

Government Privileges Drafting Team Discussion Topics

1. The drafting team has not yet been finalized. While the team is being assembled, the current members have been working to refine the scope and purpose of the paper. The team would like input from the membership on whether the topic of “Government Privileges” would best be served by a Commentary or a Primer.
2. The drafting team has compiled a nonexhaustive list of government privileges to address in the paper. The team would like to solicit the membership for other government-related privileges they would like us to consider for inclusion in the paper. The current list of privileges is as follows:
 - bank examination privilege,
 - Bank Secrecy Act privilege,
 - deliberative process privilege,
 - executive privilege, including presidential communications,
 - FOIA privileges,
 - investigatory files privilege,
 - legislative privilege,
 - relator privilege,
 - state secrets privilege, and
 - any other privileges the drafting team may decide to include.
3. The unique nature of these privileges often requires different strategies and workflows compared to more common evidentiary privileges, like attorney-client privilege. The drafting team is reviewing existing Sedona Conference publications on privilege logs and waiver issues to identify points of departure from current SC guidance where appropriate.
4. There are several Circuit splits on how to interpret and apply some of these privileges. The drafting team intends to address these splits and would like feedback from the membership on whether Sedona should take a side or simply educate the reader about the split.