



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 25, 2013

OFFICE OF THE CHAIR

The Honorable Candace S. Miller, Chairman  
The Honorable Gregg Harper  
The Honorable Phil Gingrey  
The Honorable Aaron Schock  
The Honorable Todd Rokita  
The Honorable Richard B. Nugent  
Committee on House Administration  
U.S. House of Representatives  
1309 Longworth House Office Building  
Washington, D.C. 20515

Dear Chairman Miller and Members of the Committee:

Thank you for your letter of July 19, 2013 regarding the Office of General Counsel's Enforcement Manual. As you no doubt are aware, the Enforcement Manual has already generated considerable public interest. Along with your letter, we have received comments from a dozen public interest organizations, as well as a joint letter from six United States Senators – including Senator Schumer, the Chairman of the Senate Committee on Rules and Administration. While your letter advocates prompt action on the Manual, both the Senators and the outside public interest organizations strongly urge *no* further action until after the Senate confirms President Obama's two latest nominees to the Commission. Plainly, the diversity of views regarding the Manual's substance also extends to the process for its consideration. As a Commissioner, I will continue to make every effort to weigh all perspectives, and I am sure that my colleagues will do the same.

In your letter, you express concern about delays in the Commission's consideration of the Manual, and inquire specifically as to why the Commission failed to take up the Manual at our June 13, June 27, and July 11 open meetings. You also request an explanation for why the Manual will not be considered today, at the July 25 open meeting.

As you know, the Commission has an unusual structure, according to which the office of Chair rotates yearly, and carries little power to make unilateral decisions. While I, like any Commissioner, can place a matter on an agenda, I cannot unilaterally force the Commission actually to take the matter up. Thus, in my prior correspondence with Chairman Miller, I was able to commit that the Manual would be placed on an agenda in June, at which time it would also be publicly released. However, I was (and remain) unable to guarantee that discussion of the Manual will actually take place at any given time.

My intent was that the Commission would discuss the Manual at one or more of our three previous open meetings. Not only does the Manual implicate important questions that I think are well worth careful deliberation, but a discussion at any of the three previous meetings could have included the Commission's now-former General Counsel, Anthony Herman, who was instrumental in the Manual's creation and whose perspective I believe would have aided the Commission's deliberations.

My colleagues, however, were not prepared to discuss the Manual at any of our three previous open meetings. Initially, there was mutual agreement to place the Manual on the agenda for the Commission's June 13, 2013 open meeting. However, the evening before that meeting, at 10:09 p.m., Vice Chairman McGahn and Commissioners Hunter and Petersen circulated extensive proposed edits that made it necessary to postpone the discussion to June 27. At 7:15 p.m. on June 26, however, the Republican Commissioners sent an e-mail asking that the Manual again be held over. I inquired as to the reason for this second postponement but received no reply. At the June 27 meeting, I announced that the Commission would take up the Enforcement Manual at our July 11 meeting, and that Mr. Herman had agreed to postpone his vacation to be present for that discussion. Subsequently, however, my colleagues requested that the discussion be postponed for a third time.

At the request of one of my colleagues, in accordance with Commission procedures, I again placed the Manual on today's agenda. Like the Senators and public interest organizations who have written to us, however, I am increasingly concerned about the Commission considering significant changes to its longstanding policies in light of President Obama's nomination of two new Commissioners – Ann Ravel and Lee A. Goodman. The Senate Committee on Rules and Administration held a hearing on these nominations just yesterday, at which Senators from both parties praised the nominees' qualifications, and Chairman Schumer expressed optimism that they would be swiftly confirmed. In my view, it would be highly inappropriate for the Commission to take precipitous action on a matter of this importance without giving our new colleagues the opportunity to participate. I am also concerned about taking such an action when the Commission's foundational bipartisan structure is out of balance, but soon to be corrected.

For these reasons, I have (for the first time) exercised my own prerogative as a Commissioner to hold over discussion of the Manual today, though I remain committed to a full and frank discussion of the Manual in the near future.

The Honorable Candace S. Miller, Chairman, et al.  
Committee on House Administration  
Page 3

Please feel free to contact my office directly at (202) 694-1035 should you have any further questions or concerns. Thank you for your ongoing interest in the work of the Commission.

Sincerely,

A handwritten signature in cursive script that reads "Ellen L. Weintraub". The signature is written in black ink and is positioned above the printed name.

Ellen L. Weintraub  
Chair

cc: The Honorable Robert A. Brady  
Ranking Member, Committee on House Administration