Office of Human Resources
201 W. Colfax Ave., Dept. 412
Denver, CO 80202
p: 720.913.5751
f: 720.913.5720
www.denvergov.org/humanresources

Career Service Board Meeting #2411
Minutes
Thursday, June 16, 2022, 9:00am
201 W. Colfax Ave, First Floor, Career Service Hearings Office

David Hayes, Co-Chair
Patricia Barela Rivera
Erin Brown
Karen DuWaldt - Absent
LaNee Reynolds - Absent

I. Opening: *The meeting was called to order at 9:02am by Board Co-Chair David Hayes. Members of the Career Service Board present were Patricia Barela Rivera and Erin Brown, in addition to Bob Wolf, Sr. Asst. City Attorney to the Board, and Kathy Nesbitt, Executive Director, Office of Human Resources ("OHR").*

1. **Approval of the Agenda for the June 16, 2022 Board Meeting.**
   Board Member Erin Brown made a motion, seconded by Board Member Patricia Barela Rivera, to approve the agenda for the June 16, 2022 meeting, which was approved unanimously by the Board.

2. **Approval of the Minutes for the May 19, 2022 Board Meeting.**
   Board Member Erin Brown made a motion, seconded by Board Member Patricia Barela Rivera, to approve the minutes for the May 19, 2022 meeting, which was approved unanimously by the Board.

II. Board Comments: *None.*

III. Public Comments: *None.*

IV. Public Hearing:

1. Public Hearing Notice No. 667 – Proposed Revision to CS Rules 7-34 and 9

   Shelby Felton, Sr. Asst. City Attorney, presented Public Hearing Notice No. 667, noting the proposed revision to CS Rule 7-34 will be postponed to the July Career Service Board meeting as there is additional review needed.

   Ms. Felton introduced changes to CS Rule 9-65- Working Out of Class. The current rule provides employees can work out-of-class up to a year, but due to the Colorado Equal Pay Act, this has been changed to six months.

   The revision will amend the rule to six months and there will be very limited exceptions for an employee to work out of class for up to a year. The Colorado Equal Pay Act language has also been added to the current rule.

   Board Co-Chair David Hayes asked what the approval process is for an employee to work out of class. Ms. Felton explained a manager may request an employee assume an out-of-class assignment for an open vacancy at a higher level. However, if an exception is needed for longer than six months, not to exceed one year, the request must be submitted to the OHR Executive Director and City Attorney's Office for approval.

Mr. Hayes asked if there is a record of employees working out-of-class. Suzanne Iversen, Director of Employee Relations & Compliance, replied this is tracked in Workday, which can provide reports for compliance purposes. Ms. Felton further stated the city is working to make sure all current out-of-class assignments are compliant with the Colorado Equal Pay Act by year-end.

Board Member Patricia Barela Rivera asked how many positions are currently working out-of-class, to which Ms. Iversen noted is 48.

Board Member Erin Brown asked how the current staffing shortage is being taken into consideration and whether it will help to keep shifting employees around for a maximum of six months.

Ms. Felton explained the law requires a six-month period, however, there will be situations where the Board will be asked to waive the requirement, which could present a risk to the city will be in violation of the requirement.

For example, the City Engineer position must be occupied per the Charter. Currently Adam Phipps is the appointing authority for DOTI and no longer serves in the Senior Engineer classification. An employee is currently working out-of-class in the position, which must be filled at all times. Therefore, there is some juggling the city will need to do in these examples.

Ms. Brown asked if there are penalties for non-compliance, to which Ms. Felton replied in the affirmative.

With no further questions, Board Member Patricia Barela Rivera made a motion, which was seconded by Board Member Erin Brown, to approve the revision to Career Service Rule 9-65, which was unanimously approved by the Board.

Ms. Felton introduced a new, temporary Career Service Rule 9-100-Retention Bonus. The purpose of this temporary revision is to assist agencies with staffing shortages occurring as a result from the Covid-19 pandemic and the Great Resignation, which has caused a decline in the provision of essential city services and will remain in effect until December 31, 2023.

The retention bonus program was developed to work as one strategy, along with the currently available recruitment bonus, to alleviate a temporary problem. The bonus is not intended to resolve recruiting problems that existed before the pandemic for certain difficult-to-fill positions. Agencies will cover the cost with vacancy savings or other budget offsets.

The recruiting bonus is not meant to address cost-of-living increases or job market competition. The Rules provide the city with the ability to provide counter offers if an employee has received an external offer to consider. The Rules also provide an existing mechanism to address pay concerns through job audits and pay equity reviews.

All retention bonus requests require the approval of the agency appointing authority and the OHR Executive Director. The bonus is up to a maximum of $5,000 and payable by the end of the retention period. The bonus may be payable in different periods; for example, 50% after six months, and the other half at the very end of the retention period.

The criteria for receiving the retention bonus includes a review of current recruiting efforts, turnover rates, and job offer acceptance rates. In addition, the team will identify if the position affects essential services, desirability of the duties, and existing openings in the agency.

Employees will be required to meet certain criteria to be eligible to receive a bonus, including no disciplinary action in the last twelve months and an acceptable performance review rating. The payment can be forfeited if during the retention period the employee receives a suspension, has a temporary reduction in pay, is terminated, or has an involuntary demotion.

Employees forfeit the bonus if leave without pay is taken for two weeks or more, whether consecutive or intermittent, or if the employee retires, promotes, transfers, works out-of-class, or voluntarily demotes.

Mr. Hayes asked for clarification as to why working out-of-class requires forfeiture. Ms. Felton replied if the employee is working out-of-class, they are not performing in the position the city needs them to perform.

For example, if a solid waste driver works out-of-class in a supervisor role, and the city is short solid waste drivers, the employee cannot move to the management position without adding to the shortage of solid waste drivers, which defeats the purpose of paying a retention bonus.

Mr. Wolf stated this provision for working out-of-class employees sounds unfair. Ms. Felton noted when employees typically work out of class, they are already getting a pay differential. Mr. Wolf asked how the process is initiated.

Ms. Felton stated the process is initiated by the agency appointing authority. The appointing authority informs their HR Business Partner they have issues with filling a certain classification and need to ensure current employees remain in these jobs. The HR Business Partner will then assist the agency with drafting a proposal for review and approval by OHR.

Mr. Wolf used the example of 100 employees at DHS doing a particular job and the agency is already short-staffed and do not want to lose people. How will it be handled if the agency decides to offer everyone a retention bonus in a particular classification, or will the agency be required to cherry-pick the request.

Ms. Felton stated employees would have to be selected based on their institutional knowledge and job proficiency. Ms. Felton used the example of an employee with 15 years of institutional knowledge would be a good prospect for the retention bonus.

Kathy Nesbitt, Executive Director of OHR, stated that while an agency could request a bonus for 100 employees, not all employees would not necessarily receive the maximum amount of $5,000. An agency could choose to give certain employees $500 to stay for six months, and then $1,000 to stay an additional year in a measured campaign to reduce turnover. Employees can be selected to receive a bonus or agencies can choose to include everyone.

Mr. Wolf stated his concern about possible inequity issues or discrimination claims with employees claiming arbitrary treatment in the selection process, with some receiving a bonus, while others did not, or, claiming someone received a higher amount than they received.

Ms. Felton stated this concern was discussed and this is why OHR is required to review all requests and consult with the City Attorney's Office, if there is any question of inequity or discrimination concerns.

Ms. Iversen commented there may be a possible increase in grievances, however, OHR is committed to thoroughly reviewing each request and challenging the agency appointing authority if the rationale and methodology seems arbitrary or unfair.

Mr. Hayes asked if any grievances regarding the retention bonus are received by OHR, to which Ms. Iversen replied in the affirmative. Career Service employees have the ability to file a grievance for any Career Service Rule violation they feel have impacted them adversely.

Mr. Hayes expressed support for the positive intent of the bonus program but expressed concern there will be challenges. Mr. Hayes noted OHR will have to be very proactive in how the program is managed.

Mr. Hayes asked about what the criteria will be for essential jobs, and whether it will be publicly disclosed, or a moving target in terms of what jobs are really difficult to recruit in any particular timeframe. Ms. Felton responded that essential jobs mean essential city services. An example would be Solid Waste Drivers is an essential service.

Mr. Hayes asked if the qualifying positions are exempt or non-exempt, and if the city is factoring in overtime pay in calculating the bonus. Ms. Felton stated hourly positions are included and overtime will be calculated across the retention period.

Ms. Nesbitt commented the committee that created this program was concerned about opening up Pandora's box and wondered how the program would be fairly managed.

Ms. Nesbitt stated the city has to be innovative and creative in terms of retaining employees and provide incentives for staying in critical roles. Having the program be effective through December 2023 will provide an opportunity to see how the bonus works and whether there are potential abuses. There is always the opportunity to come back and modify the rule if necessary.

Mr. Hayes asked if the Mayor's Office is required to approve the requests. Ms. Felton stated the Mayor's Office wants to ensure the program is fiscally responsible, however, their approval is not required. Ms. Nesbitt will keep the Mayor's Office apprised as to how the program is working.

Mr. Hayes asked what other programs OHR works with the Mayor's Office on, to which Ms. Nesbitt noted the example of exceptions to the mayoral mandate of working in-office two days per week by working 100% remotely.

Mr. Hayes asks if the bonus is separate from the base salary or included in the base salary for purpose of calculating overtime. Ms. Felton stated it will be considered part of the base salary and overtime pay is calculated for the retention period.

Mr. Hayes thanked everyone for the amount of considerable thought that went into creating the retention bonus program and for providing additional clarification and excellent overview.

With no further questions, Board Member Erin Brown made a motion to approve Career Service Rule 9-100, which was seconded by Board Member Patricia Barela Rivera, and unanimously approved by the Board.

Shelby Felton introduced another new, temporary rule Career Service Rule 9-101-Commute Stipend, which is designed to temporarily assist employees with transportation challenges. These challenges include reduced bus routes, rising gasoline prices, and parking costs.

This rule will be effective July 1, 2022 through December 31, 2022. Eligible employees include full and part-time employees, who will receive either a monthly stipend, depending on office location and whether free parking is available, or a free EcoPass.

On-call employees are not eligible for the free EcoPass due to the contract between RTD and the city, however, they can receive the monthly commute stipend. The amount of the monthly stipend is variable based on the employee's location and income, similar to the tiers used for determining furlough days.

In terms of employee's location, employees at the Webb Building have a higher stipend than employees located at the Castro Building because Castro-based employees have free parking. The tables note three tiers by salary range, while location tiers are broken down by locations with free parking and those without free parking.

Ms. Nesbitt commented the city has been working on commuting issues for some time now with the requirement that employees report to the office in-person two days per week.

Ms. Nesbitt stated offering this stipend is very timely in terms of what employees are experiencing, given that employees are being asked to come into the office two days a week, and noted she feels the city is doing something to relieve some of the pressure employees are feeling.

Ms. Felton noted the stipend will be taxable income and is automatically paid to employees. However, if an employee wants a free EcoPass, they will have to sign up and obtain a new pass.

Ms. Brown asked what the financial impact is to the city to provide the commute stipend, to which Ms. Felton stated it is negligible in terms of the EcoPass because it is already covered by dollars that are received, hence why the program is effective to the end of 2022. Thereafter, RTD fares will likely increase.

Jessica Skibo, Department of Finance Senior Budget Analyst, stated it will cost approximately $3.5 million for six months to provide the commuter stipend. Ms. Brown clarified if the city is only considering providing the stipend for six months, to which Ms. Skibo replied in the affirmative.

Ms. Brown asked if the city has plans to consider providing a commuter stipend in 2023, to which Ms. Felton and Ms. Skibo replied it has not been discussed at this time.

Mr. Hayes commented the stipend is likely to be popular and employees will ask for it to be a permanent benefit. Ms. Brown adds she understands the financial limitations and is hopeful bus routes and light rail issues will continue to be restored by the RTD.

Ms. Felton noted the city has been in continuous discussion with RTD about increasing their routes in 2023. Ms. Skibo adds BMO is addressing the issue in its current state and will reassess as part of the 2023 budget process with the Mayor's Office.

Mr. Hayes asked if the commute stipend falls in the category of a benefit, to which Ms. Nesbitt replied in the affirmative. Heather Britton, Director of Benefits & Wellness, commented the city is calling it a transitional type benefit until RTD can restore its full pre-pandemic bus and train schedules.

Ms. Patricia Barela Rivera asked how many employees are using the EcoPass at present, to which Ms. Britton responded 2,300 employees. Ms. Britton noted the total number decreased due to the pandemic and is now gradually going back up.

Ms. Brown asked what the number was pre-pandemic, to which Ms. Britton responded about 2,700 employees, noting the EcoPass participation level has never been robust.

Ms. Brown commented she appreciated everyone's hard work on today's public hearing notices. While these initiatives are innovative, some are also risky for the city, but reflect the right thing to do for employees. Ms. Brown is very pleased to see the equitable approach used in working on all of these issues.

With no further questions, Board Member Patricia Barela Rivera made a motion, which was seconded by Board Member Erin Brown to approve Career Service Rule 9-101, which was unanimously approved by the Board.

Ms. Felton noted to everyone present in the Hearing Room that she received notice of a possible security threat outside the building. Someone in the audience noted there was a report of a man outside the building holding a gun.

Ms. Nesbitt excused herself to go speak with building security and Mr. Hayes asked if everyone was comfortable continuing the meeting. Those present agreed they were comfortable to continue.

Kathy Nesbitt returned to the hearing room stating the Webb building was on lock-down and considered secured.

2. <u>Public Hearing Notice No. 668 – 2023 Employee Health Insurance</u>

Heather Britton introduced Public Hearing Notice No. 668 - 2023 Employee Health Insurance Changes. Mr. Hayes asks if the board is required to approve these changes.

Ms. Britton noted the Charter requires the Board to conduct a public hearing for any benefit changes, but does not have the authority to accept, reject or modify the proposed changes. The Board and any employees are allowed to ask questions upon the completion of the presentation.

The Denver Revised Municipal Code provides an Employee Health Insurance Committee is appointed by the Mayor and consists of nine members. The committee is responsible for choosing benefits for the Career Service current and retired employees, as well as retirees under 65 years of age, police active and retired employees, and the deputy sheriffs. The Mayor must approve the Committee's recommended changes from a budgetary standpoint.

The ordinance requires certain representation on the committee, including two seats for the Police, two seats for the Deputy Sheriffs, one appointee from the City Council, and a representative from the Denver Employees Retirement Plan. The purpose of this broad array of city employees on the committee because they pick benefits for employees citywide. Ms. Britton noted city benefits have not changed since 2018.

Ryan Brand, Career Service Hearing Officer, came into the room and asked everyone to shut off all the lights and move away from the windows until the all-clear was received from Security. After receiving the all-clear at 9:55am, the Board resumed the meeting.

Ms. Britton noted the first change is the elimination of the Denver Health Medical Plan ("DHMP"). This was at the request of Denver Health as the City was the only remaining commercial client of the Plan and Denver Health wanted to focus on their own employees as a self-insured administrator, in addition to their Colorado Marketplace, Medicare Advantage and Medicaid Choice plans.

All of DHMP's medical providers are participating in the United Healthcare network under the high deductible health plan ("HDHP") option. The OHR Benefits Team will work with DHMP covered employees to select other options, which totals approximately 700 employees, representing less than 10% of the city's enrolled population.

The next change under the HDHP Plans with Kaiser and United Healthcare is an increase in the deductibles, the minimum amount of which is set by federal law. Federal law requires the minimum deductible amount to be $1,500 in 2023.

Premiums are also increasing in 2023, which is the first increase since 2018. In 2020 and 2021, while there were a lot of covid-related claims, many employees and their families delayed care, which resulted in a substantial reduction in overall spend.

All of our insurers are now seeing higher claims for the delayed care this year, which is expected to continue into 2023. Premiums will increase by 5.6% for United Healthcare and 13% for Kaiser. The other reason for higher premiums is due to the Colorado state law requirement to provide infertility treatment to our benefit packages, which represents .5 to 1% portion of the increases.

Board Co-Chair David Hayes asked if the increase is an anticipation of possible higher claims in infertility treatment coverage, to which Ms. Britton replied in the affirmative.

Mr. Hayes asked if it is the city's benefit strategy to offer both a high deductible and an HMO plan, or part of a requirement.

Ms. Britton stated the city has gone through a transition in recent years. In the past, the city offered HMO Plans only and the advantage was employees had very low co-pays at point-of-service, but this was offset by the extremely expensive premiums paid.

The only advantage to these plans was employees who used a lot of health care paid less at the point-of-service due to the low co-pays. However, if employees rarely used health insurance, they paid a huge premium subsidizing the more expensive employees who used more medical care.

The Affordable Care Act also considered our HMO Plans to be "Cadillac Plans", which meant the city would be required to pay penalties in addition to the premiums paid, necessitating the city shifting the medical plans to lower-cost options.

The first response was to introduce Deductible HMO Plan ("DHMO"). The DHMO has co-pays and deductibles and reduced the city's Cadillac tax penalty threshold. The next response was to introduce the High Deductible Health Plan ("HDHP"), which has deductibles and is paired with a Health Savings Account ("HSA").

The deductible employees have to pay before insurance begins covering is increasing to $1,500 next year, from the current $1,450, because of the federal minimum. If you enroll dependents under the HDHP, meaning the employee and one or more dependents, the family deductible is $3,000.

The advantage in the family deductible is all expenses counts toward the other members that are enrolled in that family plan. If one person enrolled reaches the $3,000, then it counts toward all other family members that are enrolled in that family HDHP. The family deductible is currently $2,900 and has been flat since 2018.

Once the deductible is met, the insurer covers 80%, with the employee covering 20%, until the out-of-pocket maximum is reached, which for an individual will be $3,000, and $6,000 for families. The city also contributes to the employee's HSA account by matching up to $300 for individual coverage, and $900 for families. The contributions from the city to the HSA will not change in 2023.

The city's Wellness Initiative also contributes up to $600 to the employee's HSA account if the employee is enrolled into the HDHP and meets the wellness requirements of the program.

Mr. Hayes asked if employees are required to use all of their HSA funds or can the funds be left alone and invested. Ms. Britton responded the employee can invest it or roll it over to their 457(b) account.

Ms. Britton explained the difference in the United Healthcare DHMO and the Kaiser DHMO. Kaiser offers some no-cost services in their HMO network such as primary, virtual, and urgent care visits. The United Healthcare DHMO is called the Colorado Doctor's Plan and requires the employee to use Centura Health providers and facilities. The Kaiser network is closed and also requires employees to use their providers and facilities for the most part.

The out-of-pocket maximum under the DHMO Plans is set high at $4,500 for an individual and $9,000 for a family, which is considerably higher than the out-of-pocket maximums for the HDHP. The city contributes 10% less in a DHMO than in a HDHP plans, which is a strategy to encourage employees to enroll in a HDHP. The math always favors the HDHP Plans, which is something Ms. Britton always tries to explain to employees who insist the DHMO Plan is cheaper.

Ms. Britton assured the Board the Benefits Team will work closely with any employee currently enrolled in Denver Health Medical Plan to transition to either Kaiser or United Health Care.

Kathy Nesbitt asked how many employees are currently enrolled in the DHMP, to which Ms. Britton stated was 700 employees. Ms. Britton noted DHMP enrollees do realize a more cost-effective prescription benefit if they fill all of their prescriptions at a Denver Health facility due to the hospital's ability to pass on Medicaid pricing for certain drugs.

The city will also present a special communication campaign for employees currently enrolled in the DHMP, in which current enrollees will have a specific open enrollment campaign to hear their options. Kaiser has also offered to give current DHMP enrollees visits and tours of their facilities for interested Kaiser enrollees. Ms. Britton is confident her team will successfully transition all of the DHMP enrollees. Any DHMP enrollee that does not select a plan during open enrollment will be automatically enrolled in the United Healthcare HDHP Plan.

Ms. Britton also highlighted the annual $600 Wellness Incentive. The current employee participation rate is about 30% to 40%, which represents an area needing improvement. Lizzie Schoon of the Wellness team is continuing to work on the Equity, Diversity, and Inclusion initiative that was presented to the Board last year.

As a result of this work, Wellness has a better understanding of why there is low enrollment among the white and male populations and will continue to work on possible proposals for changes in the future.

Ms. Britton stated there are no changes in 2023 to the city's dental, vision, life/disability insurance, or the Flexible Spending Account ("FSA"). Open enrollment will be from October 10th through October 28th and all communications will begin to roll out in October.

Andrea Christianson asked Ms. Britton to provide a more in-depth reason as to why Denver Health Medical Plan chose not to continue providing medical insurance for the City and County of Denver employees, and does this include the Denver Employees Retirement Plan covered employees. Ms. Britton responded it does include the employees receiving supplemental medical coverage through DERP.

Ms. Christianson thanked Ms. Britton for sending emails with all the information stating she has had a lot of questions from staff from the airport about DHMP not extending coverage to the city. She stated it was a big surprise and staff was worried about what was going to happen.

Ms. Christianson and Ms. Britton stated they will continue to communicate regarding the matter via email. Ms. Britton offered to speak further about the elimination of the DHMP with Ms. Christianson and to set up a time for further discussion.

Mr. Hayes expressed how important it is for employees to have a direction when this type of change happens, and thanked Ms. Britton for staying on top of it.

Mr. Hayes noted the communication shared by George Branchaud, OHR Administrator, to the Board from an individual about concern about the cost of coverage for Kaiser, and noted this individual had gone as far as comparing the premiums to other cities.

Mr. Hayes stated he recognizes it is hard to compare apples-to-apples because we do not know what the deductibles are, nor the demographics of each employers' participants and it is really hard to compare premiums in this manner.

Mr. Hayes asked Ms. Britton if the city is still competitive in premium rates based on the information she receives, given this is the first increase since 2018.

Ms. Britton responded the DHMO Plans are not competitive, and this individual was enrolled in the Kaiser DHMO Plan. Ms. Britton noted the individual had previously worked for the state and she walked through the math to illustrate how it would be more beneficial to enroll in the HDHP, and the individual agreed and is switching in 2023.

Ms. Britton stated the HDHP Plan offerings are competitive, and she has done the comparison with the State. While the city is slightly behind the State's DHMO plan offering because the state has a lower out-of-pocket maximum to help with the overall cost, the city is still competitive.

Ms. Britton noted spouses are more expensive to insure than employees because of adverse selection. This is a result of comparing the city's medical premiums to the spouse's employers' medical premiums and choosing to be covered by the city due to the cost advantage.

Mr. Hayes commented the city went to self-insured for the United Healthcare offering, which is usually very beneficial to employers, and feels the city would have been in a different place had it not decided to make this move.

Ms. Britton stated the city went to self-insured with United Healthcare in 2020, which in retrospect was a great year to do so. With Covid-19, it was believed medical costs would be higher, but this did not occur due to delays in seeking care overall.

Mr. Hayes thanked Ms. Britton for her open-door policy and willingness to meet with employees to discuss their benefits. Ms. Britton stated she is very proud of the city's benefits and always open to meeting with employees to discuss any concerns or questions.

Board Member Patricia Barela Rivera made a motion for the Board to move into executive session, which was seconded by Erin Brown, and unanimously approved by the Board.

V. Executive Session:

The Board went into executive session at 10:22am and discussed several OHR issues with Kathy Nesbitt. In addition, the following appeals were adjudicated:

1. *<u>Jarred Hanson vs. Denver Sheriff's Department, Appeal No. 052-20A</u>*
   The Career Service Board granted the Unopposed Motion to Dismiss the Appeal.

2. *<u>Wayne Jochem vs. Denver Sheriff's Department, Appeal No. 013-21</u>*
   The Career Service Board affirmed the Hearing Officer's decision, written order to follow.

3. *<u>Brian Pokorny vs. Denver International Airport, Appeal No. 043-21</u>*
   The Career Service Board affirmed the Hearing Officer's decision, written order to follow.

4. *<u>Lidia Widgery vs. Denver Sheriff's Department, Appeal No. 043-21</u>*
   The Career Service Board denied the Motion to Reconsider the Hearing Officer's decision, written order to follow.

VI. Adjournment: *Adjournment was at 11:22am.*