

Comment from Public Member Russell Wheeler on *Public Access to Agency Adjudicative Proceedings*  
October 19, 2021

Pg li

- 1 2 Insert “their” before “adjudicative—unless point is that each agency should identify generic objectives, applicable to all
- 8 Same point as above
- 10 Insert “the agency’s” before “adjudicative”
- 12 Re “any”: Can a regulation cover “any”—i.e., “any and all” circumstances? More general wording?
- 2 17 Instead of “Requirements” consider “Policies governing”. “Requirements” suggests no discretion.
- 21 “When” suggests days or hours. Perhaps “Which”?
- 26 Are we concerned with “expectations” or “policies”? I.e., “We hope they won’t bring electronic devices” vs. “They may not bring devices”.
- 42 The list purports to be inclusive. Should there be a category recognizing special circumstances of individual agencies?
- 50 Suggest the active voice here, along the lines: “presumption that the agency will close hearings and proceedings while retaining the authority to open . . .
- 52 Is it other types of “adjudicative proceedings” or just “proceedings” (paper’s reference, e.g., to pretrial hearings).
- 58 To what does “that type” refer—one specific type or line 56’s “particular types”?
- 4 84 Subsection c seems to combine two separate functions: requesting and requesting. Consider two separate subsections: how to request closing or opening, and who responds. And does “respond” mean “answer” or “decide”?
- 5 105 Consider whether this section needs a “where feasible” qualifier, especially with regard to those with travel difficulties, etc
- 113 Consider striking “it would be beneficial”.
- 6` 137 Consider whether including the participants/parties in the proceedings as a factor. Some might want to observe proceedings depending on who’s involved—note line 149’s reference to “significant public interest”
- 7 156 Consider including here something about providing recordings, etc., in timely manner A recording posted immediately after the hearing could dilute demand for real-time access. Something posted a week later would not.
- 170 Consider deleting “take steps to”.