

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 18, 2021

Meeting Held Virtually

Present were: Judge Terry Lukens, Vice-Chair; Sen. Jamie Pedersen; Sen. Jim Honeyford; Rep. Larry Hoff; Rep. Laurie Dolan; Pamela Madson; Tom Hoemann; Dan McDonald; Jennifer Strus, Board Counsel; Victoria Cantore, Senate Counsel; Ohad Lowy, House Counsel; Pam Praeger, guest

New officers were elected as follows: Judge Terry Lukens, Chair and Pam Madson, Vice-Chair.

The minutes for the December 7, 2020 Board meeting were approved.

There were no employment disclosure forms to approve.

The Board discussed the amended draft recusal policy. Board counsel reported on the procedures used by other boards and commissions regarding recusal of members. The Board voted to approve the draft policy as presented at the meeting in December 2020.

The Board discussed the process by which it will conduct its review of the Advisory Opinions. A subcommittee was selected to assist Board counsel in developing a procedure by which the opinions will be reviewed. That subcommittee includes Dan McDonald, Rep. Dolan, Pam Madson and Judge Lukens. The Board agreed the subcommittee would not meet until after the close of the 2021 legislative session.

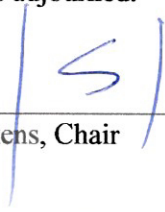
The Board agreed that it would issue an annual report for 2020. Board counsel will distribute the draft for comments.

There was no public comment.

The Board moved into executive session to discuss pending complaints.

The next meeting of the Board is scheduled for March 1, 2021 starting at noon and will be held virtually.

The meeting was adjourned.



Judge Terry Lukens, Chair

Date: _____

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LEGISLATIVE ETHICS BOARD MINUTES March 1, 2021 Meeting Held Virtually

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

Pam Tajima Praeger was introduced and welcomed as the new citizen member of the Board. She succeeds Eugene Green as the 5th citizen member who is selected by the other citizen members.

The minutes for the January 18, 2021 Board meeting were approved.

The Board discussed three disclosure forms submitted by Rep. Simmons, Rep. Rule and Christine Kilduff. No Board action was required.

The Chair reminded members that any written communications between Board members and staff or between Board members themselves regarding pending or completed complaints are potentially subject to public disclosure; that members should keep that in mind when making such written communications; that members should not appear to have prejudged any pending case; and that members should not disclose any confidential information.

The Board reviewed the draft 2020 Annual Report and approved it with the suggested changes.

The Board discussed whether it should accept anonymous complaints. Board counsel discussed the current complaint process used by the Board and the process used by both the Executive Ethics Board and the Commission on Judicial Conduct for accepting anonymous complaints. There was discussion that if the Board accepted anonymous complaints, it could damage legislators' reputations by allowing people to file complaints without having to state who they are. The Board determined that, at this juncture, it would not accept anonymous complaints.

The Board discussed the annual update to the Ethics Manual and whether members would like to review the draft before it is published. Several members indicated an interest in reviewing the draft. Once the draft is complete, Board counsel will provide the draft to members for comment.

The Board discussed the issue of whether the caucuses should be permitted to link to an article or home page of an outside organization that also has a donate button if the issue to which the link applies has sufficient legislative nexus. The Board determined that the link should be to the specific document if possible rather than the home page of the organization; however, if the organization's request for donations is not prominent, and there is a strong legislative nexus, the link should be allowed. Board counsel was directed to draft an Ethics Alert to this effect.

The Board also discussed the issue of members taking "selfies" on the floor of the House or Senate. It determined that such picture should be discouraged as some of those pictures have found their way to campaign sites in the past. Board counsel was directed to draft an Ethics Alert reminding members, especially new members, that this practice should be discouraged.

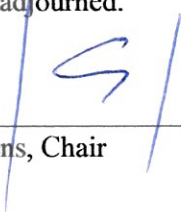
Another issue brought to the Board's attention was the use of virtual backdrops created by legislative staff that many members use during this remote session and the concern that the backdrops, legislative laptops and cell phones should not be used for non-legislative business. Board counsel was directed to combine this reminder to the Ethics Alert being drafted on taking "selfies."

There was no public comment.

The Board moved into executive session to discuss pending complaints.

The next meeting of the Board is scheduled for April 29, 2021 starting at noon and will be held virtually.

The meeting was adjourned.



Judge Terry Lukens, Chair

Date: _____

Legislative Ethics Board

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LEGISLATIVE ETHICS BOARD MINUTES April 29, 2021 Meeting Held Virtually

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

The minutes for the March 1, 2021 Board meeting were approved.

The Board discussed how to handle a complaint from a person entitled to whistleblower protection and whether the complainant's identity should remain confidential from the Board members. The Board determined that the identity of the complainant entitled to whistleblower status should not be kept confidential from the adjudicator (Board). However, the identity of the complainant is to be kept confidential as to the outside if a public disclosure request is made for the complaint. Board counsel was instructed to draft a policy statement to this effect which will be considered at the next Board meeting.

The Board discussed the draft Ethics Alert regarding the inclusion on official websites or social media of a link to an organization's home page that contains a donate button or something similar. The Board determined that the best practice would be to link to the document on the organization's website to which the post on an official site is referring. However, the fact that the organization's home page has a donate button does not mean a link to it cannot be included on an official site as long as there is sufficient legislative nexus between the topic and the site. However, under no circumstances can the link included on an official site be directly to the donate page on the website. Board counsel was instructed to make these changes to the draft alert.

The Board discussed the draft Ethics Alert on receiving emails on the legislative email system from campaigns or candidates for local office. The Board determined that an Alert was not necessary and the advice provided by the ethics advisors to delete the email and not respond was sufficient.

The Board discussed the committee to assist Board counsel with the review of advisory opinions. The members selected to participate on the committee are Pam Madsen, Dan McDonald, Judge Lukens, Rep. Dolan and Tom Hoemann. Board counsel will schedule a meeting in the near future for the committee to meet.

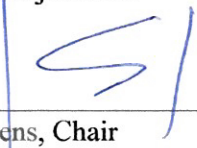
The next meeting of the Board was rescheduled from May 24, 2021 at 10 to June 3, 2021 at noon. The remaining meetings scheduled for 2021 remain the same except they will be held at noon rather than 10 am.

There was no public comment.

The Board moved into executive session to discuss pending complaints.

The next meeting of the Board is scheduled for June 3, 2021 starting at noon and will be held virtually.

The meeting was adjourned.



Judge Terry Lukens, Chair

Date: _____

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LEGISLATIVE ETHICS BOARD MINUTES

June 3, 2021

Meeting Held Virtually

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

The minutes for the April 29, 2021 Board meeting were approved.

The Board resumed its discussion of how to handle a complaint from a person entitled to whistleblower protection and whether the complainant's identity should remain confidential from the Board members. Concerns were raised about the number of legislative staff who would see the complainant's name if it was not redacted which would seem to obviate the protection afforded in the statute. Sen. Pedersen suggested that identifying information could be redacted when the complaints are sent to the Board members and the identity of the complainant could be revealed by Board counsel when the Board is in executive session. The Board discussed Board counsel's suggestion that the AG assigned to the Board should be asked his opinion on how the whistleblower protections should be applied to a Board like the Legislative Ethics Board which is quasi-judicial in nature. The Board agreed that it would send a letter to the AGO asking for an informal opinion on this question and would discuss the topic at the next meeting.

The Board discussed the timing of its decision-making process. Some members had expressed concern that, although they had reviewed the written materials presented at the meeting, sometimes the discussion raised additional concerns or ideas that they would like more time to consider. No formal rule on this was proposed but the Chair emphasized that the members need to feel comfortable asking for more time to deliberate if they feel they need it. Some members raised concerns about the length of time it sometimes takes for the Board to reach a decision especially when Respondents are anxiously awaiting the Board's response. There was some discussion of meeting monthly rather than every 6 weeks or so but no decision on this was reached.

The next meeting of the Board was rescheduled from July 12, 2021 at 10 to July 27, 2021 at noon.

There was no public comment.

The Board moved into executive session to discuss pending complaints.

The next meeting of the Board is scheduled for July 27, 2021 starting at noon and may be held in person.

The meeting was adjourned.



Judge Terry Lukens, Chair

Date: _____

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LEGISLATIVE ETHICS BOARD MINUTES August 23, 2021 Meeting Held Virtually

Present were: Judge Terry Lukens, Chair; Pam Madson, Vice-Chair; Sen. Jim Honeyford (for Executive Session only); Rep. Larry Hoff; Tom Hoemann; Dan McDonald; Pam Praeger, Jennifer Strus, Board Counsel; Ohad Lowy, House Counsel; Jeannie Gorrell, Senate Counsel; Victoria Cantore, Senate Counsel.

The minutes for the June 3, 2021 Board meeting were approved.

Employment/Contract disclosure forms were submitted by legislative employees, Lorraine Avery and Emily Stone and by legal intern Phillip Craig. The Board determined there was no conflict for any of the people submitting the forms.

The Board resumed its discussion of how to handle a complaint from a person entitled to whistleblower protection and whether the complainant's identity should remain confidential from the Board members. At the June meeting, the Board requested that it receive advice from the AAG assigned to represent the Board. The AAG was unable to have that advice ready for this Board meeting; the topic was tabled for further discussion at the next scheduled Board meeting. Board counsel was directed to request that the AAG have written advice available at that meeting.

The Board continued its discussion of the Advisory Opinion review process. The subcommittee assigned to oversee this process discussed its approach of reviewing the opinions dealing with campaign issues first since the first of the election year restrictions go into place on December 1, 2021. The full Board approved of addressing these opinions first. The advisory committee had also recommended that a new Advisory Opinion containing all relevant campaign restrictions be issued and that there be some indication of this fact made. There was discussion about how best to indicate that some Advisory Opinions are no longer of precedential value. It was decided that on those opinions that no longer have precedential value there be an indication that the opinion is superseded by the new Advisory Opinion. The
Legislative Ethics Board
Meeting Minutes
August 23, 2021

new Advisory Opinion will also indicate what Advisory Opinions it supersedes. The remaining opinions regarding campaign issues will be discussed at the Board's next meeting.

The Board discussed the recent draft update to the Ethics Manual. Board member Hoemann raised an issue that he thought should be clarified. The Manual currently states that legislative staff members cannot attend campus rallies. Mr. Hoemann indicated that there may be good reasons why a staff person as part of their job would attend a rally and that that should be reflected in the Manual. Board counsel was directed to update that portion of the Manual and provide that update to the members for approval. Other than this update, the changes to the Manual are approved and can be published.

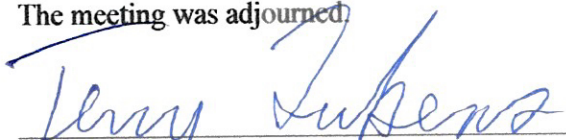
The Board also discussed to what extent members can use state resources to address the current crisis in Afghanistan. Many members have been contacted by constituents looking for assistance or information on refugee groups, how to help etc. particularly since many Afghani refugees are coming to Washington state. The Board determined there was sufficient legislative nexus to permit the use of state resources in both responding to constituent inquiries about the crisis and to initiate outreach on the issue. The Board indicated that an inclusive list of governmental and non-profit agencies and organizations offering refugee assistance may be developed and used to respond to inquiries. Furthermore, the Board determined that such a list could be posted on official social media sites as well as official websites. Board counsel was directed to draft an Ethics Alert to this effect.

There was no public comment.

The Board moved into executive session to discuss pending complaints.

The next meeting of the Board is scheduled for October 4, 2021 starting at noon.

The meeting was adjourned



Judge Terry Lukens, Chair

Date: 10/9/21

Legislative Ethics Board

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LEGISLATIVE ETHICS BOARD MINUTES

October 4, 2021

Meeting Held Virtually

Present were: Judge Terry Lukens, Chair; Pam Madson, Vice-Chair; Sen. Jim Honeyford; Rep. Larry Hoff; Tom Hoemann; Dan McDonald; Pam Praeger, Jennifer Strus, Board Counsel; Ohad Lowy, House Counsel; Victoria Cantore, Senate Counsel; Chad Standifer, Assistant Attorney General.

The minutes for the August 23, 2021 Board meeting were approved.

The Board continued its discussion of the Advisory Opinion review process. Board counsel reviewed the chart listing the remaining advisory opinions dealing with campaign issues. The Board indicated that, to help people comply with the Ethics Act, it would be useful to create a new Advisory Opinion containing the Board's opinions on campaign issues in one place. The new opinion should be indexed and be integrated with complaint opinions to the extent possible. Board counsel was asked to have an outline ready for the November meeting.

The Board then discussed the distribution of complaints. Historically, when the Board counsel received a complaint, it was immediately sent to all the Board members. Other boards and commissions that conduct investigations on complaints filed with it do not provide the complaint to their members until an investigation has been completed. The Board believes that the Legislative Ethics Board is in a different position than these other boards; if a member is asked about a complaint, the Board believes it needs to know that a complaint has been received to properly respond. The Board decided that Board counsel will continue to provide the complaints to the Board members upon receipt of the complaint.

The current status of the notice on the Board's website allowing the acceptance of emailed complaints was discussed. As the status of the buildings on the legislative campus are in various states of allowing the public to enter, it was recommended that the notice be amended to allow the acceptance of emailed complaints henceforth. The concern expressed by some of the members the last time this issue was discussed (March 2020 meeting), was that to allow emailed complaints would result in a flood of complaints. The Board has allowed emailed complaints since the start of the pandemic and there were no

more complaints in 2020 than there were in 2019. A majority of the Board agreed that the Board should permit the e-filing of complaints.

Board counsel indicated that the ethics advisers have fielded many questions regarding the use of communications staff to assist the redistricting commission commissioners. It was recommended that the Board issue an Ethics Alert or Advisory Opinion indicating the ethical parameters applicable to legislative staff and legislators regarding their ability to assist commissioners with the media (staff) and the comments legislators may make about the initial maps issued by the commissioners. Board counsel was directed to put together a draft for consideration at the next meeting.

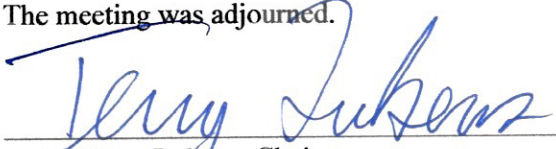
The Board determined that during the interim it would meet at 10 am rather than noon.

There was no public comment.

The Board moved into executive session to discuss pending complaints.

The Board plans to meet on October 13, 2021 following the public hearing in the Ericksen complaint to continue its discussion of the redistricting and whistleblower issues. The next regularly scheduled meeting of the Board is scheduled for November 15, 2021 at 10 a.m..

The meeting was adjourned.



Judge Terry Lukens, Chair

Date: 10/9/21

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LEGISLATIVE ETHICS BOARD MINUTES

October 13, 2021

Meeting Held Virtually

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

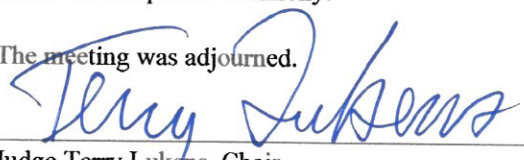
At the regularly scheduled board meeting on October 4, 2021, the Board determined that it would hold another meeting after the public hearing on October 13, 2021 to further discuss two issues it did not resolve at the October 4 meeting.

The Board continued its discussion of the ethical parameters of legislative staff assisting redistricting commissioners. The Board reviewed and discussed the draft Advisory Opinion presented by Board counsel, including amendments suggested by Board member Hoemann. After much discussion, the Board determined that for legislative staff to provide advice and counsel to a redistricting commissioner would not violate the Act even when that advice involved political consequences. Further, advising a legislator about the consequences of a proposed redistricting plan would also not violate the Act. However, any advocacy actions by legislative staff in a public arena, including testifying, would most likely violate the Act. Board counsel was instructed to amend the draft Advisory Opinion in accordance with this discussion and present it at the next Board meeting. The ethics advisers were consulted as to whether the discussion on this topic by the Board provided sufficient direction to them and they indicated it did.

The Board also discussed whether the names of persons claiming whistleblower status should be provided to the Board. The Board directed Board counsel to amend the complaint form to add a provision that allows the complainant to claim whistleblower status when filing the complaint. It is incumbent upon Board counsel to determine that the person claiming whistleblower status is indeed entitled to it. If Board counsel determines the person is entitled to whistleblower status, then counsel is to redact the name of the complainant and any identifying information from the complaint when providing the Board with copies of the complaint. Board counsel was also instructed to amend the Board rules in accordance with this decision.

There was no public testimony.

The meeting was adjourned.



Judge Terry Lukens, Chair

Date: 12/9/21

Legislative Ethics Board



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LEGISLATIVE ETHICS BOARD MINUTES December 3, 2021 Meeting Held Virtually

Present were: Judge Terry Lukens, Chair; Pam Madson, Vice-Chair; Sen. Jim Honeyford; Rep. Laurie Dolan; Rep. Larry Hoff; Tom Hoemann; Dan McDonald; Pam Praeger, Jennifer Strus, Board Counsel; Ohad Lowy, House Counsel; Victoria Cantore, Senate Counsel; Cody Shotwell, Legislative Support Services.

The minutes for the October 4, 2021 and October 13, 2021 Board meetings were approved.

Cody Shotwell conducted a demonstration of the Adobe sign application that allows a person wanting to file a complaint to do so online. He indicated that the enhanced version of Adobe sign, which costs about \$300 additional a year, would allow complainants to attach documents to the electronic complaint. The Board approved the use of the enhanced version of Adobe sign.

The Board also approved the use of the new Complaint form without the boxes specifying the particular violation. The Board did not believe that complainants would necessarily know which section of the statute was violated which obviated the need for the boxes.

The Board also approved, for the time being, allowing complainants to file electronically using Adobe sign or emailing in a scanned version of the complaint form as they have been doing. The Board will revisit this process next year to determine whether they still need to permit both methods of filing complaints. The draft rule should be amended to reflect this addition.

The Board then discussed the draft advisory opinion regarding campaigns. The Board discussed that this draft was very comprehensive and they wanted to make sure it was accurate because they want it to be the standard for a long time. The chair suggested that perhaps the advisory opinion subcommittee that was formed this past summer should review the opinion. It was ultimately decided that the Board would provide comments to counsel by January 17, 2021 and discuss it at their next Board meeting. Counsel was also asked to have the ethics advisers review the draft as well. The chair indicated that the Board would

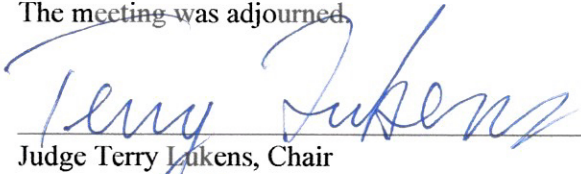
try to finalize the opinion by March 2022 and would decide at the January Board meeting whether a subcommittee is needed.

The Board discussed the draft advisory opinion on the use of photos. The Board agreed that the opinion should be divided into a discussion about the taking of the photo and then move into a discussion about the use of the photo and whether there is an issue with private gain as a result of that use. The Board did not believe there was an issue with using a photo of a legislator in which the name of the organization is visible if the organization is a public entity or an organization of which the legislature is a member like the National Council of State Legislatures. There was some discussion but no agreement that perhaps *In re Wilson* was wrongly decided because she was acting in her official capacity when the photo was taken under RCW 42.52.160(2). Counsel was directed to rewrite the advisory opinion incorporating these 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: 1/27/22