


Chairman Phil Mendelson

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an emergency basis, the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to clarify that the Council is an independent entity for personnel purposes and create a new process for Council attorneys to file a certificate of good standing with the Council.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Council Independent Authority Clarification Emergency Amendment Act of 2016”.

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) Section 103(a)(2) (D.C. Official Code § 1-601.02(a)(2)) is amended by striking the phrase “independent agencies” and inserting the phrase “the Council, independent agencies” in its place.

(b) Section 201(c) (D.C. Official Code § 1-602.01(c)) is amended by striking the phrase “all District agencies” and inserting the phrase “the Council and all District agencies” in its place.

34 (c) Section 301 is amended as follows:

35 (1) Paragraph (1) is amended by striking the phrase “as an agency.” and inserting
36 the phrase “as an agency. The term “agency” shall not include the Council.

37 (2) Paragraph (13) (D.C. Official Code § 1-603.01(13)) is amended by striking the
38 phrase “the Council of the District of Columbia and the Office of the Attorney General for the
39 District of Columbia shall be considered independent agencies” and inserting the phrase “the
40 Office of the Attorney General for the District of Columbia shall be considered an independent
41 agency” in its place.

42 (d) Section 407 (D.C. Official Code § 1-604.07) is amended by striking the phrase
43 “independent agencies” and inserting the phrase “Council or within the independent agencies” in
44 its place.

45 (e) Section 701(b) (D.C. Official Code § 1-607.01(b)) is amended by striking the phrase
46 “Each agency” and inserting the phrase “The Council and each agency” in its place.

47 (f) Section 852 (D.C. Official Code § 1-608.52) is amended by striking the phrase
48 “independent and subordinate agencies” and inserting the phrase “the Council, independent
49 agencies, and subordinate agencies” in its place.

50 (g) Section 855 (D.C. Official Code § 1-608.55) is amended by adding a new subsection
51 (a-2) to read as follows:

52 “(a-2) Attorneys employed by the Council:

53 “(1) If employed in the office of a Councilmember, shall act under the direction,
54 supervision, and control of the Councilmember;

55 “(2) If employed in the office of a Committee of the Council, shall act under the
56 direction, supervision, and control of the Chair of the Committee; and

57 “(3) If employed in the office of a Council Officer, shall act under the direction,
58 supervision, and control of the Council Officer.”.

59 (h) Section 857(a)(1) (D.C. Official Code § 1-608.57(a)(1)) is amended by striking the
60 phrase “independent agencies” and inserting the phrase “independent agencies and the Council”
61 in its place.

62 (i) Section 881 (D.C. Official Code § 1-608.81) is amended to read as follows:

63 “Sec. 881. Certificate of Good Standing filing requirement for Executive attorneys.

64 “(a)(1) Except as provided by the rules for temporary waiver of this requirement, each
65 attorney, hearing officer, and administrative law judge who is required to be a member of the
66 District of Columbia Bar as a prerequisite of employment, and who is employed by the Mayor, a
67 subordinate agency under the Mayor, the Office of the Attorney General, the Office of the Chief
68 Financial Officer, or by any independent agency, shall file with the Department of Human
69 Resources a Certificate of Good Standing from the Committee on Admissions of the District of
70 Columbia Court of Appeals by December 15 of each year.

71 “(2) The Director of Human Resources may verify the good standing of attorneys,
72 hearing officers, and administrative law judges subject to this requirement by electronic means
73 with the District of Columbia Bar.

74 “(b) The Director of Human Resources shall publish in the District of Columbia Register,
75 on an annual basis, a list of all attorneys, hearing officers, and administrative law judges who
76 have not met the filing requirements of subsection (a) of this section.

77 “(c) The Director of Human Resources shall promulgate rules and regulations
78 concerning:

79 “(1) The timing for filing the Certificate of Good Standing and associated
80 procedures;

81 “(2) The standards governing when a temporary waiver of the filing requirement
82 may be granted by the personnel authority for the agency; and

83 “(3) The procedures by which attorneys, hearing officers, or administrative law
84 judges shall be notified of the filing requirement and whether they are in compliance with the
85 requirement.

86 “(d) The rules and regulations promulgated pursuant to subsection (c) of this section shall
87 be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal
88 holidays, and days of Council recess. If the Council does not approve or disapprove the rules
89 and regulations within the 45-day review period, the rules and regulations shall be deemed
90 approved.

91 “(e) The failure of an attorney, hearing officer, or administrative law judge covered by
92 this section to comply with its requirements shall result in the forfeiture of employment.

93 “(f) This section shall not apply to an attorney employed by the Council.”.

94 (j) A new section 881a is added to read as follows:

95 “Sec. 881a. Certificate of Good Standing filing requirement for Council attorneys.

96 “(a) Except for temporary waiver of this requirement pursuant to procedures established
97 by the Council, each attorney who is required to be a member of the District of Columbia Bar as
98 a prerequisite of employment, and who is employed by the Council, shall file annually with the
99 Secretary to the Council a Certificate of Good Standing from the Committee on Admissions of
100 the District of Columbia Court of Appeals.

101 “(b) The Secretary to the Council shall publish in the District of Columbia Register, on an
102 annual basis, a list of all attorneys who have not met the filing requirements of subsection (a) of
103 this section.

104 “(c) The Council may develop may create policies and procedures to implement this
105 section including:

106 “(1) The timing of filing a Certificate of Good Standing by an attorney who is
107 employed by the Council and associated procedures;

108 “(2) The standards governing when a temporary waiver of the filing requirement
109 may be granted by the personnel authority for the attorney who is employed by the Council; and

110 “(3) The procedures by which an attorney who is employed by the Council shall
111 be notified of the filing requirement and whether he or she is in compliance with the
112 requirement.”.

113 (k) Section 1119(b) (D.C. Official Code § 1-611.19(b)) is amended by striking the
114 phrase “personnel authority” and inserting the phrase “personnel authority, as defined by section
115 406(b) of this Act,” in its place.

116 (l) Section 1232 (D.C. Official Code § 1-612.32) is amended as follows:

117 (1) Subsection (a) is amended by striking the phrase “Each agency or
118 independent agency” and inserting the phrase “The Council, each agency, and each independent
119 agency” in its place.

120 (2) Subsection (c) is amended by striking the phrase “Office of Personnel” and
121 inserting the phrase “the Office of the Secretary to the Council, if the recipient employee is an
122 employee of the Council, or the Director of Human Resources, if the recipient employee is an
123 employee of an agency or independent agency” in its place.

124 (3) Subsection (d) is amended to read as follows:

125 “(d)(1) Notwithstanding any other provision of this section, if the head of an
126 agency, or in the case of the Council, the Secretary to the Council, determines that any
127 organization or program within the Council, agency, or independent agency is being substantially
128 disrupted in carrying out its functions or is incurring additional costs because of its participation
129 in the voluntary leave transfer program, the agency head, or in the case of the Council, the
130 Secretary to the Council, may exclude from the program any employee or group of employees.

131 “(2) If the head of an agency excludes an employee or group of employees from
132 the program, he or she shall submit a report to the Director of Human Resources specifying how
133 the organization or program would be substantially disrupted in carrying out its functions or
134 would incur additional costs. This information shall be included in the Voluntary Transfer of
135 Leave Program Report required under § 1-612.38. This paragraph shall not apply to the Council.

136 (m) Section 1233 (D.C. Official Code § 1-612.33(a)) is amended as follows:

137 (1) Subsection (a) is amended by striking the phrase “agency head or designee”
138 and inserting the phrase “agency head or designee, or in the case of an employee of the Council
139 to the Secretary to the Council,” in its place.

140 (2) Subsection (c)(3) is amended by striking the phrase “the agency or
141 independent agency” and inserting the phrase “the Council, agency, or independent agency” in
142 its place.

143 (3) Subsection (d) is amended by striking the phrase “The agency” and inserting
144 the phrase, “The Council or an agency” in its place.

145 (n) Section 1234(a) (D.C. Official Code § 1-612.34(a)) is amended by striking the phrase
146 “agency head or designee” and inserting the phrase “agency head or designee, or in the case of
147 an employee of the Council to the Office of the Secretary to the Council,” in its place.

148 (o) Section 1235 (D.C. Official Code § 1-612.35) is amended as follows:

149 (1) Subsection (a) is amended by striking the phrase “agency head or designee”
150 and inserting the phrase “agency head or designee, or in the case of an employee of the Council
151 the Secretary to the Council,” in its place.

152 (2) Subsection (b) is amended as follows:

153 (A) By striking the phrase “agency head or designee” and inserting the
154 phrase “agency head or designee, or in the case of an employee of the Council the Secretary to
155 the Council,” in its place; and

156 (B) By striking the phrase “agency or independent agency” and inserting
157 the phrase “agency, independent agency, or, in the case of the Council, the relevant Council
158 office” in its place.

159 (3) Subsection (c) is amended by striking the phrase “agency head or designee”
160 and inserting the phrase “agency head or designee, or in the case of an employee of the Council
161 the Secretary to the Council,” in its place.

162 (p) Section 1236(a) (D.C. Official Code § 1-612.36(a)) is amended by striking the phrase
163 “Each agency or independent agency” and inserting the phrase “The Council, each agency, and
164 each independent agency” in its place.

165 (q) Section 2801 (D.C. Official Code § 1-628.01) is amended by striking the phrase “The
166 Mayor” and inserting the phrase “The Council, the Mayor” in its place.

167 Sec. 3. Applicability.

168 This act shall apply as of November 17, 2016.

169 Sec. 4. Fiscal impact statement.

170 The Council adopts the fiscal impact statement in the committee report as the fiscal impact
171 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
172 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

173 Sec. 5. Effective date.

174 This act shall take effect following approval by the Mayor (or in the event of veto by the
175 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
176 90 days, as provided for emergency acts of the Council of the District of Columbia in section
177 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
178 D.C. Official Code § 1-204.12(a)).