

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
MARCH 9, 2023

MEMBERS OF THE COMMISSION

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|--------------------|-----------------|---------------------|
| 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 12:06 p.m. in Room G on Level 3 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. Kelley, Ms. Tracy, and Mr. Vander Laan. Ms. Rutter was excused and absent during roll call but joined the meeting at 12:15 p.m. Staff present: Executive Director Paul M. Nick; IT & FD Administrator Brian Ring; Deputy Director/General Counsel Jed Hood; HR & Fiscal Manager Alan Carlson; Education and Communications Administrator Susan Willeke; Lead Advisory Attorney Christopher Woeste; Advisory Attorney Kristin Cly; Investigative Attorney Molly Bruns; and Special Investigator Ben Unkefer. Assistant Attorney General Beth Fligner was also present. Extern TK Lawson joined the meeting at 12:26 p.m. after the Executive Session had concluded.

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. Kelley, 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 12:07 p.m.

Ms. Kelley left the meeting at 12:07 p.m. and returned at 12:15 p.m.

The Commission returned to open session at 12:26 p.m.

PREVIOUS MEETING MINUTES

The Commission reviewed the draft minutes from the January 19, 2023 Commission meeting. The Chairman noted that in the discussion, he does not believe he used the word “approachable” in describing the

draft advisory opinion. He requested that the words “approachable and understandable” be replaced with “difficult to understand for some of the people who will be applying it.”

MOTION by Ms. Rutter, seconded by Ms. Tracy, that the Commission approve the minutes of the January 19, 2023 Commission meeting. Mr. Bailey, Ms. Kelley, Ms. Rutter, Mr. Vander Laan, and Mr. Brachman voted “yes.” Ms. Kelley abstained as she was not present at the January Commission meeting. The motion was approved.

The Advisory Committee reviewed the draft minutes from the January 19, 2023 Advisory Committee meeting.

MOTION by Ms. Rutter, seconded by Mr. Bailey, that the Committee approve the minutes of the January 19, 2023 Advisory Committee meeting. Mr. Bailey and Ms. Rutter voted “yes.” Ms. Kelley abstained as she was not present at the January Advisory Committee meeting. The motion was approved.

ADVISORY OPINIONS AND STATISTICS

Mr. Nick introduced the statistics from the advisory and investigative sections, noting it was too early to identify any trends. Ms. Cly corrected an error in the advisory activity report. Mr. Brachman mentioned an opinion issued regarding a class action lawsuit and Mr. Woeste noted that Commission staff put a lot of effort into finalizing that opinion.

Mr. Nick introduced the updated draft of the formal opinion. Mr. Woeste noted that the updates included removing legalese and adding examples in an effort to simplify the opinion. Mr. Bailey suggested removing the language regarding naming rights and adding some context to section five of the syllabus. Mr. Brachman recommended a formatting change in the conclusion section. Ms. Rutter commended Mr. Woeste on the quality of the opinion and suggested two edits. Mr. Nick complimented Mr. Woeste and thanked the Advisory Committee for their continued dedication and work on drafting this opinion.

MOTION by Mr. Vander Laan, seconded by Ms. Kelley, to adopt Formal Advisory Opinion 2023 – 01. The motion passed unanimously.

EXECUTIVE DIRECTOR’S REPORT

Mr. Nick updated the Commission on the budget bill pending before the Ohio House of Representatives. Mr. Nick noted that the majority of the Commission’s services are provided to county and local governments in Ohio. He reported that his testimony was well-received by the House Finance Subcommittee on Public Safety and that he fielded two questions. Mr. Nick reviewed the next steps in the budget process and stated that he probably will be called to testify before the Senate Budget Committee sometime in April.

Mr. Brachman inquired about the fees described in the Red Book enclosed in the Commission packet. Mr. Nick confirmed that licensing and late fees are set by statute and added that the legislature last changed the rates in 2012. Mr. Bailey opined that incremental changes to the fees, rather than a disproportionate increase in fees every decade or so, might be a better option. Ms. Kelley suggested that the Ethics Commission should have the discretion to set fees rather than the legislature. She pointed out that there are currently two legislative “vehicles” – the budget bill and the Ethics Reform bill – that present an opportunity to change the process to set fees. Mr. Nick responded that he would pursue the discussion and keep the Commission informed.

Mr. Nick then introduced the newest Special Investigator, Benjamin Unkefer, and outlined his career experience and background. The Commissioners welcomed Mr. Unkefer.

LEGISLATION UPDATE

Mr. Hood updated the Commission on H.B. 16, the Ethics Reform Bill. He outlined some of the most significant changes to the statute, many of which relate to filing financial disclosure statements, including: eliminating the reporting of minor family member names; an exception to reporting debts and credits that are paid within 60 days; an amended definition of reportable “gifts” and exclusions of certain items as “gifts;” and creating a process for amending an FDS form to correct errors. The bill would also require the Commission to post these forms on its website by 2025.

Mr. Brachman cautioned against the difference in allowing a filer to correct an error in a disclosure statement versus attempting to change an answer that had been dishonest. Mr. Nick pointed out that the current version of the bill includes many of the Commission’s recommendations made in response to prior reform bills, such as giving the Commission the discretion to decline requests for FDS amendments after 60 days or anytime that the filer is the subject of a complaint or allegation.

Mr. Nick noted that other provisions in the bill would authorize the Commission to directly request investigative assistance from the Bureau of Criminal Investigation; create a prohibition against statewide elected officials serving on corporate boards; and require enhanced disclosures by nominees for the Public Utilities Commission.

PUBLIC EDUCATION AND INFORMATION

Ms. Willeke reviewed the information in the packet. She invited any attorneys on the Commission to an electronic CLE on June 8, 2023.

FINANCIAL DISCLOSURE STATISTICS REPORT/COMPLAINT REPORT

Mr. Ring reviewed the information in the packet and outlined upcoming filing deadlines for candidates running for local public offices.

DATE OF FUTURE MEETINGS

The Commission set the next meeting for Friday, April 14, 2023, at noon with an investigative committee meeting preceding at 11 am.

MOTIONS

Complaint Dismissals:

MOTION by Ms. Kelley, seconded by Mr. Vander Laan , to dismiss the financial disclosure complaints against the individuals listed in the packet report, for good cause shown. The motion passed unanimously.

Complaint Approvals:

MOTION by Ms. Tracy, seconded by Ms. Kelley, to approve filing the financial disclosure complaints against the individuals listed in the packet report for knowingly failing to timely file their required financial disclosure statements. The motion passed unanimously.

Late Fee Waivers:

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

The meeting was adjourned at 1:18 p.m.

These minutes are respectfully submitted by:

/s/ Paul M. Nick

Paul M. Nick
Executive Director