

North Dakota Ethics Commission Regular Meeting

Minutes of June 13, 2023

MS Teams

1. **Call to Order:** The meeting was called to order by Chair Paul Richard at 9:08 a.m. The following members of the Ethics Commission were also present: Vice Chair Dave Anderson, Commissioners Ron Goodman and Cynthia Lindquist, as well as Assistant Attorney General Pat Monson, Executive Director Rebecca Binstock, and Office Manager Holly Gaugler. Commissioner Ward Koeser joined at 9:23 a.m.
2. **Agenda Additions:** No additions were made.
3. **Approval of Minutes:** The Commission discussed meeting minutes from May 31, 2023. Chair Paul Richard asked that the minutes be clarified to show the Commission requested that a final candidate for hiring for the General Counsel position be brought to the Commission in open meeting for discussion and approval prior to making an offer of employment.

**Motion:** Commissioner Lindquist moved to approve meeting minutes from May 31, 2023, with the noted clarification made by Chair Richard. Motion was seconded by Commissioner Goodman. 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 as of May 31, 2023. Expenditures for May 2023 were \$24,271.85 with total expenditures for the biennium at \$563,524.68 leaving a balance of \$60,459.32. Projected expenditures for the last month of the biennium are estimated at \$84,004 which would leave a negative balance of \$23,544.68. However, utilizing the deficiency funding of \$25,000 for office relocation costs and SAAG costs to date of \$10,920, the adjusted ending balance is estimated at \$12,375.32 as of June 30, 2023. Gaugler also noted the wiring costs had been estimated at \$750 and the estimate has been revised to \$3,775. Executive Director Binstock added that she and Gaugler have been working closely with vendors to ensure work is completed by June 30, 2023.
- Executive Director Binstock provided an update on the new office location. She informed the Commission that the delivery of the conference tables may not arrive by June 30, 2023. However, she is working with the vendor to ensure a timely delivery. As a result of a meeting on June 7 with NDIT, the scope of work for the NDIT wiring increased to provide additional security as well as overall functionality of the office space which increased the initial estimate of \$750 to \$3,775. The increased scope of work also included a call box and a duress button. Executive Director reported that carpet had been installed the previous week and DIRT walls have been delivered to the capitol and will be installed prior to June 30, allowing time for additional work to also be completed by June 30.

- Executive Director Binstock met with NDIT on June 5, 2023 regarding the online forms submission project. During the meeting, Binstock asked NDIT to simplify the search function of the software to ensure the initial project is completed by June 30. Project appears to be on track and will be a main focus throughout June.
- Executive Director Binstock briefed the Commission on a new Advisory Opinion Request form and an updated Advisory Opinion Request Information sheet. Binstock explained the new form will allow requestors to submit this form online as a result of the new Online Forms Submission project. Commissioner Lindquist recommended that the forms be numbered. Executive Director Binstock confirmed that they would be assigned numbers.

**Motion:** Vice Chair Dave Anderson made a motion to approve the new Advisory Opinion Request form and the updated Advisory Opinion Request Information sheet which shall be posted to the Commission’s website. Motion was seconded by Commissioner Lindquist. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

- Executive Director Binstock provided an update to the current Complaint form which was made to conform as an online form. The updated form also provides a “checkbox” regarding confidentiality and further explanation. This integrates a confidentiality letter that is currently used as a part of the complaint process, streamlining the filing of a complaint.

**Motion:** Commissioner Koeser made a motion to approve the new Complaint form which shall be posted to the Commission’s website. Motion was seconded by Vice Chair Anderson. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

The Commission further discussed the term “respondent” versus “accused” as used on the complaint form. The Commission agreed that a statutory change should be considered for the 2025 legislative session to change the term “accused” to “respondent.” In the meantime, Executive Director Binstock will use the preferred term “respondent” in correspondence to the complainants and respondents.

- Executive Director Binstock briefed the Commission on the hiring of a General Counsel and an Executive Assistant. The classification for the General Counsel position had been approved and would soon be posted by HRMS. The Executive Assistant position classification does not need to be approved as it was an existing position for the Commission until it was removed during the 2019 legislative session. Executive Director Binstock expected both positions would be posted within the next upcoming weeks. The Commission agreed that applicants would be interviewed by Executive Director Binstock and one or two Commissioners. For the general counsel position, the finalist applicant will be brought to the board for consideration. Upon approval by the Commission, Executive Director Binstock would notify the Attorney

General's Office as the General Counsel would be designated as a Special Assistant Attorney General who would be working for the Commission. Chair Richard asked that Executive Director Binstock provide the Commission with the appropriate meeting process in hiring and salary approval of the General Counsel to ensure the Commission correctly follows open meeting rules.

- Executive Director Binstock updated the Commission on the appointment of the SAAG to serve as Interim General Counsel. On June 2, 2023, the Attorney General notified Executive Director Binstock and SAAG Monson that Ms. Monson's appointment was approved to serve as Interim General Counsel for the Commission. No additional paperwork was required as the current agreement has a per-hour rate.
  - Executive Director Binstock briefed the Commission on the progress in appointing a new Commissioner. A press release was sent to the ND Newspaper Association on June 5 for disbursement to ND newspapers. It was also sent to the State Bar Association of North Dakota, the ND Supreme Court, and the North Dakota Indian Affairs Commission. Executive Director Binstock also had an interview with Prairie Public Radio on June 12, 2023 and an article ran in the Bismarck Tribune on June 12, 2023.
5. **Executive Director Evaluation and Salary Increase:** Chair Richard provided his comments and evaluation of Executive Director Binstock's performance to the Commission. Chair Richard did not provide a ranking (on a scale of 1-5) of Executive Director Binstock's performance and asked that the Commission collectively complete the ranking, review his comments, and provide additional comments. Chair Richard also asked that the Commission provide goals for the upcoming year for Executive Director Binstock. Chair Richard asked Executive Director Binstock for input on her goals for the upcoming year.

This item was momentarily tabled and resumed in Item #7 as the Commission moved on to Item #6.

6. **Executive Session:** The Commission entered executive session during the general meeting at 10:29 a.m. to discuss Complaint Nos. 22-003, 22-004, 22-005, 22-006, 22-007, 22-008, 22-009 and 22-010 under the authority of N.D.C.C. Sections 54-66-12(1), 54-66-12(3), and 44-04-19.2(1) – 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, General Counsel Pat Monson, Executive Director Rebecca Binstock, and Office Manager Holly Gaugler. Executive Session ended at 10:46 a.m. and all participants returned to the regular meeting with the exception of Commissioner Koeser, who was experiencing technical issues. During the Executive Session, the Commission discussed Complaint Nos. 22-003 through 22-010. Discussion was informational only and no action was taken by the Commission.
7. **Executive Director Evaluation and Salary Increase (Resumed from item #5):** The Commission resumed its evaluation of Executive Director Binstock. Collectively, Commissioners made various



comments to Chair Richard's previous comments. The Commission also ranked Executive Director Binstock utilizing a 1 to 5 grading system.

During the discussion Chair Richard outlined four goals or focal points for the upcoming year:

1. Development and onboarding of new staff.
2. Development and onboarding of new commissioner(s).
3. Education of public officials and North Dakota Citizens.
4. Consideration and research of other state's commission laws that fall within the scope of the ND Ethics Commission relating to transparency, corruption, elections, and lobbying.


Executive Director Binstock acknowledged the goals and added that she will develop a strategic plan outlining the four goals recommended by the Commission. Executive Director Binstock added two additional goals:

1. Expansion of overall education and communication.
2. Creating a positive work environment for staff and commissioners.

The Commission finalized their evaluation with an overall score of 4.5 out of 5 and agreed upon a 6% salary increase for Executive Director Binstock.

**Motion:** Commissioner Goodman made a motion to approve a 6% salary increase for Executive Director Binstock. Motion was seconded by Vice Chair Anderson. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

8. **Logistics for July 18, 2023 Meeting:** Chair Richard requested that the July 18, 2023 meeting start at 10:00 a.m. at the State Capitol, Sakakawea Room and MS Teams.
9. **Adjourn:** Having no further business, the meeting was adjourned at 11:42 a.m. The next regular meeting is scheduled for July 18, 2023, at 10:00 a.m. at the State Capitol, Sakakawea Room and MS Teams.

Approved on July 18, 2023 

Rebecca Binstock, Executive Director, North Dakota Ethics Commission