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Sponsors:	Keith Powers, Farah N. Louis, Rita C. Joseph, Shahana K. Hanif, Lincoln Restler, Marjorie Velázquez		
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Attachments:	1. Summary of Int. No. 453, 2. Int. No. 453, 3. May 26, 2022 - Stated Meeting Agenda, 4. Hearing Transcript - Stated Meeting 5-26-22, 5. Minutes of the Stated Meeting - May 26, 2022, 6. Committee Report 10/25/22, 7. Hearing Testimony 10/25/22, 8. Hearing Transcript 10/25/22		

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5/26/2022	*	City Council	Introduced by Council	
10/25/2022	*	Committee on Oversight and Investigations	Hearing Held by Committee	
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12/31/2023	*	City Council	Filed (End of Session)	

Int. No. 453

By Council Members Powers, Louis, Joseph, Hanif, Restler and Velázquez

A Local Law to amend the administrative code of the city of New York, in relation to requiring officers and employees of city contractors to report corruption and to cooperate with the department of investigation

Be it enacted by the Council as follows:

Section 1. Paragraph 1 of subdivision a of section 7-805 of the administrative code of the city of New York, as added by local law number 53 for the year 2005, is amended to read as follows:

1. Any officer or employee of the city [of New York] who believes that [he or she] such officer or employee has been the subject of an adverse personnel action, as such term is defined in [paragraph one of]

subdivision a of section 12-113 [of the administrative code of the city of New York]; or

§ 2. Subdivision a of section 12-113 of the administrative code of the city of New York, as amended by local law number 33 for the year 2012, and paragraph 11 of such subdivision, as added by local law number 9 for the year 2021, is amended to read as follows:

a. Definitions. For purposes of this section, the following terms have the following meanings:

[1. "Adverse personnel action" shall include] Adverse personnel action. The term "adverse personnel action" includes dismissal, demotion, suspension, disciplinary action, negative performance evaluation, any action resulting in loss of staff, office space or equipment or other benefit, failure to appoint, failure to promote, or any transfer or assignment or failure to transfer or assign against the wishes of the affected officer or employee.

[2. "Remedial action" means an appropriate action to restore the officer or employee to his or her former status, which may include one or more of the following:

(i) reinstatement of the officer or employee to a position the same as or comparable to the position the officer or employee held or would have held if not for the adverse personnel action, or, as appropriate, to an equivalent position;

(ii) reinstatement of full seniority rights;

(iii) payment of lost compensation; and

(iv) other measures necessary to address the effects of the adverse personnel action.

3. "Commissioner" shall mean the commissioner of investigation.

4. "Child" shall mean] Child. The term "child" means any person under the age of [nineteen] 19, or any person ages [nineteen] 19 through [twenty-one] 21 if such person receives instruction pursuant to an individualized education plan.

Commissioner. The term "commissioner" means the commissioner of investigation.

[5. "Educational welfare" shall mean any aspect of a child's education or educational environment that

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significantly impacts upon such child's ability to receive appropriate instruction, as mandated by any relevant law, rule, regulation or sound educational practice.

6. “Superior officer” shall mean an agency head, deputy agency head or other person designated by the head of the agency to receive a report pursuant to this section, who is employed in the agency in which the conduct described in such report occurred.

7. “Contract” shall mean] Contract. The term “contract” means any written agreement, purchase order or instrument having a value in excess of [one hundred thousand dollars] $100,000 pursuant to which a contracting agency is committed to expend or does expend funds in return for work, labor, services, supplies, equipment, materials, or any combination of the foregoing, and [shall include] includes a subcontract between a covered contractor and a covered subcontractor. Such term [shall] does not include contracts or subcontracts resulting from emergency procurements or that are government-to-government procurements.

[8. “Contracting agency” shall mean] Contracting agency. The term “contracting agency” means a city, county, borough, or other office, position, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

[9. “Covered contractor” shall mean] Covered contractor. The term “covered contractor” means a person or business entity who is a party or a proposed party to a contract with a contracting agency valued in excess of [one hundred thousand dollars] $100,000, and the term “covered subcontractor” [shall mean] means a person or entity who is a party or a proposed party to a contract with a covered contractor valued in excess of [one hundred thousand dollars] $100,000.

Educational welfare. The term “educational welfare” means any aspect of a child’s education or educational environment that significantly impacts upon such child’s ability to receive appropriate instruction, as mandated by any relevant law, rule, regulation or sound educational practice.

[10. “Officers or employees of an agency of the city” shall be deemed to include] Officers or employees

of an agency of the city. The term "officers or employees of an agency of the city" is deemed to include officers or employees of local development corporations or other not-for-profit corporations that are parties to contracts with contracting agencies and the governing boards of which include city officials acting in their official capacity or appointees of city officials. Such officers and employees [shall not be] are not deemed to be officers or employees of a covered contractor or covered subcontractor.

[11. "Special commissioner of investigation" shall mean the position of deputy commissioner of investigation for the city school district of the city of New York, as established by mayoral executive order number 11 for the year 1990, as amended, or any success or to the duties of such officer.]

Remedial action. The term "remedial action" means an appropriate action to restore the officer or employee to the former status of such officer or employee, which may include one or more of the following:

1. Reinstatement of the officer or employee to a position the same as or comparable to the position the officer or employee held or would have held if not for the adverse personnel action or, as appropriate, to an equivalent position;

2. Reinstatement of full seniority rights;

3. Payment of lost compensation; and

4. Other measures necessary to address the effects of the adverse personnel action.

Special commissioner of investigation. The term "special commissioner of investigation" means the position of deputy commissioner of investigation for the city school district of the city of New York, as established by mayoral executive order number 11 for the year 1990, as amended, or any successor to the duties of such officer.

Superior officer. The term "superior officer" means an agency head, deputy agency head or other person designated by the head of the agency to receive a report pursuant to this section, who is employed in the agency in which the conduct described in such report occurred.

§ 3. Paragraphs 2, 3 and 4 of subdivision b of section 12-113 of the administrative code of the city of

New York, as amended by local law number 9 for the year 2021, are amended to read as follows:

2. (a) Every officer and employee of a covered contractor or covered subcontractor shall without undue delay report any 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, the comptroller, the special commissioner of investigation, the city chief procurement officer, the agency chief contracting officer, or the agency head or commissioner of the contracting agency.

(b) Every officer and employee of a covered contractor or covered subcontractor shall cooperate fully with any investigation or inquiry conducted by the commissioner or special commissioner of investigation which concerns a contract with a contracting agency.

(c) 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 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 contacting agency, to the commissioner, a council member, the public advocate, the comptroller, the special commissioner of investigation, the city chief procurement officer, the agency chief contracting officer, or the agency head or commissioner of the contracting agency. Such report shall be referred to the commissioner unless such conduct is within the jurisdiction of the special commissioner of investigation, in which case such report shall be referred to the special commissioner.

3. Every contract or subcontract in excess of [one hundred thousand dollars] $100,000 shall contain a provision detailing the provisions of paragraph [two] 2 of this subdivision and of paragraph [two] 2 of subdivision e of this section. If a contracting agency determines that there has been a violation of subparagraphs

(a) and (b) of paragraph 2 of this subdivision, including, but not limited to, the knowing failure to report information or interference with, or obstruction of, an investigation conducted by the commissioner, such contracting agency shall take such action as it deems appropriate and consistent with the remedies available under the contract or subcontract.

4. Upon request, the commissioner, council member, public advocate, comptroller, special commissioner of investigation [or], corporation counsel, city chief procurement officer, agency chief contracting officer or agency head or commissioner of the contracting agency receiving the report of [alleged adverse personnel action] information concerning conduct that an officer or employee referenced in this subdivision knows or reasonably believes to involve corruption, criminal activity, conflict of interest, gross mismanagement or abuse of authority shall make reasonable efforts to protect the anonymity and confidentiality of the officer or employee making such report.

§ 4. Subdivision c of section 12-113 of the administrative code of the city of New York is amended by adding a new paragraph 3 to read as follows:

3. Upon request, the commissioner, special commissioner of investigation or corporation counsel 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. The requirements imposed by subparagraphs (a) and (b) of paragraph 2 of subdivision b of section 12-113 of the administrative code of the city of New York do not apply to any contract between a contracting agency and a covered contractor or any subcontract between a covered contractor and a covered subcontractor that is executed or renewed prior to the effective date of the local law that added this section. For purposes of this section, the terms “contract,” “contracting agency,” “covered contractor” and “covered contractor” have the meanings ascribed to such terms in subdivision a of section 12-113 of such code.

§ 6. This local law takes effect 120 days after it becomes law, except that the commissioner of investigation, special commissioner of investigation for the city school district and the city chief procurement

officer may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

Session 12
ARP
LS # 3890
4/6/2022

Session 11
MHL
LS # 13554
Int. No. 2056-2020