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FEDERAL ADVISORY COMMITTEES: AN IMPORTANT FRUSTRATION

A Report of a Conference on
Federal Advisory Committees
June 26-27, 1981

The Charles F. Kettering Foundation



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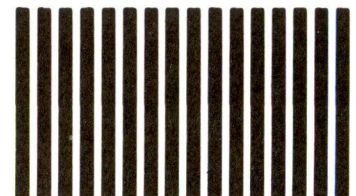


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Federal advisory committees are a source of frustration to just about everybody involved:

- the members
- the agencies
- the White House

Although they are a frustration, they have become an integral part of the policymaking process. Today, even the most vocal critics of advisory committees recognize that government must be able to get advice from knowledgeable and experienced citizens from all sectors of society. Advisory committees are an important element in making government responsive.

One of the conclusions of the conference was that a wider group of federal advisory committee members (past and present) should be involved in a thorough reassessment of federal advisory committees. The "advisory committee system," said participants, "is perhaps the most 'underutilized' network linking government and citizens."

The Roots of Federal Advisory Committees

The case for the citizen's role in public policy can be made easily, and the issue runs deep throughout American tradition.

In classical democratic theory, participation is both "right," in that it gives people just control over their destinies, and it is beneficial, in that it is educational and thereby heightens appreciation for the common good. Citizens have been taking control and participating in a myriad of ways.

The use of advisory committees goes back to President George Washington, who brought together a group of citizens to help quell the "whisky rebellion."

More recently, advisory committees gained broader popularity during the Kennedy and Johnson administrations when Great Society projects ushered in the new era of citizen involvement. During this period, the federal government sought to include the poor and disenfranchised in decisions affecting their lives.

However varied the use and makeup of these committees over the years, Congress and the presidents have shaped the advisory committee system into an important resource for making public policy.

Public participation through federal advisory committees has grown dramatically since the early sixties, leading to a system in which, today, 25,000 people advise the government on everything from nuclear power to child welfare. Citizens, working with government professionals, have helped to shape policy, to advise on scientific and social research, and sometimes to build a consensus among conflicting viewpoints.

At the conclusion of the conference, it was clear that those who serve on advisory panels have a strong belief in the value of such groups.

At the same time, government officials expressed concern about the difficulty of working in an atmosphere of total public access. Some thought certain legal requirements seemed to impede rather than promote public participation. Others believed the problems of openness and access, power and control, communication and the timing of decisions, length of terms, committee leadership, staff, budget, and accountability were better resolved through administration and management by top-level officials committed to the process than through the creation of more laws.

It was clear from this initial discussion that there is a need to search for ways to improve the federal advisory committee system. Attention needs to be focused on how to achieve balanced membership and a diverse mix of credible views on committees. Committee members need to be informed about how they can function more effectively. Government officials need to be educated about how they can manage the committees with greater flexibility and sensitivity.

With this discussion and the research that is under way, the Kettering Foundation will focus on improving the functioning of federal advisory committees as one means of achieving better public policy.

What Next?

By its assertiveness, this committee ensured that as many as 70 to 75 percent of its recommendations were accepted and used. Timidity in expressing opinions can render an advisory committee ineffective more quickly than anything else. "The worst fault of a committee is not being courageous enough."

The quality of the chairman's leadership and the ability of the committee members to work together were concerns heard throughout the conference discussions. Orientation, training, and education for federal officials and committee members were also identified as key elements for avoiding the frustration of having work rendered ineffective.

Despite the barriers to a committee's functioning smoothly and presenting its point of view to the government effectively, it was clear that at least a few committees have been successful.

"We met every six weeks, not by law, but because we wanted to," explained one participant. "Subcommittees met as often as every three weeks. The committee members were very busy people, people who felt, because of the effectiveness of what they were doing, they wanted to do more and more."

Perhaps the most important and complicating factor in the operation of government advisory committees is that they operate as part of a political milieu. The laws and the agendas a particular administration adopts reflect both the administration's desire to use advisory committees and its need to maintain public credibility. Advisory committee members often learn that their experiences working with the government can be as diverse, as exciting, and even occasionally as disappointing as our system of government itself.

This kind of participation, states David Mathews, president of the Charles F. Kettering Foundation, has worked to add a new dimension to the precept that governments exist by the consent of the governed. "Informed participation, not simply participation," is the cornerstone of representative democracy, Mathews maintains.

In June of 1981, the Kettering Foundation sought to open a window into the world of federal advisory committee service. Fourteen citizens serving on federal advisory committees were brought together with top-level federal officials who work with advisory panels. They came to probe the problems and the effectiveness of this form of participation.

The purpose of this report is to present the frustrations and concerns from a number of perspectives and to reflect the search for solutions.

The questions are being debated in a review of the effectiveness of the federal advisory system by:

- the members
- the agencies
- the White House

Can a Citizen be Successful?

Should a New President and New Cabinet Officers Receive Resignations from All Advisory Committee Members?

Members of advisory committees are often associated with a political viewpoint. This fact alone can throw an advisory group's work into limbo when there is a change of administrations. Some officials question whether many advisory committees are really needed and note that the government can obtain ad hoc advice through other kinds of public participation without the encumbrances and expense of establishing committees. But what federal officials are most frustrated by is government's lack of control over advisory committees.

Top administrators cannot control public access to the groups they hope will frankly consider issues and quietly offer advice. Often they cannot guide the advice they receive or forecast the public furor it may create. There is fear that a federal advisory committee can create its own constituency for a special point of view and generate a groundswell of public opinion before the government has a chance to consider all the alternatives. Several of the conferees agreed that while such a development may be exciting and interesting to the public, it is usually ineffective.

"If an advisory committee is independent, truly independent so it can speak and advise with its own insight, then it may not have access to governmental decisionmakers because those governmental decisionmakers will feel the committee is a 'loose cannon,' a 'wild card,' not loyal. On the other hand, lack of independence may lead to lack of credibility with the constituencies that need to be represented and whose ideas need to be reflected in decisionmaking," said one participant at the Kettering-sponsored meeting.

Relations between a committee and its staff were described at times as frustrating because of the staff's need to serve two masters.

"The staff is often provided by the agency that is soliciting the advice, and that agency generally has a notion of what the advisory committee ought to do. Yet the advisory committee would like to keep some independence and simply not be the slave of an agency," stated one committee member.

Advisory groups can be rendered ineffective if they have no control of their budgets. Conferees said it takes no time at all for government officials to figure out the most effective way to stop a flow of information they deem contrary to their interests. One advisory committee member outlined a typical scenario: "The budget comes to us as the agency decides it will come. As a result, we started out holding six meetings a year, reduced to five meetings a year, reduced to four meetings a year. We are now down to three meetings a year."

When a committee makes recommendations or a report, it ought to receive a point-by-point response from the agency. Committees need to be "plugged into" the agency's policymaking process. One of the conferees said his committee made certain its work would be noticed by sending a copy of the discussion and recommendations from each meeting to the congressional panel that established the group, as well as to the administrator they were advising: "We insisted from the very beginning that we would not be an effective committee unless we got feedback from the administrator about what he would do with our recommendations."

Who Controls the Staff and the Budget?

Can an Advisory Committee be Effective?

Can We Define "Fair Balance" in Selecting Advisory Committee Members?

would be a good idea to have an advisory committee. The problem was, we never had any kind of agenda," he explained.

Lines of communication must be established between the agency head and the advisory group. Many conferees believed there is no substitute for communication with and access to top-level federal officials. A committee needs to understand how its mission relates to government's agenda.

An advisory committee's membership is a key factor. The law (FACA) requires a membership which is "fairly balanced in terms of points of view represented and the functions to be performed." There is little guidance or help given to appointing officials on how to achieve "fair balance."

Current committee members said people should be selected for their competence and expertise, and that it is important to have diverse representation—generalists as well as specialists. The stature and experience of members on an advisory panel can be a factor in winning the confidence of federal officials, Congress, and the public.

A number of conferees suggested that an attempt to achieve ethnic or political balance on a committee can present problems. Certainly, if political reward becomes the most important criterion, the appointee's ability to contribute effectively is compromised. On the other hand, political appointees are valuable; as representatives of a particular administration, they lend credibility to and spark interest in the committee's work. Symbolic inclusion of members from poor and minority groups, some conferees believe, is not a guarantee that the people selected represent those constituencies.

Some at the conference argued that there is a need for citizen advocacy in government. "Advisory committees are an extension of input into government from citizens—a necessity for a democracy. To gear the work of a committee to the issues without creating an advisory-for-advocacy relationship on the issues which the committee is asked to address is to weaken the whole process."

Last November's election gave conference participants the most recent opportunity to consider what happens to advisory committees when there is a change of administrations. There is concern about a conflict between the political beliefs and goals of the committee members and those of a changed administration, and the new administration must be concerned about realistic political questions such as how to reward campaign workers.

"One department considered asking for resignations from all members of its advisory committees," stated a government representative. An alternative course of action would be to stagger terms for advisory committee members. The latter would encourage continuity while allowing a new administration to have influence over some appointments.

Is it politically naive to expect an advisory committee whose members are inconsonant with an administration to be effective? "I suggest that the amount of resources committed to an advisory committee, the support of its findings, and the general satisfaction with the process will be greatly enhanced if the new administration can appoint all of the members," said one federal participant.

What Controls the Operations and Spending of Federal Advisory Committees?

In 1980, the government spent \$88 million to operate 865 advisory committees. There were 52 presidential committees, 229 authorized by federal agencies, and 612 authorized or directed by law.

The 1972 Federal Advisory Committee Act (FACA) outlines the requirements governing the establishment and operation of committees that advise the federal government. While this law does not require or advocate that such committees be established, it states that if the president or an agency seeks advice outside of government on a continuing basis, the group's membership must be "fairly balanced" to represent a variety of views and that the committee must publish notice of its meetings and make those meetings "open to the public." The law, intended by Congress as a check on the possible abuse of public funds, was first proposed because some government officials had been using committees of experts brought together by private industry and private interest groups. It was designed, in part, to prevent the business world from exerting undue influence on government policies and on rules and regulations from which it stood to gain financially.

Under the Freedom of Information Act (FOIA) advisory committees are obliged to fill any request for documents pertaining to their operation and deliberations. The Government in Sunshine Act (GISA) further requires that federal advisory committee meetings be open to the public, subject to specific exceptions.

Federal representatives at the conference said the requirements of these three laws can make federal officials reluctant to establish advisory panels in the first place. When the government faces a controversial decision, they pointed out, it is awkward and frustrating

to discuss every aspect of a problem in public.

"Why do I hesitate to create a federal advisory committee?" one conferee asked. "The open meetings, the possible application of the Freedom of Information Act, the requirement for balanced representation... the use of the *Federal Register* and the creation of, perhaps, a dragon that will not die naturally. Of these the most serious consideration is the open meeting. Cabinet officials are concerned about whether a report drafted 'in the glare of publicity' will be frank and useful."

Because the current administration has proposed transferring more government responsibility to the states, some of the federal officials pointed out that the country's large system of federal advisory groups may not remain relevant. The administration officials cited hearing demands for a New Federalism from both Democratic and Republican voters. One federal official suggested: "So what does all this mean to advisory committees? If the President cuts back on government, if the role of government shrinks, will the role of citizen advisory committees need to shrink also?"

Before committee members can consider their effectiveness, it is important, the conferees agreed, that they decide why they exist and how they wish to proceed. A clear statement of mission and responsibility is important. Advisory bodies should have an idea of their limitations as well as their goals and avoid working under the disadvantage of unrealistic expectations. Committees do not want to be asked questions if agencies cannot accept the answers.

One federal committee member said he found his group "important, but not very effective. The committee was appointed, I assume, because somebody thought that it

What is the Relationship Between the "New Federalism" and Federal Advisory Committees?

Does Government Let the Citizen Advisors Know What is Expected of Them?

Has the Open Meeting Become a Two-Headed Dragon?