



ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Updates in Federal Agency Adjudication

October 2021

ACUS is an independent federal agency within the executive branch that develops recommendations to improve administrative processes, including adjudication, and arranges for the interchange of information to carry out its mission. The ACUS Office of the Chairman issues monthly *Updates* to share adjudication-related developments with agencies, Congress, and the public. For additional resources, visit www.acus.gov/adjudication.

This resource is for informational purposes only. Except as noted, these updates do not represent the position of ACUS or the federal government. Feedback and corrections are welcome at info@acus.gov.

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ACCESS TO JUSTICE

[**Access to Justice in the Age of COVID-19**](#) (LAIR, Oct. 29). This White House Legal Aid Interagency Roundtable report describes the pandemic's impact on access to government programs, identifies key lessons learned, and highlights innovations adopted to advance access to government programs. Among the innovations listed is ACUS Recommendation 2021-4, [*Virtual Hearings in Agency Adjudication*](#).

[**Underserved Communities and the Regulatory Process**](#) (ACUS). A virtual forum this November addresses underserved communities' participation in agency processes, including adjudication, for regulatory policy making. The first three panels will take place **November 3, 8, and 10**. ACUS will announce additional panels soon. Visit www.acus.gov/underserved-communities-and-the-regulatory-process-forum to learn more about the series.



ADMINISTRATIVE REVIEW

[Quality Assurance Systems in Agency Adjudication \(ACUS\)](#). An ACUS committee is considering best practices for agency systems to assess and improve the quality of decisions in adjudicative programs. A [draft report](#) by project consultants Daniel E. Ho, David Marcus, and Gerald Ray is now available.

DUE PROCESS

[Mobility Workx, LLC v. Unified Patents, LLC, No. 20-1441 \(Fed. Cir., Oct. 13, 2021\)](#). The Federal Circuit rejected arguments that fees charged by the Patent Trial and Appeal Board and policies for awarding bonuses and salary increases to Board members violate constitutional due process.

PROCEDURAL RULES

[Informal Administrative Adjudication \(CRS, Oct. 1\)](#). This Congressional Research Service report surveys how agencies adjudicate cases that are not subject to the Administrative Procedure Act's formal-hearing provisions.

[Update to FAA Investigative and Enforcement Procedures \(FAA, Oct. 1\)](#). The Federal Aviation Administration updated its procedural rules to, among other things, recognize the role of the Office of Adjudication, provide for ADR, allow e-filing and e-service, and consolidate and clarify other important procedures.

PUBLIC ACCESS

[Public Access to Agency Adjudicative Proceedings \(ACUS\)](#). An ACUS committee is considering best practices regarding when and how agencies provide public access to adjudicative proceedings. A [draft report](#) by project consultants Jeremy Graboyes and Mark Thomson is now available.

REPRESENTATION

[Regulation of Representatives in Agency Proceedings \(ACUS\)](#). An ACUS committee is considering a project that explores how agencies regulate the conduct of attorneys and non-attorneys who represent parties and others in administrative proceedings. A [draft report](#) by project consultant George Cohen is now available.