Committee on Oversight and Investigations

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###### **THE COUNCIL OF THE CITY OF NEW YORK**

# **COMMITTEE REPORT OF the GOVERNMENTAL AFFAIRS Division**

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**COMMITTEE ON OVERSIGHT AND INVESTIGATIONS**

Hon. Ritchie Torres, Chair

##### February 27, 2020

**Int. No. 1440-A:** By Council Members Torres, Cumbo, Brannan, Holden, Ayala, Louis and Kallos

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of investigation and the special commissioner of investigation to create web applications to track agency cooperation and compliance with investigations and recommendations

**ADMINISTRATIVE CODE:** Adds §§ 33-101, 33-201

1. **INTRODUCTION**

On February 27, 2020, the Committee on Oversight and Investigations, chaired by Council Member Ritchie Torres, held a vote on a bill designed to increase government accountability by requiring the Department of Investigation (“DOI”) and the Special Commissioner of Investigation for the New York City School District (“SCI”) to publicly track agency compliance with their investigations and recommendations: Introduction Number 1440-A (“Int. No. 1440-A”), A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of investigation and the special commissioner of investigation to create web applications to track agency cooperation and compliance with investigations and recommendations. The Committee previously heard testimony on this bill from DOI. Feedback from DOI and SCI informed the bill’s amendments. At the vote on February 27, the Committee voted 9 in favor, 0 opposed and 0 abstentions on the bill.

1. **BACKGROUND**

After conducting an investigation into a City agency, DOI may issue reports on systemic deficiencies in City agencies, and make recommendations to address these vulnerabilities.[[1]](#footnote-1) If in the course of their investigation DOI uncovers the need for systematic changes at a City agency, it may publish Policy and Procedure Recommendations (PPRs). The investigations and subsequent reports are overseen by DOI’s Inspectors General, who may issue PPRs to outline steps for agency improvement.[[2]](#footnote-2) These Inspectors General also track whether agencies have agreed to implement any of the recommendations in the report the agency was issued, and whether the recommendations were implemented.[[3]](#footnote-3) Nonetheless, DOI is not vested with the authority to compel City agencies to comply with their recommendations.[[4]](#footnote-4)

In many cases, DOI investigations and the subsequent issuance of PPRs are not made publically available. While DOI reportedly issued 2,538 PPRs in fiscal year 2018,[[5]](#footnote-5) only 13 public reports describing these investigations have been posted on their website.[[6]](#footnote-6) In addition to the content of many PPRs being handled in private, a City agency’s decision to implement or decline DOI’s recommendations is often not publicly announced.

Despite few instances for which City agencies’ implementation efforts are publicly disclosed, DOI has been tracking overall City agency acceptance and implementation of PPRs since at least 2007. In Fiscal Year 2018, DOI disclosed that it issued 2,538 PPRs, with City agencies accepting 56% of the PPRs issued.[[7]](#footnote-7) In fiscal year 2017, however, DOI issued closer to 500 PPRs, with City agencies accepting 74% of the recommendations received.[[8]](#footnote-8) A lack of transparency in DOI’s issuance of PPRs and agency acceptance of these recommendations makes it difficult to understand the cause of this discrepancy.

SCI, who has the authority to investigate misconduct within the New York City School District (“District”), does not publish many recommendations on how the District should address SCI’s findings.[[9]](#footnote-9) SCI also does not disclose in the Mayor’s Management Report the amount of recommendations they issued or the percentage of recommendations accepted by the District each year.

In an effort to continue to address these issues, Int. No. 1440-A would improve public transparency of City agencies by requiring DOI and SCI to create web applications to track agency cooperation and compliance with investigations and recommendations.

1. **LEGISLATIVE ANALYSIS**

This bill would require DOI and SCI to develop and maintain web applications providing information on City agencies’ compliance with DOI’s and SCI’s investigatory recommendations. Each web application would contain information on: each recommendation sent to a City agency resulting from an investigation; whether that recommendation was accepted or rejected by the City agency; and if accepted, whether the City agency implemented the recommendation. DOI’s web application would be required to contain information on recommendations issued on and after January 1, 2014. SCI’s web application would be required to contain information on recommendations issued on and after the effective date of the local law. Both web applications would have to be made available online by July 1, 2020, and be updated and maintained thereafter.

The bill was amended after it was originally heard to specifically include SCI, but require that the SCI web application reside on SCI’s website. It was also amended to require that the recommendations from DOI go back to January 1, 2014, changed the date for the web applications to go live from July 1, 2019 to July 1, 2020, and required the DOI and SCI websites to link to each other.

This bill would take effect immediately.

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Int. No. 1440-A

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..Title

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of investigation and the special commissioner of investigation to create web applications to track agency cooperation and compliance with investigations and recommendations

..Body

Be it enacted by the Council as follows:

Section 1. The administrative code of the city of New York is amended by adding a new title 33 to read as follows:

TITLE 33

INVESTIGATIONS

CHAPTER 1

GENERAL PROVISIONS

§ 33-101 Definitions. As used in this title, the following terms have the following meanings:

Commissioner. The term “commissioner” means the commissioner of investigation.

Department. The term “department” means the department of investigation.

Investigation. The term “investigation” means any investigation made by the commissioner or by the special commissioner of investigation.

Recommendation. The term “recommendation” means any recommendation made by the department or by the special commissioner of investigation in the course of an investigation or as the result of an investigation.

Special commissioner of investigation. The term “special commissioner of investigation” means the person appointed pursuant to mayoral executive order 11 of 1990, as amended, or the person appointed to any successor position.

CHAPTER 2

REPORTING

 § 33-201 Website and reporting. a. The commissioner and the special commissioner of investigation shall develop and maintain web applications on their respective websites for the purposes of tracking and assessing agency cooperation and compliance with investigations and recommendations. For each agency investigated, the web applications shall set forth:

1. Any recommendation made to the agency, and any relevant context for the recommendation;

2. Whether any such recommendation was accepted or rejected by the agency to which it was made; and

3. For each recommendation accepted by an agency, whether such agency implemented the recommendation.

 b. The web application required by this section to be developed by the commissioner shall include all recommendations issued on and after January 1, 2014. The web application required by this section to be developed by the special commissioner of investigation shall include all recommendations issued on and after the effective date of the local law that added this section. Both web applications shall be updated as necessary to reflect the current status of each agency’s cooperation and compliance.

c. The web applications required by this section shall be made available to the public no later than July 1, 2020. When such web applications required by this section are available to the public, the web applications maintained by the commissioner and by the special commissioner of investigation shall include a link to each other.

§ 2. This local law takes effect immediately.

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1. City of New York Department of Investigation, *Jurisdiction*, <https://www1.nyc.gov/site/doi/about/jurisdiction.page> (last accessed on February 20, 2020). [↑](#footnote-ref-1)
2. City of New York Department of Investigation, *Units*, <https://www1.nyc.gov/site/doi/offices/inspector-general.page> (last accessed on February 20, 2020). [↑](#footnote-ref-2)
3. New York City Global Partners, *Best Practice: Policy and Procedure Recommendation Program*, Updated May 2012, pg. 1, *available at:* <http://www.nyc.gov/html/ia/gprb/downloads/pdf/NYC_Policy%20and%20Procedure%20Recommendation%20Program.pdf>; Jurney, Ben. “Under the Hood at Agencies, Investigation Department Increases Policy Focus,” *Gotham Gazette*, December 2, 2016, *available at:* <https://www.gothamgazette.com/city/6648-under-the-hood-at-agencies-investigation-department-increases-policy-focus>. [↑](#footnote-ref-3)
4. *See* Jurney, *supra* note 3. [↑](#footnote-ref-4)
5. *See* NYC Mayor’s Office of Operations, *Fiscal 2019* *Mayor’s Management Report*, September 2019, pg. 94, available at: <https://www1.nyc.gov/assets/operations/downloads/pdf/mmr2019/2019_mmr.pdf>. [↑](#footnote-ref-5)
6. *See* City of New York Department of Investigation, *DOI Reports: Public Reports*, <https://www1.nyc.gov/site/doi/newsroom/public-reports.page> (last accessed on February 20, 2020). [↑](#footnote-ref-6)
7. *See* NYC Mayor’s Office of Operations*,* *supra* note 5. [↑](#footnote-ref-7)
8. *Id.* [↑](#footnote-ref-8)
9. *See* The Special Commissioner for the New York City School District, *Reports*, <https://nycsci.org/reports/> (last accessed on February 20, 2020). [↑](#footnote-ref-9)