



ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

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Information Interchange Bulletin No. 021

Regulation of Representatives in Agency Adjudicative Proceedings

Who can represent parties in agency adjudications?

Members in good standing of the highest court of a state may practice before federal agencies (5 U.S.C. § 500). Parties can also be represented by another qualified representative if permitted by law or agency policy. Agencies generally have discretion to recognize non-attorney representatives (5 U.S.C. § 555(b)).

Can agencies issue rules regulating representatives?

Agencies generally have authority to issue rules governing representatives' conduct. Many agencies have developed rules to regulate the conduct of representatives in adjudicative proceedings.

Why do agencies issue rules regulating representatives?

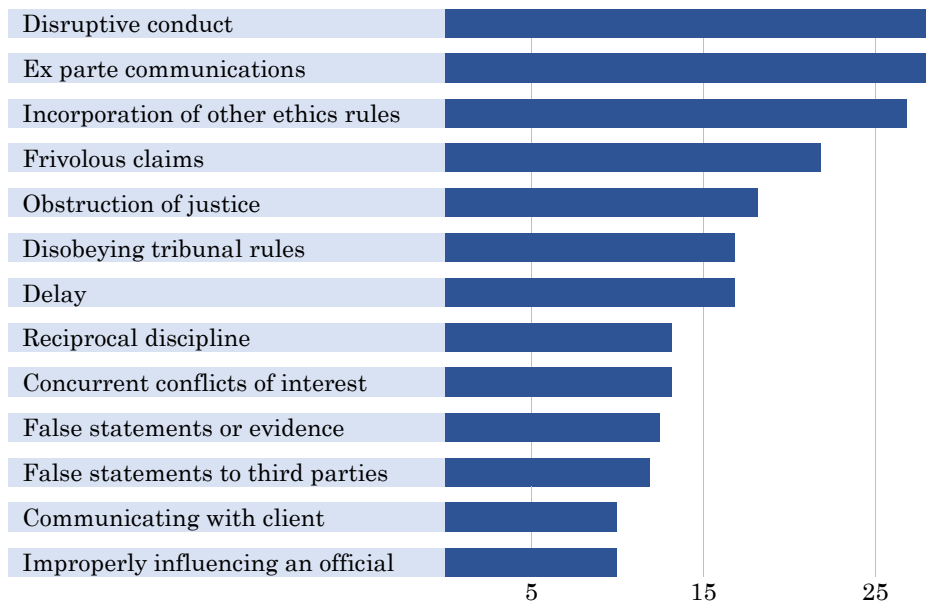
In [Recommendation 2021-9](#), ACUS recommended that agencies consider adopting rules governing the participation and conduct of representatives to promote the accessibility, fairness, integrity, and efficiency of adjudicative proceedings.

What resources can agencies consult to develop rules regulating representatives?

Agencies have used many sources to draft representative conduct rules, including the American Bar Association's [Model Rules of Professional Conduct](#), state bar rules, and other agencies' rules.

What types of rules have agencies adopted regulating the conduct of representatives in adjudicative proceedings?

In a [report](#) for ACUS, Professor George Cohen identified 13 types of rules that agencies have adopted regulating representatives' conduct. The report's [appendices](#) list which agencies address each topic and cite their rules.



Other topics that Recommendation 2021-9 states that agencies might consider addressing in rules include failure to provide competent representation, improper withdrawal from client representation, and conviction of a crime or other violation of the law that reflects adversely on fitness to represent clients before the agency.

What action should agencies take in cases of misconduct?

ACUS recommends agencies specify in their rules how they respond to allegations of misconduct and what actions they take in cases of misconduct, including sanctions and informal warnings short of sanctions.

How should agencies make representative conduct rules publicly available?

ACUS recommends that agencies publish representative conduct rules in the *Federal Register* and online and codify them in the *Code of Federal Regulations*.

Additional Resources

[Agency Practice Act](#), ACUS Admin. Procedure Sourcebook
ACUS Rec. [2021-9](#), Regulation of Representatives in Agency Adjudicative Proceedings
George M. Cohen, [Regulation of Representatives in Agency Adjudicative Proceedings](#) (2021)