



STATEMENT OF PRINCIPLES FOR THE DISCLOSURE OF FEDERAL ADMINISTRATIVE MATERIALS

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES
OFFICE OF THE CHAIRMAN

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INTRODUCTION

This Statement of Principles sets forth common principles and best practices derived from dozens of ACUS recommendations pertaining to agencies' proactive disclosure of records that are of interest to the public.¹ It is intended to help agencies proactively disclose these records in the most equitable, effective, and efficient way for both the public and agencies under existing law.²

Though agencies generate an enormous variety of materials that are potentially of interest to the public, this Statement of Principles focuses on those materials that agencies generate or receive while engaged in core administrative processes, namely: rulemaking, licensing, investigation, enforcement, adjudication, and judicial review. The Statement of Principles refers to these records as "administrative materials." Examples of administrative materials include requests for information; advance notices of proposed rulemaking; notices of proposed rulemaking; public comments; legislative rules; guidance documents (e.g., statements of policy and interpretations); adjudicative orders and opinions; and court filings related to judicial review of a rule or order.

Various statutes govern which records agencies must proactively disclose, i.e., disclose to the general public without having received a request to do so. The Freedom of Information Act (FOIA),³ the Federal Register Act,⁴ the Federal Records Act,⁵ the Administrative Procedure Act,⁶ and the E-Government Act of 2002,⁷ most notably, require proactive disclosure of certain records. In addition, some statutes require agencies to disclose certain records on request.⁸ On the other hand, laws like the Privacy Act either require or authorize agencies to withhold certain records.⁹

Proactive disclosure of administrative materials promotes transparency of agency processes, enhances efficiency by reducing the need for people to file requests for agency records and agencies to respond to such requests, and supports the legitimacy and accountability of agency decisions. As is the case with ACUS recommendations writ large, this Statement of Principles recognizes that there is no single approach to disclosure that will work for every agency. The Office of the Chairman plans to update this Statement from time to time as ACUS adopts new recommendations pertaining to agencies' proactive disclosure of administrative materials.¹⁰

¹ The Appendix lists these recommendations.

² Recommendation 2023-1, *Disclosure of Agency Legal Materials*, recommends amendments to the principal statutes (including FOIA, the Federal Records Act, and the Federal Register Act) governing the proactive disclosure or publication of administrative materials.

³ 5 U.S.C. § 552(a)(1)–(2).

⁴ 44 U.S.C. § 1505.

⁵ *Id.* § 3102.

⁶ 5 U.S.C. § 553(b).

⁷ 44 U.S.C. § 3501 note (Federal Management and Promotion of Electronic Government Services).

⁸ 5 U.S.C. § 552(a)(1)–(2).

⁹ *See, e.g.*, Privacy Act of 1974, 5 U.S.C. § 552a.

¹⁰ In addition to Recommendation 2023-1, there are several other ongoing ACUS projects that may result in recommendations that, if adopted by the Assembly, will be incorporated into this Statement of Principles. Visit <https://www.acus.gov/research-projects> for a list of ongoing projects.

STATEMENT OF PRINCIPLES

PROACTIVELY POSTING, ORGANIZING, AND INDEXING ADMINISTRATIVE MATERIALS ON AGENCY WEBSITES

- 1** Subject to restrictions discussed in the principles under *Protecting Personally Identifiable Information, Trade Secrets, and Copyrighted Information Contained Within Agency Administrative Materials*, agencies should proactively disclose on agency websites administrative materials that affect the rights and interests of members of the public. These administrative materials, among others, include the following:
- a. Legislative rules (Rec. 2020-1, ¶ 3);
 - b. Guidance documents (e.g., statements of policy and interpretations) (Rec. 2019-3, ¶¶ 7–9);
 - c. Adjudicative opinions and orders (Rec. 2017-1, ¶ 3);
 - d. Information about the agency’s senior officials (Rec. 2019-8, ¶ 1);
 - e. Descriptions of the agency’s organization and functions (Rec. 2019-7, ¶¶ 8, 10);
 - f. Delegations of authority (Rec. 2019-7, ¶¶ 8, 10);
 - g. Interagency agreements that have broad policy implications or that may affect the rights and interests of the general public (Rec. 2012-5, ¶ 3(b));
 - h. Contact information for agency officials responsible for responding to public feedback with respect to agencies’ disclosure of administrative materials (Rec. 2019-3, ¶ 7(d));
 - i. Solicitations of public feedback (e.g., advance notices of proposed rulemaking (ANPRMs), requests for information (RFIs), and notices of proposed rulemaking (NPRMs)) (Rec. 2018-7, ¶ 9);
 - j. Materials that are part of the rulemaking record (e.g., public comments, studies, advisory committee reports, transcripts, and recordings, summaries, or minutes of meetings, including virtual meetings) (Rec. 2013-4, ¶ 2; Rec. 2023-2, ¶ 14);
 - k. Decisions and supporting materials (e.g., pleadings, motions, and briefs) issued and filed in adjudicative proceedings (Rec. 2017-1, ¶ 1; Rec. 2022-4, ¶¶ 11, 15);
 - l. Publicly filed pleadings, briefs, and settlements, as well as court decisions bearing on agencies’ regulatory or enforcement activities (Rec. 2020-6, ¶ 1); and

- m.* Regulatory enforcement manuals (e.g., documents that provide personnel of agencies responsible for investigating and prosecuting potential violations of laws with a single, comprehensive resource for enforcement-related statutes, rules, and policies) (Rec. 2022-5, ¶ 8).

2

In lieu of disclosure on agency websites of all administrative materials of a single type (e.g., all adjudicative opinions and substantively identical comments submitted as part of a mass comment campaign), agencies should, under certain circumstances, disclose at least a representative sample of these materials or a sample that is particularly well reasoned. Disclosing samples of these materials may be especially appropriate when the agency has generated or received a large number of them, they are individually of little public interest, they are required by statute to be confidential, or they raise similar legal and factual issues. Such materials should be clearly identified as samples or examples from a larger body of like materials (Recs. 2022-6, ¶ 3(b); 2017-1, ¶ 2; 2013-1, ¶ 3 (b)).

Illustration of Principle 2

For instance, with respect to adjudicative opinions and orders, agencies may decide to disclose a subset of such opinions and orders that are particularly well reasoned and clear or that provide needed policy clarifications (Rec. 2013-1, ¶ 3). In regard to settlement agreements, agencies may decide to disclose a form or template commonly used for settlement agreements or a summary of each settlement or settlement trends (Rec. 2022-6, ¶¶ 3(a), 3(e)). With respect to public comments received in response to rulemakings, agencies may decide to disclose one or a few representative examples of nearly identical comments received while reporting the total number of such comments received (Rec. 2021-1, ¶ 3).

3

Agencies should organize and index administrative materials on agency websites to maximize the probability that members of the public will find the information for which they are looking. In addition to posting links to PDF versions of administrative materials on agency websites, agencies should:

- a. Create a webpage dedicated to a particular kind of administrative material (e.g., a dedicated guidance documents webpage or a dedicated adjudicative materials webpage) and ensure that this dedicated page is easily reachable from the agency's homepage (Recs. 2022-6, ¶ 6(a); 2019-3, ¶ 7);
- b. Index, tag, or place administrative materials in sortable tables (Recs. 2022-4, ¶ 15; 2019-3, ¶ 9(d));
- c. Ensure that website search engines capture administrative materials (Recs. 2022-6, ¶ 6(c); 2019-3, ¶ 9(c));

- d. Optimize agency websites to improve the visibility of administrative materials in commercial search engines (Rec. 2018-6, ¶ 6); and
- e. Ensure that related electronic dockets that house administrative materials (e.g., electronic dockets for NPRMs and corresponding final rules) are linked to one another (Recs. 2022-6, ¶ 6(b); 2018-6, ¶ 2).

4

Agencies should present legislative rules, guidance documents (e.g., statements of policy and interpretations), and adjudicative opinions and orders on agency websites in a way that ensures the public can understand their context and legal effect in plain language by, for example:

- a. Including a publication date within these materials, as appropriate (Rec. 2019-3, ¶ 8(d));
- b. Including an introduction sufficient to ensure that potentially interested persons can easily find and use administrative materials (Rec. 2022-5, ¶ 9);
- c. Clearly marking materials that are inoperative (i.e., no longer in effect) by, for example, including a rescission date (Recs. 2022-4, ¶ 12; 2021-7, ¶ 4);
- d. Explaining the legal effect of these materials in plain language, including whether they have legal effect on members of the public or the agency itself or are purely explanatory in nature or provided only for informational purposes (Recs. 2022-6, ¶ 7; 2019-3, ¶ 7(b));
- e. Distinguishing between precedential and non-precedential materials (Recs. 2022-4, ¶ 11; 2020-3, ¶ 22); and
- f. Including links within inoperative versions of these materials to any operative versions, and links within operative versions to any inoperative versions (Rec. 2021-7, ¶ 7).

Illustration of Principles 3 and 4

One particularly important application of these principles is with respect to guidance documents on agency websites. ACUS recommends that agencies create plain language explanations that explain that guidance documents lack the force of law for members of the public and that agencies create webpages dedicated to guidance documents that contain these plain language explanations. Grouping guidance documents together into a single page and including a statement on this page that describes their legal effect allow members of the public to easily find relevant guidance documents and understand their legal effect (Recs. 2019-3, ¶ 7; 2019-1, ¶ 4; 2017-5, ¶ 4).

5

Agencies should keep webpages and electronic docket pages housing administrative materials up to date. At a minimum, agencies should fix any broken links and include notations indicating when the page or electronic docket was last updated (Rec. 2019-3, ¶ 9(e)).

6

Agencies should post inoperative administrative materials that explain changes in law or policy, generated reliance interests while operative, or have received media attention, and should use a variety of methods to alert the public to when administrative materials have become inoperative. These include publishing a notification in the *Federal Register*, issuing a press release, making an announcement on social media, or using agency listservs to notify interested persons that administrative materials have become inoperative (Recs. 2022-4, ¶ 12; 2021-7, ¶¶ 2, 5–7). Similarly, agencies should provide notice to the public when administrative materials have been revised or modified (Recs. 2022-5, ¶ 10; 2022-4, ¶ 12).

Illustration of Principle 6

Affected parties may have obtained administrative materials, such as guidance documents (e.g., statements of policy or interpretations) from a source other than the agency’s website. These additional outreach methods are therefore often necessary to ensure that all interested persons receive notice that administrative materials have been revised or modified or become inoperative.

PUBLISHING ADMINISTRATIVE MATERIALS IN THE *FEDERAL REGISTER*, INCLUDING THE *CODE OF FEDERAL REGULATIONS*

7

Agencies should submit at least the following administrative materials for publication in the *Federal Register*, in addition to proactively publishing them on agency websites:

- a. Legislative rules (Recs. 2023-5, ¶ 14; 2022-4, ¶ 17; 2020-1, ¶ 3);
- b. Generally applicable guidance documents (e.g., general statements of policy and interpretations of general applicability) (Recs. 2023-5, ¶ 15; 2019-3, ¶ 11);
- c. New or revised regulatory enforcement manuals that are publicly available (Rec. 2022-5, ¶ 10);
- d. Descriptions of the agency’s organization and functions (Rec. 76-2, ¶ A(1));
- e. Solicitations of public feedback (e.g., ANPRMs, RFIs, and NPRMs) (Recs. 2022-4, ¶ 9; 2018-7, ¶ 6); and
- f. Subsequent changes to the foregoing materials (Rec. 76-2, ¶ A(1)).

8

Of the materials identified in Principle 7 above, agencies should submit legislative rules, procedural rules, and descriptions of agencies’ organization and functions for publication in the *Code of Federal Regulations*, in addition to submitting them for publication in the

Federal Register and proactively posting them on agency websites (Recs. 2022-4, ¶ 17; 76-2, ¶ A(1)).

USING SUPPLEMENTAL METHODS TO PROACTIVELY DISCLOSE ADMINISTRATIVE MATERIALS

9

Agencies should use supplemental methods to improve public access to, and awareness of, proactively disclosed administrative materials. Possible approaches include:

- a.* Working with state and local governments and intermediary organizations (e.g., trade associations, professional associations, community organizations, and advocacy groups) to bring administrative materials to the direct attention of interested persons who do not normally monitor the agency's website or the agency's *Federal Register* entries for developments (Rec. 2022-2, ¶ 21);
- b.* Training agency employees to effectively disseminate administrative materials (Recs. 2023-2, ¶ 3; 2022-2, ¶ 20);
- c.* Taking steps to overcome or reduce geographical, language, resource, or other barriers to learning about or accessing administrative materials, including by publishing administrative materials in languages other than English and in locations frequented by underrepresented communities, such as immigration court waiting rooms (Rec. 2012-3, ¶ 17(c));
- d.* Creating digests, indexes, and guides that organize and synthesize administrative materials in easy-to-understand ways (Recs. 2022-4, ¶ 15; 2022-2, ¶ 22(b));
- e.* Disseminating administrative materials, summaries of administrative materials, revisions to administrative materials, and references to administrative materials via social media channels, including agency blogs (Recs. 2022-5, ¶ 10; 2022-2, ¶ 16);
- f.* Offering members of the public the option to sign up on the agency's website to receive notice about particular topics (Rec. 2022-2, ¶ 14(b));
- g.* Disseminating administrative materials via email distribution lists (Rec. 2022-2, ¶ 14);
- h.* Issuing press releases to announce the availability of administrative materials (Recs. 2022-5, ¶ 10; 2022-2, ¶ 13);
- i.* Publishing administrative materials in specialized publications read by interested members of the public (Rec. 2021-7, ¶ 2(g)); and
- j.* Distributing administrative materials during webinars and in-person meetings (Rec. 2021-7, ¶ 6(c)).

Illustration of Principle 9

This principle is especially important in the rulemaking context. By taking steps, beyond publication, to bring rulemaking materials to the attention of all interested persons, the agency is maximizing the probability that it receives useful input as part of the notice-and-comment process (Recs. 2021-3; 2018-7).

10

Agencies should consider the following factors, among others, in deciding whether to use supplemental methods and which ones to use:

- a. Whether there are members of the public who are likely affected by administrative materials but do not normally follow the *Federal Register* or the agency's website (Rec. 2018-7, ¶ 7(a));
- b. Whether the agency has adequate resources to undertake these activities (Rec. 2018-7, ¶ 3(h)); and
- c. Whether the specific supplemental methods the agency contemplates undertaking are the most cost-effective ways to reach the target audience (Rec. 2018-7, ¶ 3).

11

When agencies host public meetings to share information about administrative materials, they should generally provide a means for potentially interested persons to attend or participate remotely. By so doing, they can expand access for members of historically underserved communities, potentially interested persons who live far from where the agency holds meetings, and potentially interested persons who face other accessibility issues (Rec. 2022-2, ¶ 19).

12

With respect to copyrighted material that agencies have incorporated by reference into regulations or intend to incorporate by reference into regulations, agencies should ensure that the material is reasonably available to the public. Agencies should try to obtain consent from the copyright holder to publish the copyrighted material. If the copyright holder does not grant this consent, the agency should work with the copyright holder and, through the use of technological solutions (e.g., publishing a read-only version of the material on the agency's website or encouraging the copyright owner to do so on its own website), low-cost publication, or other appropriate means, promote the availability of the materials while respecting the copyright owner's interest in protecting its intellectual property (Rec. 2011-5, ¶ 3).

PROTECTING PERSONALLY IDENTIFIABLE INFORMATION, TRADE SECRETS, AND COPYRIGHTED INFORMATION CONTAINED WITHIN AGENCY ADMINISTRATIVE MATERIALS

- 13** Agencies should, in general, review administrative materials before proactively disclosing them to determine if they contain personally identifiable information, trade secrets, and copyrighted information. By doing so, they can help ensure that agencies' disclosure of administrative materials maximizes transparency and minimizes potential infringement of laws protecting sensitive information (Rec. 2013-1, ¶ 3(b)).
- 14** If agencies find personally identifiable information or trade secrets they should, as appropriate, redact the material or present the material in aggregate or summarized form (Recs. 2022-6, ¶ 4; 2020-2, ¶¶ 6–8).
- 15** Agencies should offer members of the public the opportunity to request that personally identifiable information or trade secrets pertaining to themselves or a dependent appearing within publicly available administrative materials be removed from public view. Upon such a request, agencies should either remove the material or should promptly notify the requestor that they have decided that the material in question does not qualify as “personally identifiable information” or “trade secrets,” and should provide the reasons underlying this conclusion (Rec. 2020-2, ¶ 1(e)–(f)).
- 16** If agencies find copyrighted information within administrative materials, they should, if permitted by law, place the copyrighted information in a physical reading room rather than make it available online (Rec. 2013-4, ¶ 2).

Illustration of Principles 13–16

Two especially important applications of these principles relate to (1) adjudication materials and (2) public submissions in response to an NPRM. These records, which agencies often disclose in publicly available electronic adjudicative and rulemaking dockets respectively, sometimes contain personally identifiable information, trade secrets, copyrighted information, national security information, and other legally protected information. Indeed, sometimes certain adjudicative cases are filed under seal for this reason. Sometimes, agencies can protect this information from public disclosure by redacting it from the record and disclosing the remainder of the record. However, this strategy may not always be sufficient to protect legally protected information. In these situations, agencies should post a summary of the record, rather than the record itself,

along with a statement that explains why the record as a whole was not disclosed (Recs. 2020-2, ¶¶ 6–10; 2017-1, ¶ 1).

CREATING WRITTEN PROCEDURES WITH RESPECT TO PROACTIVELY DISCLOSING ADMINISTRATIVE MATERIALS

17

In order to more proactively disclose administrative materials, agencies should create written procedures that, in plain language:

- a. Identify categories of people (e.g., by occupation, industry, eligibility for federal benefits, location, etc.) who may be especially interested in the agency’s administrative materials (Rec. 2022-2, ¶ 1);
- b. Identify the kinds of administrative materials they proactively disclose to the public (Recs. 2022-4, ¶ 17; 2021-7, ¶ 1);
- c. Explain how they organize administrative materials on agency websites (Rec. 2019-3, ¶ 4);
- d. Specify the methods they use to disclose administrative materials to the public and any supplemental methods, such as those described in Principle 9, that agencies use to improve public access to, or awareness of, proactively disclosed materials (Rec. 2018-7, ¶ 1); and
- e. Explain how they protect personally identifiable information, trade secrets, copyrighted information, and other legally protected information contained within administrative materials (Rec. 2020-2, ¶ 1).

Illustration of Principle 17

One especially important application of this principle is with respect to written procedures for the proactive disclosure of inoperative guidance documents. Creating and adhering to written procedures for the proactive disclosure of inoperative guidance documents can give the public important insights into how agencies’ positions have changed over time. This is because agency positions are often announced in guidance documents that, although disclosed on agency websites, are not always published in the *Federal Register*. When an agency removes such a document from its website after the document becomes inoperative, it can be virtually impossible for the public to track how an agency’s position has changed over time. However, when an agency has a written procedure that provides for maintaining certain inoperative guidance documents on its website, it holds itself accountable to the public for ensuring that those documents remain accessible on its

website. And when an agency adheres to these written procedures, members of the public gain access to a rich history of agency decision making, thereby benefiting regulated entities, beneficiaries of regulations, and other members of the public (Rec. 2021-7, ¶ 1).

18

Agencies should designate an officer or office to coordinate and support the development, implementation, and evaluation of written procedures and plans to provide notice more effectively. By doing so, agencies can ensure they have in place dedicated staff to evaluate the effectiveness of agencies' procedures and plans, stay abreast of technological developments to enhance notice-giving efforts, and evaluate and consider for adoption strategies other agencies use successfully to provide notice (Rec. 2022-2, ¶ 22).

19

Agencies should seek public input on these procedures as they are formulating them. After they have finalized these procedures, they should disclose them on agency websites and seek further public input on the extent to which these procedures have, in practice, promoted the public availability of administrative materials. By doing so, agencies can both increase the public's perception of the legitimacy of these procedures and can ensure that they are receiving relevant information about the success of these procedures in promoting access to administrative materials (Recs. 2022-4, ¶ 19; 2019-3, ¶ 6).

20

Agencies should periodically review these procedures and plans to assess agencies' performance in making administrative materials available to the public, including to historically underserved communities, and to identify opportunities for improvement. By doing so, agencies can ensure that they are continuously remedying those aspects of the procedures and plans that need improvement and maintaining those aspects of the procedures and plans that are working (Rec. 2019-3, ¶ 5).

INTERAGENCY INFORMATION SHARING ON DISCLOSURE PRACTICES

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Agencies should share information with each other about experiences with and practices for disclosing administrative materials. By doing so, agencies can discover disclosure practices that they may wish to adopt (Rec. 2022-2, ¶ 23).

APPENDIX

PROACTIVELY POSTING, ORGANIZING, AND INDEXING ADMINISTRATIVE MATERIALS ON AGENCY WEBSITES

Admin. Conf. of the U.S., Recommendations:

1. 2023-5, *Best Practices for Adjudication Not Involving an Evidentiary Hearing*, ¶¶ 14-15
2. 2023-2, *Virtual Public Engagement in Agency Rulemaking*, ¶ 14
3. 2022-5, *Regulatory Enforcement Manuals*, ¶¶ 8-10
4. 2022-4, *Precedential Decision Making in Agency Adjudication*, ¶¶ 11-12, 15-16
5. 2022-2, *Improving Notice of Significant Regulatory Changes*, ¶ 11
6. 2021-7, *Public Availability of Inoperative Agency Guidance Documents*, ¶¶ 1-4
7. 2021-1, *Managing Mass, Computer-Generated, and Falsely Attributed Comments*, ¶¶ 3-7
8. 2020-6, *Agency Litigation Webpages*
9. 2020-5, *Publication of Policies Governing Agency Adjudicators*
10. 2020-3, *Agency Appellate Systems*, ¶ 19
11. 2019-8, *Public Identification of Agency Officials*, ¶ 1
12. 2019-7, *Acting Agency Officials and Delegations of Authority*, ¶¶ 8, 10
13. 2019-3, *Public Availability of Agency Guidance Documents*, ¶¶ 7-10
14. 2019-1, *Agency Guidance Through Interpretive Rules*, ¶ 4
15. 2018-7, *Public Engagement in Rulemaking*, ¶ 9
16. 2018-6, *Improving Access to Regulations.gov's Rulemaking Dockets*
17. 2018-5, *Public Availability of Adjudication Rules*
18. 2017-5, *Agency Guidance Through Policy Statements*, ¶ 7
19. 2017-1, *Adjudication Materials on Agency Websites*
20. 2015-1, *Promoting Accuracy and Transparency in the Unified Agenda*
21. 2014-6, *Petitions for Rulemaking*, ¶ 14
22. 2014-4, *Ex Parte Communications in Informal Rulemaking*, ¶¶ 7, 9
23. 2014-3, *Guidance in the Rulemaking Process*, ¶ 8
24. 2013-5, *Social Media in Rulemaking*
25. 2013-4, *The Administrative Record in Informal Rulemaking*, ¶ 2
26. 2013-1, *Improving Consistency in Social Security Disability Adjudications*, ¶ 3
27. 2012-5, *Improving Coordination of Related Agency Responsibilities*, ¶ 3(b)
28. 2011-8, *Agency Innovations in E-Rulemaking*, ¶ 4
29. 2011-2, *Rulemaking Comments*, ¶ 3
30. 2011-1, *Legal Considerations in e-Rulemaking*, ¶¶ 4-5
31. 89-8, *Agency Practices and Procedures for the Indexing and Public Availability of Adjudicatory Decisions*
32. 82-2, *Resolving Disputes Under Federal Grant Programs*, ¶ 12
33. 77-3, *Ex Parte Communications in Informal Rulemaking Proceedings*
34. 75-1, *Licensing Decisions of the Federal Banking Agencies*, ¶ 4
35. 71-3, *Articulation of Agency Policies*

36. 69-6, *Compilation of Statistics on Administrative Proceedings by Federal Departments and Agencies*
37. 68-4, *Consumer Bulletin*

PUBLISHING ADMINISTRATIVE MATERIALS IN THE *FEDERAL REGISTER*, INCLUDING THE *CODE OF FEDERAL REGULATIONS*

Admin. Conf. of the U.S., Recommendations:

1. 2022-5, *Regulatory Enforcement Manuals*, ¶ 10
2. 2022-4, *Precedential Decision Making in Agency Adjudication*, ¶¶ 9, 17
3. 2020-1, *Rules on Rulemakings*, ¶ 3
4. 2019-3, *Public Availability of Agency Guidance Documents*, ¶ 11
5. 2018-7, *Public Engagement in Rulemaking*, ¶ 6
6. 76-2, *Strengthening the Informational and Notice-Giving Functions of the Federal Register*, ¶ 1

USING SUPPLEMENTAL METHODS TO PROACTIVELY DISCLOSE ADMINISTRATIVE MATERIALS

Admin. Conf. of the U.S., Recommendations:

1. 2023-2, *Virtual Public Engagement in Agency Rulemaking*, ¶ 3
2. 2022-5, *Regulatory Enforcement Manuals*, ¶ 10
3. 2022-2, *Improving Notice of Significant Regulatory Changes*, ¶¶ 15, 19, 11
4. 2021-9, *Regulation of Representatives in Agency Adjudicative Proceedings*, ¶ 9
5. 2021-7, *Public Availability of Inoperative Agency Guidance Documents*, ¶ 6
6. 2021-6, *Public Access to Agency Adjudicative Proceedings*, ¶ 1
7. 2021-3, *Early Input on Regulatory Alternatives*
8. 2020-2, *Protected Materials in Public Rulemaking Dockets*, ¶ 2
9. 2020-1, *Rules on Rulemakings*, ¶ 3
10. 2019-3, *Public Availability of Agency Guidance Documents*, ¶¶ 11–12
11. 2018-7, *Public Engagement in Rulemaking*
12. 2016-4, *Evidentiary Hearings Not Required by the APA*, ¶ 28
13. 2014-4, *Ex Parte Communications in Informal Rulemaking*, ¶ 5
14. 2013-5, *Social Media in Rulemaking*
15. 2012-3, *Immigration Removal Adjudication*, ¶ 17
16. 2011-5, *Incorporation by Reference*, ¶ 3
17. 72-1, *Broadcast of Agency Proceedings*

PROTECTING PERSONALLY IDENTIFIABLE INFORMATION, TRADE SECRETS, AND OTHER LEGALLY PROTECTED INFORMATION CONTAINED WITHIN AGENCY ADMINISTRATIVE MATERIALS

Admin. Conf. of the U.S., Recommendations:

1. 2022-6, *Public Availability of Settlement Agreements in Agency Enforcement Proceedings*, ¶ 4
2. 2021-3, *Early Input on Regulatory Alternatives*, ¶ 6
3. 2021-1, *Managing Mass, Computer-Generated, and Falsely Attributed Comments*, ¶¶ 8–10
4. 2020-6, *Agency Litigation Webpages*, ¶ 4
5. 2020-2, *Protected Materials in Public Rulemaking Dockets*
6. 2018-4, *Recusal Rules for Administrative Adjudicators*, ¶ 6
7. 2017-7, *Regulatory Waivers and Exemptions*, ¶ 9
8. 2017-1, *Adjudication Materials on Agency Websites*, ¶ 1
9. 2013-1, *Improving Consistency in Social Security Disability Adjudications*, ¶ 3
10. 2011-1, *Legal Considerations in e-Rulemaking*, ¶¶ 1–2
11. 72-8, *Adverse Actions Against Federal Employees*, ¶ 7

CREATING WRITTEN PROCEDURES WITH RESPECT TO PROACTIVELY DISCLOSING ADMINISTRATIVE MATERIALS

Admin. Conf. of the U.S., Recommendations:

1. 2022-2, *Improving Notice of Significant Regulatory Changes*, ¶¶ 6, 22–23
2. 2021-7, *Public Availability of Inoperative Agency Guidance Documents*, ¶ 1
3. 2021-1, *Managing Mass, Computer-Generated, and Falsely Attributed Comments*, ¶ 11
4. 2020-6, *Agency Litigation Webpages*, ¶ 5
5. 2020-2, *Protected Materials in Public Rulemaking Dockets*, ¶¶ 1–2
6. 2020-1, *Rules on Rulemakings*, ¶ 2
7. 2019-6, *Independent Research by Agency Adjudicators in the Internet Age*, ¶ 6
8. 2019-3, *Public Availability of Agency Guidance Documents*, ¶ 1
9. 2014-4, *Ex Parte Communications in Informal Rulemaking*, ¶¶ 1–3
10. 2013-4, *The Administrative Record in Informal Rulemaking*, ¶¶ 10–11
11. 93-3, *Peer Review in the Award of Discretionary Grants*, ¶ 4

INTERAGENCY INFORMATION SHARING ON DISCLOSURE PRACTICES

Admin. Conf. of the U.S., Recommendations:

1. 2022-2, *Improving Notice of Significant Regulatory Changes*, ¶¶ 23