

Chronic Fatigue Syndrome Advisory Committee ByLaws

Section I: Purpose

The purpose of the Chronic Fatigue Syndrome Advisory Committee (CFSAC) is to provide advice and recommendations to the Secretary of Health and Human Services (HHS) via the HHS Assistant Secretary for Health (ASH) on issues related to chronic fatigue syndrome (CFS). These include factors affecting access and care for persons with CFS; the science and definition of CFS; and broader public health, clinical, research and educational issues related to CFS.

Section II: Authority

CFSAC is authorized under 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended. The Committee is governed by the provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

Section III: Membership Selection and Appointment

The Committee shall consist of 11 members, including the Committee Chair, appointed by the Secretary or the Secretary's designee. Of the 11 members, seven shall be biomedical research scientists with demonstrated expertise in biomedical research applicable to CFS; four shall be individuals with expertise in health care delivery, private health care services or insurers, or voluntary organizations concerned with the problems of individuals with CFS. All members of this Committee are classified as special Government employees (SGEs).

In addition, the Committee shall include six non-voting *ex officio* members: a representative from the Centers for Disease Control and Prevention (CDC), the Food and Drug Administration (FDA), the Health Resources and Services Administration (HRSA), the National Institutes of Health (NIH), and the Social Security Administration (SSA); and the Agency for Healthcare Research and Quality (AHRQ). Other U.S. Government employees may be invited to participate as non-voting *ex officio* members, as the Secretary, or designee, deems necessary to effectively carry out the Committee's function.

Committee members shall be appointed to serve overlapping terms of up to four years. The Committee is chartered for two years and terms of more than two years are contingent upon the renewal of the Committee's charter by appropriate action prior to its expiration. . A member may serve up to 180 days after the expiration of the member's term if a successor has not taken office.

If a vacancy occurs among the appointed members, the Secretary (or designee) shall make an appointment to fill the vacancy within 90 days from the date the vacancy occurs. Any individual who is appointed to fill a vacancy for the unexpired term of a member shall be appointed only for the remainder of that term.

As necessary, the Committee may establish standing and *ad hoc* subcommittees composed of members of the parent committee, assemble *ad hoc* working groups, convene conferences and workshops, and seek advice from non-member special consultants, with the approval of the Secretary (or designee). A quorum for each subcommittee or working group shall be three members. The HHS Committee Management Officer shall be notified upon establishment of each standing subcommittee and shall be provided with information on its name, membership, function, and estimated frequency of meetings.

The advice of a subcommittee shall be reported to the parent committee. The full committee shall review reports and any recommendations made by the subcommittees. The Committee shall discuss their findings at a public meeting, at which time the full committee shall determine the appropriate action.

Section IV: Meeting Procedures

Meetings of the full committee shall be held not more than two times a year and shall be called by the Designated Federal Officer (DFO) in consultation with the Committee Chair, according to the following considerations:

A. Agenda:

The DFO shall approve the agenda for all meetings. Items for the agenda may be suggested by the standing subcommittees and submitted to the DFO and/or the Committee Chair by the chairperson of each standing subcommittee. Items also may be suggested by non-members, including members of the public. The DFO shall distribute the agenda to the members prior to each meeting and if available, publish an outline of the agenda prior to the meeting date.

B. Minutes and Records:

The DFO shall prepare minutes of each meeting and distribute copies to each Committee member. Minutes of open meetings shall be available to the public, upon request. Minutes of closed meetings also shall be available to the public upon request, subject to withholding of matters about which public disclosure would be harmful to the interests of the Government, industry, or others, and which are exempt from disclosure under the Freedom of Information Act. The minutes shall include a record of the persons present (names of CFSAC members, staff and members of the public from whom written or public presentations were made), a complete and accurate description of the matters discussed and conclusions reached and copies of all reports received, issued or approved by the Committee. All documents, reports, or other materials prepared by, or for, CFSAC constitute official government records and shall be maintained according to FACA policies and procedures. Records of the meeting proceedings are kept and shall be posted within approximately 60 days of the committee meeting.

C. Open Meetings:

All CFSAC meetings shall be open to the public except as determined otherwise by the Secretary (or designee), in accordance with the guidelines under the Government in the Sunshine Act at 5

U.S.C. 552b(c), and FACA. Notice of all meetings shall be given to the public in a timely manner through an announcement in the Federal Register.

Members of the public attending any meeting or portion of a meeting that is not closed to the public may, at the determination of the Committee Chair and DFO, orally address the committee at the meeting. Specific information regarding the opportunity for public comment shall be provided in the Federal Register meeting announcement. The DFO and Committee Chair shall determine the amount of time permitted for public comment and assign time slots for those wishing to comment.

The DFO and Committee Chair may decide in advance to exclude public comment during a meeting, in which case the meeting announcement published in the Federal Register shall note that oral public comment during the meeting shall be excluded, but written comment shall be accepted.

All materials brought before, or presented to, the Committee for an open meeting, if received by an established deadline, shall be available to the public for review at the meeting. The deadline shall be published in the Federal Register meeting announcement. All materials submitted by the established deadline shall be uploaded and made available on the CFSAC website for public access. All materials posted on the CFSAC website shall be 508 compliant.

To the extent possible, meetings are broadcast over the Internet as a real-time streaming video. Meetings shall also be recorded and archived on the CFSAC website for viewers to watch at their convenience.

D. Closed Meetings:

CFSAC meetings shall be closed only in limited circumstances and in accordance with applicable law. When it is determined that a meeting shall be closed or partially closed to the public, as determined by the Secretary (or designee), in accordance with the Government in the Sunshine Act at 5 U.S.C. 552b(c) and FACA, then a report shall be prepared that shall contain, at a minimum, a list of members and their business addresses, the Committee's functions, dates, places of meetings, and a summary of committee activities and recommendations made during the fiscal year. A copy of the report shall be provided to the Department Committee Management Officer (DCMO).

In order to close all or a portion of a CFSAC meeting, prior approval must be received from the ASH. A request to close a meeting must include the specific exemption(s) of the Government in the Sunshine Act, 5 U.S.C. 552(b), that justifies closing the meeting. If approved by the ASH, the request then must be sent to the Secretary, through the DCMO/White House Liaison (WHL), for a determination to be made. The Office of the General Counsel must be consulted to review the request.

It is recommended that requests to close meetings be submitted to the agency head to allow sufficient time for the request to be reviewed and a determination made. For this reason, requests should be submitted, at a minimum, 30 days prior to the date the meeting announcement

is posted in the Federal Register. If it is determined that the justification given for closing the meeting is consistent with the Government in the Sunshine Act and FACA, the appropriate agency official shall issue a determination that the meeting shall be closed. Notice of the determination shall be provided to the public in the Federal Register meeting announcement.

In addition, Department committee management guidelines require the DFO to submit a written request to the Freedom of Information Officer to close a meeting. Although FACA only requires that the General Services Administration (GSA) be consulted for requests to close meetings of independent Presidential advisory committees, as a matter of Departmental policy the DCMO/WHL shall consult with GSA on any request to close a meeting.

Section V: Voting

When a decision or recommendation of the Committee is required, the Committee Chair shall request a motion for a vote. Any member, including the Committee Chair, may make a motion for a vote.

Section VI: Role of Committee Officials

Committee Chair:

The Committee Chair works with the DFO and Committee members to establish priorities and identify issues that must be addressed. In addition, the Committee Chair is responsible for certifying the accuracy of minutes developed by the Committee to document its meetings.

Designated Federal Officer:

The DFO serves as the Government's agent for all matters related to CFSAC activities. By law, the DFO must: (1) approve or call Committee meetings; (2) approve agendas; (3) attend all meetings; (4) adjourn meetings, when such adjournment is in the public interest; and (5) facilitate meetings of the Committee.

In addition, the DFO is responsible for providing adequate staff and financial support to the Committee, including the performance of the following functions: (1) notifying members of the time and place for meetings; (2) maintaining records of all meetings, including subcommittee or working group activities, as required by law; (3) maintaining a current member roster; (4) preparing minutes of all meetings of the Committee's deliberations, including standing subcommittees and working group activities; (5) attending to official correspondence; (6) maintaining official Committee records and filing all papers and submissions prepared for, or by, the Committee, including those items generated by standing subcommittees and working groups; (7) acting as the Committee's agent to collect, validate and pay all vouchers for pre-approved expenditures; and (8) preparing and handling all reports, as required by FACA.

Section VII: Expenses and Reimbursement.

Members shall be paid at a rate not to exceed \$200 per day, plus per diem and travel expenses, as authorized by Section 5703, Title 5 U.S.C., as amended, for persons employed intermittently in the Government service. Members who are officers or employees of the United States Government shall not receive compensation for service on the Committee. The government shall pay travel and per diem for non-government members at a rate equivalent to that allowable for Federal employees.

Estimated annual cost for operating the Committee, including compensation and travel expenses for members and Internet broadcast, but excluding staff support is \$130,000. The estimate of annual person-years of staff support required is 1.5, at an estimated annual cost of \$225,000.