

Comment from Special Counsel Jeffrey S. Lubbers on *Quality Assurance Systems in Agency Adjudication*
November 2, 2021

I have a suggestion for a reordering of the first four paragraphs of the recommendation. Basically it involves switching paragraphs 1 & 2 and also 3 & 4. The first switch requires a few word changes too.

With respect to the first switch, I think it reads better to refer first to agencies who don't have QA systems and then agencies who do. Also switching them allows the goals to be mentioned in the first recommendation.

With respect to the second switch, I think it is better to present the five factors earlier rather than later.

Below is the suggested revised version:

1. Agencies with adjudicative programs that do not have quality assurance systems—*that is, practices for assessing and improving the quality of decisions in adjudicative programs*—should consider ~~implementing quality assurance~~ *developing such* systems to promote fairness, the perception of fairness, accuracy, timeliness, efficiency, inter-decisional consistency, and other goals relevant to their adjudication programs.
2. Agencies with adjudicative programs *that do have* ~~should review their~~ existing quality assurance systems—~~that is, practices for assessing and improving the quality of decisions in adjudicative programs~~—*should review them* in light of the recommendations below.
3. Agencies' quality assurance systems should assess whether decisions and decision-making processes:
 - a. promote fairness and the appearance of fairness,
 - b. accurately address the facts of the individual matters,
 - c. comply with all applicable legal requirements,
 - d. are completed in a timely and efficient manner, and
 - e. are consistent across all adjudications of the same type.
4. A quality assurance system should review the work of adjudicators and all related personnel who have important roles in the adjudication of cases, such as attorneys who assist in drafting decisions, interpreters who assist in hearings, and staff who assist with development of evidence.

Jeff Lubbers