



ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

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Public Availability of Adjudication Materials

What are adjudication materials?

Many agency adjudications include an opportunity for an evidentiary hearing. Agencies, parties, and other participants generate many records during the course of these proceedings, including orders, pleadings, motions, briefs, petitions, and evidence. ACUS refers to these records as “adjudication materials.”

Why should agencies make adjudication materials publicly available?

Agency adjudication affects many individuals and businesses engaged in regulated activities or dependent on benefits programs. Making adjudication materials publicly available promotes transparency; provides insight into the laws and procedures governing agency adjudication; provides ready-made models for private parties to draft their own materials; and supports the legitimacy and accountability of agency decisions.

At the same time, agencies or parties might have legitimate privacy or security interests in information or records associated with adjudication, which may affect if and how adjudication materials are publicly disclosed.

What laws govern the public availability of adjudication materials?

Many laws and policies govern when and how agencies disclose adjudication materials. Most notably, the Freedom of Information Act (FOIA) requires agencies to proactively disclose certain materials—including generally applicable rules and certain final opinions and orders made in the adjudication of cases—and make other materials available on request, subject to important exemptions ([IIB-011](#)). Conversely, the Privacy Act limits the disclosure of personally identifiable information (PII).

Which adjudication materials should agencies proactively disclose?

In [Recommendation 2017-1](#), ACUS recommends that agencies consider proactively disclosing adjudication materials in excess of FOIA’s proactive disclosure requirements. Agencies should consider the following factors in determining which adjudication materials to disclose:

- The interests of the public in gaining insight into the agency’s adjudicative processes;
- The costs to the agency in disclosing adjudication materials in excess of FOIA’s requirements;
- Any offsetting benefits the agency may realize in disclosing these materials; and
- Any other relevant considerations, such as agency-specific adjudicative practices.

ACUS recommends that agencies that adjudicate large volumes of cases that do not vary considerably in terms of their factual contexts or the legal analyses employed in their dispositions should consider disclosing a representative sampling of actual cases and associated adjudication materials.

Agencies should ensure they have implemented safeguards to protect relevant privacy interests implicated by the disclosure of adjudication materials. For example, agencies may need to redact PII before disclosing materials.

How should agencies make adjudication materials publicly available?

ACUS recommends that agencies consider making adjudication materials publicly available on their websites.

Agencies should present publicly available materials in a way that is easily accessible to and comprehensible for the public, for example by offering a search engine and filtering options. Agencies that do not adjudicate large volumes of similar cases that choose to post all or nearly all decisions and supporting materials filed in adjudicative proceedings should also consider grouping materials from the same proceedings together (e.g., on a docket page for each adjudication).

Agencies should also provide on their websites explanatory materials that give an overview of the adjudication materials and when and who they apply to that link to applicable statutes, regulations, guidance, and adjudicative precedents.

Additional Resources

[Statement of Principles for the Disclosure of Federal Administrative Materials Recommendation 2023-1](#), [Proactive Disclosure of Agency Legal Materials Recommendation 2022-4](#), [Precedential Decision Making in Agency Adjudication Recommendation 2017-1](#), [Adjudication Materials on Agency Websites Recommendation 98-8](#), [Agency Practices and Procedures for the Indexing and Public Availability of Adjudicatory Decisions](#)
Daniel J. Sheffner, [Adjudication Materials on Agency Websites](#)