

United States Postal Service

§ 9.2

against the plaintiff only if the court finds that he initiated the suit primarily for frivolous or dilatory purposes.

§ 7.8 Open meetings, Freedom of Information, and Privacy of Information.

The provisions of 5 U.S.C. 552b(c) (1)–(10), enacted by Public Law 94–409, the Government in the Sunshine Act, govern in the case of any request under the Freedom of Information Act, 5 U.S.C. 552, to copy or to inspect the transcripts or electronic recordings described in § 7.6 of these bylaws. Nothing in 5 U.S.C. 552b authorizes the Board to withhold from any individual any record, including the transcripts or electronic recordings described in § 7.6 of these bylaws, to which the individual may otherwise have access under 5 U.S.C. 552a, enacted by the Privacy Act of 1974, Public Law 93–579.

PART 8 [RESERVED]

PART 9—POLICY ON COMMUNICATIONS WITH GOVERNORS OF THE POSTAL SERVICE DURING PENDENCY OF RATE AND CLASSIFICATION PROCEEDINGS [APPENDIX]

Sec.

9.1 General policy.

9.2 Communications with the Governors during the restricted period.

9.3 Public availability of communications.

AUTHORITY: 39 U.S.C. 202, 203, 205, 401 (2), (10), 3621, 3625.

SOURCE: 49 FR 2888, Jan. 24, 1984, unless otherwise noted.

§ 9.1 General policy.

(a) To represent the public interest generally and to insure that the Postal Service meets the needs of the mailing public, the Governors must be free to hold uninhibited discussions on broad postal issues with mailers and the general public. Nevertheless, the Governors believe that certain restrictions on communications with the public are appropriate when the Governors act in their capacity as final administrative decisionmakers on recommended decisions of the Postal Rate Commission concerning postal rates and classifica-

tions. These restrictions should reflect a balance between, on the one hand, the need to safeguard the integrity of the administrative process for setting rates and classifications and insure meaningful judicial review of decisions of the Governors on these subjects, and on the other hand, the need for open access to the Board to permit the members to meet their statutory responsibilities. To strike an appropriate balance, the Board has adopted the following general guidelines: From the time the Postal Rate Commission issues a recommended decision until the Governors have acted on the recommended decision, any communication from an interested person to the Governors that is relevant to the merits of the proceeding should be on the public record and available for public inspection.

(b) In reviewing recommended decisions of the Commission, the Governors act on the record before them. They are under no obligation to take communications from the public into account in reaching their decision.

§ 9.2 Communications with the Governors during the restricted period.

Once the Commission issues a recommended decision, and until the Governors have acted on that recommended decision by approving, rejecting, allowing under protest or modifying it, the following guidelines apply to communications with the Governors that are relevant to the merits of the proceeding.

(a) *Oral communications.* During the restricted period, it is the policy of the Governors not to receive oral communications relevant to the merits of the proceeding from any interested person. In the event such a conversation does inadvertently take place, the Governor involved shall prepare a memorandum of the conversation and submit it to the Secretary of the Board for inclusion in the public record, where it shall be available for public inspection.

(b) *Written communications.* (1) During the restricted period any communication relevant to the merits of the proceeding that an interested person may wish to submit to the Governors must be in writing and should not exceed fifteen pages in length. Such comments

§9.3

should be based on the record and addressed to the Governors through the Secretary of the Board. If the commenter has been a party to the Commission proceeding, copies should be sent to all other parties to that proceeding. The Secretary shall make all such communications available for public inspection.

(2) Because the Governors are often required to act promptly on a recommended decision from the Commission, interested persons seeking to communicate with the Governors should submit their comments no later than ten (10) days after the Commission has issued its recommended decision. This period may be extended at the discretion of the Governors.

(c) *Scope of the guidelines.* These guidelines apply to communications from interested persons to the Governors, their staff, personal assistants (if any), the Secretary of the Board and any official of the Office of the Board. Since the Act assigns final decision-making authority on Commission recommended decisions to the Governors and not the Board, these guidelines do not apply to the Postmaster General or the Deputy Postmaster General, nor do they apply to other officers or officials of the Postal Service. Moreover, in order to carry out their statutory responsibility to direct “the exercise of the power of the Postal Service,” 39 U.S.C. 202(a), the Governors must be free to discuss all matters of postal policy with officers and employees of the Postal Service. Accordingly, no restrictions apply to communications between the Governors and Postal Service employees.

§9.3 Public availability of communications.

All communications placed on the public record pursuant to these guidelines shall be available for public inspection at the Office of the Board of Governors, United States Postal Service, Room 10-300, 475 L’Enfant Plaza West, SW., Washington, DC 20260-1000, between 8:30 a.m. and 4:30 p.m., Monday through Friday except Federal holidays.

39 CFR Ch. I (7-1-06 Edition)

PART 10—RULES OF CONDUCT FOR POSTAL SERVICE GOVERNORS [APPENDIX]

Sec.

- 10.1 Applicability.
- 10.2 Advisory service.
- 10.3 Post-employment activities.
- 10.4 Financial disclosure reports.

AUTHORITY: 39 U.S.C. 401.

SOURCE: 52 FR 29697, Aug. 11, 1987, unless otherwise noted.

§ 10.1 Applicability.

This part contains rules of conduct for the members of the Board of Governors of the United States Postal Service. As special employees within the meaning of 18 U.S.C. 202(a), the members of the Board are also subject to the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR part 2635, and Postal Service regulations supplemental thereto, 5 CFR part 7001.

[61 FR 36499, July 11, 1996]

§ 10.2 Advisory service.

(a) The General Counsel is the Ethical Conduct Officer of the Postal Service and the Designated Agency Ethics Official for purposes of the Ethics in Government Act, as amended, and the implementing regulations of the Office of Government Ethics, including 5 CFR part 2638.

(b) A Governor may obtain advice and guidance on questions of conflicts of interest, and may request any ruling provided for by either the Standards of Ethical Conduct for Employees of the Executive Branch, or the Postal Service regulations supplemental thereto, from the General Counsel or a designated assistant.

(c) If the General Counsel determines that a Governor is engaged in activity which involves a violation of federal statute or regulation, including the ethical conduct regulations contained in 5 CFR parts 2635 and 7001, or conduct which creates the appearance of such a violation, he or she shall bring this to the attention of the Governor or shall notify the Chairman of the Board of Governors, or the Vice Chairman, as appropriate.

[61 FR 36499, July 11, 1996]