

Centers for Disease Control and Prevention
Federal Advisory Committee Management Handbook

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Chapter I

I. INTRODUCTION

The purpose of this handbook is to provide the CDC committee management community with the background, areas of responsibility, procedures, and policies related to the establishment, renewal, termination, operation, management, and appointment of members to CDC advisory committees. This issuance does not supersede the HHS Committee Management Handbook dated January, 2003.

This handbook offers general guidelines on committee management policies and procedures and is not all inclusive. The guidelines are for CDC advisory committees established and operated under the Federal Advisory Committee Act. An electronic version of this handbook is available on the CDC Federal Advisory Committee Management website. As committee management policies and procedures change, updates to this handbook will be posted on the website and distributed to handbook holders. In addition, if at any time you need advice or clarification on a topic, please do not hesitate to contact your committee management staff or the Federal Advisory Committee Management Team.

A. Background:

1. The Peer Review Process and Committees
2. Non-Peer Review Advice and Committees

B. Roles and Responsibilities:

Committee management responsibilities reside with a number of people and positions at CDC and the Department of Health and Human Services (HHS). For specific duties and roles, please review Chapter II – Sections D and E, Designated Federal Officer and Committee Management Staff. In general, the Designated Federal Officer (also known as the Scientific Review Administrator or the Executive Secretary) has responsibility for the day-to-day operations of the advisory committee. These individuals are responsible for planning the meetings, preparing reports and minutes of meetings, and other committee operations.

The agency Committee Management Officer is generally responsible for working with the Designated Federal Officer to ensure charters are established and maintained for continuing operations of committees, members are selected in a timely fashion, Federal Register Notices are prepared to announce meetings, conflict of interest documents are

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reviewed and evaluated, and annual and special reports are compiled and forwarded to the Office of the Secretary, HHS.

The Federal Advisory Committee Management Team is responsible for the oversight of all CDC Federal advisory committees under the auspices of FACA. The CDC Committee Management Officer is responsible for directing and managing all phases of committee management policy and procedure development and dissemination to CDC staff as well as to Federal advisory committee members. These policies and procedures serve as the primary focal point for ensuring that appropriate laws, regulations and policies are understood and adhered to in the establishment and renewal of committees, the nomination and appointment of all committee members, and the various reporting mechanisms required by the Office of Management and Budget (OMB), the General Services Administration (GSA), the Congress, and the President.

C. Laws and Regulations Governing Committee Management:

Listed below are a number of laws that shape the structure and function of committee management and advisory committees in the Executive Branch of the Federal Government. Advisory committees at CDC are subject to these laws. Copies of these documents can be viewed and retrieved from the Federal Advisory Committee Management Team website.

1. **FEDERAL ADVISORY COMMITTEE ACT (FACA):** Public Law 92-463 passed on October 6, 1972. Because of the numerous committees advising the Federal Government, Congress decided to establish a system to govern the creation, operation, and duration of advisory committees in the Executive Branch of the Federal Government.

Specifically Congress determined that:

- a. the need for many existing committees had not been reviewed;
- b. new committees should be established only when it was determined it was essential;
- c. committees should be terminated when they are no longer needed;
- d. there should be standard and uniform procedures governing the operation of committees;
- e. Congress and the public should be kept informed of the number, purpose, membership activities, and costs of advisory committees; and

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- f. the function of advisory committees should be advisory only.

In order to accomplish this, FACA outlines general responsibilities of Federal Officials involved with committee management and broad guidelines for the operation of advisory committees.

2. **GOVERNMENT IN THE SUNSHINE ACT:** Public Law 94-409. This is an amendment to FACA in which the rights of citizens to participate and obtain information on the decision making process of the Federal Government is balanced with protecting the rights of the individual. In one section of the Act, exemptions are listed for closing or partially closing advisory committee meetings to the public. The exemptions are as follows:
 - The fourth exemption applies to “trade secrets and commercial or financial information obtained from a person, privileged or confidential.” It is most reasonably used where it can clearly be determined that potentially patentable information would be disclosed.
 - The sixth exemption applies to “information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.” Use it as necessary to protect the personal privacy of identifiable individuals. One example of its use is where applications are being reviewed, and the information to be disclosed would relate to an individual’s personal or professional qualifications or characteristics.
3. **PUBLIC HEALTH SERVICE ACT:** Title 42, United States Code. The creation of National Advisory Councils, Initial Review Groups and several other Federal Advisory Committees are prescribed in the Public Health Service Act. The PHS Act also details many areas including the structure, roles and responsibilities of Federal staff, and funding, to name a few. It also specifically mandates the establishment, function, membership, and duration of these advisory committees. The PHS Act authorizes the Secretary and Agency Heads to establish advisory committees as necessary in some cases.
4. **PRIVACY ACT:** Public Law 93-574. Congress found that in order to protect the privacy of individuals identified in information systems maintained by Federal agencies, it was necessary to regulate the collection, maintenance, use, and dissemination of information collected by such agencies. The purpose of the Privacy Act is to provide safeguards for an individual against an invasion of personal privacy. Records of members of advisory committees are subject to The Privacy Act.

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5. **FREEDOM OF INFORMATION ACT:** Public Law 104-231. The Freedom of Information Act sets standards for determining which records held by Government agencies must be made available to the public and which records must be withheld.
6. **GSA FINAL RULE:** 41 CFR Parts 101-6 and 102-3. The GSA Rule is an administrative document that provides interpretive guidelines for FACA. For example, FACA states that meetings must be announced in the Federal Register. The GSA Rule provides administrative guidance by adding a timeframe for the announcement of these meetings. Currently, it states that meetings must be advertised at least 15 days before the meeting.
7. **HHS CHAPTER 9-00 GENERAL ADMINISTRATION MANUAL:** Manual chapter developed by the Department to define HHS policies on the establishment, renewal/recharter, and termination of advisory committees; the nomination and appointment of committee members; the roles and responsibilities of Federal staff involved with the operation of committees, conflict of interest, confidentiality, procurement integrity, and ethical conduct of committee members; the conduct of committee business; and advisory committee reports.
8. **EXECUTIVE ORDER 12838:** Signed by President Clinton on February 10, 1993, ordering the reduction of Federal Advisory Committees within the Executive Branch and limits the establishment of new committees.
9. **EXECUTIVE ORDER 12024:** Signed by President Jimmy Carter on December 1, 1977 to transfer certain functions under the Federal Advisory Committee Act as amended from the Office of Management and Budget and its Director to the Administrator of General Services.

Other policies and guidelines that further shape and define how advisory committees at CDC operate are:

- HHS Federal Advisory Committee Management Handbook
- CDC Peer Review Manual - <http://intranet.phppo.cdc.gov/documents/cdc-prt.pdf> (Appendix A)

Copies of the documents discussed above can be accessed from the Federal Advisory Committee Management Team's website at the following address:

<http://intranet.cdc.gov/maso/cmppa/faca.htm> (Appendix B)

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Chapter II

II. STRUCTURE OF ADVISORY COMMITTEES

A. Types and Purpose of Advisory Committees:

1. **Advisory Committees (AC):** Advisory committees are defined as any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup, which is (a) established by statute or reorganization plan, or (b) established or utilized by the President; or (c) 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. Committees whose membership is entirely Federal employees or are non-advisory are exempt from FACA.
2. **Boards of Scientific Counselors (BSCs):** These types of boards provide principal external review for intramural programs, which is utilized by the various Bureaus, Centers, Institutes and Research Divisions. The board consults and advises on the quality of science and the research programs.
3. **Initial Review Groups (IRGs) and Study Sections:** These types of advisory committees are engaged in scientific and technical peer review of grant applications, cooperative agreements, or contract proposals. Members serve for fixed terms up to four years and are appointed by the Secretary, HHS. Members are not Special Government Employees (SGEs) and are not required to file an OGE 450.
4. **Special Emphasis Panels (SEPs):** The Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP) provides an objective method of application review by including federal and private sector experts. The integrity of the review process, the ability to award and process grants in a timely manner, and CDC's* responsiveness to applicants is facilitated by the panel. The SEP enables expert review of assistance applications, and provides non-federal members a role in the decision-making process. Requirements for SEP composition ensure a balance of representation, providing additional objectivity to the process. All CDC programs which award grants or enter into cooperative agreements may use this Panel for the review of applications.

B. Types of Members and Their Purpose:

1. **Chair:** The committee Chair is a member of the committee selected by the appointing authority. The Chair of a committee presides at all meetings of the committee, makes sure the agenda is adhered to as closely as possible, ensures public participation, and certifies as to the accuracy of meeting minutes. The Chair ensures that all rules of order

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and conduct are maintained during each meeting. If the Chair must leave the meeting due to a conflict of interest, that individual appoints another committee member/Designated Federal Officer (DFO) to preside. When a committee member(s) may not participate in committee discussions due to a conflict of interest situation, the Chair makes sure that the member(s) does not participate and physically leaves the room.

2. **Appointed Members:** Most appointed members of the committee are classified as special government employees, or SGEs. An SGE is a private citizen appointed based on expertise that will contribute to the committee's objectives. SGEs serve for 130 days or less per year, render personal opinion only, and are legally held accountable for ethical issues, particularly financial interests. All SGEs must review and comply with the standards of ethical conduct for employees of the executive branch. Finally, SGEs attend all meetings and actively participate in committee discussions, deliberations, and recommendations.
3. **Ex-Officio Members:** An ex-officio member is a federal official who represents his or her agency and possesses expertise in the subject matter. This person has full voting rights unless otherwise stated in the charter or legislation.
4. **Liaison Representatives:** A liaison member is a non-voting member, also known as a representative. This person represents a special interest group, an organization, or an affected population.
5. **Special Emphasis Panel Participants:** A SEP participant is designated to serve on one special emphasis panel and has full voting rights on applications, proposals, or other matters under consideration. The quorum for the meeting is determined by the number of individuals designated to attend.
6. **Federal Members:** Full time employees of the Federal Government. Not more than one-fourth of the members of any committee involved with peer review may be officers or employees of the Federal Government.
7. **Subcommittee Members:** Subcommittee members who are not members of the parent committee must be appointed as SGEs prior to attending a subcommittee meeting. As such, they must complete and have cleared all appointment papers, to include a Confidential Financial Disclosure Report (OGE 450) and a Foreign Activities Questionnaire (HHS 697). Like all committee members, SGE subcommittee members must update their OGE 450 prior to each meeting.
8. **Ad Hoc Consultants:** Also referred to as non-member attendees, may be invited to subcommittee or parent committee meetings as reviewers, discussants, or presenters.

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They may not vote on committee recommendations and may not count towards the quorum.

C. Subcommittees and Workgroups:

1. **Subcommittees:** A subcommittee is defined as a group, generally not subject to FACA, that reports to an advisory committee and not directly to a Federal officer or agency, whether or not its members are drawn in whole or in part from the parent advisory committee. While subcommittees are not subject to FACA, CDC requires that subcommittees adhere to the notice and open meeting provisions of FACA (41 CFR Part 102.3.35 (a)). The activities of subcommittees generally are covered by the charter of the parent committee. Structure: At least one member of the parent committee; additional, non-parent committee members, who are appointed as Special Government employees; and ad hoc consultants, as needed.
2. **Workgroup:** A workgroup is defined as a group, generally not subject to FACA, that reports to an advisory committee or an established subcommittee. The workgroup is convened to gather information, conduct research, draft position papers and analyze relevant issues and facts. Working groups do not make any decisions; recommendations of a working group must be funneled back through, and decided upon, by the subcommittee or by the parent advisory committee to which it is attached. (41 CFR Part 102-3.40(f)) Structure: At least two members of the parent committee or of the subcommittee; and other volunteer consultants.

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Chapter III

III. ROLES AND RESPONSIBILITIES

A. Committee Management Officer

The agency Committee Management Officer has responsibility for the oversight of all CDC advisory committees established and operated under the Federal Advisory Committee Act (FACA). This includes:

1. exercising control and supervision over the establishment procedures and accomplishments of advisory committees;
2. preparing various annual and intermittent reports on behalf of the CDC related to advisory committees, organization, activities, costs, etc., carryout out, on behalf of the agency, the provisions of section 552 of title 5 USC, with respect to such reports, records, and other papers;
3. providing advice and training to the committee management community at CDC;
4. developing and disseminating policy regarding committee management; ensuring consistency in the implementation of committee management policies and procedures and devising internal management controls for committee management at CDC;
5. establishing uniform administrative guidelines and management controls for advisory committees;
6. developing streamlined procedures for committee management functions;
7. overseeing and developing the database of committees, members, and committee costs;
8. working closely with the White House Liaison and the HHS Committee Management Officer regarding the appointment of members to CDC advisory committees;
9. collaborating with the Office of General Counsel regarding the interpretation of laws and deciphering this information to the committee management community;

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10. working closely with the Committee Management Secretariat in the General Services Administration regarding the reporting of the yearly achievements and costs of advisory committees at CDC, and coordinating FACA training for CDC staff.

B. Designated Federal Officer (DFO): also referred to as Scientific Review Administrator (SRA) or Executive Secretary

Many of the duties and responsibilities of the DFO are stated in FACA, Sections 10(e) and 10(f). The DFO must:

1. approve or call the meeting of the advisory committee
2. approve the agenda;
3. attend the meeting;
4. adjourn the meeting when such adjournment is in the public interest or in the best interest of the government; and
5. chair the meeting when so directed by the agency head.

In addition to the responsibilities required by FACA, the DFO may be required to:

1. assure that accurate records are kept of the committee's deliberations; maintain the records, reports, transcripts, minutes, working papers, drafts, studies, agenda, or other documents that are made available to or are prepared for or by an advisory committee;
2. prepare minutes following the meeting and ensure they are certified by the Chair;
3. review conflict of interest documents and obtain all necessary signatures and certifications;
4. send the agenda and copies of all related information to the members before the meeting; make logistical arrangements for the meeting including overnight accommodations for members when applicable, notify members of these arrangements; and arrange for resource persons, guest speakers, and supplementary materials when needed; and

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5. provide information for or prepare the Federal Register Notice; notify individuals or organizations that have requested notification in advance; and use press releases and notices in professional journals, as appropriate;
6. keep all committee documents which are made available to or prepared by the advisory committee and adhere to the CDC Records Control Schedule.
7. work with the CDC Committee Management Officer for the timely appointment of new advisory committee members, and establishment, renewal, rechartering, amendment, or termination of the committee's charter;
8. sit next to the Chair for communication during the meeting and make sure that the committee business is conducted according to all applicable regulations, policies and procedures.

Duties of a DFO - http://intranet.cdc.gov/maso/cmppa/pdfs/Duties_of_a_DFO.pdf (Appendix C)

Officially Name a DFO - <http://intranet.cdc.gov/maso/cmppa/pdfs/DFONotificationMemo.pdf> (Appendix D)

C. Committee Management Staff:

Committee management responsibilities reside at several different levels at CDC.

1. **National Center-level/Coordinating Center and Office-level/Office of the Director-Level Committee Management Staff:**
 - a. prepare amendment, recharter, or renewal charter packages for committees as necessary;
 - b. prepare nomination and appointment documents for membership on advisory committees;
 - c. provide technical assistance to committee members;
 - d. provide initial review of conflict of interest disclosures (FACMT);
 - e. prepare Federal Register Notices for the timely notification to the public of advisory committee meetings
 - f. advise CDC staff on current policies and procedures (FACMT)
 - g. prepare reports on CDC committees to be submitted to the Department (FACMT)

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2. **Committee Management Secretariat, General Services Administration** – Section 7 of FACA authorizes the Committee Management Secretariat, located in the General Services Administration, to administer the Act. In addition, Executive Order 12024 delegated to the Administrator of GSA all the functions vesting in the President by FACA, except that the Annual Report to the Congress shall be prepared by the Administrator for the President’s consideration and transmittal to the Congress. The Committee Management Secretariat responsibilities include:
 - a. Prescribing administrative guidelines and management controls applicable to advisory committees; and
 - b. Where applicable, providing advice, assistance, and guidance to advisory committees to improve their performance.

3. **Office of Management and Budget (OMB)** – Works with GSA in the oversight of advisory committees established under FACA and is responsible for:
 - a. reviewing and approving agency advisory committee management plans pursuant to section 5 and in accordance with Executive Order 12838;
 - b. setting advisory committee ceilings for each agency within the government-wide advisory committee reduction goal;
 - c. working with agencies to control the establishment of statutory advisory committees and developing legislation to terminate those non-discretionary committees which are no longer necessary;
 - d. ensuring that relevant legislation is reviewed consistent with OMB Circular A-19; and
 - e. ensuring agencies meet the cost reduction target recommended by the Vice President’s National Performance Review.

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Chapter IV

IV. CHARTERING ADVISORY COMMITTEES

Federal advisory committees may not be established unless such establishment is specifically authorized by statute, by the President, or the Secretary, HHS. Discretionary (non-statutory) advisory committees will be established only after the Secretary, HHS has determined after consultation with GSA and OMB, where required, that the specific functions and duties cannot be adequately performed by existing CDC offices, by information working relationships within or between departments or agencies of the Federal Government, or by existing Federal advisory committees. A Federal advisory committee may be requested when (1) there is a genuine need for advice from an advisory committee, and it is in the public interest to establish a committee to provide advice necessary to carry out the responsibilities imposed on the Department by law; and (2) officials have ensured that adequate authority exists for such establishment and the authority complies with statutory requirements and restrictions.

A. Which Committees Must be Chartered?:

1. All advisory committees that meet the criteria specified in the Federal Advisory Committee Act of 1972 (FACA), as amended, must be chartered in accordance with section 9(c) of the Act. Such committees may only be established under certain prescribed authorities which reside with the Secretary, HHS or other officials to whom the authority has been delegated or statutorily established.
2. When a group of individuals meet to provide advice to the Government, in most cases their activities are government by FACA. The specific definitions to be applied to advisory groups are found in 41 CFR Part 101-6, the most critical of which states that an advisory committee subject to the Act *'means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof, which is established by statute, or established or utilized by the President or any agency official for the purpose of obtaining advice or recommendations on issues or policies which are within the scope of his or her responsibilities'* (41 CFR 101-6.1003).
3. Committees not covered by FACA include those composed entirely of full-time officers or employees of the Federal Government; those specifically exempted by an Act of Congress; several specifically-named Federal agency groups; local civic groups providing advice to State or local officials or agencies primarily operational, as opposed to advisory groups; meetings called to obtain advice from one individual; meetings call to obtain advice from individual attendees, but not for obtaining recommendations or consensus advice (when the agency treats

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individual advice as a source of consensus advice or recommendations, the exemption does not apply); meetings initiated by outside groups to express their views so long as the President or Federal officials do not use the group recurrently as a preferred source of advice or recommendations; meetings of two or more advisory committee or subcommittee members convened solely to gather information or conduct research for a chartered advisory committee, to analyze relevant issues and facts, or to draft proposed position papers for deliberation by the advisory committee or a subcommittee thereof; or any meetings called by the President or Federal officials for the purpose of exchanging facts or information.

4. There are a number of ways for agencies to obtain advice without establishing a Federal advisory committee. For example, the following activities are not covered by FACA and do not require establishment of a Federal advisory committee. (See FACA Final Rule, 41 CFR 102-3.40)
 - a) groups that assemble to provide individual advice;
 - b) groups that assemble to exchange facts or information;
 - c) groups that consist entirely of Federal employees;
 - d) meetings to obtain recommendations or advice from one individual.

B. Establishing a New Committee

1. The Federal Advisory Committee Management Team is responsible for handling the establishment of all CDC advisory committees. This includes those chartered by the Secretary, as well as those chartered by the President or other legislative mandate. A proposal to establish a committee generally originates with the program or review staff of the Coordinating Center, Coordinating Office, National Center or Office of the Director that the committee would serve.
2. Prior to submitting a formal request for establishment of a Presidential or Statutory Advisory Committee, program officials should consult with the CDC Committee Management Officer for advice, recommendations, and to determine if the establishment of a committee is the best way to obtain the needed advice.
3. FACA states before any advisory committee can meet; a charter must be prepared and filed with the appropriate Senate and House committees, and the Library of Congress. It further states that each charter must contain:
 - a) the committee's official designation;

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- b) the committee's objectives and scope of activity;
- c) the period of time necessary to complete its purpose;
- d) the agency or official to whom the committee reports;
- e) the agency responsible for providing support;
- f) the duties of the committee;
- g) the annual operating costs;
- h) the number and frequency of meetings;
- i) the committee's termination date; and
- j) the date the charter is filed.

In addition to complying with the law, a charter is useful for defining the structure and function of a committee if there is no legislation defining the committee or if the legislation is vague. Charters may also describe the roles and responsibilities of members and staff and may define the quorum for meetings. Charters are public documents and can be given to anyone requesting a copy.

- 4. FACA requires that a Charter be approved and signed by the Secretary or a delegated official. When establishing a new Federal advisory committee, unless otherwise provided for by law, all charters have a maximum duration of two years.

Request to Establish a Committee: Charter Package

Certain documents are incorporated into a charter package when establishment of a charter is requested. All committee requests do not require the same documents (i.e., Presidential, Discretionary, Statutory Advisory Committees). A breakdown follows which shows the required documents according to the committee type. The Committee Management Officer should verify that a committee slot is available before submitting a charter package for a new Discretionary Advisory Committee. In addition, all proposed charters for the establishment of a new committee should be submitted in draft form for review by the Department Committee Management Officer, prior to submitting a final charter package.

Charter Establishment Prototype –(Appendix E)

<http://intranet.cdc.gov/maso/cmppa/pdfs/CharterEstablishmentPackage.pdf>

- 1. Discretionary Advisory Committee:
 - a. Action memorandum: Request a committee
 - b. Proposed Charter
 - c. Formal Determination
 - d. Delegation of authority to appoint members (if applicable)
 - e. Financial Operating Plan

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- f. Proposed Plan for Balance of Membership
- g. Copy of Legislative authority
- h. Filing letters and envelopes

2. Statutory Advisory Committee:

- a. Action memorandum to Secretary to request a committee
- b. Proposed Charter
- c. Finding
- d. Delegation of authority to appoint members (if applicable)
- e. Financial Operating Plan
- f. Proposed Plan for Balance of Membership
- g. Copy of Legislative authority
- h. Filing letters and envelopes

3. Presidential Advisory Committee:

- a. Action memorandum to the Secretary to request a committee
- b. Proposed Charter
- c. Copy of Establishing Authority
- d. Filing letters and envelopes

A Federal advisory committee is not officially established until the following steps have been completed:

1. The Secretary or designated official has signed the Charter, Finding or Formal Determination, as appropriate;
2. A public announcement of the establishment of a discretionary committee has been made in the Federal Register by the initiating organization fifteen (15) calendar days prior to the DCMO filing the committee's charter.
3. Discretionary, Statutory, and Presidential Advisory Committee Charters must be filed with the appropriate Congressional Committees, the Library of Congress, and the Committee Management Secretariat of GSA by the Department Committee Management Officer, in accordance with FACA.

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C. Rechartering/Renewing a Committee Charter

When to Renew/Recharter a Committee:

Federal advisory committees covered by FACA terminate no later than two years after their chartering or last renewal unless renewed or rechartered by appropriate action prior to the end of that two-year period. Certain documents are incorporated into a charter package for the renewal/recharter request. A breakdown follows which shows the required documents according to the committee type.

1. Discretionary Advisory Committee:

- a. Action memorandum: Request Renewal
- b. Notice of Renewal
- c. Proposed Charter
- d. Delegation of authority to appoint members (if applicable)
- e. Proposed Plan for Balance of Membership
- f. Copy of Legislative authority
- g. Financial Operating Plan
- h. Current Charter
- i. Professional Area Breakdown
- j. Filing letters and envelopes

2. Statutory Advisory Committee:

- a. Action memorandum: Request Recharter
- b. Notice of Rechartering
- c. Proposed Charter
- d. Delegation of authority to appoint members (if applicable)
- e. Proposed Plan for Balance of Membership
- f. Copy of Legislative authority
- g. Financial Operating Plan
- h. Current Charter
- i. Professional Area Breakdown
- j. Filing letters and envelopes

3. Presidential Advisory Committee:

- a. Action memorandum: Request Renewal/Recharter
- b. Notice of Renewal/Recharter
- c. Proposed Charter
- d. Copy of Authority to Continue

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- e. Proposed Plan for Balance of Membership
- f. Financial Operating Plan
- g. Current Charter
- h. Professional Area Breakdown
- i. Filing letters and envelopes

A Federal advisory committee is not officially renewed/rechartered until the following have been completed:

- a. the Secretary or designated official has signed the Charter, Finding or Formal Determination, as appropriate;
- b. the committee's charter has been filed with the appropriate Congressional Committees, the Library of Congress, and the Committee Management Secretariat of GSA by the Department Committee Management Officer, in accordance with FACA.

Charter Renewal/Recharter Prototype - (Appendix F)

[http://intranet.cdc.gov/maso/cmppa/pdfs/Charter_Renewal_\(Recharter\)_Package.pdf](http://intranet.cdc.gov/maso/cmppa/pdfs/Charter_Renewal_(Recharter)_Package.pdf)

Amending an Existing Charter

4. When to Amend a Committee Charter

Charters of committees may be amended for a variety of reasons. The most common is to reflect a change in function or in the structure. In addition, blanket charter amendments may also be initiated to provide for changes which would apply to a number of committees; for example, a change in the rate of compensation made to members, or a change in standard charter language as ordered by the Department.

- 5. Documents Required for charter amendments (Discretionary, Statutory, or Presidential):
 - a. Action memorandum: Request to Amend a Charter
 - b. Amended section(s) of the Charter
 - c. Copy of Legislative Authority or Authority to Continue
 - d. Current Charter
 - e. Filing letters and envelopes

Charter Amendment Prototype- (Appendix G)

<http://intranet.cdc.gov/maso/cmppa/pdf/ACIPFIN2004amend.pdf>

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D. Terminating/Abolishing a Committee

1. When to Terminate a Committee:

Committees are abolished or terminated when there is no longer a requirement for the advice, the work of the committee is completed (e.g., a final report has been prepared), or the function served by the committee can be accomplished in another more efficient or effective way.

To terminate a statutory committee, specific legislation to that effect is required. A non-statutory committee is most easily terminated when its renewal is under consideration. In this case, if it is determined that the committee should be terminated, appropriate officials must be notified and the committee's charter may then be allowed to lapse.

Charter Termination Memorandum – (Appendix H)
<http://intranet.cdc.gov/maso/cmppa/pdfs/TerminationMemo.pdf>

2. Documents Required:

- a. Termination or abolition of Discretionary Advisory Committees requires the submission of a request by the Program to the CDC Committee Management Officer for a) approval to allow a committee charter to expire; or b) approval to abolish a committee, which has completed its assigned tasks or whose existence is no longer deemed necessary.
- b. Termination or abolition of Statutory Advisory Committees requires a request from the Secretary to the Speaker of the House to repeal the statute. Legislation must be introduced and passed by Congress to eliminate statutory advisory committees that are no longer needed. If a statutory committee has a sunset date written into its legislation, no further documentation is required.

E. Subcommittees and Workgroups

1.

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Chapter V

V. NOMINATION OF MEMBERS TO ADVISORY COMMITTEES

A. Purpose

Persons are nominated, selected, and appointed to a CDC Federal advisory committee based on their qualifications and ability to contribute to the accomplishment of the committee's objectives. The authority, which establishes the committee or the committee charter, spells out the qualification requirements for committee membership.

B. Policy

1. Selection Criteria:

- a. General – FACA requires that the membership of advisory committees be ‘fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee.’
- b. Qualifications – The primary consideration in the nomination process is the selection of highly qualified individuals.
- c. Female and Minority Representation – Special emphasis should be taken to assure that women and ethnic/racial minorities are adequately represented on all CDC Federal advisory committees. Ethnic/racial minorities categories are: Alaska Native or Native American; Asian; Pacific Islander; Black; and Hispanic. One other designation for Caucasian is White.
- d. Geographic Distribution – All geographic regions of the U.S. should be represented on CDC advisory committees. The regions are South, West, East, and Central.
- e. Citizenship – Every effort is made to fill advisory committee membership by U.S. citizens. Recommendations for advisory committee membership by non-citizens of the U.S. are handled on a case-by-case basis.

2. Terms of Appointment:

- a. General – Members may serve for overlapping terms of up to four years

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unless the law or committee charter stipulates otherwise. Terms of less than four years may be necessary for a uniform rotation or to fill a vacancy of an unexpired term.

- b. **Scheduled Vacancies** – Submit the names of a principal and an alternate nominee per vacancy to the Department at least five months in advance of the vacancy’s occurrence.
- c. **Unscheduled Vacancies** – Vacancies which occur when a member resigns, dies, or service is terminated for any reason before the scheduled term is completed. Submit the names of a principal and an alternate nominee per vacancy as soon as the vacancy occurs, but not later than two months after its occurrence.
- d. **Reappointments** – It is Departmental policy to avoid excessive individual serve on advisory committees and multiple committee memberships. Therefore, restrictions may apply to advisory committee membership. If any of the following apply to a nominee, a waiver must be submitted in the draft nomination package. A Federal advisory committee member may not:
 - i. Serve continuously as a member of any single advisory committee for more than four years;
 - ii. Serve for more than eight combined years within a period of 12 years on one or more committees within an agency;
 - iii. Serve on more than one committee within an agency at the same time;
 - iv. Serve on the same committee at the same time with another individual who is affiliated with a particular non-Federal organization or institution in the same city excluding designated multi-campus organizations and State systems.

3. **Composition of Committees:**

In general, the composition of members of each advisory committee is detailed in the committee’s charter.

- a. **Public members** – Most appointed members of the committee are considered Special Government Employees, or SGE’s. An SGE is a private citizen appointed based on expertise that will contribute to the committee’s objectives. SGE’s serve for 130 days or less per year, render personal opinion only, and are legally held accountable for

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ethical issues, particularly financial interests.

- b. Ex-Officio members – A Federal official who represents his or her agency and possesses expertise in the subject matter. This person has full voting rights unless otherwise stated in the charter or legislation.
- c. Liaison member – A non-voting member, also known as a representative. This person represents a special interest group, an organization, or an affected population.

4. Compensation:

- a. General – Non-Federal members are compensated at the rate of \$250 per day honoraria, or at the rate of \$31.25 per hour as determined by the agency, not to exceed \$250 per day; for time spent at meetings and site visits and, in addition, are reimbursed for travel expenses and per diem incurred in connection with these activities.
- b. Special Government Employees – Members are granted a personnel appointment and are paid the consultant fee (honoraria) through the government payroll system. A separate reimbursement is processed for travel expenses and per diem.
- c. Full-time Federal employees – Members are not eligible to receive a consultant fee and must travel under a Federal travel order.

C. Sources for Obtaining Candidates

The Executive Secretary will identify suitable nominees based on knowledge of the potential nominees' discipline and expertise. Solicitation of names of individuals in a given area may come from leaders in pertinent fields, scientific and professional organizations, and staff. Nominees may also be received from Agency officials, members of Congress, the general public, current or former committee members, professional organizations, universities and colleges, IMPAC II database, committee management database. Executive Secretaries may also solicit nominees through a Federal Register Notice or newspaper.

FRN to solicit nominees – (Appendix I)

<http://intranet.cdc.gov/maso/emppa/pdfs/SolicitingNominees.pdf>

D. General Nomination Procedures

Advance Review of Proposed Nominees: An advanced review or draft nomination

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package must be sent to the Secretary five months in advance of term ending dates and immediately upon any vacancies occurring, but no later than two months after its occurrence. The proposed nomination slate should include:

- a. Action memorandum: Recommended Nominees (no letterhead). A principal and alternate nominee per slot should be sent forward for consideration.
- b. Current Charter
- c. Current membership roster
- d. Professional Area Breakdown
- e. Resumes

NOTE: Letters of Invitation, Acknowledgment Forms, and HHS Forms 532 are not required in the draft nomination package.

Draft nomination package – (Appendix J)

http://intranet.cdc.gov/maso/cmppa/pdfs/Draft_Nomination_Package.pdf

Final Nomination Slate: The Secretary will approve the final slate and a final nomination package is prepared. In the final nomination package, the Secretary will sign the HHS Form 532 and Letter of Invitation. The final nomination package will include:

- a. Action Memorandum: Recommended Nominees
- b. TAB A: Current Charter
- c. TAB B: Current Membership Roster
- d. TAB C: Professional Area Breakdown
- e. TAB D: Resumes and HHS Forms 532
- f. Waivers (if applicable)
- g. Letters of Invitation
 - i. Letters of invitation are prepared for the Secretary's signature and forwarded along with the nomination package. After the Secretary approves the nominee(s), the letters are sent to candidates inviting them to serve on the committee
 - ii. Enclosures to the letters of invitation are:
 - 1. Acknowledgment of Invitation
 - 2. Copy of current charter (for a new appointment)
 - 3. Envelope to candidate and return envelope to the CDC Committee Management Officer

Final nomination package – (Appendix K)

http://intranet.cdc.gov/maso/cmppa/pdfs/Final_Nomination_Package.pdf

The acknowledgement of invitation from the candidate is received by the CDC

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Committee Management Officer and a follow-up letter (welcome letter) is prepared for the Director, CDC's signature. This letter informs the nominee, in writing, of the necessary appointment procedures and the forms to be completed. Please refer to the Administrative Fact Sheet for the list of forms required by CDC.

Welcome Letter Prototype – (Appendix L)

<http://intranet.cdc.gov/maso/cmppa/facaPrototypes.htm#welcome>

Administrative Fact Sheet – (Appendix M)

<http://intranet.cdc.gov/maso/cmppa/pdfs/AdmFactSheetrev05.pdf>

Letter of Appreciation and Certificate: A letter of appreciation and a certificate may be prepared for the signature of the Director, CDC when members complete their designated terms of service or if they leave for any reason. (Appendix N)

<http://intranet.cdc.gov/maso/cmppa/pdfs/RetiringMbrLtrOfAppreciation.pdf>

E. Waivers

If it is determined that a candidate is not available to serve on a Federal advisory committee because of Department policy, the Director, CDC may decide that sufficient justification exists to request an exception to Department policy concerning membership. The waiver request must accompany the draft nomination package.

1. Department Policy for Waivers as stated in the HHS General Administration Manual, Chapter 9-00-07, Section B4, Nomination, Selection, and Appointment of Federal Advisory Committee Members, as revised 9/30/98. It is Department policy to avoid excessive individual serve on advisory committees and multiple committee memberships. Specifically, this policy provides that a Federal advisory committee member will not:
 - a. Serve continuously as a member of any single advisory committee for more than four years;
 - b. Serve for more than eight combined years within a period of 12 years on one or more committees within an agency;
 - c. Serve on more than one committee within an agency at the same time; or
 - d. Serve on the same committee at the same time with another individual who is affiliated with the same non-Federal organization or institution in the same city excluding designated multi-campus organizations and State systems.

Waivers of Department Policy Prototypes – (Appendix O)

<http://intranet.cdc.gov/maso/cmppa/facaPrototypes.htm>

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Chapter VI

VI. APPOINTMENT AND TERMINATION OF COMMITTEE MEMBERS

A. Appointment of Special Government Employees

1. Nominees that have been approved for service on an advisory committee receive an appointment package. This package consists of:
 - a. A follow-up letter from the Director, CDC (welcome letter).
 - b. Administrative Fact Sheet for Special Government Employees outlining the All forms that must be completed by the nominee in order to be put into the CDC system.
 - c. A self-addressed envelope for the new member to return the forms to CDC for processing.
2. Orientation of New Member – The DFO provides orientation to the new members regarding the purpose and goals of the committee, including their responsibilities to the committee and the agency. Ethics training is conducted by the appropriate official.

Welcome Letter Prototype – (Appendix L)

<http://intranet.cdc.gov/maso/cmppa/facaPrototypes.htm#welcome>

Administrative Fact Sheet – (Appendix M)

<http://intranet.cdc.gov/maso/cmppa/pdfs/AdmFactSheetrev05.pdf>

Under separate cover, the Federal Advisory Committee Management Team will send the new member information regarding the standards of conduct and ethics rules for Special Government Employees.

B. Designation of SEPs/Temporary Members and Ad Hoc/Special Consultants

Individuals who are asked to serve as Temporary Members on Initial Review Groups, or as participants on Special Emphasis Panels are designated to serve by invitation from the Designated Federal Officer (Executive Secretary or Scientific Review Administrator) conducting the meeting. Ad hoc/Special consultants are invited to attend a meeting by the DFO, but may not vote or count towards a quorum. Special Emphasis Panel members are appointed to serve on an “as

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needed” basis in response to specific applications to be reviewed. Special Emphasis Panel members are voting members.

C. Termination of Committee Members

2. Regular Terminations:

When members have completed their terms and rotate off a committee, no special type of paperwork is required. A member may serve 180 days after his term of service if a successor has not taken office.

3. Resignations:

If a member resigns from the committee, an e-mail or letter to the DFO is necessary. The DFO forwards that information to the Federal Advisory Committee Management Team. The database will reflect that the member has resigned and the date of resignation.

4. Other Types of Term Ends:

These may include death of a member. The DFO notifies the Federal Advisory Committee Management Team of the death. The database will reflect that the member is deceased and the date of death.

5. Letters of Appreciation and Certificates for Members:

As members complete their service on a CDC Federal advisory committee, a letter of appreciation and a certificate may be prepared for the signature of the Director, CDC when members complete their designated terms of service or if they leave for any reason. The DFO sends a request to the Federal Advisory Committee Management Team including the members’ name, credentials, mailing address, term of service, and whether they served as a member or chair of the committee.

Retiring Members’ Letter of Appreciation and Certificate – (Appendix N)

<http://intranet.cdc.gov/maso/cmppa/pdfs/RetiringMbrLtrOfAppreciation.pdf>

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Chapter VII

VII. ADVISORY COMMITTEE MEETINGS

No meeting shall be held in the absence of a quorum. Unless otherwise established in the charter or legislation, a quorum shall consist of a majority (one more than half) of the committee's authorized membership including ex-officio members. Each meeting of a committee shall be conducted in accordance with an approved agenda. A DFO must be present at each committee or subcommittee meeting. If simultaneous subcommittee meetings are to be held, each subcommittee shall have a full or part-time federal employee in attendance, serving as the DFO.

A. Agenda

1. The Federal Advisory Committee Act requires that:
 - a. Agendas be approved by the DFO; and
 - b. A summary of the agenda must be included in the meeting notice that is published in the Federal Register.
2. The GSA regulations and Department policy require that the following information be included when preparing agendas:
 - a. Approximate times and complete address of the meeting place;
 - b. Designated open and closed portions of the meeting;
 - c. Appropriate statements concerning reasons for closing; and
 - d. List of all matters to be considered at the meeting.

B. Federal Register Notices

The Federal Register is a legal newspaper in which the Executive Branch of the United States Government publishes regulations, orders, and other documents. Citizens thereby are informed of their rights, obligations, and the benefits of their Government. The Federal Register is issued weekdays by the Office of the Federal Register.

Federal Register Notices are to be published in the Federal Register fifteen (15) days

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prior to the committee meeting.

1. The Federal Advisory Committee Act states:
 - a. Sec. 10 (a)(1) Each advisory committee meeting shall be open to the public.
 - b. Sec. 10(a)(2) Except when the President determines otherwise for reasons of national security, timely notice of each such meeting shall be published in the Federal Register.
2. Federal Register Notices will include:
 - a. The exact name of the advisory committee as chartered;
 - b. The time, date, place, and purpose of the meeting;
 - c. A summary of the agenda;
 - d. A statement whether all or part of the meeting is open to the public or closed. If closed, the reasons why, citing the specific exemptions of the Government in the Sunshine Act (5 U.S.C. 552b) as the basis for closure.
 - e. The name, address, and telephone number of the committee's DFO or other official who may be contacted for additional information concerning the meeting.
3. A cancellation or amended notice of a previously announced meeting must be submitted to the Federal Register in time for public notice before the original meeting date.
4. In exceptional circumstances, the agency may give less than fifteen (15) days notice, provided that the reasons for doing so are included in the committee meeting notice published in the Federal Register.
5. Closed Meetings – Public Law 91-409, referred to as “Government in the Sunshine Act”, addresses closed meetings in one section, which states instances for closed meetings:
 - a. 5 U.S.C. 552b(c)(4) disclose trade secrets and commercial or financial information obtained from a person and considered privileged or confidential;

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- b. 5 U.S.C. 552b(c)(6) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - c. 5 U.S.C. 552b(c)(9) disclose information the premature disclosure of which would—(A) in the case of an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (1) lead to significant financial speculation in currencies, securities, or commodities, or (2) significantly endanger the stability of any financial institution; or (b) in the case of any agency, be likely to significantly frustrate implementation of a proposed agency action...
6. Federal Register Notices are sent to the Federal Advisory Committee Management Team thirty (30) days prior to the scheduled meeting. This will allow for ample processing time.
7. After a Federal Register Notice has been published, search capabilities to locate that notice are provided at <http://www.archives.gov/federal-register/the-federal-register/indexes.html>. This allows you to locate a notice to obtain certain information when there is a need to amend, cancel, or correct a notice due to changes in a meeting. (Appendix P)

Federal Register Notice Prototypes – Appendix Q)
<http://intranet.cdc.gov/maso/cmppa/frnPrototypes.htm>

C. Conflict of Interest

It is CDC policy that conflicts of interest which might affect the objectivity and recommendations by advisory committee members must be avoided whenever possible. It is primarily the responsibility of the advisory committee member for identifying such conflicts, since they are most knowledgeable about the specific circumstances that might be involved.

- 1. Definition – Conflict of interest occurs when a committee member has a personal, professional, or financial interest that could affect the member’s objectivity. If a personal, professional, or financial conflict of interest is acknowledged by a member or determined to exist by staff, the individual must recuse him/herself, except as otherwise provided in this section.
- 2. Special Government Employees – The Standards of Ethical Conduct for Employees of the Executive Branch 5 CFR Part 2635, dated October 2002, is effective for all Government employees, including SGE advisory committee

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members. Government employees, including SGE advisory committee members, are subject to the rules governing financial disclosure.

CDC requires that individuals who are appointed to serve as SGE advisory committee members disclose their financial interests and their affiliations prior to participation in meetings. SGE advisory committee members are required to submit a “Confidential Financial Disclosure Report” OGE Form 450 and to update this information annually, or if information changes prior to the annual filing.

Members may have to disqualify themselves from the discussion if there is a real or apparent conflict of interest. For specific procedures regarding the OGE 450 update and the waiver process, refer to Chapter VIII of this manual, Financial Disclosures and Ethics.

D. Minutes

1. The Federal Advisory Committee Act requires that detailed minutes of each OPEN committee meeting be kept and include:
 - a. The time and place of the meeting;
 - b. A list of advisory committee members, staff and full-time Federal employees present at the meeting;
 - c. A detailed summary of matters discussed and conclusions reached;
 - d. Copies of all materials received, issued, or approved by the advisory committee; and
 - e. An explanation of the extent to which the meetings was open to the public;
 - f. An explanation of the extent of public participation including a list of members of the public who presented oral or written statements, and an estimate of the number of members of the public who attended the meeting.
 - g. Certification by the Chair of the committee as to the accuracy of all minutes.
 - h. It is CDC policy that minutes must be prepared, reviewed, and certified by the Chair within a reasonable time, and a copy forwarded to the Federal Advisory Committee Management Team as soon as they become available, but no later than 90 days following the date of the meeting.

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2. When a meeting or portion of the meeting is closed and detailed minutes are not to be made available in their entirety to the public, the advisory committee prepares and makes available to the public, within 14 days of the closed meeting, a summary of its activities and related matters which are informative to the public and consistent with the policy of 5 U.S.C. 552(b)..
3. The General Services Administration (GSA) Regulations and Department policy require that the following information be included when preparing minutes/meeting summaries:
 - a. Time, date, and complete address of the meeting place;
 - b. A list of the following persons who were present:
 - i. Advisory committee members, ex-officio members and liaison representatives
 - ii. Agency employees and full-time Federal employees; and
 - iii. Members of the public who presented oral or written statements
 - c. An accurate description of each matter discussed and the resolution, if any, made by the committee of such matter;
 - d. Copies of each report or other document received, issued, or approved by the advisory committee;
 - e. Handouts available during the open session of the meeting; and
 - f. An explanation of the extent to which the meeting was open to the public.
4. Minutes for Initial Review Groups and Special Emphasis Panels may be generated from the Review Module in IMPAC II..

Meeting Minutes Policy – (Appendix R)
<http://aops-mas-iis.od.cdc.gov/Policy/Doc/policy257.htm>

Meeting Checklist for DFOs – (Appendix S)
http://intranet.cdc.gov/maso/cmppa/pdfs/Mtg_Checklist_for_DFOs.pdf

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Chapter VIII

VIII SPECIAL EMPHASIS PANELS (SEPS)

A. SEP Guide

The increased number of assistance awards from CDC/ATSDR and liberalized eligibility criteria has resulted in a dramatic increase in the number of competitive applications. Subsequently, CDC and ATSDR are under increased scrutiny from applicant organizations, their supporters, and other interested parties. Among health Department applicants there is a greater competition for available resources, as the emphasis on application quality (a major factor in determination of awards funding) increases.

CDC has chartered the Special Emphasis Panel in accordance with the Federal Advisory Committee Act (FACA). The Federal Advisory Committee Management Team tracks its membership and provides recurring and special reports to the Department. FACA also requires publication of a Notice of Meeting in the Federal Register at least 15 days before each SEP meetings, and compilation of minutes for each SEP meeting.

SEP Guide – (Appendix T)

<http://intranet.cdc.gov/maso/cmppa/pdfs/sepguide.pdf>

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IX

IX FINANCIAL DISCLOSURE AND ETHICS

A. Background

The Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Part 2635, effective February 3, 1993, prescribe principles that apply to every employee of the U.S. Government, including Federal advisory committee members appointed as Special Government Employees.

An SGE is defined as an employee of the Federal Government who is appointed to perform temporary duties, with or without compensation, for a period not to exceed 130 days during any period of 365 consecutive days. Members of advisory committees appointed as SGEs are required by the Ethics Reform Act of 1989, and 5 CFR Part 2634, to file a financial disclosure report when first appointed and as needed due to changes in financial interests. If appointed for a multi year term, committee members must update the report annually and also may be required to update the information on the report before each meeting.

Financial interests are reported on the Office of Government Ethics (OGE) Confidential Financial Disclosure Report. This is the official and only acceptable form used by SGEs to report financial interests. Reported information is used to determine the matters for which a committee member must be disqualified under the criminal financial conflict of interest statute, 18 U.S.C. § 208(a), other ethics laws, or standards of conduct. It is also used to determine the matters for which a committee member may be granted a waiver under 18 U.S.C. § 208(b).

Complete and timely reporting is essential to protect the committee member from inadvertently violating any of the criminal conflict of interest statutes, and to assure the public of the integrity of the process.

B. Laws and Regulations

Listed below are a number of laws and regulations that govern financial disclosure and ethics rules for Federal advisory committee members.

- a. The Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Part 2635
- b. Ethics Reform Act of 1989
- c. 5 CFR Part 2634

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- d. 18 U.S.C. § 208(a) and 208(b)

C. Policy

The CDC policy which governs financial disclosure for Federal advisory committee members appointed as special government employees (SGEs) can be located at: <http://intraspn.cdc.gov/maso/policy/Doc/policy294.htm>. (Appendix U)

D. Roles and Responsibilities

1. Management Analysis and Services Office, Federal Advisory Committee Management:
 - a. Provides overall guidance and management regarding the use of OGE Form 450 for Federal advisory committee members appointed as SGEs in accordance with applicable laws, regulations, and HHS policies.
 - b. Disseminates OGE Forms 450 to Federal advisory committee members as required.
 - c. Requests, reviews, and obtains approval of OGE Forms 450. Uses applicable committee charters, the Internet, and other resources to research reported financial interests and determine whether conflicts of interest exist. Forms are checked for completeness and a determination is made regarding conflicts of interest in collaboration with committee executive secretaries or other program officials familiar with the subject matter addressed by the committee.
 - d. Contacts member by telephone or e-mail when OGE Form 450 is not adequately completed, or there are questions about particular interests and amends form appropriately with member's permission and notates form to document amendments. Only interests documented on OGE Form 450 (by the member or amended with the member's permission) are considered reported interests.
 - e. Determines the need for and prepares necessary 208(b) conflict of interest waivers for review by the committee executive secretary, the Office of General Counsel (OGC) and obtains required approvals.
 - f. Consults, as needed, with OGC to identify conflicts of interest and determine appropriate restrictions. Works to ensure consistency in defining conflicts of interest and determination of restrictions.
 - g. Obtains signatures of committee waivers as required.
 - h. Manages annual Ethics training for all Federal advisory committee members appointed as SGEs. Selects appropriate training materials from OGE resource list, prepares and distributes materials to members, and collects certifications/ acknowledgment of training from members.
 - i. Notifies the executive secretary of any Federal advisory committee when a member has not submitted an OGE Form 450 as required by policy and is

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- therefore ineligible to receive travel orders or participate in committee meetings.
- j. Maintains official files for each committee, including completed OGE Forms 450, waiver memorandums, and other pertinent information in accordance with the CDC Records Schedule.
2. FACA Committee Executive Secretary or Designated Federal Officer (DFO)
 - a. Reviews OGE Forms 450 submitted by advisory committee members for completeness and possible conflicts of interests following initial review in FACM.
 - b. Makes recommendations relative to the need to prepare (or not prepare) conflict of interest waivers. Makes recommendations regarding inclusion or deletion of specific financial interests on conflict of interest waivers.
 - c. Reviews and signs necessary conflict of interest waiver memorandums prepared by FACM as authorized under Acts affecting a personal financial interest, section 208, 18 U.S.C., Chapter 11.
 - d. In coordination with FACM and OGC, provides new members with orientation and training relative to conflicts of interest and standards of conduct, prior to or at the members' first meeting.
 - e. Consults with the assigned OGC legal advisor to determine appropriate disclosure procedures for their committee. (Public disclosure at committee meetings procedures may vary by committee.)
 - f. Actively monitors members' participation in meetings and precludes their participation, as appropriate, to avoid conflicts of interest and violations of ethics regulations.
 3. Office of the General Counsel (OGC)
 - a. Provides legal advice and interpretation of FACA to FACM, the executive secretary, the CIO director or Management Official, and the Deputy Agency Ethics Official or designee, as needed. Assists the executive secretary to determine appropriate public disclosure procedures for their particular committee.
 - b. Provides concurrence or recommendations on conflict of interest waivers.
 - c. Attends committee meetings as necessary to address questions and issues about compliance with restrictions on participation, public disclosures, and other matters related to ethics laws and standards of conduct.
 4. Director, Management Analysis and Services Office, Office of the Chief Operating Officer, CDC
 - a. Certifies Confidential Financial Disclosure Reports submitted by CDC/ATSDR advisory committee members who are not required to submit a Public Financial Disclosure Report (SF 278), in accordance with the Ethics in

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Government Act, as delegated by the Deputy Ethics Counselor, CDC/ATSDR, September 30, 1999.

- b. Grants waivers under 18 U.S.C. Section 208(b) for CDC/ATSDR Federal advisory committee members, as delegated by the Deputy Ethics Counselor, CDC/ATSDR, September 30, 1999.
5. Federal Advisory Committee Member appointed as a Special Government Employee
 - a. Reads and acknowledges receipt of the “Standards of Ethical Conduct for Employees of the Executive Branch” and other ethics training materials provided annually by the FACM.
 - b. Accurately completes and submits OGE Form 450 within 30 days of accepting appointment as a committee member and no later than 30 days prior to the meeting date.
 - c. Voluntarily and promptly submits amended OGE Form 450 to FACM annually and any time a relevant change occurs in financial interests or professional and business relationships that is or might be perceived as a conflict of interest.
 - d. Publicly discloses any qualitative change in financial interests or professional/business relationships that is or might be perceived as a conflict of interest at the beginning of each meeting. (Public disclosure procedures may vary by committee. Each committee executive secretary should consult with the assigned OGC legal advisor to determine appropriate disclosure procedures for their committee.)
 - e. Recuses himself or herself from participating in any meeting or portion of a meeting or other activity where he or she would give advice or participate in a particular matter which might have a direct or indirect effect on the interests of an organization or institution where the member is an employee, official, or consultant, or have a direct or indirect effect on the financial interests of the member, if such interests have not been waived and the member is directed to do so in the waiver letter or by the DFO.
 6. Committee Chair
 - a. Consults with committee executive secretary, OGC, and the Deputy Ethics Counselor, or designee, as appropriate, to determine restrictions that apply to any member before each meeting.
 - b. Asks committee members at each meeting to publicly disclose actual or potential conflicts of interest, according to the procedure pre-determined for that committee by the executive secretary and the OGC legal advisor.
 - c. Conducts meetings and makes assignments consistent with restrictions placed on each member.

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Chapter X

X. ADVISORY COMMITTEE REPORTS

Please note that once a Secretary-established (non-Statutory) advisory committee issues a report to the Secretary, the report is transmitted to the Office of the Secretary (OS) Executive Secretariat (Exec Sec) directly from you with any other review or clearance. The OS Exec Sec will then circulate the report within the Department as an FYI (this will be done to make everyone aware of its existence and prepare us if attention is drawn to the report). The Agency is then free to post the report 30 calendar days post-transmission to OS Exec Sec and not before.

All records, reports, and other documents of each advisory committee must be available for public inspection and copying pursuant to FACA. The documents referred to include the records, reports, transcripts, minutes, working papers, drafts, studies, agenda or other documents made available to or prepared for or by each advisory committee.

A. Annual Report of the President to Congress on Federal Advisory Committees

1. The FACA requires under Section 6(c) that the President report to Congress annually (each fiscal year) on advisory committees. The information requested includes the activities, status, the dates of meetings, membership, costs to maintain the committee, and other data surrounding advisory committees. The Committee Management Secretariat, located in the General Services Administration, gathers the information from each Federal agency that has advisory committees under FACA and compiles the information into a single report which is submitted to the President for review and signature and is then forwarded to Congress.
2. Each year, the Programs begin preparing the individual committee reports by gathering information on actual costs for the fiscal year and estimating costs for the next fiscal year; all meeting dates; updating committee member information; and the activities and accomplishments of each advisory committee. These individual committee reports are usually due to the Federal Advisory Committee Management Team in October. The Federal Advisory Committee Management Team reviews the reports for completeness and accuracy. After reviewing, the Team marks the reports as verified. The Department Committee Management Officer compiles all the reports for the entire Department and forwards this single report to GSA. GSA combines all the reports from each agency that has advisory committees under FACA into a single report which also contains statistical data regarding all advisory committees.

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B. Annual Ethics Report

Each year the Federal Advisory Committee Management Team must forward to the Office of General Counsel, Ethics Division, a statistical report on the number of Special Government Employees that were required to file an OGE 450 and received ethics training for Special Government Employees. The report is required by Section 402(3)(1) of the Ethics in Government Act, as amended.

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Chapter XI

XI. RECORDS MANAGEMENT

A. Public Access to Records

1. Advisory committee records, which the public may inspect, must be available for inspection and copying at a single location in the offices of the advisory committee or the OPDIV/STAFFDIV to which the advisory committee reports. The advisory committee or appropriate agency will make available to any person requesting them, copies of the minutes of committee proceedings or meetings at a cost determined in accordance with the appropriate fee schedule.
2. Only officials designated in the HHS Chapter 9.00, General Administration Manual, may deny access to committee records or delete any portion of a record requested by a member of the public.

B. Records Maintenance and Disposal

All advisory committee records are maintained and disposed of in accordance with the following provisions:

1. Park 102-193, Chapter 102 of the Federal Management Regulation, and regulations issued by the National Archives and Records Administration (sec. 36 CFR parts 1220, 1222, 1228, and 1234), or the Presidential Records Act, 44 U.S.C. Chapter 22;
2. HHS General Administration Manual Procedures;
3. Agency retention and disposal schedules.

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Chapter XII

XII. GLOSSARY OF TERMS

Acknowledgement of Invitation - The form used by the candidate to indicate acceptance or declination of the Secretary's or designated official's invitation to serve on a Federal advisory committee.

Ad Hoc Committee - A Federal Advisory Committee whose expected duration is twelve months or less.

Advisory Committee Member – An individual who is retained, designated, appointed, or employed to serve on an advisory committee, with or without compensation. Each member has the full right and obligation to participate in the activities of the committee, including voting on committee recommendations. Most advisory committee members are usually appointed as Special Government Employees (SGE).

Agency Committee Management Officer (CMO)- The employee in the agency who coordinates all facets of committee management for the entire OPDIV or STAFFDIV under the direction of the Department Committee Management Officer. A CMO may also be referred to as a Government Federal Officer (GFO).

Attendance log - Record of all persons who attend all or part of a committee meeting. This listing will be included in the summary of minutes of the meeting.

Authority- The right, which is reserved by the Secretary, Presidential directive, or statute, to establish a Federal advisory committee.

Authorized by Law – Legislation that authorizes but does not direct the President or an agency to establish a committee. (See Discretionary Advisory Committee)

Availability Check Request (ACR) – Primary check for availability of individual(s) proposed for committee service to ensure that their service would not violate Department policy regarding membership.

Balanced Membership – Membership must be fairly balanced in terms of points of view represented and the functions to be performed.

Board of Scientific Counselors - The principal external review committee for the intramural programs, which is utilized by the various Bureaus, Centers, Institutes and Research Divisions. The Board consults and advises on the quality of scientists and the research programs.

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Budget Officer or Representative - A Department employee who provides the official budgetary and financial cost information regarding operation of a Federal advisory committee.

Chair – Individual appointed to preside at committee meetings and ensure that the agenda is adhered to as closely as possible, all rules of order and conduct are maintained during each session. The Chair calls on individuals for comments and directs discussions, also calls for a vote, if applicable. Controls public participation during the open portion of a meeting, is required by FACA to certify the minutes after each meeting. If the Chair must leave the meeting due to a conflict of interest, the Chair designates another committee member to preside during their absence.

Charter - Document which details the purpose for the establishment of a committee; the authority under which the committee is established; the function and structure of the committee. Also projects how often the committee will meet, how members will be compensated, the annual cost of operating the committee, reports due from or about the committee, and the date the committee will terminate if the charter is not renewed.

Closed Meeting - A meeting held to review, discuss, and deliberate confidential data and documents, which are prohibited from public disclosure.

Committee Management Secretariat (CMS) - The office within the General Services Administration which has oversight responsibility for all matters relating to advisory committees in the Federal Government.

Committee Meeting – Any gathering of advisory committee members (whether in person or through electronic means) held with the approval of an agency for the purpose of deliberating on the substantive matters upon which the advisory committee provides advice or recommendations.

Conflict of Interest - Use of the committee office by a member which appears to be or is motivated by a private gain for him/herself or other person(s), particularly those with whom he or she has family, business, or financial ties. (HHS Standards of Conduct, 45 CFR, Part 73.)

Consultant - A person who serves on a specific Federal advisory committee on an intermittent basis to provide specialized knowledge.

Consumer Representative - A technically qualified committee member who is identified as having consumer interests. This member is recommended either by a consortium of consumer-oriented organizations or other interested persons.

Delegation of Authority - A document approved by the Secretary which authorizes a Department official to: 1) select and invite members to serve on a committee; 2) renew, recharter, amend, and

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terminate a committee; and 3) approve waiver of Department policy regarding membership restrictions.

Department Committee Management Office - This office formulates and oversees the implementation of Department policies, laws, regulations and procedures governing committee management activities.

Department Committee Management Officer – The HHS employee who provides leadership, direction, and assistance to HHS officials and Agency Committee Management Officers in the preparation and management of Federal advisory committees.

Designated Federal Officer (DFO) - The DFO is responsible for the Committee’s overall management and administrative matters. The DFO must be present at all advisory committee meetings. The DFO may sometimes be referred to as an Executive Secretary, Executive Director, or Scientific Review Administrator.

Discretionary Advisory Committee – A Discretionary Advisory Committee, sometimes referred to as a non-statutory advisory committee is authorized by law and established at the discretion of the Secretary or other authorized Federal official. Establishment may require consultation with GSA.

Disqualification - Refers to conflict of interest, prohibiting a member from providing advice on matters which have a direct or indirect effect on the member’s organizational, institutional or financial interests.

Establishing Authority – The law, authorizing establishment of a Federal advisory committee.

Establishment Date - The date the committee’s charter is filed with the appropriate standing committee of the Senate, House of Representatives and the Library of Congress. It is the same as the date of the transmittal letter and remains the same throughout the committee’s existence; may also be referred to as filing date.

The establishment date for committees established by Executive Order is the date the charter is received by the Director, Committee Management Secretariat, and GSA.

Executive Secretary/Executive Director - (See Designated Federal Officer).

Ex Officio Member - A Federal official who has full voting rights unless otherwise stated in the charter or prohibited by statute.

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Expert - A person with excellent qualifications in a professional, scientific, technical or other field, who is regarded as an authority or a practitioner of unusual competence and skill by other persons in the profession, occupation, or activity.

Federal Advisory Committee - Any committee, board, commission, council, conference, panel task force, initial review group, special emphasis panel, working or other similar group which is not composed entirely of full-time officers or employees of the Federal Government. This committee is established or used by a department or agency to advise or make recommendations by consensus on matters relating to the programs, responsibilities, or activities of the department or agency.

There are three types of advisory committees: (1) Presidential Advisory Committee established by an Executive Order, (2) a Statutory Advisory Committee established by Congress, and (3) a Discretionary Advisory Committee established under the authority of the Secretary, agency head, or other HHS official with establishment authority.

Federal Advisory Committee Act (FACA) - The Act (Public Law 92-463), which establishes a system to govern the creation and operation of advisory committees in the Executive Branch of the Federal Government.

Federal Panel Member - Federal employee appointed to serve on a Special Emphasis Panel.

Federal Staff - CDC/ATSDR employee assisting with the Special Emphasis Panel, not a panel member.

Federal Register - The daily publication used as a means to provide the public with information regarding regulations and legal notices issued by Federal agencies.

Federal Register Notice - A specific document published in the Federal Register to inform the public of meetings of Federal advisory committees, the establishment of new committees, request names of potential nominees, or to provide other information.

Filing Date - (See Establishment Date).

Financial Operating Plan - Method of capturing the total costs related to the operation and staff costs of committees. This information is used when preparing the GSA Report; when a committee is being established to estimate the costs it will incur; and when a committee is being renewed or re-chartered to permit cost comparisons of prior and proposed expenditures.

Form SF-61, Appointment Affidavits (The Oath of Office) - The oath of office is an affirmation to defend and support the Constitution of the United States. The oath is administered to the new committee member on or before his/her first meeting.

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Form OGE-450, Confidential Financial Disclosure Report – Committee members use this form to report their employment, investments, other income and assets, and their outside activities which may be used to assist in determining whether conflicts of interest exist.

Form HHS 474, Confidential Statement of Employment and Financial Interests – Form required annually of non-SGE advisory committee members (i.e., Study Section and Grant Review committee members), to disclose their employment and outside interests, used to assist in determining whether conflicts of interest exist.

Form HHS-532, Request for Approval of Nominees for Public Advisory Committees - The form submitted by the OPDIV/STAFFDIV head to the Secretary or other appointing officer to nominate a committee member.

Form HHS 697 – Foreign Activities Questionnaire – Pursuant to compliance with the Emoluments Clause of the U.S. Constitution, the Foreign Gifts and Decorations Act, and the Foreign Agents Registration Act, this form is required to be filed annually by committee members, who are subject to legal restrictions of their foreign activities.

Guest – An individual invited by the DFO or other Federal official to share views or knowledge of a subject before the committee. A guest is not required or expected to perform a service, officially or unofficially. A guest may not attend closed meetings.

Guest Speaker - An individual invited by the DFO or other Federal official to deliver a lecture or to present a scientific paper to an advisory committee, subcommittee, or workshop. The guest speaker is expected to have special or pre-eminent professional, technical, or scientific information relative to the matters under consideration by the committee.

Letter of Appreciation – A letter from the appointing official to thank the member after completion of service.

Letter of Invitation - The formal letter from the appointing official, which invites a proposed member to serve on a committee.

Members Appointed by Heads of OPDIVS and STAFFDIVS - Members that are selected, invited, and appointed by an official to serve on a committee. The Secretary has delegated the appointing authority to this official or the authorizing legislation has named the appointing official.

Members Appointed by the Secretary - Members selected, invited, and appointed by the Secretary to serve on a committee.

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Members Appointed by the President - Members selected, invited, and appointed by the President to serve on a committee.

Membership Roster - A list of all current, ex officio, and liaison representatives, including their name, address, email, end term dates and other pertinent data. Ex officio members and liaison representatives do not have term dates. Certain information must be kept confidential and not distributed to the public.

Non-Discretionary Advisory Committee – Another name for a committee established by statute. (See Statutory Advisory committee)

Non-Federal Member - Person appointed to serve on a Special Emphasis Panel, not a Federal employee.

Non-Statutory Advisory Committee – Another name for a committee established by discretionary authority. (See Discretionary Advisory Committee)

Office of Government Ethics (OGE) - The Office of Government Ethics is a separate executive agency established under the Ethics in Government Act of 1978, as amended (5 U.S.C. appendix 401). The OGE provides overall direction of executive branch policies in preventing conflicts of interest on the part of officers and employees of all executive agencies.

Open Meeting – This meeting is held to review and discuss non-confidential data and documents, discuss pending matters, make reports and presentations and plan future meeting dates.

Operational Committee - An operational committee is one whose functions include the making or implementing of decisions, as opposed to offering recommendations or advice. It is not covered by FACA.

Partially Closed Meeting – A Federal advisory committee meeting that has open and closed sessions. Whereby the open session is open for public attendance and participation, the closed session of the meeting is prohibited from public disclosure.

Presidential Advisory Committee – Any advisory committee established by Executive Order or Presidential directive to provide direct advice and council; or any committee designated by statute as Presidential.

Presidential Directive - Whereby a committee's establishment is directed by Presidential Executive Order, memorandum, or proclamation. GSA consultation is not required.

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Professional Area Breakdown - A chart that shows current and proposed committee composition by professional category, geographic balance, female/minority balance, and in chronological order by term ending dates. The chart must include all members, even those whose term is ending, on the list until the vacancy is filled.

Public Member- An individual who fills a public position on a committee.

Quorum - A quorum is a majority (one more than half) of the committee's authorized membership including ex-officio members, unless the charter states otherwise.

Reappointment of Members - The reappointing of a member to the same committee. Waivers may or may not be required.

Recharter - The process used to document the continuance of a Statutory Advisory Committee.

Reestablishing Date - The most recent filing date of a Discretionary committee that previously had been terminated.

Renewal - The process used to continue a Discretionary Advisory Committee.

Secretary - The Secretary of the United States Department of Health and Human Services.

Scheduled Vacancy - A vacancy occurs when a committee member completes his/her designated term of service.

Special Government Employee (SGE) – A private citizen appointed based on expertise that will contribute to the committee's objectives. The SGE serves with or without compensation for 130 days or less a year, renders personal opinion only, and is legally held accountable for ethical issues, particularly financial interests.

Specifically Directed by Law - See Statutory Advisory Committee.

Special Emphasis Panel - A committee which functions both as an initial review group performing the scientific and technical peer review of applications and cooperative agreement applications, as reviewers of contract proposals, and concept reviews. The membership is fluid and individuals are designated to serve for only the meeting they are requested to attend.

Special Emphasis Panel (SEP) Member - A subject matter expert appointed to serve with full voting privileges for a single review.

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Statutory Advisory Committee – A committee established by the Congress or required to be established by the Congress. These types of committees may also be referred to as non-discretionary, mandated, or specifically created by law.

Subcommittee – A subcommittee is defined as a group, generally not subject to the Federal Advisory Committee Act (FACA), that reports to an advisory committee and not directly to a Federal officer or agency, whether or not its members are drawn in whole or in part from the parent advisory committee. While subcommittees are not subject to FACA, CDC requires that subcommittees adhere to the notice and open meeting provisions of FACA (41 CFR Part 102.3.35 (a)). The activities of subcommittees generally are covered by the charter of the parent committee. Duration of the subcommittee: Greater than one year. Structure: At least one member of the parent committee; additional, non-parent committee members, who are appointed as Special Government employees; and ad hoc consultants, as needed.

Term of Office – This is the period of a committee member’s service. The term does not exceed four (4) years unless the charter or establishing authority provides otherwise. A member may serve less than four (4) years if they are completing the unexpired term of another member and to provide for balanced rotation.

Termination Date - The date the committee ceases to function whether by merger, abolition or expiration.

Unscheduled Vacancy - The vacancy that occurs when a member resigns, dies, or service is terminated for other reason(s).

Utilized – A committee that is not established by the Federal Government is “utilized” within the meaning of FACA when the President or a Federal officer or agency exercises actual management or control over its operations. Such a committee is subject to the requirements of FACA.

Waiver- There are three types:

(a) Conflict of Interest - A written document, approved by the employing agency official in advance of participation under the authority of 18 USC 208(b)(3), which enables the Special Government Employee (SGE) to participate in one or more particular matters in which the SGE has a financial interest or an interest which is imputed in the SGE under 18 USC 208(a).

(b) Membership - A request to waive Departmental policy regarding membership restrictions.

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(c) Waiver of Compensation – This waiver is an advance written agreement from a committee member to serve without compensation.

White House Liaison, Director, Secretary's Advisory Committee Office – Office where everything relating to advisory committees filters through for the White House Liaison/Secretary Advisory Committee Officer to review before going to the Secretary for signature.

Workgroup - A workgroup is defined as a group, generally not subject to FACA, that reports to an advisory committee or an established subcommittee. The workgroup is convened to gather information, conduct research, draft position papers and analyze relevant issues and facts. Working groups do not make any decisions; recommendations of a working group must be funneled back through, and decided upon, by the subcommittee or by the parent advisory committee to which it is attached. (41 CFR Part 102-3.40(f)). Duration of the workgroup: Usually less than one year. Structure: At least two members of the parent committee or of the subcommittee; and other volunteer consultants.

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Chapter XIII

XIII. REFERENCES/SOURCES