



## Legislation Text

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Int. No. 1770

By Council Members Torres, the Public Advocate (Mr. Williams) and Kallos

A Local Law to amend the administrative code of the city of New York, in relation to whistleblower protections for individuals facing adverse personnel actions

Be it enacted by the Council as follows:

Section 1. Subdivisions b, c, and d of section 12-113 of the administrative code of the city of New York, as amended by local law 25 of 2007, is amended to read as follows:

b. 1. No officer or employee of an agency of the city shall take an adverse personnel action with respect to another officer or employee in retaliation for his or her cooperating with the council in a legislative or oversight matter, or making a report of information concerning conduct which he or she knows or reasonably believes to involve corruption, criminal activity, conflict of interest, gross mismanagement or abuse of authority by another city officer or employee, which concerns his or her office or employment, or by persons dealing with the city, which concerns their dealings with the city, (i) to the commissioner, or (ii) to a council member, the public advocate or the comptroller, who shall refer such report to the commissioner. For purposes of this subdivision, an agency of the city shall be deemed to include, but not be limited to, an agency the head or members of which are appointed by one or more city officers, and the offices of elected city officers.

2. No officer or employee of a covered contractor or covered subcontractor shall take an adverse personnel action with respect to another officer or employee of such contractor or subcontractor in retaliation for such officer or employee cooperating with the council in a legislative or oversight matter, or making a report of information concerning conduct which such officer or employee knows or reasonably believes to involve corruption, criminal activity, conflict of interest, gross mismanagement or abuse of authority by any

officer or employee of such contractor or subcontractor, which concerns a contract with a contracting agency, (i) to the commissioner, (ii) to a council member, the public advocate or the comptroller, who shall refer such report to the commissioner, or (iii) to the city chief procurement officer, agency chief contracting officer, or agency head or commissioner of the contracting agency, who shall refer such report to the commissioner.

3. Every contract or subcontract in excess of one hundred thousand dollars shall contain a provision detailing the provisions of paragraph two of this subdivision and of paragraph two of subdivision e of this section.

4. Upon request, the commissioner, council member, public advocate or comptroller receiving the report of alleged adverse personnel action shall make reasonable efforts to protect the anonymity and confidentiality of the officer or employee making such report.

5. No officer or employee of an agency of the city shall take an adverse personnel action with respect to another officer or employee in retaliation for his or her cooperating with the council in a legislative or oversight matter, or making a report of information concerning conduct which he or she knows or reasonably believes to present a substantial and specific risk of harm to the health, safety or educational welfare of a child by another city officer or employee, which concerns his or her office or employment, or by persons dealing with the city, which concerns their dealings with the city, (i) to the commissioner, (ii) to a council member, the public advocate, the comptroller or the mayor, or (iii) to any superior officer.

c. An officer or employee (i) of an agency of the city, or (ii) of a public agency or public entity subject to the jurisdiction of the commissioner pursuant to chapter thirty-four of the charter who believes that another officer or employee has taken an adverse personnel action in violation of subdivision b of this section may report such action to the commissioner.

d. 1. Upon receipt of a report made pursuant to subdivision c of this section, the commissioner shall conduct an inquiry to determine whether retaliatory adverse personnel action has been taken.

2. Within fifteen days after receipt of an allegation pursuant to subdivision c of this section of a

prohibited adverse personnel action, the commissioner shall provide written notice to the officer or employee making the allegation, and the speaker of council when allegations arise from adverse personnel actions taken following an individual cooperating with a council legislative or oversight matter, that the allegation has been received by the commissioner. Such notice shall include the name of the person in the department of investigation who shall serve as a contact with the officer or employee making the allegation.

3. Where practicable, all investigations initiated under subdivision c of this section shall be completed within ninety days of receipt by the commissioner, provided that if such investigation is not complete within ninety days, the commissioner shall provide written notice to the officer or employee making the allegation, and the speaker of council when allegations arise from adverse personnel actions taken following an individual cooperating with a council legislative or oversight matter, explaining the cause of delay and an updated timeframe of expected completion of the investigation. Upon the completion of an investigation initiated under subdivision c of this section, the commissioner shall provide a written statement of the final determination to the officer or employee who complained of the retaliatory adverse personnel action, and the speaker of council when allegations arise from adverse personnel actions taken following an individual cooperating with a council legislative or oversight matter. The statement shall include the commissioner's recommendations, if any, for remedial action, or shall state that the commissioner has determined to dismiss the complaint and terminate the investigation.

§ 2. Section 12-113 of the administrative code of the city of New York, as amended by local law 25 of 2007, is amended by adding a new subdivision j to read as follows:

j. For the purpose of this section, when any allegation of adverse personnel actions arises in relation to conduct committed by the commissioner or any other employee working for the department of investigation, all action mandated by this section to be undertaken by the commissioner, shall instead be the responsibility of the corporation counsel.

§ 3. This local law takes effect immediately after it becomes law.

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