

Merom Brachman, *Chairman*  
Megan C. Kelley, *Vice Chair*  
Bruce E. Bailey  
Julie A. Rutter  
Elizabeth E. Tracy  
Mark A. Vander Laan



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Paul M. Nick  
*Executive Director*

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OHIO ETHICS COMMISSION  
MINUTES OF MEETING  
SEPTEMBER 30, 2021

MEMBERS OF THE COMMISSION

Merom Brachman	Megan C. Kelley	Bruce Bailey
Elizabeth E. Tracy	Julie A. Rutter	Mark A. Vander Laan

CALL TO ORDER

The meeting of the Ohio Ethics Commission was called to order at 12:05 p.m. in Meeting Room 2 on the 2<sup>nd</sup> floor of the William Green Building, at 30 W. Spring Street, in Columbus, Ohio.

ROLL CALL

The following Commission Members were present: Mr. Brachman, Mr. Bailey, Ms. Kelley, Ms. Rutter, Ms. Tracy, and Mr. Vander Laan. Staff present: Executive Director Paul M. Nick; Deputy Director/General Counsel Jed Hood, IT & FD Administrator Brian Ring, Education and Communications Administrator Susan Willeke, HR & Fiscal Manager Alan Carlson, Investigative Attorney Molly Bruns, Special Investigator Robert Murchland, and Advisory Attorneys Chris Woeste and Kristin Cly.

EXECUTIVE SESSION

MOTION by Ms. Kelley, seconded by Ms. Tracy, to go into Executive Session to discuss matters that are statutorily confidential, including pending litigation, updates on investigations, and the confidential financial disclosure report. Mr. Bailey, Ms. Kelley, Ms. Rutter, Ms. Tracy, Mr. Vander Laan, and Mr. Brachman voted “yes.” The motion was approved, and the Commission, pursuant to Section 102.06 of the Revised Code, went into Executive Session at 12:06 p.m.

RETURN TO OPEN SESSION

The Commission returned to open session at 12:22 p.m. Assistant Attorney General Bill Carter joined the meeting at this time.

PREVIOUS MEETING MINUTES

The Commission reviewed the draft minutes from the August 13, 2021 Commission meeting and the September 17, 2021 Advisory Committee Meeting.

MOTION by Ms. Tracy, seconded by Ms. Kelley, that the Commission approve the minutes of the August 13, 2021 Commission meeting. Mr. Bailey, Ms. Kelley, Ms. Rutter, Ms. Tracy, Mr. Vander Laan, and Mr. Brachman voted “yes.” The motion was approved.

Ms. Rutter asked that the language in the draft Advisory Committee minutes be revised to include her observation that there is a significant difference between a public official or employee receiving a pay increase for doing the same work and receiving payment for new or additional duties.

MOTION by Ms. Kelley, seconded by Ms. Rutter, that the Advisory Committee approve the minutes of the September 17, 2021 committee meeting, as amended. Ms. Kelley and Ms. Rutter “yes.” Mr. Bailey abstained as he was unable to attend the committee meeting. The motion was approved.

### ADVISORY OPINIONS AND STATISTICS

Mr. Nick introduced a draft of Formal Advisory Opinion No. 2021-02, which addresses the question of whether members of a legislative body can vote for themselves to be presiding officer when the new position includes additional compensation. The draft answer was yes they may, based on the unique factors involved in such a vote and the practical challenges that would come with not allowing members to vote for themselves. Mr. Nick received input from multiple stakeholders who all agree with the conclusion including the Joint Legislative Ethic Commission and the Municipal Attorneys Association. Mr. Nick discussed the input provided by the Advisory Committee that had been incorporated into the draft.

Mr. Bailey expressed concern that the opinion contradicted prior staff opinions on the issue. Mr. Nick stated that the Commission had never issued a Formal Advisory Opinion on this issue though in the past, Commission staff had generally viewed the issue through the lens of an increase in compensation. Mr. Vander Laan recommended that the draft include a sentence addressing that this was the first time the Commission had considered this issue. Mr. Brachman and Mr. Bailey requested the staff reconsider the word choice on page 3, paragraph 1. Mr. Brachman requested the removal of language regarding the General Assembly’s procedure for electing a speaker because the General Assembly is not within the Commission’s jurisdiction. Mr. Brachman concluded the discussion by requesting the Commission staff circulate a draft in the coming weeks.

Mr. Nick then reviewed a memo on the Holocaust and Genocide Memorial and Education Commission and whether they engage in the substantial and material exercise of sovereign authority that would require members of this Commission to file financial disclosure statements. Mr. Brachman noted that the Holocaust and Genocide Memorial and Education Commission has control over a substantial amount of public funds. Mr. Brachman also requested that the filers be given sufficient notice since some had already been appointed. Mr. Ring stated that the filing deadline would be in May 2022 and that there would be sufficient warning in the form letter to the newly appointed members.

MOTION by Mr. Vander Laan, seconded by Ms. Rutter, that pursuant to R.C. Section 102.02(B), members of the Holocaust and Genocide Memorial and Education Commission are required to file annual financial disclosure statements, and that their first statement would be due on May 16, 2022. Mr. Bailey, Ms. Kelley, Ms. Rutter, Ms. Tracy, Mr. Vander Laan, and Mr. Brachman voted “yes.” The motion was approved.

Mr. Nick then reviewed a revised memo on the Broadband Expansion Program Authority and whether they engage in the substantial and material exercise sovereign authority that would require members of this Commission to file financial disclosure statements.

MOTION by Mr. Bailey, seconded by Mr. Vander Laan, that pursuant to R.C. Section 102.02(B), members of the Broadband Expansion Program Authority are required to file annual financial disclosure statements, and that their first statement would be due on May 16, 2022. Mr. Bailey, Ms. Kelley, Ms. Rutter, Ms. Tracy, Mr. Vander Laan, and Mr. Brachman voted “yes.” The motion was approved.

Mr. Nick briefly referenced the charts and activity report before discussing the advisory docket. Mr. Nick highlighted a number of form letter requests regarding Central Committee members and discussed the staff opinion responding to those requests. Mr. Brachman requested clarification on one staff opinion to ensure that appropriate public officials were notified of the response.

#### EXECUTIVE DIRECTOR’S REPORT

Mr. Nick reviewed the report in the packet. He also introduced the two new staff members, Special Investigator Robert Murchland and Advisory Attorney Kristin Cly. The Chairman welcomed them on behalf of the Commission.

#### LEGISLATION UPDATE

Mr. Hood reviewed the report in the packet and noted three bills pending in the General Assembly that may affect Commission operations have had no action since the last meeting. Commissioner Bailey asked about any pending bills that may allow for public bodies to meet remotely. Mr. Hood said he would research the issue and add any bills that address it to the report for the next meeting.

#### PUBLIC EDUCATION AND INFORMATION

Ms. Willeke reviewed the information in the packet and invited Commission members to contact her if they need any CLE hours before the end of the year. She also reported that several conferences have been converted to virtual platforms.

#### FINANCIAL DISCLOSURE STATISTICS REPORT/COMPLAINT REPORT

Mr. Ring reported that due to the general election in November and a filing deadline of October 4, 2021, staff is anticipating approximately 450 forms to be filed. He also noted that there has been a 45% increase in the number of school board candidates this year as compared to four years ago.

#### MOTIONS

##### Complaint Approvals:

MOTION by Ms. Kelley, seconded by Ms. Tracy, to approve filing the financial disclosure complaints against the individuals listed in the packet report for knowingly failing to timely file their required financial disclosure statements. Mr. Bailey, Ms. Kelley, Ms. Rutter, Ms. Tracy, Mr. Vander Laan, and Mr. Brachman voted “yes.” The motion was approved.

Late Fee Waivers:

MOTION by Ms. Tracy, seconded by Mr. Bailey, to waive the late fees for the individuals listed in the packet report. Mr. Bailey, Ms. Kelley, Ms. Rutter, Ms. Tracy, Mr. Vander Laan, and Mr. Brachman voted “yes.” The motion was approved.

Collections:

MOTION by Ms. Kelley, seconded by Ms. Rutter, to refer to the Attorney General’s Office for collections the individuals listed in the packet report. Mr. Bailey, Ms. Kelley, Ms. Rutter, Ms. Tracy, Mr. Vander Laan, and Mr. Brachman voted “yes.” The motion was approved.

DATE OF FUTURE MEETING

The Commission set the next meeting for Wednesday, November 10, 2021 at 2:00 p.m. with an Investigative Committee meeting to be held on the same day at 1:00 p.m.

The meeting was adjourned at 1:37 p.m.

These minutes are respectfully submitted by:



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Paul M. Nick  
Executive Director