



North Dakota Ethics Commission Regular Meeting

Minutes of November 20, 2024

MS Teams

1. **Call to Order:** The meeting was called to order by Chair Dave Anderson at 9:01 a.m. The following members of the Ethics Commission were also present: Vice Chair Ward Koeser, Commissioners Cynthia Lindquist, Ron Goodman, and Murray Sagsveen, Executive Director Rebecca Binstock, General Counsel Logan Carpenter, and Operations Administrator Alisha Maier.
2. **Agenda Additions:** No additions were made.
3. **Approval of Minutes:** The Commission discussed regular meeting minutes from October 23, 2024.

Motion: Commissioner Goodman moved to approve regular meeting minutes from October 23, 2024. Motion was seconded by Commissioner Lindquist. Chair Anderson called for a voice vote. The motion was approved by unanimous voice vote.

4. **Discussion of Legislative Proposal: Financial Disclosures with Secretary of State Michael Howe:** Chair Anderson advised that Secretary of State Michael Howe was on the meeting to discuss a legislative proposal on filing financial disclosure statements. The commissioners were provided with a statement of interest concept draft and financial disclosure flowchart. Secretary Howe gave an overview of the draft explaining how statements of interest currently work along with the proposed additions for legislation. Secretary Howe advised his office would plan to go the legislative route and find a bill sponsor.
5. **Executive Director Update:**
 - Operations Administrator Alisha Maier provided a budget update through the end of October 2024 for the 2023-25 biennium budget. She noted the following totals: current appropriation for the 2023-2025 biennium is \$1,155,297, expenditures in October were \$56,141, total expenditures for the current biennium have been \$702,424, leaving a remaining appropriation for the 2023-

2025 biennium of \$452,873. OA Maier presented an estimated ending balance for the biennium on June 30, 2025, at \$10,516, explaining this number will fluctuate as we move through the biennium.

- ED Binstock provided an update to the Commission on education and outreach initiatives.

The Commission's quarterly newsletter has been sent out and each commissioner should have received a copy. The newsletter also provided upcoming educational events being held by Commission staff.

A learning session for lobbyists will take place on November 21, 2024, at the capitol building.

Legislators will have small group learning sessions offered in December over organizational session.

Commission staff will hold an in-person learning session open to all citizens of North Dakota in December. This session will give an overview of the Ethics Commission's rules and what the public needs to know going into legislative session. This will likely be recorded and posted to the Commissions YouTube channel as well.

Statewide elected officials and cabinet members will be offered a training session after they take office and following the new year.

The last Dakota Dilemmas webinar will take place on December 12, 2024.

- ED Binstock provided an update to the Commission on the COGEL Conference. The annual COGEL Conference takes place in December 2024. Commissioner Sagsveen will be attending.
- ED Binstock provided an update to the Commission on filings.

In October 2024, the Commission received the following filings:

- Complaints: 4
- Quasi-Judicial Forms: 8
- Conflict of Interest Forms: 2
- Meeting Notices: 10

For January 1, 2024, through October 31, 2024, the Commission has received the following filings:

- Complaints: 34
- Quasi-Judicial Forms: 29
- Conflict of Interest Forms: 10
- Meeting Notices: 119

The Commission currently has 33 pending complaints.

6. **Discussion of Legislative Proposals: Advisory Opinions, Enforcement Action Process, Gifting Violations, Prohibited Actions Provision:** ED Binstock requested the Commission review draft legislation and companion rules related to (1) Advisory Opinions, (2) Enforcement Action Process, (3) Criminal Penalty for Gifting Violation, and (6) Prohibited Actions.

Advisory Opinion Statutory Amendments

General Counsel Logan Carpenter drafted proposed legislative language to amend N.D.C.C. 54-66-04.2 to provide clarity. The changes were presented to the Commission. The commissioners agreed that staff could introduce the bill. GC Carpenter advised staff will format it and review it at a special meeting for approval.

Enforcement Action Process

Commissioners were provided with drafted enforcement process statutory language and drafted rules. ED Binstock advised Commission staff will have substantive changes ready for the commissioners review at a special meeting. Commission staff have met with various legislators to discuss this proposal. ED Binstock summarized the discussion from the meetings. The Commission discussed who should bring this legislation forward and decided to request the legislature to do so.

Informal Guidance (Supplementing Enforcement Action Process):

ED Binstock advised the informal guidance draft language will serve as a companion rule to the enforcement process. Commissioners were provided with the language along with guidance as to what other ethics commissions have done. ED Binstock advised this will not be introduced as a piece of legislation but is instead an Ethics Commission rule. GC Carpenter walked the commissioners through how this rule acts as a companion to the enforcement process and provided a step by step of how the rule would work. Commissioners discussed the draft language and suggested changes. Commission staff will make changes and review it at a special meeting for approval.

Criminal Penalty for Violations

ED Binstock advised that Section 2 of Article XIV requires the legislature to set appropriate civil and criminal sanctions for a violation of subsections 1 through 4 of Article XIV, § 2. Currently, a criminal sanction does not exist for 2 of the 4 penalties. Commissioners provided approval for staff to communicate the information to Legislative Council. Commission staff will make changes and review it at a special meeting for approval.

Prohibited Actions Provision (a/k/a “whistleblower protections”)

Commissioners were provided with draft legislative language for a prohibited actions provision. GC Carpenter walked the commissioners through the language and advised it was largely taken from the New Mexico Ethics Commission’s language. Commissioners discussed the language and made suggestions. The Commission discussed who should bring this legislation forward and decided to request the legislature to do so.

7. **Discussion of Travel Disclosure Rules:** ED Binstock advised NDIT has created an online fillable form for the Commission’s use that is not yet published as the back end is not yet completed. OA Maier demonstrated the form for the Commission and advised each submission will have to be approved by Commission staff before being publicly viewable. Commissioners decided to table the travel rules progression until after legislative session and include the travel disclosure as a part of the gift rules.
8. **Discussion of Ethics Commission Hearing Process:** ED Binstock advised that the Commission has not held a hearing as a result of the complaint process. Commissioner Sagsveen and GC Carpenter have reviewed the procedure for administrative hearings and how that procedure could be adopted by the Commission. GC Carpenter explained the procedure to the Commission. Commissioner Sagsveen advised he would volunteer his time to assist in the creation of the procedure.

Motion: Vice Chair Koeser motioned to direct Commission staff to draft a Policy and Procedure to handle the Ethics Commission Hearing Process. Motion was seconded by Commissioner Sagsveen. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

9. **Executive Session:** The Commission entered executive session during the general meeting at 11:22 a.m. to discuss Complaint Nos. 23-014, 24-013, 24-015, 24-027, 24-031, 24-032, 24-033, 24-035, 24-036, 24-037, and 24-038. Information regarding the content and parties to a complaint to the Ethics Commission is confidential. The

following participants entered the executive session: Chair Dave Anderson, Vice Chair Koeser, Commissioners Ron Goodman, Cynthia Lindquist, and Murray Sagsveen, Executive Director Rebecca Binstock, General Counsel Logan Carpenter, and Operations Administrator Alisha Maier.

Executive Session ended at 12:40 p.m. and all participants returned to the regular meeting.

During the Executive Session, the Commission discussed Complaint Nos. 23-014, 24-013, 24-015, 24-027, 24-031, 24-032, 24-033, 24-035, 24-036, 24-037, and 24-038.

After Executive session, the following motions were made:

Motion: Commissioner Sagsveen moved to authorize the Chair to take the action discussed in executive session on Complaint No. 23-014. Motion was seconded by Commissioner Lindquist. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

Motion: Vice Chair Koeser moved to Direct Executive Director Binstock to summarily dismiss Complaint No. 24-027 for failure to comply with the Commission's rules for filing a complaint. Motion was seconded by Commissioner Lindquist. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

Motion: Commissioner Goodman moved to Direct Executive Director Binstock to summarily dismiss Complaint No. 24-036 for a lack of subject matter jurisdiction. Motion was seconded by Vice Chair Koeser. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

Motion: Commissioner Goodman moved to Direct Executive Director Binstock to summarily dismiss Complaint No. 24-037 for a lack of personal and subject matter jurisdiction. Motion was seconded by Commissioner Sagsveen. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

Motion: Vice Chair Koeser moved to Direct Executive Director Binstock to summarily dismiss Complaint No. 24-038 for a lack of personal jurisdiction. Motion was seconded by Commissioner Sagsveen. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

10. **Discussion of Commission Meeting Schedule for January through June 2025:** Chair Anderson advised he would like to schedule Ethics Commission meetings for the first portion of 2025. The dates selected were January 22, February 26, March 26, April 23, May 21, and June 25.
11. **Further Business:** Chair Anderson requested the Commission hold a special meeting for staff to finalize the language of the legislative proposals. The Commission decided on December 2, 2024, at 8:30 a.m., livestreamed with MS Teams.
12. **Adjourn:** The meeting was adjourned at 12:55 p.m. The next regular meeting is scheduled for December 18, 2024, at 9:00 a.m., livestreamed with MS Teams.

Approved on 12/18/24



Rebecca Binstock, Executive Director, North Dakota Ethics Commission