

ENROLLMENT(S)



(5)

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 12-260

"Legal Service Establishment Amendment Act of 1998"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 "the Act", the Council of the District of Columbia adopted Bill 12-660 on first and second readings, December 1, 1998 and December 15, 1998, respectively. Following the signature of the Mayor on December 31, 1998, pursuant to Section 404(e) of "the Act", the bill became Act 12-612 and it was published in the February 19, 1999 edition of the D.C. Register (Vol. 46, page 1318). The Act was transmitted to Congress on February 10, 1999 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has expired, and the Act is now D.C. Law 12-260, effective April 20, 1999.



LINDA W. CROPP
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Feb. 10,11,12,22,23,24,25

Mar. 1,2,3,4,5,8,9,10,11,15,16,17,18,19,22,23,24,25

Apr. 12,13,14,15,19

AN ACT

D.C. ACT 12-612

Codification
District of
Columbia
Code
1999 Supp.

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 31, 1998

To amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to establish a Legal Service to cover District government attorneys in independent and subordinate agencies, to establish a Senior Executive Attorney Service within the Legal Service, to provide for the hiring of attorneys in the Office of Corporation Counsel by the Corporation Counsel, and for the hiring of attorneys in subordinate agencies with the approval of the Corporation Counsel, to place attorneys employed by the subordinate agencies under the direction and control of the Corporation Counsel, subject to the right of the Corporation Counsel to delegate this authority to each agency head to place attorneys employed by independent agencies governed by the District of Columbia Government Comprehensive Merit Personnel Act of 1978 under the direction and control of each agency head, to provide that attorneys in the Legal Service other than Senior Executive Attorneys shall be subject to disciplinary action for any reason that is not arbitrary or capricious, to provide that Senior Executive Attorneys in the Office of the Corporation Counsel shall be at-will employees, to require legal and managerial training for attorneys in the Legal Service, to establish a compensation philosophy for attorneys in the Legal Service that will maintain pay parity with their federal counterparts in the Washington metropolitan area, to tie pay increases for Legal Service attorneys to their performance, and to require the Corporation Counsel to report on the experience with the Legal Service to the Mayor and the Council within 1 year after the effective date of this act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Legal Service Establishment Amendment Act of 1998".

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code § 1-601.1 *et seq.*), is amended as follows:

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(a) The Table of Contents is amended by inserting, after "Sec. 801A. CREATION OF THE EDUCATIONAL SERVICE.", language to read as follows:

"VIII-B. LEGAL SERVICE

"Sec. 851. DEFINITIONS

"Sec. 852. CREATION OF THE LEGAL SERVICE

"Sec. 853. CREATION OF THE SENIOR EXECUTIVE ATTORNEYS SERVICE

"Sec. 854. APPOINTMENT OF ATTORNEYS

"Sec. 855. SUPERVISION OF ATTORNEYS

"Sec. 856. DISCIPLINARY ACTION FOR ATTORNEYS OTHER THAN SENIOR EXECUTIVE ATTORNEYS

"Sec. 857. CONTINUING LEGAL EDUCATION; MANAGEMENT SUPERVISORY SKILLS MAINTENANCE AND ENHANCEMENT; ACCOUNTABILITY STANDARDS AND PLANS

"Sec. 858. PAY PARITY FOR ATTORNEYS

"Sec. 859. RESIDENCY

"Sec. 860. REPORTING

"Sec. 861. RULEMAKING."

(b) Section 404(a) (D.C. Code § 1-604.4(a)) is amended by inserting "VIII-B," after "VIII,".

Section
1-604.4

(c) Section 801(a) (D.C. Code § 1-608.1(a)) is amended by striking the phrase ", or Management Supervisory" in the first sentence and by inserting the phrase ", Management Supervisory, or Legal" in its place.

Section
1-608.1

(d) Section 901 (D.C. Code § 1-610.1) is amended by striking the phrase "or Executive" in the last sentence and inserting the phrase ", Management Supervisory or Legal" in its place.

Section
1-610.1

(e) Section 908 (D.C. Code § 1-610.8) is amended as follows:

(1) Subsection (b) is repealed.

Section
1-610.8

(2) Subsection (l) is amended to read as follows: "Executive Director of the Office of Employee Appeals; and "

(f) Section 909 (D.C. Code § 1-610.9) is repealed.

Section
1-610.9

(g) Section 951 (to be codified at D.C. Code § 1-610.51) is amended to read as follows:

"Sec. 951. Establishment

Section
1-610.51

"There is established within the District government the Management Supervisory Service to ensure that each agency has the highest quality managers and supervisors who are responsive to the needs of government. Persons appointed to the Management Supervisory Service are not in the Career, Educational, Excepted, Executive, or Legal Service."

(h) Section 952 (to be codified at D.C. Code § 1-610.52) is amended to read as follows:

"Sec. 952. Composition

Section
1-610.52

"Each individual (except for employees appointed pursuant to sections 901 through 908 or titles VIII-A, VIII-B, or X of this act, employees of the Board of Education, employees of the

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Board of Trustees of the University of the District of Columbia, and uniformed members of the Metropolitan Police Department or the D.C. Fire and Emergency Medical Services Department) who meets the definition of "management employee" pursuant to section 1411(5) shall be in the Management Supervisory Service."

(i) Section 2402(a) (D.C. Code § 1-625.2(a)) is amended by striking the phrase "Excepted Service" and inserting the phrase "Excepted and Legal Services" in its place.

(j) A new title "VIII-B" is added to read as follows:

"TITLE VIII-B.

"LEGAL SERVICE

"Sec. 851. Definitions

"For the purposes of this title, the term:

"(1) "Agency" means any subordinate or independent agency of the District government, but does not include the following entities:

"(A) Superior Court or the Court of Appeals;

"(B) District of Columbia Financial Responsibility and Management Assistance Authority;

"(C) Board of Parole;

"(D) Health and Hospitals Public Benefit Corporation;

"(E) Housing Finance Agency;

"(F) Pretrial Services Agency;

"(G) Public Defender Service;

"(H) Water and Sewer Authority;

"(I) Washington Convention Center Authority;

"(J) Housing Authority; or

"(K) Any agency or unit thereof excluded by court order from coverage pursuant to the CMPA.

"(2) "Attorney" means any position which is classified as part of Series 905, except for any position that is occupied by a person whose duties, in whole or in substantial part, consist of hearing cases as an administrative law judge or as an administrative hearing officer.

"(3) "Senior Executive Attorney Service position" means:

"(A) Any attorney position which is classified above DS-15, or an equivalent position, and in which the employee:

"(i) Directs the work of an organizational unit;

"(ii) Is held accountable for the success of 1 or more specific programs or projects;

"(iii) Monitors progress toward organizational goals and periodically evaluates and makes appropriate adjustments to these goals;

"(iv) Supervises the work of employees other than personal assistants;

Section
1-625.2

New
Subchapter IX-B
(Subchapter IX-A
Reserved),
Chapter 6,
Title 1

New Section
1-609.51

"(v) Performs important legal policy-making or policy-determining functions; or

"(vi) Provides significant leadership in legal counseling or in the trial of cases;

"(B) Any attorney who is a Deputy Corporation Counsel, Principal Deputy Corporation Counsel, Special Deputy Corporation Counsel, Senior Counsel to the Corporation Counsel, or any other attorney in the Office of the Corporation Counsel who routinely reports directly to the Corporation Counsel; or

"(C) Any attorney who is a General Counsel employed by a subordinate agency or independent agency.

"Sec. 852. Creation of the Legal Service

New Section
1-609.52

"There is established within the District government a Legal Service for independent and subordinate agencies to ensure that the law business of the District government is responsive to the needs, policies, and goals of the District and is of the highest quality. In order to improve the quality and timeliness of the legal services that support the lawful activities, objectives, and policies of the District government, this title shall vest in the Corporation Counsel supervisory authority of attorneys employed by the subordinate agencies.

"Sec. 853. Creation of the Senior Executive Attorney Service

New Section
1-609.53

"(a) A Senior Executive Attorney Service is established as part of the Legal Service. The Senior Executive Attorney Service shall be administered to assure that Senior Executive Attorneys are accountable and responsible for the effectiveness and productivity of employees under their supervision.

"(b) An appointment to the Senior Executive Attorney Service shall be at-will employment.

"(c) A Senior Executive Attorney who is to be removed or whose grade is to be reduced may be appointed, at the discretion of the Corporation Counsel, to a position in the Legal Service which is available and for which the attorney is qualified, if the removal or reduction in grade is not for delinquency or misconduct.

"(d) A Senior Executive Attorney employed by the Office of the Corporation Counsel shall serve at the pleasure of the Corporation Counsel.

"(e) A Senior Executive Attorney employed by any other subordinate agency shall serve at the pleasure of the Corporation Counsel, and the Corporation Counsel shall consult with the agency head before making any decision concerning the termination of a Senior Executive Attorney employed by the agency. The Senior Executive Attorney shall serve at the pleasure of the agency head where the Corporation Counsel has delegated direction and control over the attorney to the agency head pursuant to section 855.

"(f) A Senior Executive Attorney employed by an independent agency shall serve at the pleasure of the agency head.

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"(g) Persons currently holding an appointment in the Excepted Service which meet the definition of a Senior Executive Attorney Service position as defined in section 851(3) shall be appointed to the Senior Executive Attorney Service unless the employee declines the appointment. A person who declines this appointment shall be appointed within 3 months to another position in the Legal Service if a vacant position for which the employee qualifies is available and is acceptable to the employee.

"(h) An individual appointed to the Senior Executive Attorney Service shall be paid separation pay of up to 12 weeks of his or her basic pay upon separation for non-disciplinary reasons.

"Sec. 854. Appointment of attorneys

New Section
1-609.54

"(a) Attorneys employed by the Office of the Corporation Counsel, wherever located in the District government, shall be hired by the Corporation Counsel. Attorneys, including Senior Executive Attorneys, employed by any other subordinate agency shall be hired by the head of the agency with the approval of the Corporation Counsel.

"(b) Attorneys employed by an independent agency shall be hired by the head of the agency.

"Sec. 855. Supervision of attorneys

New Section
1-609.55

"(a) Attorneys employed by the Office of the Corporation Counsel, wherever located in the District government, and attorneys employed by any other subordinate agency, including Senior Executive Attorneys, shall act under the direction, supervision, and control of the Corporation Counsel. The Corporation Counsel shall exercise authority, to the maximum extent practicable, over other subordinate agency attorneys in a way that:

"(1) Supports the lawful activities, objectives, and policies of the other subordinate agencies;

"(2) Provides the attorney services requested by the other subordinate agencies;
and

"(3) Avoids giving unsolicited advice on policy decisions that involve no legal issues.

"(b) Notwithstanding the authority vested in the Corporation Counsel by subsection (a) of this section, the Corporation Counsel may delegate the direction, supervision and control of attorneys to a subordinate agency head as follows:

"(1) After consulting with the agency head, delegate in writing the direction, supervision, and control of all or some of the agency's attorneys, including Senior Executive Attorneys. This delegation may be withdrawn at any time, in writing, after consulting with the agency head.

"(2) The delegation and its withdrawal, if any, pursuant to paragraph (1) of this subsection shall cite the reasons for the delegation or withdrawal of delegation using the following criteria:

"(i) Agency size;

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"(ii) Agency workload;
engage in high level policy- making;
expressed preferences;
Counsel supervision;
supervision;
Counsel supervises agency Counsel; or
Counsel.

"(iii) Necessity or lack of necessity for agency in-house counsel to
expressed preferences;
Counsel supervision;
supervision;
Counsel supervises agency Counsel; or
Counsel.

"(iv) Agency head or agency General Counsel or the equivalent,
expressed preferences;
Counsel supervision;
supervision;
Counsel supervises agency Counsel; or
Counsel.

"(v) Necessity or lack of necessity for Corporation
Counsel supervision;
supervision;
Counsel supervises agency Counsel; or
Counsel.

"(vi) Practicality or impracticality of Corporation Counsel
supervision;
Counsel supervises agency Counsel; or
Counsel.

"(vii) Existence of a conflict of interest if the Corporation
Counsel supervises agency Counsel; or
Counsel.

"(viii) Any other relevant factor as identified by the Corporation
Counsel.

"(c) Attorneys employed by independent agencies shall act under the direction, supervision, and control of the respective agency heads.

"(d) Subject to the availability of an unfilled appropriated position in the receiving agency or as otherwise authorized by law, the Corporation Counsel may:

"(1) After consulting with the affected agency head, transfer an attorney employed by the Office of the Corporation Counsel to any other subordinate agency; or

"(2) After consulting with the sending agency head, transfer an attorney employed by a subordinate agency to any other subordinate agency, including the Office of the Corporation Counsel, with the approval of the head of the receiving agency, unless the Corporation Counsel has delegated the direction, supervision, and control of the attorney to the head of the agency that employs the attorney.

"Sec. 856. Disciplinary action for attorneys other than Senior Executive Attorneys

**New Section
1-609.56**

"(a) A Legal Service attorney, other than a Senior Executive Attorney, shall be subject to disciplinary action, including removal, suspension, or reduction in grade, for unacceptable performance or for any reason that is not arbitrary or capricious.

"(b) The disciplinary action provided for in subsection (a) of this section shall be taken by:

"(1) The Corporation Counsel when the attorney is employed by the Office of the Corporation Counsel;

"(2) The Corporation Counsel, after consulting with the agency head, when the attorney is employed by a subordinate agency and there has been no delegation of authority over the attorney pursuant to section 855; or;

"(3) The agency head when the attorney is employed by an independent agency or by a subordinate agency and the Corporation Counsel has delegated authority over the attorney to the subordinate agency head pursuant to section 855.

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"(c) Any disciplinary action pursuant to this section taken against attorneys in subordinate agencies may be appealed to the Mayor. The Mayor's decision regarding this disciplinary action shall be final. The decision of the agency head shall be final with respect to disciplinary action taken against attorneys in independent agencies.

"Sec. 857. Continuing legal education; management supervisory skills maintenance and enhancement; accountability standards and plans

**New Section
1-609.57**

"(a) The Corporation Counsel shall establish an annual mandatory program of continuing legal education for attorneys in the Legal Service, other than attorneys employed by independent agencies. Attorneys in the Legal Service who supervise 1 or more other attorneys as part of their normal duties shall maintain and enhance their management and supervisory skills through at least annual in-house or other training arranged or approved by their employing agency.

"(b) The Corporation Counsel shall develop and establish a performance management system that includes accountability standards and individual accountability plans for all attorneys, including Senior Executive Attorneys, in the Legal Service who are under the direction and control of the Corporation Counsel. The performance management system shall link pay to performance.

"(c) The head of an independent agency that employs attorneys in the Legal Service shall develop and establish a performance management system that includes accountability standards and individual accountability plans for all attorneys in the Legal Service who are under their direction and control. The head of an independent agency may utilize the system developed for use by the Corporation Counsel for attorneys under the direction and control of the Corporation Counsel, for attorneys under the independent agency head's direction and control. The performance management system shall link pay to performance.

"Sec. 858. Pay parity for attorneys

**New Section
1-609.58**

"(a) Compensation for Legal Service attorneys shall be reviewed annually by the Mayor and shall be fixed in accordance with the following policy:

"(1) The compensation of Senior Executive Attorneys shall be competitive with that provided by the federal government Senior Executive Service Salary Table for attorneys in the Washington metropolitan area having comparable duties, responsibilities, qualifications and experience; and

"(2) The compensation of all other Legal Service Attorneys shall be competitive with that provided by the federal government General Schedule for attorneys in the Washington metropolitan area having comparable duties, responsibilities, qualifications, and experience.

"(b) Pay shall be established by the Mayor and submitted by resolution to the Council pursuant to section 1106.

"Sec. 859. Residency

**New Section
1-609.59**

"(a) The provisions of section 801(e) shall apply to employment in the Legal Service other than the Senior Executive Attorney Service.

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"(b) Notwithstanding the provisions of section 801(e) and the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Code § 1-2501 *et seq.*), any attorney appointed to the Senior Executive Attorney Service shall become a bona fide resident of the District within 180 days of the effective date of the appointment, and shall remain a District resident for the duration of the employment. Failure to become a District resident or to maintain District residency shall result in forfeiture of the position to which the person has been appointed.

"(c) The Director of Personnel may waive the residency requirement in subsection (b) of this section for any individual appointed to a hard-to-fill position pursuant to section 853.

"Sec. 860. Reporting

No later than 1 year after the effective date of the Legal Services Establishment Amendment Act of 1998, the Corporation Counsel shall report, in writing, to the Mayor and the Council concerning all aspects of the operation of the Legal Service since its establishment. This report shall include a description of:

New Section
1-609.60

"(a) The effect of any pay increase approved for attorneys in the Legal Service on the quality of applicants for positions in the Legal Service and the retention of highly qualified attorneys;

"(b) The experience under the new standards for adverse and corrective actions;

"(c) The programs established for legal and management training;

"(d) The performance management system established, including the results obtained from linking the award of additional income allowances to performance; and

"(e) Any other matters that the Corporation Counsel identifies as relevant.

"Sec. 861. Rulemaking

"The Corporation Counsel may adopt rules to implement the provisions of this title in accordance with the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code § 1-1501 *et seq.*).

New Section
1-609.61

"Sec. 862. Applicability

"The provisions of this title shall apply on the effective date of this title, except as follows:

New Section
1-609.62

"(1) Section 852 shall include attorneys employed by the District of Columbia Board of Education as part of the new Legal Service only as long as there is no Congressional statutory requirement that attorneys employed by the District of Columbia public schools be classified as Educational Service employees.

"(2) The provisions of this title shall apply to attorneys employed by the Office of the Chief Financial Officer when the District of Columbia is no longer in a control period, as defined in D.C. Code § 47-393(4).

"(3) Within 90 days after the effective date of this title, the Mayor shall appoint to the new Legal Service any attorney who has been appointed to a position in the Office of the Corporation Counsel as of the effective date of this title. Effective October 1, 1999, the

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appropriate personnel authority shall appoint to the new Legal Service any attorney who has been appointed to a position in any other subordinate agency or in any independent agency as of that date.

"(4) The provisions of this title shall apply to individuals hired on or before December 31, 1979 as attorneys by the Mayor, an agency under the personnel authority of the Mayor, or any independent agency upon enactment of legislation by Congress that states the following:

"Notwithstanding any other law, the provisions contained in Title VIII-B of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, passed on second reading on December 15, 1998 (Enrolled version of Bill 12-660) shall apply to all covered attorneys first hired on or before December 31, 1979.""

Sec. 3. Fiscal impact statement.

Adoption of this act will have no expenditure impact on the District government. Sufficient funding for the training required by the act is in the FY 1999 budget for the Office of the Corporation Counsel. Resolutions submitted by the Mayor to achieve pay parity for attorneys in the new Legal Service will be evaluated for their fiscal impact when they are submitted.

Sec. 4. Effective date.

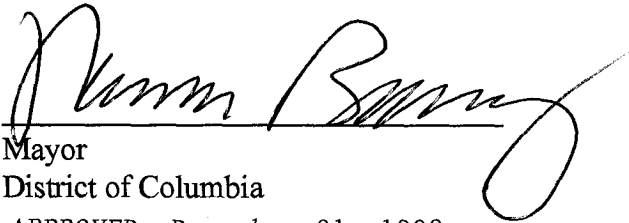
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in

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section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.

A handwritten signature in cursive script, reading "Linda A. Cropp", written over a horizontal line.

Chairman
Council of the District of Columbia

A handwritten signature in cursive script, reading "Norman B. Barry", written over a horizontal line.

Mayor
District of Columbia

APPROVED: December 31, 1998



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD TWELVE

RECORD OF OFFICIAL COUNCIL VOTE

B12-660

Docket No.

ITEM ON CONSENT CALENDAR

ACTION & DATE

ADOPTED FIRST READING, 12-01-98

VOICE VOTE RECORDED VOTE ON REQUEST

APPROVED, JARVIS VOTED PRESENT

ABSENT

ALL PRESENT

ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

[Signature]
Secretary to the Council

[Signature]
December 29, 1998
Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

ADOPTED FINAL READING, 12-15-98

VOICE VOTE RECORDED VOTE ON REQUEST

APPROVED

ABSENT

BRAZIL

ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not voting

CERTIFICATION RECORD

[Signature]
Secretary to the Council

[Signature]
December 29, 1998
Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

VOICE VOTE RECORDED VOTE ON REQUEST

ABSENT

ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date