ADMINISTRATIVE CONFERENCE OF THE UNITED STATES



ACUS is an independent federal agency that develops recommendations to improve administrative process and procedure. ACUS also arranges for the interchange of useful information to carry out its mission. ACUS Information Interchange Bulletins are intended to help agencies and the public understand the administrative process. They should not be relied upon as legal documents.

Information Interchange Bulletin No. 004 Recusal Rules for Agency Adjudicators

What are recusal rules?

Many agencies have adopted rules that address the "voluntary or involuntary withdrawal of an adjudicator from a particular proceeding." Such recusal rules provide "an important tool for maintaining the integrity of adjudication." ACUS Rec. 2018-4.

What recusal rules have agencies adopted?

In a forthcoming report for ACUS, Professor Louis Virelli identifies adjudicator recusal rules and classifies them according to the substance of their guidance to adjudicators.

Impartiality rules contain a requirement that adjudicators conduct "impartial" hearings.

Discretionary rules permit/require adjudicators to recuse themselves when they deem it necessary.

Conflict of Interest rules address instances in which an adjudicator has a professional or family relationship with a participant.

Personal Bias rules address instances in which adjudicators may have views or feelings in favor of or against a participant.

Appearance of Impartiality rules address instances in which an adjudicator's involvement may create the appearance of partiality.

Quasi-Judicial rules incorporate federal court recusal standards or encourage adjudicators to consider them as guidance.

Which agencies use which categories of rules?

This graphic below is based on information in Professor Virelli's forthcoming report to ACUS. The report documents additional agencies not included below.

Department of Agriculture	
Department of Commerce	
Commodity Futures Trading Commission	
Department of Education	
Environmental Protection Agency	
Equal Employment Opportunity Commission	
Executive Office for Immigration Review (DOJ)	
Federal Communications Commission	
Federal Deposit Insurance Corporation	
Federal Energy Regulatory Commission	
Federal Labor Relations Authority	
Federal Maritime Commission	
Federal Mine Safety & Health Review Commission	
Federal Reserve Board of Governors	
Federal Trade Commission	
Department of Health & Human Services	
Department of Homeland Security	
Department of Housing & Urban Development	
International Trade Commission	
Department of Justice	
Department of Labor	
Merit Systems Protection Board	
National Labor Relations Board	
National Transportation Safety Board	
Occupational Safety & Health Review Commission	
Patent and Trademark Office (DOC)	
Pension Benefit Guaranty Corporation	
U.S. Postal Service	
Railroad Retirement Board	
Securities and Exchange Commission	
Small Business Administration	
Social Security Administration	
Department of State	
Department of Transportation	
Department of Treasury	
Department of Veterans Affairs	

Additional Resources

ACUS Rec. 2018-4, Recusal Rules for Administrative Adjudicators Louis J. Virelli III, Recusal Rules for Administrative Adjudicators (2018) Louis J. Virelli III, Administrative Recusal Rules: A Taxonomy of Existing Recusal Standards for Agency Adjudicators (forthcoming 2020)