



CITY OF ALBUQUERQUE CITY COUNCIL

TO: Marisa C. Vargas, City Auditor
Peter Pacheco, Interim Inspector General

FROM: Brook Bassan, Council President

SUBJECT: Request for Immediate Review of City Attorney Conduct and Compliance with Conflict-of-Interest Requirements in *Mayor v. City Council* Litigation

DATE: December 12, 2025

Pursuant to Article V, Section 4(e)(3) of the City of Albuquerque Charter, the Albuquerque City Council respectfully requests that the Office of Internal Audit and the Office of the Inspector General initiate an immediate independent review of the conduct of City Attorney Lauren Keefe in connection with her involvement in litigation initiated by the Mayor against the City Council. (D-202-CV-2025-02459; ICC 01-2025; and LB-25-07, including respective appeals, collectively referred to as “*Mayor v. City Council* litigation”).

Upon information and belief, City Attorney Lauren Keefe, who, by law, serves as attorney to both the Mayor and the City Council, participated in litigation against the City Council, despite the existence of an acknowledged and disqualifying conflict of interest. If substantiated, this conduct would constitute a violation of City law, City Charter, and the Rules of Professional Conduct, undermine the integrity of the City’s legal representation, and establish cause for removal from office.

Role and Legal Obligations of the City Attorney

The City Attorney provides legal representation and legal advice to the City of Albuquerque, including both the Mayor and the City Council. “The City Attorney, both personally and through his or her assistant city attorneys, shall represent the city in the courts. He or she shall also advise the Mayor and the Council as to legal matters.” ROA 1994, § 2-7-2-2. The City’s Code of Resolutions further specifies that “The City Attorney is the legal advisor of the City Council.” COR, § 3-2-5(B). When requested, the City Attorney “shall render advice on all legal questions affecting the city.” *Id.*

However, the City Attorney’s dual-role as attorney to both the Mayor and City Council is not absolute. The City Attorney may decline to represent both the Mayor and the Council when “the legal positions of the parties are in conflict.” *Id.*, (E). City Ordinance requires the retention of outside counsel when conflicts arise. The City Attorney must retain outside counsel when “there

is a conflict of interest within the Legal Department that ethically requires outside counsel to be used.” ROA 1994, § 2-7-2-5(A)(1).

The City Charter also mandates recusal in separation of powers disputes. When a conflict between the Mayor and the City Council is brought before the Intragovernmental Conference Committee (“ICC”) for resolution, “[t]he City Attorney shall not participate as either an advocate before or advisor to the [ICC].” City of Albuquerque Charter, Art. XIX. Consistent with this prohibition, neither the Mayor nor the City Council may rely on any city employee working within the office of the City Attorney to present their positions in ICC proceedings. ROA 1994, § 2-16-5(G). Together, these provisions reflect a clear and deliberate intent to require the City Attorney’s complete withdrawal from intra-governmental disputes once adversity arises.

The Rules of Professional Conduct independently prohibit a lawyer from representing a client when doing so creates a concurrent conflict of interest, either because the clients’ interests are directly adverse or because the lawyer’s representation of one client is significantly limited by their duties to another client. Rule 16-107(A) NMRA. A lawyer may only proceed if: (1) they reasonably believe they can competently and diligently represent all affected clients; (2) the law does not prohibit the representation; (3) the representation does not involve one client asserting a claim against another client in the same proceeding; *and* (4) all affected clients give informed, written consent. *Id.*, (B).

Background

On February 28, 2025, Councilors Lewis and Baca sponsored and introduced Resolution R-25-122, which sought to protect public health and safety of the residents of the City of Albuquerque by establishing a policy requiring at least two paramedics on Albuquerque Fire Rescue (“AFR”) medical rescue vehicles. On March 3, 2025, the Mayor’s outside counsel, Modrall Sperling, filed a Prohibited Practices Complaint (“PPC”) with the City’s Labor Board alleging the sponsoring Councilors interfered with labor negotiations.

Later that same day, during City Council deliberations on R-25-122, City Attorney Lauren Keefe was asked to provide her legal opinion and advice to the City Council.

Before advising the Council, Ms. Keefe said: *“I just want to make a few preliminary comments first. One is that I will not speak to any issue related to the PPCs that were filed today. When there is an action by the Administration against a Councilor, I will not be involved. Number two, I cannot speak to any issue related to the policy question before this Council, related to who has a better proposal for a staffing arrangement for apparatus. And number three, I did want to make clear, any member of Council can request my opinion on any question, and that has happened in the past, and I have given that opinion without consultation with the Administration. This resolution came in at 5:00 on Friday, the Administration asked for my analysis, and I gave them my analysis.”* (March 3, 2025 City Council Meeting, 3:32:18).

Ms. Keefe provided legal advice to the Council related to the proposed resolution on multiple occasions throughout the meeting.

1. Ms. Keefe advised that the resolution could fall within Council’s authority regulate safety and elaborated on a quote from the City Charter provided by Councilor Lewis. *Id.*, 3:47:04.

2. Councilor Champine asked Ms. Keefe to provide an analysis of the separation of powers question, distinguishing R-25-122 from prior staffing resolution. *Id.*, 4:13:21.
3. Councilor Fiebelkorn asked Ms. Keefe to advise whether approving the resolution would set a precedent. *Id.*, 4:33:11.
4. Ms. Keefe provided clarification on a prior comment made by Councilor Rogers. *Id.*, 4:34:51.
5. Councilor Peña asked Ms. Keefe to advise regarding the option to reopen negotiations with the Union as an alternative to the proposed resolution. *Id.*, 4:54:50.

Mayor v. City Council Litigation

In response to the Council’s 7-2 vote to adopt R-25-122, Mayor Tim Keller initiated multiple legal actions against the City Council to challenge the validity of the resolution, including:

1. An amended Prohibited Practices Complaint with the Labor Board, naming the seven City Councilors who voted to approve R-25-122, filed on March 7, 2025;
2. A district court action for Declaratory Judgment and Injunctive Relief, naming the City Council as defendant, filed on March 14, 2025; and
3. An ICC proceeding challenging R-25-122 under the doctrine of separation of powers, filed on April 1, 2025.

In each of these matters, the Mayor and the City Council are directly adverse. Accordingly, both the Mayor and the City Council retained conflict counsel to represent them in the *Mayor v. City Council* litigation.

The City Council’s outside counsel agreement with Bardacke Allison Miller LLP was signed by the City Attorney on April 21, 2025. The agreement states that “due to the nature of the complaint, the City Attorney is conflicted from this matter,” requires outside counsel to provide legal representation and other legal services “in conjunction and association with the City Council’s General Counsel,” and pleadings such as briefs and motions must be submitted to the City Council’s General Counsel for review and approval prior to filing.

In contrast, the Mayor’s outside counsel agreement with Modrall Sperling, signed by the City Attorney on May 1, 2025, requires the Mayor’s outside counsel to work “in conjunction and association with the City Attorney,” and mandates City Attorney review and approval of pleadings.

Issues Requiring Investigation

The following claims are based on the conduct the Council believes to have occurred, and which warrant immediate review by the Office of Internal Audit and the Office of the Inspector General.

1. The City Attorney serves as legal counsel to both the Mayor and the City Council.
2. The City Attorney is prohibited from representing either client when their legal positions are in conflict.
3. The City Attorney acknowledged the existence of such a conflict in the *Mayor v. City Council* litigation.
4. Upon information and belief, despite this acknowledgement, the City Attorney contractually obligated herself to participate in litigation against the City Council.
5. Upon information and belief, despite the existence of a concurrent conflict of interest, the City Attorney, both personally and through members of the Office of the City Attorney,

participated in all three proceedings comprising the *Mayor v. City Council* litigation: (1) the Prohibited Practices Complaint before the City's Labor Board (LB-25-07); (2) the district court action for declaratory judgment and injunctive relief (D-202-CV-2025-02459); and (3) the separation-of-powers proceeding before the Intragovernmental Conference Committee (ICC 01-2025).

6. Upon information and belief, the City Attorney and members of her office participated in meetings, strategy sessions, document review, drafting, and redlining of pleadings filed against the City Council.
7. Upon information and belief, such participation occurred despite the City Attorney's acknowledged conflict of interest and the direct adversity between the Mayor and the City Council in each proceeding.
8. Upon information and belief, this participation occurred without disclosure, waiver, or informed written consent by the City Council.

Request for Investigation

Taken together, the foregoing raises serious and substantial concerns regarding the City Attorney's compliance with City law and the Rules of Professional Conduct. The City Council submits this request to ensure accountability, preserve the integrity of the City's legal department, and prevent the recurrence of similar conflicts in the future.

The Albuquerque City Council respectfully requests that the Office of Internal Audit and the Office of the Inspector General:

1. Initiate an immediate review of the City Attorney's actions related to the *Mayor v. City Council* litigation;
2. Evaluate the City Attorney's compliance with all applicable Charter provisions, ordinances, resolutions, and Rules of Professional Conduct;
3. Determine whether cause exists to remove the City Attorney from office, pursuant to Article V, Section 4(e) of the Albuquerque City Charter;
4. Retain independent legal counsel due to the inherent conflict of interest presented; and
5. Provide findings and recommendations to the City Council and the Mayor as soon as possible.

Because this matter has significant implications, the City Council asks that the Office of Internal Audit and Office of Inspector General accord this investigation the highest priority. Should additional budgetary or resource support be necessary to conduct a thorough and independent review, the City Council requests that such needs be communicated through the Director of Council Services.

The City Council further requests that an update on the intended course of action be transmitted to the Director of Council Services no later than December 22, 2025. The City Council appreciates your prompt attention to this matter of substantial public importance.