Federal Advisory Committee Act 101

What is the Federal Advisory Committee Act (FACA)?

The Federal Advisory Committee Act is a Federal statute that governs the **establishment**, **termination and management** of Federal Advisory Committees (FAC). Enacted to promote openness and **transparency** and **accountability** to regulate the number and duration of FACs.

When does FACA apply?

FACA applies to all groups with at least one non-Federal employee established or utilized by an agency to obtain advice or recommendations, unless an exception applies.

What are Federal Advisory Committee requirements?

- Signed/filed Charter;
- Designated Federal Officer (DFO);
- Public meetings with agenda announced in Federal Register 15 days in advance of the meeting and an opportunity for public to speak or submit written comments;
- Balanced membership; and
- Records maintained and available for public inspection.

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What constitutes a Federal Advisory Committee (FAC) meeting?

- A published Federal Register Notice of Meeting
  - Open, Closed or Partially Closed
- A Designated Federal Officer (DFO)
- A FACA Committee that:
  - Meets in-person, virtual or through tele- and video-conference
  - Provides advice or recommendations
- A quorum unless otherwise established in the Committee's charter or legislation.
  - Majority (more than one half) of the committee's authorized membership including ex-officio members (i.e. 50% plus one)
- An approved agenda

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What constitutes a “closed” meeting?

FAC meetings may also be closed in whole or in part under limited circumstances, such as when discussing trade secrets, personal information, and criminal matters.

Per FACA, there are three common exemptions to “close” a meeting:

- Discussion of classified information
- Reviews of proprietary data submitted in support of Federal grant applications (i.e., research committee)
- Deliberations involving considerations of personal privacy (i.e., Veterans’ PII, VA Medical Center tours, etc.)

Note: OGC must concur on the meeting closure.

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May FACs ever meet privately?

Yes. According to the FACA Final Rule, FACs can conduct two types of work without a public meeting:

1) **Preparatory work.**
   a) Two or more Committee or Subcommittee members gather to solely gather information, conduct research, analyze relevant issues, facts in preparation for a FAC meeting or to draft papers for deliberation by FAC; and
   b) Since this isn't a FAC meeting, a submission to the Federal Register is not required.

and

2) Administrative work. Two or more Committee members gather to discuss administrative matters of the FAC.

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What are "Administrative" Calls?

During an administrative call, the Committee members are allowed to discuss the following:

- ✓ Conduct FACA 101 session with Jeffrey Moragne (15 to 20 minutes)
- ✓ Conduct Ethics Training session
  - Using Ethics Training slides (30 to 45 minutes)
  - Ensure members take the VA OGC Ethics Training for Special Government Employees located at: https://www.va.gov/OGC/docs/SGE/10.html
- ✓ Provide / Obtain the SGE Self-Certification Statements from members
- ✓ Review, discuss, complete Financial Disclosures form 450s, if applicable
- ✓ Vendorize Committee member in VA systems, if needed
- ✓ Discuss research (i.e. what to include on the agenda, SMEs, topics)
- ✓ Finalize meeting agenda
- ✓ Finalize travel plans
- ✓ Finalize meeting logistics (i.e. date, location, number of days)

However, they are ***not allowed to engage in discussing any REPORTS or RECOMMENDATIONS***. **This is not a regular FAC meeting.**

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Can Committee Members testify/speak on Federal Advisory Committee matters?

PERMISSIBLE

- If asked to testify, you may speak about FAC matters only in your personal capacity.
- Your testimony should clarify that you are providing your personal opinion and are not speaking on behalf of VA or the FAC.
- As a courtesy, we appreciate you informing the FAC's DFO if you are going to testify.

MISCONDUCT

- Federal Advisory Committee members do not have authority to testify on behalf of the Committee and do not speak for VA.
- Since you are acting in your personal capacity if you testify or speak, VA cannot not reimburse you for expenses or pay a stipend.

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VA Federal Advisory Committee Best Practices

- ✓ Master Your Committee Calendar…plan 18 months of committee meetings in advance during the next meeting or an administrative call
- ✓ Know your role:…understand the Committee's Charter and guidance located in the VA Committee Members Handbook
- ✓ Subcommittees…formally establish these groups in accordance with the VA guidance to do the heavy lifting on research and assist with drafting recommendations
- ✓ Meeting Mechanics…dedicate meeting time to discuss individual presentations and how they connect to the Committee's advice/recommendations
- ✓ Cross Committee Collaboration…use your Subcommittee to engage other FACs
- ✓ SMART Template…use the template to achieve better results
- ✓ VA Library Services…use this service for data and information searches
- ✓ Subject Matter Experts…recommend stakeholders for the Committee to engage
- ✓ Annual Field Visits…do field visits and Capitol Hill meetings to better understand Veterans, Caregivers, Survivors, Stakeholders and VA Employees challenges
- ✓ FACA and Ethics questions…ask your Designated Federal Officer for guidance