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445 12th Street, S.W., Room 1-A836  
Washington, D.C. 20554  
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Federal Communications Commission  
Washington, D.C. 20554

March 8, 2017

Re: FOIA Control No. 2017-000292

This letter responds to your Freedom of Information Act (FOIA) request for an “electronic/digital copy of the “Agency Handbook.” Your request has been assigned FOIA Control No. 17-000292.

Pursuant to section 0.461(g)(1)(ii) of the Commission’s rules, the date for responding to your request was extended from February 21, 2017 to March 8, 2017, due to a need to consult with multiple components of the Commission having substantial interest in the request, and you agreed to the extension.

The Office of the Managing Director conducted a search and, upon further clarification from you, determined the document sought is the Commission’s “Agenda” handbook entitled “Guide to the Agenda Process,” and the document is attached.

We are required by both the FOIA and the Commission’s own rules to charge requesters certain fees associated with the costs of searching for, reviewing, and duplicating the sought-after information. To calculate the appropriate fee, requesters are classified as: (1) commercial use requesters; (2) educational requesters, non-commercial scientific organizations, or representatives of the news media; or (3) all other requesters.

Pursuant to section 0.466(a)(8) of the Commission’s rules, you have been classified for fee purposes as category (3), “all other requesters.” As an “all other requester,” the Commission assesses charges to recover the full, reasonable direct cost of searching for and reproducing records that are responsive to the request; however, you are entitled to be furnished with the first 100 pages of reproduction and the first two hours of search time without charge under section 0.470(a)(3)(i) of the Commission’s rules. The production did not involve more than 100 pages of duplication and took less than two hours of search time. Therefore, you will not be charged any fees.

If you consider this to be a denial of your FOIA request, you may seek review by filing an application for review with the Office of General Counsel. An application for review must

be received by the Commission within 90 calendar days of the date of this letter. You may file an application for review by mailing the application to Federal Communications Commission, Office of General Counsel, 445 12th St SW, Washington, DC 20554, or you may file your application for review electronically by e-mailing it to FOIA-Appeal@fcc.gov. Please caption the envelope (or subject line, if via e-mail) and the application itself as "Review of Freedom of Information Action."

If you would like to discuss this response before filing an application for review to attempt to resolve your dispute without going through the appeals process, you may contact the Commission's FOIA Public Liaison for assistance at:

FOIA Public Liaison  
Federal Communications Commission, Office of the Managing Director, Performance  
Evaluation and Records Management  
445 12th St SW, Washington, DC 20554  
202-418-0440  
FOIA-Public-Liaison@fcc.gov

If you are unable to resolve your FOIA dispute through the Commission's FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, MD 20740-6001  
202-741-5770  
877-684-6448  
ogis@nara.gov  
ogis.archives.gov

If you have any questions, please contact Marlene H. Dortch 202-418-0300.

Sincerely,



Marlene H. Dortch  
Secretary  
Federal Communications Commission

Enclosures  
cc: FCC FOIA Office



**Federal Communications Commission**  
**Office of Managing Director**  
**Office of the Secretary**

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**BUREAU AND OFFICE**  
**GUIDE TO THE**  
**AGENDA PROCESS**  
**Meeting and Circulation Items**

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**December 2012**



**Federal Communications Commission  
Washington, D.C. 20554**

The following guide provides an outline of the Commission's meeting and circulation agenda process. In addition to an abridged version of the Agenda Handbook, we have also provided the check lists used by bureau and office staff for preparing items for review by the Commission. This brief but thorough guide will quickly familiarize you with the Commission's agenda decision-making process.

We hope you find this guide to be a useful resource. Should you have questions regarding the agenda process or need our assistance in any way, please do not hesitate to contact me directly at 418-1449 or my Associate Secretary for Agenda and Publications, Cecilia Sigmund at 418-1588.

Marlene H. Dortch  
Secretary

**Federal Communications Commission**  
**Office of the Secretary**  
**Office of Managing Director**

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**GUIDE TO THE AGENDA PROCESS**

**Meeting and Circulation Items**

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## I. COORDINATION, DISTRIBUTION AND EDITS

Coordination, distribution, and edit procedures for agenda meeting and circulation items differ and are discussed below.

### A. AGENDA MEETING ITEM

The table below summarizes the steps for preparing a meeting item for the monthly Open Agenda Meeting.

**Table 1: Chronological Steps for Processing an Open Meeting Item**

<b>Timeline (Prior to Open Meeting) - Responsible Party</b>	<b>Actions</b>
5 weeks – <b>Bureau/Office</b> (B/O)	<ol style="list-style-type: none"> <li>1. If coordination or notation is required for an item, submit it to the appropriate B/O by this date. Items may not be "noted with edits."</li> <li>2. Submit a copy of an item to Office of General Counsel (OGC), Ad Law Division, and Office of Communications Business Opportunities (OCBO).</li> </ol>
3½ - 5 weeks <b>Bureau/Office</b> and <b>Office of the Chairman</b>	Submit to Chairman's Office Form A-491, "Approval for Distribution of Meeting Agenda Item or Request for Expedited Action of Agenda Item," for approval.
21 days – <b>Bureau/Office</b> "White Copy"	<ol style="list-style-type: none"> <li>1. Distribute item as outlined in <b>Table 2, Distribution List (Meeting)</b>.</li> <li>2. Give copy of approved Form A-491 to Chairman's Administrative Officer.</li> <li>3. Deliver agenda item with approved original copy of Form A-491 and sunshine summary to Office of the Secretary's Agenda and Publications Group (TW-B204).</li> </ol>
1 week – Office of the Secretary/Agenda and Publications Group	Release the Sunshine Notice.
1 week – <b>Bureau/Office</b>	Distribute draft presentations and press release(s) to Chairman's Legal Advisors. Coordinate with the Office of Media Relations (OMR).
3 business days – <b>Bureau/Office</b>	OMR prepares all name cards. Email ( <a href="mailto:Meribeth-McCarrick@fec.gov">Meribeth-McCarrick@fec.gov</a> ): (1) the name, organization, and title for all the individuals participating in presenting the item(s) and (2) indicate the need for Microsoft Power Point presentation (if applicable).
2 business days – <b>Bureau/Office</b> (if item requires edits)	<ol style="list-style-type: none"> <li>1. Distribute revised item as outlined in <b>Table 3, Redistribution List (Meeting)</b>.</li> <li>2. Distribute draft press releases to Commissioners' Legal Advisors.</li> </ol>
1 business day – <b>Bureau/Office, Chairman's Chief of Staff,</b> and Office of Media Relations	<ol style="list-style-type: none"> <li>1. Presenters and others designated by B/O Chiefs attend meeting with Chairman's Chief of Staff and OMR representatives.</li> <li>2. B/O distributes by 5 p.m., a finalized item to all Commissioners' offices, OGC, OCBO and the Office of the Secretary's Agenda and Publications Group (see <b>Table 3, Redistribution List (Meeting)</b>).</li> </ol>



## 1. Open Meeting (Draft) Item Coordination

### Bureau/Office:

- Fully coordinates Agenda items with all applicable Bureaus/Offices and the Office of General Counsel (OGC) before circulating them to the Commissioners. Items should be noted where appropriate, but not "noted with edits" (i.e., signed by the coordinating Bureau/Office Chief with a stipulation to make edits to the item).
- To allow for full coordination of draft items, delivers items not less than five weeks before the meeting (or in any event, not less than two weeks before distribution to the Commissioners and further in advance if possible) to OGC, Office of Communications Business Opportunities (OCBO) and any other coordinating Bureau or Office.
- Promptly delivers to OGC and other coordinating Bureaus/Offices subsequent revised drafts.
- If an item involves substantial legal issues, gives OGC a draft as soon as the item is in reasonably firm shape, and lets OGC know what it believes are the key legal issues in the item.

## 2. Open Meeting Item Distribution

### Bureau/Office:

- Before distributing the item, completes a Form A-491, "Approval for Distribution of Meeting Agenda Items or Request for Expedited Action on Agenda Items" (see **Appendix 1**) and submits to the Chairman's office for approval.
- Submits the approved original form to the Office of the Secretary's Agenda and Publications Group along with the agenda item, and provides a copy of the form to the Chairman's Administrative Officer.
- Distributes the item (which should include prior edits) to the Chairman, Commissioners, and Bureaus/Offices at least 21 days prior to the Commission meeting. A schedule of Commission Open Meeting and Distribution Dates are on the FCC Intranet at <http://intranet.fcc.gov/omd/osec/com.html>.
- Distributes all copies of the item using the blue-colored "Agenda Meeting Item" cover sheet (see **Appendix 2**).
- Distributes all copies of a highly sensitive item with the yellow-colored "Highly Sensitive" cover sheet (see **Appendix 3**), as well as the blue-colored Agenda Meeting Item cover sheet. Place the yellow-colored cover sheet on top.
- Hand-delivers paper copies of the item with appropriate cover sheet(s) to distribution list 21 days before the Commission meeting. If the deadline for distribution falls on a holiday, distribute on the preceding workday. The following table lists the recipients of items and the number of copies they should receive:

**Table 2: Distribution List (Meeting)**

<b>Bureau/Office</b>	<b>No. of Copies</b>	<b>Room No.</b>
Chairman	1	8-B201
Commissioners	1 (each)	8-A302, 8-C302
Office of General Counsel (Ad Law Division Agenda Box)	1	8- A623
Agenda and Publications Group, Office of the Secretary	1 + Orig. Form A-491 and Sunshine Summary	TW-B204
Office of Communications Business Opportunities	1	4-A628

- Distributes electronic copies of the agenda item to the remaining Bureaus/Offices by e-mailing the item to the FCCMEET group.

### **3. Closed Meeting Distribution**

#### **Bureau/Office:**

- When the Commissioners will consider an item in a closed meeting, complete Form A-87, "Certificate to Close Meeting" (see **Appendix 4**).
- Hand-delivers paper copies of the item and the Form only to the expected attendees and the Office of the Secretary's Agenda and Publications Group.

#### **Commissioners:**

- Record their vote on the completed Form.
- Contact the Office of the Secretary's Agenda and Publications Group to pickup the Form.

Office of the Secretary's Agenda and Publications Group:

- Records the votes in eCLAS and provides Bureau/Office with release information.

### **4. Pre-adoption Editing Process and Redistribution of Open Meeting Items**

#### **Bureau/Office:**

- After the initial distribution to Commissioners, places a Draft Agenda Item cover sheet (see **Appendix 5**) on the item every time it is revised and redistributed.

- Throughout the editing process, marks all revised drafts with the date and time. In addition, redlines all revised drafts with any substantive edits attributed to the originating office. Submits both clean and redlined copies of revised drafts along with a Draft Agenda Item cover sheet and redistributes copies as outlined in **Table 3, Redistribution List (Meeting)**.
- Provides to OGC, OCBO, and the Office of the Secretary’s Agenda and Publications Group any revised drafts distributed to the Commissioners.
- Presents finalized items to all Commissioners' offices, OGC, OCBO and the Office of the Secretary’s Agenda and Publications Group by 5:00 p.m. on the day before the agenda meeting.

**Commissioners:**

- Work together with the originating Bureau/Office and OGC to finalize all edits prior to the meeting. During this period, there should be an ongoing exchange of ideas and edits, which may include not only official distribution of items but also the exchange of particular sections of an item that are under discussion.

**Table 3: Redistribution List (Meeting)**

<b>Bureau/Office</b>	<b>No. of Copies</b>	<b>Room No.</b>
Chairman	1	8-B201
Commissioners	1 (each)	8-A302, 8-C302
Office of General Counsel (Ad Law Division Agenda Box)	1	8-A623
Agenda and Publications Group, Office of the Secretary	1	TW-B204
Office of Communications Business Opportunities	1	4-A628

**5. Withdrawn Open Meeting Items**

- When a meeting item is withdrawn, the Bureau/Office is responsible for notifying the Office of the Secretary’s Agenda and Publications Group, the Chairman's Administrative Officer, OGC/Ad Law Division, and the Commissioners' offices, as well as other Bureaus/Offices that had received copies of the withdrawn item.

**6. Items Changed from Open Meeting to Circulation**

- Bureau/Office will process meeting items changed from meeting to circulate status according to Circulation procedures (see below, Circulation Items).

## 7. Other Required Preparation for an Open Meeting

### a. Sunshine Summary and Notice

#### Bureau/Office:

- Prepares a sunshine summary for inclusion in the Sunshine Notice published for every Commission meeting. A sunshine summary should be decision neutral, i.e., not reveal the staff proposal.
- Remembers to include docket and/or rule making numbers in the title, if applicable.
- Delivers to the Office of the Secretary/Agenda and Publications Group the summary along with the agenda item and Form A-491, Approval for Distribution of Meeting Agenda Item or Request for Expedited Action of Agenda Items.

#### Office of the Secretary:

- Prepares the Sunshine Notice (see **Appendix 6**) and, upon approval of the Chairman's Office and in accordance with the Government in the Sunshine Act, releases it to the public seven calendar days in advance of a scheduled meeting.
- Releases the Sunshine Notice at a time designated by the Chairman's Office, usually 5 p.m. As consistent with the Government in the Sunshine Act, the identity of upcoming meeting items is not for public information until the release of the Sunshine Notice.
- Publishes all Sunshine Notices in the Federal Register.
- The Secretary prepares the Agenda meeting script for Chairman's Office approval after release of the Sunshine Notice.

### 1. Adding a Meeting Item after the Release of the Sunshine Notice

To add an additional item to the open meeting agenda, after the release of the Sunshine Notice, each Commissioner must vote to approve the addition on Form A-83, Request for Special Action (see **Appendix 7**).

#### Office of the Secretary:

- Prepares Form A-83 and provides a copy of the form to each Commissioner's Senior Legal Advisor.
- Upon receipt of Form A-83 from each Commissioner's office, enters the vote information into eCLAS.
- To add the approved item, prepares the appropriate Sunshine Notice and releases it to the public.

## **2. Deleting a Meeting Item after the Release of the Sunshine Notice**

After the release of the Sunshine Notice, only the Chairman's office may delete an item from the open meeting agenda. Approval from the other Commissioners is not required.

Office of the Secretary:

- At the direction of the Chairman's office, prepares the appropriate Sunshine Notice and releases it to the public.

### **b. Presentations and Press Releases**

#### **Bureau/Office:**

- Coordinates preparation of press releases for agenda items with the Office of Media Relations.
- Submits drafts of all presentations and press releases to the Chairman's Legal Advisor handling the agenda item at least one week before the agenda meeting.
- Circulates a draft press release for an item to the other Commissioners' Legal Advisors at least two business days prior to the agenda meeting.

### **c. Name Cards**

#### **Bureau/Office:**

- The Office of Media Relations prepares name cards for all Commission meeting Bureau/Office presenters. Three business days before the meeting, submit for each agenda item the following information to the Office of Media Relations ([Meribeth McCarriek@fcc.gov](mailto:MeribethMcCarriek@fcc.gov)):
- The name, organization, and title for all the individuals participating in presenting the item; and indicate the need for a Microsoft Power Point presentation (if applicable).

## **8. Meeting Edits**

### **d. Non-Substantive Edits**

#### **Bureau/Office:**

- Makes non-substantive edits, (e.g., correcting typographical errors, grammatical, and spelling errors or updating citations) without re-distributing an item.

- After adoption and before releasing the item, the Bureau/Office Chief or the designee certifies on the Form A-501, Bureau Agenda Release Form (see **Appendix 8**) that there are no substantive differences between the adopted and final version of an item, before the Form and item are delivered to the OGC/Ad Law Division for final review and approval. For detailed information, see Section H, Bureau Agenda Release Form Approval.

**e. Substantive Edits**

**Bureau/Office and Commissioners:**

- Should avoid post-adoption edits to the greatest extent possible, but not at the expense of the goal of generating a high quality work product and ensuring that all items reflect as much as possible the collective wisdom and experience of all of the Commissioners embodied in the decision as voted.
- After adoption and before releasing the item, the originating Bureau/Office should receive approval on the Bureau Agenda Release Form by each non-dissenting Commissioner or the designee for all items that involve substantive differences between the adopted and final versions. Approval of any dissenting Commissioner is not required; if he or she dissents in part, approval is required for the portions from which he or she did not dissent. For detailed information, see Section H, Bureau Agenda Release Form Approval.

**B. CIRCULATION ITEMS**

**9. Pre-Circulation Distribution**

**Bureau/Office:**

- Submits all draft circulate items (Pre-Circulate Items) to the Chairman’s office using the green-colored “Pre-Circulate Item” cover sheet (**Appendix 9**)
- Includes the date of delivery on the cover sheet (see bottom of form).

**10. Coordination and Distribution**

**Bureau/Office:**

- When notation of an item is required, allow at least 2 weeks for OGC or other relevant Bureaus/Offices to review and note the item. Items should not be "noted with edits."
- Distributes all copies of circulation items with the pink-colored Agenda Item Circulation cover sheet (see **Appendix 10**).
- Distributes all market-sensitive items with the yellow-colored Highly Sensitive/Restricted cover sheet (see **Appendix 3**), as well as the pink-colored Agenda Item Circulation cover sheet (place yellow cover sheet on top).

- Distributes paper and electronic copies of a circulation item as follows:
  - (1) Hand-delivers paper copies to the following:

**Table 4: Distribution List (Circulation)**

<b>Bureau/Office</b>	<b>No. of Copies</b>	<b>Room No.</b>
Chairman	4	8-B201
Office of General Counsel (Ad Law Division Agenda Box)	2	8-A623
Agenda and Publications Group, Office of the Secretary	1 (per CLAS no.)	TW-B204
Office of Communications Business Opportunities	1	4-A628

- (2) Distributes electronic copies of the agenda item to the remaining Bureaus/Offices by e-mailing the item to the FCCCIRU group.

**Chairman’s Office:**

- Distributes a copy of all approved circulate items to each Commissioner’s office for voting in eCLAS.

**11. WIP (Work in Progress) List**

**Bureau/Office:**

- When an item requires extensive work and/or in response to discussions with the Commissioners’ staff, the Chairman’s office may place a circulation item in WIP status. Placing an item on the WIP list removes it from circulation. When the item is ready for circulation again, the Bureau/Office re-circulates it with the original CLAS number.

**Office of the Chairman, Administrative Officer:**

- Updates the circulation item to WIP status in eCLAS and notifies the originating Bureau/Offices and the Agenda and Publications Group.

**12. Time Sensitive Circulation Items**

**Bureau/Office:**

- Indicates in the Cover Memo if an item has a deadline (e.g. statutory deadline, court of appeals filing deadline, etc.) and follow up with a phone call or e-mail to the relevant assistant in each Commissioner's office explaining the reason for the deadline. If a routine matter turns into a rush item or rushing an item becomes unnecessary, notify the Commissioners' Legal Advisors of the change in status.

- When a circulation item must be voted in one week or less, consults with the Chairman's Senior Legal Advisor or Chief of Staff for approval to distribute advance copies to the Commissioners' offices so they are prepared to vote the item upon receipt of the copy from the Office of the Chairman.

### 13. Emergency Circulation Items

#### Bureau/Office, Commissioners and Office of the Chairman:

- When the Bureau/Office is unable to obtain eCLAS access to enter the information and/or the Commissioners are unable to vote using eCLAS, the Bureau/Office completes Form A-82-P, Request for Special Action by Circulation (See **Appendix 11**). Items that are in eCLAS should be voted electronically whenever possible.
- When it is necessary to vote manually, provide a completed Request for Special Action by Circulation (Form A-82-P) and one copy of the item to the Office of the Chairman. After receiving approval from the Chairman's Office, the Bureau/Office will make distribution to the Commissioners only.
- After all the Commissioners have voted, the Bureau/Office is responsible for providing the Agenda and Publications Group with the completed Form(s).

#### Office of the Secretary's Agenda and Publications Group:

- Enters the item and votes from the Form(s).
- Provides vote and release information to originating Bureau/Office.

### 14. Editing Circulation Items

Depending upon how the edits are categorized -- **critical**, **substantive but not critical**, or **non-substantive**, will determine how they should be handled. A revised circulation item is required for critical and substantive but not critical edits.

#### Bureau/Office and Commissioners:

##### f. Critical Edits

- "Critical" edits are those:
  - (1) upon which the vote of the Commissioner proposing the edit is dependent,
  - (2) that might affect the vote of another Commissioner,
  - (3) that changes the outcome of the decision,
  - (4) that significantly alters the tone of the item,
  - (5) that adds or alters an important underlying rationale of the decision,
  - (6) that a Commissioner otherwise believes are of critical importance.



- In addition to any edits identified by the Commissioners as critical, the Bureau/Office should deem as critical any other edits from the Commissioners, OGC, or others that might reasonably be viewed as affecting any Commissioner's vote, or that meet any of the other criteria described above.
- If any Commissioner suggests critical edits to an item, he or she should not vote the item until a decision is made whether the edits will be accepted. Never vote an item "with edits" if the edits are critical. Instead, the Commissioner's office should promptly circulate a copy or summary of those edits to the other Commissioners' offices, and to OGC and the relevant Bureau/Office.
- If the Bureau/Office agrees with critical edits provided by a Commissioner (or OGC), it should promptly pull the item from circulation and formally re-circulate it to be voted anew. If the Bureau/Office does not agree with critical edits provided by a Commissioner, then the Commissioners or their staffs will discuss the proposed edits, and the item will remain on circulation as is unless, in response to the views of three Commissioners, the Bureau/Office pulls the item and re-circulates it with edits.
- To avoid multiple re-voting, when a Bureau/Office gets critical edits from one Commissioner or OGC, it should promptly solicit critical edits from the other Commissioners and OGC before re-circulating the item. It should also closely coordinate this process with all of the Commissioners and OGC. For example, it should inform them that an edited version is forthcoming.
- In the case of formal re-circulation, in order to ensure that all Commissioners are voting on the same version of the item, the table below summarizes the procedures. Repeat this procedure each time a circulation item is revised with critical edits.

**Table 5: Procedures for a Revised Circulation Item with Critical Edits**

Responsible Party(ies)	Action
<b>Bureau/Office</b>	<ol style="list-style-type: none"> <li>1. Identifies the item by placing the word “Revised” along with the date and time in the upper right-hand corner of the Cover Memo and on the pink-colored Agenda Item Circulation cover sheet.</li> <li>2. Distributes revised circulation item as outlined in <b>Table 4, Distribution List (Circulation)</b>.</li> </ol>
<b>Office of the Chairman, Administrative Officer</b>	<ol style="list-style-type: none"> <li>1. Enters the “received date” by the Office of the Chairman in eCLAS (this will prevent any additional voting from taking place on the item).</li> <li>2. Distributes the revised circulation item to the other Commissioners. Enter the item’s return date to the floor in eCLAS (this will remove all previous votes and allow for voting on the revised copy).</li> </ol>

<b>Commissioners</b>	Re-vote the item in eCLAS (will reflect a new vote and date in the system for the last version circulated).
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**g. Substantive but not Critical Edits**

- Edits that do not fall within the critical category (described above) or the non-substantive category (described below) will be "substantive but not critical." When substantive but not critical edits are made, the item should be redistributed post-adoption to the Commissioners' offices *and* OGC with edits redlined and attributed to their originating offices. This will allow each non-dissenting Commissioner to review and approve any such post-adoption edits prior to release. Use the existing Bureau Agenda Release Form for this purpose (see Section H, Bureau Agenda Release Form Approval).
- If edits are substantive but not critical, the Commissioner may choose to vote the item "with edits." Those edits, however, will be post-adoption edits if the item is not officially re-circulated. As under the current procedures, when a Commissioner votes a circulate item, he/she is voting the item as written. If a Commissioner votes for an item and proposes post-adoption edits that are not agreed to by all the other non-dissenting Commissioners that Commissioner will be among those deemed voting for the item when it is released as adopted, or with any other post-adoption edits to which all Commissioners did agree.

**h. Non-substantive Edits**

- The Bureau/Office may make any non-substantive changes (e.g., correcting typographical, grammatical, and spelling errors, or updating citations) without redistributing an item or obtaining Commissioners' approval on the Bureau Agenda Release Form (see Section H, Bureau Agenda Release Form Approval).

**15. Items Changed from Circulation to Meeting**

- Bureau/Office will process items changed from circulation to meeting status according to the meeting procedures (see Agenda Meeting Items section above).

**C. SPECIAL ITEMS AND MEETINGS**

**16. Executive Circulates**

Executive Circulates are administrative personnel actions, e.g., promotions, reassignments, etc. These documents are personnel-sensitive and are neither entered into the Electronic Commission's Lifecycle Agenda System (eCLAS), nor released to the public. In general, there is no voting time line associated with these circulates.

Managing Director:

- Submits to the Office of the Chairman along with a pink-colored Form A-83, Request for Special Action (see **Appendix 7**).

**Commissioners:**

- The last Commissioner who votes is responsible for returning the item and Form to the Office of the Managing Director for processing.

**17. Reorganization Items**

With the creation of a new organization in the Commission or if there is a major change in the functions of a Commission organization, the assigned Bureau/Office prepares a reorganization item. The Commission's Organization Manual, which is available on the FCC Intranet, contains detailed instructions on how to prepare a reorganization item.

Direct questions related to a reorganization item to the Associate Managing Director for Performance Evaluation and Records Management.

**18. By Direction Letters**

**Bureau/Office:**

- Prepares “By Direction” letters for signature of the Secretary. As with all Commission items, after approval the Office of the Secretary/Agenda and Publications Group will notify the author and provide the adopted date and Commission's vote. Again as with all items, the originating Bureau/Office must then make any requested edits and obtain the approval of the Office of General Counsel for release.
- Adds the adopted date, the FCC number, the Commission's vote, the release date and delivers a complete package consisting of the original letter, addressed envelope(s), and related documents (to be mailed) to the Office of the Secretary/Agenda and Publications Group.

Office of the Secretary’s Agenda and Publications Group:

- Obtains the Secretary's signature and delivers the package to the mailroom.

**19. Federal-State Joint Board**

A Joint Board is a regulatory panel composed of Federal and State Commissioners established pursuant to Section 410 of the Communications Act to study and prepare recommendations concerning regulatory issues of joint concern. The Commission is also required to obtain a Joint Board recommendation before amending the jurisdictional separations procedures for implementation of universal service under section 254 and for implementation of section 229 regarding the Communications Assistance for Law Enforcement Act, and may create a Joint Board to consider other issues of mutual Federal/State concern.

Federal/State Joint Board Representative handles approved Joint Board documents in the following manner:

- (a) Hand-carry copies of the document and the Joint Board Members' names and votes to the Office of the Secretary/Agenda and Publications Group.
- (b) Board member votes that are other than written (e.g., phone, meeting) must be indicated. Votes taken at a meeting must be indicated by a member of the Commission's staff in a memo to the Secretary, certifying that he/she was present at the meeting. List the following information in the memo:
  - 1. Indicate the subject of the document voted.
  - 2. Provide the full name and title (if applicable, include State) of each Joint Board Member and their vote.
  - 3. Specify if a vote is other than "approve" or if a member is issuing a statement to be released with the item.
- (c) Upon receiving the information, the Agenda and Publications Group will assign a FCC "J" number to the document (e.g., FCC 06J-1). Joint Board documents must have a FCC "J" number before they are released to the public.

NOTE: OGC's approval is not required for Joint Board documents.

## **20. En Banc Hearings**

An En Banc hearing is a hearing before the full Commission. En banc hearings must be announced to the public by means of a "Sunshine Notice," seven days before the hearing. **A news release is not sufficient notice.** In addition, the Sunshine Notice must be published in the Federal Register.

## **II. VOTING, ADOPTION AND THE BUREAU AGENDA RELEASE FORM**

Below are procedures for voting and adopting meeting and circulation items and receiving approval for release of these items using the Bureau Agenda Release Form (BARF). The originating Bureau(s)/Office(s) is responsible for carrying out the instructions provided for receiving the Bureau Agenda Release Form (see **Appendix 8**) approval.

### **D. COMMISSIONERS' VOTE CATEGORIES**

A Commissioner vote for agenda items in two ways: orally at a scheduled Commission Agenda Meeting (referred to as meeting or agenda items) or electronically in eCLAS (referred to as circulation items). In either scenario, the following table describes the categories of Commissioners' votes used as set forth by the OGC:

**Table 6: Types of Commissioners' Vote**

<b>Vote</b>	<b>Description</b>
APPROVE	Agree with the outcome and rationale of the item.
CONCUR	Agrees with the outcome of the item, but disagrees with the rationale.
DISSENT	Disagree with the outcome of the item.
APPROVE/CONCUR IN PART	Agrees with the outcome of the item, but disagrees with the rationale in one or more specified portions of the item.
APPROVE/DISSENT IN PART	Agrees with the outcome of one or more portions of the item, but disagrees with the outcome of the one or more specified portions of the item.
CONCUR/DISSENT IN PART	Agrees with the outcome of one or more portions of the item, but disagrees with the rationale of those portions and also disagrees with the outcome of one or more specified portions of the item.
ABSTAIN	Commissioner is present and is considered as part of the quorum, but declines to approve, dissent or concur.
NOT PARTICIPATING	Used when a Commissioner is not considered as part of the quorum, such as when a conflict of interest arises.

**E. COMMISSIONERS' STATEMENT(s)**

A Commissioner may amplify his/her vote by providing a statement. The following table explains different types of statements:

**Table 7: Commissioners' Statement Types**

<b>Type</b>	<b>Description</b>
SEPARATE	Explains an affirmative vote and highlights issues or determinations of particular importance to the Commissioner.
DISSENTING	Explains why the Commissioner disagrees with the vote of the majority.

CONCURRING	Explains why the Commissioner agrees with the majority's vote, but disagrees with the rationale used to reach the decision.
JOINT	Two or more Commissioners may choose to collaborate on a statement for an item(s).

- If a Commissioner intends to issue a statement, he or she should indicate upon voting in eCLAS by checking “statement” in the vote screen.
- The originating Bureau/Office is responsible for coordinating with the Commissioners’ staff to receive statements for their items.

**F. MEETING ITEMS**

**21. Voting of Meeting Items**

**Commissioners:**

- Vote to adopt meeting items (listed on the Sunshine Notice) orally at a scheduled Commission Open Agenda Meeting, unless the item is deleted from the agenda before the meeting (see Sunshine Summary and Notice section above). **Table 6** above outlines the types of votes available to the Commissioners.

Office of the Secretary’s Agenda and Publications Group:

- After the meeting, records the vote information provided by the Commissioners’ Legal Advisors for all meeting items presented.
- Emails the originating Bureau/Office and OMR with the item’s adoption date, FCC and/or Docket number, Commissioners’ vote and statements, and notice of any Commissioner voting with edits.

**22. Adopted Version of Meeting Item**

The last version distributed to the Commissioners, OGC, OCBO and the Office of the Secretary/Agenda and Publications Group prior to the vote at the meeting is the adopted version of an item.

The Commission's goal is to release the adopted version of an item within two business days after the meeting, but, not later than seven calendar days. (There is an exception for allowing some additional time to accommodate dissenting or other statements (see Section I, Target Release Date below)).

## G. CIRCULATION ITEMS

### 23. Voting of Circulation Items

#### Commissioners:

- Vote circulation items in the Electronic Commission's Lifecycle Agenda System (eCLAS). eCLAS is a database accessible to a limited number of staff through the Commission's Novell-delivered Applications folder on each employee's desktop.
- The goal of the Commissioners' offices is to vote circulation items within 30 days of circulation, with no post-adoption critical edits (see Editing Circulation Items section above).

#### Bureau/Office:

- Highlights and explains in the Cover Memo to the Chairman and Commissioners the need to adopt a circulation item in less than 30 days. In addition, prioritize circulates to assist the Commissioners in addressing the most pressing items first.

#### i. Quorum, Must-Vote Deadline, and Extensions

Must-Vote is designed to ensure that the Commission releases items in a timely fashion once an item has secured three approving votes.

- **Quorum.** A quorum date is established by the eCLAS system once an item has been on circulation for more than 21 calendar days and three or more Commissioners have voted the item "approved." "Approved" includes votes to concur and any vote that approves an item in part (see **Table 6, Types of Commissioners' Votes**).
- **Must-Vote Date.** On the Friday following the quorum date, the eCLAS system will generate a Must-Vote date giving the remaining non-voting Commissioners a deadline of 12 calendar days to vote the item. The item should be voted by this deadline.

*We provide the following example:*

**Item circulated:** Thursday, May 5

**Quorum date** (if already has 3 votes to approve): Thursday, May 26

**Must Vote generated:** Friday, May 27

**Must-Vote date:** Wednesday, June 8\*

\* Because Must-Vote deadlines are established on Fridays, Must-Vote dates generally fall on a Wednesday. If the Must-Vote date is a holiday as defined in section 1.4(e)(1) of the Commission's rules, the Must-Vote date will be the next day on which the Commission is open for business.

- **Must-Vote eCLAS Notification Emails and Initial Extension Requests**

On the Monday prior to a “Must-Vote” date (remember, Must Votes usually initially fall on Wednesdays), eCLAS will send the *non-voting* Commissioner(s’) Senior Legal Advisors and Confidential Assistants an e-mail message stating:

“The Must-Vote deadline for this item will expire at midnight on the date noted above. To vote the item, please use this link, CLAS No.XX.

If you are unable to register a vote for the item prior to the deadline, you may request a 7-day extension. To request an extension you may either: (1) Send an email to *OS Release Group* by 4:00 pm on the Must-Vote date; or (2) Request an extension in eCLAS by midnight on the Must-Vote date. The first extension request will be automatically granted by the Office of the Secretary. After the Must-Vote deadline expires your office will be designated as ‘not participating’ and will not be able to vote this item.”

Following the initial Must-Vote notice, on *each* day thereafter until the Must-Vote date, eCLAS will send the same e-mail above to all remaining non-voting Commissioner(s’) Senior Legal Advisors and Confidential Assistants reminding them of the deadline to vote the item. The emails will be issued by eCLAS automatically, even on holidays.

- **Must-Vote Automatic Extension Request Received**

There can only be one automatic extension for an item. Thus, if any one Commissioner requests the initial extension, the voting period is extended for all non-voting Commissioners and thus no additional automatic extension will be granted.

If an extension request is made prior to the expiration of the Must-Vote deadline as specified above, the Office of the Secretary will enter a 7-day extension for all non-voting Commissioners. The non-voting Commissioners’ Senior Legal Advisors and Confidential Assistants will receive an email stating:

“The Must-Vote deadline for this item has been extended to midnight on the date noted above. To vote the item, please use this link, CLAS No.XX.

After the Must-Vote Extension deadline expires your office will be designated as ‘not participating’ and will not be able to vote this item.

Any additional requests for extension of the deadline must be submitted to the Chairman’s Office by 4:00 p.m. on the Must-Vote date.”

Beginning two business days before the 7-day extension expires and each day thereafter until the extension expires (normally on Monday, Tuesday and Wednesday if the previous Must-Vote date was a Wednesday and there are no holidays the following Monday, Tuesday or Wednesday), eCLAS will send the same email to all remaining non-voting Commissioners’ Legal Advisors and Confidential Assistants. Extensions will be entered into eCLAS by the Office of the Secretary only after the Chairman’s Office has approved the request.



- **Additional Extension Requests**

Additional requests for extensions will only be granted in extraordinary circumstances, and for a limited period of time. The Chairman or the Chief of Staff may grant such an extension, and will be responsible for communicating that grant to the Office of the Secretary.

- **Must-Vote Deadline Expires**

- If the original Must-Vote deadline passes with no extension request or all extension deadlines have passed without a further extension being granted by the Chairman's Office and no vote is entered into eCLAS, then a vote of **"not participating"** will be entered in eCLAS for the remaining non-voting Commissioner(s) by noon the next business day.

## **24. Adoption of Circulation Items**

Adoption of a circulation item occurs when the last Commissioner votes in eCLAS. After adoption, the eCLAS system:

- assigns FCC number

the Agenda and Publications Group:

- receives the Docket number (if applicable) from the FCC Reference Center
- emails the item's vote sheet to the author (the vote sheet provides the adoption date; FCC and/or Docket number, Commissioner votes and statements, and notice of any Commissioner voting with edits).

### **j. Vote Retraction of an Adopted Circulate Item**

#### **Chairman and Commissioners:**

- Can retract his/her vote on an adopted circulate, only if it meets all of the following criteria:
  - The item is not released;
  - No news release or other public indication of adoption has occurred; and,
  - All other Commissioners agree to the retraction.

#### **Office of the Chairman:**

- Once the above requirements are met, then the Office of the Chairman shall have the option to direct the Bureau/Office and the Office of the Secretary to:
  - Recirculate the item and allow all Commissioners to revote the item; or
  - Withdraw only the vote of the Commissioner who wishes to change his/her vote (do not recirculate the item).

- Either option will require a new adoption date.

## H. BUREAU AGENDA RELEASE FORM (BARF) Approval

Form A-501, Bureau Agenda Release Form (see **Appendix 8**) indicates the dates and times of both the adopted and final versions (do not use the adopted date alone), and whether there are any substantive differences (edits) between the two versions.

This form ensures that all non-dissenting Commissioners agree with the final version of the adopted meeting or circulation item before its release and it also provides for the approval of OGC. This form is required before the Office of the Secretary/Agenda and Publications Group can process an item for release.

### Bureau/Office:

The table below outlines the appropriate BARF approval steps to follow for both a meeting and circulation item with non-substantive edits by the originating Bureau/Office.

**Table 8: BARF Approval Process for Non-Substantive Edits**

1. On the BARF, enter the assigned FCC No., CLAS No., type of document, check “circulate” or “meeting,” title, dates and times of both the adopted and final versions (the adopted date alone should not be used), Bureau/Office contact and telephone number.
2. Bureau/Office Chief or his authorized representative will answer the question “Are there any substantive differences between Adopted and Final Versions?” by checking the appropriate box. If NO, proceed with the steps in this table or YES, follow the steps in <b>Table 9, BARF Approval Process for Critical or Substantive Edits</b> .
3. Bureau/Office Chief or his/her authorized representative signs certifying that there are no substantive differences between the adopted and final version.
4. Hand-deliver to OGC, Administrative Law Division for approval (place in Agenda Items Box, allow 24 hours): the signed Form(s), a copy of the final version, and a redline version (showing the difference between the adopted version and final version). OGC will review the final edits for legal concerns and provide appropriate signatures. In emergencies (to be released in less than 24 hours), after the Bureau/Office delivers Form A-501 to OGC, OGC shall have the option of indicating on the Form that the item was not reviewed because of time constraints. Bureau/Offices are responsible for collecting signed form(s).
5. Deliver to the Agenda and Publications Group (Room TW-B204I) the signed BARF form(s), an original and two copies of document (unstapled, one-sided), and the redlined version. APG will: sign the BARF, review the document (allow 2 hours

for review), notify the author of release approval, and if applicable, changes.

6. Bureau/Office makes a copy of the signed BARF for their records and follows the appropriate Commission release procedures.

The table below outlines the appropriate BARF approval steps to follow for both a meeting and circulation item with critical or substantive edits by the originating Bureau/Office.

**Table 9: BARF Approval Process for Critical or Substantive Edits**

1. On the BARF, enter the assigned FCC No., CLAS No., type of document, check “circulate” or “meeting,” title, dates and times of both the adopted and final versions (the adopted date alone should not be used), Bureau/Office contact, and telephone number.

2. Bureau/Office Chief or his authorized representative will answer the question “Are there any substantive differences between Adopted and Final Versions?” by checking the appropriate box. If NO, follow the steps in **Table 8, BARF Approval Process for Non-Substantive Edits** or YES, proceed with the steps in this table.

3. Bureau/Office Chiefs (or authorized designees) are required to receive final release approval from each non-dissenting Commissioners’ or authorized designee (Please note: a dissenting Commissioner approval is not required to sign the BARF form; if he or she dissents in part, approval is required only for the portions from which he or she did not dissent).

**There are four methods for securing approvals from the Commissioners’ or authorized designee (you may use more than one method as appropriate):**

- a) Deliver a paper copy of the final version and obtain an authorized signature from each Commissioner’s office on a single BARF Form.
- b) Email or deliver a paper copy of the final version and obtain verbal approval from each Commissioner or authorized designee. The Bureau/Office staff member who receives verbal approval must indicate on the Form A-501 the date and time and the name of the person in the Commissioners’ office who gave the approval and the B/O staff member must sign the BARF Form.
- c) Deliver a paper copy of the final version and provide each Commissioner’s office with a separate BARF Form, for individual signatures. Bureau/Offices are responsible for collecting signed forms.
- d) Email or deliver a paper copy of the final version and obtain email approval from Commissioner or authorized designee. Emails must be printed and attached to Form A-501. Indicate in the appropriate signature area “Email Approval Attached.”

4. Hand-deliver to OGC, Administrative Law Division for approval (place in Agenda Items Box, allow 24 hours): the signed Form(s), a copy of the final version,

and a redline version (showing the difference between the adopted version and final version). OGC will review the final edits for legal concerns and provide appropriate signatures. In emergencies (to be released in less than 24 hours), after the Bureau/Office delivers Form A-501 to OGC, OGC shall have the option of indicating on the Form that the item was not reviewed because of time constraints. Bureau/Offices are responsible for collecting signed form(s).

5. Deliver to the Agenda and Publications Group (Room TW-B204I) the signed BARF form(s), an original and two copies of document (unstapled, one-sided), and the redlined version. APG will: sign the BARF, review the document (allow 2 hours for review), notify the author of release approval, and if applicable, changes.

6. Bureau/Office makes a copy of the signed BARF for their records and follows the appropriate Commission release procedures.

## I. TARGET RELEASE DATES

### **Bureau/Office:**

- Releases meeting and circulate documents within two business days after adoption, but, not later than seven calendar days.
- Exception: Where a Commissioner has indicated a willingness to prepare a dissenting or other statement for a document, the Office of the Secretary grants an additional four calendar days, extending the release to 11 calendar days. When the Bureau/Office receives the statement, promptly incorporate responsive edits in the document, receive Bureau Agenda Release Form approval and release the document.
- Coordinates with the Office of the Secretary's Agenda and Publication Group the release date for the decision document.

### Office of the Secretary/Agenda and Publications Group:

- Coordinates the release with the Bureau/Office for all FCC documents, as well as the release date with the Office of Media Relations and the FCC Print Plant.
- Reviews all FCC documents for style and format and information accuracy (FCC and/or Docket numbers, vote line, applicable statements received, BARF approval, etc.) before releasing.