

FEDERAL ELECTION COMMISSION		
MANUAL OF DIRECTIVES	COMMISSION DIRECTIVE:	
	REVOKES:	NO. 52
	Revision dated December 12, 2006	EFFECTIVE DATE: September 10, 2008
SUBJECT: Circulation Vote Procedure		

The purpose of this directive is to provide written guidelines on circulation votes at the Federal Election Commission. It is intended to supplement other Commission documents and clarify procedures when matters circulated for a vote are subsequently addressed at a Commission meeting.¹

I. CIRCULATION VOTE POLICIES

A. General. Matters requiring formal Commission action that have not been placed on a meeting agenda will be circulated for a vote. Vote circulations requiring certification shall be made by the Commission Secretary. In certain instances, the Staff Director, the General Counsel or the Chief Financial Officer may determine that direct circulation by his or her office is warranted for administrative matters not requiring certification. All documents circulated to the Commission for a vote shall include a ballot.

B. Objection and Withdrawal. If a Commissioner objects to a document by the voting deadline, the matter will be added to the agenda for a meeting² unless the Commissioner formally withdraws the objection before the meeting by notifying the Commission Secretary in writing or by e-mail communication. An objection that is "for the record" does not cause a matter to be added to the agenda for a meeting. The General Counsel shall be consulted in appropriate instances on matters that have Sunshine Act implications.

Before the Commission discusses at a meeting a document to which there is an objection, the originating office may withdraw the document. A written or e-mailed notice of withdrawal shall be given to the Commission Secretary, who will then notify the Commission. Withdrawal of the document by the originating office nullifies votes previously submitted.

C. Impact of Revisions. Suggested revisions agreed to by the originating office or division should be addressed by withdrawal and recirculation or by objection and discussion at a Commission meeting. If a Commissioner suggests minor changes without substantive impact, the originating office may advise the other Commissioners orally and seek approval of the changes.

¹ See also Directive No. 10, Rules of Procedure of the Federal Election Commission.

² See also Directive No. 17, Agenda Deadline Procedures and Sunshine Act Regulations.

D. Timing of Votes; Changing of Votes. A Commissioner may amend, withdraw, or cast a vote at any point up to the official certification (which normally takes place immediately after the voting deadline for any matter that has received the requisite four votes and has not received an objection). Any vote so amended, withdrawn, or cast will have the same effect as a vote cast by the voting deadline (e.g., an objection to a matter not previously objected to anytime prior to the official certification would place the matter on a meeting agenda³ or, conversely, the withdrawal of a previously cast objection would negate the need for a meeting discussion if the withdrawal results in a unanimous tally).

For any circulated matter that is discussed at a Commission meeting, any Commissioner may cast or change his or her vote at the meeting. Prior votes of individual Commissioners will stand unless changed at the meeting. If an intervening motion is adopted, prior votes are superseded.

E. Certification of Votes. Certifications of tally votes and no-objection items will be prepared by the Commission Secretary as soon as possible after the vote deadline has passed. The original certification will be kept in the Commission Secretary's office and a copy with the official seal will be delivered to the Staff Director, the General Counsel and the Chief Financial Officer.

F. Suspension of Voting Deadlines. Voting deadlines may be suspended by Commission approval of such a recommendation circulated on a 24-hour no-objection basis with the following exceptions: Title 26 certification matters, publication of Non-filers, and setting of filing dates for special elections. The normal voting deadlines for these exceptions shall prevail.

II. CIRCULATION VOTE PROCEDURES

A. Tally Votes. Sensitive matters shall be circulated on green paper and non-sensitive matters on white paper. Matters for tally votes shall generally be circulated daily and shall have a voting deadline of 4:00 P.M. the second Wednesday following the day of circulation, unless the matter is circulated on a Wednesday, in which case the voting deadline will be the Wednesday following the date of circulation. Public funding certification matters will have a voting deadline of 4:00 P.M. one full business day ("24-hour deadline") from the day of circulation.

An office or division may request for cause a compression or an extension of the timeframe for matters circulated for tally vote (such as certain expedited advisory opinions and special election notices). If the Staff Director, the General Counsel or the Chief Financial Officer approves the request, the matter shall be circulated with the appropriate deadline indicated on the ballot sheet. Offices should be diligent in submitting matters that conform to established deadlines and only request modifications for exceptional circumstances.

The Chairman, after consultation with the other Commissioners, may extend the voting deadline for a particular matter circulated for tally vote if it appears that a majority of the Commissioners will not have an adequate opportunity to review the material.

³ Subject to deadlines established in Directive No. 17.

B. No-Objection Matters. Sensitive no-objection matters shall be circulated on yellow paper and non-sensitive matters on white paper. No-objection matters shall generally have a 24-hour deadline. An office may request for cause a compression or an extension of the timeframe. If the Staff Director, the General Counsel or the Chief Financial Officer approves the request, the matter shall be circulated with the appropriate deadline indicated on the ballot sheet.

The Staff Director, or the Staff Director and the Chief Financial Officer,⁴ shall circulate recommendations to the Commission on a 24-hour no-objection basis for competitive selections (including initial appointments, transfers, and temporary and permanent promotions) for all positions at the Senior Level (SL), as well as certain pay matters for SL employees.⁵

Additionally, items that have no substantive recommendations of first impression for consideration by the Commission or documents to which the Commission has given prior acceptance subject to certain modifications may be circulated on a 24-hour no-objection basis. In the Administrative Fines Program, reason to believe recommendations and final determination recommendations where the respondents do not challenge the reason to believe finding may also be circulated on a 24-hour no-objection basis.

Matters circulated on a 24-hour no-objection basis shall be deemed approved unless an objection is received in the Commission Secretary's Office by the voting deadline. An objection will result in the matter being placed on the agenda of an Open Meeting or Executive Session, whichever is appropriate, according to the deadlines provided in Directive 17. A vote must be taken during the meeting, which supersedes all previous no-objection ballots cast.

C. Non-filer Circulation. Reports Analysis Division (RAD) recommendations regarding publication of non-filer information will be circulated on goldenrod paper immediately upon receipt in the Commission Secretary's Office. Publication will occur immediately after the vote deadline or as soon as there are four affirmative votes.

D. Inspector General's Semiannual Report. Section 5 of the Inspector General Act of 1978 (as amended) requires Inspectors General to report to Congress on a semiannual basis for the 6-month periods ending March 31 and September 30. Section 5(b) specifies that the Head of Agency shall be provided the semiannual reports by April 30 and October 31 for "any comment such head determines appropriate" and other information as appropriate. The reports are to be transmitted by the Head of Agency to the Congress within 30 days.

To preserve the independent expression of the Inspector General while assuring the opportunity for any Commissioner to comment, the following circulation procedures are established:

The Inspector General shall circulate his or her final report to the Commission, the Staff Director, the General Counsel and the Chief Financial Officer.

⁴ Recommendations for personnel actions that **do not** have budget implications are placed into circulation by the Staff Director; recommendations for personnel actions that **do** have budget implications are placed into circulation jointly by the Staff Director **and** the Chief Financial Officer. See Directive No. 17.

⁵ See Personnel Instruction 319.1, Senior Level Pay.

The Staff Director, in coordination with the Chief Financial Officer, will draft the Head of Agency report containing substantive comment on the Inspector General's Report. This report will be prepared for the Chairman's signature and shall be circulated for a tally vote.

In order to include the Head of Agency report in the published Inspector General's semiannual report, the Staff Director shall provide the Inspector General the approved Head of Agency report at least two business days prior to the transmittal of the report to Congress. The Inspector General's Office will then provide the published semiannual report to the Staff Director for his or her transmittal.

III. DELIVERY AND PHOTOCOPYING OF DOCUMENTS

A. Delivery of Circulation Materials. Matters circulated for tally vote will be delivered to each Commissioner's office and other recipients by the Commission Secretary's Office at 11:00 A.M. daily. Other matters will be delivered to each Commissioner's office and other recipients by the Commission Secretary's Office at 11:00 A.M. and 4:00 P.M., Monday through Thursday. On Friday, there will be a circulation of documents at 12:00 P.M. Expedited or emergency circulations may be made when warranted by special circumstances.

To assure that matters circulated for tally vote are included in the 11:00 A.M. daily circulation, documents are due at the Secretary's Office by 3:00 P.M. the previous working day. For other matters, to assure inclusion in the 11:00 A.M. circulation, documents are due at the Secretary's Office by 5:00 P.M. the previous working day. To assure inclusion in the 4:00 P.M. circulation, documents are due at the Secretary's office by 1:00 P.M. the same day. To assure inclusion in the Friday circulation, documents are due in the Secretary's Office by 10:00 a.m. that day. Documents received after these times will only be included in a circulation at the Commission Secretary's discretion subject to workload constraints.

B. Photocopying. The Administrative Division shall give priority attention to the photocopying of circulation vote materials and shall immediately notify the Commission Secretary of any difficulty in accomplishing requested photocopying services in a timely manner. The Commission Secretary's Office will communicate as soon as practicable to the Administrative Division any known extraordinary circumstances that may affect the production schedule.

IV. DOCUMENT SIGNING AUTHORITY ON VOTING BALLOTS⁶

Votes on circulations may only be made via a signed ballot delivered to the Commission Secretary's Office. A Commissioner may not delegate to any person his or her vote or decision-making authority. However, a Commissioner may delegate to a member of his or her staff the authority to affix the Commissioner's name to a circulation vote provided the Commissioner has given instructions to the staff member regarding the matter being acted on and the staff member is acting in accordance with those instructions. In this way, the Commissioner is actually casting the vote and the staff member is signing in a purely ministerial capacity. In each instance in which a Commissioner's staff member has acted as agent in casting the Commissioner's vote, the

⁶ See Commission Memorandum No. 1247, from General Counsel William Oldaker entitled "Delegation of Document Signing Authority," discussed at the April 7, 1977 Commission Meeting.

Secretary shall maintain with the ballot any written authorization, instructions, or after-the-fact ratification provided by the Commissioner.

No proxy voting shall be permitted in Commission meetings.

This Directive was adopted on September 10, 2008.


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