

**ALASKA STATE LEGISLATURE
SELECT COMMITTEE ON LEGISLATIVE ETHICS**
JULY 17, 2018
10:42 AM

11:34:29 AM

Committee members present:

Dennis "Skip" Cook, Chair
Senator John Coghill (telephonic)
Senator Dennis Egan (telephonic)
Representative Colleen Sullivan-Leonard
Representative Chris Tuck
Deb Fancher
Lee Holmes
Joyce Anderson
Conner Thomas

Others present:

Dan Wayne (telephonic)
Jerry Anderson, Administrator
Jacqui Yeagle, Administrative Assistant

1. Call the Meeting to Order

Chair Dennis "Skip" Cook called the meeting to order at 11:37 AM.

2. Approval of Agenda

Conner Thomas made a motion to approve the agenda. No objection. Agenda approved.

3. Approval of Minutes

a. May 17, 2018 Full Committee Minutes

Deb Fancher made a motion to approve the minutes. No objection. Minutes approved.

b. May 17, 2018 House Subcommittee Minutes

Lee Holmes made a motion to approve the minutes. No objection. Minutes approved.

4. Public Comment

Josh Fryfogle, a constituent of Representative David Eastman, spoke to the committee about his concerns about the proceedings to date regarding Representative Eastman. Fryfogle reported that he had watched the January 31, 2018 360 North recording in which Representative Chris Tuck put forth the Ethics Committee recommendation to remove Representative Eastman from the Ethics Committee.

Fryfogle reported that when Representative Eastman tried to explain that he had had no opportunity, no access, and no possible way of knowing about any action against another member of the legislature, Representative Tuck interrupted him citing an Ethics Committee rule that there should not be discussion of the details of the case.

To Fryfogle, Representative Tuck's action seemed to imply that Representative Eastman was reporting details in a public forum that should be kept confidential, but Representative Eastman was literally stating he did not know any details. That causes Fryfogle concern and he asked the Committee to answer to that scenario and attempt to make sense out of it.

Secondly, Fryfogle reported that he had visited the Ethics Committee website and one of the statements on the website stuck out for him: that the mandate for the existence of this Committee is "A fair and open government requires that legislators and legislative employees conduct the public's business in a manner that preserves the integrity of the legislative process and avoids conflicts of interest or even appearances of conflicts of interest."

Fryfogle added that given the Committee's previous determination of Representative Eastman's guilt, a hearing before the Committee is the essence of a conflict of interest. Fryfogle expressed concern that there is a definite appearance of a conflict of interest and whether the Committee re-confirms its previous finding or finds Representative Eastman not guilty, the Committee's credibility is undermined.

Fryfogle expressed dissatisfaction with the amount of time it has taken to arrange the hearing and see the evidence. He also expressed concern that the damage is already done as far as the public is concerned. Fryfogle believes that

the authorized media has reported this case in such a fashion as to lead the general public to believe the "deal is done" - that there was a fair process but we are just now getting to the fair process.

Fryfogle continued that this has not only diminished Representative Eastman's voice, it has also diminished the voices of his constituents, so it is very important that there be a resolution, but he is disappointed that he does not see any resolution that does not leave him questioning the Ethics Committee as a whole.

Chair Cook responded that the Committee follows the process as determined by the legislature. Cook suggested that Fryfogle ask his representatives to push for change in the legislature.

Fryfogle replied that it is his intention to do what Chair Cook suggests. Fryfogle spoke again to his belief that Representative Eastman's reputation has been diminished and with that his capacity to create change in the legislature. Fryfogle expressed concern that there is a breakdown in the system. There is a flaw and things are not working as they should. Fryfogle hopes for wisdom on the part of all of the Committee members.

Fryfogle added that support for the Ethics Committee of all committees should be of the highest standard. The public should not be seeing a "no escape scenario" where confidence in this Committee is lost and the damage is done - not just to Representative Eastman but to this Committee.

Representative Tuck responded to Fryfogle's question regarding the floor session and his interruption of Representative Eastman. Representative Tuck explained that he was panicked that Representative Eastman would speak about a case other than his own and attempted to prevent that from occurring.

Fryfogle said that it was his understanding that at that time, Representative Eastman still did not know of what he was accused.

Fryfogle thanked the Committee and returned to the audience.

5. Amendment of contracts related to Complaint 17-03

Administrator Jerry Anderson referred the Committee to the contract documents in their packets. Jerry Anderson explained that the proposal was to add \$10,000 to each of the contracts - for a total of \$20,000 each. The additional amount includes expenses in excess of the \$10,000 incurred in FY 18.

- a. Conner Thomas moved to approve the contract with Ingaldson Fitzgerald, P.C., increasing the total contract to \$20,000. No objection. Contract amendment approved.
- b. Lee Holmes moved to approve the contract with Nancy Nolan, dba Nancy J. Nolan Resolution Services, increasing the total contract to \$20,000. No objection. Contract amendment approved.

6. Chair/Staff Report

7. 2019 Ethics Training

Jerry Anderson explained that his report continues a discussion about ethics training requirements in 2019 begun at the May 17, 2018 meeting. Jerry Anderson reported he had met with the Alaska State Commission for Human Rights and discussed the training with them. The Human Rights Commission proposed that they offer a 1½ hour refresher course (one-hour training and a half-hour discussion period) for returning legislators and legislative employees. The refresher course would be offered immediately following the regular ethics training.

Jerry Anderson noted that the packet includes a draft of what a training schedule would look like with a two-hour long regular ethics training session and a one-and-a-half-hour Sexual Harassment and Other Forms of Discrimination training refresher course. New legislators and new legislative employees would have the three-hour long ethics training and the three-hour long Sexual Harassment training - for total of six hours.

Deb Fancher asked if a three-hour face-to-face training is necessary or whether the training could be delivered remotely. Jerry Anderson responded that some of the sessions would be recorded for later viewing by those who

were unable to attend any of the face-to-face training session or are hired later in the year.

Lee Holmes reported that when he attended a training session, he noted how much interaction there was between the presenter and attendees throughout the presentation. That is a benefit that attendees would miss if the meeting were not face-to-face.

Representative Tuck expressed his agreement with Holmes's statement. Representative Tuck said the legislature has unique scenarios and that there is a benefit to attendees in being able to address those scenarios and hear the answer to other attendees' scenarios.

Representative Tuck added that new legislators and staffers already attend a week-long training before session begins. In 2017, or so, Legislative Affairs did not include the Sexual Harassment training and he believes that omission may have led to some of the problems that occurred in the legislature.

Representative Tuck added that some new legislators have a hard time making it to the orientation and he is aware that accommodations were made so they could attend remotely but his preference is to allow that only in rare circumstances.

Joyce Anderson recalled that in the past, one or two legislators were unable to attend the training and were not even able to call in so as the administrator at that time, she would conduct one-on-one trainings with them.

Chair Cook recapped the reason for the discussion: It was determined that the Sexual Harassment training conducted by the Human Rights Commission is under the Ethics Committee's jurisdiction but relying on the Human Rights Commission to conduct the training. Chair Cook entertained a motion to accept the recommendation to offer a one-and-a-half-hour refresher training sexual harassment training to returning legislators and legislative employees.

Joyce Anderson confirmed that the training would be mandatory.

Representative Colleen Sullivan-Leonard moved to accept the recommendation. No objection. Motion approved.

Chair Cook directed Jerry Anderson to report the results back to the Human Rights Commission.

Jerry Anderson commented that the Human Rights Commission was very willing to conduct all of the training sessions and are willing to make the arrangements to do so.

8. Executive Session:

Motion to go into EXECUTIVE SESSION to discuss matters which by law must remain confidential under AS 24.60.160, Uniform Rule 22(b) regarding executive sessions, and Rules of Procedure Section 5: Executive Sessions and discussion of matter that the immediate knowledge of would adversely affect the finances of a governmental unit, and discussion of subjects that tend to prejudice the reputation and character of a person.

Conner Thomas moved to enter executive session. No objection.

9. Executive Session

10. Public Session

Chair Cook re-opened the public session by asking Jerry Anderson to summarize Advisory Opinion 18-03.

Jerry Anderson summarized the draft of Advisory Opinion 18-03.

Advisory Opinion 18-03 advises that it is improper for a legislator who is a candidate in a general election to use the legislative print shop or other state resources to print materials during a campaign period as described in AS.24.60.030(c) even when the legislator is an independent candidate whose name does not appear on the primary election ballot.

Chair Cook entertained a motion to approve the draft of Advisory Opinion 18-03 as amended.

Joyce Anderson moved to approve Advisory Opinion 18-03 as amended. No objection.

Roll Call Vote:

Sen John Coghill	Y
Sen Dennis Egan	Y
Rep Colleen Sullivan-Leonard	Y
Rep Chris Tuck	Y
Skip Cook	Y
Conner Thomas	Y
Joyce Anderson	Y
Deb Fancher	Y
Lee Holmes	Y

Advisory Opinion 18-03 was approved as amended by a vote of 9-0.

Jerry Anderson summarized the draft of Advisory Opinion 18-04 as amended.

Formal Advisory Opinion 18-04 advises that the Legislative Ethics Act does not prohibit a legislator from reserving or submitting a Legislative Citation that names a person who is not a constituent of that legislator, subject to AS 24.60.030 limitations.

Chair Cook called for a roll call vote.

Roll Call Vote:

Sen John Coghill	Y
Sen Dennis Egan	Y
Rep Colleen Sullivan-Leonard	Y
Rep Chris Tuck	Y
Skip Cook	Y
Conner Thomas	Y
Joyce Anderson	Y
Deb Fancher	Y
Lee Holmes	Y

Advisory Opinion 18-04 was approved as amended by a vote of 9-0.

11. Other Business

12. Adjourn

Chair Cook entertained a motion to adjourn.

-DRAFT-

A motion to adjourn was made by Conner Thomas. No objection. Meeting adjourned at 12:57 PM.

DRAFT