

Merom Brachman, *Chairman*
Mark A. Vander Laan, *Vice Chairman*
Bruce E. Bailey
Megan C. Kelley
Julie A. Rutter
Elizabeth E. Tracy



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Paul M. Nick
Executive Director

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OHIO ETHICS COMMISSION
MINUTES OF MEETING
JANUARY 19, 2023

MEMBERS OF THE COMMISSION

Merom Brachman	Megan C. Kelley	Bruce Bailey
Elizabeth E. Tracy	Julie A. Rutter	Mark A. Vander Laan

CALL TO ORDER

The meeting of the Ohio Ethics Commission was called to order at 11:09 a.m. in Room 2 on Level 2 of the William Green Building, at 30 West Spring Street, in Columbus, Ohio.

ROLL CALL

The following Commission Members were present: Mr. Bailey, Mr. Brachman, Ms. Rutter, Ms. Tracy, and Mr. Vander Laan. Ms. Kelley was excused from attending the meeting due to a family illness. Staff present: Executive Director Paul M. Nick; IT & Financial Disclosure Administrator Brian Ring; Deputy Director/General Counsel Jed Hood; HR & Fiscal Manager Alan Carlson; Education and Communications Administrator Susan Willeke; Advisory Attorneys Chris Woeste and Kristin Cly; Investigative Attorneys Molly Bruns and Nicole Candelora-Norman; and Investigative Assistant Shana Rolfe. Legal Extern Takell (TK) Lawson was also present. Assistant Attorney General Beth Fligner joined the meeting after the Executive Session.

EXECUTIVE SESSION

MOTION by Mr. Vander Laan, seconded by Ms. Tracy, to go into Executive Session to discuss matters that are statutorily confidential, including pending litigation, updates on investigations and complaints, and the confidential financial disclosure report. Mr. Bailey, Ms. Rutter, Ms. Tracy, Mr. Vander Laan and Mr. Brachman voted “yes.” The motion was approved, and the Commission, pursuant to Section 102.06 of the Revised Code, went into Executive Session at 11:10 a.m.

Ms. Rutter left the meeting at 11:12 a.m. due to a potential conflict of interest and returned at 11:17 a.m.

The Commission returned to open session at 11:28 a.m.

In response to a previous inquiry posed by Mr. Bailey, Mr. Hood reported that voting by roll call for routine Commission business is not mandated and the method for voting is at the Commission’s

discretion and any member can ask for a roll call vote on a given matter. Mr. Vander Laan noted that motions and a formal vote are still required to go into Executive Session.

ELECTION OF OFFICERS

Mr. Brachman invited discussion and nominations for a Chairman and Vice Chair.

MOTION by Mr. Bailey, seconded by Ms. Rutter, to re-elect Mr. Brachman as Chairman and to re-elect Mr. Vander Laan as Vice Chairman. Mr. Bailey, Ms. Rutter, Ms. Tracy, Mr. Vander Laan, and Mr. Brachman voted “yes.” The motion was approved.

PREVIOUS MEETING MINUTES

The Commission reviewed the draft minutes from the November 18, 2022, Commission meeting.

MOTION by Mr. Vander Laan, seconded by Ms. Tracy, that the Commission approve the minutes of the November 18, Commission meeting. Mr. Bailey, Ms. Rutter, Ms. Tracy, Mr. Vander Laan, and Mr. Brachman voted “yes.” The motion was approved.

MOTION by Ms. Rutter, seconded by Mr. Bailey, that the Advisory Committee approve the minutes of the November 18, 2022, Advisory Committee meeting. Mr. Bailey and Ms. Rutter voted “yes.” The motion was approved.

ADVISORY OPINIONS AND STATISTICS

Mr. Woeste introduced the advisory section year-end statistics and noted substantial increases in opinion requests and emails staff received in 2022. Mr. Woeste pointed out three staff opinions to the Commission, including one regarding the OneOhio Foundation Board. Mr. Brachman and Mr. Bailey asked about different staff opinions, including an opinion regarding a monetary award from Rush Limbaugh’s charitable organization, and Ms. Cly answered their questions.

Mr. Nick reported that Ohio State University withdrew its request for an advisory opinion regarding recent changes to name, image and likeness rules and statutes governing student athletes. He noted that staff will continue to monitor the issue and update the Advisory Committee accordingly.

Mr. Woeste introduced the draft of the formal opinion in the packet. Mr. Brachman complimented Mr. Woeste and the Advisory Committee for the detailed work that went into the draft. He raised concerns the opinion may be difficult to understand for some of the people who will be applying it. Mr. Brachman pointed out this opinion will have a wide breadth in application. Mr. Bailey agreed with Mr. Brachman’s concerns and asked if the opinion could be simplified. Ms. Rutter suggested removing a section of the draft for clarity purposes. Mr. Vander Laan suggested adding prior advisory precedent in the syllabus and pointed out that the opinion’s precedent will be diminished if the topic is oversimplified. Mr. Woeste suggested adding examples in the draft and Mr. Brachman agreed if the examples were unambiguous. Mr. Nick stated staff will work on refining the draft and include it for review at the next Commission meeting.

EXECUTIVE DIRECTOR'S REPORT

Mr. Nick updated the Commission on goals that had been set for 2022. He noted that each of the administrative goals were accomplished by establishing leadership roles in the Investigation and Advisory units; hiring a second Investigative Attorney; identifying and procuring a document and case management system for the office; implementing permanent hybrid work protocols and acquiring the necessary equipment to keep remote connections secure; and succession planning. Concerning organizational goals, he noted that Senate Bill 288 included the Commission's recommendation to enhance penalties for vendors violating the Ethics Law and that the other goals are long term in scope and ongoing. Mr. Nick stated he will discuss future goals for 2023 with the Chairman and report back to the Commission once they are finalized.

Mr. Nick then reported on S.B. 288 that was signed by the Governor on January 3, 2023. While this bill was pending back in the House, the Speaker's Office told Mr. Nick and the Chairman that they would include in this bill the Commission's proposed amendment to enhance the penalties for vendors convicted of violating the Ethics Law. Now, in addition to other penalties for violating a first degree misdemeanor, the Court may: debar the vendor from participating in any public contract with any public agency across the state for up to 2 years; require the vendor to pay the Commission's costs of investigation; and order the vendor to pay an additional fine equal to the amount of the thing of value given in violation of this section. Mr. Nick noted that some of the language proposed by the Commission was changed and weakened by the House prior to it being enacted.

Mr. Nick then updated the Commission on staff changes, noting that Special Investigator Robert Murchland recently retired and that the Commission has brought on a legal extern from Ohio State University Moritz College of Law, Takell Lawson, to assist in the advisory section.

INVESTIGATIVE ANNUAL STATISTICS

Mr. Hood reviewed the information in the packet, noting that telephone call volume has increased since our pandemic low and he expects that number to keep increasing with time. He also reported that allegations emerge from numerous sources, including other public agencies and information found in media clips from around the state. He pointed out from the report that investigations of trustees were a large part of the investigators' workloads in 2022 while Franklin and Cuyahoga Counties had the highest numbers of investigations among the 88 Ohio counties. Finally, he pointed out that those persons who fail to file required disclosure statements are primarily unsuccessful election candidates and can be challenging to pursue compliance with statutory filing requirements.

LEGISLATION UPDATE

Mr. Hood noted that the primary legislative outcome of the 134th General Assembly as it pertains to the Ethics Commission was the passage of SB 288. The 135th General Assembly has begun, and Mr. Hood will continue to monitor legislation that potentially impacts the Commission's work.

PUBLIC EDUCATION AND INFORMATION

Ms. Willeke reviewed the information in the packet, including the 2022 annual statistics and surmised that state agencies are requiring fewer in-person trainings because they connect the Commission's annual e-course to their own Learning Management Systems and require staff to complete their annual training

electronically. She noted that she and Mr. Woeste will continue to work on updating all fact sheets and will keep the Commission apprised.

She reported that a goal for 2023 is to record and disseminate customized webinars that will speak to specific groups such as: public colleges, public school districts, public libraries, law enforcement agencies, county boards of elections, etc. Mr. Bailey affirmed this approach and opined that audiences will find it quite helpful.

FINANCIAL DISCLOSURE STATISTICS REPORT/COMPLAINT REPORT

Mr. Ring reported that the number of statements filed electronically continues to increase with each passing year. The 2022 FDS form was posted on the Commission website on January 3 with 468 people filing that very day. To date, more than 1,400 filers have already completed their requirement for calendar year 2022.

Ms. Bruns reported that one case that had been in warrant status in undergoing resolution that includes a plea negotiation.

DATE OF FUTURE MEETINGS

The Commission set the next meeting for Thursday, March 9, 2022, at 12 p.m.
The Investigative Committee will meet the same day at 11:00 a.m.

MOTIONS

Complaints to be Referred for Prosecution:

MOTION by Ms. Tracy, seconded by Mr. Bailey, to adopt the recommendations of the hearing examiner and refer to the Columbus City Attorney's Office the financial disclosure complaints filed against the individuals listed in the packet report, for good cause shown. The motion passed unanimously.

Collections:

MOTION by Mr. Bailey, seconded by Mr. Vander Laan, to refer to the Ohio Attorney General's Office for collections the individuals listed in the packet report. The motion passed unanimously.

Late Fee Waivers:

MOTION by Mr. Bailey, seconded by Ms. Tracy, to waive the late fees for the individuals listed in the packet report. The motion passed unanimously.

The meeting was adjourned at 12:50 p.m.

These minutes are respectfully submitted by:

/s/ Paul M. Nick

Paul M. Nick

Executive Director