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Career Service Board Meeting #2418

Emergency Session

Minutes

Tuesday, December 20, 2022, 8:00am

Microsoft Teams

David Hayes, Co-Chair
Erin Brown
Michelle Devoe

I. Opening: *Board Co-Chair David Hayes calling the meeting to order at 8:01am. Three members of the Career Service Board were present, in addition to Bob Wolf, Sr. Asst. City Attorney to the Board, Karla Pierce, Sr. Asst. City Attorney, Jessica Allen, Sr. Asst. City Attorney, Kathy Nesbitt, Executive Director of OHR, and Cinthia Febres-Sutherland, OHR Administrator.*

1. Approval of the Agenda for the December 20, 2022 Emergency Session Meeting.

Board Member David Hayes made a motion, seconded by Board Member Erin Brown, to approve the agenda for the December 20, 2022, emergency meeting, which was approved unanimously by the Board.

II. Executive Session

1. Proposed Emergency Revision of CS Rule 9-73.C

Karla Pierce, Employment Section Supervisor and Sr. Asst. City Attorney, presented a proposed emergency revision to Career Service Rule 9-73C to allow the City to pay financial incentives to employees who volunteer to work in the migrant shelters during a citywide emergency.

Ms. Pierce stated that the city is currently in a crisis regarding staffing the migrant shelters to the point of redeploying employees and forcing them to work during the holiday session at migrant shelters. There is still some debate about precisely what those financial incentives will look like. Ms. Pierce reiterated that the city needs some authority to incentivize employees outside the realm of what CS Rule 9 otherwise allows for and may be in the form of incentive payments or increased pay rates. Exact details are being debated, but the city needs to enact this starting December 23, 2022. Ms. Pierce emphasized that the Board must vote on the justification for the meeting in an emergency session and the rule revision.

Mrs. Kathy Nesbitt indicated that shelters had been open for two weeks, and the city has received an average of 50 to 110 migrants daily coming into the city. The city has struggled to fill all shifts: 8, 12, and now adding a 4-hour shift to accommodate individuals' schedules during the holidays. But Mrs. Nesbitt emphasized that the city still does not have enough volunteers to fill the shifts and added that the city needs approximately 200 individuals to operate these shifts. Mrs. Nesbitt stated that with these on-calls positions, the city wouldn't need as many city employees to work on the shelters to fill all shifts. But until that happens and they are fully staffed, the city has genuinely incentivized city employees beyond offering regular overtime, as this has not been successful during this emergency. Mrs. Nesbitt asked the Board for their support in getting the additional incentives to draw employees in during the holiday season to work some of these shifts.

Board Co-Chair David Hayes asked if city employees must be running these facilities. Mrs. Nesbitt responded that the city has two other groups of volunteers: partners volunteers, as Denver Health and Kaiser Permanente, are some of the partners supporting these efforts. Mrs. Nesbitt indicated that the issue of working with external volunteers is that these individuals require a background check, which makes the process longer for the city to fill these shifts.

Board member Michelle Devoe asked if the Board could qualify to volunteer at the shelter as they completed a background check, in which Mrs. Nesbitt affirmed that the Board qualified to volunteer. Also, Mrs. Nesbitt asked the Board to let her know whether to add their names to the volunteer list.

Board Co-Chair David Hayes asked how long the city expects to be in this emergency, to which Mrs. Nesbitt replied that the city is likely to be in this emergency for at least a month or so. Mrs. Nesbitt also added that in terms of the incentive, they expect only through the holidays, but the shelter work would go on.

Board member Erin Brown asked what other incentives the city is researching as the time and a half was not enough. Mrs. Nesbitt stated the original request was to pay employees' time and a half when working at the shelters during the holidays and double time on the actual holiday or observance of the holiday.

Mrs. Nesbitt stated that since it is the middle of the pay period, Finance would like OHR to consider deploying another incentive that makes it easier to administer, like a premium for the day that you work (i.e., \$100, \$200, etc.). Since the leadership team working on these efforts could not finalize the amount or the type of incentive as of yesterday, they decided to be a little open as to which incentives to provide: a premium of the day, time, and a half or double time.

Board Co-Chair David Hayes asked what the end date of this incentive would be, to which Mrs. Nesbitt responded that it would be ten days, from Dec 23, 2022, to January 2, 2023.

Board member Michelle Devoe asked if this change of rule will allow reinitiating this rule if this emergency arises again. For example, when the ten days expire and then two weeks from now, there is another emergency for another reason. Mrs. Nesbitt replied that she would prefer to leave the CS rule open in the case on Jan 3 there is still a need to work on filling these shifts for the shelters. But the announcement to city employees will be based on ten days. Mrs. Nesbitt prefers to avoid coming back for an emergency rule revision should that not be adequate to staff the shelters.

Board Co-Chair David Hayes indicated the document provided by Ms. Pierce, which states that rule revision will be effective for up to 180 days, giving ample time.

Ms. Karla Pierce indicated it would be possible to come back to the Board to submit a proposed permanent rule to provide the city with the flexibility needed during an emergency.

Board member Erin Brown asked if employees were open to working at the shelters before the holiday came or if OHR was still struggling even before the holiday weeks, which Mrs. Nesbitt stated they were struggling then. Particularly during the night/overnight shifts.

Board member Erin Brown asked if the night shifts, paired with the incentives, still get the differential. Mrs. Nesbitt replied that there were no differentials. Ms. Pierce stated that the city approved overtime for exempt employees under the 9-93, which the Board approved during the Dec 15, 2022, Career Service Board meeting.

Bob Wolf asked if the exempt employees with overtime rights would be considered on an agency-by-agency basis. Ms. Pierce stated that Kathy Nesbitt had approved a blanket exception for the overtime exclusion for exempt employees working in the shelters and that exempt employees working in the shelters, if their agencies have not opted out, are eligible to work in the shelters at their straight time pay rate if they worked more than 80 hours in their pay period.

Mrs. Nesbitt indicated the current pay practice for city employees is for non-exempt: receive overtime after 40 hours worked in a pay period, and then for exempt employees receive overtime after 80 hours worked

during a pay period. This has yet to generate more volunteers. Therefore, the city is looking at this next level to create more interest in volunteering within the city workforce.

Board member Erin Brown made a motion to approve today's meeting as an emergency session, which was seconded by Board member Michelle Devoe, and approved unanimously by the Board.

Ms. Pierce explained the proposed rule revision as the city may ask employees during city-wide emergencies to volunteer to work in other capacities during or outside their regular work hours to support the city's core functions. Also, the rule revision includes, in such instances, non-exempt employees will be paid their regular rate of pay for actual hours worked and be eligible for overtime by CS Rule 9-90 Overtime. Exempt employees eligible for overtime shall be paid their regular salaries during any work week in which they work in the voluntary assignment and shall be eligible for overtime in accordance with CS Rule 9-93 Overtime Exceptions. Exempt employees not eligible for overtime shall be paid their regular salaries during any workweek in which they work in the voluntary assignment. Mrs. Pierce added that the rule states that nothing in this rule prevents the City from authorizing additional pay and other financial incentives not otherwise available under CS Rule 9 for some or all employees who agree to perform such work or from exercising discretion in how such pay is administered. Ms. Pierce emphasized the importance of the provision of the last sentence of the rule, which allows the City to pay retroactively to employees if needed or administer the incentives in any form the Mayor deems appropriate.

Bob Wolf asked if the city would count holidays as hours worked (when worked), to which Ms. Pierce answered affirmatively.

A motion was made by Mrs. Erin Brown, and seconded by Ms. Michelle Devoe, that under Denver Revised Municipal Code § 2-98, with a quorum present and upon unanimous vote, the Board has adopted the proposed emergency rule revision to Career Service Rule 9.73C, as necessary to immediately protect the public health, safety or welfare of the city and county.

This emergency rule revision, as adopted, will remain in effect for no more than 180 days from December 23, 2022, and duly recorded with the Clerk & Recorder of the City & County of Denver.

III. Adjournment: Adjournment was at 8:20am.