

Comment from Stacey Cole on *Precedential Decision Making in Agency Adjudication*
November 4, 2022

- The revised recommendations identify the Social Security Administration (SSA) and Department of Veterans Affairs (VA) as exceptional agencies that do not use precedential decision making. We note, however, that the VA’s Board of Veterans’ Appeals and SSA’s Appeals Council both adjudicate highly fact-specific claims for government benefits in non-adversarial administrative review processes. We believe those circumstances may help to explain why neither appellate body accords precedential status to decisions, because precedential decisions might not be well-tailored to the nature of the agencies’ adjudications. To the extent the recommendations flag SSA and the VA as outliers, we believe it would be helpful to explain why that might be the case.

- Line 12: “advences” should be “advances.”

- Line 13: “policymaking, efficiency” should be “policymaking and efficiency.”

- Line 138: It doesn’t look as if an entry for “j” was intended here.