



North Dakota Ethics Commission Regular Meeting

Minutes of May 6-7, 2025

ND Heritage Center

612 E Boulevard Ave, Bismarck, ND 58505

1. **Call to Order:** The meeting was called to order by Chair Dave Anderson at 9:02 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:** Executive Director Rebecca Binstock requested to add discussion of Complaint Nos. 22-003 through 22-010 onto agenda item No. 10. Commissioner Sagsveen requested to add a discussion on subpoenas. Chair Anderson added the items for discussion.
3. **Approval of Minutes:** The Commission discussed regular meeting minutes from April 23, 2025.

Motion: Commissioner Goodman moved to approve regular meeting minutes from April 23, 2025. The motion was seconded by Commissioner Lindquist. Chair Anderson called for a voice vote. The motion was approved by a unanimous voice vote.

4. **Executive Director Update:**

- Operations Administrator Alisha Maier provided a budget update through the end of April 2025 for the 2023-25 biennium budget. OA Maier noted that the actual numbers are not typically ready until the 10th of each month. As this meeting occurred prior to the 10th, the numbers are estimates. She noted the following totals: current appropriation for the 2023-2025 biennium is \$1,165,777, expenditures in April were \$52,001, total expenditures for the current biennium have been \$1,007,282, leaving a remaining appropriation for the 2023-2025 biennium of \$158,495. OA Maier presented an estimated ending balance for the biennium on June 30, 2025, at \$5,740 explaining this number will fluctuate as we move through the biennium.

ED Binstock advised that access to the Fargo Forum has been set up for Commissioners based on a prior ask from Commissioner Goodman and that the information would be emailed to the Commissioners.

ED Binstock noted that the funds still available under professional fees are earmarked and therefore not included in the Commission's remaining balance. ED Binstock proposed hiring additional SAAGs within the next couple of months to assist with the backlog of complaints. The Commission advised staff to move forward with the proposed plan.

ED Binstock advised an offer was made for a summer internship but that the candidate had taken another opportunity. ED Binstock suggested not reaching back out for a summer intern as it is now late in the process, and this will allow CG Carpenter to focus his time on legal work. OA Maier advised there is around \$3,200 allocated for this biennium for a summer internship so those funds would then be added to the available ending balance.

- Executive Director Rebecca Binstock provided an update to the Commission on filings.

In April 2025, the Commission received the following filings:

- Complaints: 5
- Quasi-Judicial Forms: 1
- Conflict of Interest Forms: 1
- Meeting Notices: 9

The Commission closed 34 complaints.

The Commission currently has 62 pending complaints.

- ED Binstock provided an update on policies and procedures. ED Binstock requested the Commission consider the adoption of a Bonus Policy in accordance with Office of Management and Budget policies. The Commission discussed the policy and requested it be amended to have the Executive Director make bonus decisions regarding staff and the Commission make bonus decisions regarding the Executive Director.

Motion: Vice Chair Koeser moved to approve the amended Bonus Policy. The motion was seconded by Commissioner Goodman. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

- ED Binstock provided a human resources update. ED Binstock is in the process of conducting annual reviews for Commission staff. The legislature approved the workload increase for OA Maier. ED Binstock worked with HR to ensure that it could be effective in May instead of July as the funds are available to do so. With the Bonus Policy now adopted, ED Binstock plans to provide the performance bonus to GC Carpenter based on the time and effort and exceptional legal advice he provided during session. The legislature approved a 3% raise and based on staff evaluations; they will likely both receive that increase.

Commissioner Sagsveen suggested based on the different skill sets of individuals, staff should look into education to expand each individual's knowledge in respective skills.

5. **Introduction of Jill Mugaas, HR Business Partner:** Jill Mugass, HR Business Partner for OMB introduced herself to the Commission. Ms. Mugass spoke on the resources and support she provides for the Commission. ED Binstock meets with Ms. Mugaas approximately every other month to review any questions or concerns and learn about programs offered.
6. **Advisory Opinion Requests 25-01, 25-02, and 25-03:** ED Binstock provided an Advisory Opinion update.

Advisory Opinion Request 25-01:

This request was received in January from Senator Boschee. Due to legislative session and the extensive research required for the issuance of an advisory opinion, the Commission and Senator Boschee agreed to an extension for the issuance of this advisory opinion to May 30, 2025. Based upon the complaint workload and the research needed to be conducted for this request, ED Binstock proposed the Commission coordinate with Senator Boschee for another short extension to issue the advisory opinion on or before June 30, 2025. The Commission agreed to move forward with the extension request.

Advisory Opinion Request 25-02:

This request was received from Senator Ryan Braunberger and relates to traveling to a conference to serve as a panelist. The Commission notified Senator Braunberger that it would issue an advisory opinion.

Advisory Opinion Request 25-03:

This request was received by Representative Pat Heinert and relates to travelling to an out-of-state meeting. The Commission will issue an advisory opinion.

7. **Debrief of 2025 Legislative Session:** ED Binstock provided a debrief of the 2025 legislative session.

SB 2004: SB 2004 contained both appropriations to the Commission as well as policy changes.

ED Binstock noted the following regarding appropriations outside of the executive budget recommendation:

- \$1,368,016 total appropriation
- 3 FTEs maintained
- Funds not included for an FTE for education and communications
- Funds not included for rule implementation
- \$50,000 allocated for case management system development (one-time)
- \$24,434 allocated for workload increase for operations administrator position

GC Carpenter noted the following regarding policy changes:

- Section 4: Added an immunity provision for members of the Legislative Assembly under N.D.C.C. § 12.1-13-02, speculating or wagering on official action or information.
- Section 5: Provides an affirmative defense for legislators when voting on legislation. Subsection 2 is problematic as it includes informal advice from a staff member of the Ethics Commission. This is problematic as the Commission is not individuals or public official's attorneys. The Commission will have to adopt a policy or a rule on when the commission will weigh in on these issues and what this will look like, assuming this becomes law. Commissioners expressed frustration with this section as HB 1505 and HB 1360 failed and select pieces of those bills were added into these policies, but informal advice is not defined anywhere. Commissioners advised staff to draft information on how the Commission will communicate and handle the issue of "informal advice".
- Sections 6, 7, 8, 9, and 13: Changes the term "accused individual" to "respondent" throughout chapter 54-66 which will now match ethics rules.
- Section 10: Adds the sentence: "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." Commission staff will work on settlement guidelines regarding this process. The Commission will also need to go through current complaints to determine if there are cases for potential settling.
- Section 11: Makes a criminal referral by the Commission discretionary instead of mandatory. The Commission will have to develop a standard practice regarding the discretionary criminal referral and outline the circumstances of when the commission re-commences after a referral is accepted.

- Section 12: Adds the sentences: "Upon completion of an investigation, the executive director shall prepare a report and recommendation to the commission to close the matter or issue an alleged violation. The commission may issue an alleged violation, require additional investigation, or close the matter." The complaint rules will need to be reworked to take this into account. Section 12 also allows the respondent to petition the Commission at any time to dismiss the complaint in the manner prescribed by the Commission. The Commission will also have to develop a procedure regarding this process.
- Section 14: Changes the applicability of confidentiality and allows the respondent to speak about the complaint.
- Section 15: Changes disclosure requirements for the legislature's conflict of interest rules to require disclosure of an interest that is "unique and individual" to the legislator instead of "direct, unique, substantial, or individual" interest by the legislator.
- Section 16: Requires the Commission to adopt rules for the efficient and timely disposition of complaints from receipt to resolution.
- Section 17: Requires the Commission issue an annual report and make the report public. The Commission will create a format and schedule for an annual report to be issued.

ED Binstock advised that Chair Anderson has directed GC Carpenter to prepare a legal memo for the Commission outlining: (1) the Commission's constitutional duties and authority; (2) the impact of SB 2004 on the Commission's internal processes and procedures; and (3) evaluating potential actions of the Commission regarding the same. Commissioner Lindquist requested this memo include the constitutionality issue of SB 2004.

HB 1469: ED Binstock advised that HB 1469 created yearly statements of interest by public officials in North Dakota and requires the publication of these forms online when filed with the Secretary of State. HB 1469 will be effective August 1, 2025. Secretary of State Howe testified that the State's new campaign reporting platform will be in use by December 31, 2025. With that, yearly statements of interest will start to be due January 15, 2026. ED Binstock recommended the Commission coordinate with the Office of the Secretary of State to notify individuals to file forms, enter into a memorandum of understanding or cooperative agreement with the Office of the Secretary of State to create a clear process on how to address complaints related to statements of interest, and adopt a rule addressing the falsification of statements of interests by public officials. GC Carpenter will draft a rule to cover the gap regarding falsification of statement of interests.

8. **Education & Outreach Discussion:** Chair Anderson requested the Commission evaluate the ongoing educational and outreach efforts of the Commission considering the legislative

assembly not providing support in this regard. The Commission discussed and reluctantly decided that education needs to take a backseat in the interim to focus on other priorities. The Commission determined that individuals with educational questions should be referred to what is already available on the Commissions website, FAQs, and YouTube channel. ED Binstock will modify GC Carpenter's job description in accordance with the removal of the educational focus.

9. **Discussion on Subpoenas:** Commissioner Sagsveen suggested the Commission adopt a policy to issue a subpoena to compel testimony or evidence when needed. The Commission discussed its constitutional authority surrounding a subpoena process.

Motion: Commissioner Sagsveen moved to direct Commission staff to develop a process whether by rule or policy for the issuance of subpoenas when necessary and the enforcement of subpoenas if necessary and bring the proposed process back to the Commission for review and possible action. The motion was seconded by Commissioner Lindquist. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

10. **Mock Complaint Overview & Hearing:** ED Binstock advised that earlier this year, the Commission requested to walk through a mock complaint of the complaint process from filing to resolution. GC Carpenter compiled a mock complaint and supporting documentation and walked the Commission through the process.
11. **Executive Session:** The Commission entered executive session during the general meeting at 3:30 p.m. to discuss Complaint Nos. 25-067, 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, 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 3:37 p.m. and all participants returned to the regular meeting.

During the Executive Session, the Commission discussed Complaint Nos. 25-067, 22-003, 22-004, 22-005, 22-006, 22-007, 22-008, 22-009, and 22-010.

After Executive session, the following motions were made:

Motion: Vice Chair Koeser moved to direct Executive Director Binstock to summarily dismiss Complaint No. 25-067 for a lack of personal jurisdiction. The motion was seconded by Commissioner Goodman. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

The Commission recessed on May 6, 2025, at 3:50 p.m. and all Commission members reconvened at 9:04 a.m. on May 7, 2025.

12. **Discussion of Proposed Travel Disclosure Rules:** General Counsel Carpenter provided an update on the proposed travel disclosure rules. The fines drafted came from the current statute for campaign finance. Subsection 4 was updated regarding an individual intentionally not filing a travel disclosure statement. If the Commission starts the process today, the rules could be in effect October 1, 2025, but if the commission waits until the next meeting, it would be effect Jan 1, 2026. Commissioners discussed the rules and potentials fines.

Motion: Commissioner Lindquist moved to update the drafted wording that the Commission may charge and collect up to a \$5000 fee and direct Commission staff to start the rule-making process for the proposed travel disclosure rules. The motion was seconded by Commissioner Goodman. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

13. **Executive Director Evaluation and Salary Discussion:** Chair Anderson requested the Commissioners review and rank ED Binstock's performance using the review form provided. OA Mair collected the reviews and comments and is to consolidate and provide them back to Chair Anderson for final signature.

Motion: Vice Chair Koeser moved to approve the Executive Directors evaluation as discussed. The 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 approve the 3% legislative salary increase for the Executive Director. The motion was seconded by Commissioner Sagsveen. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

Motion: Based on the annual performance evaluation Commissioner Lindquist moved to provide Executive Director Binstock with a \$1,500 performance bonus. The motion was seconded by Commissioner Goodman. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

Motion: Commissioner Lindquist moved to work with Commission staff for the consideration of a retention bonus for ED Binstock based on budget and funding. The motion was seconded by Vice Chair Koeser. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

14. **Strategic and Workforce Plan Discussion:** ED Binstock provided the Commission with an overview of the current biennium's 5 strategic initiatives: (1) Education and Outreach, (2) Relationships and Communication, (3) Rules Review and Creation, (4) Positive Work Culture, and (5) Meaningful Enforcement. The Commission discussed the current initiatives and changes to take effect for the 25-27 biennium.

Education and Outreach: The Commission determined this initiative will be deprioritized due to the lack of funding for education.

Relationships and Communications: ED Binstock advised that lobbyists are not required to provide their email addresses to the SOS when registering, which causes a lack of communication available to all registered lobbyists. Commission staff will reach out to the SOS to see if their office can require Lobbyists to include email addresses on registrations.

Rules Review and Creation: The Commission will focus on an issue review and the role of the Commission in addressing those issues. Ethical issues related to campaigning will likely also fall under this initiative.

Positive Work Culture: The Commission decided to remove positive work culture from an initiative and instead add those expectations into ED Binstock's job description.

Meaningful Enforcement: Meaningful enforcement will be renamed and realigned to focus on resolution pathways for ethical complaints or issues.

The Commission discussed adding measurables to the initiatives where applicable. The Commission decided to have Commissions Sagsveen provide and analysis to the Commission of the 16 bills he identified being related to ethics to make more decisions regarding the

Commissions strategic plan. Commissioner Goodman advised he would assist in this process as well.

Commissioner Goodman left the meeting at 11:45 a.m. and was not in discussion for agenda item no. 15.

Commissioner Koeser left the meeting at 12:00 p.m. and was not in discussion for agenda item no. 15.

15. **Annual Records Retention:** ED Binstock advised Commission staff will assist Commissioners in reviewing their electronic documents for records retention purposes.
16. **Further Business:** Commissioner Sagsveen requested to discuss what happens if there is an ethics violation, but no one makes a complaint, but the Commission or Commissioners are aware of it. ED Binstock advised that part of HB 1360 would have addressed this issue.

Motion: Commissioner Sagsveen moved to direct Commission staff to respond to the Commission with a process for investigating potential ethical violations even if a formal complaint hasn't been filed with the Commission. The motion was seconded by Vice Chair Koeser. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

17. **Adjourn:** Having no further business, the meeting was adjourned at 12:50 p.m. The next regular meeting is scheduled for June 25, 2025, at 9:00 a.m., livestreamed with MS Teams.

Approved on 6/25/25



Rebecca Binstock, Executive Director, North Dakota Ethics Commission