

July 9, 2021

MEMORANDUM

To: Governance and Education Committee
From: Lish Whitson, Analyst
Subject: Council Bill 120120: Returning Public Records Officers to the Civil Service

On July 13, 2021, the Governance and Education Committee will consider [Council Bill \(CB\) 120120](#), which would return five Public Records Officers (PROs) to the civil service. These officers each respond to public records requests for the records of the City’s elected officials: two positions in the Office of the Mayor, two positions in the Legislative Department and one position in the Law Department.

After the Executive Director of the Ethics and Elections Commission published [findings](#) in response to a complaint under the Whistleblower Protection Code, Council President González and City Attorney Holmes identified a need to provide more independence to PROs. By returning these positions to the civil service, they would be able to remain in their positions when new officials are elected. The PROs affected by this legislation would have the right to progressive discipline, just cause termination, and opportunities to appeal personnel actions and decisions related to discipline and alleged violations of personnel rules, laws and policies. Hiring of these PROs would need to follow personnel rules providing for appointment “based on relative ability, knowledge and skills, without regard for political beliefs or activities” (Personnel rules [4.1.2](#) and [4.2.2](#)).

This memorandum discusses the role of public records officers and provides background on civil service.

Public Records Officers

The Washington State Public Records Act (Revised Code of Washington (RCW) [Chapter 42.56](#)) requires that “each agency... shall make available for public inspection and copying all public records...” unless they fall under a stated exemption ([RCW 42.56.070](#)). Public records include “...any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function...” ([RCW 42.56.010](#)). Each state and local agency is required to appoint a public records officer “whose responsibility is to serve as a point of contact for members of the public in requesting disclosure of public records and to oversee the agency’s compliance with the public records disclosure requirements [of the PRA]” ([RCW 42.56.580](#)).

The City of Seattle has adopted rules and regulations related to public records in Chapter 3.104 of the Seattle Municipal Code (SMC) and Multi-Departmental Administrative Rule [MDAR 17-002](#).

The Office of the Mayor currently has two Strategic Advisor 2 – Exempt positions that serve as PROs for the Mayor and other members of her office. The Legislative Department currently has one Strategic Advisor – Legislative position and one Paralegal position within the Office of the City Clerk that serve as PROs for the City Council and other functions in the Legislative Department. The Law Department has one Strategic Advisor 2 position in its Civil Division that serves as PRO for the City Attorney’s Office, additional staff in the Law Department support their work. These PROs work with elected officials and their staff to respond to public records requests for their respective departments. By being part of these offices, the PROs have better access to records and are more easily able to work closely with elected officials and their staff to clarify how records relate to specific requests.

Civil Service

Article XVI, Section 3 of the Seattle City Charter sets up a [civil service system](#). The purpose of the civil service system is to administer personnel policies and regulations using a merit-based system, including “Assurance that employees are protected from coercions or importuning for political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of any election or nomination for office” ([Article XVI, Section 4](#)). The civil service system does that, in part, by allowing appeals of adverse personnel decisions to the [Civil Service Commission](#).

According to the Charter, “All City employees shall be members of the civil service except elected officers, persons holding appointive offices established by this Charter, assistant City Attorneys, heads of departments and members of boards and commissions created by this Charter or by ordinance. Additional positions may be exempted by ordinance approved by a two-thirds vote of the City Council” (Article XVI, Section 3). [SMC Chapter 4.13](#) lists the categories of employees who are exempt from civil service, including all employees in the Office of the Mayor and most employees in the Legislative and Law departments. Council Bill 120120 would return the five PDOs working for those departments and their incumbents to the civil service.

[Personnel Rule 2.2](#) provides further guidance regarding exemptions from the Civil Service. This rule provides that “movement of a position from an exempt designation to the classified service shall be treated as a reallocation. A selection process shall be required to fill the reallocated position.” That selection process may involve the Department of Human Resources reviewing the qualifications of the incumbent employees rather than a new hiring process.

Next Steps

If the committee recommends approval of CB 120120 at its July 13 meeting, it could be considered by the City Council as early as July 19.

cc: Dan Eder, Interim Director
Aly Pennucci, Policy and Budget Manager