



## **Annual Internal Review**

**This report covers the time period of 1/1/2014 to 12/31/2014**

### **Ethics Review Commission**

---

**The Board/Commission mission statement is:**

#### **§ 2-1-145 ETHICS REVIEW COMMISSION.**

The Ethics Review Commission has duties and responsibilities established by Chapter 2-2 (Campaign Finance) and Chapter 2-7 (Ethics and Financial Disclosure).

#### **§ 2-2-65 OTHER CONSIDERATIONS FOR CAMPAIGN CONTRACT.**

(A) A candidate who signs a campaign contract must participate in a series of candidate forums, whether or not the candidate qualifies for funds.

(B) The Ethics Review Commission shall produce not fewer than three forums for each contested race as follows:

(1) one forum must air on public access television; and

(2) other forums may be produced and made available to the public by radio, broadcast, publication on the Internet, or other means approved by the commission.

(C) The City shall make recordings of audio or video forums available to the public at all branches of the City library.

(D) The City may purchase advertising promoting the candidate forums.

(E) The Ethics Review Commission shall establish equitable guidelines to coordinate and produce the candidate forums.

#### **§ 2-7-26 FUNCTIONS.**

The Ethics Review Commission has jurisdiction over this chapter, Section 2-1-24 (Conflict of Interest and Recusal), Chapter 2-2 (Campaign Finance), Chapter 4-8 (Regulation of Lobbyists), and Article III, Section 8, of the City Charter (Limits on Campaign Contributions and Expenditures). The commission shall hear and rule on sworn complaints alleging violations of the provisions within the commission's jurisdiction. The city manager shall provide funding for all necessary and reasonable functions of the commission in fulfilling its duties.

**§ 2-7-30 DUTIES.**

(A) The Ethics Review Commission shall, in addition to its other duties:

- (1) prescribe forms for reports, statements, notices, and other documents required by the provisions within the commission's jurisdiction;
- (2) prepare and publish materials explaining the duties of individuals subject to the provisions within the commission's jurisdiction;
- (3) review all statements and reports filed with the commission in order to obtain compliance with the provisions within the commission's jurisdiction;
- (4) accept and file any information voluntarily supplied that exceeds the requirements of the provisions within the commission's jurisdiction;
- (5) preserve statements and reports filed with the commission for a period of five years from the date of receipt;
- (6) review the provisions within the commission's jurisdiction and make appropriate recommendations to the city council concerning the provisions within the commission's jurisdiction, and perform an annual review and evaluation of the dollar limits established in Chapter 2-2 (Campaign Finance) and make recommendations to the city council as to those limits;
- (7) review all public opinions related to the provisions within the commission's jurisdiction that are issued by the city attorney;
- (8) conduct hearings in accordance with the provisions of this chapter and the commission's rules on sworn complaints alleging violations of the provisions within the commission's jurisdiction;
- (9) schedule and oversee the forums among candidates in City elections provided for in Chapter 2-2 (Campaign Finance).

(B) The commission may:

- (1) prepare reports and studies to advance the purposes of the provisions within the commission's jurisdiction;
- (2) request the city council and city manager to provide such assistance as it may require in the discharge of its duties; and
- (3) make recommendations to the city manager concerning the role of the ombudsman concerning this chapter.

**1. Describe the board's actions supporting their mission during the previous calendar year. Address all elements of the board's mission statement as provided in the relevant sections of the City Code.**

The Ethics Review Commission engaged in the following activities during the review period:

January 2014

The Commission discussed new rules for preliminary and final hearings.

The Commission discussed an annual review and evaluation of the dollar limits established in City Code Chapter 2-2 (Campaign Finance), and declined to take action until after the 2014 City Council election.

The Commission amended campaign finance form ATX-1 to clarify the form.

The Commission designated a working group to review and propose revisions to campaign finance forms.

#### February 2014

Chair Kaplan, on behalf of the Commission, appeared at the Austin City Government 101 forum organized by the League of Women Voters.

#### March 2014

The Commission heard from the League of Women Voters of the Austin Area and City staff regarding planning for the 2014 City Council election candidate forums for all districts and the mayor in the 10-1 election. The Commission created a working group to coordinate with City staff and the League of Women Voters of the Austin Area regarding planning the forums.

The Commission amended all of the City's campaign finance forms.

The Commission continued discussion of revised hearing rules.

#### April 2014

The Commission continued planning the 2014 City Council election candidate forums.

The Commission considered possible revisions to statement of financial information forms and City Code provisions pertaining to statements of financial information, considered possible plan for Commission review of completed financial disclosure forms, and created two working groups to address these issues.

The Commission considered revised hearing rules.

The Commission initially approved revised bylaws.

The Commission discussed the City Auditor Integrity Unit's Report on Allegations Involving a Zero Waste Advisory Commissioner (NOTICE: THIS REPORT HAS NOT BEEN ACCEPTED BY THE AUSTIN CITY COUNCIL AND IS SUBJECT TO RESOLUTION NO. 20141016-024, PASSED ON OCTOBER 16, 2014), and the Commission considered possible action of filing a complaint on its own initiative against the Commissioner but did not take action.

The Commission reviewed its revised candidate brochure for ease of use and clarity.

#### July 2014

The Commission continued planning the 2014 City Council election candidate forums.

The Commission received a briefing from the City Auditor Integrity Unit regarding complaint and investigation procedures and practices generally. The Commission created a working group to work with the City Auditor on issues affecting investigations and complaints related to the Code of Ethics. The Commission also asked for a formal legal opinion from the Law Department.

The Commission again discussed the City Auditor Integrity Unit's Report on Allegations Involving a Zero Waste Advisory Commissioner (NOTICE: THIS REPORT HAS NOT BEEN ACCEPTED BY THE AUSTIN CITY COUNCIL AND IS SUBJECT TO RESOLUTION NO. 20141016-024, PASSED ON OCTOBER 16, 2014), and the Commission considered the possible action of filing a complaint on its own initiative, but declined to do so. The Commission also reviewed a recommendation from the Zero Waste Advisory Commission regarding the City Auditor conflict of interest investigation of one of its former Commissioners. The Commission heard public testimony from at least 16 individuals on this topic.

The Commission was briefed by staff regarding current initiatives to provide ethics and conflicts of interest training to City board members.

The Commission adopted revised bylaws.

The Commission adopted new complaint and hearing procedures and rules.

The Commission heard reports from the two working groups regarding possible revisions to statement of financial information forms and City Code provisions pertaining to statements of financial information and possible plan for Commission review of completed financial disclosure forms.

#### August 2014

The Commission convened a preliminary hearing to consider a complaint filed by Mary Ingle against Melissa Neslund alleging violations of City Code, Chapter 4-8 (Regulation of Lobbyists). The Commission determined that there were not reasonable grounds to believe that a violation had occurred.

The Commission notified all 78 City Council candidates of the Commission's candidate forums.

September 2014

In conjunction with City staff and the League of Women Voters, the Commission held ten live, in-person candidate forums for districts 1 through 10 in locations throughout the City.

The Commission adopted a revised and more user-friendly Commission complaint form.

The Commission convened three preliminary complaint hearings this month, all related to City Council candidates.

The Commission held a preliminary hearing to consider a complaint filed by Stefan Wray against Susana Almanza alleging violation of City Code, Chapter 2-2 (Campaign Finance). The Commission determined that a violation of Section 2-2-21(A) had occurred, and issued a reprimand based on a finding of disregard of Chapter 2-2.

The Commission convened a preliminary hearing to consider a complaint filed by Gloria Morales against Monica A. Guzmán alleging violations of residency, criminal activity, and low-income housing subleasing requirements. The Commission determined that there were not reasonable grounds to believe a violation within its jurisdiction had occurred, and provided complainant time to re-plead.

The Commission also convened a preliminary hearing to consider a complaint filed by Shaun Ireland against Fred McGhee alleging violations of City Code, Chapter 2-2 (Campaign Finance). The Commission determined that a violation of Section 2-2-14 of the City Code occurred and that the violation was minor or unintentional, and issued a letter of admonition to the Respondent.

October 2014

In conjunction with City staff and the League of Women Voters, the Commission held a live, in-person mayoral candidate forum.

The Commission convened five preliminary complaint hearings this month.

The Commission convened a preliminary hearing to consider an amended complaint filed by Gloria Morales against Monica A. Guzmán alleging violations of Article II, Section 2 of the City Charter and City Code, Chapter 2-2. The Commission determined that there were not reasonable grounds to believe a violation within its jurisdiction had occurred and dismissed the complaint.

The Commission convened a preliminary hearing to consider a complaint filed by Lance Pettus against Gregorio “Greg” Casar alleging violations of City Code,

Chapter 2-2 (Campaign Finance). The Commission determined that reasonable grounds did not exist to believe that a violation of Section 2-2-22 occurred as a result of Casar's failure to report 17 challenged contributors as bundled contributors. The Commission dismissed this count of the Complaint. The Commission determined that a violation of Section 2-2-21(A) occurred by Casar's failure to disclose employer and occupation information for a single contributory included in Casar's C/OH Form. The Commission determined that the violation was clearly unintentional, and issued a letter of notification.

The Commission convened a preliminary hearing to consider a complaint filed by Steve Speir against Robert Thomas alleging violation of City Code, Chapter 2-2 (Campaign Finance). The Commission determined that a violation of Section 2-2-27(A)(1) occurred for failure to timely disclose the expenditure of personal funds, and determined that the violation may have been unintentional but called for a more substantial response than a letter of notification, and issued a letter of admonition.

The Commission convened a preliminary hearing to consider a complaint filed by Earl L. Jones, III against Mackenzie Kelly alleging violation of City Code, Chapter 2-2 (Campaign Finance). The Commission determined that a violation of Section 2-2-65(A) occurred for failure to participate in the required candidate forums. The Commission determined that the violation was clearly unintentional, and issued a letter of notification.

The Commission convened a preliminary hearing to consider a complaint filed by Mary Rudig against Becky Bray alleging violations of Article III, Section 8 of the City Charter and City Code, Chapter 2-2 (Campaign Finance). The Commission determined that a violation of Article III, Section 8 occurred for accepting a contribution in excess of the amount permitted by law, and that a violation of Section 2-2-27 occurred for non-disclosure of a personal loan to a campaign account. The Commission determined that these violations were minor and may have been unintentional, noting that they were quickly remedied. The Commission determined that the appropriate sanction was a letter of admonition.

The Commission also considered a request from Texas Disposal Systems to pass a resolution regarding the jurisdiction of the Ethics Review Commission and invalidating actions of the City Auditor. The Commission continued to consider and compare the powers, duties, and functions of the Commission and the City Auditor.

The Commission re-elected Austin Kaplan as Chair and Peter Einhorn and Vice Chair and set the 2015 regular meeting schedule.

November 2014

The Commission received a requested update from staff regarding ethics training for City employees.

The Commission proposed to post all of its complaints, orders, and sanctions in a centralized manner online.

The Commission heard an update regarding candidate forums.

The Commission continued to consider revisions to statements of financial information, and to related parts of Chapter 2-7, Article 5 (Financial Disclosure).

The Commission continued to consider the powers, duties, and functions of the Commission and the City Auditor, including creating a working group. The Commission issued Recommendation No. 20141112-03e, which resolved that the Commission urged the City Council that, as the independent citizens ethics panel, it should retain sole jurisdiction to investigation allegations of and make final determinations of violations of the Code of Ethics made against the Mayor or member of the City Council. The Commission requested that it also maintain sole jurisdiction over ethics complaints against any City Official or employee not covered by municipal or state civil service or labor agreement that provides due process to those respondents.

The Commission discussed whether to file a complaint on its own initiative against candidates who signed campaign contracts but failed to participate in all the candidates forums required in City Code, Chapter 2-2. The Commission voted not to file a complaint on its own initiative.

On November 21, 2014, at City Hall and in conjunction with City staff and the League of Women Voters, the Commission held live, in-person candidate forums for the eight Council seats involved in the runoff election.

December 2014

The Commission convened two preliminary hearings this month.

The Commission convened a preliminary hearing to consider a complaint filed by Montserrat Garibay against Laura Pressley alleging violations of Chapter 255 of the Texas Election Code (Regulating Political Advertising and Campaign Communications). The Commission determined that there were not reasonable grounds to believe a violation within its jurisdiction had occurred and dismissed the complaint.

The Commission convened a preliminary hearing to consider a complaint filed by Dee A. Robinson against Laura Pressley alleging violations of City Code, Chapter 2-2 (Campaign Finance). The Commission determined that there were not

reasonable grounds to believe a violation within its jurisdiction had occurred and dismissed the complaint.

The Commission created new working groups to review and propose revisions to City Council regarding the City Code provisions within the jurisdiction of the Commission.

**2. Determine if the board's actions throughout the year comply with the mission statement.**

The Ethics Review Commission's activities complied with the functions and duties of the body.

**3. List the board's goals and objectives for the new calendar year.**

The Ethics Review Commission will continue to meet its stated responsibilities. In 2013, the Commission successfully completed a preliminary and final hearing on a sworn ethics complaint. In 2014, the Commission successfully completed hearings on 11 complaints, the most in a 12-month time period in the Commission's recorded history. The Commission also helped plan candidate forums, and worked within its expanded jurisdiction to ensure all individuals and groups complied with relevant campaign finance and ethics laws. In 2015, the Commission will continue its mission as the City's independent Ethics and Compliance body.