



## **COMPLAINT SETTLEMENT GUIDELINES**

During the 2025 legislative session, the Legislative Assembly amended the process found in N.D.C.C. ch. 54-66 for complaints filed with the Ethics Commission (“Commission”). Specifically, Senate Bill 2004 amended N.D.C.C. § 54-66-07 to add language stating, “If the informal resolution process between the respondent and the complainant is unsuccessful, the commission may work with the respondent to settle and close the matter.” In other words, after an unsuccessful informal resolution process between the complainant and the respondent, the Commission may step in to resolve the complaint short of making a formal finding at the end of an investigation. The amendment authorizing Commission settlement of complaint matters became effective on July 1, 2025.

Settlements serve as a tool to resolve complaints in a manner that is proportional, corrective, and in the public interest, while conserving the Commission’s resources. Proposed settlements are at the discretion of the Commission and settlements are subject to final approval by the Commission. The Commission may propose a settlement at any time before a final hearing on a complaint. If a respondent chooses not to accept a settlement offer, the Commission may proceed to a final hearing to resolve and close the complaint matter.

Nothing in these guidelines restricts the Commission’s ability to pursue investigating and holding a final hearing on a complaint. Rather, an agreement to forgo an investigation and/or hearing must be made in a settlement agreement for a specific complaint matter.

In order to facilitate consistent, evenhanded, and fair settlements across all complaints, the Commission adopts these settlement guidelines. Settlements shall follow these guidelines unless aggravating or mitigating circumstances exist that in the discretion of the Commission justify departing from the guidelines. In those specific instances, the Commission may adjust a proposed settlement accordingly. Aggravating factors include: (1) repeated or willful violations; (2) misrepresentation or a lack of cooperation during the Commission’s review of the complaint; and (3) holding a position of high influence. Mitigating factors include: (1) self-reporting; (2) prompt corrective action; and (3) lack of prior ethical violations.

### **General Guidelines for All Complaint Matters**

- (1) A respondent must knowingly and voluntarily agree to the settlement terms, including any admissions, stipulations, or remedial actions.
- (2) Settlement agreements must contain a statement that it resolves only the allegations raised in the complaint. If the Commission has agreed to resolve prospective allegations that could be raised against the respondent, those prospective issues must be specifically identified.

- (3) The principle of open, ethical, and accountable government requires the public have access to the results of the Commission's activities. Additionally, it is important for the regulated community to be aware of the Commission's activities. Therefore, settlements made with the Commission shall be open records. A respondent who accepts a proposed settlement by the Commission shall waive confidentiality of the complaint and the settlement agreement pursuant to N.D.C.C. § 54-66-12(4).
- (4) Settlement agreements must contain all settlement terms and be made available on the Commission's website. Settlement agreements must not contain any provisions that deter the exercise of protected rights or have the effect of diminishing an individual's rights.
- (5) In all complaint matters, the Commission shall consider the nature and seriousness of the ethical violation, whether it was intentional or negligent, the respondent's cooperation, any prior history of similar conduct, the respondent's public position, and the respondent's duties to the public. In cases where monetary penalties are not appropriate or authorized, the Commission will emphasize corrective action, public education, and policy or legal reforms.
- (6) The Commission's policy is to issue a press release upon the Commission taking action, including the settlement of complaints. Issuing a press release is an important component of the Commission's responsibility to inform the public about its activities. Neither the issuance nor the content of the press release should be the subject of negotiation.
- (7) A respondent breaches a settlement agreement by failing to comply with any material term. In response to a breach or repudiation, the Commission may: (1) notify the respondent in writing and provide an opportunity to cure the breach or repudiation within a reasonable time; (2) reopen the complaint and resume proceedings as if the settlement had not occurred; (3) consider the breach as an aggravating factor in any future proceedings with the Commission; (4) publicly note a breach occurred and describe additional actions taken; and/or (5) pursue civil enforcement as provided by law.

### **Guidelines for a Violation of N.D. Const. art. XIV's Lobbyist Gift Prohibition**

Article XIV, § 2(1) of the North Dakota Constitution states, "A lobbyist may not knowingly give, offer, solicit, initiate, or facilitate a gift to a public official. A public official may not knowingly accept a gift from a lobbyist." In N.D. Admin. Code ch. 115-03-01, the Commission created certain exceptions to the lobbyist gift prohibition, set requirements for hosting social and educational events, and defined when a prohibited lobbyist gift occurs.

Section 54-66-03, N.D.C.C., sets the penalty for a violation of the lobbyist gift prohibition at up to two times the value of the gift and directs the Commission to assess the penalty. In order to encourage settlement of these lobbyist gift matters, the Commission adopts the settlement schedule below for monetary penalties. All settlements require return of the prohibited lobbyist gift, when feasible, by a public official who accepts it. If aggravating or mitigating circumstances are present, or multiple violations are involved, monetary penalties may be aggregated or negotiated.

First Violation	Value of the Gift
Second Violation	Value of the Gift x 1.25
Third Violation	Value of the Gift x 1.5
Subsequent Violations	Value of the Gift x 2

**Guidelines for a Violation of N.D. Const. art. XIV’s Prohibition on Lobbying by Elected Public Officials**

Article XIV, § 2(2) of the North Dakota Constitution states, “An elected public official may not be a lobbyist while holding office or for two years after holding office.” Section 54-66-13, N.D.C.C., states, “The ethics commission shall assess a civil penalty of up to one thousand dollars on any individual who knowingly violates [Article XIV, § 2(2)].” A knowing violation is also a class A misdemeanor.

In order to encourage settlement of these matters, the Commission adopts the settlement schedule below for monetary penalties.

First Violation	\$250
Second Violation	\$500
Third Violation	\$750
Subsequent Violations	\$1000

**Guidelines for a Violation of N.D. Const. art. XIV’s Prohibition on Lobbyist Delivery of Campaign Contributions**

Article XIV, § 2(3) of the North Dakota Constitution states:

A lobbyist may not knowingly deliver a campaign contribution made by another individual or entity. “Deliver,” as used in this subsection, means to transport, transfer, or otherwise transmit, either physically or electronically. This prohibition does not apply to a person who delivers a campaign contribution to the person’s own campaign, or to the campaign of the person’s immediate family member. This prohibition shall not be interpreted to prohibit any person from making a campaign contribution or from encouraging others to make a campaign contribution or to otherwise support or oppose a candidate. Appropriate civil and criminal sanctions for violations of this subsection shall be set by the legislative assembly.

For a first knowing violation, the Commission is directed to assess a civil penalty of \$500. N.D.C.C. § 54-66-15. For second and subsequent violations, the person commits a class B misdemeanor and the secretary of state is directed to revoke the person’s lobbyist registration.

In order to encourage settlement of these matters, the Commission adopts the settlement schedule below for monetary penalties.

First Violation	\$250 and a no-contest stipulation or an acknowledgment of the complaint allegations
Second Violation	\$500 and admission of a knowing violation
Subsequent Violations	Commission will consider criminal referral pursuant to N.D.C.C. § 54-66-08(2)

**Additional Guidelines for Resolving Complaints**

For violations not subject to civil monetary penalties, or in conjunction with the guidelines outlined above, the Commission may approve one or more of the following non-monetary settlement terms:

- (1) Written acknowledgment of the conduct and the applicable ethical standard, alternatively, no-contest stipulations or an acknowledgment of the allegations may be accepted at the Commission’s discretion;
- (2) a formal public reprimand identifying the conduct and its ethical implications;
- (3) when available, training to address the underlying ethical issue(s), and certification of completion required within a certain timeframe;
- (4) immediate corrective action to remedy the ethical issue/violation or implementation of procedures to avoid ethical violations in the future;
- (5) undertaking a public service project or ethics initiative to promote ethical awareness; and/or
- (6) periodic compliance reporting to the Commission for a specified period.

Adopted: July 16, 2025