

North Dakota Ethics Commission Meeting

Minutes of July 28, 2021

Live Stream MS Teams

1. The meeting was called to order by Chair Ron Goodman, at 9:02 a.m. The following members of the Ethics Commission were present: Ron Goodman, Cynthia Lindquist, Paul Richard, Ward Koeser and David Anderson. Also, present were Ethics Commission legal counsel Allyson M. Hicks, Executive Director Dave Thiele, and Office Manager Holly Gaugler.
2. The agenda was discussed for this meeting with no additions.
3. The minutes of the 26 May 2021 meeting were discussed with no changes.

Motion: Commissioner Richard moved to approve the minutes of May 26, 2021 with no corrections. Motion was seconded by Commissioner Koeser. Chair Goodman called for a voice vote on the motion. The motion was approved by unanimous voice vote.

4. Office Manager Holly Gaugler provided a budget update as of June 30, 2021. Gaugler reported June 2021 expenditures of \$23,195 and biennium to date expenditures of \$432,135 with a remaining end of biennium budget of \$85,020. As projected, this will be turned back to the general fund.
5. Executive Director Thiele stated that interim Government Administrative Committee will be meeting on September 14th to review and study statewide leases to include the Ethics Commission office space. He asked that Commissioner Anderson and Holly Gaugler attend the meeting with him. He also briefed the Commission that a complaint had been received in the prior week and had been dismissed and a total 35 meeting notices have been filed with the Commission. Thiele also reminded the Commission of the annual COGEL conference 5-8 December in Denver. He planned on attending along with one of the Commissioners or legal counsel Allyson Hicks.
6. The Commission discussed the Advisory Opinion Process draft presented by Executive Director Thiele. Legal counsel Allyson Hicks asked the Commission to consider removing the language on informal advisory opinions. Commissioner Richard suggested removing it and adding a new section to the complaint rules that addresses formal advisory opinions and

informal advisory opinions and their impact on the complaint process. Executive Director Thiele and legal counsel Hicks will draft language for the Commission. The Commission also discussed denials of requests for formal advisory opinions. It was agreed upon by the Commission that it would delegate authority to the Executive Director to accept the requests for formal advisory opinions and the denial of advisory opinions would need to be acted upon by the Commission at the next scheduled Ethics Commission meeting. The Commission also decided that the Chairman would work with the Executive Director upon receipt of requests for formal advisory opinions on whether the Executive Director should proceed with the process of a formal advisory opinion prior to the next scheduled Commission meeting. The Commission will review the advisory opinion process document at the next scheduled meeting with edits from Thiele and Hicks.

7. The Commission discussed the issue of conference expense reimbursements to public officials. Executive Director Thiele presented the many different scenarios that public officials face as related to this topic and the need and also the difficulty of providing a formal advisory opinion. The Commission agreed that extensive research would be beneficial before an advisory opinion could be issued. The Commission also agreed that Executive Director Thiele and Commissioner Anderson would conduct the research, with periodic updates to Commission members, and present a framework to the Commission for discussion to carefully create an advisory opinion on the topic.
8. Executive Director Thiele briefed the Commission on the approval process for the proposed revisions to complaint and gift rules which were based on statutory changes during the 2021 legislative session. He reported that he had not received any comments or feed back nor had there been any public attendance at the hearing. Thiele recommended the Commission's approval of the proposed amendments to the conflict and gift rules.


Motion: Commissioner Koeser moved to approve the revised complaint and gift rules as amended. This motion was seconded by Commissioner Anderson. Chair Goodman called for a roll call vote. The motion was passed unanimously.

9. Executive Director Thiele walked through and explained sections of the draft conflict of interest rule; he stated that he had received significant feedback on the draft and more changes are pending. Legal counsel Allyson Hicks asked the Commission to consider adding comments on the bottom of each page to explain the rule, provide examples, and clarify its application. The Commission agreed to seek a ND Attorney General's opinion regarding the exclusion of campaign contributions to "significant financial interest" in Section 115-04-01-01 5(a) and the perceived conflict between the US Constitution and Article XIV of the ND Constitution.

Motion: Commissioner Koeser moved to seek a ND Attorney General's Opinion determining if the ND Ethics Commission has the authority to mandate recusal of a public official based solely on campaign contributions. This motion was

seconded by Commissioner Richard. Chair Goodman called for a roll call vote. The motion was passed unanimously.

The Commission, having no further business, was adjourned at 11:49 a.m. The next meeting is scheduled for August 25, 2021, at 9:00 a.m. by MS Teams.

Approved on 25 Aug 2021 

Dave Thiele, Executive Director, North Dakota Ethics Commission