



APPROVED JULY 26, 2023

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, DECEMBER 1, 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, Acting Secretary and Clerk

Vicktoria J. Allen, Acting Deputy Secretary²

Zainab Smith, 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 Zainab Smith moderated the meeting.

Chairman Allen Dickerson called the Federal Election Commission to order in an open meeting at 10:33 A.M. on Thursday, December 1, 2022 with a quorum present.

Chairman Dickerson recognized Vice Chair Lindenbaum who

MOVED that the Commission consider “Draft Advisory Opinion 2022-24: Allen Blue” and REG 2013-01: Technological Modernization (Supplemental Notice of Proposed Rulemaking)”, and that the Commission determine, pursuant to 11 C.F.R. §2.7(d)(1), that business so requires and no earlier public announcement was possible.

and

FURTHER 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. 22-52-B, 22-53-B, and 22-55-A.

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

I. REG. 2011-02: DRAFT FINAL RULE AND EXPLANATION AND JUSTIFICATION FOR INTERNET COMMUNICATIONS DISCLAIMERS

Agenda Document No. 22-52-A

**Agenda Document No. 22-52-B
(Submitted Late)**

Chairman Dickerson recognized Ms. Joanna Waldstreicher of the General Counsel's Office who presented the matter. Agenda Documents 22-52-A and 22-52-B are two alternative drafts of an Explanation and Justification and Final Rule concerning disclaimers on internet public communications. Both drafts clarify how the disclaimer requirements apply to certain types of internet communications and allow certain internet communications to provide disclaimers through alternative technological means. Both drafts also amend the definition of "public communication," though the language of the amended definition varies slightly between the two drafts.

Discussion followed.

Chairman Dickerson recognized Commissioner Weintraub who

MOVED to approve Agenda Document No. 22-52-A.

The motion failed by a vote of 2-4 with Commissioners Broussard and Weintraub voting affirmatively for the motion. Commissioners Cooksey, Dickerson, Lindenbaum, and Trainor dissented.

Chairman Dickerson recognized Commissioner Cooksey who

**MOVED to approve Agenda Document No. 22-52-B,
which is Draft B.**

The motion carried by a vote of 5-0 with Commissioners Broussard, Cooksey, Dickerson, Lindenbaum, and Trainor voting affirmatively for the decision. Commissioner Weintraub abstained.

II. REG. 2013-01 (TECHNOLOGICAL MODERNIZATION): SUPPLEMENTAL NOTICE OF PROPOSED RULEMAKING

**Agenda Document No. 22-55-A
(Submitted Late)**

Chairman Dickerson recognized Mr. Anthony Buckley of the General Counsel's Office who presented the matter. Agenda Document 22-55-A⁴ contains a Draft Supplemental Notice of Proposed Rulemaking. The Draft Supplemental Notice seeks comment on whether the Commission's definition of "public communication" should also include internet communications that are promoted for a fee on another person's website, digital device application or advertising platform, and whether the newly adopted definition of "internet public communications" should include public communications promoted for a fee on another person's website, digital device application or advertising platform. The comment period will run for 30 days following publication of the notification in the Federal Register. If the draft is approved, those parts of the draft which identify the definition of "internet public communication" as a proposal to be considered by the Commission should be changed to reflect that the Commission has adopted that definition. The General Counsel's Office thereby requests that any motion to approve the draft authorize the General Counsel's Office to make those changes.

⁴ Mr. Buckley referenced Agenda Document No. 22-52-A; however, the correct number is 22-55-A.

Discussion followed.

Chairman Dickerson recognized Commissioner Cooksey who

**MOVED to approve Draft A, which is Agenda Document
No. 22-55-A.**

**Mr. Buckley participated in the discussion that followed regarding an
amendment to the motion.**

Commissioner Cooksey amended the motion and

**MOVED to approve Agenda Document No. 22-55-A, as
recommended in the Memorandum to the Commission
dated November 28, 2022, and authorize the Office of
General Counsel to make appropriate edits and changes
as discussed 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.**

**III. REG 2021-01: DRAFT NOTICE OF PROPOSED RULEMAKING FOR
CANDIDATE SALARIES**

Agenda Document No. 22-53-A

**Agenda Document No. 22-53-B
(Submitted Late)**

**Chairman Dickerson recognized Mr. Joseph Wenzinger of the General
Counsel's Office who presented the matter. Agenda Documents 22-53-A and 22-
53-B are two alternative drafts of a Notice of Proposed Rulemaking on candidate
salaries. Both drafts propose amendments to the regulations regarding the use**

of campaign funds by a candidate's principal campaign committee to pay compensation to the candidate. The drafts differ from each other in only a few respects. For example, Agenda Document 22-53-B clarifies when dependent care costs would fall under the alternative proposed definitions of "compensation," and provides that the proposed \$15 minimum wage compensation cap would be adjusted for inflation. Other differences are described in the cover memo to Agenda Document 22-53-B.

Discussion followed.

Chairman Dickerson recognized Commissioner Broussard who

MOVED to approve Agenda Document No. 22-53-B, as recommended in the Memorandum to the Commission dated November 28, 2022.

The motion carried by a vote of 5-1 with Commissioners Broussard, Dickerson, Lindenbaum, Trainor, and Weintraub voting affirmatively for the decision. Commissioner Cooksey dissented.

IV. DRAFT ADVISORY OPINION 2022-24

Allen Blue by Ezra R. Reese, Esq. and Emma R. Anspach, Esq.

Agenda Document No. 22-54-A (DRAFT A)

Agenda Document No. 22-54-B (DRAFT B)

Chairman Dickerson recognized Mr. Robert Knop of the General Counsel's Office who presented the matter. The requestor, Allen Blue, asks whether an

irrevocable trust that he proposes to establish during his lifetime may contribute to federal candidates and political committees. The requestor also asks how contributions from the trust should be attributed, and whether the indexed contribution limits in effect at the time that the contributions are made by the trust would apply. Both drafts conclude that the trust may make contributions to federal candidates and political committees because the trust would be a “person” under the Federal Election Campaign Act and is not a prohibited source. Both drafts also conclude that the indexed contribution limits in effect at the time that the trust makes contributions would apply. The drafts differ on how contributions from the trust should be attributed. Under Draft A, contributions from the trust would be attributed to both the trust and to Mr. Blue. Under Draft B, attribution would be based on the level of discretion exercised by the trustees in selecting recipients. Contributions made based on objective criteria set by the trust instrument would be attributed to both the trust and to Mr. Blue. Contributions made based on more subjective criteria would be attributed only to the trust.

Chairman Dickerson recognized Mr. Ezra Reese and Ms. Emma Anspach who appeared on behalf of the requestors. Mr. Reese participated in the discussion that followed.

Chairman Dickerson recognized Commissioner Weintraub who

**MOVED to approve Agenda Document 22-54-A,
otherwise known as Draft A.**

**The motion failed by a vote of 2-4 with Commissioners Broussard and
Weintraub voting affirmatively for the motion. Commissioners Cooksey,
Dickerson, Lindenbaum, and Trainor dissented.**

Chairman Dickerson recognized Commissioner Cooksey who

**MOVED to approve Agenda Document 22-54-B, which is
Draft B.**


**The motion carried by a vote of 4-2 with Commissioners Cooksey,
Dickerson, Lindenbaum, and Trainor voting affirmatively for the decision.
Commissioners Broussard and Weintraub dissented.**

**Chairman Dickerson recognized Commissioner Weintraub for a point of
personal privilege to praise Mr. Kenneth Doyle and his work reporting on the
Commission. Chairman Dickerson joined in Commissioner Weintraub's praise of
Mr. Doyle.**

V. MANAGEMENT AND ADMINISTRATIVE MATTERS

**There being no further business to come before the Commission, the
meeting adjourned at 11:11 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)

Attest:

Laura E. Sinram

Secretary and Clerk of the Commission