

COLORADO INDEPENDENT ETHICS COMMISSION

Minutes of the September 3, 2013 Meeting
1300 Broadway First Floor, Room 1F 9 a.m.
Denver, Colorado

Present: Matt Smith; Chair, Rosemary Marshall; Vice-Chair, Bob Bacon, William Leone, Bill Pinkham.

Also Present: Jane T. Feldman, Executive Director, IEC; Lisa Brenner Freimann and Kyle Dumler of the Colorado Attorney General's Office.

I. GENERAL BUSINESS

1. The meeting commenced at 9:12 a.m.
2. There was no public comment.
3. It was moved, seconded and passed unanimously to approve the minutes of the meeting of August 5, 2013 as amended.
4. Hearing on the Motion to Dismiss Complaint 13-07. Bernie Buescher and Michelle Merz-Hutchinson from the Colorado Attorney General's Office entered their appearances for the Respondent. Matthew Campbell entered his appearance for the Complainant and attended by telephone.
 - a. Chairman Smith listed the following documents as part of the record for the hearing: Complaint dated April 17, 2013, Letter from Respondent dated May 6, 2013, Verified Response and Motion to Dismiss dated July 31, 2013, Email dated August 6, 2013 from the Executive Director to counsel for both parties regarding the hearing, Complainant's Response to the Motion to Dismiss dated August 23, 2013, Complainant's Supplemental Response to the Motion to Dismiss dated August 29, 2013, Complainant's Second Supplemental Response to the Motion to Dismiss dated August 29, 2013, and the Investigation Report.
 - b. At 9:50 a.m. it was moved, seconded and passed unanimously to enter into Executive Session pursuant to C.R.S. §24-6-402(3)(a)(II) and §13-90-107(b) for the purpose of receiving legal advice on specific legal questions regarding issues pertaining to the hearing on Complaint 13-07.

II. EXECUTIVE SESSION BUSINESS

The Commission met in Executive Session from 9:54 a.m. to 10:01 a.m. pursuant to C.R.S. §24-6-402(3)(a)(II) and §13-90-107(b) for the purpose of receiving legal advice on specific legal questions regarding issues pertaining to the hearing on Complaint 13-07.

III. GENERAL BUSINESS

- c. The Commission returned to open session at 10:05 a.m.

d. Both parties stated that they were satisfied with the hearing going forward with the record before the Commission. Both parties waived the requirement that the Investigation Report be provided 10 days before the hearing. Both parties waived the reading of the Investigation Report.

e. Mr. Buescher made a statement in support of the Motion to Dismiss. Ms. Merz-Hutchinson argued the Motion to Dismiss. Mr. Campbell argued that the Motion should be denied. Commissioner Smith turned the hearing over to Commissioner Leone. Commissioners asked questions of both parties.

f. At 12:11 p.m. it was moved, seconded and passed unanimously to enter into Executive Session pursuant to C.R.S. §24-6-402(3)(a)(II) and §13-90-107(b) for the purpose of receiving legal advice on specific legal questions regarding issues pertaining to the hearing on Complaint 13-07.

IV. EXECUTIVE SESSION

The Commission met in Executive Session from 12:15 P.M. to 12:26 P.M. pursuant to C.R.S. §24-6-402(3)(a)(II) and §13-90-107(b) for the purpose of receiving legal advice on specific legal questions regarding issues pertaining to the hearing on Complaint 13-07.

V. GENERAL BUSINESS

g. The Commission returned to open session at 12:28 p.m.

h. The Commission continued deliberations regarding the Motion to Dismiss. It was moved, seconded and passed unanimously to convert the Motion to Dismiss to a Motion for Summary Judgment. It was moved, seconded, and passed unanimously to dismiss the Complaint because no issue of material fact presents an ethical violation of the Fort Lewis College Fiscal Rules reasonably in effect at the time of travel, and because there is no issue of material fact that Respondent spoke as part of a scheduled program within the definitions of Article XXIX, section 3(3)(e). A written order fully summarizing the decision will be drafted prior to the next meeting for a review by the Commission. The Complainant noted his objection to the ruling for the record.

5. Executive Director's Report:

a. Ms. Feldman reported that she had been unable to speak with JBC staff about budget issues. Commissioner Smith reported that he had spoken to JBC staff and that no change to the Commission's reporting system is required.

b. There was a discussion of the purchase of laptops or ipads for the Commission to reduce the amount of copying required by the Commission and staff. No decision was made. Ms. Feldman requested permission to purchase a printer for the 2nd floor. No decision was made.

c. Ms. Feldman reported on upcoming trainings scheduled for the State Patrol on September 24, 2013, and for the State Auditor on October 23. The latter training will be done in conjunction with Jennifer Gilroy of the Office of Legislative Legal Services.

d. There was a discussion of the Commissioners obtaining state.co.us email addresses. Ms.

Feldman will make those arrangements. .

6. At 12:56 p.m. it was moved, seconded and passed unanimously to enter into Executive Session to discuss complaints 13-01, 13-06 13-09 and 13-10 (parts 1-3) filed with the Commission which are required to be kept confidential pursuant to Article XXIX, Section 5(3)(b) of the Colorado Constitution.

VI. EXECUTIVE SESSION

The Commission met in Executive Session from 12:56 p.m. to 2:24 p.m. to discuss complaints 13-01, 13-06, 13-08 and 13-09 filed with the Commission which are required to be kept confidential pursuant to Article XXIX, Section 5(3)(b) of the Colorado Constitution.

VII. GENERAL BUSINESS

7. The Commission returned to open session at 2:24 p.m.

8. At 2:30 pm., it was moved, seconded and passed unanimously to enter into Executive Session to discuss the discipline, promotion, demotion, and other personnel issues regarding the staff of the Commission, and such individual has requested that these matters be conducted in Executive Session pursuant to C.R.S section 24-6-402 (3)(b)(I).

VIII. EXECUTIVE SESSION

The Commission met in Executive Session from 2:30 to 3:06 p.m. to discuss the discipline, promotion, demotion, and other personnel issues regarding the staff of the Commission, and such individual has requested that these matters be conducted in Executive Session pursuant to C.R.S section 24-6-402 (3)(b)(I). Ms. Freimann and Mr. Dumler were not present.

IX. GENERAL BUSINESS

9. The Commission returned to open session at 3:06 p.m.

10. It was moved, seconded, and passed unanimously to dismiss Complaint 13-01 as frivolous pursuant to IEC Rule 7.G. 1.

11. It was moved, seconded and passed unanimously to dismiss Complaint 13-06 as frivolous pursuant to IEC Rule 7.G.1.

12. It was moved, seconded, and passed unanimously to dismiss Complaint 13-09 as frivolous pursuant to IEC Rule 7.G.1.

13. It was moved, seconded, and passed unanimously to dismiss Complaint 13-10, parts 1-3 for lack of jurisdiction pursuant to IEC Rules 7.G.2.

14. There was a discussion of Article XXIX, section 7 and its interpretation. At 3:16 p.m. it was moved, seconded, and passed unanimously to enter into Executive Session pursuant to C.R.S. §24-6-402(3)(a)(II) and §13-90-107(b) for the purpose of receiving legal advice on specific legal questions regarding the interpretation of Article XXIX, section 7.

X.. EXECUTIVE SESSION

The Commission met in Executive Session from 3:17 p.m. to 3:30 p.m. pursuant to C.R.S. §24-6-402(3)(a)(II) and §13-90-107(b) for the purpose of receiving legal advice on specific legal questions regarding the interpretation of Article XXIX, section 7.

XI. GENERAL BUSINESS

15. The Commission returned to open session at 3:30 p.m.

16. There was a discussion of a draft document retention policy and a revised CORA policy. Mr. Dumler will obtain copies of other policies so the Commission may compare them.

17. There was a discussion of budget issues and the necessity to prepare the Commission's FY 15 budget request. Ms. Feldman will work with Commissioners Smith and Marshall as a subcommittee to prepare the request.

The Commission adjourned at 3:50 p.m.

The next meeting is October 11, at 9 a.m.

Respectfully submitted,

Jane T. Feldman
Executive Director