

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to allow the Director of Government Ethics to issue advisory opinions upon his or her own initiative, clarify how advisory opinions may be appealed, and expand the range of penalties that may be imposed for a low-level violation of the District of Columbia's Code of Conduct.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Board of Ethics and Government Accountability Amendment Act of 2013".

Sec. 2. The Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*), is amended as follows:

(a) Section 219 (D.C. Official Code § 1-1162.19) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "the Ethics Board or" after the comma.

(2) A new subsection (a-1) is added to read as follows:

"(a-1)(1) The Director of Government Ethics may issue, on his or her own initiative, an advisory opinion on any general question of law he or she considers of sufficient public importance concerning a provision of the Code of Conduct over which the Ethics Board has primary jurisdiction.

"(2) Before an advisory opinion is issued under this subsection, the Director of Government Ethics shall publish a notice of the proposed advisory opinion in the District of Columbia Register and provide a public-comment period of at least 30 days, during which a person may submit information or comment on the proposed advisory opinion. An advisory opinion that does not meet the procedural requirements of this paragraph shall be void ab initio."

(3) Subsection (c) is amended to read as follows:

"(c)(1) If an advisory opinion is issued by the Director of Government Ethics in response to a request for an advisory opinion, the requesting employee or public official may appeal the opinion for consideration by the Ethics Board.

"(2) If the Director of Government Ethics issues an advisory opinion on his or her own initiative, an employee or public official aggrieved by the opinion may appeal the opinion for consideration by the Ethics Board."

(b) Section 221(a)(4) (D.C. Official Code § 1-1162.21(a)(4)) is amended to read as follows:

“(4)(A) In addition to any civil penalty imposed under this title, a violation of the Code of Conduct may result in the following:

- “(i) Remedial action in accordance with the Merit Personnel Act;
 - “(ii) A public censure imposed by the Ethics Board;
 - “(iii) A non-public, informal admonition imposed by the Director of Government Ethics for low-level violations of the Code of Conduct such as:
 - “(I) A one-time, minor misuse of government property;
 - “(II) A non-habitual time and leave issue that does not have a specific harmful impact;
 - “(III) A non-uniform application of a regulation or policy by a supervisor, where it is not a regular occurrence and was not for an unlawful purpose;
 - “(IV) A relatively minor action based, at least in part, on advice or guidance sought in good faith from another, such as a supervisor, and given in good faith, though erroneous; or
 - “(V) A minor, incidental ethics violation for which the person made amends and rectified the situation;
 - “(iv) A finding of a violation and a period of probation after which a respondent may seek expungement of the violation upon successful completion of any probationary terms imposed by the Director of Government Ethics or the Ethics Board; or
 - “(v) Any negotiated disposition of a matter offered by the Director of Government Ethics, and accepted by the respondent, subject to approval by the Ethics Board.
- “(B) A non-public, informal admonition imposed under subparagraph (A)(iii) of this paragraph may be appealed to the Ethics Board.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia