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**STATEMENT OF PRINCIPLES FOR
ADMINISTRATIVE ADJUDICATION**

Office of the Chair
Administrative Conference of the United States

This Statement was prepared by the Office of the Chair of the Administrative Conference of the United States (ACUS) based on recommendations adopted by the ACUS Assembly. The Statement was not adopted by the ACUS Assembly and does not necessarily reflect the views of ACUS (including its Council, committees, or members).

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Statement of Principles for Administrative Adjudication

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1 Federal agencies adjudicate millions of cases each year, including applications for
2 benefits and services, applications for licenses and permits, and enforcement actions against
3 persons suspected of violating the law. Tens of thousands of federal agency officials participate
4 in administrative adjudication.

5 Agencies rely on a wide range of procedural, organizational, personnel, technological,
6 and other initiatives to organize, manage, and conduct adjudications. These initiatives may be
7 directed by statutes, such as the Administrative Procedure Act (APA) or agencies' organic
8 statutes. But agencies nonetheless retain significant discretion in how they design and conduct
9 their adjudicative systems.

10 The Administrative Conference of the United States (ACUS) has adopted dozens of
11 recommendations and statements identifying best practices for administrative adjudication.
12 Additionally, working groups convened by the ACUS Chair have developed three sets of model
13 rules to help agencies implement best practices.

14 Based on a review of these materials, the ACUS Office of the Chair prepared this
15 Statement of Principles to provide readers with a concise description of common principles and
16 best practices identified by ACUS and a starting point for accessing relevant ACUS resources. It
17 is intended to help agencies and agency adjudicators manage adjudication systems and adjudicate
18 individual cases in a fair, accurate, consistent, efficient, and timely manner. (For definitions of
19 "adjudication" and "adjudicator," as ACUS has used those terms, see below.)

20 In using this guide, readers should take into account the unique circumstances of specific
21 agencies. Agencies operate under different legal authorities, carry out distinct missions,
22 adjudicate different types of cases, and have varying resources at their disposal.

23 The Office of the Chair will update this Statement from time to time as ACUS adopts
24 new recommendations that address agency adjudication.

Adjudication

25 The APA defines “adjudication” as “any agency process for the formulation of an
26 “order.”¹ An “order” (often called simply a “decision”) is “the whole or a part of a final
27 disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency in a
28 matter other than rule making but including licensing.”²

29 ACUS recommendations typically use the term “adjudication” in a narrower sense than
30 the APA. One representative definition, offered by Professor Michael Asimow in a reference
31 guide prepared for ACUS and reflected in recent ACUS recommendations, is:

32 [A] decision by government officials made through an administrative process to
33 resolve a claim or dispute between a private party and the government or between
34 two private parties arising out of a government program.

35 Professor Asimow’s guide provides additional information about the agency processes that this
36 definition includes and excludes.³

37 Adjudication can take many forms depending on the agency and program. The traditional
38 classification of adjudication, reflected in the APA, divides it into “formal” adjudication and
39 “informal” adjudication. In cases of formal adjudication, the agency must use the procedures
40 described in the adjudication and hearing sections of the APA (5 U.S.C. § 554, 556–557).
41 Informal adjudication is not subject to the requirements of these sections and is sometimes said
42 to be conducted “outside” the APA.

43 The distinction between “formal” and “informal,” however, is misleading in some
44 respects. That is because statutes and agency rules often require procedures for informal
45 adjudications that are at least as “formal”—or trial-like—as adjudications conducted according
46 to the APA’s adjudication and hearing sections.⁴ As an alternative, recent ACUS
47 recommendations identify three types of adjudication:

¹ 5 U.S.C. § 551(7).

² 5 U.S.C. § 551(6).

³ MICHAEL ASIMOW, ADMIN. CONF. OF THE U.S., FEDERAL ADMINISTRATIVE ADJUDICATION OUTSIDE THE ADMINISTRATIVE PROCEDURE ACT 8 (2019).

⁴ *See id.* at 5–6.

48 (1) First, adjudication in which a statute grants parties the opportunity for an evidentiary
49 hearing governed by the APA’s adjudication and hearing sections. This is sometimes
50 referred to as “Type A” adjudication.

51 (2) Second, adjudication in which a statute, agency rule, or executive order grants parties
52 the opportunity for an evidentiary hearing that is not governed by the APA’s
53 adjudication and hearing sections. This is sometimes referred to as “Type B”
54 adjudication.

55 (3) Third, adjudication in which the law does not grant parties the opportunity for an
56 evidentiary hearing. This is sometimes referred to as “Type C” adjudication.⁵

57 An “evidentiary hearing” is “an adjudicatory proceeding at which the parties make evidentiary
58 submissions and have an opportunity to rebut testimony and arguments made by the opposition,
59 and to which the exclusive record principle applies.”⁶ Under the exclusive record principle, the
60 adjudicator is “confined to considering evidence and arguments from the parties produced during
61 the hearing process (as well as matters officially noticed) when determining factual issues.”⁷

62 Several ACUS recommendations on adjudication are limited to adjudications in which
63 there is a legally required opportunity for an evidentiary hearing, whether or not governed by the
64 APA’s hearing and adjudication sections,⁸ and one recommendation is limited to adjudications in
65 which there is a legally required opportunity for an evidentiary hearing “outside” the APA.⁹
66 Another recommendation is limited to adjudications in which there is no legally required

⁵ See Admin. Conf. of the U.S., Recommendation 2016-4, *Evidentiary Hearings Not Required by the Administrative Procedure Act*, 81 Fed. Reg. 94,314 (Dec. 23, 2016).

⁶ ASIMOW, *supra* note 3, at 10.

⁷ *Id.*

⁸ See, e.g., Admin. Conf. of the U.S., Recommendation 2020-3, *Agency Appellate Systems*, 86 Fed. Reg. 6,618 (Jan. 22, 2021); Admin. Conf. of the U.S., Recommendation 2019-6, *Independent Research by Agency Adjudicators in the Internet Age*, 84 Fed. Reg. 71,350 (Dec. 27, 2019); Admin. Conf. of the U.S., Recommendation 2018-4, *Recusal Rules for Administrative Adjudicators*, 84 Fed. Reg. 2,139 (Feb. 6, 2019); see also ADMIN. CONF. OF THE U.S., MODEL ADJUDICATION RULES (rev. 2018), <https://www.acus.gov/model-rules/model-adjudication-rules>.

⁹ See Recommendation 2016-4, *supra* note 5; see also ASIMOW, *supra* note 3.

67 opportunity for an evidentiary hearing.¹⁰ Other recommendations—including many related to
68 management, transparency, accessibility, and technology use—apply more broadly.¹¹

Adjudicator

69 Broadly speaking, an “adjudicator” is any agency official who decides a case individually
70 or who participates as a member of a multi-member body that decides a case. Many different
71 types of officials serve as adjudicators, including officials appointed by the President with the
72 advice and consent of the Senate (PAS officials) and members of the civil service. Adjudicators
73 also serve in different capacities; some preside over hearings, for example, while others serve in
74 an appellate capacity.

75 Administrative law judges (ALJs) are perhaps the best known type of adjudicators. ALJs
76 preside over most hearings governed by the APA’s adjudication and hearing sections. There are
77 about 2,000 ALJs employed by agencies across the federal government. ALJs are members of
78 the civil service. ALJs are appointed by agency heads,¹² and since 2018, they have been recruited
79 and selected exclusively through agency-administered processes.¹³ Statutes and rules adopted by
80 the Office of Personnel Management govern their supervision.¹⁴

81 Adjudicators other than ALJs preside over adjudications in which the law grants parties
82 the opportunity for an evidentiary hearing that is not governed by the APA’s adjudication and
83 hearing sections. These adjudicators go by many titles, including administrative judge and
84 agency-specific titles such as “immigration judge,” “veterans law judge,” and “administrative

¹⁰ See Admin. Conf. of the U.S., Recommendation 2023-5, *Best Practices for Adjudication Not Involving an Evidentiary Hearing*, 89 Fed. Reg. 1,509 (Jan. 10, 2024).

¹¹ See, e.g., Admin. Conf. of the U.S., Recommendation 2023-4, *Online Processes in Agency Adjudication*, 88 Fed. Reg. 42,681 (July 3, 2023); Admin. Conf. of the U.S., Recommendation 2023-7, *Improving Timeliness in Agency Adjudication*, 89 Fed. Reg. 1,513 (Jan. 10, 2024); Admin. Conf. of the U.S., Recommendation 2021-4, *Virtual Hearings in Agency Adjudication*, 86 Fed. Reg. 36,083 (July 8, 2021); Admin. Conf. of the U.S., Recommendation 2021-10, *Quality Assurance Systems in Agency Adjudication*, 87 Fed. Reg. 1,722 (Jan. 12, 2022); Admin. Conf. of the U.S., Recommendation 2018-5, *Public Availability of Adjudication Rules*, 84 Fed. Reg. 2,142 (Feb. 6, 2019); Admin. Conf. of the U.S., Recommendation 2018-3, *Electronic Case Management in Federal Administrative Adjudication*, 83 Fed. Reg. 30,686 (June 29, 2018).

¹² 5 U.S.C. § 3105; see also *Lucia v. SEC*, 585 U.S. 237 (2018).

¹³ See Exec. Order No. 13,843, *Excepting Administrative Law Judges from the Competitive Service*, 83 Fed. Reg. 32,755 (July 13, 2018); see also Admin. Conf. of the U.S., Recommendation 2019-2, *Agency Recruitment and Selection of Administrative Law Judges*, 84 Fed. Reg. 38,930 (Aug. 8, 2019).

¹⁴ 5 U.S.C. §§ 554, 557, 3105, 3344, 4301(D)(2), 5372, 7521; 5 C.F.R. pt. 930, subpt. B.

85 patent judge.” Such adjudicators often are referred to collectively as “administrative judges”
86 (AJs).¹⁵

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¹⁵ See generally Kent Barnett et al., Non-ALJ Adjudicators in Federal Agencies: Status, Selection, Oversight, and Removal (Sep. 24, 2018) (report to the Admin. Conf. of the U.S.).

STATEMENT OF PRINCIPLES

Allocation of Tasks

- 87 1. Agencies should adopt procedures that standardize the allocation of tasks among
88 adjudicators, managers, staff attorneys, and paralegal support staff.¹
- 89 2. Agencies should automate routine tasks that do not require a significant exercise of
90 discretion when automation will not adversely affect decisional quality or program
91 integrity.²
- 92 3. Agencies should outsource routine tasks that do not require a significant exercise of
93 discretion—such as transcribing, scanning records, or mailing correspondence—when it
94 would be more efficient and cost-effective for a contractor to perform them and there are
95 no legal or policy reasons to assign the tasks to agency personnel.³
- 96 4. Agencies, particularly those that decide a significant number of cases, ordinarily should
97 assign responsibility for conducting initial proceedings (i.e., receiving and evaluating
98 evidence and arguments and issuing a decision) to individual adjudicators (e.g., an ALJ
99 or an AJ) rather than PAS officials, boards, or panels.⁴
- 100 5. When it would be beneficial to provide for review by a PAS official or a collegial body
101 of PAS officials, agencies should, consistent with constitutional and statutory
102 requirements, determine the appropriate structure for such review. Options include:
- 103 a. Providing the only opportunity for administrative review of lower-level decisions;
104 b. Delegating first-level review authority to a non-PAS officials, such as an agency
105 “Judicial Officer,” or an appellate board and retaining authority to exercise
106 second-level administrative review in exceptional circumstances;
107 c. Delegating final review authority to another PAS official; and
108 d. For collegial bodies of PAS officials, delegating first-level review authority to a
109 single member or panel, and retaining authority for the collegial body as a whole
110 to exercise second-level (and final) administrative review.⁵

Caseload Management

- 111 6. Agencies should adopt organizational performance goals that encourage and provide
112 clear expectations for timeliness.⁶

- 113 7. Agencies should adopt procedures for the effective management of their caseloads,
114 including, as appropriate, procedures for:
- 115 a. Resolving multiple cases in a single proceeding, such as by aggregating similar
116 claims;⁷
 - 117 b. Resolving recurring legal or factual issues, such as through precedential decision
118 making or substantive rulemaking;⁸
 - 119 c. Using alternative dispute resolution (ADR) techniques;⁹
 - 120 d. Using simplified or expedited procedures;¹⁰
 - 121 e. Using remote hearings (e.g., virtual, video teleconference, telephone);¹¹ and
 - 122 f. Screening cases at intake to resolve procedural issues as early as possible, identify
123 cases that may be appropriate for less time- and resource-intensive processes
124 (such as those listed above), and identify cases that can be resolved quickly
125 because they are legally and factually straightforward, and identify cases that
126 should be prioritized or expedited.¹²
- 127 8. Agencies, particularly those with large caseloads, should consider implementing
128 electronic case management systems.¹³ At a minimum, such systems should track the
129 number of proceedings of each type pending, commenced, and concluded during a
130 standard reporting period within and across all levels of an adjudication system. For each
131 case pending at each level of an adjudication system, an electronic case management
132 system should capture:
- 133 a. The current status of the case;
 - 134 b. The number of days required to meet critical case processing milestones;
 - 135 c. The identities of adjudicators and any personnel who assisted in evaluating
136 evidence, writing decisions, or performing other case-processing tasks;
 - 137 d. The procedural history of the case, including any actions and outcomes on
138 administrative or judicial review;
 - 139 e. The issues presented in the case and how they were resolved;
 - 140 f. Whether private parties are represented; and
 - 141 g. Any other data the agency determines to be helpful.¹⁴

Appointment and Supervision of Personnel

- 142 9. Agencies should design and administer guidelines and procedures for hiring
143 adjudicators—including ALJs and AJs—to reach an optimal and broad pool of applicants
144 and ensure that adjudicators will carry out the functions of their offices impartially and
145 maintain the appearance of impartiality.¹⁵
- 146 10. If agencies use timeliness or productivity measures to appraise the performance of non-
147 ALJs (including AJs, managers, and support personnel) or establish timeliness or
148 productivity expectations for ALJs (who are not subject to performance appraisals), they
149 should ensure that such measures and expectations are reasonable and objective, provide
150 clear expectations for timeliness, and do not lead personnel to take actions that would
151 adversely affect decisional quality or the fairness or integrity of proceedings.¹⁶
- 152 11. Agencies that employ more than one ALJ should designate a chief ALJ responsible for
153 overseeing training, receiving and investigating complaints of misconduct, and
154 developing case processing guidelines in consultation with other ALJs and interested
155 persons.¹⁷
- 156 12. Agencies should offer training, as appropriate, for adjudicators, managers, staff attorneys,
157 and paralegal support staff regarding:
- 158 a. Fair, accurate, and efficient case management, especially prehearing processes;¹⁸
 - 159 b. Using ADR techniques;¹⁹
 - 160 c. Professional development;²⁰
 - 161 d. Using electronic case management systems;²¹
 - 162 e. Using online processes;²²
 - 163 f. Conducting remote proceedings;²³
 - 164 g. Interacting with self-represented parties;²⁴

Adoption of Procedural Rules

- 165 13. Agencies should adopt rules, published in the *Federal Register* and codified in the *Code*
166 *of Federal Regulations*, that set forth all significant procedures and practices that affect
167 persons outside the agency.²⁵ Such rules should address, as applicable:
- 168 a. The conduct of proceedings in which there is no opportunity for an evidentiary
169 hearing;²⁶

- 170 b. Pre-hearing procedures, including discovery and issuance of subpoenas;²⁷
171 c. The conduct of evidentiary hearings, including the admission of evidence;²⁸
172 d. Agency appellate review;²⁹
173 e. Precedential decision making;³⁰
174 f. The participation of PAS officials in the adjudication of individual cases;³¹
175 g. Issuance of decisions;³²
176 h. Recusal of adjudicators;³³
177 i. The participation and conduct of attorney and non-attorney representatives;³⁴
178 j. Public access to and participation in adjudicative proceedings;³⁵
179 k. Remote hearings;³⁶
180 l. Online processes;³⁷
181 m. Filing fees and circumstances in which filing fees may be waived or reduced;³⁸
182 n. Implementation of the Equal Access to Justice Act;³⁹ and
183 o. Quality assurance systems.⁴⁰
- 184 14. Agencies should solicit public input when they materially revise existing or adopt new
185 procedural rules. Agencies should use notice-and-comment procedures unless the costs of
186 such procedures would outweigh the benefits.⁴¹

Procedures for Adjudications Not Involving an Evidentiary Hearing

- 187 15. Agencies should adopt procedures that promote the integrity of proceedings. Such
188 procedures should, as appropriate:
- 189 a. Reflect appropriate standards of neutrality;
- 190 b. Require the recusal of employees who have financial or other conflicts of interest
191 in matters they are investigating or deciding or who may be viewed as not
192 impartial; and
- 193 c. Require internal separation of decisional and adversarial personnel in cases
194 involving serious sanctions.⁴²
- 195 16. Agencies should notify parties of the initial, proposed, or preliminary decision, including
196 the reasons for that decision, in sufficient detail and in sufficient time to allow parties to
197 contest the decision and submit evidence to support their position. Notices should contain
198 the following information, as applicable:

- 199 a. Whether the agency provides a second chance to achieve compliance;
200 b. The manner by which the party can submit additional evidence and argument to
201 influence the agency’s initial, proposed, or preliminary decision;
202 c. The amount of time before further agency action will be taken; and
203 d. Whether and, if so, how parties may access materials in the agency’s case file.⁴³
204 17. Agencies should allow parties an adequate opportunity to furnish adjudicators with
205 evidence and arguments. Agencies should permit parties to rebut adverse information if
206 credibility issues are present.⁴⁴
207 18. Agencies should provide an oral or written, plain-language statement setting forth the
208 rationale for each decision, including the factual and other bases for the decision, at an
209 appropriate level of detail.⁴⁵
210 19. Agencies should provide for the administrative review of decisions by higher-level
211 adjudicators or other reviewers unless review is impracticable because of high caseload,
212 lack of available staff, time constraints, or low stakes.⁴⁶
213 20. Agencies with an ombuds program should empower ombuds to handle complaints about
214 proceedings. Agencies without an ombuds program should consider establishing one, or
215 sharing one with similarly situated agencies, for that purpose.⁴⁷

Procedures for Adjudications Involving an Evidentiary Hearing

216 *The Office of the Chair has developed Model Adjudication Rules⁴⁸ that reflect the*
217 *principles identified in this section. Agencies that conduct adjudications in which there is*
218 *a legally required opportunity for an evidentiary hearing are encouraged to use the*
219 *Model Adjudication Rules as a resource to draft new or revise existing rules.*

- 220 21. Agencies should adopt procedures that promote the integrity of proceedings. Such
221 procedures should, as appropriate:
222 a. Require a decision to be based on an exclusive record;⁴⁹
223 b. Address independent research by adjudicators and support staff;⁵⁰
224 c. Prohibit ex parte communications relevant to the merits of a case between persons
225 outside the agency and adjudicators and support staff;⁵¹
226 d. Require internal separation of decisional and adversarial personnel;⁵² and

227 e. Provide for the recusal of adjudicators other than agency heads in cases of actual
228 partiality and instances in which adjudicators may appear to be partial.⁵³

229 22. Agencies should adopt pre-hearing procedures that, as appropriate:

230 a. Require notice of hearings to parties by appropriate means and sufficiently far in
231 advance so that they may prepare for hearings;⁵⁴

232 b. Permit parties to inspect unprivileged materials in agency files that are not
233 otherwise protected;⁵⁵

234 c. Provide a process by which parties may seek to keep certain information
235 confidential or made subject to a protective order to protect privacy, confidential
236 business information, or national security;⁵⁶

237 d. Authorize adjudicators to require parties to participate in prehearing conferences
238 when doing so would simplify a hearing or promote settlement;⁵⁷

239 e. Authorize adjudicators to order discovery through depositions, interrogatories,
240 and other methods of discovery used in civil trials, upon a showing of need and
241 cost justification;⁵⁸ and

242 f. Permit summary judgment, upon a party's motion, in cases in which there are no
243 disputed issues of material fact.⁵⁹

244 23. Agencies should ensure that hearing notices are written in plain language and contain the
245 following information, as applicable:

246 a. Procedures for requesting a hearing;⁶⁰

247 b. The time, date, and place or manner of the hearing;⁶¹

248 c. The legal authority under which the hearing is to be held;⁶²

249 d. The issues of fact and law to be decided;⁶³

250 e. Discovery options, including procedures for subpoenaing documents and
251 witnesses;⁶⁴

252 f. Information about representation and assistance;⁶⁵

253 g. Opportunities for alternative dispute resolution;⁶⁶

254 h. Options for written hearings and oral hearings (e.g., in-person, video, virtual,
255 telephone);⁶⁷

256 i. Deadlines for filing pleadings and documents;⁶⁸

257 j. Opportunity for appellate review;⁶⁹

- 258 k. Availability of judicial review;⁷⁰ and
259 l. Information about relevant procedural rules and explanatory materials.⁷¹
260 24. Agencies should adopt procedures for hearings that, as appropriate:
261 a. Authorize adjudicators to make use of written-only hearings in appropriate cases,
262 such as those that solely involve disputes concerning interpretation of statutes or
263 rules, or legislative facts as to which experts offer conflicting views;⁷²
264 b. Authorize adjudicators to exclude unreliable evidence and exclude evidence the
265 probative value of which is substantially outweighed by other factors, including
266 its potential for undue consumption of time;⁷³
267 c. Specify rules on official notice that identify the procedures that adjudicators must
268 follow when an agency decision rests on official notice of a material fact;⁷⁴ and
269 d. Allow an opportunity for rebuttal, such as cross-examination of adverse witnesses
270 or submission of additional written or oral evidence, but authorize adjudicators to
271 limit or preclude cross-examination or require it be conducted in camera in
272 appropriate cases.⁷⁵
273 25. Agencies should require that adjudicators provide written or transcribable decisions that
274 include findings of fact and conclusions of law.⁷⁶
275 26. Agencies should provide for agency appellate review of hearing-level decisions and
276 adopt appropriate procedures for such review. Such procedures should, as appropriate:
277 a. Reflect an appellate model of judicial review in which the standard of review is
278 not de novo with respect to findings of fact and application of law to facts;⁷⁷
279 b. Permit parties to file exceptions and make arguments;⁷⁸
280 c. Limit the introduction of new evidence on appeal that is not already in the
281 administrative record from the hearing-level adjudication;⁷⁹ and
282 d. Provide opportunities for oral argument, amicus participation, and public
283 comment in appropriate cases, such as cases that are expected to result in a
284 precedential decision and cases involving issues of great public interest; issues of
285 concern beyond the parties to the case; specialized or technical matters; and novel
286 or substantial questions of law, policy, or discretion.⁸⁰

Coordination and Oversight

- 287 27. Agencies should collect information on an ongoing basis regarding the operation and
288 performance of their adjudication systems.⁸¹ Agencies should use electronic case
289 management systems to collect such information (see Principle 8) and, as appropriate,
290 quality assurance methods (e.g., formal quality assessments, informal peer review,
291 sampling and targeted case selection).⁸² Agencies should also collect information about
292 operation and performance through regular communications with interested persons
293 within the agency (e.g., adjudicators, managers, staff attorneys, paralegal support staff)
294 and outside the agency (e.g., parties, representatives).⁸³ In addition to maintaining open
295 lines of communication,⁸⁴ methods for obtaining information from interested persons
296 include:
- 297 a. Surveys;⁸⁵
 - 298 b. Focus groups;⁸⁶
 - 299 c. Listening sessions and other meetings;⁸⁷
 - 300 d. Requests for public comment, such as requests for information published in the
301 *Federal Register*;⁸⁸
 - 302 e. Online feedback forms and complaint portals;⁸⁹
 - 303 f. Consultation with nongovernmental organizations, advocacy groups, and other
304 members of the private sector who assist members of the public;⁹⁰ and
 - 305 g. Use of ombuds.⁹¹
- 306 28. Agencies should use collected information—on a periodic, regular, or ongoing basis—to
307 assess and identify strategies to remediate issues associated with:
- 308 a. Decisional quality and the performance of quality assurance systems;⁹²
 - 309 b. Timeliness of decision making, organizational performance goals, and timeliness
310 or productivity expectations or measures for individual employees;⁹³
 - 311 c. The effectiveness of procedural rules, policies, and case management practices,⁹⁴
312 including the extent to which they impose unnecessary administrative burdens on
313 parties;⁹⁵
 - 314 d. The effectiveness of explanatory materials;⁹⁶
 - 315 e. The effectiveness of electronic case management systems;⁹⁷
 - 316 f. The effectiveness of remote hearings;⁹⁸

- 317 g. The effectiveness of online processes;⁹⁹
 - 318 h. The effectiveness and appropriateness of filing fees;¹⁰⁰ and
 - 319 i. The effectiveness of services for self-represented parties.¹⁰¹
- 320 29. Agencies should ensure coordination across relevant agency components and collaborate
- 321 with other agencies and relevant entities outside the private government to identify best
- 322 practices for improving decisional quality, fairness, efficiency, and timeliness.¹⁰²

Representation and Assistance

323 *The Office of the Chair has developed Model Rules of Representative Conduct¹⁰³ that*

324 *reflect the principles identified in this section. Agencies are encouraged to use the Model*

325 *Rules of Representative Conduct as a resource to draft new or revise existing rules.*

326 *Agencies that conduct proceedings that are subject to the Equal Access to Justice Act are*

327 *also encouraged to use the Model Rules for Implementation of the Equal Access to*

328 *Justice Act.¹⁰⁴*

- 329 30. Agencies should allow participants in adjudications to be represented by lawyers.¹⁰⁵
- 330 31. Agencies should allow participants in adjudications to be represented by qualified or
- 331 accredited nonlawyers and should adopt procedural rules governing who is qualified or
- 332 accredited to practice before them.¹⁰⁶
- 333 32. Agencies should consider adopting rules governing the participation and conduct of
- 334 lawyer and nonlawyer representatives to promote the accessibility, fairness, integrity, and
- 335 efficiency of adjudicative proceedings. Such procedures should authorize adjudicators, as
- 336 permitted by law, to sanction attorneys for misconduct. Agencies should provide that
- 337 such sanctions are subject to agency appellate review.¹⁰⁷
- 338 33. Agencies should not prevent participants from obtaining assistance or support from
- 339 friends, family members, or other individuals in presenting their cases.¹⁰⁸

Accessibility

- 340 34. Agencies, particularly those that decide cases in which parties are self-represented,
- 341 should make proceedings as accessible as possible for participants, such as by:
- 342 a. Providing forms and other important materials as early as possible;¹⁰⁹

- 343 b. Providing practice manuals and guides that explain and illustrate agency
344 procedures;¹¹⁰
- 345 c. Providing self-represented parties with materials informing them of their right to
346 representation, potential benefits of representation, and options for obtaining
347 representation;¹¹¹
- 348 d. Following plain-language guidelines when drafting procedural rules and
349 explanatory materials, providing assistance, and preparing notices and
350 decisions;¹¹²
- 351 e. Providing processes for participants to communicate in real-time with agency
352 personnel or agency partners;¹¹³
- 353 f. Making important documents—such as notices and procedural instructions—
354 available in languages understood by people who frequently participate in agency
355 proceedings;¹¹⁴
- 356 g. Providing self-help materials (e.g., instruction manuals, reference guides,
357 instructional videos) and general training sessions regarding virtual hearings and
358 online processes;¹¹⁵
- 359 h. Providing training for agency personnel on interacting with self-represented
360 parties, including parties who are not proficient in English or have a mental or
361 physical disability;¹¹⁶
- 362 i. Identifying and reducing administrative burdens that participants face in
363 administrative adjudications;¹¹⁷ and
- 364 j. Exploring the possible benefits of offering automated legal guidance tools.¹¹⁸
- 365 35. Agencies should offer virtual hearings consistent with applicable laws and their needs, in
366 accordance with principles of fairness and efficiency and with due regard for participant
367 satisfaction.¹¹⁹
- 368 36. Agencies should develop online self-help portals that allow users, as applicable and when
369 feasible, to:
- 370 a. Update contact information, including email addresses, phone numbers, and
371 physical addresses;
- 372 b. Complete and submit forms;
- 373 c. File briefs, evidence, and other documents;

- 374 d. Receive service of documents, including documents filed by other parties and
375 agency notices and orders;
- 376 e. View and download case documents;
- 377 f. Make payments (e.g., filing fees, application fees, civil penalties);
- 378 g. Schedule meetings, conference, hearings, and other appointments;
- 379 h. Access virtual appointments;
- 380 i. View case status information and information about deadlines, appointments, and
381 wait times, when agencies can reliably predict them;
- 382 j. Receive reminders about upcoming deadlines and appointments; and
- 383 k. Receive notifications about new documents, status changes, and other
384 developments in their cases.¹²⁰

Transparency

- 385 37. Agencies should allow evidentiary hearings and appellate proceedings to be open to the
386 public but retain the ability to close such proceedings, consistent with applicable law,
387 when the public interest in open proceedings is outweighed by the need to protect other
388 interests such as national security, law enforcement, confidentiality of business
389 information or documents, or the personal privacy of the parties, including the interests of
390 minors or juveniles.¹²¹
- 391 38. Agencies should make important materials regarding their adjudications readily
392 accessible to the public (e.g., on their websites). Such materials may include, as
393 applicable:
- 394 a. The provisions of the APA relating to adjudication;¹²²
- 395 b. Statutory provisions providing procedural rules for adjudication;¹²³
- 396 c. Agency-promulgated rules of procedure with legal effect;¹²⁴
- 397 d. Generally applicable policies and practices governing the appointment and
398 oversight of ALJs and AJs;¹²⁵
- 399 e. Guidance documents and explanatory materials relating to adjudicative procedure,
400 including materials designed for persons appearing before an agency (e.g.,
401 practice manuals, FAQs) and materials designed for agency personnel (e.g.,
402 administrative staff manuals, instructions to staff, benchbooks);¹²⁶

- 403 f. Agency-specific forms that individuals must use;¹²⁷
- 404 g. Adjudicator-specific practice procedures applicable across multiple cases, such as
- 405 standing orders;¹²⁸
- 406 h. Decisions issued by PAS officials,¹²⁹ precedential decisions,¹³⁰ and all final
- 407 opinions and orders issued after a legally required opportunity for an evidentiary
- 408 hearing;¹³¹
- 409 i. Settlement agreements in agency enforcement proceedings;¹³²
- 410 j. Supporting materials (e.g., pleadings, motions, briefs) filed in adjudicative
- 411 proceedings;¹³³
- 412 k. Transcripts and recordings of adjudicative proceedings.¹³⁴
- 413 l. Rules governing representatives' conduct and comments, illustrations, and other
- 414 explanatory materials to help clarify how such rules work in practice;¹³⁵
- 415 m. Information concerning qualifications for representatives, how to file a complaint,
- 416 and a summary of the disciplinary process;¹³⁶
- 417 n. Disciplinary actions for representative misconduct or summaries of them;¹³⁷
- 418 o. Average processing times and aggregate processing data for claims pending,
- 419 commenced, and concluded during a standard reporting period;¹³⁸
- 420 p. Any deadlines or processing goals for adjudicating cases;¹³⁹
- 421 q. Information about plans for and progress in addressing timeliness concerns;¹⁴⁰
- 422 r. Timeliness or productivity expectations for ALJs (who are not subject to
- 423 performance appraisals) and timeliness or productivity measures used to appraise
- 424 the performance of other agency personnel;¹⁴¹ and
- 425 s. Data in case management systems in a de-identified form (i.e., with all personally
- 426 identifiable information removed) to enable continued research by individuals
- 427 outside of the agency.¹⁴²

Adjudication and Policymaking

- 428 39. Agencies should consider resolving recurring legal or factual issues, in appropriate
- 429 circumstances, through mechanisms such as precedential decision making and
- 430 substantive rulemaking.¹⁴³

- 431 40. Agencies should establish appropriate mechanisms by which quality assurance personnel
432 can communicate with agency rule writers and operations support personnel to allow
433 them to consider whether recurring problems identified by quality assurance systems
434 should be addressed or clarified by rules, operational guidance, or decision support
435 tools.¹⁴⁴
- 436 41. An agency ordinarily should treat decisions of PAS officials as precedential if they
437 address novel or important issues of law, policy, or discretion, or if they resolve recurring
438 issues or issues that other agency adjudicators have decided in different ways.¹⁴⁵
- 439 42. Agencies should establish a process by which adjudicators, other agency officials, parties,
440 and the public can request that a specific nonprecedential appellate decision be
441 designated as precedential.¹⁴⁶
- 442 43. Each agency periodically should review petitions for review and decisions rendered by
443 PAS officials to determine whether issues raised repeatedly indicate that the agency, its
444 adjudicators, or the public may benefit from rulemaking or development of guidance.¹⁴⁷

ENDNOTES

¹ Recommendation 2023-7, ¶ 8; *see also* Recommendation 2024-3, ¶¶ 17–18.

² Recommendation 2023-7, ¶ 10; *see also* Statement #20.

³ Recommendation 2023-7, ¶ 11.

⁴ Recommendations 2024-3, ¶ 1; 2016-4, ¶ 19.

⁵ Recommendations 2024-3, ¶¶ 2–13; 83-3, ¶ 3; 68-6, ¶ 1.

⁶ Recommendations 2023-7, ¶ 3; 86-7, ¶¶ 1, 2; 78-3, ¶ 3.

⁷ Recommendations 2023-7, ¶ 6; 2016-2, ¶¶ 3–10; 86-7, ¶ 9.

⁸ Recommendations 2023-7, ¶ 6; 2022-4, ¶ 1; 2016-2, ¶ 2.

⁹ Recommendations 2016-4, ¶ 12; 88-5, ¶ 1; 86-3, ¶ 1; 87-5.

¹⁰ Recommendations 90-6, ¶ 1; 86-7, ¶ 3.

¹¹ Recommendations 2021-4, ¶ 1; 2014-7, ¶ 1; 2011-4, ¶ 1; 86-7, ¶ 10.

¹² Recommendation 2023-7, ¶ 7.

¹³ Recommendation 2018-3, ¶ 1.

¹⁴ Recommendations 2023-7, ¶ 1; 2021-10, ¶ 15; 2016-6, ¶ 4(a); 2018-3, ¶¶ 1, 3, 6.

¹⁵ Recommendations 2019-9, ¶¶ 3, 22; 2019-2, ¶ 1, 4; 92-7, ¶ 2(B); 69-6.

¹⁶ Recommendation 2023-7, ¶ 4.

¹⁷ Recommendation 92-7, ¶ 2.

¹⁸ Recommendations 2023-7, ¶ 21; 86-7, ¶ 12; 70-4.

¹⁹ Recommendations 88-5, ¶ 5; 86-7, ¶¶ 6, 12.

²⁰ Recommendation 92-7, ¶ III(B)(1).

²¹ Recommendation 2018-3, ¶ 2(a).

²² Recommendation 2023-4, ¶ 23.

²³ Recommendations 2021-4, ¶¶ 10–11; 2014-7, ¶¶ 4–5; 2011-4, ¶ 3(e).

²⁴ Recommendation 2016-6, ¶ 3.

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- ²⁵ Recommendations 2023-5, ¶ 14; 2016-4, ¶ 28.
- ²⁶ Recommendation 2023-5, ¶ 14.
- ²⁷ Recommendations 2016-4, ¶ 21; 70-4.
- ²⁸ Recommendations 2016-4, ¶¶ 18–24; 2019-6, ¶ 4.
- ²⁹ Recommendations 2020-3, ¶ 2–3; 2016-4, ¶ 26; 83-3; *see also* Recommendation 68-6, ¶ 2.
- ³⁰ Recommendations 2022-4, ¶ 17; 2016-4, ¶ 27.
- ³¹ Recommendation 2024-3, ¶ 21.
- ³² Recommendation 2016-4, ¶ 25.
- ³³ Recommendation 2018-4, ¶ 1.
- ³⁴ Recommendation 2021-9, ¶ 1.
- ³⁵ Recommendation 2021-6, ¶ 1.
- ³⁶ Recommendation 2021-4, ¶ 2, 6.
- ³⁷ Recommendation 2023-4, ¶ 22.
- ³⁸ Recommendation 2023-8, ¶ 8.
- ³⁹ Recommendation 2019-4.
- ⁴⁰ Recommendation 2021-10, ¶ 21.
- ⁴¹ Recommendations 2022-4, ¶ 19; 2020-3, ¶ 5; 92-1, ¶ 2.
- ⁴² Recommendation 2023-5, ¶¶ 8–11.
- ⁴³ Recommendation 2023-5, ¶¶ 1–2.
- ⁴⁴ Recommendation 2023-5, ¶¶ 3–4.
- ⁴⁵ Recommendation 2023-5, ¶ 12.
- ⁴⁶ Recommendation 2023-5, ¶ 13.
- ⁴⁷ Recommendation 2023-5, ¶¶ 17–20; *see generally* Recommendations 2016-5; 90-2.
- ⁴⁸ Admin. Conf. of the U.S., Model Adjudication Rules (rev. 2018), <https://www.acus.gov/model-rules/model-adjudication-rules>.
- ⁴⁹ Recommendation 2016-4, ¶ 1.
- ⁵⁰ Recommendation 2019-6.
- ⁵¹ Recommendations 2016-4, ¶ 2; 93-1, ¶ 2.
- ⁵² Recommendations 2016-4, ¶ 393-1, ¶ 2.
- ⁵³ Recommendations 2018-4, ¶¶ 2–3; 2016-4, ¶ 5; *see also* Recommendation 2024-3, ¶ 13.
- ⁵⁴ Recommendation 2016-4, ¶ 6.
- ⁵⁵ Recommendation 2016-4, ¶ 9.
- ⁵⁶ Recommendation 2016-4, ¶ 7.
- ⁵⁷ Recommendations 2016-4, ¶ 5; 70-4, ¶ 1.
- ⁵⁸ Recommendations 2016-4, ¶ 10; 70-4, ¶¶ 2–9.
- ⁵⁹ Recommendations 2016-4, ¶ 12; 70-3.
- ⁶⁰ Recommendation 2016-4, ¶ 6(a).
- ⁶¹ Model Adjudication Rules § 300(A).
- ⁶² Model Adjudication Rules § 300(A); Recommendation 2021-4, ¶ 7.
- ⁶³ Recommendation 2016-4, ¶ 6.
- ⁶⁴ Recommendation 2016-4, ¶ 6(b).
- ⁶⁵ Recommendation 2016-4, ¶ 6(c).
- ⁶⁶ Recommendation 2016-4, ¶ 6(d).
- ⁶⁷ Recommendation 2016-4, ¶ 6(h).
- ⁶⁸ Recommendation 2016-4, ¶ 6(e).
- ⁶⁹ Recommendation 2016-4, ¶ 6(g).
- ⁷⁰ Recommendation 2016-4, ¶ 6(h).
- ⁷¹ Recommendation 2016-4, ¶ 6(i).
- ⁷² Recommendation 2016-4, ¶ 21.
- ⁷³ Recommendations 2016-4, ¶ 23; 86-2, ¶ 2.
- ⁷⁴ Recommendation 2019-6, ¶ 4.
- ⁷⁵ Recommendation 2016-4, ¶ 24.
- ⁷⁶ Recommendation 2016-4, ¶ 25.

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- ⁷⁷ Recommendations 2024-3, ¶ 11; 2020-3, ¶¶ 5–6, 10; 83-3, ¶ 4; *see also* Recommendation 68-6, ¶ 2.
- ⁷⁸ Recommendations 2024-3, ¶ 7; 2016-4, ¶ 26.
- ⁷⁹ Recommendations 2024-3, ¶ 11; 2020-3, ¶ 10.
- ⁸⁰ Recommendations 2024-3, ¶ 13; 2022-4, ¶ 9; 2020-3, ¶ 10.
- ⁸¹ Recommendations 2023-7, ¶ 1; 2021-10, ¶ 15.
- ⁸² Recommendations 2023-7, ¶ 1; 2023-5, ¶ 21; 2021-10, ¶ 14; 2018-3, ¶ 6(a); 73-3, ¶ 1–4; Rec. 69-6.
- ⁸³ Recommendations 2023-7, ¶ 1; 2023-4, ¶ 19; 2016-4, ¶ 31.
- ⁸⁴ Recommendations 2023-7, ¶ 2; 2021-4, ¶ 12.
- ⁸⁵ Recommendations 2023-7, ¶ 2(a); 2023-6, ¶ 5(a); 2023-4, ¶ 19.
- ⁸⁶ Recommendation 2023-6, ¶ 5(a).
- ⁸⁷ Recommendations 2023-7, ¶ 2(b); 2023-4, ¶ 19.
- ⁸⁸ Recommendations 2023-7, ¶ 2(c); 2023-6, ¶ 5(b); 2011-4, ¶ 3(c).
- ⁸⁹ Recommendations 2023-7, ¶ 2(d); 2023-6, ¶ 5(c); 2020-3, ¶ 25.
- ⁹⁰ Recommendation 2023-6, ¶ 5(e).
- ⁹¹ Recommendations 2023-7, ¶ 2(e); 2023-5, ¶ 17–20; *see generally* Recommendations 2016-5; 90-2.
- ⁹² Recommendations 2023-5, ¶ 21; 2021-10, ¶¶ 1, 23.
- ⁹³ Recommendations 2023-7, ¶¶ 1–2, 3(c), 4(g); 2018-3, ¶ 6(c).
- ⁹⁴ Recommendations 2023-7, ¶ 12; 2018-3, ¶ 6(a); 2016-4, ¶ 30.
- ⁹⁵ Recommendation 2023-6, ¶ 6.
- ⁹⁶ Recommendation 2016-4, ¶ 30.
- ⁹⁷ Recommendation 2021-10, ¶ 16.
- ⁹⁸ Recommendations 2021-4, ¶¶ 13–15; 2014-7, ¶ 11; 2011-4, ¶ 3(b).
- ⁹⁹ Recommendation 2023-4, ¶ 19.
- ¹⁰⁰ Recommendation 2023-8, ¶ 11.
- ¹⁰¹ Recommendation 2016-6, ¶ 5.
- ¹⁰² Recommendations 2023-7, ¶ 13, 16–20; 2023-6, ¶ 19–20; 2021-4, ¶ 16; 2020-3, ¶ 18; 2018-3, ¶ 6(e); 2014-7, ¶¶ 13–14; 2011-4, ¶ 3(f).
- ¹⁰³ Admin. Conf. of the U.S., Model Rules of Representative Conduct (2024), <https://www.acus.gov/document/model-rules-representative-conduct>.
- ¹⁰⁴ Recommendation 2019-2.
- ¹⁰⁵ Recommendations 2016-4, ¶ 13; 2023-5, ¶ 5.
- ¹⁰⁶ Recommendations 2016-4, ¶ 14; 2023-5, ¶ 5; 86-1, ¶ 2.
- ¹⁰⁷ Recommendations 2021-9, ¶ 1; 2016-4, ¶ 17.
- ¹⁰⁸ Recommendation 2023-5, ¶ 6.
- ¹⁰⁹ Recommendation 2016-6, ¶ 2(b).
- ¹¹⁰ Recommendation 2016-4, ¶ 29; *see also* Recommendation 2018-5, ¶ 1.
- ¹¹¹ Recommendation 2023-7, ¶ 23.
- ¹¹² Recommendations 2016-4, ¶ 16, 2016-6, ¶ 2(b); 2020-3, ¶ 11; 2023-5, ¶¶ 7, 15, 16; 2023-6, ¶ 13.
- ¹¹³ Recommendation 2016-6, ¶ 2(c).
- ¹¹⁴ Recommendation 2023-5, ¶ 16.
- ¹¹⁵ Recommendations 2021-4, ¶ 12; 2023-4, ¶ 23.
- ¹¹⁶ Recommendation 2016-6, ¶ 3.
- ¹¹⁷ Recommendation 2023-6, ¶ 6.
- ¹¹⁸ Recommendation 2022-3, ¶¶ 1–2.
- ¹¹⁹ Recommendations 2021-4, ¶ 1; 2014-7, ¶ 11; 2011-4, ¶ 1.
- ¹²⁰ Recommendation 2023-4, ¶ 2; *see also* Recommendation 2023-6, ¶ 10.
- ¹²¹ Recommendations 2021-6, ¶ 5; 2021-4, ¶ 3; 2016-4, ¶ 18; 71-6, ¶ 2; Model Adjudication Rules § 300(A).
- ¹²² Recommendation 2018-5, ¶ 1(a).
- ¹²³ Recommendation 2018-5, ¶ 1(b).
- ¹²⁴ Recommendation 2018-5, ¶ 1(c).
- ¹²⁵ Recommendation 2020-5, ¶ 1.
- ¹²⁶ Recommendation 2018-5, ¶ 1(d).
- ¹²⁷ Recommendation 2018-5, ¶ 1(e).

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- ¹²⁸ Recommendation 2018-5, ¶ 1.
¹²⁹ Recommendation 2024-3, ¶ 19.
¹³⁰ Recommendation 2022-4, ¶ 15.
¹³¹ Recommendation 2023-1, ¶ 1(a).
¹³² Recommendation 2022-6, ¶¶ 1–7.
¹³³ Recommendation 2017-1, ¶ 1.
¹³⁴ Recommendation 2021-6, ¶ 17.
¹³⁵ Recommendation 2021-9, ¶¶ 11, 13.
¹³⁶ Recommendation 2021-9, ¶ 12.
¹³⁷ Recommendation 2021-9, ¶ 14.
¹³⁸ Recommendation 2023-7, ¶ 25(i).
¹³⁹ Recommendation 2023-7, ¶ 25(ii).
¹⁴⁰ Recommendation 2023-7, ¶ 25(iii).
¹⁴¹ Recommendation 2023-7, ¶ 26.
¹⁴² Recommendation 2021-10, ¶ 22.
¹⁴³ Recommendation 2023-7, ¶ 6(ii); 2022-4, ¶ 1.
¹⁴⁴ Recommendation 2021-10, ¶ 20(b).
¹⁴⁵ Recommendation 2024-3, ¶ 15.
¹⁴⁶ Recommendation 2022-4, ¶ 8.
¹⁴⁷ Recommendation 2024-3, ¶ 16.

APPENDIX

ACUS has issued more than 120 recommendations and statements that relate, in some way, to administrative adjudication. Just over half—including most recommendations and statements adopted since 2010—relate to adjudication generally, to broad categories of adjudication, or to administration generally (though with special relevance to adjudication). About 50, most adopted before 1995, relate to adjudication under specific programs or in specific contexts.

In addition, the Office of the Chair has developed three sets of model rules as a resource for agencies that administer programs of administrative adjudication.

All adjudication-related recommendations, statements, and model rules are listed below.

Recommendations and Statements Related to Adjudication Generally

- 68-1, *Adequate Hearing Facilities*
- 68-6, *Delegation of Final Decisional Authority Subject to Discretionary Review by the Agency*

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- 69-6, *Compilation of Statistics on Administrative Proceedings by Federal Departments and Agencies*
 - 69-7, *Consideration of Alternatives in Licensing Procedures*
 - 69-9, *Recruitment and Selection of Hearing Examiners; Continuing Training for Government Attorneys and Hearing Examiners; Creation of a Center for Continuing Legal Education in Government*
 - 70-3, *Summary Decision in Agency Adjudication*
 - 70-4, *Discovery in Agency Adjudication*
 - 71-1, *Interlocutory Appeal Procedures*
 - 71-6, *Public Participation in Administrative Hearings*
 - 71-8, *Modification and Dissolution of Orders and Injunctions*
 - 72-1, *Broadcast of Agency Proceedings*
 - 72-6, *Civil Money Penalties as a Sanction*
 - 73-3, *Quality Assurance Systems in the Adjudication of Claims of Entitlement to Benefits or Compensation*
 - Statement #2, *Statement of the Administrative Conference on the ABA Proposals to Amend the Administrative Procedure Act*
 - Statement #3, *Statement of the Administrative Conference on ABA Resolution No. 1 Proposing to Amend the Definition of “Rule” in the Administrative Procedure Act*
 - 74-1, *Subpena Power in Formal Rulemaking and Formal Adjudication*
 - 78-3, *Time Limits on Agency Actions*
 - 79-3, *Agency Assessment and Mitigation of Civil Money Penalties*
 - 82-2, *Resolving Disputes Under Federal Grant Programs*
 - Statement #8, *Statement of the Administrative Conference on Discipline of Attorneys Practicing Before Federal Agencies*
 - 83-3, *Agency Structures for Review of Decisions of Presiding Officers Under the Administrative Procedure Act*
 - 83-4, *The Use of the Freedom of Information Act for Discovery Purposes*
 - Statement #10, *Agency Use of an Exceptions Process to Formulate Policy*

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- 86-1, *Nonlawyer Assistance and Representation*
 - 86-2, *Use of Federal Rules of Evidence in Federal Agency Adjudications*
 - 86-3, *Agencies' Use of Alternative Means of Dispute Resolution*
 - 86-4, *The Split-Enforcement Model for Agency Adjudication*
 - 86-7, *Case Management as a Tool for Improving Agency Adjudication*
 - 86-8, *Acquiring the Services of "Neutrals" for Alternative Means of Dispute Resolution*
 - 88-5, *Agency Use of Settlement Judges*
 - 88-10, *Federal Agency Use of Computers in Acquiring and Releasing Information*
 - 88-11, *Encouraging Settlements by Protecting Mediator Confidentiality*
 - 89-8, *Agency Practices and Procedures for the Indexing and Public Availability of Adjudicatory Decisions*
 - 90-2, *The Ombudsman in Federal Agencies*
 - 92-1, *The Procedural and Practice Rule Exemption from the APA Notice-and-Comment Rulemaking Requirements*
 - 92-5, *Streamlining Attorney's Fee Litigation Under the Equal Access to Justice Act*
 - 92-7, *The Federal Administrative Judiciary*
 - 93-1, *Use of APA Formal Procedures in Civil Money Penalty Proceedings*
 - 95-6, *ADR Confidentiality and the Freedom of Information Act*
 - 2011-4, *Agency Use of Video Hearings: Best Practices and Possibilities for Expansion*
 - 2014-7, *Best Practices for Using Video Conferencing for Hearings*
 - 2015-3, *Declaratory Orders*
 - 2015-4, *Designing Federal Permitting Programs*
 - 2016-2, *Aggregation of Similar Claims in Agency Adjudication*
 - 2016-4, *Evidentiary Hearings Not Required by the Administrative Procedure Act*
 - 2016-5, *The Use of Ombuds in Federal Agencies*
 - 2016-6, *Self-Represented Parties in Administrative Proceedings*
 - 2017-1, *Adjudication Materials on Agency Websites*
 - 2017-7, *Regulatory Waivers and Exemptions*

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- 2018-3, *Electronic Case Management in Federal Administrative Adjudication*
 - 2018-4, *Recusal Rules for Administrative Adjudicators*
 - 2018-5, *Public Availability of Adjudication Rules*
 - 2019-2, *Agency Recruitment and Selection of Administrative Law Judges*
 - 2019-4, *Revised Model Rules for Implementation of the Equal Access to Justice Act*
 - 2019-6, *Independent Research by Agency Adjudicators in the Internet Age*
 - 2019-9, *Recruiting and Hiring Agency Attorneys*
 - 2020-3, *Agency Appellate Systems*
 - 2020-5, *Publication of Policies Governing Agency Adjudicators*
 - Statement #20, *Agency Use of Artificial Intelligence*
 - 2021-4, *Virtual Hearings in Agency Adjudication*
 - 2021-6, *Public Access to Agency Adjudicative Proceedings*
 - 2021-9, *Regulation of Representatives in Agency Adjudicative Proceedings*
 - 2021-10, *Quality Assurance Systems in Agency Adjudication*
 - 2022-3, *Automated Legal Guidance at Federal Agencies*
 - 2022-4, *Precedential Decision Making in Agency Adjudication*
 - 2022-6, *Public Availability of Settlement Agreements in Agency Enforcement Proceedings*
 - 2023-1, *Proactive Disclosure of Agency Legal Materials*
 - 2023-4, *Online Processes in Agency Adjudication*
 - 2023-5, *Best Practices for Adjudication Not Involving an Evidentiary Hearing*
 - 2023-6, *Identifying and Reducing Burdens in Administrative Processes*
 - 2023-7, *Improving Timeliness in Agency Adjudication*
 - 2023-8, *User Fees*
 - 2024-3, *Senate-Confirmed Officials and Administrative Adjudication*
 - 2024-4, *Agency Management of Congressional Constituent Service Inquiries*

Recommendations and Statements Related to Specific Programs

- 69-5, *Elimination of Duplicative Hearings in FAA Safety De-certification Cases*
- 71-5, *Procedures of the Immigration and Naturalization Service in Respect to Change-of-Status Applications*
- 72-3, *Procedures of the United States Board of Parole*
- 72-7, *Preinduction Review of Selective Service Classification Orders and Related Procedural Matters*
- 72-8, *Adverse Actions Against Federal Employees*
- 73-2, *Labor Certification of Immigrant Aliens*
- 73-4, *Administration of the Antidumping Law by the Department of the Treasury*
- 73-6, *Procedures for Resolution of Environmental Issues in Licensing Proceedings*
- 74-3, *Procedures of the Department of the Interior with Respect to Mining Claims on Public Lands*
- 75-1, *Licensing Decisions of the Federal Banking Agencies*
- 78-2, *Procedures for Determining Social Security Disability Claims*
- 80-2, *Enforcement of Petroleum Price Regulations*
- 84-1, *Public Regulation of Siting of Industrial Development Projects*
- 84-6, *Disclosure of Confidential Information Under Protective Order in International Trade Commission Proceedings*
- 84-7, *Administrative Settlement of Tort and Other Monetary Claims Against the Government*
- 85-4, *Administrative Review in Immigration Proceedings*
- 86-5, *Medicare Appeals*
- 87-1, *Alternatives for Resolving Government Contract Disputes*
- 87-2, *Federal Protection of Private Sector Health and Safety Whistleblowers*
- 87-6, *State-Level Determinations in Social Security Disability Cases*
- 87-7, *A New Role for the Social Security Appeals Council*
- 87-9, *Dispute Procedures in Federal Debt Collection*

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- 87-12, *Adjudication Practices and Procedures of the Federal Bank Regulatory Agencies*
 - Statement #12, *Statement on Resolution of Freedom of Information Act Disputes*
 - 88-8, *Resolution of Claims Against Savings Receiverships*
 - Statement #13, *Dispute Resolution Procedure in Reparations and Similar Cases*
 - 89-1, *Peer Review and Sanctions in the Medicare Program*
 - 89-2, *Contracting Officers' Management of Disputes*
 - 89-4, *Asylum Adjudication Procedures*
 - 90-4, *Social Security Disability Program Appeals Process: Supplementary Recommendation*
 - 90-6, *Use of Simplified Proceedings in Enforcement Actions Before the Occupational Safety and Health Review Commission*
 - 91-2, *Fair Administrative Procedure and Judicial Review in Commerce Department Export Control Proceedings*
 - 91-3, *The Social Security Representative Payee Program*
 - 91-8, *Adjudication of Civil Penalties Under the Federal Aviation Act*
 - 91-10, *Administrative Procedures Used in Antidumping and Countervailing Duty Cases*
 - 92-3, *Enforcement Procedures Under the Fair Housing Act*
 - 89-9, *Processing and Review of Visa Denials*
 - 89-10, *Improved Use of Medical Personnel in Social Security Disability Determinations*
 - Statement #14, *Mass Decisionmaking Programs: The Alien Legalization Experience*
 - Statement #15, *Procedures for Resolving Federal Personnel Disputes*
 - 88-3, *The Federal Reserve Board's Handling of Applications Under the Bank Holding Company Act*
 - 90-1, *Civil Money Penalties for Federal Aviation Violations*
 - Statement #17, *Comments on the Social Security Administration's Proposal on Reengineering the SSA Disability Process*
 - 93-2, *Administrative and Judicial Review of Prompt Corrective Action Decisions by the Federal Banking Regulators*

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- 95-2, *Debarment and Suspension from Federal Programs*
 - 95-5, *Government Contract Bid Protests*
 - 2012-3, *Immigration Removal Adjudication*
 - 2013-1, *Improving Consistency in Social Security Disability Adjudication*
 - 2014-1, *Resolving FOIA Disputes Through Targeted ADR Strategies*
 - 2020-4, *Government Contract Bid Protests Before Agencies*

Model Rules

- Model Adjudication Rules (rev. 2018)
- Model Rules for Implementation of the Equal Access to Justice Act (rev. 2019)
- Model Rules of Representative Conduct (2024)