

# PUBLIC SERVICE REPRESENTATIVE

## MANUAL



U.S. POSTAL  
REGULATORY  
COMMISSION



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REGULATORY  
COMMISSION



# PUBLIC REPRESENTATIVE

**T**he appointment of a Public Representative is essential to ensuring that the interests of the general public are heard and considered by the Postal Regulatory Commission. The Public Representative represents the affected public in the aggregate, giving the interests of the general public much needed cohesiveness and influence. In every case, there are those affected by the material issues of a case, but for whom it is unfeasible or futile to procure representation, due to: 1) the expense of litigation; 2) the notion that disenfranchised and dispersed individual claims are too fragmented to be effectively merged and coherently presented; or 3) many in the public are simply unaware of the Postal Regulatory Commission's cases and how or why they may be affected by the Postal Regulatory Commission's decisions. By pooling the public's interests into the aggregate, the Public Representative aptly illustrates the impact of a regulatory violation has on the general public; is able to give substantial weight to the various and sometimes fractured voices; and ultimately, provide the Postal Regulatory Commission with the opportunity to hear, understand, and consider the general public's interests when making a decision. The Public Representative is a crucial component to an informed resolution of any and all Postal Regulatory Commission cases.

## **THE STATUTE 39 U.S.C. §505**

The Postal Regulatory Commission is charged by statute with ensuring the interests of the general public are represented in Postal Regulatory Commission proceedings.<sup>1</sup> In accordance with the statute, the Postal Regulatory Commission appoints an appropriate staff member on a case-by-case basis to participate in the proceeding to represent the interests of the general public.

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<sup>1</sup> The Postal Regulatory Commission "shall designate an officer of the Postal Regulatory Commission in all public proceedings (such as developing rules, regulations, and procedures) who shall represent the interests of the general public." 39 U.S.C. § 505.



## MISSION OF THE PUBLIC REPRESENTATIVE

The mission of the Public Representative is to ensure the interests of the general public, a separate and independent party, are accurately and reliably presented in all public proceedings before the Postal Regulatory Commission.

## FUNCTIONS OF THE PUBLIC REPRESENTATIVE PROGRAM

The functions necessary to consistently fulfill the mission of the Postal Regulatory Commission's (hereinafter, "PRC" or "Commission") Public Representative Program (hereinafter, "Program") are effectively and efficiently carried out by the General Counsel, Office of Accountability and Compliance Director, Attorney Administrator, and the PRC staff members who serve as Public Representative (hereinafter, "PR"). Individually and in concert, these are the people responsible for discharging the functions of the Program. These functions include, but are not necessarily limited to, the following:

- Establishment of Program guidelines, standards, and expectations for each Postal Regulatory Commission member entrusted with executing the role of Public Representative
- Operation of a standard case management process to ensure every aspect of Program activity is executed with optimal effectiveness and efficiency and in accordance with applicable legislation and internal Commission policy
- Assignment of a qualified staff member to serve as the lead PR on each case before the Commission
- Assignment of qualified staff member to assist as part of the PR team as necessary, e.g. an analyst, an additional attorney, or both
- Establishment of an Ethical Wall between the PR staff and advisory Commission staff to prevent the PR from being influenced by or influencing others involved with the case at hand. Establishment of such a wall is not meant to prevent a PR from obtaining factual information or clarification from other staff members
- Identification of the general public whose interests would be directly or indirectly affected by the outcome of each case before the Commission
- Identification, on a case-by-case basis, of the sources and information needed to determine and document the identified general public's interests for presentation to the Commission

- Efficient collection of information from such sources as: a) relevant internal or external documents; b) interviews or written communications with individuals; c) and organizations with pertinent interests
- Thorough analysis of collected information and the preparation of a draft oral or written presentation to be given to the Commission
- Draft reviews during the creative and formative process, as warranted, by the Attorney Administrator
- Sound advocacy of the public interests in each case before the Commission
- Monitoring individual case progress from the initial assignment of a PR to the case's conclusion to ensure the work being done is of high quality and submission to the Commission is timely
- Substantive post-filing reviews of all PR comments by the Attorney Administrator, focusing on criteria such: timeliness, cogency of argument, and level of issue complexity.
- Post-filing notification of a PR's immediate supervisor of the quality and timeliness of the PR's work so such information may be considered as a part of the PR's performance review
- Establishment of a comprehensive training Program for new PRs and up-date modules for existing PRs
- Other such duties and functions as may be assigned by the General Counsel or the Commission

## THE GENERAL PUBLIC

The general public cannot be universally defined and must be determined on a case-by-case basis. What constitutes the general public is never static; it is specific to the surrounding circumstances and may change at any given time as circumstances change. When reviewing a case, the PR shall try to ascertain the boundaries of its case's "general public" by identifying those directly and indirectly affected by the issues posed.

The PR represents the general public as if the public were a separate party to the case. Sometimes this representation may call for educated advocacy (i.e., determining and promoting what is in the best interest of the public); while, at other times it may simply require relaying public sentiment or performing an objective factual analysis. All serve to make the Commission record more complete and assist the Commission in reaching an informed decision. As a



staff member of the Commission, the PR has the unique ability and access to gather resources, poll, and analyze data in order to ascertain the interests of the general public. A great deal of discretion is left to the individual PR as to the proper handling of his or her representation in any given case. Regardless of the treatment given, the PR's representation shall be thorough and professional.

## **ESSENTIAL PUBLIC REPRESENTATIVE PROGRAM PERSONNEL**

There are four roles that are essential to the Public Representative Program: the Public Representative, Attorney Administrator, General Counsel, Office of Accountability and Compliance (OAC) Director, and Chairman of the Commission. Their roles and duties are outlined, below.

### **Public Representative**

The Public Representative represents the interests of the general public to the Commission in public proceedings.

In furtherance of this service, the PR must: properly identify the parameters of the general public on a case-by-case basis; utilize updated resources to collect information; examine data using his or her knowledge of the postal system and services; and then present the views, opinions, and concerns of consumers, to the Commission for consideration in the resolution of a case. The PR is to refrain from influencing or being influenced by advisory Commission staff in the course of any particular proceeding.

### **Attorney Administrator**

The Attorney Administrator manages the Public Representative Program and ensures the general public's interests are accurately represented by the PR to the Commission.

In furtherance of this responsibility and maintaining consistency in the public representative process and subject depth, the Attorney Administrator shall: remain aware of current public interest and consumer trends; maintain the Program manual of standards and procedures; propose ways to increase the Program's value and efficiency; implement Commission authorized Program improvements; establish instructional training on issues related to the Program; provide on-going managerial and editorial support to PRs throughout the PR process; address internal and external ethical questions

pertaining to the Program; implement authorized Program improvements; consult with division heads on PR assignments; recommend the Commission initiate the investigation process by appointing a special investigator or Public Representative to gather and analyze potentially contentious issues; evaluate individual PR's work product on a case-by-case basis; inform the Chairman and division supervisors of the quality and timeliness of individual PR's work so this information may be considered during the PR's performance reviews.

The Attorney Administrator may consult with the General Counsel and OAC Director on PR selection, and suggest supplements to the PR team. The Chairman ultimately decides who will serve as the PR in a given case, assisted by the recommendations of the department supervisors.

The Attorney Administrator will meet with a PR a minimum of two times during the PR process: initially, after assignment to discuss potential resources and administrative issues; and again after the PR Comments have been filed, to identify substantive and procedural achievements and concerns in a postfiling review. In some instances, the Attorney Advisor may meet an additional time with the PR to address resources, general questions, and brainstorm potential paths of interests, etc. The Attorney Administrator may address the substantive nature of the PR's work in an effort to verify its conformity to Program standards. Should a case be complex in nature, additional meetings may be warranted to delve deeper into the issue(s) raised and assure proper handling of competing or adversarial arguments.

The Attorney Administrator provides the individual PR reviews to the appropriate division supervisor, who then incorporates each review into the individual PRs' semi-annual evaluations. The Attorney Administrator will provide the Chairman with updates on the PR Program and individual PR performances, as requested.

The Attorney Administrator reports directly to the Chairman and General Counsel of the Commission. The Attorney Administrator is a member of the Office of General Counsel.

## **General Counsel**

The General Counsel oversees the selection of attorneys to serve as PRs and works with the OAC Director to assign additional members of the PR team. The General Counsel works closely with the Attorney Administrator, the OAC Director, and the Chairman to ensure that the Program remains a current, viable,



and useful system to the Commission. The General Counsel is the immediate supervisor of Commission attorneys, including the Attorney Administrator. The General Counsel meets with the Chairman to review and incorporate a staff attorney's PR Program work into his or her performance evaluation.

## **Office of Accountability and Compliance Director**

The OAC Director oversees the selection of analysts to serve as PRs and works with the General Counsel to assign additional members of the PR team. The OAC Director works closely with the Attorney Administrator, the General Counsel, and the Chairman to ensure that the Program remains a current, viable, and useful system to the Commission. The OAC Director is the immediate supervisor of Commission analysts. The OAC Director meets with the Chairman to review and incorporate a staff analyst's PR Program work into his or her performance evaluation.

## **Chairman**

The Chairman of the Postal Regulatory Commission determines the overall effectiveness of the Public Representative Program and those within it. To preserve the Ethical Wall, the Chairman does not provide substantive reviews of the PRs. Rather, the Chairman receives substantive reviews on individual PRs from the Attorney Administrator every six months and works with the division supervisors to incorporate the Attorney Administrator's reviews into the individual staff member's semi-annual evaluations. The Chairman provides ongoing feedback to the Attorney Administrator concerning the effectiveness of the Program and suggests means by which the Program may be improved.

## **ASSIGNMENT**

The Chairman ultimately decides who will serve as the PR in a given case, assisted by the recommendations of the General Counsel and OAC Director. The department supervisors may consult with the Attorney Administrator for recommendation suggestions.

## **RECOGNITION**

Accountability and recognition for PR work go hand in hand. It is important that those involved in producing the PR work in a case be recognized and acknowledged for their contribution.



Each case will have a designated or lead PR. The lead PR will be the individual responsible for the timely filing of the comments, and the person listed as the PR of record in the official docket and on the PRC website. Other staff members assigned to work in the capacity of a PR will collectively be considered part of the PR team.<sup>2</sup> The Attorney Administrator will meet with all members of the PR team once comments are filed to discuss the delineation of duties and other substantive matters.

Should there be a substantive disagreement among members of the PR team, it is the lead PR who ultimately decides what is to be submitted. The names of entire PR team may be published on the PR comments filed with the Commission.

## ACCOUNTABILITY

PR work is reviewed and included as part of a staff member's semi-annual and annual performance evaluations. Each member of the PR team is reviewed on a case-by-case basis by the Attorney Administrator. The Attorney Administrator provides the PR reviews to the Chairman and to the appropriate division supervisor, who then incorporates the review into the individual PR's semi-annual evaluation.

Criteria considered by the Attorney Administrator, when reviewing a PR shall include, but is not limited to: understanding of the complaint; strategic approach; analysis and argument crafting; use of resources; ability to work with others and accept feedback; and timeliness.

## RESOURCES

To define the interests of the general public, the PR is to utilize means and procedures available under the Commission's rules and applicable law to present relevant evidence on behalf of the general public in Commission proceedings. In an effort to provide the most thorough representation of the general public's interests, PRs are expected to examine both internal and external resources as well as channel their own sensibilities.

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<sup>2</sup> While 39 U.S.C. §505 says the Commission "shall designate an officer," this language does not preclude the Commission from designating more than one officer, especially if doing so may result in a more accurate representation of the interests of the general public.



## TRAINING

Training is a vital aspect of the Public Representative Program. It serves to keep Commission staff and future PRs aware of issues of public interest, areas of consumer contention, and how similar issues are treated by other entities.

## SPEAKERS

As part of the on-going training and education of PR staff members, presentations will be offered by featured speakers who are familiar with and serve the public interests on a regular basis. The talents of in-house Commission staff may also be utilized to impart subject or skill-focused information to fellow Commission staff. Senior and experienced staff may provide training aimed to assist PRs develop strategies, handle a myriad of interests in a single case, improve writing skills, and raise the overall comfort level and caliber of their PR comments.

## Shadowing

To the extent that a PR is new to the role or having difficulty executing the PR duties, he or she may ask their division supervisor to identify an experienced PR to shadow through a PR process. This way, new PRs may ask questions, observe, and engage in the process before they are tasked with performing it. Conversely, a senior PR handling a complex case may suggest that his or her division supervisor assign a less experienced PR to assist in the PR role. Both options build team camaraderie while simultaneously teaching rising PR staff how to execute the role of Public Representative.

## The Roundtable

The Roundtable is a rigorous preparation exercise used to challenge and strengthen a PR's arguments. The Roundtable consists of the Attorney Administrator and at least one experienced PR who is not serving in an advisory role to the Commission on the case, and the PR assigned with the case at hand. When a complex case warrants a substantive in depth discussion of the issues, a Roundtable is likely to be held.

At the Roundtable, all participants discuss the issues surrounding the case and suggest improvements to the overall quality of PR comments. This may be done in a discussion or mock-trial format. The Roundtable is designed to urge the

PR to consider alternative perspectives; challenge the PR's logic and resource choice; and predict and discredit adversarial arguments.<sup>3</sup>

## THE ETHICAL WALL

The Ethical Wall serves to prevent the PR from influencing or being influenced by Commission advisory staff on a particular case. This is a reasonable objective, and works to assure that the public interest is not tainted by the agenda of others, and vice versa. However, the Wall need not extend to all communications or affect all members of the Office of General Counsel and Office of Accountability and Compliance.

PRs may ask colleagues fact-based questions and measured analysis, since the responses sought are not subjective in nature, they do not violate the Ethical Wall. However, PRs are prohibited from soliciting subjective input from colleagues outside of Program arranged Roundtables or briefing sessions.

The Attorney Administrator is the contact person for all questions and concerns regarding ethics in relation to the Public Representative Program. The Attorney Administrator shall consult with the Deputy Ethics Officer to resolve complex ethical issues and ethical issues that extend beyond the scope of the Program.

## EXPERT WITNESSES

Expert witnesses may give significant support to a PR's comments. As a result, funds exist to cover select expenses for witnesses slated to provide testimony before the Commission in the PR's case-in-chief. PRs requesting witness funds shall present a written request to the Attorney Administrator, stating the importance of the witness and the particular US dollar amount needed. The Attorney Administrator reviews each requests. Once the Attorney Administrator approves the request, he or she will work with the Secretary of the Commission to procure the necessary funds.

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<sup>3</sup> It is important to note, the Roundtable exercise is a strengthening tool, used to prepare the PR to respond quickly and in a thoughtful manner to pointed examination in an adversarial process. It does not exist to belittle or embarrass the PR. Rather, the Roundtable exercise requires the PR to know the case in detail, be able to justify every aspect of the PR argument, and apply the argument's logic to hypothetical situations. Ultimately, the Roundtable exercise seeks to develop a tighter, stronger, solid set of comments.



## GENERATING A COMPLAINT

*“Any interested person (including a duly appointed officer of the Commission representing the interests of the general public) may file a written complaint with the Commission if that person believes that the Postal Service is not operating in conformance with,”* 39 U.S.C chapter 36, or 39 U.S.C. 101(d), 401(2), 403(c), 404(a), or 601.

### 1) By Way of Investigation

When the Commission has deduced that a potentially significant situation exists, yet no complaint has been filed, it may initiate the investigation process by appointing an investigator or PR to make inquiries, gather information, and report back to the Commission on the findings.<sup>4</sup> As in other public proceedings, if one is not already appointed to conduct the investigation, a PR will be appointed to represent the interests of the general public as the investigation progresses.

Should the PR’s findings indicate the situation warrants the issuance of a formal complaint, the PR may pursue the matter.<sup>5</sup> The Attorney Administrator is prohibited from performing as the PR in such cases. However, the Attorney Administrator will retain the responsibility of managing the PR handling such cases.

### 2) By Public Representative

The statute permits a PR to file a complaint. If during the execution of PR duties, any current PR uncovers material information worthy of a separate complaint, he or she may pursue the matter. This action should be done only after substantial scrutiny and consideration. The PR is encouraged to communicate his or her findings and intention to the Attorney Administrator.

## TONE

The PR’s comments shall always be stated in a professional tone. A PR is to provide informed advice and pose reasonable suggestions to the Commission. Equally so, they are not to shy away from expressing doubt, uncertainty,

<sup>4</sup> The Commission has the authority to assign an investigator to determine whether an existing complaint rises to the level of material or valid. 39 CFR § 3030. The investigator acts as an arm of the Commission, while the PR is always a represents the general public.

<sup>5</sup> Anyone may recommend to the Commission that it initiate an investigation where a significant situation exists.

concern or disagreement with party opponents or the Commission, itself. It is through both means that a PR serves to highlight vital issues and encourage Commission action (or inaction), while exhibiting the decorum expected in a legal proceeding.

## **WORKING WITH THE PUBLIC**

It is essential that the designated PR remain aware and accessible to the general public. A healthy dialogue with members of the public is encouraged. Remaining accessible and open to consumer comments and conversations may greatly assist the PR in defining the general public and its interests. Discussions with people, who: are not concerned with the interest to the general public; fail to understand or accept the limited role of the PR; or, are abusive toward the PR and other Commission staff, are strongly discouraged as they threaten to impede the PR's productivity.

Should a PR be contacted by an abusive member of the public, the PR shall inform the Attorney Administrator, immediately.

## **SEMI-ANNUAL MEETINGS WITH COMMISSIONERS**

Semi-annual meetings between the Commissioners and the Attorney Administrator are important to ensure that the PR Program continues to be relevant and valuable.

### **Meeting with Chairman**

Every six months, the Attorney Administrator will meet with the Chairman to review the performance and work product of individual PRs, jointly assess the effectiveness of the PR Program, and identify potential improvements to the program.

### **Semi-Annual Report to Commissioners**

The Attorney Administrator will present the Commissioners with a semi-annual PR Program Report at a Public Hearing. The report provides a summary of the PR Program work, achievements, and concerns that surfaced since the last meeting. The report provides the Commission with a basis to evaluate the general performance of the PRs, the overall effectiveness of the PR Program, and any issues inhibiting optimal Program performance.

The Ethical Wall prohibits the Attorney Administrator from discussing with the Commissioners the substance of pending cases, cases on appeal, or cases in which a party retains appeal rights.

## **CONSISTENCY**

One of the main reasons for a formalized Public Representative Program is to establish and maintain operational consistency in the PR comments. With a manual of standards and guidelines, centralized management, and nuts-and-bolts checklist, a level of professional consistency should emerge, making the process easier to navigate and provide greater insight and weight to the PR comments, overall. It is important to state that consistency is by no means conformity. The PR protocol, the adherence to an outlined process, is in no way an attempt to streamline the arguments or viewpoints expressed by any individual PR.

It is unrealistic for professionals in any field to always agree, even when presented with the same facts. Each case considered by the Commission, while it may be similar to another, never contains exactly the same facts of its predecessors. Therefore, it is an authentic legitimate consequence that PRs will present various, sometimes diverging, opinions. Too much agreement hints at artificiality, or worse, a predetermined opinion. Neither is acceptable.

## **TERMINATION OF PR ROLE**

The PR on a particular case remains the PR for the life of that case i.e., until all issues in the case are resolved at the highest judicial level. It is this continuum of the PR role that enables the original PR to remain the PR in a case brought before the Commission as an appeal.

Under certain circumstances, the original PR may be relieved of his or her PR status in a case. This may be due to the original PR's unavailability, or a real or perceived conflict of interest, e.g., the original PR's current staff position calls for the regular advisement of one or more Commissioners. Under such circumstances, despite the presumed honor and integrity of the original PR, the potential for an inadvertent violation of the Ethical Wall or a perceived conflict of interest by members of the public, is too great. Thus, a replacement PR may be assigned.



# PR PROTOCOL

**I**n an effort to maintain a consistency of depth and quality among PR comments, the Public Representative Program has implemented a standardized procedure to be followed by all Postal Regulatory Commission employees serving as Public Representatives. The following step-by-step procedure is meant to guide, aide, and explain the PR process. All PRs are expected to adhere at a minimum to these directives, unless otherwise instructed by their respective supervisors or the Attorney Administrator.<sup>1</sup>

## **ASSIGNMENT:**

The Chairman decides who will serve as the PR in a given case, assisted by the recommendations of the General Counsel and the Director of Accountability and Compliance. The selection is based on which PRC employee is best suited to receive the PR assignment due to his or her understanding of the issue(s) at hand, expertise, and current workload.

Either the General Counsel or the Director of Accountability and Compliance will notify you in person and by email that you have been chosen to serve as Public Representative in a particular case. Your supervisor will also tell you which other employees will serve as part of the PR team.<sup>2</sup> Once you receive your case, set up an initial team meeting with the PR team to discuss the case and filing schedule.

## **STEP 1: The Complaint & Parties**

First, read the complaint or petition for appeal, and all documents filed in your case. To do this, look up your case on the official PRC website.<sup>3</sup> Identify

<sup>1</sup> A two-page PR Protocol Checklist can be found under appendix \_\_\_\_.

<sup>2</sup> If you are the sole PR assigned to a case and would like assistance, let your supervisor know at the outset. You may also direct your request to the Attorney Administrator as the need arises.

<sup>3</sup> Recently established cases can be found on the PRC Home page, under the heading "Information for the Mailing Community," and under Library/Dockets/Active Cases.



the central and collateral issues raised by the parties; with a discerning eye toward the motives behind the arguments. Comb the pleadings for references to evidentiary material and be sure to note any material not provided that would enable you to better analyze and address the issue(s) presented.

Understand the institutional history of your case. Review similar cases on the PRC website, look documents and cases referenced in pleadings, speak to others (internally and externally) who may have worked on or be familiar with such cases (and not “off limits” due to the Ethical Wall). Find cases with comparable issues and examine the Commission’s reasoning: how it ultimately analyzed, weighed, and decided the issues. Most importantly, determine what distinguishes your case from its predecessors. Understanding a case’s history and the thought process of the Commission throughout that history will significantly aid you in strategizing your approach.

Throughout this initial step, begin thinking about who constitutes your case’s general public.

## **STEP 2: Who is Your “General Public”**

Second, define your general public. The general public will not be the same in every case. Identifying who makes up your general public is crucial to selecting the proper resources, locating evidence, and formulating your PR comments. If part of a PR team, it is important for the team convene to discuss who makes up this special group. Define the parameters of your case’s general public, for example: who is affected by the request in the petition or the alleged violation in the appeal? What categories do those affected fall into: consumers, small businesses, special interest groups, a specific demographic, or a combination thereof? Does the action or alleged violation have a disparate impact on a certain group? Who stands to benefit, and how?

Next, determine the general public’s interests. Select resources to aid you in fleshing out concerns and interests expressed and not expressed in the filings.<sup>4</sup> Identify the members of your general public whom you will contact for information and evidence: concerned citizens who have written letters or submitted filings in the case, neighborhood council members, local politicians, associations, specific businesses, and interest groups that qualify by location, revenue, or general mission. When dealing with a community or

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<sup>4</sup> Similar cases and PR Comments may also provide you with some insight.



organization, chose an individual to serve as your liaison to that group.<sup>5</sup> It is best to select someone who is able to closely follow the case and has access to relevant materials.

The Attorney Administrator is available to assist you in expanding your resource base.

### **STEP 3: Strategize Approach**

Third, strategize your case approach with your team. Meet with your PR team to discuss your individual interpretations of the case, prioritize issues, brainstorm arguments, devise argument organization, and classify tasks. As the designated PR, delegate duties according to each member's talent and ability and select your preferred strategy for executing the comments.

Next, have your meeting with the Attorney Administrator to discuss administrative issues.<sup>6</sup> The Attorney Administrator will assist you in unearthing resources, finding external experts, locating studies and polls, and identifying PRC staff from who may provide you with knowledge and guidance on issues relevant to your case. In some instances, additional meetings with the Attorney Advisor may be scheduled to address such issues in greater detail.

### **STEP 4: Available Resources**

Fourth, begin collecting and sorting the evidence.

#### **Materials**

Determine if there is any material (document, recording, referenced study, etc.) not provided, yet necessary to your comprehension of the case or examination of the issues. If so, make verbal and written request of the party with control over the material and establish a time certain by which you would like to receive it. If the material is not forthcoming, you may file a Motion for Information, i.e., a motion requesting the Commission to issue a Commission Information Request (CIR), asking the party to provide relevant and necessary data.<sup>7</sup>

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<sup>5</sup> If working with a PR team, designate one team member to interface with the public.

<sup>6</sup> Such meetings shall include the Attorney Administrator, the designated PR and one other PR team member so both legal and analytical queries can be properly addressed during the meeting.

<sup>7</sup> A Motion for Information is filed with the Commission. If the Chairman or full Commission deems your request valid, a Chairman's Information Request (CHIR) or a Commission Information Request (CIR), may be issued to spur a response. However, there is no statutory remedy or sanction for a party that fails to respond to a CHIR or CIR.



If you have any problems locating a contact or receiving material, speak to the Attorney Administrator.

## Human Sources

Begins reaching out to persons involved with and affected by your case. Contact individuals who have filed in the case, and consumers who have sent in comments that are housed in the docket room.<sup>8</sup> From the outset, it is important to put these sources at ease and establish an open report with them premised on trust. Central to this, is the immediate explanation of your role as PR, emphasizing your purpose and independence from the PRC.

If your general public can be categorized, look to potentially concerned consumer and special interest groups. Inquire if these groups are aware of the case and if they have a point of view they would like to express. To obtain more of a communal overview of how a particular community, area, or class is affected, get in touch with local politicians (mayors, aldermen, etc.), neighborhood council members, community leaders and civic organizations whose job it is to represent their public. Be sure, when dealing with a group of multiple individuals such as a community or association, you designate a willing member of the group to serve as your group liaison. Encourage each liaison to communicate with you directly.

Keeping in contact with human sources is important as they are often at the center of the case, can apprise you of changes well before the media outlets, and send you vital evidence (documents, photographs, statements, et. al.) you otherwise would not know of or be privy to.

When speaking with/interviewing live sources, try to work from a standard list of questions so that their responses can be measured against each other. However, do not be so wedded to your questions that you fail to accept the natural flow of the conversation and miss something of importance the interviewee is trying to communicate.

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<sup>8</sup> The PRC's Public Affairs & Government Relations keeps a running log of consumers who have called or written in with comments pertinent to cases before the PRC. These logs are on the internal website and the actual comments are filed in the docket room. To view public dockets, simply request that docket from the docket Manager and sign it out. To view non-public dockets, you must first receive authorization from your department supervisor or deputy, who will notify the Docket Manager that he or she may sign the non-public docket out to you. You are responsible for any docket signed out in your name until it is returned to Dockets.

## Studies/Polls/Reports

Research available databases, think tanks, and interest groups to determine if there are any relevant studies, polls, or reports that may assist you with your case. Then, speak with the expert(s) who conducted or drafted them. Inquire as to what, if any, qualifiers or limitations he or she placed on the study and why. If you need assistance identifying experts, or wish to commission one for your case, speak with the Attorney Administrator. PR analysts may use the resources available to them to construct their own scientifically accurate study or poll.

The Attorney Administrator is available to assist you in finding relevant experts, studies, polls, and reports.

## STEP 5: Crafting Comments

### Written Comments

The crafting of PR comments is a very individualized process. After your initial meeting with your PR team and the Attorney Administrator, the prioritization of issues: primary, secondary, tertiary, etc., should be apparent. Pull your evidence together, sort it accordingly, and begin drafting your comments. A few key things to remember:

- 1) Distinguish your case from its predecessors
- 2) Focus your comments on issues central to the case, and note relevant collateral issues that may arise, depending on how the central issues are handled.<sup>9</sup>
- 3) If and when they conflict, represent the interests of the general public, and what is in the best interests of the general public: state the former, and take time to qualify the latter.<sup>10</sup>

If there is a section of your comments over which you and other PR team members disagree, consider including the dissenting viewpoint in your main text or a footnote. Sometimes, it is wise to let the Commission know that you have thoroughly considered alternative arguments and reasoning.

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<sup>9</sup> This shows the Commission you know the intricacies of your case, and have left no rock unturned. You may deal with collateral issues in the main text or a footnote, whichever is more appropriate

<sup>10</sup> Sometimes, your research and advanced knowledge of the postal system will reveal that the interests of the general public are not aligned with what may be in the best of the general public. In such circumstances, it is crucial that both the public and the Commission understand the distinction.



Your work is your work. Ultimately, you decide the content of your comments. While crafting your comments, remain aware that your primary audience consists of five Presidential appointees, whose commonality is in their sworn obligation to serve the public and uphold the Postal Accountability and Enhancement Act of 2006. No one, including your supervisors and the Attorney Administrator, is to coerce you into writing anything that compromises your role as an independent PR.

## Oral Comments - The Roundtable Mock Examination

For complex cases or those slotted for oral argument before the Commission, a Roundtable will be scheduled. The Roundtable is a rigorous preparation exercise to strengthen the PRs arguments in preparation for oral delivery and cross-examination. It consists of the Attorney Administrator and/or at least one experienced PR, not serving in an advisory role to the Commission in the case, and the case's PR team. At the Roundtable, all participants discuss the issues surrounding the case and suggest improvements to the overall quality of PR comments. This may be done in a discussion or mock-trial format. The Roundtable is designed to challenge the PR's logic and prepare for adversarial arguments.<sup>11</sup>

## STEP 6: Finalize

### Filing

Sixth, file your PR comments with the Commission. If you do not already have an online filing account, you must establish one.<sup>11</sup> If you forget your user name and password, please **do not** establish another account. Contact a Docket staff member who will help you.

To file your PR comments, go to "Filing Online" on the PRC website, and select "create a filing record." Type in your docket number, your regular PRC employee title, and the party you represent (i.e., PR).<sup>12</sup> Then, attach your document. If your document is not already in PDF form, click "create PDF," for the system to convert your document. Once you have submitted your filing,

<sup>11</sup> To create a filing online account, you must go to the PRC website, [www.prc.gov](http://www.prc.gov), and establish a temporary filing online account. Download and complete a permanent application and hand-deliver it to the Docket Section. The Docket Section will establish you as either a principle or agent account holder so you will be able to file in your present case.

<sup>12</sup> If you cannot locate your docket number, if PR is not an available as an option under the "Title Bar," or there are any other issues you encounter while trying to file a document, communicate them with specificity to the Dockets Section in "Comments" section of the Filing page.

you receive see a Confirmation Page, confirming that the filing has been received by the Docket Coordinator.

**Filings received by the Docket Coordinator after 4:30:00 PM are processed the next business day.**

### **Monitor Your Docket**

It is important to regularly monitor your case docket for new and responsive filings. Be sure to check, daily, for original and supplemental filings by parties and for replies to your PR comments. Remain aware of the newest developments in your case and reply accordingly.

## **REVIEW**

Once the Commission issues an order in a case, the PRs for that case will be reviewed by the Attorney Administrator on the following criteria: understanding of the complaint; strategic approach; analysis and argument crafting; use of resources; ability to work with others and accept feedback; and timeliness. The Attorney Administrator will meet with you discuss your PR review, before submitting it to the Chairman and your supervisor, for incorporation into your performance review.<sup>13</sup>

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<sup>13</sup> A copy of the PR Review sheet can be found under appendix \_\_\_\_.



# CHECKLIST

## PUBLIC REPRESENTATIVE PROTOCOL CHECKLIST

### Step 1 – The Complaint

- Read complaint
- Go through discovery
- Issue(s) presented
- Identify parties & positions
- Meet with PR team members
  - Read similar orders & PR comments (topic search in PRC Database)

### Step 2 – Determine your “General Public”

- Identify general public
  - Resources used to identify
  - Parameters
  - External experts/studies/polls/interviews
  - Check with Public Affairs

### Step 3 – Strategize Approach

- Note due dates
- Meet with Attorney Administrator
  - Discuss
    - General public
    - Resources
    - Outreach
  - Institutional history
    - Identify knowledgeable staff
    - What distinguishes your case
    - Your view consistent/inconsistent (if so, basis)



## Step 4 – Resources

- Identify specific resources
- Reach out to contacts
  - Consumers
    - In dockets
    - Consumer groups
  - federal, state, local, government leaders & agencies
  - Community leaders
  - Civic organizations
  - Neighborhood councils
  - Associations
  - Commercial interest groups
  - Groups that may be disparately effected (disabled/elderly/racial/rural/small business)
- Draft Request for materials from USPS (e.g. administrative record)
- Contact AA if need additional

## Step 5 – Craft Argument

- Voice
  - Issues of concern
    - Primary
    - Secondary
    - Tertiary
  - Align/Diverge from prior argument(s)
  - Graphs, studies
- Diverging views within PR team
  - Inclusion main
  - Footnote
- Write Comments
- Send draft to AA prior to meeting

## Step 6 – Finalize

- Meet with AA
  - Present draft
  - Get feedback
  - Go over issues of concern



- (If Applicable) Mock examination (for complex cases or adjudicatory) –
  - Meet with AA and Senior PR
  - Respond to questions aimed at pointing out strengths & weaknesses in argument
- File with Docket Coordinator
- Monitor case daily – reply accordingly
  - Be aware of developments
  - Note filings in similar cases that may influence yours





# CASE REVIEW OF PUBLIC REPRESENTATIVE

Date: \_\_\_\_\_

Reviewed PR: \_\_\_\_\_

Case: \_\_\_\_\_

PR Team: \_\_\_\_\_

Reviewer: \_\_\_\_\_

## Understanding of the Complaint

- Read complaint
- Understood Issue(s) Presented
- Adequately delegated assignments, if applicable
- Properly Identify parties & positions, if applicable
- Met with PR team members
  - Discussed case
  - Determined “General Public”
    - Basis
    - Resources used
    - External experts/studies

## Strategic Approach

- Note due dates (possible)
- Meeting with Attorney Administrator
  - Open to ideas
  - Rationale for thought process
- Properly defined case’s “General Public”
- Ideas for resources



- Ideas for outreach
- Familiar with institutional history
  - Identified knowledgeable staff
  - Knows how to distinguish case
  - Consistent with past – basis
  - Inconsistent with past – basis for diverge

## Use of Sources

- Identified specific resources
- Reached out to contacts
  - Consumers
    - In dockets
    - Consumer groups
  - federal, state, local, government leaders & agencies
  - Community leaders
  - Civic organizations
  - Neighborhood councils
  - Associations
  - Commercial interest groups
  - Groups that may be disparately affected (disabled/elderly/racial/rural/small business)
- Communicated with AA when needed more resources

## Argument Crafting

- Evidence
- Tone
- Institutional history
  - Align/diverge from prior argument
  - Knows how to distinguish case
- Visual aids
  - Graphs, studies
- PR team dynamics
  - Diverging views within PR team
  - Treatment
    - Inclusion main body
    - Footnote

## Analysis & Crafting of Argument

- Written work
  - Logical
  - Grammar
  - Presentation
    - Legal analysis
    - Economic analysis
    - Public emotion & empathy

## Timeliness

- Scheduled meeting with AA
- Presented of rough draft
- Responded to feedback
- Incorporated edits
- Adhered to other statutory deadlines
- Filed timely motion to extend

## Ability to Work with Others & Accept Feedback

- Responded favorably to critiques & advice
- Poor reaction to feedback
  - Took personally
  - Unable to shift focus or path

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