



APPROVED NOVEMBER 10, 2022

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
WEDNESDAY, AUGUST 31, 2022¹**

PRESENT:

Allen Dickerson, Chairman, presiding

Dara Lindenbaum, Vice Chair

Shana M. Broussard, Commissioner

Sean J. Cooksey, Commissioner

James E. "Trey" Trainor III, Commissioner

Ellen L. Weintraub, Commissioner

Alec Palmer, Staff Director

Lisa Stevenson, Acting General Counsel

Laura E. Sinram, Secretary and Clerk

Vicktoria J. Allen, Acting Deputy Secretary²

Maureen Benitz, Program Management Analyst³

¹ This meeting was conducted as a hybrid meeting with virtual and in-person participants.

² Acting Deputy Secretary Vicktoria Allen was the recording secretary for the meeting.

³ Program Management Analyst Maureen Benitz moderated the meeting.

Chairman Allen Dickerson called the Federal Election Commission to order in an open meeting at 10:06 A.M. on Wednesday, August 31, 2022 with a quorum present.

Chairman Dickerson stated that there were late submitted documents and recognized Vice Chair Lindenbaum who

MOVED to suspend the rules on the timely submission of agenda documents in order that the Commission may consider the late submission of Agenda Documents No. 22-41-A1 and 22-42-A1.

The motion carried by a vote of 6-0 with Commissioners Broussard, Cooksey, Dickerson, Lindenbaum, Trainor, and Weintraub voting affirmatively for the decision.

I. DRAFT ADVISORY OPINION 2022-12

Ready for Ron by Lilian Rodriguez-Baz, Esq.

Agenda Document No. 22-36-A (Draft A)

Agenda Document No. 22-36-B (Draft B)

(Held over from the meeting of August 11, 2022)

This matter was held over to a future meeting.

II. DRAFT ADVISORY OPINION 2022-11

State Democracy Defenders PAC (“SDD PAC”) by Jonathan S. Berkon, Esq. and Courtney T. Weisman, Esq.

Agenda Document No. 22-43-A (Draft A)

Chairman Dickerson recognized Mr. Jonathan S. Berkon, Esq. on behalf of the requestor, and Ms. Joanna Waldstreicher of the General Counsel’s Office.

Ms. Waldstreicher presented the matter. State Democracy Defenders PAC (“SDD PAC”) is a nonconnected political committee that holds both contribution and noncontribution accounts. The requestor proposes to ask state party committees and their chairs to solicit unlimited funds for the PAC’s noncontribution account and asks whether this is permissible under the Act and Commission regulations. The Draft concludes that state party committees and their chairs may solicit and direct nonfederal funds to the PAC’s noncontribution account as proposed.

Chairman Dickerson recognized Commissioner Cooksey who

MOVED to approve Agenda Document No. 22-43-A, which is Draft A.

The motion carried by a vote of 6-0 with Commissioners Broussard, Cooksey, Dickerson, Lindenbaum, Trainor, and Weintraub voting affirmatively for the decision.

III. DRAFT ADVISORY OPINION 2022-15

Harley Rouda and Harley Rouda for Congress by Joseph M. Birkenstock, Esq., Erin Tibe, Esq., and Aaron Barden, Esq.

Agenda Document No. 22-39-A (Draft A)

(Vice Chair Lindenbaum is recused)

Chairman Dickerson recognized Mr. Joseph Birkenstock, Esq. on behalf of the requestors and Ms. Jessica Selinkoff of the General Counsel's Office. Ms. Selinkoff presented the matter. The requestors propose to reinstate loans Mr. Rouda made to his committee in 2018 that Mr. Rouda forgave, and the committee converted to contributions from the candidate pursuant to 52 U.S.C. § 30116(j) and 11 C.F.R. § 116.11(c)(2). Provisions now invalidated by the U.S. Supreme Court's decision in Federal Election Commission v. Ted Cruz for Senate. The Draft concludes that requestors may reinstate the loans and repay them with Committee funds currently on hand and contributions raised now to retire the reinstated debt. The Draft also provides guidance on how to report the reinstated loans.

Chairman Dickerson recognized Commissioner Cooksey who

**MOVED to approve Agenda Document No. 22-39-A,
which is Draft A.**

Discussion followed.

Chairman Dickerson called the vote. The motion carried by a vote of 5-0 with Commissioners Broussard, Cooksey, Dickerson, Trainor, and Weintraub voting affirmatively for the decision. Commissioner Lindenbaum was recused and did not vote.

IV. DRAFT ADVISORY OPINION 2022-16

DSCC and DNC by Graham M. Wilson, Esq., Jacquelyn K. Lopez, Esq., Johnathan A. Peterson, Esq., Andrea T. Levien, Esq., and Zachary P. Morrison, Esq.

Agenda Document No. 22-40-A (Draft A)

Chairman Dickerson recognized counsel on behalf of the requestors and Ms. Cheryl Hemsley of the General Counsel's Office. Ms. Hemsley presented the matter. The requestors, the DSCC and the DNC, ask whether they may retain and use contributions that were not timely deposited within the 10-day deadline by their contribution caging vendor. The Draft concludes that the committees may retain and use the late-deposited contributions because the delay in depositing them resulted from events that were outside of the control of the committees and the vendor. The committees took prompt remedial action after discovering the untimely deposits and there is no indication that the failure was intentional.

Discussion followed.

Chairman Dickerson recognized Commissioner Weintraub who

MOVED to approve Agenda Document No. 22-40-A, otherwise known as Draft A, and with the additional language described at the table.

The motion carried by a vote of 6-0 with Commissioners Broussard, Cooksey, Dickerson, Lindenbaum, Trainor, and Weintraub voting affirmatively for the decision.

V. REG 2022-03: DRAFT INTERIM FINAL RULE FOR CANDIDATE LOAN REPAYMENT

Memorandum to the Commission dated August 25, 2022

**Agenda Document No. 22-41-A1
(Submitted Late)**

Chairman Dickerson recognized Mr. Joseph Wenzinger of the General Counsel's Office who presented the matter. The proposed rule would amend the Commission's regulations on candidate loan repayments in light of the decision by the U.S. Supreme Court in Federal Election Commission v. Ted Cruz for Senate. In that case, the Court held that the statutory provision implemented by the Commission's regulations was unconstitutional. The draft would remove the Commission's implementing regulations and make various technical edits to the regulations.

Discussion followed.

Chairman Dickerson recognized Commissioner Cooksey who

MOVED to approve Agenda Document No. 22-41-A1, as recommended in the Memorandum to the Commission dated August 25, 2022.

The motion carried by a vote of 6-0 with Commissioners Broussard, Cooksey, Dickerson, Lindenbaum, Trainor, and Weintraub voting affirmatively for the decision.

VI. REG 2013-01 (TECHNOLOGICAL MODERNIZATION): REQUEST FOR ADDITIONAL COMMENT

Memorandum to the Commission dated August 24, 2022

**Agenda Document No. 22-42-A1
(Submitted Late)**

Chairman Dickerson recognized Ms. Waldstreicher of the General Counsel's Office who presented the matter. The rulemaking began in 2013 with an Advanced Notice of Proposed Rulemaking on whether the Commission should revise its regulations to address electronic transactions and to eliminate or update references to outdated technology. In November 2016, the Commission published the Notice of Proposed Rulemaking ("NPRM"). The draft Request for Additional Comment would invite comments on any technological developments that may have occurred following publication of the NPRM, so that any rules adopted will reflect the most current understanding of new and emerging technologies and practices. In particular, the Commission is interested in

updating information regarding electronic payment processing, newer electronic payment technologies, and contributions made by pre-paid cards.

Discussion followed.

Chairman Dickerson recognized Commissioner Broussard who

MOVED to approve Agenda Document No. 22-42-A, as recommended in the Memorandum to the Commission dated August 24, 2022.

The motion carried by a vote of 6-0 with Commissioners Broussard, Cooksey, Dickerson, Lindenbaum, Trainor, and Weintraub voting affirmatively for the decision.

Acting Deputy Secretary Vicktoria Allen participated in the discussion that followed to confirm the agenda document referenced in the motion.

Chairman Dickerson, without objection, confirmed that the Commissioners intended to vote on Agenda Document No. 22-42-A1.

VII. MANAGEMENT AND ADMINISTRATIVE MATTERS

There being no further business to come before the Commission, the meeting adjourned at 10:21 A.M.

Signed:

A handwritten signature in blue ink, appearing to read "Allen Dickerson", written over a horizontal line.

**Allen Dickerson
Chairman of the Commission (2022)**

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Attest:

**Laura E. Sinram
Secretary and Clerk of the Commission**