



State of New Mexico
House of Representatives
STATE CAPITOL
Santa Fé

September 15, 2020

The Honorable William F. Lang
Chairman
New Mexico Ethics Commission
800 Bradbury Drive, S.E.
Suite 215
Albuquerque, New Mexico 87106

Dear Mr. Chairman:

We are writing in regards to a recent ethics complaint filed against State Representative Rebecca Dow (R-Truth or Consequences) by her Democrat opponent in the upcoming November election. The filing of this complaint with less than 60 days before the general election is clearly politically motivated and is an attempt to politicize the State Ethics Commission's statutory responsibilities. More important, this absurd complaint has no basis of fact and inappropriately tries to impinge the stellar reputation of an honorable public official.

Therefore, we are respectfully requesting that the Commission utilize Section 10-16G-15 (B) NMSA 1978 and immediately dismiss this complaint as being frivolous or unsubstantiated. Further, we request once the Commission has quickly dismissed this irresponsible complaint, such action be publicly announced to help restore the public's trust that the Commission will not be a party to political mischief and manipulation.

As we read this politically motivated complaint, the charges this state legislator has violated the Governmental Conduct Act (Sections 10-16-9 and 10-16-3 NMSA 1978), the Financial Disclosure Act (Section 10-16A-3), and the Procurement Code are completely unfounded and without substantiation. Further, this legislator has consulted with the Legislative Council Service during her tenure in the Legislature to ensure all activities associated with her private employment adhered to all laws and disclosure requirements. For example, this legislator has never held a "substantial financial interest" in Appletree Educational Center as the entity is a non-profit organization and the legislator has not been employed by the non-profit since early 2019. Therefore, there is no disclosure requirement for any income received from the non-profit from 2019 to the present. Nor does the legislator have any responsibility within the procurement process for any state contracts the nonprofit may have received in 2019 or thereafter since the legislator is no longer employed by the nonprofit.

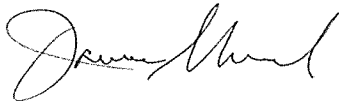
Further, it should be noted that state law does not disallow state legislators or their employers to receive state contracts as long as there is appropriate disclosures issued and contracts are awarded competitively. The complaint provides no evidence that such proper disclosures were not made or that the contracts were awarded improperly.

We are also puzzled by the rationale behind the charge that somehow this state legislator and her family are receiving some type of financial gain due to her official position. Yet, no action was taken against Speaker Egolf when his wife's food processing company received a 2019 unanimous endorsement by the Santa Fe City Council to issue \$18 million in Industrial Revenue Bonds (IRB) to finance the construction of a new facility. According to media reports, the resolution endorsing this IRB, by the way, was sponsored by the wife of the Senate Majority Leader. Nor, were there any charges that the Speaker's family was benefiting from his position when the Bernalillo County Commission this past June approved \$9 million in IRBs for the Speaker's wife's company to locate its facility near Balloon Fiesta Park.

Finally, we encourage the Commission to be supportive of a legislative change to the State Ethics Commission Act during the January 2021 legislative session that will eliminate these politically timed complaints. During consideration of the Act during the 2019 legislative session, there were numerous concerns expressed that future ethics complaints could be used as a political weapon, and to respond to those legitimate concerns the bill's sponsors included language to create the so-called "60-day black out" period. This "black out" period was designed to generally preclude the Commission from considering any complaint less than 60 days before a primary or general election. However, this "black out" period, as we can currently see, has the unintended consequence of allowing opposing candidates to file baseless ethics complaints prior to an election, yet the respondent has no opportunity to defend themselves against such baseless charges. The solution to this politicization of the State Ethics Commission is to prohibit the filing of any ethics complaint less than 60 days before a primary or general election. We intend to introduce such legislation in the upcoming session to address this shortcoming in current law and we encourage the Commission and its members to support our future efforts.

We look forward to the Commission taking expedited action to dismiss this absurd and false ethics complaint against a member of the House Republican Caucus. The future integrity of the entire State Ethics Commission could well depend upon how the Commission reacts to this unfair and politically driven matter. Thank you for your consideration of our requests.

Respectfully yours,



James G. Townsend
House Republican Leader



Rod Montoya
Republican Whip



Candy Spence Ezzell
Republican Caucus Chair

cc: Jeremy D. Farris, Executive Director of state Ethics Commission