

STATE OF TENNESSEE

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May 13, 2026

The Honorable Robert J. Conrad, Jr.  
Director, Administrative Office of the U.S. Courts  
Secretary, Judicial Conference of the United States  
Thurgood Marshall Federal Judiciary Building  
One Columbus Circle NE  
Washington, DC 20544

Dear Judge Conrad:

We write as the chief legal officers of our states to express our concern regarding matters that may undermine the integrity of the federal judiciary and implicate the rights of parties appearing before it. This letter follows a series of communications our offices have had with the Federal Judicial Center (“FJC”) and the National Academies of Sciences, Engineering, and Medicine (“NASEM”) regarding the climate science chapter contained in the Fourth Edition of the *Reference Manual on Scientific Evidence* (“Fourth Edition” or “Manual”). As Director of the Administrative Office of the U.S. Courts (“AoC”), we understand you serve as a permanent member of the FJC board, while also serving as Secretary to the Judicial Conference of the United States that appoints most of the members of the FJC board.<sup>1</sup> We respectfully ask that you exercise your authority and influence to address a problem that the FJC alone has not resolved.

In January 2026, twenty-seven Attorneys General wrote to FJC Director Judge Robin L. Rosenberg identifying methodological and bias concerns with the Fourth Edition’s chapter on climate science.<sup>2</sup> That chapter was authored by advocates with documented ties to plaintiff-side climate litigation, reviewed in part by an attorney actively litigating climate change cases against energy companies, and written in a manner that presents sharply contested litigation positions as settled scientific fact.<sup>3</sup> Rather than offering the federal judiciary an objective guide to scientific principles,

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<sup>1</sup> See 28 U.S.C. § 620(a) (establishing the Federal Judicial Center within the judicial branch); see also 28 U.S.C. § 621(a)(3) (setting the Director of the Administrative Office of the U.S. Courts as a member of the FJC Board).

<sup>2</sup> Letter from John B. McCuskey, W. Va. Att’y Gen., et al., to Judge Robin L. Rosenberg, Dir., Fed. Judicial Ctr. (Jan. 29, 2026) [hereinafter Jan. 29 AG Letter], <https://ago.wv.gov/sites/default/files/2026-01/2026.01.29%20--%20AG%20Climate%20Science%20Manual%20Letter.pdf>.

<sup>3</sup> See Jan. 29 AG Letter, *supra* note 2; Letter from Austin Knudsen, Mont. Att’y Gen., et al., to Marcia McNutt, President, Nat’l Acad. of Scis. & Neil Shubin, President Elect, Nat’l Acad. of Scis. (Feb. 19, 2026) [hereinafter Feb.

the chapter functions as an *ex parte* brief for one side of ongoing litigation. We explained that the chapter’s stamp of institutional authority effectively prejudices questions that litigants are entitled to have resolved through the adversarial process, in violation of Article III’s guarantee of an independent and impartial tribunal.<sup>4</sup> Federal judges who rely on the Manual to assist them in their duties could inadvertently prejudice litigants due to the bias baked into the chapter on climate science.

As we stated previously, the problem also implicates questions of federalism. Many of the climate-related cases now before the federal courts involve disputes over state regulatory authority and the reach of state common law. By appearing to resolve the scientific premises underlying those disputes, the Manual effectively enables a committee operating outside the adversarial process to predetermine the outcomes of cases.

We were encouraged when, on February 6, 2026, Director Rosenberg informed us that “the Federal Judicial Center has omitted the climate science chapter from the *Reference Manual on Scientific Evidence*, Fourth Edition.”<sup>5</sup> FJC immediately removed the chapter from the version of the Manual available on its website, inserting a notation in its place that read: “\*\* The FJC omitted Reference Guide on Climate Science on 2/6/2026.”<sup>6</sup> We commend FJC for that decision. It reflects a thoughtful understanding of FJC’s institutional obligation to preserve judicial impartiality and an appropriate regard for parties before the courts.

The problem we now bring to your attention, however, is one that FJC’s online adjustment does not fully resolve: the distribution of physical, hard-copy editions of the Manual. The FJC is responsible for circulating hard copies of the Manual to the federal judiciary. Whatever position NASEM takes regarding its own online version, the FJC controls whether the omitted chapter reaches sitting judges through the printed copies it distributes.

Compounding the concern is the posture of NASEM, a federal partner that co-produced the Fourth Edition as a “joint project” with the FJC.<sup>7</sup> Despite FJC’s decision to omit the chapter, NASEM’s President informed our offices on February 26, 2026, that “[t]he manual, including the chapter on climate science, will continue to be available on the Academy’s website.”<sup>8</sup> NASEM holds the

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19 AG Letter], [https://content.govdelivery.com/attachments/MTAG/2026/02/19/file\\_attachments/3559530/2026-02-19%20AGs%27%20Ltr%20to%20NAS%20FINAL.pdf](https://content.govdelivery.com/attachments/MTAG/2026/02/19/file_attachments/3559530/2026-02-19%20AGs%27%20Ltr%20to%20NAS%20FINAL.pdf).

<sup>4</sup> U.S. Const. art. III, § 1; *see also Peretz v. United States*, 501 U.S. 923, 929 n.6 (1991) (“Article III, § 1 guarantee[s] . . . an independent and impartial adjudication by the federal judiciary of matters within the judicial power of the United States.”).

<sup>5</sup> Letter from Judge Robin L. Rosenberg, Dir., Fed. Judicial Ctr., to John B. McCuskey, W. Va. Att’y Gen. (Feb. 6, 2026) [hereinafter FJC Omission Letter], <https://ago.wv.gov/sites/default/files/2026-02/2026.02.06%20--%20Federal%20Judicial%20Center%20Letter%20Chapter%20Withdrawal.pdf>.

<sup>6</sup> Fed. Judicial Ctr., *Reference Manual on Scientific Evidence* 1561, at xvi, 1561 (4th ed. 2026), [https://www.fjc.gov/sites/default/files/materials/15/Reference%20Manual\\_02052026.pdf](https://www.fjc.gov/sites/default/files/materials/15/Reference%20Manual_02052026.pdf).

<sup>7</sup> *Id.* at xiii.

<sup>8</sup> Letter from Marcia McNutt, President, Nat’l Acad. of Scis, to Austin Knudsen, Mont. Att’y Gen. (Feb. 26, 2026) [hereinafter NASEM Continuation Letter], [https://content.govdelivery.com/attachments/MTAG/2026/03/11/file\\_attachments/3581026/NASEM%20Response%20to%20AGs%202.26.26.pdf](https://content.govdelivery.com/attachments/MTAG/2026/03/11/file_attachments/3581026/NASEM%20Response%20to%20AGs%202.26.26.pdf).

copyright to the Fourth Edition and has declined to follow the FJC’s lead. The result is a direct conflict between the institutional judgment of the FJC—which concluded the chapter should not be placed before federal judges—and the ongoing conduct of NASEM, which continues to make the chapter available and may seek to have it circulated more broadly. We believe it is appropriate for the AoC to alert the Judicial Conference to this conflict and to consider what steps may be warranted.

This conflict creates an untenable situation for the judges the Manual is designed to serve as well as for litigants. The FJC says the chapter has been “omitted.”<sup>9</sup> NASEM says the chapter “will continue to be available.”<sup>10</sup> A federal judge who becomes aware of both positions faces an ethical puzzle that no judge should be forced to navigate: Is the chapter part of the authoritative Manual or not? May the judge consult it? Is a party’s citation to it appropriate? Even worse, litigants are left in the dark as to which version of the Manual a particular judge might reference. The FJC’s decision to omit the chapter was premised on the chapter’s inadequacy as a guide for judicial decision-making. But if hard copies containing the chapter remain in circulation, or if NASEM’s version is treated by litigants as carrying the FJC’s implicit endorsement, the purpose of FJC’s omission is defeated. Judges and the parties before them deserve clarity, and the AoC is well-positioned to provide it.

As we explained in our prior letters, the concerns here transcend the subject matter of climate change and directly impact judicial impartiality.<sup>11</sup> Article III and Due Process work to guarantee every litigant the right to an independent and impartial tribunal.<sup>12</sup> When the judiciary’s own research arm places its institutional imprimatur on one side of contested scientific and legal questions, that guarantee is placed at risk. And, as noted in our January 29 letter to Director Rosenberg, the precedent is troubling regardless of one’s views on climate policy because if the FJC can use the Manual to foreclose scientific debate in climate cases, the same approach could be deployed for any issue involving expert disagreement.

We accordingly and respectfully request written confirmation that our understanding is correct as to the following:

1. No hard copies of the Fourth Edition distributed through FJC or AoC channels will include the climate science chapter that FJC has formally omitted from its website.
2. No hard copies containing the chapter have been distributed to members of the federal judiciary through FJC or AoC channels.

We also respectfully request the following:

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<sup>9</sup> FJC Omission Letter, *supra* note 5.

<sup>10</sup> NASEM Continuation Letter, *supra* note 8.

<sup>11</sup> See Jan. 29 AG Letter, *supra* note 2; Feb. 19 AG Letter, *supra* note 3.

<sup>12</sup> See *In re Murchison*, 349 U.S. 133, 136 (1955) (“A fair trial in a fair tribunal is a basic requirement of due process. Fairness of course requires an absence of actual bias in the trial of cases. But our system of law has always endeavored to prevent even the probability of unfairness.”).

3. That the AoC bring to the attention of the Judicial Conference the conflict between FJC's omission decision and NASEM's refusal to follow that decision, so that the Conference may consider what further steps are appropriate.

We recognize the institutional care with which you and your office approach matters affecting the federal judiciary. The questions at stake may color the public's perception of judicial impartiality, the integrity of the adversarial process, and the proper role of the judiciary's research arm, and they warrant your attention.

Respectfully,



Jonathan Skrmetti  
Tennessee Attorney General & Reporter



Steve Marshall  
Alabama Attorney General



Tim Griffin  
Arkansas Attorney General



James Uthmeier  
Florida Attorney General



Chris Carr  
Georgia Attorney General



Raúl Labrador  
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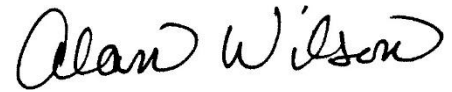
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**cc:**

Chairman Grassley, Senate Judiciary Committee  
Ranking Member Durbin, Senate Judiciary Committee  
Chairman Jordan, House Judiciary Committee  
Ranking Member Raskin, House Judiciary Committee  
Director Robin L. Rosenberg, Federal Judicial Center