



APPROVED MARCH 3, 2022

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, APRIL 8, 2021¹**

PRESENT:

Shana M. Broussard, Chair, presiding

Allen Dickerson, Vice Chair

Sean J. Cooksey, Commissioner

James E. "Trey" Trainor III, Commissioner

Steven T. Walther, 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

Maureen M. Benitz, Program Management Analyst³

¹ The meeting was conducted virtually.

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

³ Program Management Analyst Maureen Benitz moderated the meeting.

Chair Shana M. Broussard called the Federal Election Commission to order in an open meeting at 11:51 A.M. on Thursday, April 8, 2021 with a quorum present.

Chair Broussard recognized Vice Chair Dickerson 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 Document No. 21-20-A1.

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

III. PROPOSED AMENDMENT TO DIRECTIVE 17

Memorandum from the Acting General Counsel dated December 8, 2016

Agenda Document No. 17-06-A

(Held over from the meeting of January 25, 2017)

This item will be held over to a future meeting.

I. DRAFT ADVISORY OPINION 2021-04

Pray.com by Michael Lynn

Agenda Document No. 21-20-A (Draft A)

**Agenda Document No. 21-20-A1 (Revised Draft A)
(Submitted Late)**

Chair Broussard welcomed the requesters, Mr. Michael Lynn and Mr. Ernest Baynard. Chair Broussard then recognized Mr. Kevin Paulsen and Ms. Amy Rothstein of the General Counsel's Office. Mr. Paulsen presented the draft advisory opinion request from Pray.com, a for-profit corporation with a mobile app and website that provides users with faith-based content. The request asks whether Pray.com's proposal to post audio and video statements from Members of Congress on its platforms would result in coordinated communications or otherwise constitute corporate in-kind contribution. Both Drafts conclude that the Act and Commission regulations would not prohibit Pray.com from posting the content on its platforms as proposed because the activity would not result in coordinated communications or otherwise provide a prohibited in-kind contribution to participating Members who are also candidates for Federal office.

Chair Broussard recognized Commissioner Cooksey who asked the requestors for their comments. Mr. Lynn stated that he didn't have any comments but would answer questions about the proposal.

Vice Chair Dickerson then asked the requestors for their thoughts on the drafts. Mr. Lynn noted that he would prefer the most recently circulated draft (Revised Draft A).

Chair Broussard recognized Vice Chair Dickerson who

MOVED to approve Revised Draft A.

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

II. RESUBMISSION - PROPOSED MODIFICATIONS TO PROGRAM FOR REQUESTING CONSIDERATION OF LEGAL QUESTIONS BY THE COMMISSION (LRA 1129)

Memorandum from the Compliance Office and the Office of General Counsel dated March 16, 2021

Agenda Document No. 21-18-A

(Held over from the meetings of March 11, 2021 and March 25, 2021)

Chair Broussard recognized Ms. Debbie Chacona and Ms. Dayna Brown from the Office of Compliance; and Ms. Jennifer Waldman, Ms. Danita Alberico, Mr. Joshua Blume, and Mr. Lorenzo Holloway from the General Counsel's Office.

Mr. Blume presented the matter. The memorandum proposes two modifications to the Program for Requesting Consideration of Legal Questions by the Commission. First, the memorandum proposes that the five (5) business day informal resolution period begin immediately after the Commission receives the request. Second, the memorandum proposes that the sixty (60) business day period of time given to the Commission to resolve the request before the Office of Compliance may proceed be suspended in cases in which an event beyond

the Commission's control occurs that disables the Commission from deliberating on the request. After the disabling event ends, the Commission would have the ability to resume or extend the period.

Mr. Blume, Mr. Holloway, and Ms. Brown participated in the discussion that followed regarding the effect that a lack of quorum would have on the 60-day time period; concerns about potential gamesmanship by respondents if the Commission were to receive a legal question during an audit process while lacking a quorum; the previous procedures that were in place; the informal resolution process; concern about the automatic five (5)-day window; the relocation of the five (5)-day resolution period to earlier in the process; how often the General Counsel's Office is surprised by requests for legal consideration, or if they usually know in advance; dialogue that occurs between the respondents and the Audit Division following the exit conference; the rationale for changing the process; and what would prevent a respondent from withdrawing their request for legal consideration.

Chair Broussard called for a short recess to address technical issues.

The meeting recessed at 12:19 P.M. and reconvened at 12:26 P.M. with a quorum present.

II. RESUBMISSION - PROPOSED MODIFICATIONS TO PROGRAM FOR REQUESTING CONSIDERATION OF LEGAL QUESTIONS BY THE COMMISSION (LRA 1129) (continued)

Mr. Blume and Mr. Holloway participated in the continuing discussion regarding the current procedures; possible outcomes of the discussions between the Commission and the respondents and how this proposal is helpful; what currently prevents the General Counsel's Office from attempting informal resolution; and similarities to the probable cause process for enforcement matters.

Chair Broussard recognized Commissioner Weintraub who

MOVED to approve Agenda Document No. 21-18-A, Proposed Modifications to Program for Requesting Consideration of Legal Questions by the Commission (LRA 1129).

Vice Chair Dickerson stated that he does not support the motion because he reads the policy differently and does not see what prevents the General Counsel's Office from resolving these matters in favor of the committee in those instances where there's agreement as to what the legal standards should be. Vice Chair Dickerson further stated for the record that the Commission "can consider the language with or without my opinion of it."

Commissioner Weintraub noted that she would accept an interpretation that allows for general Commission direction to staff to read the current policy in that way.

Chair Broussard called for the vote on Commissioner Weintraub's pending motion. The motion failed by a vote of 2-4 with Commissioners Broussard and Weintraub voting affirmatively for the motion.

Commissioners Cooksey, Dickerson, Trainor, and Walther dissented.

IV. DRAFT STATEMENT OF POLICY REGARDING CLOSING THE FILE AT THE INITIAL STAGE IN THE ENFORCEMENT PROCESS

Memorandum from Vice Chair Allen Dickerson, Commissioner Sean J. Cooksey, and Commissioner James E. "Trey" Trainor, III dated April 1, 2021

Agenda Document No. 21-21-A

Chair Broussard recognized Acting General Counsel Lisa Stevenson who noted that there was no presentation, as this was a matter prepared by Commissioners' Offices.

Vice Chair Dickerson asked to hold this matter to a future meeting.

Chair Broussard consented.

V. MANAGEMENT AND ADMINISTRATIVE MATTERS

There being no further business to come before the Commission, the meeting adjourned at 12:44 P.M.

Signed:

A handwritten signature in blue ink that reads "Shana M. Broussard". The signature is written in a cursive style with a large initial 'S'.

**Shana M. Broussard
Chair of the Commission (2021)**

Attest:

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