

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an emergency basis due to congressional review, 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 Congressional Review Emergency Amendment Act of 2017”.

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, 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 (D.C. Official Code § 1-603.01) 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 “an independent agency or 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 Branch  
64 attorneys.

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

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

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

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

80                   “(1) The timing for filing a Certificate of Good Standing pursuant to subsection  
81 (a) of this section and associated procedures;

82                   “(2) The standards governing when a temporary waiver of the filing requirement  
83 established by subsection (a) of this section may be granted by the personnel authority for the  
84 agency; and

85                   “(3) The procedures by which attorneys, hearing officers, or administrative law  
86 judges shall be notified of the filing requirement established by subsection (a) of this section and  
87 whether they are in compliance with the requirement.

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

93                   “(e) The failure of an attorney, hearing officer, or administrative law judge subject to  
94 subsection (a) of this section to comply with its requirements shall result in the forfeiture of  
95 employment.

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

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

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

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

103 the District of Columbia Court of Appeals.

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

107 “(c) The Council may develop policies and procedures to implement this section  
108 including:

109 “(1) Procedures addressing the timing for filing a Certificate of Good Standing  
110 pursuant to subsection (a) of this section and associated procedures;

111 “(2) The standards governing when a temporary waiver of the filing requirement  
112 established by subsection (a) of this section may be granted by the personnel authority for the  
113 attorney who is employed by the Council; and

114 “(3) The procedures by which an attorney who is employed by the Council shall  
115 be notified of the filing requirement established by subsection (a) of this section and whether he  
116 or she is in compliance with the requirement.”.

117 (k) Section 1119(b) (D.C. Official Code § 1-611.19(b)) is amended by striking the  
118 phrase “personnel authority” and inserting the phrase “personnel authority, as defined in section  
119 406(b) of this act,” in its place.

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

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

124 (2) Subsection (c) is amended by striking the phrase “Office of Personnel” and  
125 inserting the phrase “the Office of the Secretary to the Council, if the recipient employee is an

126 employee of the Council, or the Director of Human Resources, if the recipient employee is an  
127 employee of an agency or independent agency” in its place.

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

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

135 “(2) If the head of an agency excludes an employee or group of employees from  
136 the voluntary leave transfer program, he or she shall submit a report to the Director of Human  
137 Resources specifying how the organization or program would be substantially disrupted in  
138 carrying out its functions or would incur additional costs. This information shall be included in  
139 the Voluntary Transfer of Leave Program Report required under section 1238. This paragraph  
140 shall not apply to the Council.”.

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

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

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

148 (3) Subsection (d) is amended by striking the phrase “The agency” and inserting

149 the phrase, “The Council or an agency” in its place.

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

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

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

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

158 (A) Strike the phrase “agency head or designee” and insert the phrase  
159 “agency head or designee, or in the case of an employee of the Council the Secretary to the  
160 Council,” in its place.

161 (B) Strike the phrase “agency or independent agency” and insert the  
162 phrase “agency, independent agency, or, in the case of the Council, the relevant Council office”  
163 in its place.

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

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

170 (q) Section 2801 (D.C. Official Code § 1-628.01) is amended by striking the phrase “The  
171 Mayor” and inserting the phrase “The Council, the Mayor” in its place. Sec. 3. Applicability.

172 This act shall apply as of February 15, 2017.

173 Sec. 4. Fiscal impact statement.

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

177 Sec. 5. Effective date.

178 This act shall take effect following approval by the Mayor (or in the event of veto by the  
179 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than  
180 90 days, as provided for emergency acts of the Council of the District of Columbia in section  
181 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;  
182 D.C. Official Code § 1-204.12(a)).