

A RESOLUTION

25-280

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 3, 2023

To declare the existence of an emergency, due to congressional review, to require the Inspector General to hire outside counsel for the purpose of reviewing previous investigations of sexual harassment complaints against the former Deputy Mayor for Planning and Economic Development and Chief of Staff to the Mayor and to produce a report of findings within 90 days.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Sexual Harassment Investigation Review Congressional Review Emergency Declaration Resolution of 2023”.

Sec. 2. (a) In March 2023, John Falcicchio, the Deputy Mayor for Planning and Economic Development and Mayor’s Chief of Staff resigned after a District government employee filed a sexual harassment complaint against him. Additional allegations by other women ensued. Subsequently, the Mayor’s Office of Legal Counsel (“MOLC”) conducted an internal investigation and published a report of its findings. The MOLC report concluded that “the substantiated allegations against the Deputy Mayor more likely than not constituted sexually harassment as defined and prohibited by the Mayor’s Order 2017-313. However, the report found that 6 out of 8 allegations were outside the scope of the investigation or could not be substantiated. The findings of the report and the process that led to it raise significant concerns among the public regarding the independence of investigations against mayoral appointees and subordinate agency heads.

(b) Emergency legislation is necessary to ensure public trust and to reassure District employees that sexual harassment will not be tolerated in the workplace. The public must be able to trust that District employees and others who engage with the government are being protected. They should also be confident that public assets are safeguarded and not used for inappropriate purposes.

(c) It is also necessary to protect and give confidence to future victims and all 36,000 District government employees that their complaints will be taken seriously and handled appropriately and without influence. Without that confidence, some employees will be hesitant to

file complaints, depriving themselves of justice and denying fellow employees protection from potential offenders.

(d) A more independent investigation of misconduct is necessary to ensure public trust; the Office of the Inspector General is the appropriate agency in which investigations of such significance should be housed. The agency operates independently of the Mayor and the Council, with the Inspector General serving 6-year terms. The Inspector General has the authority to refer matters for criminal charges and possesses the power to ensure full compliance with investigations.

(e) The Council concludes that to ensure a robust and independent investigatory process, the Inspector General should hire and direct independent legal counsel to review the MOLC's Summary of Findings from the Sexual Harassment Investigative Report and investigate allegations identified by the complainants that were outside the scope of the MOLC investigation. For example, the report of the first complainant's allegations includes allegations of irregular hiring practices, promotions of employees rumored to have tolerated sexual advances, and bullying, which have not been investigated.

(f) The Office of the Inspector General is also well-suited within its current capacity to investigate other findings and matters outside the scope of the prior investigations, including hiring and promotion practices, workplace culture, and allegations of retaliation against complainants. The Mayor has requested that the Inspector General look into these matters; the Council supports that request.

(g) In Council Period 24, after extensive research and discussion, the Council approved its own sexual harassment policy, which requires independent investigations in cases of formal sexual harassment complaints and in all formal and informal cases when complaints are made against those with the highest level of authority – councilmembers themselves – and even greater attention must be paid. Executive branch employees deserve the same protections.

(h) In July 2023, the Council enacted the Sexual Harassment Investigation Review Emergency Act of 2023, effective July 31, 2023 (D.C. 25-202; 70 DCR 10756), (“emergency legislation”), and passed the Sexual Harassment Investigation Review Temporary Act of 2023 on second reading on September 19, 2023 (Enrolled version Bill 25-382), (“temporary legislation”).

(i) The emergency legislation expires on October 29, 2023. The temporary legislation is expected back from the Mayor on October 12, 2023, and must still complete the 30-day review period required by section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1- 206.02(c)(1)), and will not become law until after the emergency legislation has expired.

(j) It is necessary that the provisions of the emergency legislation continue in effect, without interruption, until the temporary legislation is in effect.

ENROLLED ORIGINAL

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Sexual Harassment Investigation Review Congressional Review Emergency Act of 2023 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.