

## North Dakota Ethics Commission Regular Meeting

Minutes of May 22, 2024

### MS Teams

1. **Call to Order:** The meeting was called to order by Chair Paul Richard at 9:03 a.m. The following members of the Ethics Commission were also present: Commissioners Ward Koeser, Cynthia Lindquist, and Ron Goodman, Executive Director Rebecca Binstock, General Counsel Logan Carpenter, and Operations Administrator Alisha Maier. Commissioner Dave Anderson was absent.
2. **Agenda Additions:** No additions were made.
3. **Approval of Minutes:** The Commission discussed regular meeting minutes from April 24, 2024. Commissioner Lindquist requested notating if a commissioner is absent in the meeting minutes.

**Motion:** Commissioner Goodman moved to approve regular meeting minutes from April 24, 2024, as edited. 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 April 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 March were \$44,437, total expenditures for the current biennium have been \$438,352, leaving a remaining appropriation for the 2023-2025 biennium of \$716,945. OA Maier presented an estimated ending balance for the biennium on June 30, 2025, at \$15,610, explaining this number will fluctuate as we move through the biennium.
- ED Binstock provided an update to the Commission on policies and procedures. In review of the Commission's Risk Management Reporting policy, staff noted a small addition that needed to be made. The addition included completing required risk management training annually, which was added as subsection "c." to number 8 of the Commissions internal policies and procedures.

**Motion:** Commissioner Lindquist moved to approve the inclusion of updated Risk Management Reporting 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.

- ED Binstock provided an update to the Commission on legislative internships. Commission Staff is waiting to hear back on whether a legislative intern has been placed in the Commission's office. In the interim, staff has begun creating a work plan for any future legislative interns.
- Executive Director Rebecca Binstock provided an update on the online forms project. After the Commission approved the online forms at last month's meeting, a matter was brought to Commission staff's attention that needs to be addressed before the forms go live.

General Counsel Carpenter explained that in the Commission's complaint process, complainants can elect to remain confidential, but there is a piece of statute that says if they divulged information that would reveal who they are, they essentially wave that confidentiality. ED Binstock recommended the Commission add the following language to the complaint form to address this: "You should also know that if you choose to keep your name confidential, but you otherwise disclose or share information that identifies you as a complainant, the Commission may share your name with the accused individual." Chair Richard advised confidentiality as a whole needs to be a part of the Commission's Legislative agenda as well.

**Motion:** Commissioner Koeser moved to approve the inclusion of the language notifying the complainant of the consequences of sharing information to the complaint form. Motion was seconded by Commissioner Goodman. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

- ED Binstock provided an update to the Commission on education and outreach initiatives. On May 15, 2024, ED Binstock presented to the BG4 Democracy. This presentation covered general information about the establishment of the Ethics

Commission. Due to staffing during the summer, the Commission will start educational and outreach events again in August and September.

ED Binstock advised the Commission's next webinar will be held on June 25, 2024, and is titled "Dakota Dilemmas: Navigating the Complaint Process".

ED Binstock advised a news release regarding Chair Richard stepping down will happen this week and include information on how to apply to be on the Commission. Chair Richard advised his term end date is August 31<sup>st</sup>, 2024, but he will stay until a replacement is found.

- ED Binstock provided an update to the Commission on the audit process. The Office of the Auditor has extended the audit period for the Ethics Commission. A statutory provision that was passed allowed their office to extend some agencies audit periods. The Ethics Commission will be informed in spring 2025 if the next audit will be in 2025 or 2026.

5. **Discussion of Rules for Calculation of Time:** ED Binstock recommended the Commission adopt rules for calculation of time. GC Carpenter explained this would move two of the Commission's policies into the Commission's complaint rules. The proposed rules and changes were presented to the Commissioners. GC Carpenter noted the following changes: updating the timeframe to thirty days for a complainant to appeal from a summary dismissal, removing the word "calendar" after day quantities in the rules, and adding a timeline to a respondent appealing a finding to the District Court.

**Motion:** Commissioner Goodman moved to start the rulemaking process. Motion was seconded by Commissioner Lindquist. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

6. **Discussion of Legislative Study Related to Potential Conflicts of Interest:** ED Binstock provided an update on legislative study related to potential conflicts of interest. On May 8, 2024, Representative Lefor sent a letter to the Chair of the Legislative Audit and Fiscal Review Committee ("LAFRC"), Representative Emily O'Brien, directing the committee to study legislative rules, ethics rules, state statutory provisions, and constitutional provisions related to potential conflicts of interest by public officials. ED Binstock spoke with Chair O'Brien and Leader Lefor about the letter. ED Binstock and Chair O'Brien discussed assistance by the Ethics Commission to conduct this study. ED Binstock does not know the specifics on how this study will be conducted.

ED Binstock requested authority from the Commission to respond with a letter to Emily O'Brien to inform LAFRC of the Commission's support to work together to conduct the study.

**Motion:** Commissioner Goodman moved to authorize ED Binstock to communicate back to Representative O'Brien that the Ethics Commission will participate in the study of conflict of interest rules, statutes, and constitutional provisions that may exist and may need to exist. Motion was seconded by Commissioner Lindquist. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

7. **Executive Session:** The Commission entered executive session during the general meeting at 9:58 a.m. to discuss Complaint Nos. 22-003, 22-004, 22-005, 22-006, 22-007, 22-008, 22-009, 22-010, 23-011, 23-013, 24-001, 24-002, 24-003, 24-004, 24-008, 24-011, and 24-012. 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, Commissioners Ward Koeser, Cynthia Lindquist, and Ron Goodman, Executive Director Rebecca Binstock, General Counsel Logan Carpenter, and Operations Administrator Alisha Maier.

Chair Richard left Executive Session at 11:04 a.m. and was not in attendance during the discussion of complaint No. 23-011.

Executive Session ended at 11:14 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, 22-010, 23-011, 23-013, 24-002, 24-003, 24-004, 24-008, 24-011, and 24-012. Complaint No. 24-001 was on the initial agenda but not discussed during the meeting.

**Motion:** Commissioner Lindquist moved to direct ED Binstock to summarily dismiss Complaint Nos. 24-002, 24-003, and 24-004 for lack of subject matter jurisdiction. 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 Lindquist moved to direct ED Binstock to summarily dismiss Complaint No. 24-012 for lack of personal jurisdiction. Motion was seconded by Commissioner Koeser. Chair

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

8. **Adjourn:** Having no further business, the meeting was adjourned at 11:17 a.m. The next regular meeting is scheduled for June 26, 2024, at 9:30 a.m., in person in the Sakakawea room at the ND State Capitol and livestreamed with MS Teams.

Approved on  6/26/2024

Rebecca Binstock, Executive Director, North Dakota Ethics Commission

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