

Legislative Ethics Board

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BOARD MEMBERS:
REP. LAURIE DOLAN
TOM HOEMANN
REP. LARRY HOFF
SEN. JIM HONEYFORD
JUDGE TERRY LUKENS (ret.)
PAMELA MADSON
DAN McDONALD
SEN. JAMIE PEDERSEN
PAM TAJIMA PRAEGER

LEGISLATIVE ETHICS BOARD MINUTES

January 17, 2022

Meeting Held Virtually

Present were: Judge Terry Lukens, Chair; Pam Madson, Vice-Chair; Sen. Jim Honeyford; Rep. Laurie Dolan; Sen. Jamie Pedersen (for a portion of the meeting); Tom Hoemann; Dan McDonald; Pam Praeger, Jennifer Strus, Board Counsel; Ohad Lowy, House Counsel; and Victoria Cantore, Senate Counsel (for a portion of the meeting).

The minutes for the December 3, 2021 Board meeting was approved.

The Board reviewed the following three employment disclosure submissions: Marin Iancu; Dave Catterson and Autumn Freund. The Board found no conflict issues with the submissions.

The Board conducted an election for President and Vice-President for 2022. Judge Lukens was re-elected Chair and Tom Hoemann was elected Vice-Chair.

The Board discussed the current state of the Board's budget and that it does not allow for unforeseen circumstances, like public hearings. Board counsel was instructed to discuss an increase in the budget with the Chief Clerk of the House and the Secretary of the Senate and report back to the Board at its next meeting in March.

Board counsel updated the Board on Adobe sign, the soon to be implemented efile system for complaints.

The Board discussed the amended Board rules regarding complaints filed by persons claiming whistleblower protection and the methods, including efile, by which complaints can be filed. By a majority vote, the Board approved the rule.

The Board continued its discussion on the draft Advisory Opinion on the use of photographs. Board counsel was asked to redraft the opinion to both simplify the text and making it clearer what the general rule is. The Board discussed whether the 5 questions posed in the opinion request should be answered and determined that they do not but that Board counsel should explain why they are not being answered.

Furthermore, the Board indicated that the opinion should state that it believes its decision in *In re Wilson* was correct explaining that the issue with the photo in Wilson was that it was used to identify her on a caucus website and none of the other photos used contained organization names or slogans or positions.

The Board continued its discussion of the draft Advisory Opinion on campaigns. It reviewed the document that incorporated the comments Board counsel had received to date. The Board determined that the substantive comments should be highlighted, the grammatical comments incorporated and an interactive index to the various parts of the opinion placed at the beginning of the opinion. These changes are to be made in time for the Board meeting in March. The Board, at the March meeting, will also decide whether to reinstitute the subcommittee to work on this opinion.

The Board discussed the draft Annual Report. The Board indicated that there should be language added about its decision on whistleblower complaints as well as several typographical errors corrected. The Board approved the report with the suggested changes.

There was no public comment.

The Board moved into executive session to discuss pending complaints.

The meeting was adjourned.



Judge Terry Lukens, Chair

Date: 3/26/22

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LEGISLATIVE ETHICS BOARD MINUTES March 21, 2022 Meeting Held Virtually

Present were: Judge Terry Lukens, Chair; Pam Madson; Sen. Jim Honeyford; Rep. Laurie Dolan; Sen. Jamie Pedersen; Tom Hoemann, Vice-Chair; Dan McDonald; Pam Praeger, Jennifer Strus, Board Counsel; Ohad Lowy, House Counsel; Jeannie Gorrell, Senate Counsel; Rebecca Faust, citizen.

The minutes for the January 17, 2022 Board meeting were approved.

The Employment Disclosure form completed by Wendy Brown, staff to the Senate Ways and Means Committee was reviewed by the Board and no conflict identified.

Board counsel updated the Board on the status of the Board's budget. Per instructions by the Board during the January meeting, Board counsel met with the Chief Clerk of the House and the Secretary of the Senate regarding the budget. The Chief Clerk indicated that the addition to the budget provided to accommodate the potential increase in workload resulting from the amendment to the special privileges statute was carried over in subsequent years. As a result, the Board's budget for the fiscal year still had a balance of about \$52,000.

Board counsel updated the Board on the implementation of *Adobe Sign*, the e-filing system by which people can file complaints electronically. Counsel indicated the first complaint was filed using the system and it worked very well.

Board counsel provided the Board with an explanation of the implications to the Act resulting from the passage of SHB 2046. There were two areas of the bill in which some explanation by the Board would assist the ethics advisers in advising legislators and legislative staff about the impact to them of the amendments. In several sections of the bill, the term "emergencies" is used but not defined. The advisers believe it would be helpful if the Board could define this term in rule. Additionally, the bill also states that "achievements, honors or awards of extraordinary distinction" can be posted on the official websites or social media. This phrase is not defined and it is not clear to whom the "achievements, honors and

awards” would apply. Board counsel will meet with the ethics advisers and put together a draft to be considered by the Board at its April meeting.

The Board discussed the most recent draft Advisory Opinion on campaign issues. The Board decided that the Advisory Opinion should not be released as it is currently drafted without the inclusion of the Act’s amendments pursuant to SHB 2046. Board counsel will have a draft ready for the Board’s consideration at the April meeting.

The Board discussed the portion of the draft Advisory Opinion dealing with what constitutes an “extraordinary” award and the list provided in *Advisory Opinion 2005-1*. Some members felt the list was not inclusive enough and others believed that the term “extraordinary” should be defined with the list used to show examples of those awards, honors etc. that would qualify. Board counsel will provide the Board with two options at its April meeting: 1) a definition of the term extraordinary without the list; and 2) the list with some additional examples, e.g. medaling at the special Olympics.

During the public testimony portion of the meeting, Rebecca Faust testified regarding a complaint that she had previously filed and also commented regarding the implementation of SHB 2046.

The Board moved into executive session to discuss pending complaints.

The meeting was adjourned.



Judge Terry Lukens, Chair

Date: 4/18/22

Legislative Ethics Board

BOARD MEMBERS:
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LEGISLATIVE ETHICS BOARD MINUTES April 18, 2022 Meeting Held in Person

Present were: Judge Terry Lukens, Chair; Pam Madson; Sen. Jim Honeyford; Rep. Laurie Dolan; Sen. Jamie Pedersen; Dan McDonald; Pam Praeger, Jennifer Strus, Board Counsel; Ohad Lowy, House Counsel; Jeannie Gorrell, Senate Counsel.

The minutes for the March 21, 2022 Board meeting were approved.

The Employment Disclosure form completed by Rochel Robbie, procurement and supply specialist with LSS was reviewed by the Board and no conflict identified.

At the start of the pandemic when the meetings of the Board were held virtually, the legislative Board members decided not to accept the per diem to which they were entitled. When the meetings are in person, the legislative members agreed to accept per diem.

Board counsel discussed the promulgation of rules rather than relying on advisory opinions to provide direction to legislators and legislative staff. The Board further discussed this issue but no decision was made.

The Board discussed the next topic for the advisory opinion review now that the campaign advisory opinion review is almost complete. The Board decided that the next topic to which it will focus are those opinions dealing with the use of public resources for private gain (RCW 42.52.160). At this stage, the full Board will conduct the review but will reserve the ability to create a subcommittee if it is needed.

The Board reviewed the latest draft of the Advisory Opinion reviewing the previous advisory opinions dealing with campaign topics and incorporating the amendments contained in SHB 2046. The Board discussed how to interpret the provision that permits members to send congratulatory letters to constituents who have received awards or honors of extraordinary distinction. The Board decided that it

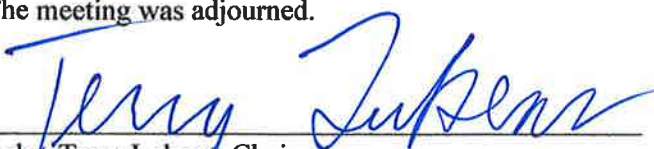
would add a definition of "extraordinary." The Board determined to delete the list of what the Board previously thought constituted extraordinary awards from *Advisory Opinion* 2005 – No. 1.

The Board discussed the provision in SHB 2046 that allows a member to post on official websites and social media information about emergencies. The Board determined that it should define what is meant by the term "emergency." It was decided that it would use the terms defined in *Advisory Opinion* 2020-No. 1 and this explanation would be included in the campaign *Advisory Opinion* draft.

There was no public testimony.

The Board moved into executive session to discuss pending complaints.

The meeting was adjourned.



Judge Terry Lukens, Chair

Date: 6/17/22

Legislative Ethics Board



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LEGISLATIVE ETHICS BOARD MINUTES June 14, 2022 Meeting Held Virtually

Present were: Judge Terry Lukens, Chair; Tom Hoemann, Vice-Chair; Sen. Jim Honeyford; Rep. Laurie Dolan; Rep. Larry Hoff; Sen. Jamie Pedersen; Dan McDonald; Pam Praeger; Shontrana Gates-Wertman; Jennifer Strus, Board Counsel; Jeannie Gorrell, Senate Counsel.

The Board welcomed the newest citizen Board member, Shontrana Gates-Wertman who was appointed to replaced former Board member Pam Madsen.

The minutes for the April 18, 2022 Board meeting were approved.

There were no Employment Disclosure forms to be reviewed.

The Board determined that henceforth, Board meetings will be held in person.

The Board discussed the review of Advisory Opinions dealing with RCW 42.52.070 and .160. Board counsel reviewed the chart detailing the opinions including those from former House and Senate Ethics Board that this Board adopted as precedent in 1995. The Board decided that the subcommittee formed to assist with the campaign Advisory Opinion review should be reconvened to review the opinions analyzing .070 and .160 and make recommendations to the full Board.

There was no public testimony.

The Board moved into executive session to discuss pending complaints.

The meeting was adjourned.



Judge Terry Lukens, Chair

Date: 8/5/22

Legislative Ethics Board

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LEGISLATIVE ETHICS BOARD MINUTES July 26, 2022 Meeting Held Virtually

Present were: Judge Terry Lukens, Chair, Tom Hoemann, Vice-Chair, Rep. Laurie Dolan, Rep. Larry Hoff, Sen. Jamie Pedersen, Dan McDonald, Pam Praeger, Shontrana Gates-Wertman, Jennifer Strus, Board Counsel; Ohad Lowy, House Counsel.

The minutes for the June 14, 2022 Board meeting were approved.

There were no Employment Disclosure forms to be reviewed.

The Board discussed the provision of Advisory Opinion 2020 - 1 that dealt with caucus social media posts during the election season. There had been a question about whether the language dealing with these postings in the Advisory Opinion accurately depicted the Board's decision. The Board confirmed that it believes the current language in the Opinion reflects its decision on caucus social media postings during election season.

The Board next discussed the subcommittee's recommendations on the old Advisory Opinions analyzing RCW 42.52.070 and .160. The Board agreed with the subcommittee's recommendation that the former House and Senate Ethics Boards opinions dealing with the use of state resources for personal gain or special privileges that are listed in Advisory Opinion 1995 - No. 1 should be retired. The Board agreed with the subcommittee that the current ethics board has 30 years of opinions from which to draw; therefore, the old opinions are no longer needed. The Board also agreed with the subcommittee's recommendation that Advisory Opinions 1995 - 17, 1996 - 5, 2000 - 1, 2000 - 5, and 2006-1 should be retained in their current form.

The Board also discussed the draft rule regarding stipulation timelines. The Board agreed that 30 days was sufficient but wanted added to the rule that the stipulation would be sent by both email as well as a hard copy by USPS. The Board agreed that a scanned copy of a respondent's signature on a stipulation would be acceptable.

There was no public testimony.

The Board moved into executive session to discuss pending complaints.

The meeting was adjourned.


Judge Terry Lukens, Chair

Date: 9/29/22

Legislative Ethics Board

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LEGISLATIVE ETHICS BOARD MINUTES September 29, 2022 Meeting Held Virtually

Present were: Judge Terry Lukens, Chair; Tom Hoemann, Vice-Chair; Rep. Larry Hoff; Sen. Jamie Pedersen; Dan McDonald; Pam Praeger; Shontrana Gates-Wertman; Jennifer Strus, Board Counsel; Suchi Sharma, Senate Counsel; Debbie Brookman, Director, Office of State Legislative Relations.

The minutes for the July 26, 2022 Board meeting were approved.

There were two Employment Disclosure forms reviewed. The first was filed by Damon Mentzer, an Associate Committee Assistant regarding his wife who works as an epidemiologist at Department of Health. The second form was filed by Yukimi Fujisa, a Committee Assistant for SCS, whose husband is the Operating Budget Coordinator for the Senate Ways and Means Committee. The Board found no conflicts with either disclosure.

The Board discussed whether the replacement of the three legislator Board members (Hoff, Honeyford & Dolan) should occur before they leave office. The Chair indicated that with the upcoming public hearing scheduled for December, it would be beneficial for the members to stay through their legislative terms.

The Board reviewed the Board budget. Tom Hoemann indicated that the Board has sufficient funding for this fiscal year, even with the added expense of a public hearing. Board counsel should explore with House Accounting whether the assumptions used to build the budget this fiscal year remain accurate as we move back toward in-person meetings.

The Board discussed the chart developed by Board counsel regarding the Advisory Opinions dealing with Gifts and Honoraria. The Board voted that the opinions reviewed by the Board in the chart would remain the opinions of the Board.

Board counsel asked whether the members would like to see and review the updated Ethics Manual. Counsel will send the update to all members and those who wish to comment may comment.

Board Counsel presented the draft Advisory Opinion 2022 – No. 1. The Board voted to accept the draft opinion. Counsel will finalize.

The next Board meeting was scheduled for November 10, 2022 at noon. The meeting will be held in person. The location will be announced at a later date.

There was no public testimony.

The Board moved into executive session to discuss pending complaints.

The meeting was adjourned.



Judge Terry Lukens, Chair

Date: 11/10/22

Legislative Ethics Board

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LEGISLATIVE ETHICS BOARD MINUTES

November 10, 2022

John A. Cherberg Building, Conference Rooms A, B, C

Present were: Judge Terry Lukens, Chair; Tom Hoemann, Vice-Chair; Rep. Larry Hoff; Sen. Jamie Pedersen; Rep. Laurie Dolan; Dan McDonald; Pam Praeger (by Zoom); Sen. Jim Honeyford (by Zoom); Jennifer Strus, Board Counsel; Jeannie Gorrell, Senate Counsel; Ohad Lowy, House Counsel

The minutes for the September 29, 2022 Board meeting were approved.

There were no Employment Disclosure forms to review.

Board counsel updated the Board on the changes to the summary of Advisory Opinions on the Board's website. To the summary page was added a new row that indicates whether and when the opinion was reviewed by the Board and the status of the opinion after the review.

The Board discussed whether there should be a rule addressing the process to be used if a member decides to file a dissenting or concurring opinion. Board counsel is to bring a draft rule on this topic to the next meeting of the Board.

The Board discussed the meeting dates for 2023. Because it is a long legislative session, it was decided that Board counsel should select a January date but hold off on dates in February, March or April until the cut-off calendar is available. Board counsel can select dates for May through December before the cut-off calendar is available.

The next Board meeting is scheduled for December 19, 2022 at noon. The meeting will be held virtually.

There was no public testimony.

The Board moved into executive session to discuss pending complaints.

The meeting was adjourned.



Judge Terry Lukens, Chair

Date: 12/23/22

Legislative Ethics Board
Meeting Minutes
November 10, 2022