

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CIVIL SERVICE AND LABOR

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June 24, 2024

Start: 1:11 p.m.

Recess: 3:44 p.m.

HELD AT: COMMITTEE ROOM - CITY HALL

B E F O R E: Carmen N. De La Rosa, Chairperson

COUNCIL MEMBERS:

Erik D. Bottcher

Eric Dinowitz

Yusef Salaam

OTHER COUNCIL MEMBERS ATTENDING:

Joseph Borelli

Rita C. Joseph

Joann Ariola

Kristy Marmorato

A P P E A R A N C E S

Dan Pollak, First Deputy Commissioner at New York City Office of Labor Relations

Georgette Gestely, Director of Employee Benefits Program at New York City Office of Labor Relations

Claire Cammarata, Director of Employee Assistance Program at New York City Office of Labor Relations

Claire Levitt, Deputy Commissioner for Health Strategy at New York City Office of Labor Relations

Katrina Porter, Deputy Commissioner, Chief Human Capital Officer, at New York City Department of Citywide Administrative Services

Jude Pierre, Fire Department of New York

Sal Maita, Fire Department of New York

Jack Wei Lin, Fire Department of New York

Tom LaPolla, Fire Department of New York

Michael Hulkower, New York City Department of Sanitation

Alfonso Ventura, New York City Department of Education

A P P E A R A N C E S (CONTINUED)

Trinidad Smith, New York City Department of
Education

Michael Kane, Teachers for Choice

Marlon Bethel, New York Police Department

Christine Gross, New York City Department of
Education

Michael Tracy, Uniformed Fire Officers
Association

Mowuli (Moe) Olivierre, New York City Department
of Education

Edmund Wallace, self

Anastasia Christopoulos, New York City
Department of Education

Jean Jean, New York City Department of Education

Krista O'Dea, Bravest for Choice

Zena Wouadjou, New York City Department of
Education

Javier Vazquez, Fire Department of New York

2 SERGEANT-AT-ARMS: This is a microphone
3 check for the Committee on Civil Service and Labor,
4 recorded on June 24, 2024, by Nazly Paytuvi in the
5 Committee Room.

6 SERGEANT-AT-ARMS: Good afternoon, and
7 welcome to today's New York City Council hearing for
8 the Committee on Civil Service and Labor.

9 At this time, please silence all
10 electronic devices.

11 If you would like to testify, you must
12 fill out a testimony slip in the back of the room
13 with one of the Sergeant-at-Arms.

14 If you would like to submit testimony,
15 you may at testimony@council.nyc.gov.

16 No one may approach the dais at any point
17 during this hearing.

18 Chair, we are ready to begin.

19 CHAIRPERSON DE LA ROSA: [GAVEL] Good
20 afternoon, I am Council Member Carmen De La Rosa,
21 Chair of the Committee on Civil Service and Labor.
22 Welcome to today's hearing where we will be assessing
23 the administration of City benefits for current
24 municipal employees. This hearing will center on the
25 following three employee benefit programs. The

2 Employee Assistance Program, which provides
3 education, information, counseling, and
4 individualized referrals to assist with a wide range
5 of personal and social problems; the Management
6 Benefit Fund, which provides a range of supplemental
7 benefits, including dental and vision insurance; and
8 the Flexible Spending Accounts, which allow employees
9 to set aside a portion of their pre-tax income into
10 accounts maintained for certain health and dependent
11 care expenses.

12 A competitive employee benefits package
13 is crucial to support the current employees and to
14 strengthen the City's ability to recruit top talent.
15 However, a strong benefits package is only part of
16 the equation. The real challenge lies in ensuring
17 that New York City employees can fully realize their
18 benefits. Given that employee benefit programs are a
19 crucial tool for the recruitment and retention of
20 staff in the municipal workforce, it is imperative
21 that such benefits are not just simply offered on
22 paper, but are accessible to employees in a
23 meaningful way. The Committee is concerned that the
24 administration of these programs is plagued with
25 unnecessary processing delays, technicalities, and

2 other bureaucratic problems that can frustrate
3 employees' attempts to realize benefits or deter
4 employees from seeking benefits altogether.

5 Additionally, many employees may benefit from
6 receiving more comprehensive instruction about the
7 programs.

8 At this hearing, the Committee's focus is
9 to gain a deeper understanding of OLR's efforts to
10 not only create employee benefits, but also the
11 critical role it plays in facilitating their
12 accessibility and usability for employees.

13 In addition to today's oversight topic,
14 we will be hearing the following legislation. Pre-
15 Considered Intro., sponsored by myself, related to
16 OLR's Administration of City Benefits; Intro. 265,
17 sponsored by Council Member Joseph, which would call
18 upon the municipal agencies to expedite the health
19 insurance coverage processing for employees who
20 transfer from one agency to another and, finally,
21 Resolution 5, sponsored by Minority Leader Borelli,
22 which would call upon the State Legislature to pass
23 legislation regarding the reinstatement of employees
24 who were terminated pursuant to the vaccine mandate.

2 I'd like to thank Committee Staff for
3 their hard work in preparing for this hearing, Policy
4 Analyst Elizabeth Arzt and Legislative Counsel Rie
5 Ogasawara. I'd also like to thank my Staff, Chief-of-
6 Staff James, Legislative Director Kiana Diaz, and
7 Communications Director Fraynette Familia.

8 I would like to recognize that we've been
9 joined by my Colleagues, Council Members Joseph,
10 Ariola, Minority Leader Borelli, Council Member
11 Bottcher and, on Zoom, Council Members Moya, Menin,
12 and Cabán.

13 I now turn to Council Member Rita Joseph,
14 who is present to make a statement on her bill, Intro
15 265.

16 COUNCIL MEMBER JOSEPH: Thank you, Chair
17 De La Rosa. I am excited to introduce Bill 265 as
18 being heard in the Council, a local law to amend the
19 Administrative Code of New York City about health
20 insurance for City employees. The bill mandates that
21 each agency must expedite process to ensure
22 continuous health coverage for employees transferring
23 between City agencies, preventing any lapse during
24 transition. This issue is particularly close to my
25 heart. Before becoming a Council Member, I served as

2 a New York City public school teacher for 22 years.

3 When I transitioned to the Council, I experienced

4 change in my benefits, including disruption in my

5 health coverage. As someone who had open heart

6 surgery, maintaining my health insurance is vital. In

7 New York City, employees moving from one job to

8 another should not face any interruption in their

9 health insurance as this can jeopardize their well-

10 being. This bill would make sure that it doesn't

11 happen anymore. When I showed up for my cardiology

12 appointment, I was told that I had no health

13 coverage. 2008, I had open heart surgery, and I do

14 follow a yearly basis with my cardiologist and, come

15 to find out, when I became a Council Member, I had no

16 health insurance when I showed up at my cardiologist.

17 I wouldn't want this experience to happen to anyone

18 moving from one City agency to another. I'm moving

19 from New York City public schools to New York City

20 Council, not from a State to City agency, but from

21 City to City so that's what this bill would do. Thank

22 you, Council Member, Chair De La Rosa, for

23 considering my bill today, and I'm eager to hear

24 feedback from the City agencies and representatives.

25 I will ask questions as needed, but my goal is to see

2 this bill passed in this Committee. Thank you, Chair
3 De La Rosa.

4 CHAIRPERSON DE LA ROSA: Thank you,
5 Council Member Joseph, and also for your advocacy and
6 sharing your story.

7 I want to recognize that we've also been
8 joined by Council Member Salaam. Welcome.

9 I will now turn it over to Minority
10 Leader Joseph Borelli, who is present to make a
11 statement on Reso. 5.

12 MINORITY LEADER BORELLI: Thank you, Madam
13 Chair, and thank you for indulging us by giving us
14 this opportunity to have this hearing about an issue
15 that, frankly, I think most people would have assumed
16 we would not still be talking about in 2024. I had
17 some prepared remarks, but today when I got here and
18 I saw all of the people here to testify on this
19 Resolution about the vaccine mandates, I was struck
20 by the irony in that you folks aren't in your
21 firehouses or your schools or your DOT garages or
22 wherever, and you're not there because you're some
23 sort of cootie-ridden plague carrier or something,
24 and yet here you are, and not one of you was stopped
25 before coming into City Hall. Not one of you was

2 asked whether you were vaccinated. Not one of you was
3 required to put on a mask. Our friends here from the
4 Administration, although not responsible for this
5 policy, I noticed none of them are in spacesuits out
6 of fear that they might contract some horrible
7 disease from you, and yet you are terminated from
8 your employment, which for all of you was exemplary
9 and fine. None of you are terminated for any other
10 reasons. You're terminated because you refused to
11 take a vaccine so you can't go to your firehouse, you
12 can't go to your school, you can't go to your DEP
13 plant, but here you are just feet away from the
14 Mayor's Office. You just walk through the room where
15 all of the policies of the City are made. You're in a
16 Committee Room where policy for the entire City is
17 routinely discussed and made. You're in essentially,
18 you're in the nerve center, the heartbeat of the
19 City, and there's no problem with you here, but
20 because of a wrong policy that was implemented, a
21 wrong policy that was implemented. That is the only
22 reason you don't have your job, and now it's easy to
23 say because we know it was a wrong policy. If we look
24 at the timeline, December 6, 2021, Mayor de Blasio
25 announces a vaccine mandate. February 11th, a few

1 months later, 1,780 City employees, some of them are
2 here, were fired due to noncompliance with the COVID
3 vaccine mandate. Just six months later to the day,
4 August 11th, six months. Now, I mean, just think
5 about how many terrible policies are made in this
6 building that go way longer than six months. All the
7 time. We make bad policy professionally here, and it
8 stays in place for years, but this policy was so
9 fundamentally flawed and so stupid that the CDC, the
10 follow-the-science people, the brain surgeons,
11 literally, they said, oh no, no, no. The CDC issues
12 new guidance, acknowledging that vaccines do not
13 prevent community spread, acknowledging that their
14 own recommendations no longer ask for mass
15 vaccination policies, concluding "there are no public
16 health benefits sweeping COVID-19 vaccine mandates."
17 Meaning there is no benefit for us to having this
18 policy and, at that point, or really September 20th,
19 when the Mayor acknowledged that we're no longer to
20 have a vaccine policy going forward, this would have
21 been the great time to say, hey, you know what, we
22 had this COVID crisis, we did the best we could, we
23 followed the science but, when the science changed,
24 we changed our policy. That would have been the right
25

2 thing to do but, instead, the Administration still
3 refuses to acknowledge that their policy in
4 terminating over 1,000 employees was the wrong
5 decision. I would say you were treated like plague
6 victims, but the truth is, if you had the bubonic
7 plague, you'd still have your civil service
8 protections, you'd still be protected by HIPAA, you'd
9 still have your job, and we'd be paying through your
10 health benefits for the treatment you'd be receiving
11 so you're treated worse than plague victims, and
12 that's why this hearing is so important, not just to
13 give a voice to you, but to give a voice from City
14 Hall and hopefully acknowledge that this policy has
15 been wrong for over two years so thank you.

16 CHAIRPERSON DE LA ROSA: Thank you,
17 Minority Leader Borelli.

18 We'll now turn to Council Member Ariola
19 who will also make a statement on Reso. 5.

20 COUNCIL MEMBER ARIOLA: Thank you, Chair
21 De La Rosa, and thank you, Minority Leader, for
22 initiating Reso. 5 and for your wonderful remarks.

23 Reso. 5 supports State legislation that
24 would require the City of New York to reinstate City
25 workers that had resigned, retired, or terminated for

2 non-compliance with the COVID-19 vaccine mandate.
3 Many people do not know that there was no protocol in
4 place when the mandates were lifted that dictated how
5 New York City workers would be brought back into the
6 workforce. Some were asked to sign waivers for their
7 civil service rights while others were in the exact
8 same position, or similarly situated, and they were
9 asked to sign a waiver. The State bill seeks to allow
10 any worker who wishes to return to be able to do so
11 just as many before them have returned.

12 In February of 2023, the COVID-19 vaccine
13 mandate was lifted. Many were really so finally
14 excited, especially us, so that you would be able to
15 return to work, the job that you loved, and after you
16 had helped people during the entire COVID-19 crisis
17 and shutdown but, for many, that excitement quickly
18 faded. Workers were not told how to reapply. There
19 wasn't any outreach being done by agencies to guide
20 those who had been separated from their City
21 employment, and there was no protocol that had been
22 outlined for agencies to reinstate the workers. Some
23 were getting answers to emails from their former
24 supervisors while others were not. The Law Department
25 seemed to act in a silo on many of these issues, and

2 you will hear about them today. With no rhyme or
3 reason, they made their decisions. You will hear from
4 firefighters who were similarly situated, who were
5 named on the same lawsuit, one of which has been
6 reinstated with the Department since May of 2023, and
7 one who continues to sit in limbo with no income,
8 waiting to return to the Department he bravely served
9 for 16 years. You will hear about cases where Article
10 78 lawsuits were won and City workers were reinstated
11 immediately, while others, similarly situated and won
12 their Article 78, still remained separated from City
13 service, leaving them to have to find new ways to
14 provide for their families and pay their bills. You
15 will hear from those who retired not having to sign a
16 waiver even if they were a complainant on an active
17 lawsuit, and they were reinstated while others were
18 not given that ability so what Reso. 5 does is
19 support the State's agenda that there is a policy
20 that is followed that is equitable for all our
21 municipal workers so that they can come back to work.
22 I have worked with many of the City employees from
23 many different agencies to help them get back to
24 work. We worked with the Law Department, and we
25 oftentimes could not find an answer as to why some

2 were being brought back and some weren't, and we were
3 given a complete runaround and, imagine, we sitting
4 here, as the Minority Leader stated, we're the
5 policymakers, yet there was no policy so that is why
6 we sit here today. This is not a mandate bill. This
7 is not an anti-vaccine bill. This is a Resolution for
8 municipal employees to receive the same equity as
9 others did to get back to work, back to their jobs,
10 back to providing for their families, back to
11 teaching our children, back to being able to work for
12 Sanitation, and for the DOT, and for the Fire
13 Department, and for Police Department, and any other
14 municipal office and agency when we know that there
15 was a reduced headcount, and there is no one to fill
16 those positions. We need this Resolution to pass, and
17 we need Albany to do their job and pass the
18 legislation at hand. Thank you for the time.

19 CHAIRPERSON DE LA ROSA: Thank you so much
20 to you both for your statements and your continued
21 advocacy on this issue as well.

22 We will now hear testimony from
23 representatives of OLR, and I now turn to the
24 Committee Counsel to administer the oath for this
25 panel of Administration officials, including

2 individuals from DCAS who are present in the room for
3 Q and A.

4 COMMITTEE COUNSEL OGASAWARA: Good
5 afternoon. We will now hear testimony from the
6 Administration. Before we begin, I'll administer the
7 affirmation. Panelists, please raise your right hand.

8 I will read the affirmation once, and
9 then call on each of you individually to respond. Do
10 you affirm to tell the truth, the whole truth, and
11 nothing but the truth before this Committee and to
12 respond honestly to Council Member questions?

13 FIRST DEPUTY COMMISSIONER POLLACK: Yes.

14 DIRECTOR GESTELY: Yes.

15 DIRECTOR CAMMARATA: Yes.

16 DEPUTY COMMISSIONER PORTER: Yes.

17 COMMITTEE COUNSEL OGASAWARA: Thank you.

18 CHAIRPERSON DE LA ROSA: Thank you. First
19 Deputy Commissioner Pollack, you may begin your
20 testimony.

21 FIRST DEPUTY COMMISSIONER POLLACK: Thank
22 you. Good morning, Chair De La Rosa and Members of
23 the Civil Service and Labor Committee. I'm Daniel
24 Pollack, First Deputy Commissioner of the Office of
25 Labor Relations, and I thank you for the opportunity

2 to testify today. I'm here with Georgette Gestely,
3 Director of City Employee Benefits Program; Claire
4 Camerata, the Director of the City Employee
5 Assistance Program; and for Q and A, Claire Levitt,
6 Deputy Commissioner for Health Strategy; and Katrina
7 Porter, Deputy Commissioner for Human Capital at the
8 Department of Citywide Administrative Services.

9 I will first provide an overview of the
10 benefits OLR administers then turn it over to my
11 colleagues to provide greater detail, particularly
12 regarding the Management Benefits Fund, Flexible
13 Spending Account, and Employee Assistance Program. I
14 will conclude OLR's testimony with some observations
15 on the legislation before the Committee.

16 The Employee Benefits Program consists of
17 five separate programs, the Management Benefits Fund,
18 known as MBF, the Flexible Spending Accounts Program,
19 commonly known as FSA, the Deferred Compensation
20 Plan, the New York City Employee Individual
21 Retirement Account, and the Health Benefits Program.
22 The Employee Assistance Program operates separately
23 from Employee Benefits Program as does WorkWell NYC,
24 the City's workplace wellness program.

2 The largest program is our Health
3 Benefits Program, which covers approximately 1
4 million active employees, pre-Medicare retirees and
5 their dependents, and over 200,000 Medicare-eligible
6 retirees and dependents through our health insurance
7 plans. The 95 percent of City employees who are
8 unionized have access to additional benefits through
9 their union welfare funds. These funds provide
10 benefits such as dental and vision insurance,
11 frequently prescription drug coverage, as well as
12 other benefits. They're funded through contributions
13 made by the City to the funds, the amount of which is
14 negotiated through collective bargaining.

15 Non-represented City employees receive
16 additional benefits through the Management Benefit
17 Fund, which is administered by OLR. Similar to
18 welfare funds, MBF receives a contribution per
19 employee and retiree, similar to the amounts received
20 by union welfare funds, and uses those funds to
21 purchase ongoing benefits for non-unionized
22 employees.

23 I'll now turn it over to our Director of
24 Employee Benefits, Georgette Gestely, to provide

2 additional details about our Employee Benefit
3 Programs.

4 DIRECTOR GESTELY: Thank you very much.
5 It's a pleasure to be here. If we can go to the next
6 slide, please.

7 I'd like to go over what First Deputy
8 Commissioner Pollack just talked about as far as the
9 Employee Benefits Program is concerned. If you would
10 look at that monitor, then you will see that the
11 Health Benefits Program, the Management Benefits
12 Fund, Flexible Spending, Deferred Comp, and the NICE
13 IRA. The first three are listed in the order in which
14 employees use them. The very first thing that you use
15 is the Health Benefits Program. If you have out-of-
16 pocket expenses after that as a manager, then you can
17 go to the Management Benefits Program after paying a
18 500-dollar deductible, then you get 90 percent of
19 that money back. If you still have out-of-pocket
20 medical expenses, then you go to the Flexible
21 Spending Program, including the deductible that you
22 just paid so that's the order in which this is used.
23 What is not there is the Pension Plan, which is not
24 an Employee Benefits Program and not at OLR, but it
25 is tied to the Health Benefits Program. In order to

2 get retiree health benefits, you must be receiving a
3 pension. If you can just imagine a pension bullet
4 there and then looping back up to the Health Benefits
5 Program, that's how that ties in.

6 Employee Benefits Program utilizes,
7 particularly with regard to health benefits, various
8 ways of communicating with participants. We reach out
9 to the agency reps on a monthly basis. We send email
10 blasts to employees about new benefits. We have open
11 enrollment for both Employee Benefit, the Health
12 Benefits Program, and Flexible Spending. There is a
13 very, very active OLR website where participants can
14 get all of their communication on every program.

15 Pursuant to Executive Order 99 of January
16 3, 2007, Consolidation of Health Benefits Program
17 Assistance, the function of providing support to
18 agency employees and the Office of Labor Relations in
19 furtherance of the administration of the City's
20 Health Benefits Program was centralized at DCAS, the
21 Bureau of NYCAPS Central. When employees from
22 centralized agencies have issues regarding health
23 insurance, their first point of contact is either
24 their human resource departments or NYCAPS Central
25 and, when employees from non-centralized agencies,

2 for example, Health and Hospital, have questions
3 about their benefits, they go to their human
4 resources as well. If you could go to the next, yes,
5 the next slide.

6 I would just like to talk about for a
7 minute because it details what the responsibilities
8 are as these agencies come together. So the Employee
9 Benefits Program is decentralized. While OLR has
10 primary responsibility for contracts, monitoring
11 carriers, and so on, the actual administration in
12 regards to direct contact with employees is
13 decentralized. So let me go to the OLR.

14 CHAIRPERSON DE LA ROSA: Is this the right
15 slide?

16 DIRECTOR GESTELY: No, go back one,
17 please.

18 CHAIRPERSON DE LA ROSA: Can you go back
19 one slide, please? Thank you.

20 DIRECTOR GESTELY: Yes, that's the one.
21 OLR monitors the carrier's performance and claims
22 data, administers MBF and flexible spending as we
23 said, operates the retiree health benefits enrollment
24 and call center, communicates issues to HR and
25 payroll, and advocates for all City employees and

2 retirees with health carriers when they come to us
3 with questions. DCAS operates active health benefits
4 enrollments and central agencies, supports non-
5 central agencies with health benefits inquiries, and
6 creates new hire onboarding orientation materials.
7 Finally, the agency HR reps, they are the ones who
8 distribute the benefits information and materials to
9 employees. They provide benefit information to all
10 new hires and to onboarding process, act as the first
11 point of contact on questions, and bring those
12 questions to OLR for clarification. As I'm going
13 through this, if you have a question, please stop me,
14 and I'm happy to go further into it, so let's go to
15 the next slide.

16 OLR is the primary point of contact for
17 retirees, as I said, regarding the health benefits
18 insurance and to better serve our retirees. In 2022,
19 we received funding to launch a dedicated call center
20 staffed by OLR employees. That now handles 85,000
21 phone calls. 50 percent of those are related to
22 enrollment, 40 percent are related to Medicare Part B
23 reimbursement, IRMA reimbursement. The remaining
24 calls are related to retiree health coverage.

2 Now we're going to go on to the
3 Management Benefits Fund, and that's this slide.
4 First Deputy Commissioner Pollack went through these.
5 Let me go through them again. The Management Benefits
6 Fund includes dental, vision, long-term disability,
7 basic life insurance, superimposed major medical,
8 health and fitness, group universal life. There was a
9 question, as I went through the list of benefits, I
10 said if you're a manager, this is where you go as a
11 second level. Well, if you're not a manager, then you
12 go to your union, to the welfare fund. Flexible
13 spending, everybody goes to. But that's the
14 equivalent to the Management Benefits Fund. If you
15 could go to the next slide, please.

16 Management Benefits Fund procures its
17 service vendors through an RFP process. The dental
18 vendor, the vision vendor, those are actually
19 contractors of the fund who pay the claims, receive
20 the claims, and have the contact with employees. It
21 is done through an RFP process on a rotating basis,
22 contracts of five years. We have, in the last 18
23 months, switched out both the dental and the vision
24 carriers because they were better carriers in the
25 field and, in the last four years, we also went

2 through an RFP process with the (INAUDIBLE) major
3 medical carrier who was rehired. The vendors are
4 selected based on their experience, their service
5 levels, the breadth of their networks, and their
6 costs. The Committee Members of the Procurement
7 Committee are those who are members of the Management
8 Benefits Advisory Committee, and all of these service
9 contracts have performance guarantees built into the
10 contract, how quickly they answer calls, how quickly
11 they pay their claims, and so on. That's all
12 contractually specified. Just to give you an idea of
13 numbers, if you'd go to the next slide, please.

14 The SMMP, over the last 12 months, has
15 processed almost 13,000 claims and answered 4,600
16 phone calls. That is the carrier. That is ASO. Their
17 carrier has done that. Dental, we had 96,743. You can
18 see that that's the primary program in the MBF, and
19 there were 10,791 calls. Vision, dental, by the way,
20 we just switched out and we now are with ASO as well.
21 Vision, total claims processed, 17,478 last year.
22 Total calls, 5,850, and that also has a new carrier,
23 GVS. The Health and Fitness Reimbursement Program
24 does not have a carrier. That is handled in-house,
25 and you can see that the total claims processed by

2 staff in-house last year, 6,837, and the total calls,
3 1,600. What did I leave out?

4 CHAIRPERSON DE LA ROSA: Let me just ask
5 you a quick question on this. Sorry to interrupt the
6 presentation, but the total claims processed is the
7 number of the claims you've processed, but how many
8 claims came in? Do you have the breakdown of that for
9 these numbers?

10 DIRECTOR GESTELY: They were all
11 processed. The ones that came in were processed.

12 CHAIRPERSON DE LA ROSA: Every claim that
13 came in has been processed?

14 CHAIRPERSON DE LA ROSA: Okay.

15 DIRECTOR GESTELY: Yes.

16 CHAIRPERSON DE LA ROSA: Okay.

17 DIRECTOR GESTELY: Yes. I do want to say,
18 even though these are all carrier-processed claims,
19 if a member calls us and says I'm having a problem or
20 I received a letter, I don't understand what that
21 says, and so on, then we intervene and we make sure
22 that that claim either is not being paid for a good
23 reason or does get paid so that is the role of MBF to
24 intercede. The Fund's Health and Fitness
25 Reimbursement Program provides reimbursement for both

2 active and retired members, as well as their spouses
3 and domestic partners. You can use a fitness program.
4 You can use Citi Bike, yoga, any number of programs.
5 Effective March 1, 2024, the reimbursement has gone
6 to 500 dollars for each consecutive six-month period
7 or 1,000 dollars a year. Last year, there were, as I
8 said, 68,837, 1,600 calls.

9 The Flexible Spending Program, which is
10 the next slide that we're going to go to, consists of
11 two spending accounts so what happens is a
12 participant decides to enroll in one of these
13 programs during the open enrollment period, which is
14 in the fall. It's always for the following January 1,
15 and there is an open enrollment every year. The
16 participant is signing up for a single year and then
17 has to re-enroll. There are two kinds. There is the
18 HCFSA program, which has 4,700 participants, and
19 there is the DCAP program, which has 1,500. HCFSA, as
20 I said, is the Flexible Spending Program, which is a
21 third level, the last payer, for whatever is left
22 over after the health benefits and after the union or
23 MBF has paid. Whatever is left over, you can bring
24 here. The DCAP program is for childcare expenses. The
25 participation is very low, as you can see, and that

2 is because, if they don't join this program, people
3 can take exactly the same credit on their tax return
4 at the end of the year so the only benefit here is
5 that you get the money a little bit sooner, but the
6 benefit exists even without this program. The way
7 that the claims are processed... Is that the next
8 slide? I'm sorry. I didn't go through these numbers.
9 In the HCFSA program last year, there were a total of
10 28,059 claims processed. There were 18,500 phone
11 calls handled and 6,500 emails responded to. The way
12 that the claims are processed is that if we receive a
13 claim by the 25th of the month, that claim is paid in
14 the month following, the last week of that month so
15 it is batched and paid on a monthly basis. That's the
16 process. What you have here is the way that people
17 can submit their claims through the LEAP file. Again,
18 this LEAP file was put in during the COVID time.
19 Before that, people just sent us mail. All of that
20 went away. The whole world, not just the City of New
21 York, but the whole world went electronic in
22 communication. You started to communicate with your
23 bank electronically and everybody else. We try to
24 communicate the same way. Participants submit their
25 forms here. They get an immediate confirmation saying

2 that we have received their claims as soon as they
3 submit those then participants receive confirmation
4 of their claims. Once the claims are processed, they
5 receive quarterly statements and they receive annual
6 statements. The rules that govern these two programs
7 are all Internal Revenue Service. They are under
8 Section 125 of the Internal Revenue Code. The
9 minimums and maximums are set by that. The way that
10 claims are processed are set by that. Specifically
11 within HCFSA, and I know that this is something that
12 comes up again and again, people don't like this. In
13 order to be reimbursed in HCFSA, you must show
14 documentation of the fact that you have out-of-pocket
15 costs. You have to show the original bill. You have
16 to show what the healthcare carrier paid. You have to
17 show what your secondary carrier paid. Once we have
18 that information, we can process. It's a lot of
19 paperwork. People don't like to fill it out. It's not
20 our rule. It's the IRS rule.

21 Just to talk a little bit about our
22 website. Most participants and most employees get
23 information from the website. We make sure that
24 website not only is current, but is very user
25 friendly. We especially are proud of our videos, I

2 have to say, because we try to make them
3 entertaining. We try to make them animated. We try to
4 engage people. We try to keep them short. There are
5 multiple web videos about the Flexible Spending
6 Program. If you go out and click on one, then you
7 will see it. There are worksheets. There are
8 calculators. All are there on the website to help
9 individuals calculate their annual expenses and their
10 potential SAC savings, so that when they are joining
11 these programs, there is not a surprise at the end.
12 Finally, if I could ask for the last slide. Moving
13 forward. We talked about that. Next slide, please.

14 These are projects and improvements that
15 I wanted to talk about. We are working on an FSA
16 portal. We understand that participants want to see
17 what their balance is, what has been paid, what has
18 not been paid, and so on. They want to see their
19 claim. In the early part of 2025, that portal will
20 exist. Participants will be able to check all of that
21 directly. That is what we are working on right now.
22 We are continuing to maintain a schedule of onsite
23 agency presentations, both for FSA and for MBF. As a
24 matter of fact, the City Council presentation from
25 both MBF and FSA are scheduled for September for the

2 HR and payroll. We are developing webinars for both
3 programs.

4 Finally, because I talked about changes
5 that have taken place in the programs and the
6 programs have been brought up to market level, both
7 in the dental and the vision, we are mailing out a
8 mini MBF booklet in the fall, very soon, to all MBF
9 members so that they will have all the updated
10 information at their fingertips. Thank you.

11 With that, I would like to turn it over
12 to Claire Cammarata.

13 DIRECTOR CAMMARATA: Good afternoon. Thank
14 you for the opportunity to share more about the New
15 York City Employee Program.

16 CHAIRPERSON DE LA ROSA: You have to press
17 the button.

18 DIRECTOR CAMMARATA: Sorry.

19 CHAIRPERSON DE LA ROSA: Thank you.

20 DIRECTOR CAMMARATA: Thank you. My name is
21 Claire Cammarata, and I have been the Director of EAP
22 since 2021.

23 The City of New York recognizes that
24 experiences of mental, behavioral, emotional, and
25 social problems have a serious impact on the health

2 employment, welfare, and social life of the
3 individual, the individual's family, co-workers, and
4 the community. With this in mind, Executive Order 46
5 was issued in 1992, establishing municipal EAPs to
6 address these issues that New York City employees may
7 face and to provide support and counseling to assist
8 them in seeking help and recovery. New York City has
9 an extensive network of agency and union-based EAPs
10 providing services to all City employees. Each EAP
11 offers distinct services based on employees' needs,
12 but all the programs work in concert with one another
13 to best serve all employees.

14 The New York City Office of Labor
15 Relations Employee Assistance Program, the largest of
16 all New York City's EAPs, currently provides services
17 to New York City non-uniform Mayoral agencies, New
18 York City Housing Authority, New York City Health and
19 Hospitals, and the Department of Correction and then,
20 in early 2020, the EAP extended its program to the
21 New York City Department of Education, which led to
22 an expansion of the EAP program and increased staff
23 by over 50 percent. Approximately 325,000 City
24 government employees and their family members are
25 eligible for New York City EAP services. While our

2 program only formally serves those entities I just
3 mentioned, EAP never turns down a request for
4 assistance, and we have frequently provided services
5 to non-Mayoral entities who need it, including City
6 Council.

7 New York City OLR's EAP is designed to
8 assist employees and their families in resolving
9 problems that may adversely affect their personal and
10 professional performance. New York City EAP offers
11 counseling and assistance with a broad range of
12 behavioral health topics. The most common concerns
13 brought to EAP are mental health-related, such as
14 symptoms of anxiety or depression, grief and
15 bereavement reactions, or traumatic events. They also
16 come in with work stress related to job demands, poor
17 co-worker relationships, or trouble with work-life
18 balance, and then also they may come to us with
19 concerns for family members, such as mental health
20 concerns or substance misuse.

21 Other services provided by the EAP
22 include information and referral services, case
23 management, extensive followup, and insurance
24 authorization. Short-term counseling is also
25 available when the client and the clinician agree

2 that the presenting issue can be addressed within a
3 short-term model. If the client needs a referral for
4 longer-term treatment, EAP assists in identifying a
5 provider that accepts their insurance and also has
6 availability. In general, all services are free and
7 confidential, and all EAP services are provided by
8 master-level mental health professionals.

9 The NYC EAP also offers tailored services
10 for supervisors and managers to aid in their response
11 to staff's behavioral health needs. Stress
12 management, suicide awareness and prevention,
13 improving communication in the workplace. These are
14 just a few of the presentations offered to New York
15 City agencies. Supervisory and managerial
16 consultations, online workshops, and staff
17 presentations are provided upon request of the
18 agency.

19 EAP continues to grow, reaching more
20 clients each year. In 2023, EAP served 39 percent
21 more clients as compared to 2022. That was a total of
22 27,000 and, specific to our managerial and
23 supervisory support, we have reached over 15 percent
24 more employees in leadership roles than compared to
25 2022.

2 Despite all that EAP has to offer and all
3 the services we provide, we want to do more. We are
4 devoted to educating employees about the program and
5 encouraging their utilization of EAP's offerings. To
6 consistently promote the EAP and educate the
7 workforce about our program, we offer the following.
8 Online and in-person presentations to review the EAP
9 program and services at new hire orientations and,
10 currently, we present at all Department of Health and
11 Mental Health, New York City Health and Hospital
12 orientations for new employees, and then recently
13 DCAS added an informational video that highlights the
14 EAP program to share in their new hire orientations.
15 We also send biweekly emails to agency leadership to
16 distribute to staff, and then each of those emails
17 includes a relevant behavioral health topic. We
18 attend health fairs, DEI events, wellness events, and
19 more. We provide presentations to senior management
20 and supervisors on things like how to address staff
21 that may benefit from EAP support. We collaborate
22 with unions so they can provide information to their
23 members, and our website, which is currently being
24 updated, is going to be updated to be a bit more user
25 friendly.

2 I and the staff at EAP are passionate
3 about the work we do assisting City employees and are
4 constantly working to better serve our clients. Thank
5 you, and I'll now turn it over back to First Deputy
6 Commissioner Pollack.

7 FIRST DEPUTY COMMISSIONER POLLACK: Thank
8 you to my colleagues for describing those programs.
9 We all are very proud of all the benefit programs and
10 EAP and other programs we administer to help City
11 employees.

12 I want to comment now briefly on the
13 pieces of legislation before the Council. Intro. 265
14 would require City agencies to make best efforts to
15 expedite the processing of health insurance coverage
16 for City employees who transfer employment from one
17 agency to another to avoid lapses in health insurance
18 coverage during such transfer. As mentioned during
19 our testimony, enrollment is handled through the
20 NYCAPS system by City agencies with assistance and
21 coordination from DCAS or through other agencies for
22 non-NYCAPS entities like H and H, NYC Health Plus
23 Hospitals. OLR and DCAS make best efforts
24 collectively to improve processes and disseminate
25 health benefits information to agencies to ensure

2 that coverage is seamless as possible when transfers
3 occur. For a large part, if we're informed of any
4 lapse in coverage, we immediately seek to restore
5 health benefits retroactively for the affected
6 employees. Council Member Joseph, I'm very sorry to
7 hear about the experience that you had. That's never
8 anything we want to see happen when employees are
9 hired or moving between agencies. You know, our goal
10 is to make sure that people have their health
11 coverage. When we are contacted when someone faces an
12 issue like yours, we leap into action to try to
13 rectify it, so we certainly appreciate the intent
14 behind this bill, and we'll continue to discuss it
15 with the Council.

16 COUNCIL MEMBER JOSEPH: Well, thank you
17 for that, but that day I had to go back home and wait
18 until you guys reinstated my health insurance in
19 order to see the cardiologist. This was pressing for
20 me.

21 FIRST DEPUTY COMMISSIONER POLLACK: I
22 understand and, again, I apologize, and we never want
23 to see that happen. It's definitely our goal to make
24 sure that doesn't happen. Sometimes, especially when
25 there are transfers between entities that may have

2 different systems, like Department of Education to an
3 agency that's more directly administered by DCAS,
4 there could be issues, but I know we're always
5 looking to improve the process, and we will continue
6 to do so.

7 COUNCIL MEMBER JOSEPH: But I also wanted
8 to note that it was also the same insurance that I
9 had. I wasn't changing provider. I was keeping the
10 same provider, just transferring it over to New York
11 City Council, and there was still a delay and, even
12 when I spoke to cardiologists to see if they would
13 see me and then bill me later, they said, no, I would
14 have to pay up front or not get seen that day at all,
15 and I was not seen by the cardiologist.

16 FIRST DEPUTY COMMISSIONER POLLACK: Again,
17 I do apologize for that. Anyone who faces that
18 situation, as soon as we're notified about it, we
19 will seek to rectify it. We have no interest in
20 seeing people have that issue come up.

21 COUNCIL MEMBER JOSEPH: Chair, can I ask a
22 couple of questions?

23 CHAIRPERSON DE LA ROSA: They're almost
24 finished.

2 FIRST DEPUTY COMMISSIONER POLLACK: T2024-

3 2170 would establish new requirements on the
4 processing of benefit claims, including requiring
5 that claims be determined within 14 days of filing.
6 OLR would also be required to create a City Benefits
7 Help Center, which would be responsible for offering
8 information and guidance to employees about the
9 availability and structure of all benefits for City
10 employees. The bill would also require the
11 establishment of an online portal through which City
12 employees could submit and track their benefit
13 claims, receive information about benefits, and
14 communicate with benefits administrators. OLR would
15 also be required to submit an annual report on
16 employee utilization of such portal and basic data on
17 claims processing. Lastly, the bill would require OLR
18 to design and administer a one-time survey for
19 municipal employees to provide feedback on the
20 substance and administration of benefits. We
21 appreciate the intent behind this bill and share the
22 goal of improving service for our City employees, but
23 we do have some concerns about the scope of the
24 legislation and the resources it would require given

2 the complex nature of City benefits we described in
3 our testimony.

4 We look forward to continuing to discuss
5 with the Council ways to improve the administration
6 of benefits for City employees. Thank you for your
7 time, and we'll be happy to address any questions you
8 have.

9 CHAIRPERSON DE LA ROSA: Thank you, Deputy
10 Commissioner.

11 I'm going to pass it to Council Member
12 Joseph to ask the first round of questions.

13 I also want to recognize we've been
14 joined by Council Member Marmorato, thank you for
15 being here, and then I'll come back for questions. Go
16 ahead.

17 COUNCIL MEMBER JOSEPH: Thank you. I'm
18 also on BNT so I got a City budget to keep
19 negotiating.

20 CHAIRPERSON DE LA ROSA: Thank you.

21 COUNCIL MEMBER JOSEPH: I just wanted to
22 know who's responsible for ensuring employees who
23 transfer agencies do not experience a lapse in
24 coverage?

2 FIRST DEPUTY COMMISSIONER POLLACK: I'll
3 turn it over to Deputy Commissioner Porter from DCAS
4 to describe that in more detail.

5 DEPUTY COMMISSIONER PORTER: Hello,
6 Council Member Joseph.

7 COUNCIL MEMBER JOSEPH: Hi.

8 DEPUTY COMMISSIONER PORTER: The way it
9 works is that a transaction is processed through
10 NYCAPS, and the automated system will determine how
11 the benefits will react so a transfer between
12 agencies should not result in a lapse in benefits.
13 However, when you're transferring from an agency
14 outside of DCAS' jurisdiction into an agency that's
15 under DCAS' jurisdiction, there is a communication
16 that needs to happen between the two agencies, and so
17 long as that happens before the transfer occurs, then
18 the process is seamless. If that does not happen,
19 then we would need notification from the employee
20 and/or the agency, and that would include the
21 submission of supporting documentation, and then we
22 would ensure that the health benefits are transferred
23 over accordingly.

24 COUNCIL MEMBER JOSEPH: So I guess my
25 agencies were not talking to each other. Does OLR

2 track whether, and if so, how often employees
3 experience a lapse in coverage in the event of
4 interagency transfers?

5 DEPUTY COMMISSIONER PORTER: We do. We do
6 track that. We have an audit process that runs every
7 day, and it gives us an opportunity to review
8 exceptions or benefits that did not transfer over as
9 a part of the automated process and then, in a timely
10 manner, we will reach out to the employee and/or the
11 agency to rectify any discrepancies with employee
12 benefits.

13 COUNCIL MEMBER JOSEPH: So you missed me,
14 huh? You missed me. I fell through the crack. How can
15 this issue be addressed to ensure employees do not
16 experience lapses in coverage?

17 DEPUTY COMMISSIONER PORTER: Once again,
18 we can look at our auditing procedures and ensure
19 that we're capturing all relevant transactions. It's
20 a bit difficult when we're dealing with the agencies
21 that are outside of DCAS' jurisdiction, but we do
22 have contact with them so we absolutely can work with
23 these agencies to strengthen the process.

24

25

2 COUNCIL MEMBER JOSEPH: I would love to
3 see that, and I don't want anyone to ever experience
4 what I experienced, so thank you so much.

5 DEPUTY COMMISSIONER PORTER: You're very
6 welcome.

7 COUNCIL MEMBER JOSEPH: Chair.

8 CHAIRPERSON DE LA ROSA: Thank you so
9 much, Council Member Joseph.

10 I want to ask a few more questions.
11 First, I want to thank you for the lengthy PowerPoint
12 and walking us through it. I want to recognize that
13 this is a complex system, and so we're all trying to
14 just get our bearings around the process.

15 So timely and accurate processing of
16 claims for benefits is a core component of
17 administering a functional, successful employee
18 benefit system. Who handles the administration of
19 various employee benefit programs offered by the
20 City, and I guess you ran through that, right, but
21 how does OLR assess the performance of these
22 contracted administrators? You testified that there
23 are performance guarantees for each administrator.
24 Can you walk us through what those are?

2 FIRST DEPUTY COMMISSIONER POLLACK: First,
3 to start, we can certainly provide some of them now,
4 but we're happy to provide a full list of the
5 guarantees. They're fairly lengthy so we're happy to
6 provide that to the Council. I think some of the
7 performance guarantees include timely processing,
8 answering calls, things like that.

9 CHAIRPERSON DE LA ROSA: And when you say
10 timely processing, what is your standard for holding
11 these administrators...

12 DIRECTOR GESTELY: We process within 10
13 days.

14 CHAIRPERSON DE LA ROSA: Within 10 days?

15 DIRECTOR GESTELY: They have to process
16 within 10 days.

17 FIRST DEPUTY COMMISSIONER POLLACK: It's
18 10 business days.

19 CHAIRPERSON DE LA ROSA: Okay. What are
20 the claims processing standards that apply to various
21 benefits offered by City employees, and how are those
22 standards determined?

23 FIRST DEPUTY COMMISSIONER POLLACK: Just
24 to provide some more clarification to the last one,
25 that's really the MBF contracted programs, so our

2 dental, our vision, our superimposed major medical.
3 Obviously, union welfare funds would have their own
4 contracts and their own performance standards that
5 we're not fully aware of.

6 For health plans, there are regulations
7 issued by the State Department of Financial Services
8 that say that claims have to be processed within 30
9 days if submitted electronically and 45 days if
10 submitted by paper.

11 CHAIRPERSON DE LA ROSA: So that's how
12 much time specifically the administrators are given
13 to process the claims and render decisions?

14 FIRST DEPUTY COMMISSIONER POLLACK: That
15 would be to process a claim for a health insurer, so
16 Emblem, for example, they would have that amount of
17 time to do an initial processing. That could mean
18 that the first, the processing, there needs to be
19 more information requested, and then so within 30
20 days they request more information, then more
21 information is submitted, then there's another 30
22 days to process that.

23 CHAIRPERSON DE LA ROSA: And what about to
24 issue a reimbursement? Is it the same kind of
25 timeline?

2 FIRST DEPUTY COMMISSIONER POLLACK: No,
3 I'm not sure about the timeline for once you've
4 determined that, for health insurance, once they've
5 determined a claim is reimbursable, like an out-of-
6 network claim, I'm not sure the timeline for how
7 quickly they have to make that payment. I think
8 usually it comes with the explanation of benefits.
9 For our programs, Ms. Gestely can perhaps speak to it
10 if she can find it. If not, we'll get the information
11 to you. As she testified for our GIM and FSA
12 programs, if it's submitted by the 25th of the month,
13 payment is made the last week of the following month.

14 DIRECTOR GESTELY: But I did find the
15 answer to your previous question, which was on one of
16 the slides. I don't know why I didn't say it. The
17 service performance guarantees are 97 percent of
18 claims must be processed within 10 days, and 99
19 percent of calls must be answered within 30 seconds
20 so they're very stringent and we monitor them.

21 CHAIRPERSON DE LA ROSA: How does OLR
22 ensure that benefits processing standards are met?
23 Obviously, you track, but does OLR track the
24 timeliness of claims determinations or audit claims
25 for erroneous determinations?

2 DIRECTOR GESTELY: We do. We get quarterly
3 reports from all of the vendors, and we review those
4 on a quarterly basis. We discuss it with each of
5 them. We discuss all of these and, as I said, what we
6 do regularly is go out to the market, and we bid and,
7 if we hear that service levels are not where they
8 should be, we switch out the vendor, which is exactly
9 what happened with dental and vision.

10 CHAIRPERSON DE LA ROSA: Well, that was my
11 next question. Can you describe an instance when OLR
12 had to take action to enforce an administrative
13 standard or improve substandard benefit
14 administration?

15 DIRECTOR GESTELY: That's exactly what we
16 did. We started to get complaints about Davis Vision.
17 We started to get complaints about HealthPlex. We
18 were going out to bid, and that was part of the
19 process that we went through, is that we took those
20 complaints into consideration.

21 CHAIRPERSON DE LA ROSA: In your
22 experience, what is the most effective way to ensure
23 that claims for benefits are processed within a
24 prescribed timeframe?

2 FIRST DEPUTY COMMISSIONER POLLACK: I can
3 try to answer that. So you're asking about how we
4 would ensure, the most effective way to ensure that
5 claims are processed. I think, as Director Gestely
6 mentioned, we do receive these reports, staying in
7 touch with the carriers, and also hearing from non-
8 representatives to the employees. We all, in our
9 jobs, deal with employees a lot, and we do hear
10 concerns about if people submit things and they're
11 not hearing back, if people are unhappy about certain
12 aspects of a benefit, and then we can address those
13 with the vendor, and I think also the RFP process
14 really allows us to evaluate the best vendors who can
15 provide superior service, maybe, to the ones that we
16 had previously.

17 CHAIRPERSON DE LA ROSA: I'm going to pass
18 it to Council Member Ariola because she's waiting to
19 ask questions, and then I'll come back to ask some
20 more technical questions.

21 COUNCIL MEMBER ARIOLA: Thank you, Chair.
22 This is for DCAS. How did the idea of City workers
23 waiving their civil rights come about?

24 DEPUTY COMMISSIONER PORTER: I'm sorry,
25 can you please ask that question again?

2 COUNCIL MEMBER ARIOLA: Sure. How did the
3 idea of the City workers waiving their civil rights
4 come about, and how was it decided who would be asked
5 to sign the waiver, and not once the agencies
6 determined that it was no longer going to be a
7 vaccine mandate, because it was lifted?

8 I'm going to defer the question to OLR.

9 COUNCIL MEMBER ARIOLA: Okay.

10 FIRST DEPUTY COMMISSIONER POLLACK: Under
11 civil service rules, when competitive class employees
12 are to be reinstated, there's a requirement that they
13 sign a waiver of certain claims so it came from civil
14 service rules.

15 COUNCIL MEMBER ARIOLA: So every member
16 would have had to have signed that waiver, according
17 to your rules?

18 FIRST DEPUTY COMMISSIONER POLLACK: The
19 rule was that competitive and labor class employees
20 are required to sign waivers. Whether every agency
21 complied with that, I can't say, but that was the
22 guidance given to agencies.

23 COUNCIL MEMBER ARIOLA: So can you explain
24 why some members were asked to sign waivers and
25

2 others who were similarly situated were not asked to
3 sign waivers?

4 FIRST DEPUTY COMMISSIONER POLLACK: I
5 certainly don't know every individual case. As I
6 said, for competitive class and labor class
7 employees, the guidance was that they should sign a
8 waiver.

9 COUNCIL MEMBER ARIOLA: Was a protocol
10 given to the agencies regarding reinstatement for the
11 members who had been separated from the City service
12 during the COVID mandate and once it was taken away?

13 FIRST DEPUTY COMMISSIONER POLLACK: Yes,
14 there was an FAQ prepared by DCAS and sent to
15 agencies.

16 COUNCIL MEMBER ARIOLA: Yeah, so I don't
17 exactly agree with the answer you gave before that
18 because there were so many similarly situated
19 members, and some were asked to sign a waiver and had
20 an active Article 78, and some also had an active
21 Article 78 and were put back in without a waiver, and
22 they were exactly the same, and that's what we've
23 been fighting each and every day with the Law
24 Department, with OLR, with DCAS, and trying to find
25 out why, why there was inequity across the board, and

2 why there isn't a policy, and perhaps there's a
3 policy now, but there wasn't a policy then so is
4 there a policy now?

5 FIRST DEPUTY COMMISSIONER POLLACK: Yes.
6 As I mentioned, there was a policy issued. There was
7 an FAQ issued to agencies with guidance about how to
8 handle it. Happy to provide it to the Council. That
9 was issued shortly after the mandate was lifted, and
10 it was provided to all agencies.

11 COUNCIL MEMBER ARIOLA: Okay, and when was
12 that policy provided?

13 FIRST DEPUTY COMMISSIONER POLLACK: I'd
14 have to look exactly, but I believe it was in
15 February of '23 after the mandate was lifted.

16 COUNCIL MEMBER ARIOLA: Do you know how
17 many cases, Article 78s, have been won by the City
18 workers?

19 FIRST DEPUTY COMMISSIONER POLLACK: I do
20 not.

21 COUNCIL MEMBER ARIOLA: You don't? So then
22 you wouldn't know how many of them were appealed
23 either.

24 FIRST DEPUTY COMMISSIONER POLLACK: No, I
25 do not.

2 COUNCIL MEMBER ARIOLA: I would like to
3 know the answer to those two questions, if you could
4 get back to the Chair.

5 FIRST DEPUTY COMMISSIONER POLLACK: I can
6 confer with the Law...

7 COUNCIL MEMBER ARIOLA: Because it's very
8 important for everyone to understand that there was
9 no real protocol. People were being brought back on
10 the job, and it was the exact same situation as
11 another firefighter, another teacher, another DOT
12 worker, another DSNY worker, another any municipal
13 worker, and some were hired back and some weren't,
14 and they were told that they had to either sign a
15 waiver or they had to drop their Article 78. Some
16 even won their Article 78 and were brought back on so
17 I don't think that OLR really did have a protocol in
18 place because, if they did, then that wouldn't have
19 been happening. There wouldn't have been such a
20 disconnect and such inequity when members were trying
21 to get back on.

22 Do you know if the Law Department tried
23 each case or if the outside firm tried the cases for
24 the Article 78s? Do you know if that's...

2 FIRST DEPUTY COMMISSIONER POLLACK: I'm
3 not aware of the Law Department, how they handled it,
4 no.

5 COUNCIL MEMBER ARIOLA: Okay. Perhaps we
6 can send a letter to the Law Department to find that
7 out because I cannot imagine how many taxpayer
8 dollars, how much money and taxpayer dollars were
9 spent to keep our first responders, our educators,
10 and our essential workers off the job when we needed
11 the most to come back to the job once the mandate was
12 lifted, and we're not going to stop asking these
13 questions and we're going to make sure that a policy
14 is put in place. We're not going to stop asking these
15 questions until each and every one of those members
16 who deserve to come back are reinstated the way they
17 should be reinstated, the way their colleagues were
18 reinstated, and there shouldn't be a double standard.
19 Thank you. Thank you for the time.

20 CHAIRPERSON DE LA ROSA: My pleasure.
21 Okay, so Council Member Ariola led us into questions
22 about legislation so I'm going to ask you some
23 questions regarding my Pre-Considered Introduction in
24 relation to the administration of certain municipal
25 employee benefits, would impose a minimum standard on

2 certain claims and benefits process whereas federal
3 or state standards do not control. Additionally, it
4 would require claims tracking for benefits that do
5 not currently offer online tracking, which include
6 the health and fitness reimbursement and the FSA
7 program. Does OLR offer a mechanism through which
8 employees can voice complaints or submit inquiries
9 about benefit administration? If so, what are the
10 most common questions and concerns that OLR receives?

11 FIRST DEPUTY COMMISSIONER POLLACK: Yes,
12 we do have a mechanism. I can turn it over to
13 Director Gestely to speak more about that.

14 DIRECTOR GESTELY: There are a number of
15 ways that people can contact us. They can call us.
16 There's a telephone number for each of the programs.
17 They can send us an email. If you go to the OLR
18 website, it specifically says contact us. You can
19 send an email just by clicking there and it comes to
20 us directly. You can use the mail. We are under an
21 obligation for a very long time by the Mayor's Office
22 to respond to all communication within 10 days. We
23 try to respond much faster. The majority of issues
24 that we hear, as I said at the beginning, are not
25 issues that we can actually change. People say, why

2 is the gym benefit, the fitness benefit taxable?
3 Because it is. Because that's the way the Code is
4 written. There's nothing we can do. People submit
5 claims, for example, for HCFSAs, which are for the
6 prior year. We can't process them this year if it's
7 for the prior year. That's a complaint. People say,
8 my doctor doesn't want to give me an ELB. We say, but
9 we can't process without an ELB. You must talk to
10 your doctor and get an ELB. These are complaints, but
11 they're not complaints that we can do anything about
12 because they're part of parcel of these programs. It
13 is incredibly rare that we hear somebody, and I can
14 tell you, we painstakingly went back to all of last
15 year for both MBF and Flexible Spending to see how
16 many financial errors we had actually made, five in
17 the two programs in a 12-month period. It is
18 exceedingly rare that we do that. We have checks and
19 balances in place. Those kinds of things that people
20 come to us about are really not things that we can do
21 anything about. The one thing that we can is that
22 people say, I want to know what my balance is, I want
23 to know what my claim is, and that's the portal that
24 we are building.

2 FIRST DEPUTY COMMISSIONER POLLACK: I

3 would just add another way that complaints often come
4 to us when they happen is through unions. Obviously,
5 we have relationships with all our unions, and
6 they'll contact us on behalf of a member who has an
7 issue. We'll also obviously hear from agencies
8 directly. They'll contact someone at OLR who they
9 know with the issues that one of their employees is
10 having, and even occasionally from Council staff
11 about a constituent who's having issues. When we get
12 those concerns, we try to respond as quickly as we
13 can.

14 CHAIRPERSON DE LA ROSA: How long is a
15 typical contract duration between the city and a
16 benefit administrator or provider?

17 DIRECTOR GESTELY: They're five-year
18 contracts.

19 CHAIRPERSON DE LA ROSA: Five years. Would
20 you consider including a new element in a future
21 contract that would require providers to offer users
22 a more streamlined and modernized means of submitting
23 and tracking claims and methods to contact
24 administrators with questions?

2 FIRST DEPUTY COMMISSIONER POLLACK: I
3 think anytime we are doing a new contract, we are
4 definitely happy to consider any improvements so,
5 yes, we consider any and all improvements to improve
6 the experience for employees when we have a new
7 contract.

8 CHAIRPERSON DE LA ROSA: In regards to the
9 performing guarantees that you discussed earlier, are
10 those contract terms made available to the public?

11 FIRST DEPUTY COMMISSIONER POLLACK: We can
12 provide them when they're entered into. I believe
13 they are posted on the OLR website when we enter into
14 a new contract so they should be publicly available.
15 Okay. We'll have to get back to you on that. I'm
16 looking at our Chief Contracting Officer back there,
17 and we'll get back to you with the answer on that. It
18 may be different for MBF as opposed to a normal City
19 contract.

20 CHAIRPERSON DE LA ROSA: All right. This
21 bill contemplates the potential to improve the
22 administration of benefits under OLR's oversight
23 power by increasing their role in offering help to
24 individuals who are encountering challenges with
25 claiming their benefits. If OLR is unable to directly

2 answer an employee's question, what leverage do you
3 think it would offer an individual employee if they
4 were to have an OLR advocate assisting them with
5 interacting with the providers? Do you think that it
6 would serve an additional oversight on the insurance
7 provider's successful administration of the benefits
8 and therefore increase the likelihood that the
9 provider would complete their assigned functions more
10 thoroughly and effectively?

11 FIRST DEPUTY COMMISSIONER POLLACK: I will
12 say that, first of all, when issues are brought to us
13 in the many ways I mentioned, we will always try to
14 reach out to a carrier to help resolve them,
15 especially when they're urgent, pressing health
16 issues. I think one of the challenges with what you
17 described is just the resources it would require. As
18 we mentioned, benefits in the City is really complex.
19 We have more than 10 different health plans. We have
20 62 welfare funds providing all these various
21 benefits, all of them with different carriers. There
22 are other union funds for annuity, legal benefits,
23 education benefits, and most of these things are
24 handled by vendors. Our contracts essentially pay
25 them to administer the programs and to have a whole

2 staff who would have to be trained and really have an
3 intimate knowledge of how health claims work. They'd
4 have to learn the procedure codes. No one at OLR
5 right now knows all those various procedure codes for
6 health insurance. No one knows the ins and outs.
7 That's really what the health carriers are for. It
8 would require a tremendous amount of resources, and I
9 think that's a concern for us.

10 CHAIRPERSON DE LA ROSA: I understand the
11 challenges, and I'm not saying that the challenges
12 are small in any way. I'm not minimizing the
13 challenges, but we continue to hear from City
14 workers, and we can acknowledge the complexities of
15 this system. This bill is looking to really
16 streamline and help people learn how to navigate
17 systems that are so complex and so foreign for the
18 majority of City workers and, while the challenges
19 and the resources are needed, I think the Council
20 serves as a partner to try to make sure that the
21 resources are in place, but only because there are
22 challenges doesn't mean that it's not worth exploring
23 as a mechanism for us to streamline these processes.
24 As you heard from Council Member Joseph, and that is
25 a story that we hear, and I'm sure you all hear a

2 hundred times a day. There are some City workers that
3 have some serious medical issues, their dependents,
4 their spouses, and one of the benefits of working for
5 the City has always been the benefits that come with
6 working for the City, the stability of working for
7 the City, and if we're not making inroads into
8 systems that are so complex that they no longer make
9 sense, then we are going to continue to see the
10 retention of top talent in our City continue to flee.
11 I mean, we've been here in other hearings when we're
12 talking about the vacancy rates across City agencies.
13 These things are correlated and these things are
14 connected. If people feel like that one thing that
15 always drew people to City service, which was their
16 benefits, their stability for their families, is no
17 longer intact, then they won't work for the City.
18 They'll go work in a private company somewhere where
19 they'll get a 401K and forget about it, right? So we
20 need to continue to improve, and I am glad that you
21 all brought the data that you did bring because it
22 sheds some light to really the effort that you're
23 trying to make in getting these claims processed and
24 making sure that we're moving things forward but,
25 when we put forward legislation, we're putting

2 forward legislation because the voices of our
3 constituencies are reflected in the issues that we're
4 seeing here, and so I appreciate your efforts. We're
5 going to keep asking a few more questions. I want to
6 see if any of my Colleagues had additional questions.

7 Okay. I wanted to ask a little bit about
8 education and outreach to employees. Obviously,
9 understanding health insurance benefits and
10 supplemental benefits, particularly when they're
11 interrelated, can be a daunting task. What efforts
12 does OLR make to ensure that employees understand the
13 benefits available to them and how to realize those
14 benefits?

15 FIRST DEPUTY COMMISSIONER POLLACK: Thank
16 you for the question. First, just going back to your
17 earlier statement, I just want to say I completely
18 understand the frustration that people often feel
19 when dealing with health insurance companies. I know
20 it can be a frustrating process dealing with claims.
21 We are definitely prepared to continue working with
22 the Council to figure out how we can improve things
23 for the employees. I think, unfortunately, the system
24 we live in, we all have health insurance companies to
25 deal with, and it can be frustrating, but we want to

2 make things as best we can for the employees within
3 that system as possible so we definitely want to
4 continue working with you.

5 In terms of outreach and education,
6 generally, agency HR departments are the primary
7 source of information. We are constantly
8 communicating with HR departments at City agencies.
9 We often appear at the agency personnel officer
10 monthly meeting that DCAS hosts to present on either
11 new benefits or as a reminder of current benefits
12 available to employees. We obviously also provide
13 information through our website, and then there are
14 the other efforts that we spoke about in our
15 testimony, mailing a mini booklet out starting this
16 year and, especially when we introduce a new benefit,
17 we really make an effort to ensure that we are
18 communicating both directly to Members as well as
19 through the agencies because is one thing I find is
20 that, sadly, a lot of people will kind of ignore an
21 email that's just from a central email account, but
22 if it's from your agency HR, people probably take it
23 more seriously and read it so we do work with those
24 agencies to make sure they're communicating out to
25 their employees.

2 CHAIRPERSON DE LA ROSA: So going into
3 questions about pension and retiree health insurance,
4 health insurance for certain retirees is a major
5 benefit of employment, especially non-union employees
6 are not aware of. What are the various ways a former
7 employee can qualify as a City retiree for purposes
8 of enrolling in a City retiree health insurance plan?

9 FIRST DEPUTY COMMISSIONER POLLACK: That
10 is governed by the Administrative Code, and there are
11 a few different categories. For anyone hired before
12 2001, you need five years of City service. For anyone
13 hired after 2001, you need 10 years, except for
14 certain teacher titles that need 15 years of service,
15 and the other requirement is that you have to be
16 receiving a pension to qualify for health benefits so
17 if you're retired and you meet those service
18 thresholds, once you start receiving your pension,
19 you can also start receiving retiree health benefits.

20 CHAIRPERSON DE LA ROSA: Is the
21 information about the benefits and the methods by
22 which it can be obtained communicated to all new
23 employees at the beginning of their career with the
24 City?

2 CHAIRPERSON DE LA ROSA: I know it's
3 certainly contained in our summary plan description.
4 I'm not sure if every agency provides that to their
5 employees. Is there any information we provide to
6 agencies to include?

7 DIRECTOR GESTELY: Yes, we do, and we
8 actually have pre-retirement seminars where we talk
9 to people about the steps that they have to take in
10 order to retire, and the pension is their first stop,
11 and coming to OLR is their second stop, and going to
12 the union is their third stop, and it is very
13 popular, and a lot of people come.

14 CHAIRPERSON DE LA ROSA: Is the necessity
15 of participation in a pension plan in order to take
16 advantage of retiree health insurance communicated to
17 employees when they make decisions about whether to
18 enroll in the pension or alternate retirement plan?

19 TDIRECTOR GESTELY: hey do come to us
20 because we also administer the deferred compensation
21 plan, so those people who are not choosing to go into
22 the pension, there is a program called VDC that they
23 can go into. There is also the alternative of putting
24 7.5 percent of your income into the deferred
25 compensation plan so that you don't have to go into

2 the pension. All of that is spelled out to employees,
3 yes. All of this is on the website in great detail.

4 FIRST DEPUTY COMMISSIONER POLLACK:

5 Obviously, we can't speak to what every single agency
6 does, but we will make an effort to ensure the
7 agencies are aware of that and communicating it.

8 CHAIRPERSON DE LA ROSA: These programs
9 provide important support to current and former City
10 employees and strengthen the City's ability to
11 attract new hires. Additionally, the Committee is
12 concerned that employees do not receive adequate
13 instruction and information about these programs. How
14 many employees participated in the superimposed major
15 medical program last year?

16 FIRST DEPUTY COMMISSIONER POLLACK: I
17 think for SMMP, we have claims numbers, but we don't
18 have unique individuals. We can see if we can get
19 that information. I believe it was about 13,000
20 claims last year.

21 DIRECTOR GESTELY: SMMP?

22 FIRST DEPUTY COMMISSIONER POLLACK: Yes.

23 DIRECTOR GESTELY: 13,000.

24 FIRST DEPUTY COMMISSIONER POLLACK:
25 13,000.

2 CHAIRPERSON DE LA ROSA: Okay.

3 DIRECTOR GESTELY: So let me just talk
4 about that a little bit.

5 CHAIRPERSON DE LA ROSA: Okay.

6 DIRECTOR GESTELY: It sounds low. 13,000
7 sounds low, and we talk all the time in the office
8 about why that number is as low as it is because
9 people don't have 500 dollars out-of-pocket medical
10 expenses. An awful lot of City employees don't. They
11 go to their in-network providers. They pay 20 dollars
12 or 30 dollars as a copay. They never come up to the
13 500 dollars then they never can take advantage. SMMP
14 is very much a catastrophic benefit, and that's why
15 it's there.

16 CHAIRPERSON DE LA ROSA: Following up on
17 that question, then what qualifies as substantial
18 out-of-pocket medical expenses? Is it like a surgery
19 or prescriptions that are highly costly?

20 DIRECTOR GESTELY: If you have claims that
21 are over 500 dollars, then you're going to be
22 reimbursed for 90 percent of what is out-of-pocket.

23 FIRST DEPUTY COMMISSIONER POLLACK: It's
24 often when someone goes out-of-network. I would say
25 that's the most common reason someone would submit

2 for reimbursement if they've gone to an out-of-
3 network provider, and then they get some form of
4 reimbursement through their primary health insurance,
5 and then for the remaining out-of-pocket expense
6 would come back to SMMP.

7 DIRECTOR GESTELY: And just to show how
8 catastrophic this is, if somebody has more than 2,500
9 dollars out-of-pocket, they're reimbursed 100 percent
10 so that's really what it's there for. It's less for
11 the co-pays and things like that.

12 CHAIRPERSON DE LA ROSA: Are description
13 of benefit programs provided in any other non-English
14 languages?

15 DIRECTOR GESTELY: The prescription drugs?

16 CHAIRPERSON DE LA ROSA: Any of the
17 programs. Are they provided, the information
18 provided?

19 DIRECTOR GESTELY: Prescription drugs are
20 in the management benefits fund. For managers, they
21 have to buy the high-option rider and, if they buy
22 the high-option rider, then they can bring whatever
23 is out-of-pocket to SMMP.

24 CHAIRPERSON DE LA ROSA: Yeah, the
25 question was more about language access so is this

2 information provided to employees in other languages
3 that are not English?

4 DIRECTOR GESTELY: Oh, in other languages?

5 CHAIRPERSON DE LA ROSA: Languages, yes.

6 DIRECTOR GESTELY: No, they are not.

7 FIRST DEPUTY COMMISSIONER POLLACK: We'll
8 definitely look into, though. Council Member, thank
9 you for...

10 CHAIRPERSON DE LA ROSA: Can you say it
11 into the microphone?

12 FIRST DEPUTY COMMISSIONER POLLACK: Thank
13 you for raising that. That's something we'll
14 definitely look into to understand the concern.

15 CHAIRPERSON DE LA ROSA: Yes. I've often
16 said, I was born in the Dominican Republic. My brain
17 thinks in Spanish, and I have to translate everything
18 before it comes out of my mouth. Sometimes it comes
19 out in Spanish, especially when I'm cursing.

20 Okay. Health and fitness reimbursement.
21 As of March 1st, 2024, the management benefit funds
22 and health fitness reimbursement increased from 250
23 to 500 for each six months period. How did OLR
24 determine this increase, and what is the average cost
25 of gym memberships in New York City?

2 FIRST DEPUTY COMMISSIONER POLLACK: Based
3 on just preliminary internet research, I would say
4 the average cost looks like it's probably around
5 1,000 dollars a year, in the neighborhood of 90 or
6 100 dollars a month. I don't have a study on that,
7 but that's some information we found online. When we
8 decided to increase the reimbursement, we had heard
9 from a number of managers over the years that they
10 felt that 500 dollars was low. That wasn't sufficient
11 to essentially pay for a full year's membership to a
12 lot of places so we took that into account. We looked
13 at the state of the MBF's finances, and we determined
14 that we had enough revenue versus expenses that we
15 could accommodate that increase.

16 CHAIRPERSON DE LA ROSA: So it's 500
17 dollars for a six-month period?

18 FIRST DEPUTY COMMISSIONER POLLACK: Yes,
19 that's correct.

20 CHAIRPERSON DE LA ROSA: I would still say
21 that that's low. A lot of the gym memberships in the
22 city are very pricey, even for non-luxury chains, but
23 I understand that it's a revenue question.

24

25

2 Did OLR perform employee outreach before
3 determining the increase, and how often are
4 reimbursement amounts reconsidered?

5 FIRST DEPUTY COMMISSIONER POLLACK: We
6 didn't do any formal outreach. As I mentioned, it was
7 something that we heard over and over over the years,
8 that what people felt was a low amount for that
9 reimbursement so we felt like there's strong support
10 out there for it, and there's no set frequency at
11 which we reconsider. It all depends on what we're
12 hearing as well as the state of the MBF's finances.
13 If we're seeing that our revenue is above our
14 expenses year over year, then we'll consider
15 increasing a benefit but, if there's not room to do
16 that, then we don't really have the opportunity to.

17 CHAIRPERSON DE LA ROSA: Okay. One
18 question we often hear about is the commuter benefits
19 and the option of adopting to the new Omni system,
20 and what will be the registration process for
21 employees who are seeking to utilize this benefit?

22 FIRST DEPUTY COMMISSIONER POLLACK: I
23 would have to confer with the Financial Information
24 Services Agency payroll administration and get back

2 to you on that. I'm not sure about the current status
3 of that.

4 CHAIRPERSON DE LA ROSA: Okay. This is an
5 urgent one because, as you know, the MTA has pretty
6 much already turned everything into the Omni system,
7 and so we wouldn't want people's benefits to just be
8 sitting there, not being able to be used in this
9 transition.

10 FIRST DEPUTY COMMISSIONER POLLACK: Yeah.
11 FISA OPA does manage the contract with (INAUDIBLE) or
12 commuter benefits providers so we'll check with them
13 and get back to you.

14 CHAIRPERSON DE LA ROSA: Okay. Thank you.
15 Let's see. Okay. All right. I think we're good.

16 Thank you so much for being here and
17 testifying today on these important programs. I know
18 that there are some outstanding questions. We'll be
19 sure to get some answers back for Committee Members
20 and continue the conversation, but thank you for
21 coming today and spending some time with us.

22 FIRST DEPUTY COMMISSIONER POLLACK: Thank
23 you, Chair De La Rosa. Thank you, Council Members.

24 CHAIRPERSON DE LA ROSA: Thank you. All
25 right. I now open the floor for public testimony.

2 Before we begin, I want to remind members
3 of the public that this is a formal government
4 proceeding and that decorum shall be observed at all
5 times. As such, members of the public shall remain
6 silent at all times.

7 The witness table is reserved for people
8 who wish to testify. No video recording or
9 photography is allowed from the witness table.
10 Further, members of the public may not present audio
11 or video recordings as testimony but may submit
12 transcripts of such recordings to the Sergeant-at-
13 Arms for inclusion in the hearing record.

14 If you wish to speak at today's hearing
15 and you haven't done so, please fill out an
16 appearance card with the Sergeant-at-Arms and wait
17 for your name to be called. Once you have been
18 recognized, you will have two minutes to speak on
19 today's hearing topic of the Administration of City
20 Benefits for Current Employees.

21 If you have a witness statement or
22 additional written testimony you wish to submit for
23 the record, please provide a copy of the testimony to
24 the Sergeant-at-Arms. You may also email written
25 testimony to landusetestimony@council.nyc.gov within

2 42 hours of the hearing. Audio and video recordings
3 will not be accepted.

4 When you hear your name, please come up
5 to the witness panel. For our first panel, we will
6 invite Jude Pierre, Sal Maita, Jack Wei Lin, and Tom
7 LaPolla.

8 All right, you may identify yourself for
9 the record and begin your testimony.

10 JUDE PIERRE: Hello, my name is Jude
11 Pierre. Thank you for having me. I am a New York City
12 firefighter. I was reinstated to the Department after
13 the COVID-19 mandate was lifted. We were told to send
14 an email to the Fire Commissioner and Chief of
15 Personnel stating that we would like to return to our
16 jobs. I received the email back from the Chief of
17 Personnel with paperwork to fill out, which I did and
18 sent back to him. I received the email back telling
19 me to make an appointment with the medical office.
20 There were long stretches in between the emails from
21 the Personnel, and when I didn't hear back, I reached
22 out to Councilwoman Ariola's office, where she
23 intervened along the way. After my medical
24 appointment, I was given retraining dates and was
25 back to work. Knowing that my brothers and sisters

2 were still fighting to return to work, I kept in
3 touch with the Councilwoman's office. I knew there
4 were firefighters in the exact same position as me
5 that weren't being allowed back to their jobs. My
6 return wasn't an easy one. After being out of work
7 for months, I was finally able to return to the
8 firehouse in the community where I served, only to be
9 pulled off the job yet again and told to report to
10 FDNY headquarters, where I was told I must sign a
11 waiver of my civil rights in order to be back in the
12 firehouse. Yet again, the Councilwoman's office
13 intervened, and I was able to go back to the job that
14 I love. The other members of FDNY and all other City
15 agencies weren't the same. They want to work for the
16 City that they love and the residents that they wish
17 to serve. I ask that you all vote yes for Resolution
18 5, calling for equity for all City workers. Thank
19 you.

20 CHAIRPERSON DE LA ROSA: Thank you.

21 SAL MAITA: Good afternoon. My name is Sal
22 Maida. As of January of 2022, I was a 16-year vet
23 with the FDNY. The very next month, along with 1,700
24 other brothers and sisters serving the City of New
25 York in different capacities, were terminated by the

2 City we faithfully love. A year later, on February of
3 2023, Mayor Eric Adams rescinded the vaccine mandate.
4 It was through grassroots organizations like Bravest
5 for Choice that we were informed and instructed on
6 how to apply to be reinstated. Within two days of
7 receiving said instruction, I emailed FDNY Chief of
8 Personnel, respectfully requesting I be afforded the
9 opportunity to resume serving the people of our city
10 as a member of the Department. Months passed before
11 finally receiving official reinstatement forms, of
12 which I promptly completed, notarized, and submitted
13 on two separate occasions, as instructed by the FDNY.
14 Yet I sit here today still awaiting the call to
15 report for duty. Thankfully, there are brothers and
16 sisters similarly situated who have been justly
17 reinstated without having to sign off on concessions
18 as a condition to returning to work, as our brother,
19 Jude Pierre, gave testimony to. The blatant double
20 standard witnessed in New York City's reinstatement
21 process amounts to a caste-like system marginalizing
22 a segment of society as second-class citizens. The
23 City Council prides itself on advocating for
24 equality, and rightly so. We therefore respectfully
25 and humbly ask you to support Resolution 5. This bill

2 does not bestow special rights on individuals, but
3 only what is inherently right and just. We thank you
4 for your time, and may God bless us and keep us.

5 CHAIRPERSON DE LA ROSA: Thank you so
6 much.

7 JACK WEI LIN: Good afternoon. My name is
8 Jack Wei Lin. I was an EMT with the FDNY for over 14
9 years. I'm here representing former FDNY EMS workers
10 fired over non-compliance with the COVID vaccine
11 mandate. After the public sector mandate was lifted
12 in February 2023, there was a lack of communication
13 and protocol regarding reinstatement. I wasn't
14 informed by mail or phone call or email informing me
15 of the process to come back. In June 2023, within one
16 year of being fired, I initiated contact with the
17 Fire Department to inquire about the reinstatement
18 process. My three email requests for more information
19 went unanswered for six weeks, until Councilwoman
20 Ariola's office intervened on my behalf. Finally, I
21 received an email response in late July 2023. I was
22 sent a DCAS waiver asking me to surrender my right to
23 sue, just for the possibility of maybe getting my job
24 back. Other members were reinstated, no waivers
25 required, even retirees could return without signing

2 away their legal rights. The double standard is clear
3 and unacceptable. I ask you today, the City claims no
4 wrongdoing. If the City claims no wrongdoing, why
5 must I forfeit my right to sue in order to reclaim a
6 position I should have never lost? And if wrongs were
7 committed, why am I still being penalized while
8 others are being made whole? Reapplying as a rookie
9 EMT after 14 years of dedicated service was, and
10 still is, a condition I'm unwilling to make. With
11 Resolution 5, you guys can right this wrong. Vote to
12 reinstate every worker terminated under the mandate.
13 Send a message that New York values its public
14 servants. We served this City courageously for years.
15 Now it's time for you to have our backs. Thank you.

16 TOM LAPOLLA: Good afternoon, Tom LaPolla.
17 This is going to be my third time giving testimony
18 here in this iconic building and, to be honest, I'm
19 getting tired of addressing this issue, but I'm
20 grateful to those on this Committee who have been
21 very supportive of the fired New York City workers.
22 Some of them are here today giving testimony. As
23 someone who was forced to retire from the Fire
24 Department after 38 years of dedicated service by
25 Bill de Blasio and Dan Nigro for not taking the shot,

2 I believe I have as much standing as anyone to give
3 testimony today. I'll be brief, but I'm going to
4 quote a fellow civil servant who was also forced to
5 retire as well, my friend John. Americans refused to
6 take the COVID-19 vaccine paid a higher price than
7 those that created and released COVID-19 that
8 overwhelming majority of Americans are okay with
9 that. Let that sink in, but today I'm here to support
10 those who lost their livelihoods because of that
11 unjust mandate. Those who stood up for first
12 principles and medical freedom. You know what Anthony
13 Fauci tyrannically referred to as ideological bull
14 sugar, right? And they have still yet to be rehired.
15 You all know what the mandate was never about health
16 science. It had always everything to do about
17 political science, but more importantly, political
18 power. It's time to make those fired members of the
19 New York City workforce whole again and, by
20 supporting Resolution Number 5, that's the first
21 step. Thank you very much.

22 CHAIRPERSON DE LA ROSA: Thank you so much
23 to this first panel.

24 I open up for questions from my
25 Colleagues, if any. Council Member Ariola.

2 COUNCIL MEMBER ARIOLA: Firefighter Maita,
3 thank you so much for coming in today. If I
4 understood your testimony correctly, the Law
5 Department stated that you could not return without a
6 waiver because you were a complainant and had an
7 active lawsuit. Is that correct?

8 SAL MAITA: Actually, they never gave me
9 any reason why I had to sign the waiver. The only
10 time they made reference to the waiver was when they
11 told me that they were not able to process my
12 reinstatement applications if I did not sign it.

13 COUNCIL MEMBER ARIOLA: But at that point,
14 were you on a lawsuit as a complainant with several
15 other members of the Department who were still active
16 at the time you requested your reinstatement?

17 SAL MAITA: Yes.

18 COUNCIL MEMBER ARIOLA: Firefighter
19 Pierre, I know that your road back to your job was
20 not an easy one and that you were treated poorly
21 while you were getting reinstated and I apologize for
22 that.

23 JUDE PIERRE: Thank you.
24
25

2 COUNCIL MEMBER ARIOLA: But you were also
3 named on that same lawsuit as a complainant. Is that
4 correct? The same as Firefighter Maita?

5 JUDE PIERRE: Yes, that's correct.

6 COUNCIL MEMBER ARIOLA: Yet you were both
7 named on the lawsuit, but you were not required to
8 sign a waiver or drop your Article 78. Is that
9 correct?

10 JUDE PIERRE: I think my Article 78 might
11 have been denied by that point, but I was still part
12 of the lawsuit but, when they sent me the initial
13 paperwork to get reinstated, they didn't include the
14 waiver.

15 COUNCIL MEMBER ARIOLA: Were you ever made
16 to sign a waiver?

17 JUDE PIERRE: Yes. I was in the firehouse
18 for about a week, and my officer was having trouble
19 putting me into the payroll. He was like you
20 basically won't be able to get paid until I put you
21 in the payroll so we were trying to figure out what
22 the issue was, and then I got a call saying that
23 there was additional paperwork I needed to sign, and
24 it said basically I wouldn't be able to get paid
25 until I signed the waiver, but I was already back

2 working in the firehouse for at least a week at that
3 point.

4 COUNCIL MEMBER ARIOLA: So the waiver was
5 an afterthought?

6 JUDE PIERRE: I mean, they didn't really
7 explain to me why they decided then to give it to me,
8 but they just said if I wanted to start, you know,
9 continuing my service while working as a firefighter,
10 I would need to sign it so then, you know, I reached
11 out to see what other opportunities I had, because,
12 you know, that would affect my decision to come back
13 if I knew I had to sign the waiver.

14 COUNCIL MEMBER ARIOLA: And did you sign
15 the waiver?

16 JUDE PIERRE: No, I did not.

17 COUNCIL MEMBER ARIOLA: And are you
18 working actively?

19 JUDE PIERRE: Yes, I am.

20 COUNCIL MEMBER ARIOLA: Thank you.
21 Firefighter Maita, have you ever been given a reason
22 why you were asked to sign a waiver while other
23 members were not? Did that conversation ever arise?

24

25

2 SAL MAITA: No, that never came up. It was
3 never indicated to me why that was so important for
4 the City for me to sign that waiver.

5 COUNCIL MEMBER ARIOLA: Was it given to
6 you as a condition?

7 SAL MAITA: Yes.

8 COUNCIL MEMBER ARIOLA: And if you had
9 filed for a vested retirement, knowing what you know
10 about retirees being reinstated without having to
11 sign a waiver, would you have been asked to sign a
12 waiver to be reinstated if you had retired?

13 SAL MAITA: No.

14 COUNCIL MEMBER ARIOLA: The whole point of
15 this is to show that there is no real protocol. There
16 is no real balance or equity.

17 I'd like to change my questions now to
18 EMS Lin. At the time of the mandate was ordered, a
19 mutual aid agreement between the FDNY and the
20 Volunteer Fire Corp was active in New York City. Is
21 that true?

22 JACK WEI LIN: Yes, that's correct.

23 COUNCIL MEMBER ARIOLA: So from the time
24 the mandate was put into place in October of 2021,
25 where you were no longer able to do your job, members

2 of the Volunteer Fire and Ambulance Corps throughout
3 this City who were not mandated to get a vaccine were
4 able to do your job. Would that be correct?

5 JACK WEI LIN: That's correct.

6 COUNCIL MEMBER ARIOLA: Well, members of
7 the FDNY, panel, who were responding to the same
8 emergencies as our valued Volunteer Fire Departments
9 were made and mandated to take a vaccine while
10 Volunteer Fire Department members were not. Have you
11 been reinstated?

12 JACK WEI LIN: No, I have not.

13 COUNCIL MEMBER ARIOLA: Have you been
14 given a reason as to why you're not reinstated?

15 JACK WEI LIN: I was told that I need to
16 sign the DCAS waiver in order to be considered for
17 possibly being reinstated.

18 COUNCIL MEMBER ARIOLA: Are there
19 colleagues of yours that were reinstated without
20 having to sign the waiver?

21 JACK WEI LIN: Yes.

22 COUNCIL MEMBER ARIOLA: Same story?

23 JACK WEI LIN: Yes.

24 COUNCIL MEMBER ARIOLA: Thank you so very
25 much for your testimony and thank you so much for

2 letting everyone on this panel know why they need to
3 sign onto Reso 5 and why the State needs to pass this
4 legislation. Thank you. Thank you so much for your
5 testimony.

6 CHAIRPERSON DE LA ROSA: Thank you,
7 Council Member Ariola, and thank you to this first
8 panel.

9 The next panel will include Michael Kane,
10 Trinidad Smith, Alfonso Ventura, Daniel Hulkower, and
11 Marlon Bethel. I apologize if I messed up anybody's
12 name. Just re-introduce yourselves on the record when
13 you begin.

14 All right, you may begin. Just identify
15 yourself for the record one more time and you can
16 begin.

17 DANIEL HULKOWER: Thank you. My name is
18 Daniel Hulkower. I worked for the New York City
19 Department of Sanitation for five and a half years. I
20 was fired for refusing to comply with the COVID-19
21 vaccine mandate. I just want to point out the City
22 Council had mentioned nobody should have a lapse in
23 their healthcare or experience that. Three years I've
24 had no healthcare now. When Eric Adams issued Order
25 62 mandating the vaccine for City workers, he added

2 an important caveat that exempted celebrities as they
3 generate income for New York City. I wish to
4 apologize to Mayor Adams. I'm sorry that I'm too
5 short to play basketball. My singing voice is best
6 confined to my shower and not broadcasted through a
7 loudspeaker or on a Broadway stage. I'm sorry that I
8 avoided the open casting call for Home Alone despite
9 my grandmother suggesting my mom audition me so that
10 maybe today I could have been a world-famous actor.
11 I'm sorry that all I had to offer the City was my
12 muscles, my only contribution picking up New York's
13 trash and plowing its snow. Although the City does
14 make some money on paper recycling, my job doesn't
15 generate Broadway bucks, so I wasn't privileged
16 enough to be given an automatic Mayoral exemption
17 from the vaccine. As smoothly as it went to terminate
18 my employment, despite me being a member in good
19 standing of a municipal labor union, getting back not
20 so much. I sit here nearly three years after winning
21 our case and being ordered back at 6 a.m. the next
22 day, treading through stay after stay until the City
23 could finally be dragged kicking and screaming into
24 oral arguments, and I'm still not back to work.
25 They're going to keep pushing resources into the

2 appeals against us. Mayor Adams chooses to continue
3 to drag this out instead of throwing in a towel,
4 giving me what is owed to me, and letting me go back
5 to work. Here I am begging for a bill to be voted on
6 to support other bills that order me back to work,
7 when all this could end tomorrow with a call made to
8 the City Law Office and they get told to drop the
9 appeals and waivers against us and just put us back
10 already. I'm just a calloused-handed middle-class
11 dude, the backbone of New York. I never asked
12 anything from this City, but until the day comes when
13 I can finally get the call to report back to my
14 district, I will keep coming here to testify. I will
15 keep reminding everybody of the continued injustice
16 being lodged against unlawfully terminated middle
17 class New Yorkers who aren't asking for handouts. As
18 I said at the last City Council meeting, and I'll
19 continue to say until it finally happens, I just want
20 my due compensation and the damages owed to me, and I
21 just want to go back to throwing garbage in the rain.

22 CHAIRPERSON DE LA ROSA: Thank you so
23 much. Next panelist please.

24 ALFONSO VENTURA: Thank you. Good
25 afternoon. My name is Alfonso Ventura. When the

2 COVID-19 pandemic began, I, like another municipal
3 worker, was pushed to work. I was working in the
4 bigger restaurant in New York City, the school. I was
5 working at PS-8 located at Amsterdam Avenue and 68th
6 Street. Even though I follow all kinds of
7 recommendations in order to avoid the COVID-19, I get
8 it, and I get immunization. That was my reason for
9 rejecting the vaccine. I was reluctant. When the DOE
10 know that I reject the vaccine, they was pushing me
11 to sign a paper, but I was reluctant to sign any
12 paper because to me make any sense. On Monday,
13 October 4, 2021, the DOE closed me the door and I
14 couldn't access my job. Then, from hero and essential
15 worker, I became right away a villain. The DOE closed
16 me the door, but I didn't receive any letter, any
17 email, anything that explained my status. I lost my
18 job, my car, and anybody gave me employment because I
19 was not vaccinated. Without a job, without money, and
20 without unemployment insurance, I was a hero and
21 homeless. I spent almost three-fourths years in
22 shelter. On December 22, a friend told me that DOE
23 was reinstalling workers that had been suspended by
24 COVID vaccine. Immediately, I called Raul Rodriguez
25 from DC-37. He told me that I should talk to Pamela

2 Rodriguez, DC-37, too. I sent her a text message on
3 December 16, 2022. She answered it on December 22. I
4 called her by phone and explained my situation, and
5 her recommendation was that in order to be
6 reinstated, I need to apply again. I need to apply
7 again to the DOE. I rejected her recommendation
8 because, if I do that, I'm saying that I didn't spend
9 more than five years previously (INAUDIBLE) the
10 pandemic. Looks like the DOE authority used the
11 pandemic to get rid of guys like me. They called me
12 unsubordinated. I rejected the COVID vaccine because
13 the (INAUDIBLE) coronavirus created immunity in my
14 body. When I got COVID-19, as a paradox, I rejected
15 the COVID vaccine. The COVID vaccine has been more
16 harmful for my life than the coronavirus itself.
17 Thank you.

18 CHAIRPERSON DE LA ROSA: Thank you for
19 your testimony. Next.

20 TRINIDAD SMITH: Hello. My name is
21 Trinidad Smith. I would like to start out by thanking
22 everybody for this opportunity to share my story. I
23 was a tenured special education teacher in the field
24 of autism for over 20 years. My main objective here
25 is to shine a light on how difficult the process

2 continues to be for me and thousands of other city
3 workers in trying to get our careers back. The City
4 of New York and DOE failed those of us who were
5 terminated or had resigned with a lack of outreach
6 and guidance on re-entering the workforce. We were
7 only told to reapply as new teacher as I did. I was
8 cleared and I was put in the new teacher recruiting
9 section of the DOE's website. I had three separate
10 interviews in August of 2023. My last interview was
11 an in-person demo lesson in the interview with the
12 principal in Brooklyn. Her last words to me was, I
13 will call you this evening to let you know what site
14 I'm going to put you at providing you clear HR. My
15 immediate response to her was, I don't know why I
16 wouldn't be cleared as they are the ones that cleared
17 me to be hired. To my surprise, I did not get a call
18 back or email or thank you for the interview or that
19 they were going with another candidate. Absolutely no
20 response. That was my third interview in a row that
21 was left like this. I understand perhaps one no call
22 back but three in a row is highly unlikely and
23 unprofessional. I stopped interviewing after that,
24 and I truly feel that HR is being instructed by the
25 Legal Department not to clear me. I won my right to

2 work in September 2023 and was ordered by Judge Ralph
3 Porzio to go back to work at the start of this past
4 school year. I arrived to work with a court order in
5 hand and was denied access to my job site and made to
6 wait outside for hours to be told by the current
7 principal that, as per Legal, I was not allowed back
8 to work. After 20 years of service, I was humiliated
9 and made to wait on the sidewalk. Just last week, I
10 received an invitation from the Teacher Recruitment
11 Center asking me to apply for summer school with a
12 one-week deadline approaching. I would be genuinely
13 grateful if I could work for summer school as I have
14 done for my full 20 years straight with the DOE.
15 Thank you.

16 CHAIRPERSON DE LA ROSA: Thank you.

17 MICHAEL KANE: Hey, my name is Michael
18 Kane. I was a New York City special ed teacher for
19 over 14 years. I lost my job over the vaccine mandate
20 and founded a group called Teachers for Choice. Thank
21 you, Chairwoman De La Rosa. Thank you, everybody
22 here, especially the Minority Leader, Councilwoman
23 Ariola. You've just been heroic for us, and I
24 appreciate that. Thank you so much to Councilwoman
25 Joseph for being here and everybody for being here.

2 I first just have to just note that it
3 really struck me to hear Alfonso talk about
4 homelessness from this, and I didn't know that. I
5 just met Alfonso. Our friend Daniel Vila from La Voz
6 Latina introduced us, and that's the type of loss
7 this has had. When we're trying to get back, it's so
8 important. There's two real things I want to talk
9 about. One is that I've been involved in two major
10 lawsuits. One is Kane versus de Blasio that is
11 currently in the Second Circuit Court of Appeals
12 paired with two other lawsuits. It's been sitting
13 there 17 months. Then a state lawsuit called DiCapua
14 versus the City of New York. Trinidad is a named
15 plaintiff along with me in both of those cases. In
16 the state case, we did have a victory as Trinidad had
17 just talked about, and we're now back to work. The
18 appeals process goes on and it continues on.

19 The last thing I want to talk about is
20 what Trinidad said too. She's blocked. She feels
21 she's blacklisted. We know this is in court record,
22 and we talked about it in City Council. There are
23 problem codes that have been placed on unvaccinated
24 educators that have provided roadblocks. Some
25 educators have gotten it admitted to them and others,

2 like Trinidad, she suspects it but she just can't
3 prove it. Please support Resolution 5. There's no
4 reason for this anymore. There's no reason for an
5 impediment. We might disagree on the past. I don't
6 think we disagree on the future. We need to move
7 forward. Thank you all so much.

8 CHAIRPERSON DE LA ROSA: Thank you so
9 much.

10 MARLON BETHEL: Good afternoon, Council
11 Members. Thank you for giving me the opportunity to
12 speak today. My name is Marlon Bethel. I'm a former
13 NYPD detective.

14 Contrary to the lies you've been told by
15 the Adams' Administration, NYPD cops were not only
16 forced out of their careers but some, like myself,
17 were terminated and today prevented from returning to
18 work lest they waive their rights. There are Members
19 of this Body that are fond of preaching the virtues
20 of social justice and minority rights so I ask, where
21 is the equity that a minority, an immigrant to this
22 country, a resident of the city, and a 15-year
23 veteran cop with over 200 arrests and citations from
24 the NYPD and the Kings County District Attorney's
25 Office cannot return to work unless I waive rights

2 bestowed upon me by the laws of this Nation, State,
3 and City itself? How can we expect workers, the arm
4 of government, to operate with fairness and equity if
5 they are being discriminated and extorted of their
6 own individual civil liberties? The return-to-work
7 process has been a disjointed mess from the get-go.
8 This is in no way an outrageous statement. The NYPD's
9 own procedure was not detailed until a week after
10 Eric Adams announced the cancellation of the mandate
11 and was not distributed to former employees by the
12 Department. I, myself, only became aware of the
13 change after being called by former colleagues who
14 themselves saw the Mayor's press conference and had
15 no idea about the details as the Department had sent
16 out no notifications or emails. After making numerous
17 calls throughout the Department, I was finally able
18 to speak to somebody who explained the procedure to
19 me, and the procedure itself was as arbitrary as the
20 deadline that was set for reinstatement. It glossed
21 over a lot of minutiae like back pay, return to work,
22 return of accrued vacation time, return to prior
23 unit, pension shortages due to the lapse in
24 contributions, and worst of all, the procedure
25 explicitly noted that I must sign a waiver in order

2 for me to return. Throughout my career, I have always
3 sought to not overstep the civil rights of other
4 individuals, including those who don't respect our
5 own laws. As I sit here, I can't help but wonder, why
6 must I now give up my own? Had I simply chose fraud
7 and dishonesty and used a fake VAX card, I would have
8 been reprimanded and still allowed to keep my job so
9 why is it that, having chosen honesty and actual
10 science, I'm no longer allowed to be there unless I
11 sacrifice my additional rights? It is time for this
12 Council to send a message.

13 CHAIRPERSON DE LA ROSA: Can you conclude,
14 please? Thank you.

15 MARLON BETHEL: I think it's time for the
16 Council to send a message, okay, on behalf of your
17 constituents, some of who are all in here, and we all
18 work for the City. Thank you.

19 CHAIRPERSON DE LA ROSA: Thank you to this
20 panel. I want to open it up for questions, so please
21 don't move for one second. I know that Minority
22 Leader Borelli has a question and I believe Council
23 Member Joseph. Minority Leader.

24 MINORITY LEADER BORELLI: Just a question
25 for Mr. Hulkower. You mentioned you won a lawsuit.

2 DANIEL HULKOWER: Yes, Garvey et al.

3 MINORITY LEADER BORELLI: Can you just
4 explain the merits of the case and what the judge
5 found?

6 DANIEL HULKOWER: Garvey et al was decided
7 in October of '22. It was an Article 78. We basically
8 declared the entire mandate arbitrary and capricious.
9 The entire rollout, we were ordered back the next day
10 at 6 a.m., but the City was applying for a stay
11 before the ferry reached South Street. They already
12 had a stay going, and they've just been continuously
13 staying us ever since, but basically our case
14 declares the entire mandate rollout arbitrary and
15 capricious.

16 MINORITY LEADER BORELLI: And the decision
17 also requires that you and the other complainants be
18 restored to work?

19 DANIEL HULKOWER: We were ordered back to
20 work at 6 a.m. the next day but, as I said, the City
21 has been staying us for the past, like, every
22 opportunity the City gets to throw a stay at us,
23 they'll take it. If they can throw 10 minutes extra,
24 they'll do it.

2 MINORITY LEADER BORELLI: Were all the
3 complainants Sanitation employees?

4 DANIEL HULKOWER: Yes. Everyone was a
5 member of the DSNY, either 831 or 444.

6 MINORITY LEADER BORELLI: And other
7 employees that weren't a part of your lawsuit that
8 was successful have been reinstated?

9 DANIEL HULKOWER: We don't know actually
10 what's going on with anybody else. They've kept
11 everything pretty much in the dark. We only know
12 about the 16 of us from our group, from our lawsuit.
13 We have found stragglers here and there from the
14 internet and whatnot, but I don't know of anybody,
15 I'm not sure, to be honest with you, because we are
16 completely in the dark, and the City doesn't release
17 any information about how many Sanitation workers
18 were fired, anyone who was reinstated. We do know
19 that people from other agencies have been, but from
20 what I understand from Sanitation, no, I don't know.

21 MINORITY LEADER BORELLI: Thank you.

22 CHAIRPERSON DE LA ROSA: Thank you,
23 Minority Leader. Council Member Joseph followed by
24 Council Member Marmorato.

2 COUNCIL MEMBER JOSEPH: Thank you so much.
3 First of all, thank you for your service, my fellow
4 educators. I was an educator for two decades before I
5 became a Council Member, and I'm also the Education
6 Chair in New York City Council.

7 I had a couple of questions for you. How
8 did you find out you could be reinstated to your
9 positions?

10 MICHAEL KANE: I found out from my lawyers
11 and my attorneys. I didn't find out from the union or
12 from the Department of Education.

13 TRINIDAD SMITH: We're on the same
14 lawsuit, so I was told by the judge that I was
15 cleared to go to work, and he wanted me there the
16 next day, bright and early with the kids, first day
17 of school, and I was excited for half a second.

18 COUNCIL MEMBER JOSEPH: I can't imagine
19 serving as an educator for two decades as well, so no
20 one did any outreach to you to let you know you could
21 return. You had to find out through other means?

22 TRINIDAD SMITH: No, and even when I keep
23 getting through with all these interviews to the very
24 last step, all three interviews, they aren't even

2 allowed to call me back. I'm getting absolutely no
3 response from them at all.

4 MICHAEL KANE: And just one thing I want
5 to add to that. We found out because the Mayor ended
6 the mandate two days before we went into the Second
7 Circuit Court of Appeals, which was very interesting
8 timing, so I knew about that, but we didn't get any
9 outreach. Teachers reached out to me and to
10 teachersforchoice.org asking us, hey, what's going
11 on? What do we have to do? Eventually, I spoke to
12 Beth Norton, who's the general counsel of the UFT,
13 who told me everything, had a 40-minute call for her.
14 I wrote it all down. I have it published on the
15 website now, and when people ask, I send it to them
16 so this Administration has been really lacking in any
17 form of outreach. It really seems like they just
18 wanted to act like it didn't happen and make it go
19 away as opposed to admitting, okay, maybe some
20 mistakes were made. Here's how we'll fix them. It
21 just seems like that part never happened.

22 COUNCIL MEMBER JOSEPH: Wow. How many of
23 those teachers have been able to be reinstated
24 without signing a waiver? Do you know any of the
25 educators that were reinstated?

2 MICHAEL KANE: I know some educators who
3 were. Obviously, they're not excited to come down
4 here and raise their hand and say their name and tell
5 that it happened.

6 COUNCIL MEMBER JOSEPH: Of course.

7 MICHAEL KANE: And I know some who refused
8 to go back because they're insisting on the waiver,
9 and I know some who went back, some in tears because
10 they said, my spouse is going to leave me if I don't
11 go back so I'm going to sign this waiver. They didn't
12 want to, but they did so there is no uniformity to
13 this. It has been a hodgepodge. It depends what
14 district you're in, depends on your relationship with
15 your principal, depends on all of these different big
16 bureaucratic things, not a defined policy.

17 COUNCIL MEMBER JOSEPH: Off the top of
18 your head, can you tell me how many educators
19 altogether?

20 MICHAEL KANE: Of which category?

21 COUNCIL MEMBER JOSEPH: That was out of
22 work, that are still out of work, and those that have
23 returned. Do you have an idea?

24 MICHAEL KANE: I'm sure hundreds, if not
25 thousands, have returned because they had to.

2 COUNCIL MEMBER JOSEPH: Right.

3 MICHAEL KANE: Many signing the waiver,
4 maybe some not. I'm positive hundreds still want to.
5 I'm positive of that based on the emails and stuff I
6 get. It could be thousands, but I don't know for
7 sure.

8 COUNCIL MEMBER JOSEPH: Another quick
9 question, just for clarification, our City is going
10 through a shortage of special education teachers. And
11 I know, I was an ENL coordinator before I left to
12 join the Council, so I know what shortage looks like,
13 and this is a moment where we need shortage areas,
14 and if you're watching anything, our preschoolers are
15 home, about 700, that have no preschool education
16 teachers, and so you guys are needed in the City, so
17 I hope the Administration is listening and get you
18 guys back to work.

19 MICHAEL KANE: Thank you so much for that,
20 Councilwoman. Thank you.

21 COUNCIL MEMBER JOSEPH: Sure.

22 TRINIDAD SMITH: (INAUDIBLE) there are
23 teachers that were found to have fake cards, and they
24 gave them a little slap on the wrist, and they're
25 back to work so, I mean, it's like, if they want

2 honesty, they're not necessarily showing through
3 example.

4 COUNCIL MEMBER JOSEPH: Teachers always
5 want to teach, guys. We love what we do. We love it
6 because we do it. I miss teaching, but I'm here for a
7 greater purpose so thank you for your service. Thank
8 you.

9 CHAIRPERSON DE LA ROSA: Thank you.
10 Council Member Marmorato.

11 COUNCIL MEMBER MARMORATO: Thank you. So
12 I'd like to thank all of you for your service. We
13 really do appreciate it in the City, and especially
14 you, Detective Bethel. Thank you for your 16 years in
15 protecting our entire city. We appreciate that.

16 From listening to your testimony, it
17 sounded like you found out from other co-workers that
18 you could be reinstated. Was there any outreach done
19 by the Department to the members?

20 MARLON BETHEL: No, there was not.

21 COUNCIL MEMBER MARMORATO: Nothing at all?

22 MARLON BETHEL: There was none. I had to
23 initiate phone calls to multiple bureaus within the
24 Department.

25

2 COUNCIL MEMBER MARMORATO: I'm sorry to
3 hear that. As retired members of the Department that
4 were forced to retire because they did not want to
5 comply with the mandates, were they able to return to
6 the Department without signing a waiver, and did
7 anyone ever explain to you why you were being treated
8 differently than other retirees?

9 MARLON BETHEL: Yes, they were. No one
10 ever explained it to me.

11 COUNCIL MEMBER MARMORATO: All right.
12 Sorry to hear that, and I hope everything works out
13 for all of you, and I'm behind you guys. Thank you.

14 CHAIRPERSON DE LA ROSA: I want to thank
15 this panel for your service and for continuing to
16 come here. I've seen you at least in three other
17 hearings so we appreciate it, and we look forward to
18 getting this Resolution done. Thank you so much for
19 being here and for your service.

20 Okay. Up next, our third panel is
21 Christine Gross, Moe Olivierre, Diane Pagen, Michael
22 Tracy, and Edmund Wallace.

23 Thank you. You may begin and just
24 identify yourself for the record so we can keep
25 track. Thank you.

2 CHRISTINE GROSS: My name is Christine
3 Gross. In September of 2021, I should have been
4 starting my 21st year as a teacher. Instead, I took a
5 leave of absence because I needed the medical
6 insurance, and then I was fired in September of 2022.
7 I was certainly not informed in February of '23 that
8 by the Department of Ed or my union that I could go
9 back to work. I heard most of this information on the
10 news, and I didn't bother because as far as I
11 understood, there was going to be no back pay and no
12 being made whole and, secondly, I would have to find
13 a principal who was willing to hire me, and my
14 principal at my school had just started that year so
15 I had absolutely no relationship with her. As being
16 somebody who has stood strong with kids for 21 years,
17 I can't imagine any principal who was willing to hire
18 me back. But anyhow, this should be the end of my
19 24th year of teaching, and instead I've lost hundreds
20 of thousands of dollars, and I'm now collecting food
21 stamps. I thought this was about being made whole and
22 getting our back pay back so I kind of prepared
23 things that don't really make any sense for this now,
24 but I did want to say that in my research on looking
25 into this, I found out that at the end of July of

2 2021, the City was offering 100 dollars for people to
3 take the vaccine, and apparently 800,000 New Yorkers
4 took advantage of that, which, I'm not a math
5 teacher, but that's 80 million dollars, which I can
6 kind of now understand why they needed to fire us all
7 if they paid 80 million dollars for people to take
8 one dose of a vaccine when the vaccine wasn't even
9 effective without two doses so I am just here today
10 to say that I would like to be made whole. I would
11 like to go back to my career and not be six years
12 away from when I thought I was going to retire with
13 no money, because when I should be making my 22-year
14 longevity, I'm now not making anything. Thank you.

15 CHAIRPERSON DE LA ROSA: Thank you.

16 MICHAEL TRACY: Good afternoon to the
17 Committee Members and those from outside the
18 Committee to allow these members to tell their
19 stories. My name is Michael Tracy. I'm from the
20 Uniformed Fire Officers Association, and I'm
21 testifying quickly today to communicate our support
22 for this Resolution, which puts the politics of
23 vaccines aside and asks for a transparent and
24 consistent process to rehire these City employees. As
25 union representatives, when a workplace rule is

2 passed, we have a choice to either challenge that
3 rule or to make sure it is fairly and equitably
4 enforced. In this case, that sense of fairness and
5 equity is missing from the process. In early June,
6 when the City of Los Angeles, a city that was far
7 more arbitrary in its enforcement of vaccine
8 requirements, changed course and removed vaccination
9 as a requirement of employment, it immediately
10 provided a pathway back for these workers. We asked
11 the more highly functioning New York City government
12 to follow suit.

13 I'm going to change course quickly and
14 discontinue the FSA, because I have an opportunity and
15 it's important to us as a labor union. We talk a lot
16 about in the labor movement and in this Committee, I
17 know it's important to you, Chair, about
18 affordability for City workers who have families. I
19 can't think of any better opportunity, aside from a
20 pay raise, to deal with this than the FSA, which
21 includes DCAP. As many in the Committee will know,
22 DCAP covers a lot of expenses, such as camp, daycare,
23 and other things. We implore this Committee to press
24 OLR on increasing windows for enrollment. That's very
25 important. Electronic payment cards, which I

2 understand might be a little distant in the future,
3 considering their discussion of the portal. OMNI,
4 eligibility for transit checks. And have agency
5 provide direct enrollment as opposed to the janky OLR
6 system, which is very difficult for a lot of workers
7 to manage, and that's why we don't have a high
8 enrollment process and even a lower usage rate. We
9 thank the Committee for looking at this issue and
10 hope they'll press OLR in the future. Thank you.

11 CHAIRPERSON DE LA ROSA: Thank you so
12 much.

13 DIANE PAGEN: Good afternoon. Good
14 afternoon. My name is Diane Pagen. It's been a long
15 road to get here. We're worn out. Excuse me. My name
16 is Diane Pagen. I'm from Queens. I grew up in
17 Woodside Houses. I went to DOE schools throughout my
18 childhood. I'm a social worker, and I did a lot of
19 financially helping people with the income that I had
20 from the DOE in addition to doing the job that I had
21 at the DOE. I'm a tenured school social worker who
22 was forced out because I declined to comply with the
23 demand that I take a COVID shot. I was living in
24 District 36 at the time when I was forced onto DOE's
25 unpaid leave. If myself and other City workers of all

2 agencies had been removed from our jobs and we had
3 been bankers or tech workers, it would have been
4 called a scandalous brain drain, and Bloomberg News
5 and Forbes would have been coming down to New York
6 City to report on it, but we're not those things, and
7 so no one calls it a brain drain, but that is exactly
8 what it is, and we've been going through it now for
9 about three years. We need Resolution 5 for a couple
10 of reasons I'm just quickly going to say, and I'm
11 going to give an example of why the DOE is not
12 qualified, nor competent, nor has any moral authority
13 to solve this problem, and why we need Resolution 5.
14 After the vaccine mandate was lifted and I tried to
15 reapply, I was treated like I had to apply as if I
16 were a total stranger, completely new to the City and
17 completely new to the DOE. I will not sign away my
18 rights, and I will not turn in documents that I know
19 the DOE has every stitch of document that I would
20 have to hand in in order to apply for another job. I
21 insist on being treated with the respect that I
22 should have garnered with my 10 years of service to
23 the city. Number two.

24 CHAIRPERSON DE LA ROSA: Can you please
25 conclude?

2 DIANE PAGEN: Well, if you don't mind,
3 this is an important example, and I'll do my best to
4 get it out in two minutes.

5 CHAIRPERSON DE LA ROSA: Thank you. Less
6 than two minutes because the entire clock is two
7 minutes.

8 DIANE PAGEN: Yes, I'll do my best. DOE
9 created a leave without pay category and then reneged
10 on the only term in the leave without pay that the
11 DOE itself had to honor. Why do I say this? When the
12 DOE placed me on leave without pay in October of
13 2021, it outlined what it said were the obligations
14 under that leave. Under their terms, my job was to be
15 reserved for me for the duration of the leave.
16 However, in 2023, I discovered that the DOE had hired
17 a new permanent employee into my position. They hired
18 her in November of 2021 so they violated the terms of
19 their own unpaid leave and, while I was thinking that
20 I was on unpaid leave, they had actually already
21 permanently replaced me so DOE has no moral authority
22 to do the right thing now. An agency that conducts
23 itself this dishonestly, like the DOE and the Mayor
24 have done, cannot be trusted to create a fair and
25 proper reinstatement process, and I just want to say

2 in conclusion that you might want to look around and
3 notice that most of us here are over 40, and that is
4 another thing that has to be discussed, because that
5 would qualify us as being protected workers. I really
6 ask from the bottom of my heart for the Council to
7 pass Resolution 5 so that we can be done with all of
8 these past injustices and move forward. All we want
9 is to be treated with a certain amount of decorum and
10 not be once again put through hoops trying to apply
11 for jobs when we were never actually legally and
12 properly terminated. Thank you very much.

13 CHAIRPERSON DE LA ROSA: Thank you so
14 much.

15 MAWULI (MOE) OLIVIERRE: All right, good
16 afternoon. My name is Moe Olivierre. I was born in
17 New York, raised in New York, went to school in New
18 York, and I was a New York City teacher for 23 years.
19 On October 2021, I was put on a leave of absence
20 without pay because I refused to take a vaccine
21 that's against my religious beliefs. April of 2022, I
22 was re-offered my job back in exchange for
23 vaccination, which I refused. Then February, I hired
24 my own Article 78. Unfortunately, I now argue some of
25 the same points as the Garvey case, the Sanitation

2 case that won under George Porzio. Judge Sadler ruled
3 that my case was time-barred, even though Judge
4 Porzio had said that it wasn't. I want to also
5 highlight that the media has been misleading the
6 public about reinstatement. A lot of folks believe
7 that the City workers are back to work. A lot of
8 people in the city feel like the mandate's over and
9 everyone's back to normal, which is not true. I will
10 not sign a waiver because a waiver is a new contract.
11 The City needs to honor the first contract before I
12 sign a new contract. I think it's important for that
13 to be known. Also, I want to say that the City needs
14 to correct a wrong that's been done to me and so many
15 other City workers at this point in time. I think
16 whatever happened during the mandate, it's safe to
17 say that the City made a mistake. Now it's time to
18 correct that mistake by putting us all back to work.
19 Also, consider the fact that we are, someone like me
20 and the rest of us, we have years of service. We're
21 no longer able to pour into our retirement so this
22 issue is going to spiral into retirement for many of
23 us because we may not have a sufficient amount of
24 money invested in our accounts for retirement because
25 of this issue right here. Please consider that when

2 you guys advocate for Resolution 5. Thank you so
3 much.

4 CHAIRPERSON DE LA ROSA: Thank you so
5 much.

6 EDMUND WALLACE: Hello, my name is Edmund
7 David Wallace II. I am here to speak about
8 deprivation of the First Amendment right of freedom
9 of religion, a basic human right. I have not worked
10 since January 6, 2022, because New York City denied
11 my religious exemption and my appeal for not taking
12 the COVID shot/bioweapon. The past 30 months have
13 been a burden on myself and family, causing a massive
14 amount of undue hardship. The lie travels around the
15 world while the truth is still tying its shoelaces.
16 Safe and effective, they said. More like not safe and
17 not effective. It's easier to deceive someone than it
18 is to convince them they have been deceived. Going
19 through this process, it pokes holes in all three
20 branches of government. How is it that my religious
21 exemption was not accepted and yet countless other
22 religious exemptions were approved? I am still
23 waiting for an explanation of which I still never
24 received through countless emails. To Plumbers Local
25 Union Number 1 and Steamfitters Local Union Number

2 638, at the very foundation of your core principles,
3 it shall be first and foremost to protect your
4 workers' rights, not go along with a globalist
5 depopulation agenda. Ephesians 6:12, for we wrestle
6 not against flesh and blood, but against
7 principalities, against powers, and against the
8 worldly governors, the princes of the darkness of
9 this world, against spiritual wickedness which are in
10 high places. In conclusion, it is my immediate demand
11 and wish and order that you restore all that has been
12 taken from myself without due process and all others
13 similarly situated. That includes reinstatement, back
14 pay, and full seniority. Thank you.

15 CHAIRPERSON DE LA ROSA: Thank you so
16 much.

17 COUNCIL MEMBER ARIOLA: I don't have a
18 question, but I do have a statement. I mean, so far
19 everyone who has testified has a very common theme.
20 One, no outreach to tell you that you could be
21 reinstated. Two, no continuity in policy for that
22 reinstatement. No compliance with the court when you
23 were ordered and given your civil right to go back to
24 work. And everything that you're saying here is in
25 complete contrast to what the testimony of Daniel

2 Pollack, the First Deputy Commissioner of OLR, just
3 said under oath so I think that's very important
4 because we're listening to people who are on food
5 stamps, who had no jobs, who were living with family,
6 who were living homelessly, all because you decided
7 to take a stand, and you did take that stand, but I
8 will say that I agree with what was said. What was
9 then is then. What is now is now. There are no longer
10 any mandates, and we need to get our municipal
11 workers back on the job. I want to thank the UFOA for
12 coming and standing up for your members today. Thank
13 you so much.

14 CHAIRPERSON DE LA ROSA: Thank you,
15 Council Member Ariola, and thank you to this panel.

16 Thank all of you who came here to share
17 your thoughts, your experiences, your stories with
18 us.

19 If there is anyone in the Chamber who
20 wishes to speak but has not yet had the opportunity
21 to do so, please raise your hand and fill out the
22 appearance card with the Sergeant-at-Arms at the back
23 of the room. Anyone else in the room that wishes to
24 speak in person.

2 Seeing no hands in the Chamber, we will
3 now shift to Zoom testimony. When your name is
4 called, please wait until a member of our team
5 unmutes you and the Sergeant-at-Arms indicates that
6 you may begin.

7 We will start with Anastasia
8 Christopoulos followed by someone named Jean, we
9 don't have your full name, so please give that to us,
10 followed by Krista O'Dea, and then followed by Zena
11 Wouadjou, am I saying that wrong, well, I'm probably
12 saying that wrong, and Javier Vazquez.

13 We're going to start with Anastasia
14 Christopoulos first. If you're on Zoom.

15 SERGEANT-AT-ARMS: Time stars.

16 ANASTASIA CHRISTOPOULOS: Hello, can you
17 hear me?

18 CHAIRPERSON DE LA ROSA: We hear you,
19 Anastasia.

20 ANASTASIA CHRISTOPOULOS: Hi, my name is
21 Anastasia Christopoulos, and I was a tenured speech
22 pathologist working in District 75 for almost eight
23 years, and I had worked the 2020-2021 school year in
24 person at my school while more than 50 percent of my
25 colleagues were granted medical accommodations and

1 worked from home. I worked in person with my special
2 needs District 75 students who didn't mask, didn't
3 socially distance. I held their hands. I took them to
4 speech therapy because I saw firsthand what being on
5 remote speech therapy with a nonverbal six-year-old
6 child on the autism spectrum, how difficult that
7 could be, and I went in person, even though I have a
8 BMI over 30 and would have easily gotten a medical
9 accommodation to work from home that year, but I
10 worked in person and I was happy to do so. And then I
11 came back in September of 2021 to the threat of the
12 vaccine mandate. I applied for a religious
13 accommodation and was denied. I was given 24 hours to
14 appeal. I was denied and I was placed on leave
15 without pay. I did not sign the waiver because I did
16 not want to waive my rights, and I felt as a tenured
17 teacher, if you're going to fire me, then charge me
18 with something and tell me that I'm doing something
19 wrong and serve me with a 3020A. I was then told to
20 reapply with the citywide panel, and I did, and I was
21 denied again, appealed, and denied again. I was not
22 allowed to work anywhere within the five boroughs for
23 several months because I was not vaccinated. I was
24 walking dogs on Rover. My family took a more than 50
25

2 percent pay cut, and I eventually got a position
3 working in Nassau County, and I took a more than 40
4 percent pay cut to work there and, if I do want to go
5 back to the DOE, I was told I would have to reapply
6 as a brand new employee. I would not have tenure. I
7 would become a probationary teacher again. I would
8 have to reapply for all my salary..

9 SERGEANT-AT-ARMS: Time has expired. Thank
10 you.

11 ANASTASIA CHRISTOPOULOS: I would not... I'm
12 sorry.

13 CHAIRPERSON DE LA ROSA: Your time has
14 expired. Please conclude.

15 ANASTASIA CHRISTOPOULOS: Okay. Okay. And
16 in conclusion, I hope that you all support Resolution
17 5 and get us reinstated and made whole. Thank you so
18 much.

19 CHAIRPERSON DE LA ROSA: Thank you so
20 much, Anastasia.

21 Up next, we have Jean. Jean, we do not
22 have your last name so if you could please identify
23 yourself for the record with your complete name.
24 Thank you.

25 SERGEANT-AT-ARMS: Time starts.

2 JEAN JEAN: Hi. Good afternoon. My first
3 name is Jean and my last name is Jean. That might
4 have been part of the confusion. I am here to support
5 Resolution 5. Also, I was a teacher, a veteran
6 teacher, 17 years in the Department of Education,
7 special education teacher. I did not get the vaccine.
8 I attempted a religious exemption. I was denied
9 twice, and I was put on leave without pay on October
10 4th. Same as my other colleagues from all City
11 agencies, there was a lack of communication, a lack
12 of information, a lack of outreach from union, from
13 DOE, from any City agency to help guide us in what we
14 needed to do or what was happening to us. I was not
15 offered any type of 3020A hearing. By October 18th, I
16 was under so much stress from my principal calling
17 and harassing me to see if I was coming back to work.
18 I had to resign. Under the arbitration agreement, I
19 was anticipating being able to collect some
20 unemployment to be able to at least support myself
21 until I could figure out my next steps, hoping that I
22 would be able to get my job back in the City school
23 system. I was a stellar employee. I never took a day
24 off. This really was a very emotional, stressful time
25 for me. And losing a career, I not only lost a part

2 of who I am but I also lost 100 colleagues. I lost
3 something that I educated myself with 30 credits
4 above my master's degree at the highest part of my
5 payroll, where now I'm working and piecemealing four
6 different jobs just to make half the money. At the
7 time when I decided to sign the waiver, I was under
8 so much stress because I didn't know how I would
9 support myself like many of my other colleagues, some
10 of them wound up homeless, I could not see myself go
11 in that direction, so my decision was to just sign
12 the waiver but move forward and try to put back
13 together pieces of my life hoping that the mandate
14 would be lifted and I could get my job back. When the
15 mandate was lifted, I did attempt to reach out to
16 several principals that I knew, no one returned my
17 call. HR did not return my call so I am still
18 steering through the grapevine, the same information
19 that all my colleagues I support and verify, that
20 they also only heard that if you go back you start at
21 zero. You have to work hard to get back to where you
22 were, you have to apply for all your salaries, you
23 have to find a school that could afford to hire you
24 back, starting at the starting teacher salary but
25 having to know that they've been here 17 years..

2 SERGEANT-AT-ARMS: Time expired. Thank
3 you.

4 JEAN JEAN: You would have to try to find...

5 CHAIRPERSON DE LA ROSA: Please conclude.

6 JEAN JEAN: Someone that could afford you.
7 So anyway, please support the Resolution, bring us
8 back to work, give us our back pay, our tenure, our
9 pension credits. I was supposed to retire in three
10 years and now I'm looking at working who knows how
11 long, piecemealing five jobs just to make a third of
12 the money.

13 CHAIRPERSON DE LA ROSA: Thank you. Thank
14 you for coming and for testifying.

15 Up next we have Krista O'Dea.

16 SERGEANT-AT-ARMS: Time starts.

17 KRISTA O'DEO: Hi. My name is Krista
18 O'Dea, and I'm a former FDNY rescue paramedic. I was
19 employed with the FDNY since 2005, began as an EMT
20 and, upon completion of top class, went to Station 38
21 in Brooklyn where I worked for three years before
22 being accepted into medic school. I attended
23 Paramedic Basic Nine at the EMS academy and graduated
24 in 2008. I worked as a paramedic at Station 58 in
25 Brooklyn for five years and during this time I

1 attended training to become a hazardous materials
2 technician and transferred to Staten Island. In 2015,
3 I was asked to take an offline role as the ALS
4 Coordinator for Division 5 which includes Staten
5 Island and South Brooklyn. In 2017, I was accepted
6 into the Rescue Medic Basic Training Class and was
7 working as a rescue paramedic until I was terminated
8 on March 15th of 2022. In addition to my work on an
9 ambulance, I was a mentor in the FDNY Explorer
10 program since 2014. I was also trained in the
11 Dignitary Protection Unit, Counterterrorism Task
12 Force, as an EEO counselor and EEO liaison for
13 Division 5, and as an alternate liaison to the
14 Commissioner. In 2009 and 2021, I received Pre-
15 Hospital Safe Commendation and, in 2015, I received
16 Paramedic of the Year award. I also published a core
17 review article in FDNY EMS Pro magazine in the June-
18 July issue of 2016, recorded a podcast with then
19 Chief-of-Staff Elizabeth Cassio for FDNY EMS Pro in
20 March of 2018 and was interviewed in April 2020 for
21 an insight into COVID-19 emergency responders. I have
22 poured my heart and soul into my career with the FDNY
23 and I've shown exemplary dedication to my profession.
24 Being a frontline emergency healthcare provider was a
25

2 calling since childhood. Working in this field not
3 only allowed me to fulfill my passion but has brought
4 about significance and purpose in my life. I truly
5 enjoy being a paramedic and providing care for my
6 community. I had every intention of serving the City
7 in which I was born and raised in, where my immigrant
8 father worked to support his family and my immigrant
9 great-grandmother worked to support hers. I looked
10 forward to many more years as an employee of the FDNY
11 and as a resource to the community in which I serve.
12 When the vaccine mandates rolled out for first
13 responders in October of 2020...

14 CHAIRPERSON DE LA ROSA: We lost your
15 audio. Krista, we lost your audio. I don't think she
16 can hear us.

17 Krista, can you hear us? We lost you on
18 the audio.

19 I think it's a problem with her computer.
20 She's unmuted.

21 Krista, we lost you for a minute. Can you
22 give your concluding statement, please?

23 KRISTA O'DEA: Sure. Just to let you know
24 that currently at this time, after being terminated
25 for being a paramedic, I currently work as a 9-1-1

2 paramedic at Robert Wood Johnson Barnabas Health in
3 New Jersey. My religious exemption was accepted
4 without issue. There was no panel opinions deciding
5 whether my beliefs were valid, and I am still
6 employed as a paramedic for Robert Wood to this day,
7 a little over two years. It was very interesting to
8 me that I could do the same exact job in New Jersey
9 that I was doing in New York City, just across the
10 bridge, able to practice as a paramedic, which begs
11 me to question what happens in the event mutual aid
12 is requested by New York. According to the Emergency
13 Management Assistance Compact, if I were to be
14 deployed to assist as a paramedic in New York, I
15 "work for the agency that requested" me and would be
16 "under the operational control of that agency". I
17 would then be working for the very same agency that
18 fired me because of my vaccination status.

19 Additionally, on the EMAC website, under license and
20 reciprocity, it states that whenever any person holds
21 a license, certificate, or other permit issued by any
22 state evidencing the meeting of qualifications, such
23 person shall be deemed licensed, certified, or
24 permitted by the state requesting assistance. To
25 clarify, I would be able to work in New York City as

2 an unvaccinated New Jersey paramedic but am unable to
3 work in New York City as an unvaccinated New York
4 City paramedic. I hope this letter can put in
5 perspective how the COVID-19 vaccine mandates
6 destroyed the core of the City, the frontline
7 workers. What was done to the hard-working people of
8 New York City was and still is absolutely criminal.
9 May I remind the Council that members who lost their
10 jobs two years ago have not been hired back, yet the
11 City knows that in the case of mutual aid, those who
12 are unvaccinated from other states.

13 CHAIRPERSON DE LA ROSA: Krista, we're
14 going to need you to conclude. Please conclude.

15 KRISTA O'DEA: I am also a named plaintiff
16 in the NYFRL, the New Yorkers for Religious Liberty
17 versus City of New York case, which is still being
18 heard by the attorneys Nelson Madden-Black, ADF,
19 Freedom Council, with assistance from attorneys
20 Sujata Gibson, Christina Martinez, and (INAUDIBLE)
21 Mendenhall.

22 CHAIRPERSON DE LA ROSA: Thank you.

23 KRISTA O'DEA: The damage can be repaired,
24 and there's always a time to change. Please approve
25

2 Reso 5 and hire back all those who have lost their
3 jobs. (INAUDIBLE) Thank you.

4 CHAIRPERSON DE LA ROSA: (INAUDIBLE) Okay,
5 I'm going to remind panelists it is two minutes. We
6 have been very generous with time allowing people to
7 go over, but going over doesn't mean speaking for an
8 additional five minutes. Please respect the rules of
9 this Chamber and of this Council. Two minutes. If you
10 go a little over, we're giving you grace to speak
11 because this is your moment to speak, and we
12 understand the severity of the case you're bringing
13 forward, but not for an extra five minutes, please.

14 So up next, we have Zena Wouadjou, and
15 I'm sorry, I know I'm messing up your last name. If
16 you could re-identify yourself and correct the
17 record.

18 SERGEANT-AT-ARMS: Time starts.

19 ZENA WOUADJOU: My last name is Wouadjou.
20 Can you hear me?

21 CHAIRPERSON DE LA ROSA: Yes, we can hear
22 you. Thank you.

23 ZENA WOUADJOU: Okay, thank you. I was a
24 New York City public school teacher for 22 years,
25 serving in my school as the only ENL teacher for a

2 school that had a high population of English language
3 learners as well as an alternative school that serves
4 young people who are returning to school. I was
5 removed from my position and placed on a leave
6 without pay in October 2021. Some of the impacts of
7 that, because it was extended through my, to me, kind
8 of runaround exemption appeals process, which lasts
9 for six months. As a part of that LWOP status, I was
10 restricted from seeking gainful employment elsewhere.
11 I was also restricted from seeking unemployment
12 benefits and from seeking food and nutrition
13 benefits, which were needed in my household, as I was
14 the sole income provider in my home. Some long-term
15 effects have been since the termination that happened
16 in the spring of 2022. A depletion of my savings
17 during the leave without pay period, where I had no
18 other resources except what I had saved. Being
19 significantly reduced in terms of my retirement
20 income, which I was told when I pursued an
21 appointment with the retirement specialist, who also
22 told me to just take the shot and go back and then I
23 wouldn't have a problem, that I will not be able to
24 recover that because that time was not pensionable
25 and I have not been paying into the system. I also

2 hadn't achieved the age or the service time required
3 in order for me to retire at the time that I was
4 supposed to. Also, that I was also denied
5 unemployment benefits again, after I was approved by
6 New York State Department of Labor. The City, my
7 employer, stepped in and created a story to say that
8 I was not eligible and so those benefits were cut off
9 and I have been making my way, navigating on my own.
10 Again, I supported myself and my own household, but
11 also I was not able to have always been a support to
12 my extended family through the stability of my job
13 and through the resources that I was able to get
14 through there and that has stopped.

15 SERGEANT-AT-ARMS: Your time has expired.

16 Thank you.

17 ZENA WOUADJOU: Thank you.

18 CHAIRPERSON DE LA ROSA: Thank you so

19 much.

20 Javier Vazquez.

21 SERGEANT-AT-ARMS: Time starts.

22 JAVIER VAZQUEZ: I'm a Marine Corps

23 veteran. I served two tours in Iraq. I was motivated
24 after the devastating things that happened in 9/11. I
25 was terminated in 2022 for my religious beliefs. My

2 religious exemption got denied. I also practiced my
3 rights to not disclose if I was vaccinated or not,
4 which I never did. I did comply with the weekly
5 testing despite of that because I was coerced to do
6 that or have to be escorted outside of the building.
7 I lost a secure job that I trusted. After I joined
8 the Marine Corps, I did get my associate degree. I
9 didn't continue because I trusted the City to keep me
10 employed. I've been impacted by the termination. My
11 family has struggled to eat, to keep the utilities
12 on. We've had to sell our house, get rid of our
13 animals. That's even including farm animals because I
14 had a dream home. I was happy to be in the FDNY. I
15 support the Reso. 5 for us to go back to our jobs,
16 but in the same time, I would like to feel some
17 security that once we go back to our jobs, we have
18 the option of retiring. Because of the stigma that's
19 been created, the Division has been prejudiced that
20 we're the unvaccinated. It's caused a little bit of a
21 stir at the Division is what I would say. I don't
22 really trust the City anymore that I fought for
23 overseas. I honestly feel betrayed and I almost lost
24 my family because of the emotional trauma that is
25 caused within my family. I have a really hard time

2 being able to make sure that my family stays alive
3 during these days. I have a one-year-old baby, a
4 three-year-old, a 17-year-old, and a 12-year-old that
5 has ADHD. To be honest, I feel very betrayed and
6 hurt. I'll just leave it at that.

7 CHAIRPERSON DE LA ROSA: Thank you, Mr.
8 Vazquez.

9 Council Member Ariola has just two
10 questions for you.

11 COUNCIL MEMBER ARIOLA: Firefighter
12 Vazquez, did you have an Article 78 filed?

13 JAVIER VAZQUEZ: I won my Article 78, and
14 the City has appealed it. They told the judge that I
15 can call my job at any time and get my job back,
16 which I did. I called them and I also emailed them,
17 and they directed me back to the City saying that
18 they were instructed that everything is being handled
19 in court, so they denied me to get my job back. I
20 have my lawyer, Christina Martinez, representing me
21 currently in federal court.

22 COUNCIL MEMBER ARIOLA: When the FDNY told
23 you that, did they give you a reason that you were
24 not being allowed to come back to work even though
25 the court mandated that you do, that you won your

2 lawsuit and your right to go back to work? Did they
3 give you a reason why?

4 JAVIER VAZQUEZ: No, they gave me no
5 reason, and there's a lot of confusion on why I'm not
6 allowed to go back. It seems discriminatory in many
7 different ways.

8 COUNCIL MEMBER ARIOLA: Thank you so much
9 for your testimony, Mr. Vazquez.

10 JAVIER VAZQUEZ: Thank you for your time.

11 CHAIRPERSON DE LA ROSA: Thank you so much
12 for coming and testifying, sharing your story.

13 If you are currently on Zoom and wish to
14 speak but have not yet had the opportunity to do so,
15 please use the raise hand function and our Staff will
16 unmute you.

17 Seeing no hands, I would like to note
18 that everyone can submit written testimony at
19 testimony@council.nyc.gov within 72 hours of this
20 hearing.

21 To conclude, I would like to thank my
22 Colleagues, Ms. Ariola, who's still here, and all of
23 you who came out to share your stories, making sure
24 that the administration of benefits for City
25 employees is a more seamless process as well as the

2 Staff who have helped to prepare this hearing as
3 well. They're all City employees. We want to thank
4 them for coming, for allowing us to have this
5 important hearing on City benefits. In addition, we
6 would also like to thank all of you who are still
7 sitting in this room for sharing your stories. As I
8 said before, this is not the first time you're here.
9 We're looking forward to getting Resolution 5 passed
10 and for all of you to be reinstated.

11 I'd like to take a moment to express my
12 thank you for all of your interest and your advocacy
13 today. Thank you for all the work that you do and for
14 your collective service to our City.

15 With that, this hearing is now concluded,
16 and I hope everyone makes it home safe. [GAVEL]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date July 22, 2024