ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Notice of Public Meeting of the Assembly of the Administrative Conference of the United States

AGENCY: Administrative Conference of the United States

ACTION: Notice.

SUMMARY: The Assembly of the Administrative Conference of the United States will meet during a one-day virtual plenary session to consider proposed recommendations and to conduct other business. Written comments may be submitted in advance, and the meeting will be accessible to the public.

DATES: The meeting will take place on Thursday, June 17, 2021, from 9:00 a.m. - 4:15 p.m. The meeting may adjourn early if all business is finished.

ADDRESSES: To facilitate participation during the ongoing COVID-19 pandemic, the meeting will be conducted virtually. Information on how to access the meeting will be available on the agency’s website prior to the meeting at https://www.acus.gov/meetings-and-events/plenary-meeting/74th-plenary-session-virtual.

FOR FURTHER INFORMATION CONTACT: Shawne McGibbon, General Counsel (Designated Federal Officer), Administrative Conference of the United States, Suite 706 South, 1120 20th Street, NW, Washington, DC 20036; Telephone 202-480-2080; email smcgibbon@acus.gov.

SUPPLEMENTARY INFORMATION: The Administrative Conference of the United States makes recommendations to federal agencies, the President, Congress, and the Judicial Conference of the United States regarding the improvement of administrative procedures (5

**Agenda:** The Assembly will receive updates on past, current, and pending Conference initiatives. In addition, pending final action by the Conference’s the Council, five proposed recommendations will be considered. Summaries of the recommendations appear below:

*Clarifying Statutory Access to Judicial Review of Agency Action.* This proposed recommendation urges Congress to enact a cross-cutting statute that addresses certain recurring technical problems in statutory provisions governing judicial review of agency action that may cause unfairness, inefficiency, or unnecessary litigation. It also offers a set of drafting principles for Congress when it writes new or amended judicial review statutes. It draws in large part on ACUS’s forthcoming *Sourcebook of Federal Judicial Review Statutes*, which analyzes the provisions in the U.S. Code governing judicial review of rules and adjudicative orders and identifies recurring drafting problems in them.

*Early Input on Regulatory Alternatives.* This proposed recommendation addresses when and how agencies should solicit input on alternatives to rules under consideration before issuing notices of proposed rulemaking. Among other things, it provides targeted measures for agencies to obtain input from knowledgeable persons in ways that are cost-effective and equitable and that maximize the likelihood of obtaining diverse, useful responses.

*Mass, Computer-Generated, and Fraudulent Comments.* This proposed recommendation offers best practices for managing mass and computer-generated comments, as well as a type of fraudulent comments referred to as “malattributed comments,” in agency rulemakings. Among other things, it offers best practices for agencies to consider with respect to using technology to process such comments, managing their public rulemaking dockets in response to such comments, and ensuring transparency with respect to any such actions they undertake.

*Periodic Retrospective Review.* This proposed recommendation identifies best practices for agencies as they conduct retrospective review of their regulations on a periodic basis. It provides guidance for agencies on identifying the types of regulations that are strong candidates for
review, determining the optimal frequency of review, soliciting public feedback to enhance their review efforts, identifying staff to participate in review, and coordinating review efforts with other agencies.

*Virtual Hearings in Agency Adjudication.* This proposed recommendation addresses the use of virtual hearings, in which one or more participants attend remotely using a personal computer or mobile device, in agency adjudications. Virtual hearings have become increasingly common in agency adjudications, especially during the COVID-19 pandemic, but they can pose unique logistical challenges and raise questions of accessibility, transparency, privacy, and data security. The proposed recommendation identifies best practices for improving existing virtual-hearing programs and establishing new ones when appropriate.

Additional information about the proposals and the agenda, as well as any changes or updates to the same, can be found at the 74th Plenary Session page on the Conference’s website prior to the start of the meeting: [https://www.acus.gov/meetings-and-events/plenary-meeting/74th-plenary-session-virtual](https://www.acus.gov/meetings-and-events/plenary-meeting/74th-plenary-session-virtual).

*Public Participation:* The Conference welcomes the virtual attendance of the public at the meeting, subject to bandwidth limitations. Members of the public who wish to view the meeting are asked to RSVP online at the 74th Plenary Session webpage shown above, no later than two days before the meeting, in order to ensure adequate bandwidth. For anyone who is unable to view the live event, an archived video recording of the meeting will be available on the Conference’s website shortly after the conclusion of the event: [https://youtube.com/channel/UC1Gu44Jq1U7XsGdC9Tfl_zA](https://youtube.com/channel/UC1Gu44Jq1U7XsGdC9Tfl_zA).

*Written Comments:* Persons who wish to comment on any of the proposed recommendations or official statement may do so by submitting a written statement either online by clicking “Submit a comment” on the 74th Plenary Session webpage shown above or by mail addressed to: June 2021 Plenary Session Comments, Administrative Conference of the United States, Suite 706
South, 1120 20th Street, NW, Washington, DC 20036. Written submissions must be received no later than 10:00 a.m. (EDT), Friday, June 11, 2021, to ensure consideration by the Assembly.

Dated: May 27, 2021.

Shawne McGibbon,

General Counsel.

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