



APPROVED MARCH 9, 2022

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, MAY 6, 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 10:10 A.M. on Thursday, May 6, 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 Documents No. 21-25-A, 21-25-B, and 21-24-A1.

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

I. DRAFT ADVISORY OPINION 2021-05

Tally Up, LLC by Jeremy Holtzman

**Agenda Document No. 21-25-A (Draft A)
(Submitted Late)**

**Agenda Document No. 21-25-B (Draft B)
(Submitted Late)**

Chair Broussard welcomed Mr. Jeremy Holtzman and Ms. Justine Schott, the requestors. Chair Broussard then recognized Mr. Theodore Lutz and Mr. Robert Knop of the General Counsel's Office. Mr. Lutz presented the draft advisory opinion request from Tally Up, LLC. Tally Up, LLC plans to create and

sell what it calls Voter Segments, which are lists of voters defined by customizable search criteria, such as age or zip code. The segments would include voters names and contact information. Tally Up, LLC proposes to score segments using the aggregated contributions of individuals in each segment as well as the aggregated contributions of other similar individuals. Draft A concludes that under the Act, Tally Up, LLC may not aggregate individuals' contributions as proposed because the information would be used to solicit contributions. Draft B concludes Tally Up, LLC's proposed use of Commission data would not be sufficient to generate contributions and is permissible under the Act.

Mr. Holtzman and Mr. Lutz participated in the discussion that followed regarding the specific nature of the services Tally Up, LLC provides to candidates; how voter data is scored within a segment; whether individual voters are specifically identified; the intended nature of the lists; how clients can customize the data; how the Voter Segment Scores are calculated and presented to the client; the source of the data for creating the files; whether the requestor is using outside counsel; whether previous Advisory Opinions presented similar fact patterns; the due date for a response by the Commission; whether the model can select larger donors; the use of voter data in a similar segment; and whether possible solicitations can occur using the segment score.

Commissioner Weintraub stated that she was prepared to support Draft A as the product could be used for solicitations; however, she would be happy to consider an alternative path forward.

Chair Broussard noted that she also would like time to work on an additional draft.

Chair Broussard then stated that this matter will be held over to the next Open Meeting.

II. 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 meetings of January 25, 2017; April 8, 2021; and April 22, 2021)

Chair Broussard recognized Mr. Larry Calvert, Mr. Neven Stipanovic, and Acting General Counsel Lisa Stevenson of the General Counsel's Office. Mr. Calvert presented the matter.

Chair Broussard recognized Vice Chair Dickerson who

MOVED to take the following actions:

1. Add new Part V:

“V. If a tally vote matter receives fewer than four approvals and every Commissioner who does not cast an approval casts an “objection for the record” or recuses, the Commission Secretary shall certify

the tally vote pursuant to Directive 52 in lieu of placing the matter on a meeting agenda.”

- 2. Add “subject to Part V” at the end of Parts II.C.1, II.C.2, and III.C.**

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

III. OIG FY 2022 APPROPRIATIONS LANGUAGE

(To be circulated)

(Held over from the meeting of April 22, 2021)

(To be held over to a future meeting)

IV. DRAFT LEGISLATIVE RECOMMENDATIONS 2021

Memorandum from the Office of Congressional, Legislative and Intergovernmental Affairs dated April 29, 2021

Agenda Document No. 21-24-A (Draft A)

Memorandum from Commissioner Ellen L. Weintraub dated May 5, 2021

**Agenda Document No. 21-24-A1 (Revised Draft A)
(Submitted Late)**

Chair Broussard recognized Mr. Duane Pugh and Ms. Amy Pike of the Office of Congressional, Legislative and Intergovernmental Affairs. Mr. Pugh presented the matter.

Commissioner Weintraub explained her reasons for submitting Revised Draft A and her hope that there can be unanimous agreement on the recommendations.

Discussion followed.

Chair Broussard recognized Vice Chair Dickerson who

MOVED to adopt Agenda Document No. 21-24-A1, as recommended in the Memorandum from Commissioner Ellen L. Weintraub dated May 5, 2021.

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

Chair Broussard noted her appreciation for the hard work done by the staff during Public Service Recognition Week.

Vice Chair Dickerson stated that he and his colleagues agreed with Chair Broussard's comments regarding the staff.

V. MANAGEMENT AND ADMINISTRATIVE MATTERS

There being no further business to come before the Commission, the meeting adjourned at 10:48 A.M.

Signed:



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

Attest:

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