



ETHICS CODE REVIEW COMMITTEE
MINUTES OF OCTOBER 1, 2020
PUBLIC MEETING

In attendance:

ECRC Members:

ECRC Co-Chair Kathryn Denhardt, Ph.D.

NCCEC Staff:

Julie M. Sebring, Legal Counsel

Members of the Public:

Ethics Commissioner Sally Jensen

Co-Chair Kathryn Denhardt opened the public meeting at 5:32 p.m. which was held via Zoom meeting and which was advertised at least one week in advance and open to participation by the general public.¹

The ECRC member and Ethics Counsel, listed above, were present electronically for the entire meeting.

MINUTES

The minutes of the ECRC September 3, 2020 public Zoom meeting were reviewed and adopted as presented.

The email from Ethics Commissioner and Co-Chair Tetrick was discussed in which she explained that because of changes in her work schedule due to COVID-19, she needs to take a leave of absence from her participation with the ECRC until January 2021. The discussion acknowledged the varied ways in which the COVID-19 pandemic has impacted the lives of so many people.

OLD BUSINESS

1. County Council's proposed Code amendments to change the manner in which County boards and commission notice meetings was discussed. Counsel stated that she is trying to find out whether this Code change will require the purchase of computer software to use the program referenced in the proposed amendments.

¹ This meeting was held via Zoom per the executive orders issued by both Governor John Carney and County Executive Matthew Meyer which allow for electronic meetings of public bodies during the state of emergency which was declared by the Governor as a result of the CoVid-19 pandemic.

2. The directive in the Final Order issued by the Commission to the ECRC to review and revise Section 2.04.103.D was discussed. The Code should be clear that the investigation of a complaint will not begin until after the respondent is notified. Also, in times when an unanticipated number of complaints are being investigated simultaneously, instead of using more time to resolve those complaints, the Code should include language which will allow the Commission to make the arrangements to hire the number of people needed to work on the unanticipated number of complaints in a way which allows the Commission to resolve the complaints on a timely basis. The Commission could also consider the adoption of Code language which would allow for hearings on complaints which would not require the entire Commission to be present at the hearing(s), such as a five or three Commission member hearing panel. Complaint matters should be resolved as quickly as reasonably possible and should not be dragged out over a span of years.

The ECRC also discussed the subject matter of the Final Order: while the Administration has the right per Delaware labor law to monitor County employees' computer usage at work, that statutory right does not extend to the computers of employees who are not supervised by the Administration, and any otherwise legal computer searches by management must be performed for legitimate labor law reasons. The Ethics Code, in its Code of Conduct section, should include language which makes it clear that surreptitious monitoring of County computers which are assigned to and/or used by persons not managed by the Administration is a violation of the Ethics Code.

3. Counsel reported that the Administrative Committee of the Ethics Commission will be meeting on October 5, 2020, to discuss the ECRC's update Interim Report which was presented to the Commission at its August meeting.

PUBLIC COMMENT: Commissioner Sally Jensen attended the meeting and stated that she had reviewed the Interim Report and viewed it favorably, further stating that she knows that a lot of work went into its preparation.

On or about 7:08 p.m., Co-Chair Denhardt adjourned the meeting.

The draft minutes were prepared by Julie M. Sebring, Esquire, Counsel to the NCCEC.