

**HIGHLIGHTS**

*More than 200 advisory committees produce and analyze research that help federal science agencies inform or shape policy decisions. The Union of Concerned Scientists has compiled actions the federal government should take to reform and strengthen its scientific advisory committee system, including:*

- *Directing agencies to improve the integrity and transparency of processes to ensure committees meet their chartered objectives.*
- *Protecting the independence and integrity of advisory committees by protecting against conflicts of interest.*
- *Ensuring that the processes used to establish and terminate advisory committees are clear and transparent.*

# Scientific Integrity of Federal Advisory Committees

## *Recommendations for 2021 and Beyond*

Government decisions are strongest when informed by science and a diverse array of experts inside and outside federal agencies, including academic scholars, agency scientists, and policy specialists. The participation of these experts not only increases the robustness of policies, but it also adds legitimacy to the decision-making process, which is crucial to building public trust (Groux, Hoffman, and Ottersen 2018). Throughout US history, our government has recognized the value of pooling scientific expertise: beyond the suite of agencies and offices devoted solely or primarily to scientific research, more than 200 advisory committees, comprised of academic, nonprofit, regulatory, and industry experts, produce and analyze research that may inform policy decisions (Reed et al. 2018).

However, actions by various presidential administrations have suppressed or undermined science-based decisionmaking (Berman and Carter 2018). This alarming practice has reached a new high in the Trump administration. It has disbanded advisory committees without justification, shifted membership away from academic scientists and toward members affiliated with industry, exerted undue political control over advisory committee processes, and failed to listen to its remaining science advisors on key issues.

The Trump administration has weakened or completely disbanded a number of federal advisory committees (Green and Beitsch 2019). In its first year, federal science committees met fewer times than they had each year in at least the last 20. The Environmental Protection Agency (EPA), the Department of Energy, and the Department of Commerce has had fewer experts serve on committees in that same time, and membership decreased by 14 percent—an unusually high figure even in a transition year (Reed et al. 2018). At the EPA, the balance of membership



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*In October 2018 the EPA disbanded an expert advisory panel tasked with evaluating the latest science on particulate pollution that harms public health. UCS reconvened the panel members a year later to review the latest research and advise the EPA administrator. The elimination of this and other advisory committees has undermined science-based decisionmaking across the federal government.*

has altered drastically: the agency had barred individuals in receipt of EPA funding from serving on committees until several courts ruled the policy illegal (Protect Democracy 2020). Yet the results of the policy linger: the number of industry-affiliated members on the EPA's Science Advisory Board tripled between 2017 and 2020 (see figure).

In addition to their shifting composition, many committees across the government have been disbanded without adequate explanation. In 2017, then-Attorney General Jeff Sessions allowed the Department of Justice's National Commission on Forensic Science to expire even as it was offering valuable recommendations on incorporating independent science into the criminal justice system (Hsu 2017). The department claimed the committee had met its chartered mandate, but its own committee members argued that its removal would leave much of its work incomplete (Albright et al. 2017).

President Trump continued the purge of advisory committees in June 2019, issuing the Executive Order on Evaluating and Improving the Utility of Federal Advisory Committees, requiring each federal agency to cut the number of its advisory committees by at least one-third, with a limit of 350 committees across the government (White House 2019). This is an arbitrary, highly damaging attack on independent science and its contribution to federal decisionmaking (Goldman 2019). Implementation of the order has been piecemeal,

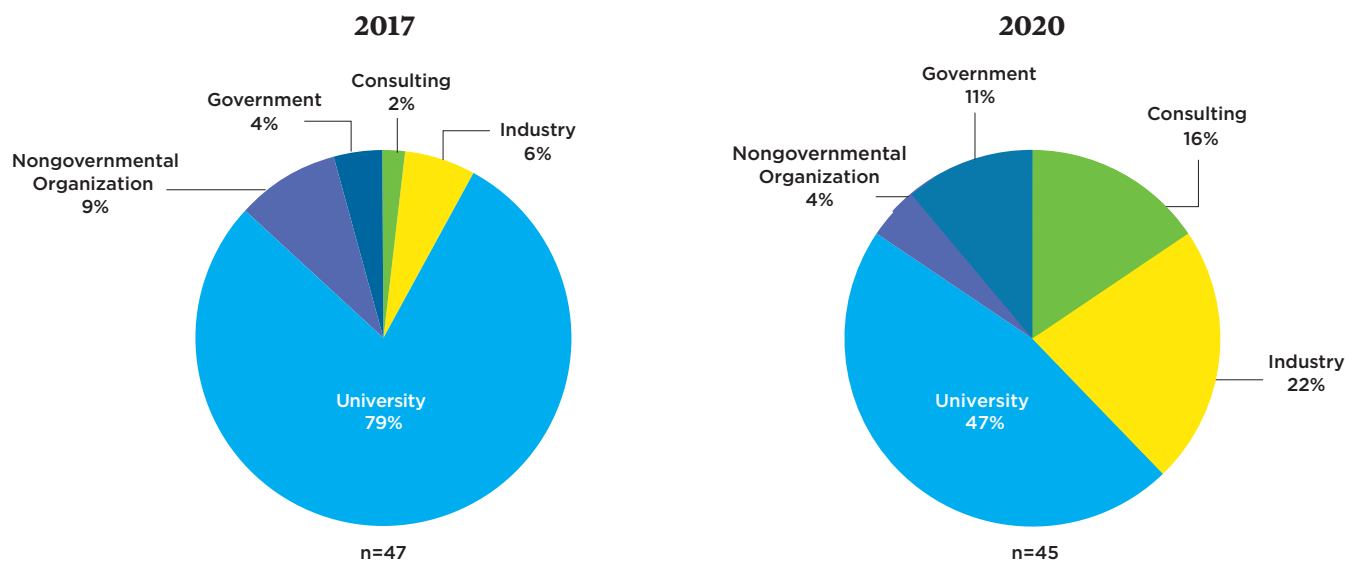
and agencies have largely not made public the criteria used to make decisions, in some cases providing no justification to committee members or the public upon terminating committees. An example of this is the 2019 disbanding of the Smart Grid Advisory Committee by the Department of Commerce. Its committee members did not receive a full explanation; the department's only justification was "an effort to use government resources more efficiently" (Green 2019).

## Recommendations

The president should rescind the Executive Order on Evaluating and Improving the Utility of Federal Advisory Committees. Decisions on chartering and terminating committees should be at the discretion of agencies as they seek the necessary expert input on scientific and technical issues and broader policy concerns, as the Federal Advisory Committee Act directs (GSA 2019).

The president also should work with Congress and agencies to reform and strengthen the federal government's scientific advisory committee system. The president should issue an executive order affirming the value of advisory committees and direct agencies to improve the integrity and transparency of processes to ensure committees meet their chartered objectives.

### The Changing Makeup of the EPA Science Advisory Board



*EPA leadership has changed established precedent to distort the composition of its advisory committees, including its Science Advisory Board. By barring university researchers with EPA grants from serving on agency advisory committees, representation of academic advisors is 43 percent lower in 2020 compared with 2017. Over the same period, industry representation has tripled.*

SOURCES: EPA 2017; GSA N.D.

**The president's executive order should address committee membership by requiring agencies to take these steps:**

- Enforce that representative status is designated when a member of a federal advisory committee (FAC) is asked to represent the position and interests of a stakeholder or other outside interest group, as opposed to the FAC member's own, individual opinions.
- Extend disclosure requirements that apply to all advisory committee members, including those designated as representatives, as they are applied to members designated as special government employees, and require disclosure of past employers and research funding (Kinsella et al. 2020).<sup>1</sup> For committees with a mission solely dedicated to providing neutral scientific advice (as opposed to those designed to gather input from diverse stakeholders), ensure that members are appointed as special government employees and vetted for financial conflicts of interest and bias.
- Include statements in appointment letters clarifying whether committee members will speak in their personal capacity as experts or as representatives of specific stakeholder groups.
- Require designated agency ethics officials to evaluate the quality of financial disclosure reviews for special government employees as part of the periodic reviews of agency ethics programs.
- Grant the members of federal advisory committees the freedom to communicate with the public on issues in their areas of expertise, so long as they do not violate the deliberative process. Agencies should affirm this right to committee members at the time of their appointment.
- Announce the intention to form a new scientific advisory committee or to select new members for an existing committee. Make public the processes used for committee formation, including how agencies screen members, how they assess committees for balance, and which political officials are involved (Kinsella et al. 2020).
- Make the roster of candidates for membership public, along with representative or special government employee designation, and request comments regarding candidates' potential conflicts of interest.
- Solicit public input on committee charters (Kinsella et al. 2020).
- Take concrete steps to ensure that agencies fill vacancies promptly and that they select advisory committee members based solely on experience and technical qualifications in the topic the committees address, and not based on inappropriate criteria (e.g., party affiliation, political opinions) (Kinsella et al. 2020).

**The president's executive order should protect the independence and integrity of advisory committees by protecting against conflicts of interest, ensuring that agencies take these steps:**

- Bar those with conflicts of interest from serving on committees unless conflicts are unavoidable because the individual's experience and technical qualifications are particularly relevant to the topic committee will address *and* the agency cannot identify an individual with comparable qualifications but without a conflict of interest (Bipartisan Policy Center 2009).
  - An agency that determines a conflict is unavoidable must explain the determination and provide a plan for mitigating the known conflict.
  - Each agency should establish criteria for issuing conflict-of-interest waivers.
  - All conflict-of-interest waivers must stipulate the parameters of permitted participation and this information must be released to the public before major decisions are made (Kinsella et al. 2020).
- Define explicitly what constitutes a conflict of interest and give examples of actions that would breach the appearance of impartiality. Ensure that the following *do not* constitute conflicts of interest for special government employees or representatives because they do not preclude an objective assessment of scientific information presented to a committee:
  - Taking a public position on issues/having a point of view on policy.
  - Receiving a federal research grant or other government funding for scientific work.
  - Being a member of a scientific association, even if it has a stated policy agenda.
- Ensure that committee members who are special government employees recuse themselves from scientific discussions for which they have a direct conflict of interest.
- Publish relevant basic information about each committee member on a public online portal (e.g., integrity.gov), including qualifications, background, employers, and funding sources for the previous five years, along with any conflict-of-interest waivers granted.
- Publicly report the votes of each committee member on recommendations when a committee does not come to consensus.
- Announce and enforce relevant conflicts and recusals at every advisory committee meeting.

**The president’s executive order should ensure that the processes used to establish and terminate advisory committees are clear and transparent and that the government seeks out the advice it needs:**

- Require agency heads to provide an explanation when the charter of an advisory committee is not renewed or is disbanded before its charter ends. This explanation should be publicly available.
- Require agency heads to work with the Office of Science and Technology Policy to determine whether and how new FACs could help meet interagency needs on cross-disciplinary issues (Brennan Center for Justice et al. 2020).
- Require the General Services Administration to issue guidance to agencies on how to improve the tracking and reporting of committee work.
- Require agency officials to archive committee websites and all related documents upon a committee’s termination so that agencies and the public can still access the information.
- Require agency officials to make advisory committee reports part of the *Federal Register* for any subsequent rulemaking involving a committee’s work.
- Require agency scientific integrity officials to make clear the processes for investigating scientific integrity complaints related to federal advisory committees, and ensure that outstanding investigations related to FACs are completed and that corrective action is taken when warranted (Brennan Center for Justice et al. 2020).

**In addition, there is much that Congress can do to promote the scientific integrity of federal advisory committees. In support of the president’s executive order, Congress should take the following steps:**

- Direct the Government Accountability Office to conduct a government-wide audit to ascertain whether federal agencies are appropriately carrying out the Federal Advisory Committee Act.
- Consider legislation that would institute a formal petition process for the public to request an agency assemble a federal advisory committee for an issue based on a set of criteria.

## Conclusion

The neglect and compromising of independent science advice to our government agencies seriously endangers the nation. A robust advisory committee system is essential to ensuring that policymakers have access to expertise and diverse viewpoints that can inform evidence-based decisions and protect public health and safety. Well-balanced, inclusive committees serve the best interest of the public in contrast to those that are hand-selected to have specific agendas that undermine the system and result in distrust of the federal government. The president and agency heads should actively work to improve processes and better utilize the advisory committee system to promote better informed decisions and increase public trust.

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### ENDNOTE

1. Individuals serving as special government employees are subject to executive branch ethics requirements, such as financial disclosure, and they are expected to deliberate on committees in a manner that is free from conflicts of interest. Individuals serving as “representatives” are not government employees or subject to ethics requirements; they are expected to represent the point of view, and potential bias, of a particular stakeholder group (e.g., an industry, a nongovernmental organization, a labor union) (OGE 2016).

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