

# **National Children's Study Federal Advisory Committee**

## **April 1, 2010**

### **Overview**

The National Children's Study Federal Advisory Committee (NCSAC) was created in 2002 to provide advice and recommendations to the Director, National Institutes of Health (NIH), Director, *Eunice Kennedy Shriver* National Institute of Child Health and Human Development (NICHD), and the Director, National Children's Study (NCS) on present and future issues in the planning and implementation of the National Children's Study.

The NCSAC advises Study Planners on future research needs and opportunities and management policy issues. Recommendations from the Committee often help to facilitate Study decisions or processes since this highly respected Committee gives a sense of validity to Study actions. The Committee provides a broad perspective that is critical to the effective development of the Study.

### **Charter Authority**

42 U.S.C. 282(b)(6), section 402(b)(6) of the Public Health Service (PHS) Act, as amended. The Committee is governed by the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

### **Committee Structure**

At the present time, the Federal Advisory Committee structure includes a maximum of 40 authorized members and 4 Federal Ex Officio Members; the Director of NICHD as well as appointed representatives from each of the lead agency partners; the National Institute of Environmental Health Sciences (NIEHS), the Centers for Disease Control and Prevention (CDC), and the U.S. Environmental Protection Agency (EPA).

### **Meetings**

The NCSAC meets up to four times per year. NCSAC meetings are generally open to the public for their entire duration. The transparency of this meeting forum increases citizen trust in the government since individuals may provide general recommendations to Study Planners. There may be occasions where the nature of the information is such that a closed meeting is required. All provisions of the Federal Advisory Committee Act (FACA) and Government and the Sunshine Act regarding closed sessions will be followed.

The topics selected for NCSAC Meetings typically include status updates as well as relevant issues currently influencing the Study. The timing of these discussions are

carefully considered so as to coincide with the issues being deliberated by the Study Planners.

### **Nominations**

The nomination of members is a major responsibility of the Chair and Designated Federal Official/Executive Secretary of the Committee. Potential candidates are typically proposed by the National Children's Study Program Office and Interagency Coordinating Committee. Committee Members and individuals from the public may propose potential candidates as well. A strong candidate exhibits an expansive knowledgebase of children's environmental health and has made a substantial contribution to their field of expertise. Many candidates regularly attend scientific meetings and are thereby aware of innovative research and approaches which may be relevant to the Study development. All nominations are vetted through Committee Management and must be approved by the Director of the Study, the Director of the NICHD, and the Director of NIH.

### **Membership**

NCSAC Members are selected for their competence, interest, and knowledge. The members and the chair serve overlapping terms of up to four years. Members are selected from, but not limited to, state, local, tribal governments, academia, industry, community, health services, public health, public policy, and public interest groups. Committee members represent a diverse array of expertise including epidemiology, genetics, pediatrics, obstetrics and gynecology, toxicology, community outreach, public health, and patient advocacy. The Federal Advisory Committee Act (FACA) requires that membership be fairly balanced in terms of points of view represented and the functions to be performed [FACA Sec. 5(b)(2); 41 CFR §§ 102-3.30(c) & 3.60(b)(3)] . NIH ensures representation of women and minorities as well as individuals from disparate geographic regions of the United States. This diversity of perspectives is a major strength of the Committee enabling each member to uniquely contribute to the field of children's environmental health.

### **Special Government Employees**

A "special government employee" (SGE) is an individual who provides advice as an "expert" or "consultant." An SGE is an officer or employee in the executive branch of the Federal Government who is appointed to perform temporary duties, for a period not to exceed 130 days during any 365 consecutive days. 18 U.S.C. §202(a). This status is important because the ethics rules for SGEs are somewhat less restrictive than the rules for other federal employees and officials.

Special Government Employees are prohibited from engaging in any activity which directly or indirectly encourages or directs any person or organization to lobby one or more members of Congress on a day that they are serving as an SGE.

## **Member Responsibilities**

NCSAC Members represent their individual views and are not affiliated with a particular stakeholder group. Committee members are expected to take an active role during their tenure on the Committee and attend all meetings in their entirety. Members are expected to have read the materials included in the briefing book prior to an NCSAC Meeting.

During the course of an NCSAC Meeting, recommendations and guidance will emerge from the deliberations. These recommendations are reflected within the meeting summary or minutes. The Committee provides superior advice to the Study planners on key issues affecting the Study. NCSAC Members must keep in mind that they serve as an advisor to the Director of the Institute, Director of the Study, and the Interagency Coordinating Committee. Committee recommendations are highly valued and carefully considered; however, these recommendations do not always represent the decision of the Study Planners. A formal report is not developed by the Committee.

The NCSAC subcommittees provide an expert opinion and develop options for presentation to the full Committee. The subcommittees are used as a resource for gathering, analyzing, and preparing information for the Committee. Subcommittees may convene to discuss specific predefined issues; however, the recommendations of a subcommittee must be deliberated by the parent advisory committee before being presented to a federal official. A subcommittee may not report directly to a federal official unless there is a statutory authority to do so. Currently, the NCSAC maintains three active subcommittees: Ethics, Scientific Review, and Community Outreach and Engagement. Membership on a subcommittee is not a requirement of the Committee. At the present, each subcommittee consists of 6-7 volunteers from the parent advisory committee. The Committee Chair appoints all Committee Members.

## **Media Interaction**

Committee Members may be approached by the media for an unscheduled interview. Members are free to express their opinions, the views of their employer, professional organization, etc., but must obtain NICHD approval to speak as an NCSAC Member. Committee members should inform the Designated Federal Official/Executive Secretary of such interviews to determine their appropriateness. The NCSAC Chair is the usual spokesperson for the Committee.

## **Financial Conflicts of Interest**

Federal law (18 U.S.C. §208) prohibits federal executive branch employees, including Special Government Employees (SGEs) from participating, personally or substantially, in particular matters which have a direct and predictable effect on financial interests, to their knowledge, held by themselves, their spouse, child, general partner, organization in which they are serving as officer, director, trustee, general partner or employee. Members may have potential financial conflicts of interest because members are chosen

for service based on their expertise and experience in the areas in which advice is sought by the government. Congress has recognized the need for service by these experts on Federal Advisory Committees, despite the inherent potential for conflicts of interest, by providing waivers of the conflict of interest prohibition for particular matters of general applicability, under 18 U.S.C §208(b)(3) when “ the need for the individual’s services outweighs the potential for conflict of interest created by the financial interest involved.”

Members are required to file an OGE 450, Confidential Financial Disclosure Report when first appointed and must provide updates to this form prior to each meeting throughout the term of the appointment as requested by NICHD’s Committee Management Office. The filing of this report assures the avoidance of actual or perceived conflicts of interest.

### **Foreign Emoluments Clause**

**It has been determined that the Emoluments Clause does NOT apply to members of the National Children’s Study Advisory Committee (NCSAC). However, it is still necessary for NCSAC members to complete the HHS-697 *Foreign Activities Questionnaire* each year.** Therefore, SGE members may accept titles, offices, or positions with foreign government entities. If an NCSAC Member provides a service (for example: gives a speech, teaches a class, or is appointed to a position or an advisory board) for a foreign government entity, that member may receive payment from the foreign government for the services rendered. This means that an NCSAC Member may directly receive honoraria, travel, meals, and per diem from the foreign government that are payment for services received and are NOT gifts to the member. NCSAC Members can be an employee of, or receive presents or emoluments from a non-government foreign entity or an international organization of which the U.S. is a member.

The Foreign Gifts and Decorations Act does apply to NCSAC Members. An NCSAC Member would still be restricted in receiving tangible gift items valued over \$335 from a foreign government entity. A gift is: gratuitous, voluntary, and something for which no value is received in return. Each of these situations should be looked at independently to see if it is truly a gift.

### **Reimbursement Compensation**

Members are compensated at the rate of \$200 per day for time spent at meetings. This payment for service is made from the Defense Finance and Accounting Service (DFAS) system. Once a member appointment is effective, a letter will be sent to their residential address from DFAS containing a temporary PIN number that is valid for 120 days. Members will be required to change the temporary PIN number to a customized PIN via the DFAS Website <https://mypay.dfas.mil/mypay.aspx> or by calling 1-877-363-3677. A member will have sole access to his/her pay records and will have the option of printing a W-2 form for tax purposes at the end of the calendar year from this system. Social Security (except for non-citizens) and Federal and State Income taxes (unless an exemption form is filed) will be deducted. A W-2 Wage and Tax Statement will be

provided no later than January 31 each year. In addition, it will be the member's responsibility, should changes occur during an appointment, to update the residential address and direct deposit banking information.

A separate payment will be processed for reimbursement of travel expenses and per diem. Reimbursement of travel expenses is processed through the NIH accounting database (which is separate from the DFAS system). It is suggested that you retain a copy of the submitted record of travel expenses after each meeting. The daily per diem rate is determined by General Services Administration guidelines and is based on the city and state location of the meeting. If changes are made to your banking information or residential address during your appointment, it is imperative that you contact the Designated Federal Official/Executive Secretary listed below. This is critical to ensure the correct distribution of your expense reimbursements and for maintaining accurate committee member records.

**Designated Federal Official/Executive Secretary**

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