

Merom Brachman, *Chairman*
Mark A. Vander Laan, *Vice Chairman*
Bruce E. Bailey
Megan C. Kelley
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Paul M. Nick
Executive Director

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ADVISORY COMMITTEE
MINUTES OF MEETING
June 27, 2024

Present: Commissioners Bruce Bailey, Megan Kelley & Mary Ross-Dolen
Executive Director Paul Nick

Chief Advisory Attorney Christopher Woeste
Advisory Attorneys Katie Saks & Melissa Riggins
Education and Communications Administrator Susan Willeke

Executive Director Nick called the meeting to order at 11:04 a.m.

Ms. Saks reviewed the June 27, 2024 memorandum, "Staff Recommendation for Application of the Ethics Law to Individuals in Dating Relationships." She discussed eight possible options for the Committee to consider.

She stated that staff recommended a formal advisory opinion incorporating Option #5, which would include the term "domestic partner" within the Commission's definition of "family member" for the purposes of R.C. 2921.42(A)(1) and R.C. 102.03(D) and (E). "Domestic partner" would be defined as "people living together as a spousal or family unit when not legally married or related." Alternatively, staff suggested the Commission could use the term "significant relationship" instead of "domestic partner."

As a secondary option, staff recommended Option #3, which would include "household member," instead of "domestic partner," within the definition of "family member."

Mr. Nick explained that the goal is to develop a precedent that can be used to give guidance to the public. He also noted that the Ohio Supreme Court and other courts have looked to Ethics Commission Advisory Opinions for guidance both in interpreting the law and developing jury instructions.

Ms. Kelley agreed with the staff recommendation of Option #5, stating it would align with other similar definitions used by other state and local agencies. She also stated that the legislature could change the revised code if they did not agree.

Mr. Bailey questioned whether the Commission has the authority to define a "family member" in this way through an advisory opinion. He agreed with staff's analysis but was concerned that the Commission could be limiting the definition to include only the named relationships resulting in a

decrease in flexibility for future opinions and enforcement actions. He also noted that R.C. 102.03 is broader in scope and includes any relationship that could impact the “objectivity and independence of judgment” of the public official or employee. Mr. Bailey cited the *Chevron* case and asked staff to research how its holdings would apply to the Commission’s ability to essentially add language to the statutes that we interpret and enforce.

Ms. Ross-Dolen pointed out that there are many new types of “dating” relationships with younger generations. She noted that persons in “dating” relationships may maintain separate residences. She stated that in some instances cousins could be closer than sisters, and that the perception of the relationship in the workplace is important. She also asked about engaged couples who are not living together.

Mr. Woeste stated that the application of the definition of “family member” may affect big cities differently than smaller communities, which could impact their ability to fill public jobs.

For the next Committee meeting, the Committee instructed staff to further develop the criteria of who is a “family member,” research how *Chevron* and other related cases may apply to the Commission, and research the Commission’s administrative authority in this area. Mr. Nick stated he will inform the Joint Legislative Ethics Committee’s Director of the Commission’s initiative. Mr. Woeste stated he already contacted the Board of Professional Conduct.

Mr. Woeste also informed the Committee that staff is continuing to research “official capacity” issues that have been raised by the City of Columbus in recent advisory requests.

The meeting was adjourned at 12:06 p.m.

These Minutes were prepared by Chief Advisory Attorney Chris Woeste and reviewed by Executive Director Paul Nick.