Participation
Collaboration
Innovation
Education
Transparency
Access to Law
Open Government
Federalism
Rulemaking
ADR
Efficiency
Best Practices
Timeliness
Fairness
Cost-Savings
Public-Private Partnership
Innovation

Administrative Law Experts
Administrative Conference of the United States
Regulations
Administrative Law Experts
Open Government
Best Practices
Education
Recommendations
Rulemaking
Performance & Accountability Annual Report
2012

Streamlining Processes
Regulations
## Table of Contents

2    A Message from the Chairman  
3    Overview  
4    2012 Event Highlights  
5    The Assembly: Chairman, Council and the Membership  
21   Committees  
22   Staff  
23   Mission Statement, Strategic Planning and Performance Goals  
32   Recommendation Process  
33   Plenary Sessions and Adopted Recommendations  
33   Ongoing Projects  
34   Office of the Chairman Projects  
36   Researchers  
40   Model Agency Best Practices Initiative  
41   Council of Independent Regulatory Agencies  
42   Budgetary Resources and Appropriation  
43   Appendix A: Administrative Conference Act  
43   Appendix B: Administrative Conference Bylaws
A Message from the Chairman

I am pleased to present the 2012 Annual Report of the Administrative Conference of the United States.

This report highlights the work of the last calendar year (except in some instances where fiscal year is specifically stated), and I am deeply grateful to the staff, Conference members, and consultants who have made the work shown on the ensuing pages possible. Since we began operations in 2010, we have adopted 17 recommendations and have more than 10 projects in the pipeline. Notably, this year President Barack Obama issued Executive Order 13609, entitled *Promoting International Regulatory Cooperation*, which is inspired by ACUS Recommendation 2011-6.

This year, we also published the first edition of the *Sourcebook of United States Executive Agencies*, which examines and explains the organizational entities of the federal executive establishment. This is an invaluable research tool and no other resource of its kind exists.

The *Sourcebook* continues the Conference’s commitment to providing Congress, the judiciary, individual agencies, the general public, and academic researchers the means to understand and improve the federal administrative process.

Faithfully Yours,

Paul R. Verkuil
Chairman
Overview

The Administrative Conference of the United States is an independent agency that studies federal administrative procedures to recommend improvements to administrative agencies, Congress, the President, and the Judicial Conference of the United States. ACUS is a public-private partnership that brings together senior government officials and private citizens with diverse views and backgrounds to provide nonpartisan expert advice.

Following bipartisan endorsement of the work of two temporary Administrative Conferences during the Eisenhower and Kennedy Administrations, Congress enacted the Administrative Conference Act in 1964, which placed the work of the Conference on a more permanent footing. The Act codified a structure based on that of the prior conferences, which emphasized collaboration among a wide array of federal agencies, as well as experts in administrative law and regulation from the private sector and academia, reflecting a broad diversity of views—all of whom serve the Conference without any compensation. This collaborative effort is designed to produce consensus on nonpartisan recommendations for improvements in federal administrative processes that affect every sector of our national economy and the lives of American citizens.

Judge E. Barrett Prettyman, who had served as chairman of both temporary conferences, explained at ACUS' opening plenary session in 1968 that the members of the Conference “have the opportunity to make the administrative part of a democratic system of government work.”

From its beginning in 1968 until its defunding in 1995, ACUS adopted 200-plus recommendations, based on careful study and the informed deliberations of its members in an open process that encouraged public input. Congress enacted a number of them into law, and agencies and courts have adopted or relied upon many others.

ACUS also played a leading role in developing and securing legislation to promote, and provide training in, alternative dispute resolution techniques for eliminating excessive litigation costs and long delays in federal agency programs, as well as negotiated rulemaking processes for consensual resolution of disputes in rulemaking.

The work of ACUS has received consistent support from a wide range of outside sources. As the Congressional Research Service noted in 2007, ACUS provided “nonpartisan, nonbiased, comprehensive, and practical assessments and guidance with respect to a wide range of agency processes, procedures, and practices,” based on “a meticulous vetting process, which gave its recommendations credence.” Justice Antonin Scalia (a former ACUS Chairman and current Senior Fellow) described the agency as “a unique combination of talents from the academic world, from within the executive branch...and...from the private bar, especially lawyers particularly familiar with administrative law,” and has called ACUS one of the federal government’s “best bargains...for the buck.” Similarly, Justice Stephen Breyer (a former ACUS liaison representative from the Judicial Conference and current Senior Fellow) described the agency as “a unique organization, carrying out work that is important and beneficial to the average American, at low cost.” In announcing his ACUS Council Member appointments, President Obama emphasized the value of the “public-private partnership” reflected in the agency’s enabling statute.

Today ACUS is exploring and promoting the most efficient means of sharing information and responsibility among federal, state and local governments, businesses and citizens through new and established techniques and practices. The agency continues to seek new ideas that advance the core values of fairness, efficiency, and citizen satisfaction with government.
2012 Event Highlights

Symposium on Federal Alternative Dispute Resolution
March 19, 2012

Featuring keynote speaker Attorney General Eric Holder, the symposium was co-sponsored by ACUS and the Department of Justice.

Implementation Summit on International Regulatory Cooperation
May 1, 2012

ACUS and the U.S. Chamber of Commerce’s Center for Global Regulatory Cooperation co-sponsored the summit. The keynote speaker, then-OIRA Administrator Cass Sunstein, announced Executive Order 13609, Promoting International Regulatory Cooperation.

Administrative Judging in the 21st Century: The Hi-Tech Courtroom and “Googling” the Evidence
June 21, 2012

ACUS participated in this American Bar Association Program as a follow-up to ACUS Recommendation 2011-4, Agency Use of Video Hearings.

Congressional Presentation on the Sourcebook of United States Executive Agencies
August 15, 2012

Professor David Lewis (Vanderbilt University) discussed his report on the federal executive establishment with congressional staff.

Improving the Use of Science in the Administrative Process
September 10, 2012

Co-hosted by ACUS and the National Academy of Sciences, this workshop had more than 120 participants.

Legal Issues Forum
October 10, 2012

ACUS participated in this panel, hosted by the American National Standards Institute as part of World Standards Week, and discussed the issues of “Incorporation by Reference, Reasonable Availability, and Copyright.”

Visit by Chinese Delegation
October 22, 2012

Prominent Chinese administrative law scholars visited ACUS for a roundtable discussion on significant developments in the Chinese legal system and ideas for collaboration.

Enhancing Science and Policy for Chemical Risk Assessments
October 23, 2012

ACUS co-hosted a workshop with The George Washington University to discuss study design and peer review.

Incorporation by Reference in Federal Regulations Webinar
November 15, 2012

Hosted by the Society for Standards Professionals, this webinar focused on ACUS Recommendation 2011-5, Incorporation by Reference, and discussed recent developments.
The Assembly

Conference membership is composed of innovative senior federal officials and experts with diverse views and backgrounds from the private sector, including academia, the practicing bar, industry, and public interest organizations.

The Conference’s membership, also known as the Assembly, includes the Chairman, the Council, members from 50 federal executive departments and agencies and independent regulatory boards and commissions (called “government members”), and 40 members of the public (called “public members” or “non-government members”) representing diverse views and backgrounds.

The Conference also includes participation by liaison representatives from the Congress, the federal judiciary, and other federal agencies; senior fellows (three of whom are Justices of the Supreme Court); and special counsels. Liaisons, senior fellows, and special counsels have the same privileges as members, except that they may not vote at the Conference’s semi-annual plenary sessions. However, many of them are assigned to committees and they may vote at committee meetings with the permission of the committee chair.

The Conference is also supported by a small, full-time staff in the Office of the Chairman.
The Chairman

Paul R. Verkuil, the tenth Chairman of the Administrative Conference of the United States, was sworn in by Vice President Biden on April 6, 2010.

Mr. Verkuil is a well-known administrative law teacher and scholar who has coauthored a leading treatise, *Administrative Law and Process*, now in its fifth edition, several other books (most recently, *Outsourcing Sovereignty*, Cambridge Press 2007), and more than 65 articles on public law and regulation. A Festschrift held in his honor in October 2010 was published at 32 Cardozo Law Review 2159 (2011). As a consultant to the Conference starting in 1972 when Antonin Scalia served as Chairman, Verkuil published six studies and served as a Senior Fellow of the Conference.

He is President Emeritus of the College of William & Mary, has been Dean of the Tulane and Cardozo Law Schools, and a faculty member at the University of North Carolina Law School. He is a graduate of William & Mary and the University of Virginia Law School and holds a JSD from New York University Law School. Among his career highlights is serving as Special Master in *New Jersey v. New York*, an original jurisdiction case in the Supreme Court, which determined sovereignty to Ellis Island.
The Council

The 10 Council members, in addition to the Chairman, are appointed by the President for three-year terms and include both government officials and private citizens. Among the Council’s functions are to call plenary sessions of the Conference, propose bylaws and regulations for adoption by the Assembly, approve budgetary proposals, approve the appointment of public members, and approve topics for research studies.

Federal officials named to the Council may constitute no more than one-half of the total Council membership. The following were Council members in 2012:

<table>
<thead>
<tr>
<th>Name</th>
<th>Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preeta D. Bansal</td>
<td>HSBC</td>
</tr>
<tr>
<td>Boris Bershtein</td>
<td>Office of Management and Budget</td>
</tr>
<tr>
<td>Ronald A. Cass</td>
<td>Cass &amp; Associates PC</td>
</tr>
<tr>
<td>Mariano-Florentino Cuéllar</td>
<td>Stanford Law School</td>
</tr>
<tr>
<td>Julius Genachowski</td>
<td>Federal Communications Commission</td>
</tr>
<tr>
<td>Theodore B. Olson</td>
<td>Gibson, Dunn &amp; Crutcher</td>
</tr>
<tr>
<td>Thomas E. Perez</td>
<td>Department of Justice</td>
</tr>
<tr>
<td>Thomasina V. Rogers</td>
<td>Occupational Safety and Health Review Commission</td>
</tr>
<tr>
<td>Jane C. Sherburne</td>
<td>BNY Mellon</td>
</tr>
<tr>
<td>Patricia McGowan Wald*</td>
<td>U.S. Court of Appeals for the D.C. Circuit (Ret.)</td>
</tr>
</tbody>
</table>

*Left the Council in September 2012 upon her confirmation as a member of the Privacy and Civil Liberties Oversight Board.
Government Members

ACUS government members are current senior officials at other government agencies. The Conference’s organic statute designates certain agencies to have government members of the Conference, and it authorizes the President and the Council to designate other such agencies.

The government members are appointed by their agencies and serve no fixed term. They participate in Conference activities in addition to their full-time work at their own agencies. The following were government members as of our 57th Plenary Session, held on December 6-7, 2012:

<table>
<thead>
<tr>
<th>Name</th>
<th>Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scott G. Alvarez</td>
<td>Federal Reserve Board</td>
</tr>
<tr>
<td>Paul Bardos</td>
<td>U.S. International Trade Commission</td>
</tr>
<tr>
<td>Eric Benderson</td>
<td>Small Business Administration</td>
</tr>
<tr>
<td>Mark Cahn</td>
<td>Securities and Exchange Commission</td>
</tr>
<tr>
<td>Daniel Cohen</td>
<td>Department of Energy</td>
</tr>
<tr>
<td>Sandy Comenetz</td>
<td>Federal Housing Finance Agency</td>
</tr>
<tr>
<td>Elizabeth Dickinson</td>
<td>Food and Drug Administration</td>
</tr>
<tr>
<td>Margaret Doane</td>
<td>Nuclear Regulatory Commission</td>
</tr>
<tr>
<td>Bridget Dooling</td>
<td>Office of Management and Budget</td>
</tr>
<tr>
<td>Kris Durmer</td>
<td>General Services Administration</td>
</tr>
<tr>
<td>Daniel R. Elliott</td>
<td>Surface Transportation Board</td>
</tr>
<tr>
<td>Rebecca A. Fenneman</td>
<td>Federal Maritime Commission</td>
</tr>
</tbody>
</table>

ACUS Performance & Accountability Annual Report 2012  8
<table>
<thead>
<tr>
<th>Name</th>
<th>Last Name</th>
<th>Office/Department</th>
</tr>
</thead>
<tbody>
<tr>
<td>Don</td>
<td>Fox</td>
<td>Office of Government Ethics</td>
</tr>
<tr>
<td>Meredith</td>
<td>Fuchs</td>
<td>Consumer Financial Protection Bureau</td>
</tr>
<tr>
<td>Remington</td>
<td>Gregg</td>
<td>Office of Science and Technology Policy</td>
</tr>
<tr>
<td>Susan Tsui</td>
<td>Grundmann</td>
<td>Merit Systems Protection Board</td>
</tr>
<tr>
<td>Will A.</td>
<td>Gunn</td>
<td>Department of Veterans Affairs</td>
</tr>
<tr>
<td>Elaine</td>
<td>Kaplan</td>
<td>Office of Personnel Management</td>
</tr>
<tr>
<td>Edward</td>
<td>Keable</td>
<td>Department of the Interior</td>
</tr>
<tr>
<td>Cameron F.</td>
<td>Kerry</td>
<td>Department of Commerce</td>
</tr>
<tr>
<td>Harold Hongju</td>
<td>Koh</td>
<td>Department of State</td>
</tr>
<tr>
<td>Robert</td>
<td>Lesnick</td>
<td>Federal Mine Safety and Health Review Commission</td>
</tr>
<tr>
<td>Sean</td>
<td>Lev</td>
<td>Federal Communications Commission</td>
</tr>
<tr>
<td>Nadine</td>
<td>Mancini</td>
<td>Occupational Safety and Health Review Commission</td>
</tr>
<tr>
<td>Elizabeth</td>
<td>McFadden</td>
<td>Department of Education</td>
</tr>
<tr>
<td>Christopher</td>
<td>Meade</td>
<td>Treasury Department</td>
</tr>
<tr>
<td>David Morris</td>
<td>Michaels</td>
<td>Occupational Safety and Health Administration</td>
</tr>
<tr>
<td>Miriam M.</td>
<td>Nisbet</td>
<td>National Archives and Records Administration</td>
</tr>
<tr>
<td>Name</td>
<td>Title</td>
<td>Agency</td>
</tr>
<tr>
<td>-----------------</td>
<td>----------------------------</td>
<td>---------------------------------------------</td>
</tr>
<tr>
<td>Richard Osterman</td>
<td></td>
<td>Federal Deposit Insurance Corporation</td>
</tr>
<tr>
<td>Patrick Patterson</td>
<td></td>
<td>Equal Employment Opportunity Commission</td>
</tr>
<tr>
<td>Michael J. Ravnitzky</td>
<td></td>
<td>Postal Regulatory Commission</td>
</tr>
<tr>
<td>Robert S. Rivkin</td>
<td></td>
<td>Department of Transportation</td>
</tr>
<tr>
<td>Bob Schiff</td>
<td></td>
<td>National Labor Relations Board</td>
</tr>
<tr>
<td>William Schultz</td>
<td></td>
<td>Department of Health and Human Services</td>
</tr>
<tr>
<td>Robert A. Shapiro</td>
<td></td>
<td>Department of Labor</td>
</tr>
<tr>
<td>David Shonka</td>
<td></td>
<td>Federal Trade Commission</td>
</tr>
<tr>
<td>Carol Ann Siciliano</td>
<td></td>
<td>Environmental Protection Agency</td>
</tr>
<tr>
<td>Kevin M. Simpson</td>
<td></td>
<td>Department of Housing and Urban Development</td>
</tr>
<tr>
<td>Glenn E. Sklar</td>
<td></td>
<td>Social Security Administration</td>
</tr>
<tr>
<td>Lon Smith</td>
<td></td>
<td>Internal Revenue Service</td>
</tr>
<tr>
<td>Robert S. Taylor</td>
<td></td>
<td>Department of Defense</td>
</tr>
<tr>
<td>Elana J. Tyrangiel</td>
<td></td>
<td>Department of Justice</td>
</tr>
<tr>
<td>Megan Wallace</td>
<td></td>
<td>Commodity Futures Trading Commission</td>
</tr>
<tr>
<td>Christy Walsh</td>
<td></td>
<td>Federal Energy Regulatory Commission</td>
</tr>
<tr>
<td>Vacant</td>
<td>Office of the Comptroller of the Currency</td>
<td></td>
</tr>
<tr>
<td>--------</td>
<td>----------------------------------------</td>
<td></td>
</tr>
<tr>
<td>Vacant</td>
<td>Department of Agriculture</td>
<td></td>
</tr>
<tr>
<td>Vacant</td>
<td>Department of Homeland Security</td>
<td></td>
</tr>
<tr>
<td>Vacant</td>
<td>Federal Election Commission</td>
<td></td>
</tr>
<tr>
<td>Vacant</td>
<td>Center for Medicare and Medicaid Services</td>
<td></td>
</tr>
<tr>
<td>Vacant</td>
<td>Consumer Product Safety Commission</td>
<td></td>
</tr>
</tbody>
</table>
Public Members

ACUS public members are typically leading authorities in administrative law, public administration, or other areas of interest to the Conference. Most public members are lawyers, but some are experts in other disciplines. The public members come primarily from academia, law firms, and public interest organizations.

Public members are appointed by the Chairman with the approval of the Council. They serve two-year terms. Public members may be reappointed and may serve a total of three consecutive two-year terms. The following were public members as of our 57th Plenary Session, held on December 6-7, 2012:

<table>
<thead>
<tr>
<th>Name</th>
<th>Title and Affiliation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fred W. Alvarez</td>
<td>Wilson Sonsini Goodrich &amp; Rosati</td>
</tr>
<tr>
<td>Gary Bass</td>
<td>The Bauman Foundation</td>
</tr>
<tr>
<td>Lisa S. Bressman</td>
<td>Vanderbilt Law School</td>
</tr>
<tr>
<td>James Ming Chen</td>
<td>University of Louisville, Louis D. Brandeis School of Law</td>
</tr>
<tr>
<td>John F. Cooney</td>
<td>Venable LLP</td>
</tr>
<tr>
<td>Susan E. Dudley</td>
<td>Trachtenberg School of Public Policy and Public Administration, The George Washington University</td>
</tr>
<tr>
<td>Cynthia R. Farina</td>
<td>Cornell Law School</td>
</tr>
<tr>
<td>Michael Fitzpatrick</td>
<td>Government and Regulatory Affairs, General Electric</td>
</tr>
<tr>
<td>David C. Frederick</td>
<td>Kellogg, Huber, Hansen, Todd, Evans &amp; Figel</td>
</tr>
<tr>
<td>Jody Freeman</td>
<td>Harvard Law School</td>
</tr>
<tr>
<td>H. Russell Frisby Jr.</td>
<td>Stinson Morrison Hecker LLP</td>
</tr>
<tr>
<td>John Graham</td>
<td>Indiana University, School of Public and Environmental Affairs</td>
</tr>
</tbody>
</table>
Philip J. Harter  
Vermont Law School

Michael E. Herz  
Benjamin N. Cardozo School of Law

Philip Howard  
Covington and Burling LLP

John M. Kamensky  
IBM Center for the Business of Government

Peter D. Keisler  
Sidley Austin LLP

Simon Lazarus  
Constitutional Accountability Center

Ronald Levin  
Washington University School of Law

George Madison  
Retired (Former General Counsel, Department of Treasury)

Carl Malamud  
Public.Resource.Org

Jerry L. Mashaw  
Yale Law School

Randolph J. May  
Free State Foundation

Doris Meissner  
Migration Policy Institute

Nina Mendelson  
University of Michigan Law School
<table>
<thead>
<tr>
<th>Name</th>
<th>Affiliation</th>
<th>Institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gillian E. Metzger</td>
<td></td>
<td>Columbia Law School</td>
</tr>
<tr>
<td>Beth Noveck</td>
<td></td>
<td>New York Law School</td>
</tr>
<tr>
<td>David W. Ogden</td>
<td></td>
<td>Wilmer Cutler Pickering Hale and Dorr</td>
</tr>
<tr>
<td>Richard J. Pierce Jr.</td>
<td></td>
<td>The George Washington University Law School</td>
</tr>
<tr>
<td>Richard L. Revesz</td>
<td></td>
<td>New York University School of Law</td>
</tr>
<tr>
<td>Alasdair S. Roberts</td>
<td></td>
<td>Suffolk University Law School</td>
</tr>
<tr>
<td>Teresa Wynn Roseborough</td>
<td></td>
<td>The Home Depot</td>
</tr>
<tr>
<td>Eugene Scalia</td>
<td></td>
<td>Gibson, Dunn &amp; Crutcher</td>
</tr>
<tr>
<td>Virginia Sloan</td>
<td></td>
<td>The Constitution Project</td>
</tr>
<tr>
<td>Max Stier</td>
<td></td>
<td>Partnership for Public Service</td>
</tr>
<tr>
<td>Larry D. Thompson</td>
<td></td>
<td>PepsiCo Inc.</td>
</tr>
<tr>
<td>James J. Tozzi</td>
<td></td>
<td>Center for Regulatory Effectiveness</td>
</tr>
<tr>
<td>John Vittone</td>
<td></td>
<td>Retired (Former Chief Administrative Law Judge, Department of Labor)</td>
</tr>
<tr>
<td>Helgi C. Walker</td>
<td></td>
<td>Wiley Rein LLC</td>
</tr>
<tr>
<td>Allison M. Zieve</td>
<td></td>
<td>Public Citizen Litigation Group</td>
</tr>
</tbody>
</table>
Liaison Representatives

The Chairman, with the approval of the Council, may designate federal agencies or other organizations without voting members of the Conference to have a liaison representative. Agencies or organizations so designated appoint their liaison representative. Liaison representatives serve no fixed term. The following were liaison representatives as of our 57th Plenary Session, held on December 6-7, 2012:

<table>
<thead>
<tr>
<th>Allison Beck</th>
<th>Federal Mediation and Conciliation Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amy P. Bunk</td>
<td>Office of the Federal Register</td>
</tr>
<tr>
<td>Charles Center</td>
<td>Federal Labor Relations Authority</td>
</tr>
<tr>
<td>Claire E. Coleman</td>
<td>House Committee on Oversight and Government Reform</td>
</tr>
<tr>
<td>Tobias Dorsey</td>
<td>U.S. Sentencing Commission</td>
</tr>
<tr>
<td>D. Randall Frye</td>
<td>Association of Administrative Law Judges</td>
</tr>
<tr>
<td>David R. Hill</td>
<td>ABA Section of Administrative Law and Regulatory Practice</td>
</tr>
<tr>
<td>John Hilton</td>
<td>House Committee on the Judiciary, Subcommittee on Courts, Intellectual Property and the Internet</td>
</tr>
<tr>
<td>The Honorable Brett M. Kavanaugh</td>
<td>U.S. Court of Appeals for the D.C. Circuit</td>
</tr>
<tr>
<td>Edward Kelly</td>
<td>Executive Office for Immigration Review</td>
</tr>
<tr>
<td>Dan Levinson</td>
<td>Department of Health and Human Services, Office of the Inspector General</td>
</tr>
<tr>
<td>Rebecca MacPherson</td>
<td>Federal Aviation Administration</td>
</tr>
<tr>
<td>Name</td>
<td>Position</td>
</tr>
<tr>
<td>----------------------</td>
<td>---------------------------------------------</td>
</tr>
<tr>
<td>Mary C. McQueen</td>
<td></td>
</tr>
<tr>
<td>Jeffrey P. Minear</td>
<td></td>
</tr>
<tr>
<td>Katie L. Nash</td>
<td></td>
</tr>
<tr>
<td>Nina Olson</td>
<td></td>
</tr>
<tr>
<td>Suzanne Orenstein</td>
<td></td>
</tr>
<tr>
<td>James Park</td>
<td></td>
</tr>
<tr>
<td>Timothy Reif</td>
<td></td>
</tr>
<tr>
<td>Jill Sayenga</td>
<td></td>
</tr>
<tr>
<td>Lois J. Schiffer</td>
<td></td>
</tr>
<tr>
<td>Esa L. Sferra-Bonistalli</td>
<td></td>
</tr>
<tr>
<td>Thomas W. Snook</td>
<td></td>
</tr>
<tr>
<td>Daniel Solomon</td>
<td></td>
</tr>
<tr>
<td>Alan Swendiman</td>
<td></td>
</tr>
<tr>
<td>Melvin F. Williams Jr.</td>
<td></td>
</tr>
</tbody>
</table>
Stephen Wood  National Highway Traffic Safety Administration
**Senior Fellows**

Senior fellows have previously served as members or liaison representatives to the Conference for six or more years, members who have served as federal judges, or former ACUS Chairmen. The senior fellows are appointed by the Chairman with the approval of the Council. Senior fellows serve for two-year terms and may be reappointed. The following were senior fellows as of our 57th Plenary Session, held on December 6-7, 2012:

<table>
<thead>
<tr>
<th>Name</th>
<th>Firm/Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>William H. Allen</td>
<td>Covington and Burling LLP</td>
</tr>
<tr>
<td>Warren Belmar</td>
<td>Capitol Counsel Group LLC</td>
</tr>
<tr>
<td>Jodie Z. Bernstein</td>
<td>Kelley Drye &amp; Warren LLP</td>
</tr>
<tr>
<td>Marshall J. Breger</td>
<td>The Catholic University, Columbus School of Law</td>
</tr>
<tr>
<td>The Honorable Stephen</td>
<td>Breyer Supreme Court of the United States</td>
</tr>
<tr>
<td>Betty Jo Christian</td>
<td>Steptoe &amp; Johnson LLP</td>
</tr>
<tr>
<td>Neil R. Eisner</td>
<td>Department of Transportation</td>
</tr>
<tr>
<td>E. Donald Elliott</td>
<td>Willkie Farr &amp; Gallagher LLP</td>
</tr>
<tr>
<td>Fred Fielding</td>
<td>Morgan Lewis &amp; Bockius</td>
</tr>
<tr>
<td>Brian C. Griffin</td>
<td>Clean Energy Systems Inc.</td>
</tr>
<tr>
<td>The Honorable Elena</td>
<td>Kagan Supreme Court of the United States</td>
</tr>
<tr>
<td>Paul D. Kamenar</td>
<td>Washington Legal Foundation</td>
</tr>
<tr>
<td>Sally Katzen</td>
<td>New York University School of Law</td>
</tr>
<tr>
<td>Name</td>
<td>Position</td>
</tr>
<tr>
<td>---------------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>The Honorable Robert Katzmann</td>
<td>U.S. Court of Appeals for the Second Circuit Court</td>
</tr>
<tr>
<td>Richard J. Leighton</td>
<td>Keller and Heckman LLP</td>
</tr>
<tr>
<td>Alan B. Morrison</td>
<td>The George Washington University Law School</td>
</tr>
<tr>
<td>Sallyanne Payton</td>
<td>University of Michigan Law School</td>
</tr>
<tr>
<td>The Honorable S. Jay Plager</td>
<td>U.S. Court of Appeals for the Federal Circuit</td>
</tr>
<tr>
<td>Jonathan Rose</td>
<td>Sandra Day O’Connor College of Law, Arizona State University</td>
</tr>
<tr>
<td>The Honorable Antonin Scalia</td>
<td>Supreme Court of the United States</td>
</tr>
<tr>
<td>The Honorable Loren A. Smith</td>
<td>U.S. Court of Federal Claims</td>
</tr>
<tr>
<td>The Honorable Stanley Sporkin</td>
<td>U.S. District Court for the District of Columbia (Retired)</td>
</tr>
<tr>
<td>The Honorable Kenneth Starr</td>
<td>Baylor University</td>
</tr>
<tr>
<td>Peter L. Strauss</td>
<td>Columbia Law School</td>
</tr>
<tr>
<td>David Vladeck</td>
<td>Bureau of Consumer Protection, Federal Trade Commission</td>
</tr>
<tr>
<td>The Honorable John M. Walker Jr.</td>
<td>U.S. Court of Appeals for the Second Circuit</td>
</tr>
<tr>
<td>The Honorable William H. Webster</td>
<td>Milbank, Tweed, Hadley &amp; McCloy LLP</td>
</tr>
<tr>
<td>Name</td>
<td>Firm/University</td>
</tr>
<tr>
<td>----------------------</td>
<td>----------------------------------------</td>
</tr>
<tr>
<td>Edward L. Weidenfeld</td>
<td>The Weidenfeld Law Firm P.C.</td>
</tr>
<tr>
<td>Richard E. Wiley</td>
<td>Wiley Rein LLP</td>
</tr>
<tr>
<td>The Honorable Stephen F. Williams</td>
<td>U.S. Court of Appeals for the District of Columbia Circuit</td>
</tr>
</tbody>
</table>

**Special Counsels**

<table>
<thead>
<tr>
<th>Name</th>
<th>Firm/University</th>
<th>Position/Institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jeffrey S. Lubbers</td>
<td>American University Washington College of Law</td>
<td></td>
</tr>
<tr>
<td>Jonathan Siegel</td>
<td>George Washington University Law School</td>
<td></td>
</tr>
</tbody>
</table>
Committees

The Administrative Conference bylaws (section 302.3(a)) designate six standing committees of the Conference. The Chairman has the authority to appoint Conference members to the committees. With the approval of the Council, the Chairman may establish additional standing committees or rename, modify, or terminate any standing committee.

These six standing committees are the most important component of the process that leads to the adoption of Administrative Conference recommendations, because it is at the committee level that researchers’ reports are carefully analyzed and proposed recommendations are formulated. Although Administrative Conference researchers often provide the initial draft of proposed recommendations, the committees ultimately develop the recommendations that are considered by the Assembly. The committees typically meet several times each year, depending on the stage that their assigned projects have reached.

Each Conference member is asked to participate actively in one of the committees.

Each committee has an area of interest and activity, which generally guides the assignment of particular projects among the committees. However, these areas are defined broadly, to allow the Chairman flexibility in assigning projects. The Chairman may also, with Council approval, appoint special committees as needed.

<table>
<thead>
<tr>
<th>Committees:</th>
</tr>
</thead>
<tbody>
<tr>
<td>➢ Adjudication</td>
</tr>
<tr>
<td>➢ Administration and Management</td>
</tr>
<tr>
<td>➢ Collaborative Governance</td>
</tr>
<tr>
<td>➢ Judicial Review</td>
</tr>
<tr>
<td>➢ Regulation</td>
</tr>
<tr>
<td>➢ Rulemaking</td>
</tr>
</tbody>
</table>

Committees:
Staff

Emily S. Bremer
Attorney Advisor

Reeve T. Bull
Attorney Advisor

Gabrielle Guy
Paralegal Specialist

Gretchen Jacobs
Research Director

Charles Kersey
IT Specialist

Megan Kindelan
Communications Director

Shawne McGibbon
General Counsel

Funmi E. Olorunnipa
Attorney Advisor

David M. Pritzker
Deputy General Counsel

Harry Seidman
Chief Financial and Operations Officer

Stephanie J. Tatham
Attorney Advisor

Matthew Lee Weiner
Executive Director

Amber G. Williams
Attorney Advisor

Porscha Winston
Executive Assistant to the Chairman

ACUS Performance & Accountability Annual Report 2012
Vision & Values

The Administrative Conference is given the power to “study the efficiency, adequacy, and fairness of administrative procedure….” 5 USC § 594.

The work of the Conference is guided by these procedural values, which reflect legal and social science measures of performance.

The fairness value derives from law and employs principles in the Administrative Procedure Act and the Due Process Clause of the Constitution.

The efficiency value derives from economics and looks at how procedures employed by the agency achieve the public purposes the regulations are intended to serve. The question is whether the agency procedures and management techniques reflect optimum resource allocations.

The adequacy value borrows from the disciplines of psychology and political science and looks at the effectiveness of regulatory techniques from the public’s perspective, including such factors as trust, transparency, and participation.

In many situations, these values must be balanced by the Conference in crafting recommendations, but in no case will they be ignored.

Mission Statement

The Administrative Conference of the United States is a public-private partnership whose membership develops formal recommendations and innovative solutions that make our government work better.
Strategic Goals

PARTICIPATION

ACUS will expand citizen participation in the regulatory process through increased use of interactive communications technology and creative means of outreach, in order to provide essential information to government officials and to inform the public.

COLLABORATION

ACUS will study and promote the most responsive and efficient means of sharing authority and responsibility among the federal government, state and local governments, contractors, grantees, and citizens. This will include exploration of new models of collaborative governance as well as a more effective division of responsibility between government and the private sector.

INNOVATION

ACUS will seek new ideas that advance the core values of fairness and efficiency, and will study existing government programs to identify what works, what doesn’t, and what’s promising. Research will address the use of science, ensuring data quality, and performance evaluation.

EDUCATION

ACUS will bring together senior federal officials and outside experts to identify best practices and will advise agencies on revising their rulemaking and hearing processes, technology, and management systems to deliver better results. The Conference will be a central resource for agencies by compiling and publishing data and guidance on solving mutual problems.
strategic goal: PARTICIPATION

Expand public participation and increase transparency.
The Administrative Conference will expand citizen participation in the regulatory process through increased use of interactive communications technology, as well as by alternative means of outreach, in order to provide essential information to government officials and inform the public. The Administrative Conference will improve openness and transparency in government by promoting common standards and formats for information sharing and proposing updates to laws and rules written before the Internet era.

<table>
<thead>
<tr>
<th>Performance Goal</th>
<th>Results Measure</th>
<th>FY 2012 Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Fairness</td>
<td>Outreach to, and inclusion of, various stakeholders during consideration of ACUS recommendations.</td>
<td>In FY 2012, participation by outside groups and individuals surpassed that of the previous year. Moreover, numerous jointly-sponsored events were held in order to hear and consider the views of persons who might not otherwise participate in committee meetings. For example, a workshop was held at the National Academy of Sciences to solicit the views of stakeholders in the ACUS project titled, “Science in the Administrative Process.”</td>
</tr>
<tr>
<td>ACUS will encourage more widespread participation by stakeholders in its recommendation process to ensure a fair representation of relevant viewpoints.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2) Transparency</td>
<td>Publication of required Federal Register notices prior to semi-annual meetings of the full ACUS Assembly; publication of relevant committee documents (agendas, minutes, draft reports and recommendations) in a manner accessible to participants and the public; webcasts of committee and Assembly meetings to enhance access and transparency to all.</td>
<td>In FY 2012, all required Federal Register notices were published in a timely fashion. Committee documents were circulated to the public for comment (electronically) within one day of distribution to the relevant committee. An enhanced website (containing more historical information than ever before) was under development to create more user-friendly access for government agencies, students, the media, academics, Congress and public interest advocates. New webcasting capabilities were added to increase participation by members.</td>
</tr>
<tr>
<td>ACUS will ensure compliance with applicable FACA procedures regarding transparency and will ensure that the process leading to recommendations is transparent to participants and the public.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3) Access to Information</td>
<td>Increased visits to ACUS website by stakeholders and other interested persons/groups; and full disclosure of information to FOIA requesters (to the extent practicable).</td>
<td>In FY 2012, ACUS employed new Web analytics tools, which demonstrated that website visits increased in volume over the previous year. The agency continued</td>
</tr>
<tr>
<td>video recordings—both historical and current—to educate individuals about ACUS activities and information; and will ensure compliance with applicable Open Government and FOIA procedures.</td>
<td>extent permitted by law).</td>
<td>to adhere to a policy of full disclosure with regard to information requested under FOIA, and for CY 2012, received a “green” (top) score in all 14 directly applicable key areas out of 17 measured by the Office of Information Policy on agency FOIA compliance.</td>
</tr>
</tbody>
</table>
Strategic Goal: COLLABORATION

Promote collaborative governance.
The Administrative Conference will study and promote the most responsive and efficient means of sharing authority and responsibility among the federal government, state and local governments, contractors, grantees, and citizens. This will include exploration of new models of collaborative governance as well as the most efficient division of responsibility between government and the private sector.

<table>
<thead>
<tr>
<th>Performance Goal</th>
<th>Results Measure</th>
<th>FY 2012 Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Public-Private Partnerships</td>
<td>Partnerships with organizations/institutions like the American Bar Association (ABA), universities and other federal agencies to aid in the development and implementation of ACUS recommendations and projects.</td>
<td>In FY 2012, the ABA adopted a resolution based on ACUS Recommendation 2011-6, International Regulatory Cooperation, thereby aiding in ACUS’ implementation efforts. And, ACUS adopted several recommendations that were strengthened by input from private-sector experts such as Recommendation 2011-5, Incorporation by Reference.</td>
</tr>
<tr>
<td>2) International Cooperation</td>
<td>Outreach and education to foreign counterparts; recommendations, collaborations and events that establish best practices for enhancing cooperation between the U.S. Government and its foreign counterparts, particularly in the area of regulation.</td>
<td>In FY 2012, ACUS staff met with several foreign delegations, including legal scholars from China, to describe and promote the U.S. system of administrative procedure. ACUS adopted Recommendation 2011-6, International Regulatory Cooperation, which provides guidance for all U.S. regulatory agencies on working with their international counterparts. Based in part on that recommendation, President Barack Obama signed Executive Order 13609, Promoting International Regulatory Cooperation.</td>
</tr>
<tr>
<td>3) Alternative Dispute Resolution (ADR)</td>
<td>Programs and activities that promote the use of ADR in government.</td>
<td>In FY 2012, ACUS co-sponsored a symposium with the Department of Justice to re-focus attention on the benefits of cost-effective alternative dispute resolution (ADR) and reducing litigation at government agencies. Attorney General Eric Holder keynoted the event and emphasized the</td>
</tr>
</tbody>
</table>
### 4) Best Practices

ACUS will identify and/or develop best practices in government and share that information with agencies, or train agencies how to adopt the best practices.

Recommendations and/or reports that promote adoption of best practices that produce cost savings, increased efficiency, or increased fairness; recognition of agencies that develop innovative best practices.

In FY 2012, ACUS awarded the Walter Gellhorn award to agencies that demonstrated innovative best practices that can be adopted government-wide. ACUS adopted recommendations that are based on federal agency best practices, such as ACUS Recommendation 2011-8, Agency Innovations in e-Rulemaking.
strategic goal: **INNOVATION**

Identify innovations to make government procedures more efficient, fair, timely, and data-driven. The Administrative Conference will seek new ideas that advance the core values of fairness and efficiency, and will study existing government programs to identify what works, what doesn’t, and what’s promising. Because government action should be based on sound data, the Administrative Conference will improve the use of science, empirical data, and performance evaluation in regulations and administrative law, and the Conference’s own activities will be measured to demonstrate the value that they provide.

<table>
<thead>
<tr>
<th>Performance Goal</th>
<th>Results Measure</th>
<th>FY 2012 Results</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1) Efficiency</strong></td>
<td>Reports and/or recommendations on innovative administrative procedure reforms that help agencies put their limited resources to the best use. Outcomes measured by agencies adopting these reforms and concomitant increases in efficiency.</td>
<td>In FY 2012, ACUS adopted several recommendations in support of this goal. For instance, ACUS adopted Recommendation 2012-5, Improving Coordination of Related Agency Functions, which suggests reforms aimed at improving coordination of agency policymaking, including joint rulemaking, interagency agreements and agency consultation provisions.</td>
</tr>
<tr>
<td><strong>2) Timeliness</strong></td>
<td>Reports and/or recommendations that aim to reduce delays in the administrative process. Outcomes measured by the affected agencies’ adoption of the recommended reforms and a reduction in backlogs and delays.</td>
<td>In FY 2012, ACUS adopted Recommendation 2012-3, Immigration Removal Adjudication, which, when implemented, will reduce backlogged cases and increase fairness for detainees awaiting a hearing. Video hearings represented one of several innovative techniques contained in the recommendation. ACUS anticipates continued work in this area and, in FY 2013, plans to conduct a pilot test in a detention facility, demonstrating the efficacy of video hearings.</td>
</tr>
<tr>
<td><strong>3) Technology</strong></td>
<td>Reports and/or recommendations on best practices to eliminate barriers to access.</td>
<td>In FY 2012, ACUS adopted Recommendation 2011-8, Agency Innovations in e-Rulemaking, which was based on innovative initiatives at 90 federal agencies, and highlights agency best practices on electronic rulemaking that can be adopted at other agencies.</td>
</tr>
</tbody>
</table>
strategic goal: **EDUCATION**

Convene leaders to share information, solve common problems, and encourage adoption of promising innovations government-wide.

The Administrative Conference will bring together senior federal officials and outside experts to identify best practices and will advise agencies on revising their rulemaking and hearing processes, technology, and management systems to deliver better results. The Conference will be a central resource for agencies by compiling and publishing data and guidance on solving mutual problems.

<table>
<thead>
<tr>
<th>Performance Goal</th>
<th>Results Measure</th>
<th>FY 2012 Results</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1) Reconvene Regular Meetings of the Council of Independent Regulatory Agencies (CIRA)</strong></td>
<td>Convene four meetings per year of the Council of Independent Regulatory Agencies.</td>
<td>In FY 2012, the ACUS Chairman convened four CIRA meetings. Topics discussed included the Government in the Sunshine Act, which restricts certain types of communications at agencies governed by a multi-headed body (like a Commission), and pending legislation requiring cost-benefit analysis at independent agencies.</td>
</tr>
<tr>
<td><strong>2) Workshops</strong></td>
<td>Convene two to four workshops per year.</td>
<td>In FY 2012, ACUS convened three workshops to share information on a range of current topics. An ADR symposium was held jointly with DOJ. A summit was held jointly with the U.S. Chamber of Commerce on the topics of Incorporation by Reference and International Regulatory Cooperation. A workshop on improving the use of science in the regulatory process was jointly held with the National Academy of Sciences.</td>
</tr>
<tr>
<td><strong>3) Publications</strong></td>
<td>A website that is compliant with federal requirements, incorporates innovative tools such as social media, and is useful, as measured by increasing number and duration of Web visits and user surveys. Published documents/guides/reports.</td>
<td>In FY 2012, the agency continued to improve the usability and content of its website, and increased usage over the previous year by 30 percent. The Conference undertook a comprehensive study of the federal executive establishment for the purpose of cataloging the structure of federal agencies and other entities within the federal government, including independent agencies. No other resource of its kind exists. This project will be</td>
</tr>
</tbody>
</table>
completed in FY 2013 with the publication of a sourcebook and the underlying database. The Office of the Chairman also compiled data for a prospective report to Congress on the amount of fees and other expenses awarded in agency administrative proceedings during the preceding fiscal year pursuant to the Equal Access to Justice Act.
Recommendation Process

The Administrative Conference’s research and the resulting recommendations are carried out through a multi-step process.

The process includes gathering and selecting ideas for a project, obtaining Council approval, and selecting the researcher. The Conference’s six committees will then consider the researcher’s report. The committee then collaborates on the project with staff, the research consultant, other agencies as appropriate, and other interested persons, in public meetings (that are also broadcast online). Once the committee formulates a recommendation, the draft recommendation is then considered by the Council and then the full Conference membership.

Upon approval by the full Conference, ACUS follows up to see that its recommendations are implemented.

The graphic shown above represents the steps involved in preparing a recommendation.

What is unique about this process?

...ACUS provides “non-partisan, non-biased, comprehensive, and practical assessments and guidance with respect to a wide range of agency processes, procedures, and practices,...based on a meticulous vetting process, which give its recommendations credence.”

Congressional Research Service, 2007
Plenary Sessions and Adopted Recommendations

During its plenary sessions and committee meetings, members exchange views and work together to reach consensus solutions to complex problems. This process at the committee level, which typically involves at least two to three committee meetings for each project, produces the recommendations the Conference considers at plenary sessions. The following are the recommendations adopted by the voting members of the Conference during the 2012 plenary sessions.

56th Plenary Session: June 14-15, 2012
- Recommendation 2012-1 (Regulatory Analysis Requirements)
- Recommendation 2012-2 (Midnight Rules)
- Recommendation 2012-3 (Immigration Removal Adjudication)
- Recommendation 2012-4 (Paperwork Reduction Act)
- Recommendation 2012-5 (Improving Coordination of Related Agency Responsibilities)

57th Plenary Session: December 6-7, 2012
- Recommendation 2012-6 (Reform of 28 U.S.C. § 1500)
- Recommendation 2012-7 (Agency Use of Third-Party Programs to Assess Regulatory Compliance)
- Recommendation 2012-8 (Inflation Adjustment Act)

Ongoing Projects

The following projects were in varying stages of the research process in 2012:
- Administrative Record in Informal Agency Proceedings
- Benefit-Cost Analysis at Independent Regulatory Agencies
- Government in the Sunshine Act
- Methods of Collaborative Governance
- Science in the Administrative Process
- Social Media in Rulemaking
- Social Security Disability Adjudication
Office of the Chairman Projects

The Federal Executive Establishment
The Administrative Conference undertook a project to examine the agencies and other organizational entities of the federal executive establishment, including independent agencies. The study catalogues a comprehensive set of characteristics for each entity, including structure (e.g., commission or single-head agency, internal organization), personnel (e.g., number and types of appointed positions, limitations on removal), decision-making processes and requirements, political oversight, and sources of funding. No other resource of its kind exists.

The results of this study are contained in the *Sourcebook of United States Executive Agencies*, prepared by David E. Lewis and Jennifer L. Selin of Vanderbilt University and first published by the Administrative Conference in December 2012. The information from this research will be an especially valuable resource to Congress, both in carrying out its oversight activities and in legislating on matters concerning the organization, functioning, and governance of federal administrative agencies. It also serves as a useful resource to the judiciary, individual agencies, the general public, and academic researchers in government and public administration.

SSA Disability Benefits Programs: The Duty of Candor and Submission of All Evidence
At the request of the Social Security Administration (SSA), the Office of the Chairman studied the duty of candor and the submission of all evidence in Social Security disability adjudications. The report, released in October 2012, briefly reviewed and summarized the Social Security Act and SSA’s current regulations and practices regarding the duty of candor and the submission of all evidence. It then reviewed requirements from other tribunals, the Federal Rules of Civil Procedure, and regulations governing other agencies. It also analyzed ethical standards concerning disclosure of information by claimants’ representatives. Based on the research, the report presented the regulatory options available to SSA regarding future actions to improve the disability adjudication process.

“We are very pleased with the quality and timeliness of this report. ACUS’ suggestions will greatly assist us as we consider changes to improve the disability process. I do want to add that this report and the other fine work ACUS is doing at our request demonstrates Congress’ wisdom in reviving this agency. Their work has been timely, high-quality, and quite cost-effective compared to alternative contractors.”

Michael J. Astrue
Social Security Commissioner

ACUS Chairman Paul Verkuil with Sourcebook authors Jennifer L. Selin and David E. Lewis.
Office of the Chairman Projects

Equal Access to Justice Act (EAJA)
Since the 1980s, the Equal Access to Justice Act (Title II of Pub. L. 96-481, 94 Stat. 2325) has provided for the award of attorney fees and expenses to certain parties who prevail over the federal government in administrative and court proceedings. The Act assigned important consultative and reporting responsibilities to the Chairman of the Administrative Conference. As part of its consultative role, in 1986 the Office of the Chairman published revised model rules for implementation of EAJA in agency proceedings, which provided extensive guidance to agencies (51 FR 16665, May 6, 1986).

Prior to cessation of the Administrative Conference’s activities in 1995, the Office of the Chairman compiled an annual report to Congress on the amount of fees and other expenses awarded in agency administrative proceedings during the preceding fiscal year pursuant to EAJA. The report described the number, nature, and amount of the awards, the claims involved in the controversy, and any other relevant information which may have aided Congress in evaluating the scope and impact of such awards (5 USC 504(e)). The last such report covered fiscal year 1994.

The Federal Reports Elimination and Sunset Act of 1995 (Pub. L. 104-66) eliminated the statutory requirements for both the Conference’s report on EAJA payments in administrative proceedings and a corresponding report by the Department of Justice on payments in court proceedings. However, because of the continuing interest in Congress in acquiring data about payments under EAJA, the Office of the Chairman requested the data from agencies for FY 2010 and then compiled data to prepare a report for Congress.
Researchers

ACUS has a history of collaborating with researchers whose work has proven indispensable to the core of the Conference’s mission.

Hundreds of the nation’s leading academic and professional experts in government and administrative law have contributed to fulfilling the Conference’s mission of engaging in research that addresses the efficiency, adequacy, and fairness of administrative agency programs. This list includes consultants and researchers, both paid and pro bono, who have produced recommendations and reports over the course of the Conference’s existence.

2012 ACUS Research Consultants

<table>
<thead>
<tr>
<th>Consultant</th>
<th>Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leland E. Beck</td>
<td>Administrative Record</td>
</tr>
<tr>
<td>Jack M. Beermann</td>
<td>Midnight Rules</td>
</tr>
<tr>
<td>Lenni B. Benson</td>
<td>Immigration Removal Adjudication</td>
</tr>
<tr>
<td>James Ming Chen</td>
<td>Inflation Adjustment for Civil Penalties</td>
</tr>
<tr>
<td>Curtis Copeland</td>
<td>Review of Regulatory Analysis Requirements, Benefit-Cost</td>
</tr>
<tr>
<td></td>
<td>Analysis</td>
</tr>
<tr>
<td>Jody Freeman</td>
<td>Improving Coordination of Related Agency Responsibilities</td>
</tr>
<tr>
<td>Michael E. Herz</td>
<td>Social Media in Rulemaking</td>
</tr>
<tr>
<td>Harold J. Krent</td>
<td>Social Security Disability Adjudication</td>
</tr>
<tr>
<td>David E. Lewis</td>
<td>Federal Executive Establishment</td>
</tr>
<tr>
<td>Lesley K. McAllister</td>
<td>Agency Use of Third-Party Programs to Assess Regulatory</td>
</tr>
<tr>
<td></td>
<td>Compliance</td>
</tr>
<tr>
<td>Scott Morris</td>
<td>Social Security Disability Adjudication</td>
</tr>
<tr>
<td>Jim Rossi</td>
<td>Improving Coordination of Related Agency Responsibilities</td>
</tr>
<tr>
<td>Jennifer L. Selin</td>
<td>Federal Executive Establishment</td>
</tr>
<tr>
<td>Stuart Shapiro</td>
<td>Paperwork Reduction Act</td>
</tr>
<tr>
<td>Wendy E. Wagner</td>
<td>Science in the Administrative Process</td>
</tr>
<tr>
<td>Russell Wheeler</td>
<td>Immigration Removal Adjudication</td>
</tr>
</tbody>
</table>
Former Researchers

Former Researchers Who are Current ACUS Members

Marshall Breger
Ronald A. Cass
E. Donald Elliott
Philip J. Harter
Sally Katzen
Ronald M. Levin
Jeffrey S. Lubbers
William V. Luneburg
Jerry Mashaw
Richard J. Pierce
Richard Revesz
Jonathan Rose
Antonin Scalia
Loren A. Smith
Peter L. Strauss
Paul R. Verkuil

Consultants, Researchers and Contributors

A
Charles D. Ablard
Arvil Adams
Robert S. Adler
Nicholas Allard
David Altschuler
Alfred C. Aman
David R. Anderson
Frederick R. Anderson
Dennis S. Aronowitz
Michael Asimow

B
Steven J. Balla
Michael Baram
Lawrence Baxter
Richard Bednar
Bernard W. Bell
Michael E. Bell
Robert W. Bennett
Richard K. Berg

C
Richard B. Cappalli
Michael H. Cardozo
Milton M. Carrow
Reid P. Chambers
Brice McAdoo Clagett
Kathleen Clark
Cary Coglianese
Michael P. Cox
Roger C. Cramton
Steven P. Croley
Eldon H. Crowell
David P. Currie

D
Johnnie Daniel
Charles Davenport
William I. Davey
Frederick Davis
James V. DeLong
Colin S. Diver
Robert G. Dixon
Bridget C.E. Dooling
Elizabeth K. Dorminey

E
George C. Eads
Gary Edles

F
Emory Ellis
Samuel Estreicher

G
Richard Fallon
Margaret G. Farrell
Howard Fenton III
Eugene Fidell
Jose R. Figueroa
Mary Candace Fowler
James O. Freedman
John H. Frye
William F. Funk

H
Warner W. Gardner
Ernest Gellhorn
Peter M. Gerhart
Donald A. Giannella
Daniel J. Gifford
Margaret Gilhooley
Michelle Gilbert
Clayton P. Gillette
Brian Griffin
Harvey Goldschmidt
Frank Goodman
Frank P. Grad
Heather G. Graham
Charles E. Grassley
Harold P. Green
Dov Grundschlag
Mark H. Grunewald

I
Norbert Halloran
Robert W. Hamilton
Michael P. Healy
Ann C. Hodges
Thomas D. Hopkins
Donald T. Hopkins
Zona Fairbanks Hostetler

ACUS Performance & Accountability Annual Report 2012 37
Carole Iannelli
John H. Jackson
George Robert Johnson
Phillip E. Johnson
Charlotte Jones
Ellen R. Jordan
Daniel Joseph
Timothy Stoltzfus Jost
David E. Kartalia
Cornelius Kerwin
Eleanor Kinney
Stephen H. Klitzman
Charles H. Koch
David Koplow
Lewis A. Kornhauser
William E. Kovacic
William P. Kratzke
Harold Krent
Jack Kress
Stephen Kurzman
Laura Langbein
Paul Larsen
Arnold H. Leibowitz
Jacqueline C. Leifer
Stephen Legomsky
Lisa G. Lerman
Howard Lesnick
L. Harold Levinson
William J. Lockhart
Andreas F. Lowenfeld
William Lyons
Jonathan R. Macey
Thomas J. Madden
Michael P. Malloy
Wendy K. Mariner
David A. Martin
David B.H. Martin
Peter W. Martin
Philip Martin
Malcolm S. Mason
Michael McCarthy
Thomas O. McGarity
Carl McGowan
John McGregor
Errol Meidinger
Richard A. Merrill
Douglas Michael
Geoffrey P. Miller
Nancy G. Miller
Thomas D. Morgan
Morell E. Mullins
Arthur W. Murphy
James Nafziger
Nathaniel L. Nathanson
Alfred S. Neely IV
David S. North
J.D. Nyhart
Gregory Ogden
Funmi Olorunnipa
James T. O’Reilly
Max D. Paglin
Robert E. Park
Henry Perritt, Jr.
William D. Popkin
Anna Marie Portz
Charles Pou, Jr.
Burneke V. Powell
Monroe E. Price
David M. Pritzker
Robert L. Rabin
Malcolm C. Rich
Douglas A. Riggs
Leonard L. Riskin
Robert N. Roberts
Reuben B. Robertson
Glen O. Robinson
William F. Robinson, Jr.
Arnold Rochvarg
Morton Rosenberg
Victor Rosenblum
Ronald D. Rotunda
George Ruttinger
Sidney A. Shapiro
Catherine M. Sharkey
Harold Sharlin
William Shaw
Allen Shoenerberger
Jonathan Siegel
Michael J. Singer
Diane M. Stockton
Stuart A. Smith
Marianne K. Smythe
Abraham Sofaer
Ralph S. Spritzer
Thomas H. Stanton
John M. Steadman
Thomas O. Sargentich
Steven Schlesinger
Roy A. Schotland
Peter H. Schuck
Teresa M. Schwartz
Warren F. Schwartz
Kenneth E. Scott
Peter F. Shane
Brian D. Shannon
Ann Steinberg
Russell B. Stevenson
Charles A. Sullivan
Neil J. Sullivan
Peter Szanton
T
Larry W. Thomas
Norman C. Thomas
Carl W. Tobias
Edward A. Tomlinson

V
Katherine L. Vaughns
Jan Vetter
G. Joseph Vining

W
William Walsh
Theodore Wang
Leland Ware
Wallace Warfield
Russell L. Weaver
David Welborn
Martin B. White
Jerre S. Williams
Stephen F. Williams
Mason Wilrich
Julia Wondolleck
Frank M. Wozencraft
Ronald Wright

Y-Z
Steven L. Yaffee
Lynda Zengerle
Nicholas Zeppos
Michael J. Zimmer
Model Agency Best Practices Initiative

From Need-to-Know to Know-How

The Administrative Conference of the United States is uniquely situated to help both new and established agencies build better organizations for the new century. To accomplish this, the Conference has a long-term project to identify and share best administrative and operational practices among agencies.

The question this project is designed to answer is: what model practices can be widely adopted to help every federal agency improve its operations and procedures? The hallmark of the entire effort is collaboration with other federal agencies. The primary vehicle to promote, solicit, and share information about best practices is an interactive website, www.acus.gov/best-practices.

The Walter Gellhorn Innovation Award is named after the Conference’s longest-serving Council member, who was known by many as the "Father of Administrative Law." Judged by a distinguished panel of experts, the award recognizes the federal agency with the best model practice that can be adopted government-wide.

The second annual award, presented during the 57th Plenary Session in December 2012, went to the National Archives and Records Administration for their Citizen Archivist Initiative project. The Honorable Mention awards went to the Consumer Financial Protection Bureau of its Consumer Complaint Database and the Bureau for its Mobil Apps program.

Panel of Judges:

- **Sheila Bair**: Senior Advisor at Pew Charitable Trusts and Chair of the Systemic Risk Council. Former FDIC Chair, acting Chair of the CFTC, and Dean’s Professor of Financial Regulatory Policy for the Isenberg School of Management (U. Mass. Amherst)
- **John Dilulio Jr.**: Frederic Fox Leadership Professor of Politics, Religion, and Civil Society and Professor of Political Science at the University of Pennsylvania. Former Director of White House Office of Faith-Based Initiatives.
- **David Lewis**: Professor of Political Science at Vanderbilt University. He is the author of Presidents and the Politics of Agency Design and The Politics of Presidential Appointments: Political Control and Bureaucratic Performance.
- **Robert Litan**: Director of Research, Bloomberg Government. Former VP for Research and Policy at the Kauffman Foundation and Senior Fellow in Economic Studies at the Brookings Institution; also former Deputy Assistant Attorney General at DOJ and Associate Director of OMB.
Council of Independent Regulatory Agencies

MEMBERS
U.S. Consumer Product Safety Commission
Commodity Futures Trading Commission
Equal Employment Opportunity Commission
Federal Communications Commission
Federal Deposit Insurance Corporation
Federal Election Commission
Federal Energy Regulatory Commission
Federal Housing Finance Agency
Federal Maritime Commission
Federal Mine Safety and Health Review Commission
Federal Reserve Board
Federal Trade Commission
U.S. International Trade Commission
Merit Systems Protection Board
National Labor Relations Board
Nuclear Regulatory Commission
Occupational Safety and Health Review Commission
Postal Regulatory Commission
Securities and Exchange Commission
Surface Transportation Board

A council for leaders of independent regulatory agencies, CIRA’s goal is to provide a forum for executives to discuss issues common to these agencies.

Because independent regulatory agencies are subject to limited OMB oversight, they have limited mechanisms for sharing information and solving common administrative problems.

Over the last year, the Council of Independent Regulatory Agencies convened three meetings to discuss issues of common interest, such as the use of cost-benefit analysis by independent regulatory agencies, international regulatory cooperation, and independent regulatory agency practices for dissents in rulemakings.

FY 2012 Meeting Dates
- November 15, 2011
- March 1, 2012
- May 30, 2012
- September 7, 2012

President Ronald Reagan
Addressing Agency Chairmen at the White House During the Initial Meeting of the Council of Independent Regulatory Agencies.

April 16, 1982
Budgetary Resources and Appropriation

Appropriation History
Congress appropriated $2.5 million for FY 2010, with authority to carry over unused funds to FY 2011. ACUS carried over approximately $0.9 million to FY 2011. To that, Congress appropriated an additional $2.75 million for FY 2011 (again, with authority to carry over unused funds to FY 2012), bringing the total of available funds for FY 2011 to approximately $3.7 million. Given the substantial carryover funds available to ACUS for FY 2012, Congress appropriated $2.9 million for FY 2012 (again, with carryover authority) and, as a result of a continuing resolution, the same amount for FY 2013. As a result, for each full fiscal year of ACUS’s operation, the agency’s congressionally appropriated budgetary resources have exceeded $3.2 million; although ACUS has yet to receive its fully authorized appropriation of $3.2 million in any given fiscal year.

FY 2012 Appropriation Language
For necessary expenses of the Administrative Conference of the United States, authorized by 5 U.S.C. 591 et seq., $2,900,000 to remain available until September 30, 2013, of which not to exceed $1,000 is for official reception and representation expenses.

<table>
<thead>
<tr>
<th>FY 2012 Programmatic Application of Funds</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Personnel Compensation and Benefits (Administration, Legal Counsel, Project Management)</td>
<td>$1,896,600</td>
</tr>
<tr>
<td>Administrative Overhead (Rent, Office Supplies, Equipment)</td>
<td>$348,000</td>
</tr>
<tr>
<td>Recommendations and Other Projects (Research, Reports, Contracted Experts)</td>
<td>$435,000</td>
</tr>
<tr>
<td>Implementation and Advisory (Publications, Workshops, Symposia)</td>
<td>$220,400</td>
</tr>
<tr>
<td><strong>FY 2012 Total Budget Authority</strong></td>
<td>$2,900,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>FY 2011 Carryover Funds</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Budgetary Authority (FY11/12 Funds)</td>
<td>$3,498,989</td>
</tr>
<tr>
<td><strong>Total Outlays in FY 2012 (FY11/12 Funds)</strong></td>
<td>$2,827,119</td>
</tr>
</tbody>
</table>

| Carryover Balance to FY 2013                                     | $671,870  |

<table>
<thead>
<tr>
<th>FY 2012 Personnel Resources – FTEs:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FY 2012 Personel Resources – FTEs:</strong></td>
<td>15</td>
</tr>
</tbody>
</table>
Appendix A
Administrative Conference Act

United States Code
Title 5. Government Organization and Employees
Part I. The Agencies Generally
Chapter 5. Administrative Procedure
Subchapter V. Administrative Conference of the United States

§ 591. Purposes

The purposes of this subchapter are—

(1) to provide suitable arrangements through which Federal agencies, assisted by outside experts, may cooperatively study mutual problems, exchange information, and develop recommendations for action by proper authorities to the end that private rights may be fully protected and regulatory activities and other Federal responsibilities may be carried out expeditiously in the public interest;
(2) to promote more effective public participation and efficiency in the rulemaking process;
(3) to reduce unnecessary litigation in the regulatory process;
(4) to improve the use of science in the regulatory process; and
(5) to improve the effectiveness of laws applicable to the regulatory process.


Appendix B
Administrative Conference Bylaws

The current bylaws were approved by the Assembly during the Administrative Conference's 56th Plenary Session in June 2012.
