

A Practical Guide to the Federal Advisory Committee Act (FACA)

Contact GC-21 at standardsofconduct@hq.doe.gov for a consult when planning meetings with external stakeholders. We will help you understand FACA's restrictions and how to structure your engagement to legally avoid its formal requirements.

What is a FACA Advisory Committee?

The Federal Advisory Committee Act (5 U.S.C. Ch. 10) governs any group "**established or utilized**" by a federal agency that includes **one or more non-federal persons** to obtain **group policy advice or recommendations**.

- The name is immaterial (e.g., workshop, panel, task force). If a group provides collective advice, FACA may apply.
- Meeting with a single stakeholder entity does not trigger FACA.
- Meetings with only federal employees or elected officials from state, local, or tribal governments are exempt.

Why Compliance Matters:

Improperly structured meetings can be legally challenged as de facto advisory committees, exposing the Department to significant risk:

- **Lawsuits:** Third parties can sue the Department for FACA violations.
- **Injunctive Action:** A court could halt agency actions that relied on advice from a non-compliant meeting.
- **Invalidated Information:** You may be legally blocked from using the stakeholder input your program worked to obtain.

How to Structure Engagement to AVOID FACA

Your goal is to operate within FACA's exemptions. Structure meetings specifically for these purposes:

- To exchange facts or information.
- To receive *individual advice* from each participant, not a group consensus.

Guidelines for Compliant Stakeholder Meetings

To ensure your meeting for obtaining individual advice does not trigger FACA, you should observe the following guidelines.

Meeting Design & Attendance

- **Objective Selection Criteria:** Use written, specific, and objective criteria for choosing invitees. Selection must not be based on personal connections. Be prepared to justify your choices if questioned.
- **Avoid Fixed Membership:** For multiple meetings, vary the attendees. Do not allow one person or entity to participate so regularly that they appear to be a standing member of a committee.

Meeting Conduct

- **Seek Individual Input Only:** Your stated objective must be to gather individual advice or opinions, not a group position.
- **Prohibit Group Discussion:** Participants must not engage in discussion or comment on another's presentation or advice. This is critical to prevent the formation of a group consensus.
- **Opening Disclaimer:** Begin the meeting by reading the following required text:

"The purpose of today's meeting is to ask for your input regarding [INSERT TOPIC]. It would be most helpful if you could provide, based on your personal experience, your individual advice, information, or facts regarding this topic. It is not the objective of this session to obtain any group position or consensus. Rather, the Department of Energy is seeking as many individual recommendations as possible from all attendees. To best utilize our limited time, please refrain from passing judgment or commenting on another participant's recommendations or advice and instead concentrate on your individual experiences."

Note: If discussion strays toward consensus, you should pause the meeting, provide a FACA reminder, and restate the disclaimer before continuing.

Information Management

- DOE officials may only share publicly available information.
- Do not make any commitments on behalf of the Department.
- Document the individual source of all advice or opinions received.

For additional reference and FAQs, visit our website: [FACA](#)