



APPROVED MARCH 16, 2022

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, JUNE 24, 2021¹**

PRESENT:

Shana M. Broussard, Chair, presiding

Sean J. Cooksey, Commissioner

James E. "Trey" Trainor III, Commissioner

Steven T. Walther, Commissioner

Ellen L. Weintraub, Commissioner

Alec Palmer, Staff Director²

Lisa Stevenson, Acting General Counsel

Laura E. Sinram, Acting Secretary and Clerk

Vicktoria J. Allen, Acting Deputy Secretary³

Maureen M. Benitz, Program Management Analyst⁴

¹ The meeting was conducted virtually.

² Chief Compliance Officer Patricia Orrock represented Staff Director Palmer during the meeting.

³ Acting Deputy Secretary Vicktoria Allen was the recording secretary for the meeting.

⁴ Program Management Analyst Maureen Benitz moderated the meeting.

Chair Shana M. Broussard called the Federal Election Commission to order in an open meeting at 10:17 A.M. on Thursday, June 24, 2021 with a quorum present.

Chair Broussard recognized Commissioner Trainor 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. 21-30-A and 21-30-B.

The motion carried by a vote of 5-0 with Commissioners Broussard, Cooksey, Trainor, Walther, and Weintraub voting affirmatively for the decision. Vice Chair Dickerson was not present and did not vote.

Chair Broussard stated, for the record, that “the Vice Chair is unable to attend the meeting and will be submitting votes by the close of the evening pursuant to the Directive 10.”

I. DRAFT ADVISORY OPINION 2021-06

Representative Robin Kelly and the Democratic Party of Illinois by Charles E. Borden, Esq. and Samuel C. Brown, Esq.

**Agenda Document No. 21-30-A (Draft A)
(Submitted Late)**

**Agenda Document No. 21-30-B (Draft B)
(Submitted Late)**

Chair Broussard recognized Mr. Charles Borden and Mr. Sam Brown, who appeared on behalf of the requestors. Chair Broussard then recognized Ms. Heather Filemyr and Mr. Robert Knop of the General Counsel's Office. Ms. Filemyr presented the draft advisory opinion request. Representative Kelly was recently elected to serve as Chair of the Democratic State Central Committee, which governs the state party. The requestors ask whether adopting one (1) of three (3) proposed governance structures during Representative Kelly's tenure as Chair would permit the state party to raise and spend funds through its nonfederal account in amounts and from sources prohibited by the Act but permitted under Illinois law. The requestors further ask whether the Representative's name and title as Chair may be included on the letterhead of solicitations for the non-federal account. Draft A concludes that the state party would be prohibited from raising and spending funds in amounts and from sources prohibited by the Act under any of the proposed governance structures because Representative Kelly would still retain indirect control over the nonfederal account. Given that conclusion, the letterhead question is moot. Draft B concludes that the state party may raise funds in amounts and from sources prohibited by the Act but permitted under Illinois law if both the nonfederal account is administered by a special committee without the review or approval of Representative Kelly, and whether a majority of the

special committee members are automatically appointed to the special committee by virtue of holding a specific office and not appointed by the Chair. Further, Draft B concludes that Representative Kelly's name and title as Chair must not be included on the letterhead of any solicitation that solicits funds in amounts and from sources prohibited by the Act because using her name and title in that manner would identify the solicitation as being sent on Representative Kelly's behalf in violation of the Act's soft money prohibition.

Mr. Brown participated in the discussion that followed regarding which draft the requestors preferred; that the requestors do not want to weaken BCRA but do want address a situation where a sitting officeholder is head of the state party; a proposed special committee; Draft A, and why the requestors do not agree with the conclusion; Draft A's four (4) criteria for the special committee; the current by-laws of the state party and how BCRA may impact them; whether the Commission has jurisdiction over the state party; the status of the party's fundraising activities, and what the party would do if the Commission did not render an opinion; what the day-to-day role would be for Congresswoman Kelly if she were not able to fundraise for the party; the effect of adopting Draft A; the practical impacts on internal operations; the percent of nonfederal funds the Illinois state

party receives interstate versus intrastate; and how the Congresswoman is elected to her position as head of the party.

Commissioner Trainor thanked Congressman Gregory Meeks and the Congressional Black Caucus for their comment on this matter. Chair Broussard joined Commissioner Trainor in thanking Congressman Meeks and the Congressional Black Caucus and hopes that they continue to submit comments.

Mr. Brown participated in the continuing discussion regarding the selection of special committee members in Draft A; the role of the special committee regarding personnel; and whether Draft A affects the ability of a federal officeholder to serve as Chair of the party.

Commissioner Weintraub noted that Mr. Brown used to work in her office a number of years ago.

Mr. Brown and Ms. Filemyr participated in the continuing discussion regarding the precedent the request would set; the narrow fact pattern presented in this case; whether state law allows the Congresswoman to resign if the request were not approved; how and whether Congresswoman Kelly would supervise employees; the alternatives presented in response to the request; whether the Vice Chair option should be voted on; whether the requestors are comfortable with all three (3) of the options presented; and

how the Congresswoman would select committee members as described in

Draft A.

Commissioner Trainor asked to hold over the matter and also asked the requestors for an extension to attempt to reach consensus by modifying

Draft B. Mr. Brown agreed to the extension but emphasized the urgency of the matter.

Mr. Brown participated in the continuing discussion.

Chair Broussard noted that the matter could be resolved on tally.

Discussion continued.

Commissioner Cooksey supported the request for an extension for time and hoped others will comment.

Chair Broussard stated that this matter will be held over to the next Open Meeting but with the intent to resolve the matter on tally.

II. MOTION TO AMEND DIRECTIVE 68 TO INCLUDE ADDITIONAL INFORMATION IN QUARTERLY STATUS REPORTS TO COMMISSION

Memorandum from Commissioner Sean J. Cooksey dated June 3, 2021

Agenda Document No. 21-26-A

Agenda Document No. 21-27-A

(Held over from the meeting of June 10, 2021)

Chair Broussard recognized Commissioner Cooksey who presented his Memorandum.

Commissioner Weintraub compared the proposed amendment to Directive 68 to the Policy Statement from the previous Open Meeting and stated that she will not be supporting the change.

Commissioner Walther asked for additional time to work on reaching a consensus in this matter.

Chair Broussard expressed concern regarding a risk of reverse-engineering the redactions within the reports, as it may break confidentiality agreements between the FEC and respondents.

Commissioner Trainor stated that this proposal will shed more sunshine on the FEC's procedures and will be helpful to the Commission and the public. Commissioner Trainor further stated that the cases that would be included in this report have not been revisited during his time at the Agency, and that he will support Commissioner Cooksey's amendment.

Discussion continued regarding whether information would be added to the reports; how long matters have been held over; and whether the change will make the quarterly reports more accurate.

Commissioner Walther provided the history of Directive 68 and what drove him to create the policy.

Commissioner Walther then requested that the matter be held over.

Chair Broussard consented to Commissioner Walther's request and stated that this matter will be held over to the next meeting.

**III. PROPOSED STATEMENT OF POLICY REGARDING THE DISCLOSURE OF
VOTE CERTIFICATIONS RELATING TO LITIGATION**

**Memorandum from Commissioner Sean J. Cooksey dated June 17,
2021**

Agenda Document No. 21-29-A

**Chair Broussard recognized Commissioner Cooksey who presented
his Memorandum.**

**Chair Broussard recognized Commissioner Weintraub who stated her
concern regarding whether the document was created to build consensus.
She also noted the possible litigation ramifications if the policy is adopted.
She further stated that she was not prepared to support the document and
an overall policy but would continue to consider releasing votes on a case-
by-case basis.**

**Chair Broussard recognized Commissioner Trainor who noted his
frustration with the FEC not providing the federal judiciary with updates on
litigation matters; the compromise this policy statement provides; and the
need for broad based public disclosure on cases.**

**Chair Broussard expressed concern that the draft was not written
with the goal of reaching a consensus but that the document does have
across the aisle concerns. Chair Broussard stated that she would not
support this draft as it is prepared but noted that she interested in a
consensus document.**

Chair Broussard recognized Commissioner Cooksey who noted his concern regarding this type of assessment on a case-by-case basis.

Discussion followed.

Chair Broussard recognized Commissioner Cooksey who

MOVED to adopt the Proposed Statement of Policy Regarding the Disclosure of Vote Certifications Relating to Litigation, which is Agenda Document No. 21-29-A.

Chair Broussard noted that the Commission was waiting for Vice Chair Dickerson's vote before the end of the day.

Mr. Larry Calvert of the General Counsel's Office confirmed that Vice Chair Dickerson's vote will not be dispositive.

Chair Broussard called the vote on Commissioner Cooksey's motion. The motion failed by a vote of 3-3 with Commissioners Cooksey, Dickerson,⁵ and Trainor voting affirmatively for the motion. Commissioners Broussard, Walther, and Weintraub dissented.

IV. MANAGEMENT AND ADMINISTRATIVE MATTERS

There being no further business to come before the Commission, the meeting adjourned at 11:55 A.M.

⁵ Vice Chair Dickerson's vote was recorded in accordance with Directive 10, Section H.

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**