

----- Original message -----  
From: Steve Sheets <[steve@scrllaw.com](mailto:steve@scrllaw.com)>  
Date: 5/27/21 4:51 PM (GMT-06:00)  
To: [REDACTED]  
Subject: Request for disqualification of Chair Soberon and Commissioner Danburg

Dear Ms. Overturf,

Lynn Carter forwarded your email to me to make a response.

The Ethics Review Commission (the "Commission") is governed by Chapter 2-7 of the Austin Code of Ordinances (the "Code"). The Code does not provide for any process or procedure for a party to request that a member of the Commission be disqualified from participating in a proceeding before the Commission.

The only provision of the Code related to a "disqualification" is §2-7-41 (J) which reads as follows:

"(J) A member of the commission may not take any part in a deliberation, vote, or decision regarding a sworn complaint alleging a violation by the council member that nominated the commission member."

Mayor Protem Harper-Madison did not nominate either Chair Soberon or Commissioner Danburg to the Commission, so that provision is not applicable here.

The only other provision of the Code that requires a Commissioner to recuse themselves is §2-7-63 which applies to all City officials of the City of Austin. Said section prohibits a Commissioner from participating in a vote or decision in which they or a relative have a substantial financial interest in the outcome.

Section I(C) of the Ethics Review Commission's Rules and Procedures for Complaints and Hearings includes additional provisions related to disqualification of ERC Members from a hearing.

With the exception of a disqualification under §2-7-41 (J) and an alleged *ex parte* communication (neither of which applies to your request), Commissioners will determine for themselves whether §2-7-63 applies; whether the disqualification provisions of the ERC rules apply; and otherwise whether they do not feel comfortable in participating in discussion and deliberation related to a complaint. In that event, it is absolutely up to the individual commissioner to make that determination, announce it to the other members of the Commission, and recuse themselves. This determination can be made at any time prior to the beginning of accepting evidence, deliberation, or a vote related to a complaint.

Therefore, Chair Soberon and Commissioner Danburg will make their own determination of whether to participate in your complaint or not. They are aware of your request.

Respectfully,

Steve Sheets

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