



Legislation Text

File #: CB 119374, Version: 2

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to the organization of City government; creating an Office of the Employee Ombud; and adding Sections 3.15.020, 3.15.022, and 3.15.024 to the Seattle Municipal Code.

WHEREAS, The City of Seattle (“City”) is committed to providing every City employee a safe and respectful workplace where they can do their best work in serving the residents of Seattle; and in order for this to happen the City must recognize employees’ inherent dignity, and provide safe work environments free of intimidation, as well as consistent and equitable processes for addressing their concerns; and

WHEREAS, acts of discrimination and harassment have a harmful impact on the individuals involved, their workplace culture, and the City as a whole. Although the City has instituted training, prevention, reporting, and investigation processes to address and prevent workplace discrimination and harassment at the City, some current and past employees speak of and have experienced workplace cultures impacted by discrimination and harassment based on race, gender, sexual orientation, or other protected class status, including intimidation, mistreatment, exclusion, invisibility, and hostility; and

WHEREAS, the City formed an Anti-Harassment Interdepartmental Team (AH IDT) in 2018 to review the City’s current practices of responding to and preventing workplace discrimination and harassment. Based on Race and Social Justice Initiative survey results, employee focus group sessions conducted by the Seattle Office for Civil Rights regarding harassment in the City, and the U.S. Equal Employment Opportunity Commission (EEOC) 2016 Select Task Force recommendations, the IDT made a set of holistic recommendations and proposed strategies to shift workplace culture to create a more

welcoming, inclusive, and safe work environment where everyone can do their best work; and

WHEREAS, the AH IDT's July 2018 report, *Addressing and Preventing Workplace Harassment and Discrimination*, describes their methodology and analysis, and provides 34 recommendations with a ranking as needing immediate, mid-term, or long-term implementation; and

WHEREAS, the AH IDT recommended the City create an independent ombuds function that would be rooted in racial equity and social justice, be able to respect employee confidentiality and anonymity, review and recommend replacements to the existing City response to harassment allegations, and have independence and

WHEREAS, based on consideration of the AH IDT's recommendations, the Mayor proposes that the Council create a new Office of the Employee Ombud (OEO) that would:

1. Provide neutral and impartial assistance and navigation to all City employees seeking to access City resources to make, respond to, or resolve allegations of workplace harassment, discrimination, or other misconduct;
2. Operate independently from the Seattle Department of Human Resources, the Office for Civil Rights, and individual departments' human resources staff; and
3. Provide recommendations to the Mayor and City Council on improving the City's Personnel Rules, complaint and investigations systems, workplace expectations, and other applicable City processes and systems; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Sections 3.15.020, 3.15.022, and 3.15.024 are added to the Seattle Municipal Code as follows:

Office of the Employee Ombud

3.15.020 Office of the Employee Ombud-Created

There is created within the Executive Department an Office of the Employee Ombud (OEO). To promote

transparency, the OEO will concurrently provide any reports and requested data, to the City Council and the Executive. The OEO shall be free of undue influence by elected officials or other reporting authorities.

3.15.022 Office of the Employee Ombud-Functions

A. The mission of the Office of the Employee Ombud (OEO) shall be to:

1. Assist individual City employees, in all branches of City government, in understanding and assessing options and resources for addressing concerns about or claims of workplace conduct that may be inappropriate; a violation of the City's Personnel Rules, City policies, or workplace expectations; or constitute harassment, discrimination, or retaliation; and

2. Provide analyses and recommendations of policy and rule changes needed to address departmental or system-wide inefficiencies and in-person training to prevent workplace discrimination and harassment in City employment.

B. The OEO will assist City employees in understanding their options but is not authorized to provide legal advice, and it will ultimately be the responsibility of the City employee to decide what, if any, option to pursue. The OEO shall be authorized to perform the following functions:

1. Assist individual City employees, in all branches of City government, in assessing their concerns about workplace conduct that may:

a. Constitute harassment, discrimination, or retaliation; and/or

b. Contravene the City's Personnel Rules, Citywide workplace expectations, and other City policies; and/or

c. Be considered inappropriate, although it may not meet the legal definition of harassment, discrimination, retaliation, or a violation of a specific City policy.

2. Assist individual City employees in understanding and assessing their options for addressing these concerns, including but not limited to:

a. The City's processes and systems for reporting, investigating, and addressing

workplace conduct concerns;

b. The City's Alternative Dispute Resolution Program;

c. If represented by a labor organization, how to contact their representative to discuss their options; and

d. Seeking remedies through State or Federal agencies, and/or a private legal action.

3. Facilitate discussions to break down miscommunication, or to address actions that may be inappropriate and/or contravene the City's Personnel Rules, City policies, or workplace expectations that may have led to City workplace conflict, including, but not limited to, dispute resolution where appropriate and desired. These discussions may include representation for union employees and may include a party to provide emotional support if requested.

4. Provide referral services, as needed, to programs including but not limited to the Employee Assistance Program (EAP).

C. The OEO will submit an Implementation Plan to the Mayor and City Council by the end of the second quarter of 2019 and shall address at a minimum how the OEO plans to:

1. Maintain data on the number, types, and outcomes of complaints and inquiries the OEO receives;

2. Maintain and communicate employee confidentiality;

3. Include recommendations, in consultation with the Anti-Harassment Interdepartmental Team (AH IDT), or subsequent oversight body, pertinent labor organizations, and key stakeholders, to provide oversight of the OEO, including, but not limited to, a role in the drafting of recommendations and analyses of policy and rule changes needed to address departmental or system-wide inefficiencies;

4. Develop a written disclaimer notifying City employees that their consultation with the OEO does not constitute the filing of a complaint or legal action; that the OEO, while providing information and assistance, is not providing legal advice; and that the decision of what option the City employee chooses to

pursue is the decision of the City employee;

5. Recommend to SDHR the incorporation of in-person trainings to prevent workplace discrimination and harassment in City employment upon hire and on a routine basis;
6. Coordinate with the City's contracted EAP for appropriate emotional assistance and consultation referrals;
7. Review current structures in the City of Seattle to address racial and sexual harassment and recommend changes needed to the Seattle Municipal Code to accomplish these recommendations. These recommendations shall include an evaluation of the best placement of investigations to address barriers to reporting and underreporting.
8. Review the structure of the OEO as an independent office so that the OEO is free from undue influence by elected officials or any other reporting authority.

D. The OEO shall concurrently provide an annual report to the Mayor's Office and the City Council's Housing, Health, Energy and Workers' Rights (HHEWR) committee or the committee with oversight of OEO, by March 31 of each year, beginning in 2020. The annual report shall be developed in consultation with the AH IDT, or subsequent oversight body, pertinent labor organizations, and key stakeholders and address any issues that may extend beyond the experience of individual employees and have a broader, systemic impact on the City, including, but not limited to:

1. Recommendations to improve the City's Personnel Rules, complaint and investigations systems, including but not limited to, considering the best placement of investigations to address barriers to reporting and underreporting, workplace expectations, and other applicable City processes and systems;
2. Recommendations on training, specifically for live, in-person training;
3. Information on patterns of inappropriate workplace conduct,
4. Recommendations on systemic changes to truly root all City workplaces in racial equity and social justice.

E. The Mayor and Council committee will respond to recommendations in the OEO annual report within 120 days of the receipt of the report. Their written responses to the recommendations should identify any:

1. Policies or legislation the committee intends to put before the City Council for approval;
2. Further information the committee or Mayor would like from the OEO
3. Alternatives the committee or Mayor would like the OEO or AH IDT to develop;
4. Recommendations that the Committee intends to reject or consider on a longer timeline,

and the reasons therefor.

3.15.024 Director of the Office of the Employee Ombud

A. Appointment, term, and removal. The Director of the Office of the Employee Ombud (OEO) shall be appointed by the Mayor, subject to consultation with key stakeholders and subject to confirmation by a majority vote of City Council. The Director may be removed by the Mayor upon filing a statement of reasons therefore with the City Council.

B. Duties. The Director of the OEO shall be the head of the OEO, shall be responsible for the administration of the OEO, and shall:

1. Develop and manage all functions and responsibilities of the OEO.
2. Hire, supervise, and discharge OEO staff.
3. Provide input to the Mayor and City Council on the performance of the OEO and

recommend process improvements to better serve employees.

Section 2. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2018, and signed by me in open session in authentication of its passage this _____ day of _____, 2018.

President _____ of the City Council

Approved by me this _____ day of _____, 2018.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2018.

Monica Martinez Simmons, City Clerk

(Seal)