



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**Written Testimony of Commissioner Shana M. Broussard  
Before the Committee on House Administration  
U.S. House of Representatives  
September 20, 2023**

Chairman Steil, Ranking Member Morelle, and members of the Committee, thank you for inviting me and my colleagues to testify today. I am eager to highlight the agency's accomplishments before our oversight Committee for the first time since November 2011.<sup>1</sup> We have had a full complement on the Commission since the Senate confirmed me and two of my colleagues in December 2020,<sup>2</sup> and while there have been notable challenges since then, I remain committed to transparency, fairly enforcing our campaign finance laws, advancing administrative rulemakings, and fostering an agency culture that builds on the dedicated efforts of my former colleagues at the staff level.

I consider service on the Commission a great privilege. Indeed, my commitment to the agency and its mission of safeguarding the integrity of the federal campaign finance system began long before my appointment -- first, beginning in 2008, as a staff attorney in the Commission's Enforcement Division and later as Counsel for former Commissioner Steven Walther. Those experiences allowed me to develop not only legal knowledge, but an understanding of the agency that gives me a unique perspective represented on the Commission only once before. Today, I can look back on almost three years on the Commission with a measure of satisfaction and concern, and I look forward to future years with continued dedication and hope.

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<sup>1</sup> *Federal Election Commission: Reviewing Policies, Processes, and Procedures: Hearing Before the Subcomm. on Elections of the Comm. on House Admin.*, 112th Cong. (2011), available at <https://www.congress.gov/event/112th-congress/house-event/LC21130/text?s=6&r=6>.

<sup>2</sup> 166 Cong. Rec. S7294 (daily ed. Dec. 9, 2020), available at <https://www.govinfo.gov/content/pkg/CREC-2020-12-09/pdf/CREC-2020-12-09-senate.pdf>.

I take great pride in having led the Commission’s dramatic reduction of the enforcement docket backlog following a loss of quorum for over a total of 15 months and under the uncertainty of the pandemic and an executive order for government-wide remote work. Our work during this critical stretch led to the agency’s award in 2022 for “Best Improved Small Agency” according to the Partnership for Public Service’s “Best Places to Work in the Federal Government.”<sup>3</sup> To be sure, during the period that the Commission lacked quorum, the bulk of agency operations continued unabated as Committees and others filed regular reports which our analysts reviewed. However, without a quorum, the Commission could not act on enforcement matters resulting in the backlog.

More specifically, when a quorum was restored in December 2020, the backlog stood at almost 450 matters and slightly exceeded that number when I assumed the Chair in January 2021. This was up by almost 75% from when the Commission lost its quorum in September 2019 and the case count stood at 260 matters.<sup>4</sup> By October 2021, through a disciplined and methodical approach and with the dedication of Commission staff, I led the Commission in closing 194 matters,<sup>5</sup> which was the highest number compared to any fiscal year since 2009. As of the end of the third quarter on June 30th, it now stands at 193 matters,<sup>6</sup> and we continue to strive for a healthy balance that allows for an informed and thorough consideration of each and every matter, benefitting all Complainants and Respondents.

While I am proud of this achievement, I am not heedless to the very real possibility that we may backslide as we enter another general election year. Usually, this means increases in the number of

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<sup>3</sup> Partnership for Pub. Serv., *The Most Improved Agencies*, <https://bestplacestowork.org/analysis/agency-headlines/> (last visited Sept. 14, 2023).

<sup>4</sup> Fed. Election Comm’n, Status of Enforcement – Fiscal Year 2019, Fourth Quarter (7/1/19–9/30/19) 2 (Nov. 1, 2019), [https://www.fec.gov/resources/cms-content/documents/status\\_of\\_enforcement\\_fy2019\\_\\_4thq\\_Final\\_redacted.pdf](https://www.fec.gov/resources/cms-content/documents/status_of_enforcement_fy2019__4thq_Final_redacted.pdf).

<sup>5</sup> *Id.*, Status of Enforcement – Fiscal Year 2021, Fourth Quarter (07/01/21-09/30/21) 4 (Nov. 5, 2021), [https://www.fec.gov/resources/cms-content/documents/Status\\_of\\_Enforcement\\_Report\\_for\\_the\\_Fourth\\_Quarter\\_of\\_FY\\_2021.pdf](https://www.fec.gov/resources/cms-content/documents/Status_of_Enforcement_Report_for_the_Fourth_Quarter_of_FY_2021.pdf).

<sup>6</sup> *Id.*, Status of Enforcement – Fiscal Year 2023, Third Quarter (04/01/23-06/30/23) 2 (Aug. 4, 2023), [https://www.fec.gov/resources/cms-content/documents/Status\\_of\\_Enforcement\\_3rd\\_Qtr\\_2023\\_Redacted.pdf](https://www.fec.gov/resources/cms-content/documents/Status_of_Enforcement_3rd_Qtr_2023_Redacted.pdf).

agency transactions, including significant upticks in committee reports, complaints, and advisory opinion requests. At the same time, the Commission has experienced staff departures. The confluence of these factors means that fewer staff will shoulder the growing workload, which risks a negative effect both on employee morale and on the Commission's capacity to timely respond to enforcement matters and advisory opinion requests.

As of today, the agency's FTE stands at 305. This is down from 354 at the end of FY 2012.<sup>7</sup> Lower staffing levels have translated to a significant increase in workload. And while the substance of the work may differ among divisions, the increased work demands are evident. The competing demand of each individual matter requires much from our agency staff, and I commend their dedicated effort in fulfilling the agency's mission.

Funding at our requested level for FY 2024 would help us fill these vacancies. Indeed, we have some momentum from hiring 10 FTEs since the end of FY 2022. However, the political reality may at best result in a holding pattern for agency priorities like hiring, and at worst, threaten the continuity of operations due to natural attrition.

I remain no less proud of the agency's efforts to do more with less and am prouder still of the progress we made during my year as Chair to fill long-vacant leadership roles. In fact, the Inspector General had consistently identified these vacancies as a challenge to our human capital management in the nine most recent Agency Financial Reports covering 2014 through 2022<sup>8</sup> and in previous Performance and Accountability Reports. But under my leadership, the agency either approved to fill or permanently filled 18 different leadership roles that remained vacant or were being led on an acting basis. As the Commission filled those roles, staff-level vacancies slowly increased and in the current

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<sup>7</sup> Fed. Election Comm'n, Responses to Questions from the Committee on House Administration (Sept. 12, 2022) 11, <https://democrats-cha.house.gov/sites/evo-subsites/democrats-cha.house.gov/files/evo-media-document/fec-responses-2022.pdf>.

<sup>8</sup> See, e.g., Fed. Election Comm'n, Agency Fin. Report Fiscal Year 2022 92 (Nov. 15, 2022), [https://www.fec.gov/resources/cms-content/documents/FEC\\_FY\\_2022\\_Agency\\_Financial\\_Report\\_Final\\_11\\_15\\_22.pdf](https://www.fec.gov/resources/cms-content/documents/FEC_FY_2022_Agency_Financial_Report_Final_11_15_22.pdf).

fiscal year ending September 30, thanks to the leadership of Chair Lindenbaum and Commissioner Trainor, as the Personnel Committee, the Commission will have onboarded a record 39 external hires to bring current staffing levels to 305 FTEs.

One key vacancy, the position of General Counsel, remains difficult to fill despite our best efforts. As Chair of the Commission in 2021, and a member of its Personnel Committee, I initiated the search for a permanent General Counsel. Historically, this has been a challenge for the Commission because the rate of compensation, which sits at Level V of the Executive Schedule,<sup>9</sup> can at times fall below the compensation of staff under the General Counsel’s supervision.<sup>10</sup>

I believe that together low staffing levels and the absence of permanent leadership impact the Commission daily. Having worked in the Enforcement Division, I remember well the challenges our staff face. And while heavy workloads and results vary from one day to the next, an important factor for improving staff morale is ensuring personnel numbers meet the agency’s needs.

Still, I am hopeful. That’s because I have used my position on the Regulations Committee to advance a longstanding rulemaking that gained bipartisan support with the help of my co-chair, Commissioner Allen Dickerson, whose keen analysis only sharpened our focus and won wider support for our efforts. Significantly, since 2011 the Commission had been considering a rulemaking on internet communication disclaimers and revising the definition of “public communication” to reflect the growing role of the internet and smart technology in political advertising.<sup>11</sup> Last December, the Commission published a Final Rule and explanation and justification revising the definition of “public

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<sup>9</sup> 52 U.S.C. § 30106(f)(1).

<sup>10</sup> Also, under the leadership of the Personnel Committee, a vacancy announcement for this position was opened on June 15, 2023. *See* Fed. Election Comm’n, Responses to Questions from the Committee on House Administration (Jun. 16, 2023) 14, <https://democrats-cha.house.gov/sites/evo-subsites/democrats-cha.house.gov/files/evo-media-document/fec-response-2023.pdf>.

<sup>11</sup> Internet Communication Disclaimers, 76 Fed. Reg. 63,567 (Oct. 13, 2011).

communication” and the requirement concerning disclaimers on certain public communications placed for a fee on the internet.<sup>12</sup> The regulations clarify how the disclaimer requirements apply to internet public communications and allow for an adapted disclaimer under specific circumstances.

Beginning last year, I have led an effort that is a passion of mine. The issue – the ability for candidates to use campaign funds for compensation while they are campaigning – is very important. It has both micro and macro implications – on a micro level, it’s about opening up the possibility of running for federal office for a stay-at-home parent; a disabled veteran; a young American right out of school; a blue-collar worker. On a macro level, it enables our democracy to become more perfect, by creating opportunities for our federal elected bodies to reflect the current demographics of our nation.

In short, there are real, disparate, barriers to entry for many Americans to run for office; these barriers have a direct impact on diversity in our elected representatives. In December 2022, the Commission formally initiated the rulemaking process.<sup>13</sup> We’ve already held the hearing on this matter and were pleased that a number of individuals, including Representative Maxwell Frost, came to share their personal experiences and professional expertise with the Commission.<sup>14</sup> We are now in the process of negotiating final rules. I am eager to bring this vision to reality. And I am hopeful it will result in making public office accessible for any American who wants to serve.

Finally, the Commission hopes that several legislative proposals it has consistently supported can help strengthen the agency and the laws we enforce. We were excited to see the Senate recently pass a bill to extend the Administrative Fine Program for 10 years and thank the Committee for its efforts on this matter.<sup>15</sup> Similarly, in our role protecting the integrity of our campaign finance system

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<sup>12</sup> Internet Communication Disclaimers and Definition of “Public Communication,” 87 Fed. Reg. 77,467 (Dec. 19, 2022).

<sup>13</sup> Candidate Salaries, 87 Fed. Reg. 75,945 (Dec. 12, 2022).

<sup>14</sup> Candidate Salaries, 88 Fed. Reg. 13,384 (Mar. 3, 2023).

<sup>15</sup> S. 2747, 118<sup>th</sup> Cong. (as passed by Senate, Sept. 7, 2023).

specifically, and elections generally, we support strengthening the Federal Election Campaign Act's prohibition against all foreign national involvement in our campaign processes.<sup>16</sup> Lastly, we support an amendment to FECA that would restore the Commission's decades-long ability to enforce a provision that prohibits aiding or abetting the making of contributions in the name of another after a court struck the regulatory provision and imposed a nationwide injunction against its enforcement.<sup>17</sup>

In closing, I am inspired now, as ever, to serve on the Commission because I can think of few agencies whose role is as foundational to the democratic process as ours. Your continued support can help us fulfill our mission of protecting the integrity of the federal campaign finance process, and in doing so, cultivate public trust in our electoral process and elected officials. Thank you again for the opportunity to appear before you today.

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<sup>16</sup> Fed. Election Comm'n, Agency, Legislative Recommendations of the Fed. Election Comm'n 2022 (Dec. 15, 2022) 4-6, <https://www.fec.gov/resources/cms-content/documents/legrec2022.pdf>.

<sup>17</sup> *Id.* at 13-14.