Washington Watch

NAS advisory committees

The National Academy of Sciences (NAS) faces a ticklish legal—not to mention public relations—problem over how it runs its advisory committees. Animal-welfare and environmental groups recently sued successfully over their concerns that Academy advisory panels hold meetings in secret and are sometimes unbalanced in their membership. In two separate cases, federal courts ruled that the Academy, an independent organization, must play by the same rules as federal agencies when it comes to advisory committee conduct. The courts based their rulings on the fact that the bulk of Academy work is done for the federal government.

NAS and its research arm, the National Research Council (NRC), have more than 400 panels that advise the federal government, and the government funds 80% of the work done by these panels. "The Academy gets millions of dollars from the federal government to advise the federal government, and there's no accountability," says Valerie Stanley, staff attorney for the Animal Legal Defense Fund, based in Petaluma, California. "They insist that they need secrecy to ensure that they're independent. My response is, they need openness to ensure they're independent." Her group's suit focused on the NAS committee that crafted the guidelines for use of laboratory animals by the National Institutes of Health.

The court rulings compel the Academy to abide by the 1972 Federal Advisory Committee Act (FACA). This law requires that advisory committee meetings and documents be open to the public and that membership on the panel be unbiased and balanced. The Academy fears that these requirements will compromise the scientific integrity of its committees.

"[Under FACA], the advisory committees are controlled and managed by federal officials," says Bill Colglazier, executive officer of NAS and NRC. "[Meetings] are held only when a government official says so. But when the Academy conducts its work, it manages and controls its meetings, and it appoints the committee members. The credibility of the work is dependent not only on its quality and the reputation of the Academy, but on the fact that the government can't control it."

"I have some sympathy with that," says Tom Cochran, senior scientist with the Natural Resources Defense Council (NRDC), a Washington-based environmental group that brought one of the suits. "But I don't think having open meetings and availability of documents would affect their independence."

As important as open meetings, Cochran says, is the issue of balance. NRDC sued over the composition of an advisory committee for a nuclear project at the Lawrence Livermore Lab. Of 16 committee members, NRDC found that 14 had some vested interest or predetermined view favorable to the project. "Frankly, I think forcing them to be open means they can't operate in these old-boy networks," says Cochran, who has served on Academy advisory committees.

Other advisory committee participants disagree. John Magnuson, a zoology professor at the University of Wisconsin in Madison, has served on many NRC advisory committees, as well as FACA-controlled federal panels, and he feels strongly that the Academy's procedures ensure the best science. With "balance," he says, you are more likely to have participants pursuing agendas rather than making decisions based on scientific merit. "The reason I liked the [Academy] process is it provided a mechanism for sifting and winnowing of ideas and reaching a conclusion that was as independent as possible from the biases that creep in when people have a preference about the outcome," he says.

Moreover, Magnuson found that on the few occasions when a federal employee, even if he or she were an agency scientist, was asked to serve on an advisory committee, the process could be skewed. "They have a larger influence than they should," he says.

Another advisory committee member who says he was pleasantly surprised by the traditional conduct of Academy meetings is Peter Theran, vice president of the Health and Hospitals Division of the Massachusetts Society for Prevention of Cruelty to Animals. Theran recently served on a panel that reviewed the care of government-owned chimpanzees. "I was the only animal protection member on the group, and I had concerns about what the rest of the makeup would be," he says. "But people were very thoughtful as they approached the issues. It was one of the most rewarding committees I've served on."

Theran found that the closed sessions allowed for a freer exchange of ideas than would have occurred if members were worried about being quoted in the press or misconstrued by advocacy groups. But he admits that a lot of baggage comes with secrecy. "Most of the time there are more pluses than minuses to having the public involved," he says. "Because if you don't, then the impression is that there's some deep, dark, secretive reason why you want to hide something."

Meanwhile, the issue is going to the Supreme Court. If the Academy loses there, according to Colglazier, it will go to Congress and ask that the Academy specifically be exempted from FACA. "That's going to be interesting," Cochran chuckles. "I don't think many Congressmen want to stand up and argue for secrecy."

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