



North Dakota Ethics Commission Regular Meeting

Minutes of June 26, 2024

Sakakawea Room, State Capitol & MS Teams

1. **Call to Order:** The meeting was called to order by Chair Paul Richard at 9:30 a.m. The following members of the Ethics Commission were also present: Vice Chair Dave Anderson, Commissioners Ward Koeser, Cynthia Lindquist, and Ron Goodman, 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 May 22, 2024.

Motion: Commissioner Goodman moved to approve regular meeting minutes from May 22, 2024. Motion was seconded by Commissioner Koeser. Chair Richard called for a voice vote. The motion was approved by unanimous voice vote.

4. **Executive Director Update:**

- Operations Administrator Alisha Maier provided a budget update through the end of May 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 May were \$39,022, total expenditures for the current biennium have been \$477,374 leaving a remaining appropriation for the 2023-2025 biennium of \$677,923. OA Maier presented an estimated ending balance for the biennium on June 30, 2025, at \$9,793, explaining this number will fluctuate as we move through the biennium.

Operations Administrator Maier conducted a mid-year review of the Commission's budget and notated the following adjustments for the 2023-2025 biennium: projected costs for travel were reduced from \$30,000 to \$22,500, office supplies were reduced from \$5,000 to \$2,500, half the salary and

full FICA payments of \$9,201 were added for the legislative intern, a potential 80 hours of overtime for OA Maier during legislative session was also added.

- ED Binstock presented a 2025-2027 budget preview advising that OA Maier has been working on the Commission's initial budget proposal for the 2025-2027 biennium that is due on July 15, 2024. ED Binstock shared the following decision package requests: (1) Additional FTE (renewed request for an education administrator; (2) Rules implementation funds (the Commission has included funds to adopt rules in its past budgets but has not requested funds to implement rules); (3) Temporary salaries for summer and legislative interns; (4) Funds for a case management and filing system; (5) Additional IT costs based upon 2023-2025 budget.

ED Binstock requested the Commission hold a meeting prior to the deadline to thoroughly review and approve the 2025-2027 budget request to be included in the executive budget proposal. The Commission agreed to change July's regular meeting to the July 10 at 3:00 p.m. to include review and approval of the 2025-2027 biennium budget.

- General Counsel Logan Carpenter provided an update to the Commission on policies and procedures regarding record retention for emails as there is some confusion surrounding what is and is not a record. GC Carpenter advised for a record to be retained or managed, it needs "to be made or received pursuant to law or in connection with the transaction of official business activities, policies or decisions that provide administrative, operational, fiscal, historical, audit, or business value." If a commissioner determines they have an email that contains any of the defined criteria, they should forward it to OA Maier, and she will retain it as appropriate. If the email originated from Commission staff or already included staff, commissioners do not need to forward it. This will eliminate the need for commissioners to look through their emails annually as they have in the past as they will forward the emails as soon as they receive them instead. Commissioners will continue to keep all emails in their inbox for one year.

Motion: Commissioner Lindquist moved to approve the inclusion of updated Records Retention Policy in the Ethic's Commissions Policies and Procedures. Motion was seconded by Commissioner

Goodman. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

The Commission discussed keeping records and emails permanently or for a longer timeline. GC Carpenter advised the Commission would have to adopt a policy of its own, outside of what the executive branch agencies do as the Commission currently follows that statute. Commission staff will research if a more streamlined process can be created for the Commission in the future.

- ED Binstock provided an update to the Commission on legislative internships. An offer was extended for placement with the Commission and staff was notified the individual has accepted. The intern will join the Commission in late December or early January through the end of the 2025 Legislative Session.

The Office of Management & Budget has a State Internship Program in which an agency can request funding to offset internship pay. ED Binstock submitted both an Internship Work Plan as well as a letter to OMB requesting funds to cover at least 50% of the internship salary. Due to the Commission's limited budget and lack of historical information for budgeting purposes, ED Binstock requested OMB cover 100% of the internship salary. Commission staff will be notified on the outcome within the next few weeks.

- Executive Director Rebecca Binstock provided an update on the online forms project. The online forms are in production with NDIT. Once these forms are out of production, they will go live.
- ED Binstock provided an update to the Commission on education and outreach initiatives.

June 11th, 2024: GC Carpenter presented to the Commission on Legal Counsel for Indigents about the Ethics Commission.

June 25, 2024: GC Carpenter and ED Binstock held the Dakota Dilemmas Webinar: Navigating the Complaint Process. This webinar presentation illustrated the steps in the complaint process.

Based upon commission staff schedules, ED Binstock has intentionally not scheduled educational and outreach opportunities for most of June and July.

Commission staff will begin educational and outreach events again August or September. The Commission's efforts will focus on providing training opportunities for lobbyists, legislators, state employees, and the public to prepare for ethics issues that may arise during the coming legislative session.

5. **Discussion of Retaining Records:** ED Binstock advised that in accordance with the Commission's adopted Record Retention Policy, Commissioners and staff are to review electronic mail accounts for records retention purposes on an annual basis. Commission staff will assist commissioners with this at the end of today's meeting.
6. **Executive Session:** The Commission entered executive session during the general meeting at 10:45 a.m. to discuss Complaint Nos. 22-003, 22-004, 22-005, 22-006, 22-007, 22-008, 22-009, 22-010, 23-013, 23-014, 24-001, 24-005, 24-006, 24-007, 24-008, 24-011, 24-013, 24-014, 24-015, 24-017, 24-018, and 24-019. Information regarding the content and parties to a complaint to the Ethics Commission is confidential. The following participants entered the executive session: Chair Paul Richard, Vice Chair Dave Anderson, Commissioners Ward Koeser, Cynthia Lindquist, and Ron Goodman, Executive Director Rebecca Binstock, General Counsel Logan Carpenter, and Operations Administrator Alisha Maier. Chair Richard also advised that Special Assistant Attorney General Patricia Monson and acting Executive Director Shea Miller would be joining portions of Executive Session.

Acting Executive Director Shea Miller was only in attendance during the discussion of complaint No. 24-001. ED Binstock, GC Carpenter, OA Maier, and Commissioner Goodman were not in attendance during discussion of complaint No. 24-001.

Special Assistant Attorney General Patricia Monson was only in attendance during the discussion of complaint Nos. 22-003 through 22-010.

Executive Session ended at 12:28 p.m. and all participants returned to the regular meeting.

During the Executive Session, the Commission discussed Complaint Nos. 22-003, 22-004, 22-005, 22-006, 22-007, 22-008, 22-009, 22-010, 23-013, 23-014, 24-001, 24-005, 24-006, 24-007, 24-008, 24-011, 24-013, 24-014, 24-015, 24-017, 24-018, and 24-019.

Motion: Commissioner Lindquist moved to direct ED Binstock to summarily dismiss Complaint Nos. 24-005, 24-006, and 24-007.

Motion was seconded by Commissioner Goodman. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

The Commission broke for lunch from 12:30 p.m. to 12:50 p.m.

7. **Discussion of Ethics Rules:** ED Binstock advised on the three sets of rules for discussion:

Computing Time Rules: These are in the policies and procedures, but Commission staff believes they need to move it into the rules. ED Binstock has provided these proposed adoptions to legislative counsel, the governor's office, and the attorney general's office. After July 12, 2024, Commission staff will prepare the official notice and move forward with the process.

Financial & Travel Disclosure Rules: For the past few months, the Commission has been discussing financial and travel disclosure rules for public officials. ED Binstock and GC Carpenter met with the State Auditor's Office in May for any auditing concerns. No auditing concerns were raised at the meeting, but the State Auditor shared two major thoughts. One being to exclude the source of income for public official's immediate family and individuals residing in the public official's house who is under the age of 18 from the report. The State Auditor also suggested more clarity with definitions.

ED Binstock has begun discussions with legislators on how to fund implementation of ethics commission rules. The current thought is to have contingency funding for rule implementation. Commission staff is reaching out to other constitutional ethics commissions to evaluate how other states fund rule implementation.

Election Rules: The North Dakota Constitution grants the Commission authority to create rules related to transparency, corruption, elections, and lobbying. The Commission has received 23 complaints this year. Of those 23 complaints, Commission staff have identified 10 complaints that relate directly to elections. Commission staff have also taken notice of anecdotal information provided to staff from members of the public, candidates, and other state entities that the nature of campaigning and elections in the state has evolved. When a complaint alleges criminal conduct, the Commission is required to refer the matter to the appropriate law enforcement agency.

However, if a prosecutor exercises his/her discretion and does not charge an individual, the matter returns to the Commission. If there is no complimentary ethics rule, the Commission cannot act on the complaint and the complaint is summarily dismissed.

ED Binstock proposed the Commission consider the adoption of a comprehensive set of ethics rules related to elections. Based upon the Commission's Strategic Initiative #3, ED Binstock proposes the Commission also consider comprehensive rules related to the three other buckets in which the Constitution grants authority to the Commission: transparency, corruption, and lobbying.

Motion: Commissioner Koeser moved to direct Commission staff to draft comprehensive election rules for the Commission's consideration. Motion was seconded by Vice Chair Anderson. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

8. **Executive Director Evaluation and Salary Discussion:** Chair Richard requested the commissioners collectively review and rank ED Binstock's performance using the review form provided. OA Maier collected the reviews and comments and is to consolidate and provide them to Chair Richard for final approval.

Motion: Commissioner Lindquist moved to approve a 4% raise for Executive Director Binstock. Motion was seconded by Vice Chair Anderson. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

9. **Adjourn:** Having no further business, the meeting was adjourned at 2:03 p.m. The next regular meeting is scheduled for July 10, 2024, at 3:00 p.m., livestreamed with MS Teams.

Approved on 8/28/2024 

Rebecca Binstock, Executive Director, North Dakota Ethics Commission