

North Dakota Ethics Commission Regular Meeting

Minutes of November 29, 2023

North Dakota State Capitol - Sakakawea Room

600 E Boulevard Avenue, Bismarck, ND 58505

& MS Teams

1. **Call to Order:** The meeting was called to order by Chair Paul Richard at 9:00 a.m. The following members of the Ethics Commission were also present: Vice Chair Dave Anderson, Commissioners Ward Koeser, Ron Goodman, and Cynthia Lindquist, Executive Director Rebecca Binstock, Special Assistant Attorney General Patricia Monson, General Counsel Logan Carpenter, and Executive Assistant Alisha Maier.
2. **Agenda Additions:** No additions were made.
3. **Approval of Minutes:** The Commission discussed regular and special meeting minutes from October 25, 2023. No changes were made.

Motion: Commissioner Goodman moved to approve regular and special meeting minutes from October 25, 2023. 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:**

- Executive Assistant Alisha Maier provided a budget update through the end of October 2023 for the 2023-25 biennium budget. She noted the following totals: current appropriation for the 2023-2025 biennium is \$1,155,297.00, expenditures in October were \$48,905.00, total expenditures for the current biennium have been \$159,422.00, leaving a remaining appropriation for the 2023-2025 biennium of \$995,874.00. EA Maier presented an estimated ending balance for the biennium on June 30, 2025, at \$27,798.00, explaining this amount will fluctuate as the Commission proceeds through the biennium. EA Maier noted that \$60,798.00 was requested and received in October for the additional funding from the FTE pool, which led to the increase in the appropriation total.
- Executive Director Rebecca Binstock provided an update on the Commission's social media. EA Maier created a Facebook page for the Commission. ED Binstock advised the page is ready to go except for the content moderation guidelines and disclaimers being posted.

- ED Binstock continued with an update on policies & procedures that apply.

The Internal Social Media Content Moderation Guidelines were provided to the Commissioners for review. ED Binstock advised these will be the guidelines on how staff will moderate the content that is on the Ethics Commission social media page internally.

The Media Disclaimer for Facebook was provided to the Commissioners for review. ED Binstock advised this document would be visible and available on the Ethics Commission Facebook page.

ED Binstock advised there were several portions highlighted on the Social Media Content Moderation Guidelines and the Media Disclaimer for Facebook for the Commission to review. GC Carpenter and ED Binstock discussed these sections with the Commission prior to finalizing the language. After discussion, the commission determined the Internal Social Media Content Moderation Guidelines could be adopted as written but the Media Disclaimer for Facebook would need an addition to the top of the document noting that information provided on the page is not considered confidential and would refer individuals who wish to submit complaints to the hotline.

Motion: Commissioner Lindquist moved to adopt the Media Disclaimer for Facebook and publish the disclaimer to the Commission’s FB page after the addition discussed was added. Motion was seconded by Commissioner Koeser. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

Motion: Commissioner Goodman moved to adopt the Social Media Internal Content Moderation Guidelines and include the Guidelines in the Commission’s Policies and Procedures. Motion was seconded by Commissioner Lindquist. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

- ED Binstock provided an update on the online forms project. ED Binstock shared that EA Maier has been working with NDIT to test one of the online submission forms and how the form is received by Commission staff. NDIT will then move on to create the remaining requested online submission forms.
- ED Binstock provided an update to the Commission on education and outreach initiatives. In November 2023, ED Binstock and GC Carpenter presented their first educational lesson, entitled “Ethics in Government” to North Dakota high school students at Glen Ullin School. ED Binstock and GC Carpenter presented the lesson to 4 separate classes. The lesson plan was provided to the Commission for reference.

ED Binstock and GC Carpenter requested teacher feedback on the content and received positive feedback and suggestions.

Commission staff will be in contact with additional high schools to conduct additional outreach to this demographic.

- ED Binstock advised the date for the hearing on the amendments to the Commission's updated complaint rules has been reset for January 3, 2024, explaining that the ND Newspaper Association suggested we push this out due to logistics. Chair Richard advised this is an opportunity for the public to make comments either in writing or in person regarding the complaint rules. ED Binstock advised the rules will be posted to the Commission's social media and that copies are available on the Commission's website or in its office. Commissioner Lindquist questioned if the public gets an acknowledgment of their comments being received. ED Binstock advised Commission staff will respond and send acknowledgments. This meeting will be held in person in the Ethics Commission conference room and virtually via MS Teams.
 - ED Binstock provided an update on COGEL. ED Binstock, GC Carpenter, and Commissioner Lindquist will be attending the Annual COGEL conference next week in Kansas City, MO. The conference will feature sessions on campaign finances, lobbying, elections, enforcement, and freedom of information.
 - ED Binstock and EA Maier have been researching additional ethics laws educational opportunities that are easier to access for Commissioners and Commission staff. Several universities have ethics centers or department that provide education. One such program that appeared to have useful information available online is the Markkula Center for Applied Ethics at Santa Clara University. Commission staff found other resources available online as well, but many related to general ethics and not governmental ethics.
5. **Potential Financial and Travel Disclosure Requirements for Public Officials:** Chair Richard addressed financial and travel disclosure requirements for public officials, advising that this topic has been in the news lately and came to us as an advisory opinion request. ED Binstock and GC Carpenter had been asked by the Commission to research what other states have done regarding out of state travel and what the current ND requirements are. GC Carpenter completed a state-by-state analysis that was provided to the Commission and the public for reference.

ED Binstock advised the current travel requirements vary by agency. However, if an employee is traveling out-of-state, there is a travel voucher to complete if public funds are being used. This is usually in executive branch agencies. There is an extensive approval process ahead of time that Commission staff is learning more about. ED Binstock has also requested additional information from executive branch agencies.

ED Binstock advised on the process with the legislative branch. If the out of state travel by a legislator is paid with legislative budget funds, it first must be approved by legislative management, then a travel report is to be submitted to legislative counsel after the travel. That report is then on file and is publicly accessible through an open records request. The Commission was provided with samples of the travel reports. ED Binstock reiterated this is only for out of

state travel that is paid for by appropriated funds in the state of ND. This is not the process when a legislator travels out-of-state and a third party, not the state, pays for that travel.

ED Binstock advised she and GC Carpenter have met with multiple agencies already and will be meeting with the Auditor's Office, the Secretary of State's Office, and additional executive branch agencies over the coming weeks.

GC Carpenter summarized the state-by-state review of financial/travel disclosure rules in other states. Currently in North Dakota, elected officials are not required to make yearly financial disclosures, only campaign financial disclosures are required when an individual is running for office. Only three other states do not have financial disclosure requirements filed on a regular basis.

The Commission requested ED Binstock and GC Carpenter continue to gather information on third party and state funded financial and travel disclosures for public officials and to look at the possibility of drafting proposed rules or guidelines for this matter.

6. **Executive Session:** The Commission entered executive session during the general meeting at 12:03 p.m. to discuss Complaint Nos. 22-003 through 22-010, 22-013, 23-004, 23-006, 23-007, 23-011, 23-012, and 23-013. 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 Ron Goodman, Ward Koeser, and Cynthia Lindquist, Executive Director Rebecca Binstock, Special Assistant Attorney General Pat Monson, General Counsel Logan Carpenter, and Executive Assistant Alisha Maier.

Executive Session ended at 1:10 p.m. and all participants returned to the regular meeting. During the Executive Session, the Commission discussed Complaint Nos. 22-003 through 22-010, 22-013, 23-004, 23-006, 23-007, 23-011, 23-012, and 23-013.

Motion: Commissioner Goodman moved to direct Executive Director Rebecca Binstock to summarily dismiss Complaint No. 22-013 due to non-responsiveness of the complainant as discussed in Executive Session. Motion was seconded by Commissioner Lindquist. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

Motion: Commissioner Koeser moved to direct Executive Director Rebecca Binstock to summarily dismiss Complaint No. 23-011 in part due to lack of personal jurisdiction over some of the respondents to the complaint as discussed in Executive Session. Motion was seconded by Vice Chair Anderson. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

7. **Meeting Dates for January 2024 through May 2024:** The Commission decided to cancel the December 2023 meeting and discussed potential dates for the first part of 2024. The following dates were selected:

January 17, 2024
February 28, 2024
March 27, 2024
April 24, 2024
May 22, 2024

8. **Adjourn:** Having no further business, the meeting was adjourned at 1:12 p.m. The next regular meeting is scheduled for January 17, 2024, at 9:00 a.m., livestreamed with MS Teams.

Approved on  1/17/2024

Rebecca Binstock, Executive Director, North Dakota Ethics Commission

