

FREQUENTLY ASKED QUESTIONS

POWER AND DUTIES

What types of issues does the Ethics Commission cover?

The Ethics Commission duties and responsibilities come from Article XIV of the North Dakota Constitution. The Ethics Commission promotes transparency and accountability in state government and may investigate and take complaints regarding public officials who violate rules or laws related to transparency, corruption, elections and lobbying

Who are public officials?

Public officials are elected or appointed officials of the state's executive or legislative branch. It includes executive branch boards and commissions. (see <https://apps.nd.gov/gov/boards>)

Are there limits to who is covered by the Commission?

Yes. The commission has no authority over city, county, or other political subdivision or local officials, employees of the state's executive branch, or members or employees of the state's judicial branch.

The commission also has no authority to investigate personnel matters or matters for which other remedies exist. These matters include, but are not limited to,

grievances, appointments, promotions, reprimands, suspensions, dismissals, harassment, discrimination, open meetings violations, and open records violations.

COMPLAINTS

How do I file a complaint?

No specific format is required but a complaint form is available at <https://www.ethicscommission.nd.gov/>. You must provide your name and contact information and should identify each person, entity, committee, or group that is alleged to have committed a violation. Clearly recite the facts that show specific violations under the commission's jurisdiction. Citations to the constitution, North Dakota law, or rules or regulations are not required but helpful.

Can I remain confidential?

Yes. The Commission maintains a confidential complaint email (EthicsHotline@nd.gov) and phone hotline (701 328-6000). The ethics commission may not release a confidential complainant's name and address to the accused individual without the authorization of the complainant. If the confidential complainant is a witness to an alleged offense and does not authorize release of the complainant's name and address to the accused individual, the statement of the complainant may not be used as evidence of a violation.

Are there restrictions on who can file a complaint?

Yes. Complaints may not be considered from anonymous sources or from non-residents. Complaints also must be filed within 3 years of the alleged violation to be considered.

Can the Commission bring criminal charges?

No. If there is evidence of a crime the Commission would refer the matter to the appropriate law enforcement entity, typically the county State's Attorney.

GIFTS BETWEEN LOBBYISTS AND PUBLIC OFFICIALS

Are gifts allowed between lobbyists and public officials?

No. Under Article XIV a lobbyist may not knowingly give, offer, solicit, initiate, or facilitate a gift to a public official and a public official may not knowingly accept a gift from a lobbyist. A gift is defined as any item, service or thing of value not given in exchange for fair market consideration.

Are there exceptions?

Yes. Under Article XIV the Commission can determine what does not constitute an ethical concern. The following “gifts” are authorized:

1. A gift by a lobbyist who is a member of the public official's immediate family.

2. Any item given where the public official is paying fair market value for the item.

3. Purely informational material.

4. A campaign contribution that is given in accordance with all applicable state laws, rules, and regulations governing campaign contributions.

5. Reimbursement or payment for transportation, lodging costs, and meal costs not to exceed rates as authorized under North Dakota century code section 44-08-04 and office of management and budget Fiscal Policy #505 to facilitate attendance to a public or private educational and social event within the state, if the public official meaningfully participates in the event as a speaker or panel participant, presenter, or ceremonial event appropriate to the position, or if attendance is appropriate to the performance of official duties.

6. Gifts or other things of value shared as a cultural or social norm as part of a public or private social and educational event. Notice must be filed with the Commission.

7. Food and beverage served for immediate consumption at any private or public social and educational event. Notice must be filed with the Commission.

8. Food or beverage with a value of ten dollars or less, excluding gratuity, purchased for a public official in conjunction with an informal social and educational event. The purchased food and beverage must be consumed during the event. A state resident must be present but is not required to be the purchaser of the food or beverage.

ADVISORY OPINIONS

What are advisory opinions?

The Ethics Commission may issue advisory opinions upon request in accordance with NDCC §54-66-04.2. Written formal advisory opinions interpret the ethics laws, rules and Article XIV of the North Dakota Constitution to specified hypothetical facts or prospective conduct. An individual who in good faith relies on a formal advisory opinion may not be subject to civil or criminal penalties provided the material facts surrounding the action are substantially the same as the conduct presented in the opinion.

Who may request a formal advisory opinion?

Any public official, candidate for elected office, or lobbyist may request a formal advisory opinion. The request must relate to the requester and not a third party.

How do I request a formal advisory opinion?

Requests must be submitted to the Commission by mail or email at ethicscommission@nd.gov.

Can I seek informal advice?

Yes. Informal advice is issued by the staff of the State Ethics Commission, typically the Executive Director. Requests are confidential, unless confidentiality is waived by the requester. While informal advice does not provide immunity like formal advisory opinions, it is evidence of a

good faith effort to comply with ethics rules and statutes. You can contact the Ethic Commission with any questions at (701) 328-5322 or email at ethicscommission@nd.gov.