

North Dakota Ethics Commission Regular Meeting

Minutes of July 18, 2023

State Capitol, Sakakawea Room and MS Teams

1. **Call to Order:** The meeting was called to order by Chair Paul Richard at the State Capitol, Sakakawea Room at 9:08 a.m. The following members of the Ethics Commission were also present: Vice Chair Dave Anderson, Commissioners Ron Goodman, Ward Koeser and Cynthia Lindquist, as well as Executive Director Rebecca Binstock and Office Manager Holly Gaugler. Assistant Attorney General Patricia Monson attended via MS Teams.
2. **Agenda Additions:** No additions were made.
3. **Approval of Minutes:** The Commission discussed meeting minutes from June 13, 2023. No changes were made.

**Motion:** Commissioner Goodman moved to approve meeting minutes from June 13, 2023. Motion was seconded by Vice Chair Anderson. Chair Richard called for a voice vote. The motion was approved by unanimous voice vote.

4. **Executive Director Update:**

- Office Manager Holly Gaugler provided a budget update and end of biennium budget update as of June 30, 2023, noting numbers were preliminary as not all expenditures have been posted. Gaugler went through the June expenditures, thus far, totaling \$78,175.39, with total expenditures for the biennium at \$641,700.07 leaving a negative balance of \$17,716.07 based on original appropriations of \$623,984. However, the 2023 Legislature provided special appropriations of \$72,000 for SAAG costs and \$25,000 (Senate Bill 2024) for relocation and renovation costs with an emergency clause contained in Senate Bill 2015. Total costs of \$45,700 were incurred through June 30, 2023, which included SAAG costs of \$20,700 and renovation costs of \$25,000. Those appropriations of \$45,700 were transferred into the current 2021-23 budget leaving a positive balance of \$27,983.93 for the end of the biennium. Gaugler noted the ending balance was higher than earlier projections due to positive budget variances related to the on-line forms submission software, conference room equipment, travel, and rules advertising.
- Executive Director Binstock provided an update on the on-line forms submission project stating the project was near completion and testing work was continuing until the project is able to go live.
- Executive Director Binstock briefed the Commission on the hiring of the General Counsel and the Executive Assistant positions. The posting for the General Counsel position closed on July 5, 2023. Due to the number of applicants, there will be two rounds of interviews with a first round

of phone interviews this week and next week. After narrowing down the applicants from the phone interviews, a second round of in-person interviews will then be conducted including Commissioners Anderson and Goodman on the interview panel. Due to the timing, Executive Director Binstock recommended the Commission Chair Paul Richard call a special meeting after completion of the interview process for Executive Director Binstock to present a final candidate to the Commission.

The posting for the Executive Assistant position has not yet been posted as additional detail is being added to accurately describe the job duties. The position will be listed for two weeks. Delays in this job posting as well as the General Counsel position, is mainly due to the large backlog of state agencies listing new positions for the biennium. Interviews for the Executive Assistant will be conducted quickly after the job listing closes, anticipating August interviews.

- Executive Director Binstock provided an update on policies and procedures:

a. Records Retention Policy-

HB 1528 went into effect July 1, 2023, and relates to the final disposition of records, mandatory records retention policies, and the administration of employee accounts for supervisors and above upon unexpected employee departure from an agency.

As a result of this new legislation, all executive agencies are required to establish a succession plan that includes mandatory records retention policies for certain types of records and ensures proper management of employee accounts when certain departure circumstances occur.

This bill also requires that each departmental agency maintains, for at least one year, data contained in electronic mail accounts for agency heads, state officers appointed by the governor to fill a seat vacancy under ND century code 44-02, and elected executive branch officials.

While HB 1528 applies to executive branch agencies and the higher board of education, Executive Director Binstock recommends the Ethics Commission follow the dictates of HB 1528 and adopt policies in light of such legislation. Therefore, ED Binstock requests the Commission review and approve the proposed #10 Records Retention Policy for the Commission.

b. Fiscal Policy :

The purpose of the proposed Fiscal Policy is to establish a policy for the expenditure of discretionary funds up to \$1,000 by the Executive Director outside regular occurring expenditures, travel and those items that are specifically appropriated by the legislature. There have been previous discussions by the Commission regarding the authority of the Executive Director to expend funds, but it has not yet been adopted as a policy. This policy also sets forth additional requirements for staff to provide fiscal reports and information to the Commission. Executive Director Binstock requested the Commission review and approve the proposed #11 Fiscal Policy.


- Executive Director Binstock provided an update on the current process to fill Ethics Commission's openings. The application period closed on July 3, 2023 and Executive Director Binstock has been in contact with the Governor's office to offer logistical coordination as needed. The Ethics Commission does not participate in the selection process as that is the authority of the Senate Majority Leader, the Senate Minority Leader and the Governor. With two openings for Commissioners, Executive Director Binstock has requested that only one position is filled by a new appointee and that Commissioner Goodman be reappointed for a second term. Chair Richard suggested an in-person Commission meeting for September or October in light of the new Commissioner or Commissioners coming on board.
- Executive Director Binstock briefed the Commission on the upcoming annual COGEL conference December 3 – 5, 2023 in Kansas City, Missouri. She noted that there is an early registration period that is \$600 which goes up to \$700 after October 27, 2023. Commissioners that would like to attend should contact Executive Director Binstock or Holly Gaugler.
- Executive Director Binstock provided an update to the Commission that SB 2048 will be effect on August 1, 2023. SB 2048 changes two sections of N.D.C.C. 54-66 to expand the classes of individuals who can file complaints with the Ethics Commission and revises the timeline and notice requirement to inform respondents of complaints.

With the passage of SB 2048, the applicable Administrative Rules need to be revised to align with the new statutory language. Executive Director Binstock, along with General Counsel Monson, have begun the process of revising rules to align to the statutory language. During the regular August meeting, Executive Director Binstock will present the Commission with revised language for the Commission's administrative rules.

- Executive Director Binstock presented a draft strategic plan that was first discussed at the June 13, 2023, meeting. Chair Richard and Executive Director Binstock asked that the Commissioners review it and provide feedback comments and additional language that can be added and discussed in the near future. Vice Chair Anderson recommended that the strategic plan reference Article XIV, N.D.C.C. 54-66, and Commission Rules where appropriate.
5. **Tour of New Office Space:** Commissioners and staff toured the new office space of the ND Ethics Commission. The public was invited to attend the tour as well.
  6. **Recognition of Commissioner Cynthia Lindquist:** Upon the return of the Commission from the office space tour, the Commission recognized Commissioner Cynthia Lindquist for her service to the Commission. A recognition and appreciation plaque was presented to Commissioner Lindquist for her dedication and service as a commissioner on the North Dakota Ethics Commission from September 2019 through August 2023.



7. **Adjourn:** Having no further business, the meeting was adjourned at 11:22 a.m. The Commission attended lunch at the Capitol Cafeteria in honor of Commissioner Lindquist at which no business was discussed. The next regular meeting is scheduled for August 23, 2023, at 9:00 a.m. livestreamed with MS Teams.

Approved on 8/23/2023 

Rebecca Binstock, Executive Director, North Dakota Ethics Commission