

# Dave Esdale Written Statement

January 2, 2024

City of Albuquerque Board of Ethics and Campaign Practices  
Via email

Dear Members of the Board of Ethics and Campaign Practices:

Following is my written statement regarding BOE 03-2023 Esdale v. Bassan. This statement is also copied via email to Councilor Bassan and her attorney, Carter B. Harrison.

## Introduction

I am a registered voter in District 4. I am not an attorney and do not have the resources to hire an attorney for this ethics process.

I apologize to the Board if I do not follow the proper protocol that an attorney would typically follow. I am just a concerned citizen attempting to shed light on what I perceive to have been an ethical violation by the City Councilor who represents my family and me.

## Issues to be addressed

In my complaint, I alleged a violation by City Councilor Brook Bassan of Article XII, Section 7(A) of the City Charter:

*Using his or her position or employment with the city to influence support of employees of the city for or against any candidate, issue or Measure Finance Committee or other similar organization in any election or pre-election activity; provided, however, that nothing herein shall deny the right of an official of the city to express his or her views on any issue.*

To me, my complaint revolves around the definition of the phrase “influence support” in the citation above. In other words, did Councilor Bassan “influence support” of her employee, Dawn Marie Emillio, for or against any candidate for office in the 2023 municipal election?

As a layperson, I would define “influence support” to mean using one’s power or position to pressure an employee to do something to help or harm a candidate. For example, this section would be violated if an elected official used their position to get an employee to make a contribution to a candidate or change their voter registration to say they live where they do not so that the person could help their employer with the employer’s candidacy.

Using this definition, the question then remains: **Did Councilor Bassan get Ms. Emillio to do something to benefit Bassan’s reelection?**

The Albuquerque Journal stated on November 1 ([Ethics complaint filed against District 4 City Councilor Brook Bassan](#)):

*Emilio wrote she moved into Bassan's house in Northeast Albuquerque for personal reasons for a significant amount of time, but has since moved out. In an email to the Journal, Bassan said when Emilio first moved in, they were both uncertain how long she would stay. Bassan said she was unaware that the policy analyst had re-registered at the address, but Emilio was "entitled to do so."*

When Emillio says she moved in with Councilor Bassan and her family on April 25, 2023, she went to the trouble of changing her voter registration address to Bassan's house but she explicitly wrote and kept a **mailing address** on the Westside, where she had always been registered to vote.

Why would one change their voter registration—but not their mailing address—if one were “uncertain how long” they would be staying at a new place?

If I had to leave my residence “for personal reasons” but I did not know for how long, I might change my mailing address because important mail is delivered frequently, such as bills, tax documents, and the like.

But why change one's voter registration address? On April 25, 2023, there were no elections going on in any jurisdiction covered by the geography of District 4. The closest election was the Albuquerque municipal election on November 7, 2023, more than six months away—certainly enough time to get more clarity on how long one would be staying at a new residence to see if changing one's registration would be warranted. Moreover, Emillio was quoted in Joe Monahan's political blog on October 30, 2023 as saying, “*I have lived in District 4 on and off for years, even before working for City Councilor Brook Bassan. I previously worked for Councilor Brad Winter...*” But Emillio had never gone to the trouble of changing her voter registration for those previous times she resided temporarily in District 4.

However, April 25, 2023 was a mere five days before the City of Albuquerque's 2023 Public Finance Exploratory campaign period was to begin.

To summarize, Emillio had previously moved for short durations but had never changed her voter registration before. So why would she change her voter registration this time, but not her mailing address?

The only reason I can think of to change one's registration on April 25, 2023 but not change one's mailing address would be to help your supervisor to qualify for public financing, get enough signatures to qualify for the ballot, and ultimately cast a vote for Bassan in the November 2023 election.

I believe Councilor Bassan influenced support for Emillio to assist her re-election campaign by offering her home address for Emillio's change of voter registration address, for the purpose of receiving a Qualifying Contribution, a petition signature, and a vote from Emillio. Contrary to the Journal story cited above, Bassan knew that Emillio had changed her voter registration because Emillio, Bassan, and Bassan's husband submitted their Qualifying Contributions and petition

signatures on the same exact day, in consecutive order—June 6, 2023 and just one month after Emillio's change of registration.

Councilor Bassan and Emillio have denied any wrongdoing. But Emillio's behavior—changing her voter registration address but not her mailing address for a temporary stay at Bassan's house—provides the proof that Bassan and Emillio worked together for the purpose of benefiting Bassan's reelection campaign.

I understand and accept that the City Clerk has disallowed my allegation that a Qualifying Contribution and nominating petition were submitted fraudulently, because my allegation fell outside of the 120-day limitation set forth in the Board of Ethics' regulations.

However, I believe the Qualifying Contribution, petition signature, and voter registration change are still relevant and permissible to my allegation that Councilor Bassan influenced support of Ms. Emillio. For the purposes of this complaint, I am not alleging the Qualifying Contribution and petition signature were made fraudulently but instead, am using them as part of the evidence that Councilor Bassan influenced support of a city employee whom she supervised.

Further, the City Clerk, in his letter of November 2, 2023, noted:

*Unlike the limitation period in the EC regulations, the 120-day limitation period, set forth in Article XII, Section 3(i)(1) of the City Charter, for complaints regarding allegations of Article XII of the City Charter contains an exception for situations in which “the facts and documentation supporting the charges alleged in the complaint were not public knowledge or available for public inspection within that time frame.” It is not apparent from the face of the complaint that the allegations of violations of Article XII are time-barred. We are thus referring that specific claim to the Board of Ethics.*

I contend that this exception applies here because the fact that Ms. Emillio had changed her voter registration certainly was not public knowledge on April 25, 2023; no average person would think to check voter registration data to see if Emillio had moved or changed her voter registration. I did not become aware of Ms. Emillio's change of voter registration into District 4 until late October 2023.

### **Request**

I request that the Board of Ethics and Campaign Practices conduct its own investigation into this matter, under Section C of its regulations:

*C. Investigations. For the purposes of these Rules and Regulations, the term “allegations” means any formal charges filed with the Board and any other information raising a substantial question related to compliance with the Codes which four or more members of the Board vote to investigate.*

1. *By an affirmative vote of at least four members of the Board, **the Board may determine to have an investigation of any formal charge prior to or during any hearing that the Board may hold relative to the formal charge.** Decision*

*on any such charges which the Board votes to investigate shall be held in abeyance pending investigation. The scope of any investigation of allegations authorized by the Board shall be specifically defined by the Board prior to the investigation being undertaken.*

2. *If the Board determines, by an affirmative vote of at least four members of the Board, to investigate allegations concerning compliance with the Codes, the Board may utilize the Office of Internal Audit and Investigations, City staff assigned to the Board or temporarily employ or contract with investigators. In selecting and retaining investigators to investigate such allegations, the Board shall follow the procurement procedures and ordinances of the City of Albuquerque. The investigator shall be retained by the Clerk on the Board's behalf.*

At its heart, this ethics inquiry is about whether Emillio registered to vote at Bassan's house, made a Qualifying Contribution, and submitted a petition signature because of pressure or incentive from her supervisor.

I ask the Board to conduct its own investigation for two reasons: First, the Board has the resources and legal expertise to find out if Councilor Bassan abused her power. As a private citizen, I simply do not have those resources available to me. Second, if these allegations against Councilor Bassan are found to be true, it would be a clear abuse of power, a breach in the trust the public holds of its municipal elected officials, and left unaddressed, would result in a terrible precedent for future elections and the future actions of elected officials.

In Bassan's *Verified Answer to the Complaint*, Bassan minimized the importance of "one qualifying contribution and one potential vote," as if unethical behavior could be excused because Emillio was responsible for just one contribution and one vote.

I strongly disagree. If this Board allows a violation to go uninvestigated and unpunished because it was just one contribution or one vote, then the message it sends to Albuquerque residents is that their one vote does not matter. In addition, I do not believe the purpose of the law is to require some causal relationship between the violation and the outcome of an election.

I hope the Board will take up its own investigation and I thank you for your service and consideration.

Sincerely,

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**Proposed witnesses and nature of each witness' testimony**

None.

**Documentary evidence (see attached):**

- Exhibit A: [Journal article](#) (November 1, 2023)
- Exhibit B: [Monahan blog](#) (October 30, 2023)
- Exhibit C: Emillio voter registration card, original
- Exhibit D: Emillio Voter registration card, revised
- Exhibit E: Bassan qualifying contributions and nominating petition log