



North Dakota Ethics Commission Regular Meeting

Minutes of October 23, 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: Commissioners Ron Goodman and Murray Sagsveen, Executive Director Rebecca Binstock, General Counsel Logan Carpenter, and Operations Administrator Alisha Maier. Vice Chair Ward Koeser and Commissioner Cynthia Lindquist were absent.
2. **Agenda Additions:** No additions were made.
3. **Approval of Minutes:** The Commission discussed regular meeting minutes from September 25, 2024.

Motion: Commissioner Goodman moved to approve regular meeting minutes from September 25, 2024. Motion was seconded by Commissioner Sagsveen. Chair Anderson 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 September 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 September were \$40,892, total expenditures for the current biennium have been \$646,283, leaving a remaining appropriation for the 2023-2025 biennium of \$509,014. OA Maier presented an estimated ending balance for the biennium on June 30, 2025, at \$9,945, explaining this number will fluctuate as we move through the biennium.
- ED Binstock provided an update to the Commission on education and outreach initiatives.

ED Binstock is presenting as part of the Northern Plains Ethics Institute's Civil Civility series at NDSU on October 29, 2024. This presentation will discuss building relationship with government.

The Commissions next newsletter will come out next week. The newsletter will include all the upcoming educational opportunities so interested individuals can begin registering for them.

The last Dakota Dilemmas webinar will take place on December 12, 2024. This webinar will go over the prohibition on lobbyist gifts to public officials.

A learning session for lobbyists will take place on November 21, 2024, at the capitol building and may also be live streamed.

Legislators have organizational session December 2, 2024, through December 4, 2024. Commission staff have coordinated with Legislative Council to provide learning sessions for legislators. Commission staff will offer 11 small group sessions during this time.

Commission staff will hold an in-person learning session open to all citizens of North Dakota on December 10, 2024. This session will give an overview of the Ethics Commission, go over what the public needs to know going into legislative session, and offer time for questions. This will likely be streamed through the Commissions YouTube channel as well.

Commission staff plan to go to UND Law school to speak with legislative interns before they begin their internships for legislative session.

Statewide elected officials and cabinet members will be offered a training session on January 2, 2025.

- ED Binstock provided an update to the Commission on the COGEL Conference. The annual COGEL Conference takes place in December 2024 and early bird registration closes soon. Commissioner Sagsveen will be attending. Commissioners should let ED Binstock or OA Maier know by the end of next week if they would like to attend.
- ED Binstock provided an update to the Commission on filings.

In September 2024, the Commission received the following filings:

- Complaints: 2
- Quasi-Judicial Forms: 0
- Conflict of Interest Forms: 0
- Meeting Notices: 24

For January 1, 2024, through September 30, 2024, the Commission has received the following filings:

- Complaints: 30
- Quasi-Judicial Forms: 21
- Conflict of Interest Forms: 8
- Meeting Notices: 109

The Commission currently has 28 pending complaints.

5. **Adoption of Amendments to N.D. Admin. Code Chapter 115-02-01:** GC Carpenter advised a public hearing regarding the proposed rule amendments to N.D.A.C. § 115-02-01 was held on September 26, 2024. Written comments could have been submitted until October 6, 2024. One comment was submitted to the Commission through email and provided to the Commissioners. The Commission considered and discussed the comment pursuant to N.D.C.C. § 28-32-11. If approved today, the amendments would become effective on January 1, 2025.

Motion: Commissioner Goodman moved to adopt the proposed amendments to N.D. Admin. Code chapter 115-02-01. Motion was seconded by Commissioner Sagsveen. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

6. **Discussion of Legislative Proposals:** ED Binstock reminded the Commission there were 5 legislative proposals that were approved at the August 28, 2024, meeting. ED Binstock advised that today's meeting would focus on the advisory opinion proposal and the prohibited action provision.

Advisory Opinion Proposal: ED Binstock advised the current advisory opinion statute can be found in N.D.C.C. § 54-66-04.2 and was adopted during the 2021 legislative session. Since its adoption, the Commission has created a guide for those seeking to request an advisory opinion. Most notably, this guide clarifies a person can request an advisory opinion only for that person's own prospective or hypothetical conduct and not the conduct of another person. GC Carpenter recommends taking similar language from this guide and adding it to the statute to clarify language.

Motion: Commissioner Sagsveen moved to direct staff to draft an amendment to N.D.C.C. § 54-66-04.2 to clarify a public official, candidate for elected office, or lobbyist may only request an

advisory opinion related to hypothetical facts or prospective conduct of the individual who makes the request. Motion was seconded by Commissioner Goodman. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

Informal Guidance: GC Carpenter provided a summary of how other ethics commissions address informal guidance for the regulated community. Research details conducted by GC Carpenter were given to the Commissioners along with draft language for suggested rules. The research and drafted rules were discussed in detail. GC Carpenter noted this component would work together with the enforcement action proposal. Commission staff will continue to research and update draft language and provide an update at November's meeting.

The Enforcement Action Process: ED Binstock and GC Carpenter met with Legislative Leadership and Legislative Council to discuss the enforcement action process proposal. Commission staff will continue to meet with Legislative Leadership to discuss this proposal and ensure there is a direction to move forward.

Campaign Finance and Electioneering: ED Binstock and GC Carpenter met with the Secretary of State, Deputy Secretary, and Election Director to discuss financial disclosure requirements. Secretary of State Michael Howe plans to attend the Commission's November meeting to participate in discussions regarding the financial disclosure statements and campaign finance.

Prohibited Action Provisions: ED Binstock requested the Commission consider whether it would like to introduce legislation to protect individuals who provide either relevant information in good faith to the Commission or individuals who testify or provide documentation to the Commission or its investigations. This is commonly referred to as a whistleblower protection statute. The Commissioners were provided with a draft of the proposed legislation. Commission staff will continue to research and work on the legislation and bring a draft for approval to November's meeting.

7. **Presentation by Donna Neumiller, Accounting Manager, Fiscal Management Division, Office of Management & Budget:** OMB Account Manager, Donna Neumiller presented a travel dashboard to the Commission which details travel expenses for the state. The dashboard is interactive and can be broken down by categories such as agency, travel expense type, fiscal year, and vendor. The data is updated on the 16th of each month. The dashboard is similar to the checkbook on OMB's financial transparency website, but it has been broken down into travel related account codes. ED Binstock

advised this dashboard shows travel paid for by the state. This dashboard can be customized to include only certain account codes. The Commission agreed that staff should pursue the potential of having this dashboard available to the public on the Commission's website.

8. **Discussion of Travel Disclosure Rules:** GC Carpenter went over the changes made to the draft travel rules since the September meeting. ED Binstock advised that staff have instructed NDIT to begin creating an online form for the Commission's review. Once the form is complete, a landing page will be created on the Commission's website. The Commission discussed further questions from staff and provided direction to move forward.
9. **Executive Session:** The Commission entered executive session during the general meeting at 11:26 a.m. to discuss Complaint Nos. 22-003, 22-004, 22-005, 22-006, 22-007, 22-008, 22-009, and 22-010. 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, Commissioners Ron Goodman and Murray Sagsveen, Executive Director Rebecca Binstock, General Counsel Logan Carpenter, and Operations Administrator Alisha Maier.

Executive Session ended at 11:41 a.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, and 22-010.

10. **Discussion of Commission Meeting Schedule for January through June 2025:** As Vice Chair Koeser and Commissioner Lindquist were unavailable for the meeting, the Commission decided to discuss the meeting schedule at November's meeting.
11. **Adjourn:** Having no further business, the meeting was adjourned at 11:43 a.m. The next regular meeting is scheduled for November 20, 2024, at 9:00 a.m., livestreamed with MS Teams.

Approved on 11/20/24



Rebecca Binstock, Executive Director, North Dakota Ethics Commission