

Code of Ethics and Conduct Complaint Appeal
November 4, 2023

Person filing appeal: Ben Clymer Jr.

Official who committed violations: Councilmember Clarissa Cervantes

Dear Donesia Gause,

I am following up regarding the outcome of the Board of Ethics meeting on November 2, 2023 regarding the Pre-conference code of ethics complaint that I filed against Councilmember Cervantes. Based on Code of Ethics bylaws 2.78.090, I would like to respectfully appeal the pre-conference decision based upon a clear abuse of discretion by Board of Ethics member Freya Foley for her lack of recusal.

- Board of Ethics member Freya Foley represents Ward 2 - which is the jurisdiction of Councilmember Clarissa Cervantes. Furthermore, Freya Foley in her private capacity is also the current President of the Democrats of Greater Riverside which supports the State Assembly campaign of Clarissa Cervantes as referenced in this October 4 email (<https://us1.campaign-archive.com/?u=7076c7137ea20f8736f1e3ef9&id=498864ae5f>) that mentions she "...recently secured support from the Democrats of Greater Riverside..." The City of Riverside Code of Ethics and Conduct bylaws stipulate that its core values under section 2.78.050 B include "To strive to make decisions that are unbiased, fair and honest" and 2.78.050 F "To strive to maintain a nonpartisan and civic minded local government." These circumstances that I outlined indicate that Freya Foley should have recused herself from the agenda topic deliberation. An appointed Ethics board member should recognize those blatant optics of partisan and biased conflict on this matter. A recused member of a deliberating body is not supposed to even be present in the room when discussions are happening to avoid those biased influences from impacting the judgement of others. The fact that Ms. Foley already participated in discussion with her peers puts the objective fairness of this matter being reconsidered by the Ethics Board overall into jeopardy.

I would like to include additional information to address the arguments (including a new allegation in the attached amended complaint) that were presented as the basis of dismissal:

- Regarding the 'dismissal of the drunk driving convictions', all Riverside City Councilmembers take an oath of office to support and defend both the Constitution of the United States and the State of California. Ms. Clarissa Cervantes went through a criminal justice due process on this matter and was convicted under the Court of Law while she was serving as a Riverside City Councilmember. Furthermore, in the Press Enterprise article dated July 1 (<https://www.pressenterprise.com/2023/07/01/riverside-councilwoman-clarissa-cervantes-arrested-on-suspicion-of-dui/>), it references that Ms. Cervantes acknowledged herself that she attended an event about Project Legacy in Riverside for nonprofit, TruEvolution, the same night that she was arrested for drunk driving. The City of Riverside has secured \$10 million of funding for Project Legacy (<https://riversideca.gov/press/city-riverside-receives-10-million-state-grant-assist->

[project-legacy](#)) and so this event clearly has a nexus with her City Council responsibilities. The Board of Ethics justification that the drunk driving conviction should be dismissed because the arrest of her drunk driving happened physically outside the City of Riverside limits later that same night is preposterous. This faulty argument would override her oath of office and her participation at a community event in an official capacity that same night.

- New allegation in amended complaint: On July 2, 2023, Riverside Resident, Duffy Atkinson, submitted the attached letter to the City of Riverside in reference to the deletion of posts and public comment on the 'official government' page of Riverside Councilmember Clarissa Cervantes (<https://www.facebook.com/CouncilmemberClarissaCervantes>). As an 'official government' page this platform constitutes a public forum for constituents. The letter cites the American Civil Liberties Union (ACLU) and states that "censoring individuals from these pages through blocking accounts or deleting comments can be an unconstitutional restriction on their right to free speech under the First Amendment." Mr. Atkinson cites that "...it is clear that you (Councilmember Cervantes) or your staff have deliberately 'scrubbed' the page of ALL prior content, with the exception of the post from 2021 that uploads your current page picture."
- Lastly regarding the campaign finance complaint, the Board of Ethics deferred to the FPPC investigation referencing the bylaws stipulating under section 2.78.060 F that "...if a complaint is pending before the FPPC raising the same or similar violations based upon the same or similar facts, then the Board of Ethics **may** defer action on such allegation until completion of the FPPC action." The key word here is "may" and it's clear that the intention of that provision in the bylaws (to defer to FPPC outcome) is for that state agency to use its own enforcement mechanisms for the investigation. As I stated in my original October 10 complaint filing, Councilmember Cervantes filed amendments to her financial disclosures on 9/11/2023 (after withholding this information for about 2 years) thereby self-confirming the allegations. There is no legitimate reason for the City of Riverside to not already hold Ms. Cervantes accountable for this definitive admission of guilt that is already based on public record.

I appreciate your professional and timely follow up on the appropriate process for this information to be appropriately considered. Please let me know if there is anything further that I can provide to be helpful.

In Liberty,

A handwritten signature in black ink, appearing to read 'Ben Clymer', with a large, loopy flourish extending from the end.

Ben Clymer
104 Mission Grove Parkway N
Riverside, CA