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*Service on Federal Advisory Committees: A Case Study of OLC's Little-Known
Emoluments Clause Jurisprudence*

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Abstract by Lysandra Rauch

The author discusses developments in the Office of Legal Counsel's (OLC) Emoluments Clause jurisprudence affecting members of advisory committees, with an emphasis on the statutorily created Administrative Conference of the United States (ACUS). The Article begins with a discussion of a 1991 OLC opinion which mentioned that advisory committee members are subject to the Emoluments Clause with no precedent for this conclusion. The author then discusses a 1993 opinion which dealt specifically with the application of the Clause to ACUS members. Next, the author examines the implications of a 1994 letter from OLC to Conrad Harper, the Legal Advisor of the State Department, which acknowledged that the 1991 opinion was "overbroad."

The Article traces developments in OLC jurisprudence as it relates to Emoluments Clause application to ACUS members and finds the current state to be unpredictable, unreliable, and essentially unsound. The author proposes that the OLC publicly reverse the 1991 and 1993 opinions on this issue. Short of this reversal, the author proposes that Congress should act to establish that ACUS members from the public do not hold positions of trust within the meaning of the Emoluments Clause.