. TRAVELER'S NAME

**SECTION G - SCHEDULE OF EXPENSES AND AMOUNTS CLAIMED**

ITINERARY FROM										<b>TOTALS</b> Transfer these totals to Section D on Voucher Front. If additional days are required, use continuation sheet
DATE (Month/Day)										
CITY										
STATE										
TIME										
TO TDY LOCATION										
DATE (Month/Day)										
CITY										
COUNTY										
STATE										
TIME										
PER DIEM										TOTAL NO. DAYS
NO. OF DAYS										
LODGING (Official Account)										
MEALS AND INCIDENTAL EXPENSES										
LESS MEALS AT GOVERNMENT EXPENSE										
PER DIEM AMOUNT										TOTAL PER DIEM \$
ACTUAL SUBSISTENCE										TOTAL NO. DAYS
NO. OF DAYS										
LODGING (Official Account)										
BREAKFAST										
LUNCH										
DINNER										
MILE/OTHER										
ACTUAL SUBSISTENCE AMOUNT										TOTAL ACTUAL SUBSISTENCE \$
MILEAGE										TOTAL MILES
MILES										
RATE PER MILE										
MILEAGE AMOUNT										TOTAL MILEAGE \$
PARKING, TOLLS, ETC.										TOTAL PARKING \$
PLANE, BUS, TRAIN (Paid By Traveler)										TOTAL PLANE, BUS, TRAIN \$
UNACCOMPANIED BAGGAGE										TOTAL UNACCOMPANIED BAGGAGE \$
LOCAL TRANSPORTATION (NO TRIPS)										TOTAL LOCAL TRANSPORTATION \$
DAILY EXPENSE										
MISCELLANEOUS EXPENSES										TOTAL MISCELLANEOUS \$
TELEPHONE CALLS										
SUPPLIES, ETC.										
CAR RENTAL (Paid By Traveler) (Amount over Car Rental Agreement Maximum)										TOTAL CAR RENTAL \$
RENTAL EXPENSE										
GASOLINE EXPENSE										
REMARKS										

**PERDACT ACT NOTICE:** The following information is provided to comply with the Privacy Act of 1974 (P.L. 93-502). The information furnished on this form is required under the provisions of 5 USC, Chapter 57 (a) (1) and Executive Order 11659 of July 22, 1971 and 11012 of March 27, 1964, for the purpose of recording travel expenses incurred by the employee and to claim other allowances and advances as provided in the Federal Travel Regulations (41 CFR 301-304). The information furnished on this form will be used by Federal Agency officers and employees who have a need for such information in the performance of their duties. Information will be transferred to appropriate Federal, State, local or foreign officials, where relevant to civil, criminal, or regulatory investigations or proceedings of persons in a relationship with CIA or with other agency to cooperate with the Bureau of Prisons, or security interests, or such other investigations of the performance of official duty in Government service. Failure to provide the information requested will result in delay or termination of the employee's claim for reimbursement.