

Preliminary Matters Checklist (Stage One)

This document provides a checklist of decisions that the full Commission needs to make to begin the preliminary matters stage once probable cause has been found and ratified.

This items in this checklist must be completed before the preliminary matters process can begin.

<p><input type="checkbox"/> Item 1 Decide who presides over Preliminary Matters (Full Commission)</p> <p>See page 10 of the Guidebook</p>	<p>Following a finding of Probable Cause (“PC”) and publication of the PC Determination, the Executive Director will place on the agenda an action item for Commissioners to decide who will preside over Preliminary Matters.</p> <p>The Commission must decide whether to:</p> <ul style="list-style-type: none"> • Assign a Commissioner to preside over preliminary matters. (Recommended) • Assign an outside individual to preside over preliminary matters. • Full Commission will preside over preliminary matters.
<p><input type="checkbox"/> Item 2 Set a deadline for parties to submit any motions and request for issuance of subpoenas. (Full Commission)</p> <p>See pages 17–20 of the Guidebook</p>	<p>The Commission should set a deadline for the submission by the parties of motions to resolve preliminary matters and requests for the issuance of subpoenas. Options include:</p> <p><input type="checkbox"/> Set new timeline that applies to both motions to resolve and requests for subpoenas (Recommended):</p> <ul style="list-style-type: none"> • Motion/Request: due within 30 calendar days of delegation to Assigned Commissioner. • Response: due 15 calendar days after Request is submitted • Reply: due 10 calendar days after Request is submitted <p>Or</p> <p><input type="checkbox"/> Follow timelines set under the Enforcement Regulations</p> <p>For motions to resolve preliminary matters:</p> <ul style="list-style-type: none"> • Motion: due 15 calendar days prior to the hearing on the merits • Response: due 10 calendar days prior to the hearing on the merits • Reply: due 7 calendar days prior to the hearing on the merits <p>For requests for subpoenas:</p> <ul style="list-style-type: none"> • Request: due 20 calendar days prior to the hearing on the merits.

<p><input type="checkbox"/> Item 3 Set the process for parties to submit motions. (Full Commission)</p> <p>See pages 19–20 of the Guidebook</p>	<p>The Commission must establish a process for submission of motions. Options include:</p> <ul style="list-style-type: none"> • By email to the Assigned Commissioner and all parties (Recommended) • By mail to the Assigned Commissioner and all parties
<p><input type="checkbox"/> Item 4 Set the process for parties to request review of any determination on Preliminary Matters (Full Commission)</p> <p>See page 22 of the Guidebook</p>	<p>If the Commission appoints an individual to preside over preliminary matters, then it must also establish the process for requesting a review and for conducting such review. Options include:</p> <ul style="list-style-type: none"> • Adopt a review process similar to the Probable Cause ratification review per Enforcement Regulations section 7(D)(6). • Establish a new process that would permit a fair and efficient review of the determination on preliminary matters • Conduct any review when the full Commission takes up the case at the Hearing on the Merits (but prior to the commencement of the Hearing on the Merits itself).