



## Administrative Conference Act

United States Code

Title 5. Government Organization and Employees (Refs & Annos)

Part I. The Agencies Generally

Chapter 5. Administrative Procedure (Refs & Annos)

Subchapter V. Administrative Conference of the United States (Refs & Annos)

### **§ 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.

### **§ 592. Definitions**

For the purpose of this subchapter--

- (1) “administrative program” includes a Federal function which involves protection of the public interest and the determination of rights, privileges, and obligations of private persons through rule making, adjudication, licensing, or investigation, as those terms are used in subchapter II of this chapter, except that it does not include a military or foreign affairs function of the United States;
- (2) “administrative agency” means an authority as defined by section 551(1) of this title; and
- (3) “administrative procedure” means procedure used in carrying out an administrative program and is to be broadly construed to include any aspect of agency organization, procedure, or management which may affect the equitable consideration of public and private interests, the fairness of agency decisions, the speed of agency action, and the relationship of operating methods to later judicial review, but does not include the scope of agency responsibility as established by law or matters of substantive policy committed by



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law to agency discretion.

### **§ 593. Administrative Conference of the United States**

(a) The Administrative Conference of the United States consists of not more than 101 nor less than 75 members appointed as set forth in subsection (b) of this section.

(b) The Conference is composed of--

(1) a full-time Chairman appointed for a 5-year term by the President, by and with the advice and consent of the Senate. The Chairman is entitled to pay at the highest rate established by statute for the chairman of an independent regulatory board or commission, and may continue to serve until his successor is appointed and has qualified;

(2) the chairman of each independent regulatory board or commission or an individual designated by the board or commission;

(3) the head of each Executive department or other administrative agency which is designated by the President, or an individual designated by the head of the department or agency;

(4) when authorized by the Council referred to in section 595(b) of this title, one or more appointees from a board, commission, department, or agency referred to in this subsection, designated by the head thereof with, in the case of a board or commission, the approval of the board or commission;

(5) individuals appointed by the President to membership on the Council who are not otherwise members of the Conference; and

(6) not more than 40 other members appointed by the Chairman, with the approval of the Council, for terms of 2 years, except that the number of members appointed by the Chairman may at no time be less than one-third nor more than two-fifths of the total number of members. The Chairman shall select the members in a manner which will provide broad representation of the views of private citizens and utilize diverse experience. The members shall be members of the practicing bar, scholars in the field of administrative law or government, or others specially informed by knowledge and experience with respect to Federal administrative procedure.

(c) Members of the Conference, except the Chairman, are not entitled to pay for service. Members appointed from outside the Federal Government are entitled to travel expenses, including per diem instead of subsistence, as authorized by section 5703 of this title for individuals serving without pay.

### **§ 594. Powers and duties of the Conference**

To carry out the purposes of this subchapter, the Administrative Conference of the United States may--



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- (1) study the efficiency, adequacy, and fairness of the administrative procedure used by administrative agencies in carrying out administrative programs, and make recommendations to administrative agencies, collectively or individually, and to the President, Congress, or the Judicial Conference of the United States, in connection therewith, as it considers appropriate;
- (2) arrange for interchange among administrative agencies of information potentially useful in improving administrative procedure;
- (3) collect information and statistics from administrative agencies and publish such reports as it considers useful for evaluating and improving administrative procedure;
- (4) enter into arrangements with any administrative agency or major organizational unit within an administrative agency pursuant to which the Conference performs any of the functions described in this section; and
- (5) provide assistance in response to requests relating to the improvement of administrative procedure in foreign countries, subject to the concurrence of the Secretary of State, the Administrator of the Agency for International Development, or the Director of the United States Information Agency, as appropriate, except that--
  - (A) such assistance shall be limited to the analysis of issues relating to administrative procedure, the provision of training of foreign officials in administrative procedure, and the design or improvement of administrative procedure, where the expertise of members of the Conference is indicated; and
  - (B) such assistance may only be undertaken on a fully reimbursable basis, including all direct and indirect administrative costs.

Payment for services provided by the Conference pursuant to paragraph (4) shall be credited to the operating account for the Conference and shall remain available until expended.

### **§ 595. Organization of the Conference**

- (a) The membership of the Administrative Conference of the United States meeting in plenary session constitutes the Assembly of the Conference. The Assembly has ultimate authority over all activities of the Conference. Specifically, it has the power to--
- (1) adopt such recommendations as it considers appropriate for improving administrative procedure. A member who disagrees with a recommendation adopted by the Assembly is entitled to enter a dissenting opinion and an alternate proposal in the record of the Conference proceedings, and the opinion and proposal so entered shall accompany the Conference recommendation in a publication or distribution thereof; and
  - (2) adopt bylaws and regulations not inconsistent with this subchapter for carrying out the functions of the Conference, including the creation of such committees as it considers necessary for the conduct of studies and the development of recommendations for



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consideration by the Assembly.

**(b)** The Conference includes a Council composed of the Chairman of the Conference, who is Chairman of the Council, and 10 other members appointed by the President, of whom not more than one-half shall be employees of Federal regulatory agencies or Executive departments. The President may designate a member of the Council as Vice Chairman. During the absence or incapacity of the Chairman, or when that office is vacant, the Vice Chairman shall serve as Chairman. The term of each member, except the Chairman, is 3 years. When the term of a member ends, he may continue to serve until a successor is appointed. However, the service of any member ends when a change in his employment status would make him ineligible for Council membership under the conditions of his original appointment. The Council has the power to--

**(1)** determine the time and place of plenary sessions of the Conference and the agenda for the sessions. The Council shall call at least one plenary session each year;

**(2)** propose bylaws and regulations, including rules of procedure and committee organization, for adoption by the Assembly;

**(3)** make recommendations to the Conference or its committees on a subject germane to the purpose of the Conference;

**(4)** receive and consider reports and recommendations of committees of the Conference and send them to members of the Conference with the views and recommendations of the Council;

**(5)** designate a member of the Council to preside at meetings of the Council in the absence or incapacity of the Chairman and Vice Chairman;

**(6)** designate such additional officers of the Conference as it considers desirable;

**(7)** approve or revise the budgetary proposals of the Chairman; and

**(8)** exercise such other powers as may be delegated to it by the Assembly.

**(c)** The Chairman is the chief executive of the Conference. In that capacity he has the power to--

**(1)** make inquiries into matters he considers important for Conference consideration, including matters proposed by individuals inside or outside the Federal Government;

**(2)** be the official spokesman for the Conference in relations with the several branches and agencies of the Federal Government and with interested organizations and individuals outside the Government, including responsibility for encouraging Federal agencies to carry out the recommendations of the Conference;

**(3)** request agency heads to provide information needed by the Conference, which information shall be supplied to the extent permitted by law;



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- (4) recommend to the Council appropriate subjects for action by the Conference;
- (5) appoint, with the approval of the Council, members of committees authorized by the bylaws and regulations of the Conference;
- (6) prepare, for approval of the Council, estimates of the budgetary requirements of the Conference;
- (7) appoint and fix the pay of employees, define their duties and responsibilities, and direct and supervise their activities;
- (8) rent office space in the District of Columbia;
- (9) provide necessary services for the Assembly, the Council, and the committees of the Conference;
- (10) organize and direct studies ordered by the Assembly or the Council, to contract for the performance of such studies with any public or private persons, firm, association, corporation, or institution under title III of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 251-260), and to use from time to time, as appropriate, experts and consultants who may be employed in accordance with section 3109 of this title at rates not in excess of the maximum rate of pay for grade GS-15 as provided in section 5332 of this title;
- (11) utilize, with their consent, the services and facilities of Federal agencies and of State and private agencies and instrumentalities with or without reimbursement;
- (12) accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding and facilitating the work of the Conference. Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Chairman. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests. For purposes of Federal income, estate, or gift taxes, property accepted under this section shall be considered as a gift, devise, or bequest to the United States;
- (13) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31;
- (14) on request of the head of an agency, furnish assistance and advice on matters of administrative procedure;
- (15) exercise such additional authority as the Council or Assembly delegates to him; and
- (16) request any administrative agency to notify the Chairman of its intent to enter into any contract with any person outside the agency to study the efficiency, adequacy, or fairness of an agency proceeding (as defined in section 551(12) of this title).



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The Chairman shall preside at meetings of the Council and at each plenary session of the Conference, to which he shall make a full report concerning the affairs of the Conference since the last preceding plenary session. The Chairman, on behalf of the Conference, shall transmit to the President and Congress an annual report and such interim reports as he considers desirable.

### **§ 596. Authorization of appropriations**

There are authorized to be appropriated to carry out this subchapter not more than \$3,200,000 for fiscal year 2009, \$3,200,000 for fiscal year 2010, and \$3,200,000 for fiscal year 2011. Of any amounts appropriated under this section, not more than \$2,500 may be made available in each fiscal year for official representation and entertainment expenses for foreign dignitaries.