

## ABSTRACT

Special Committee, Administrative Conference of the United States

*Report & Recommendation by the Special Committee to Review the Government in the Sunshine Act*

49 Admin. L. Rev. 421 (1997)

Abstract by Jessica G. Jacobs

The Chair of the Administrative Conference of the United States appointed the Special Committee in order to reconsider the effects of the Government in the Sunshine Act, enacted in 1976. The Act requires multi-member federal agencies, a majority of whose members are appointed by the President and confirmed by the Senate, to open its meetings to the public. The Report discusses two letters from current and former commissioners of multi-member agencies asking the Chair to review the effectiveness of the Act. The Report discusses its findings on problems presented by the Act—namely, difficulties faced by agencies in determining which meetings must be held openly; the inhibition of collective decision making by agency members at public meetings; inefficient agency practices; and meetings conducted by staff rather than by agency members. The Report also expresses concern regarding agency reliance on notation voting—a system of voting on an issue by circulating a memorandum instead of by discussion in a public meeting.

In order to promote the two primary goals of the Government in the Sunshine Act—enhanced access to the governmental decisionmaking process and improved agency decisions through collegial decisionmaking—the Special Committee makes several recommendations to improve the Act. The recommendations include establishing a pilot program whereby agencies subject to the Act could allow its members to meet privately and without notice, if the agency meets certain conditions. The Committee further recommends that Congress amend the Act in several particular aspects, that agencies subject to the Act facilitate public access to information at open meetings, and that the U.S. International Trade Commission reconsider whether its adjudications are exempt under the Act.

The first part of the Article describes the creation of the Special Committee and the issues it was formed to address. The Article then discusses specific deficiencies in the Act, the need for revision, and means for improvement. Finally, the Article summarizes the Committee's specific recommendations for improving the effectiveness of the Act.