

Good morning Chair Miller and Chair Cabrera and members of the Committee on Civil Service and the Committee on Governmental Operations. I am Dawn Pinnock, and I serve as the Executive Deputy Commissioner of the Department of Citywide Administrative Services (DCAS) and I am joined today by Barbara Dannenberg, Deputy Commissioner for Human Capital.

Thank you for this opportunity to discuss DCAS's role in provisional reduction for the City of New York.

As a proud civil servant, and the daughter of civil servants, I know firsthand the importance that civil service careers have on the lives of New Yorkers. Civil service, a system based on merit and fitness, serves as the foundation on which this City functions. Through the civil service system, applicants are afforded opportunities to prove their merit and fitness based on an objective assessment of their skills and abilities. It also serves as a pathway to the middle class for underserved and underrepresented communities. It is therefore critical that we operate the civil service system competently, fairly and expeditiously. DCAS will continue to work diligently to introduce system improvements, strengthen collaborative partnerships, and reduce the provisional workforce as required, all while we keep New York City working.

To that end, I would now like to recap the successes of our Provisional Reduction Plan II (RP2) which highlight our commitment to address the City's provisional count.

### **Review of the Provisional Reduction Plan**

In May 2008, after decades of neglect, the City's provisional count rose to 37,797. Nearly ten years later in January 2017, we launched RP2. RP2 had an ambitious goal of reducing our provisional count from 23,296, our provisional number at the end of our

previous plan, to 17,311. I am pleased to report that, as of 11/22/18, our provisional count is 17,380, or 69 away from this goal. Over the next five weeks, we will be moving forward on various fronts to close the final gap to reach our RP2 goal. This represents the first time since the City's provisional reduction effort started that DCAS has come within striking distance of our goal and substantial compliance with Civil Service Law Section 65(5) by having five percent of our competitive workforce serving provisionally.

I am extremely proud of the work we have undertaken in the last two years. Since our last meeting in 2016, we received State approval to address the City's longstanding provisional issue from January 2017 – December 2018. Over the course of the last two years, DCAS, with the support of its client agencies and labor partners, has made significant progress in improving the City's compliance with civil service law. We undertook a multi-faceted approach covering the following key areas:

- Examination Administration and Innovation
- Enhanced Compliance Measures
- Automation
- Staff Augmentation

### **Examination Administration and Innovation**

As you may know, a provisional employee is an employee who has met the minimum qualification requirements for the title and may be serving satisfactorily in that title. Unfortunately, for some provisional employees, an examination for his/her title may simply have not been offered yet. To that end, the cornerstone of any of our provisional reduction plans always has been, and always will be, the competitive examination process.

Over the last three fiscal years, we administered a total of 562 exams. In FY16, we administered 105 exams, in FY17, we administered 183, and in FY18, we administered a record high of 274 exams. The number of test takers has increased tremendously as well, going from 83,364 in FY16 to 169,893 in FY18.

Another important examination facet of RP2 was the introduction of a new testing format: the Qualified Incumbent Examination (QIE). On November 28, 2016, New York State passed a law to amend Civil Service Law Section 65(5), which authorized DCAS to administer QIE exams to provisional employees with at least two years of service in the title. As of September 30, 2018, we gave QIE exams and established eligible lists for 174 titles and made over 4,200 appointments. The QIEs have assisted in the reduction of the City's provisional count while providing eligible employees an opportunity to obtain permanent status.

### **Enhanced Compliance Measures**

Consistent compliance with civil service law is critical to DCAS' ability to address the City's provisional headcount. To that end, DCAS implemented several tools during RP2 to keep the City on track as it relates to provisional reduction.

To limit provisional hiring and retention, DCAS works very closely with client agencies. Since April 2017, we have set up regular compliance meetings with agencies to discuss various civil service issues. To date, we have held over 100 meetings with 73 agencies regarding plans to resolve provisionals serving in the face of a list, discussing ideas regarding step-up provisionals, highlighting citywide hiring pools, upcoming hiring needs, and other related issues.

In conjunction with our compliance meetings, provisional increases are monitored and considered for inclusion in future exam schedules. This flexibility allows DCAS to respond to changing demands on the workforce to ensure that every provisional is afforded the opportunity to gain permanent status. For example, we were informed by the Administration for Children's Services of their need to appoint a large number of Youth Development Specialists (YDS). As a result, we were able to plan for the administration of a YDS exam on the upcoming exam schedule. To add to this, we have also developed provisional dashboards, published bi-weekly, which allow agencies to monitor important provisional metrics such as citywide provisional count, provisional count by agency, and provisional count by title.

Another successful tool DCAS has utilized to enforce civil service is the citywide hiring pools hosted in-house. Citywide hiring pools allow eligibles to be exposed to multiple agencies at one time and allow agencies to make appointments more expeditiously. In order to ensure maximum outreach, DCAS has hosted 16 citywide hiring pools, which resulted in over 4,800 appointments. We have worked with our labor partners in this endeavor by inviting them to attend and provide guidance and information to list eligibles with regard to union benefits.

In addition, DCAS developed and deployed functionality to centralize and maintain oversight of all provisional title changes within the City's personnel system. This functionality helps us monitor all provisional title changes for appropriateness, and to limit provisional changes overall across the City. In addition, functionality was deployed that prevents agencies from hiring provisionally in titles where there is a civil service list in existence.

Last but not least, we have increased our civil service "footprint" within the City. City employees and the public are increasingly informed about the civil service system. DCAS regularly provides "Civil Service 101" information sessions at a variety of forums. Since the beginning of the Plan, our Office of Citywide Recruitment conducted 395 "Civil Service 101" Information Sessions with a total of 13,351 attendees. In addition, we've been in every Councilmanic district within the last three years, greatly broaden our reach. Finally, agency inquiries and requests regarding the movement of provisionals now have a built-in escalation process through agency heads, so that the provisional reduction effort has top-down support.

### **Automation**

The automation of the Qualified Incumbent Examination process, the only end-to-end automated exam type, has been one of the highlights of our provisional reduction journey. Through this new and innovative approach, we have been able to establish eligible lists for QIE

titles in a record time of three months, compared to up to a year for other types of competitive exams.

In our continued efforts to improve service delivery to our current and prospective municipal employees and to reduce the time from exam development and administration to list establishment, DCAS is currently developing new systems and working on fully automating other test formats which will be unveiled in 2019 and 2020.

In January 2019, DCAS will roll out its new and improved Online Application System. The new system will provide civil service applicants with modern user-friendly functionality such as the ability to self-manage their account profiles, an applicant dashboard detailing their exam application history and results, a notification repository that will include the ability to print their admission notices, and access to their civil service list information.

Future upgrades planned for 2020 will enable DCAS to deploy the new Education and Experience Exam, which will streamline and provide a uniform education and experience test system that will replace all existing education and experience test formats. This new system will allow for more titles to be tested and scored automatically, provide test takers with immediate access to their preliminary scores, eliminate the need for hand-rating of test papers and ultimately shorten the cycle time from exam administration to list establishment.

To further our shared commitment to enhanced customer experience through automation, and increased access, we opened a Queens Computer-based Testing and Application Center (CTAC) in June 2017. We are grateful to have had Councilmember Miller's support for the opening of this center. In addition, we also opened our Staten Island CTAC in December 2017. Finally, we plan to open our Bronx location this Winter for another 52 seats. When completed, the City will have a CTAC in every borough, greatly increasing physical accessibility for all of our citizens and increasing our testing capacity from our first CTAC in Manhattan by over 300%. The CTACs has also

increased accessibility for our applicants to other exam-related services by allowing them to apply for exams and file protests to exam questions in centralized locations.

### **Staff Augmentation**

In December 2016, the Bureau of Examinations received approval for 15 additional positions to increase DCAS' testing capacity. The additional staff allowed our existing Tests and Measurement Specialists, who were handling all exam-related functions including handling appeals and rating test papers, to focus exclusively on what their role should be: exam development. As a result of having the additional staff, we were able to administer the record 274 exams in FY18. It has also allowed DCAS to increase our reliance on in-house exams and to limit the use of consultants to a select group of titles.

### **Conclusion**

I would like to thank the Council for the opportunity to testify today and for their support over the last few years. Our successes would not have been achieved without the Council and Councilmember Miller's continued support and guidance. We look forward to continuing to work with you as partners and to the new State legislation, Intro A11241 and S8837A, that will allow DCAS to continue its work towards provisional reduction. Finally, we are looking forward to working with Councilmember Miller on Intro 1235, which would allow for greater transparency in requiring DCAS to post publicly its provisional reduction plans on its website. I will now take any questions from the Council.

**TESTIMONY OF LOCAL 372, NYC BOARD OF EDUCATION EMPLOYEES  
BEFORE  
THE NEW YORK CITY COUNCIL COMMITTEE ON CIVIL SERVICE AND LABOR  
REGARDING RESOLUTION 566-2018  
NOVEMBER 27, 2018  
250 BROADWAY, COMMITTEE ROOM, 14<sup>th</sup> FLOOR  
NEW YORK CITY**

**FOR THE RECORD**

Chairman Miller and honorable members of the Committee on Civil Service and Labor, good afternoon. I am Shaun D. Francois I, President of Local 372, NYC Board of Education Employees; District Council 37 | AFSCME, and I present this testimony on behalf of the 24,000 non-pedagogical New York City Board of Education Employees that make up Local 372. Thank you for the opportunity to testify today in support of Res. 566, the Governor to sign, A.10935-A and S.8844-A. This legislation would amend the education law to automatically enroll “optional employees” in the New York City Board of Education Retirement System (BERS) after 90 days of employment unless the employee affirmatively opts in or out of the program in advance. I apologize for not being able to present this testimony in person today. Again, on behalf of Local 372, we strongly support this resolution as well as the underlying state legislation it advances.

This state legislation reforms the New York City Board of Education Retirement System (BERS) enrollment procedure for “optional employees” – a class of employees who are part time, seasonal, or otherwise do not have to take the civil service exam, and are only afforded optional enrollment in BERS. While employers are currently required by law to notify employees of their option to enroll in the retirement system upon the commencement of their employ, in many instances employees may work for many years without affirmatively enrolling in the system, missing the benefits and the financial security which should have been provided in retirement. This legislation would prevent eligible employees from defaulting out of the BERS pension system through a delayed “automatic enrollment” whereby any eligible employee who

neither affirmatively opts in nor out of BERS is automatically enrolled after 90 days of employment.

Local 372 first became aware of this massive hole in the BERS pension enrollment procedure after a number of our members, some of which who had worked in New York City public schools for decades, came to us for help. Members had discovered that the pension they expected to rely upon in retirement did not exist. And in other cases, some who failed to join BERS were unaware that they are even entitled to a pension. Unfortunately, we learned that this tragic story was not unique and a clear pattern emerged in what we saw: countless similar scenarios, all from optional employees who in one way or another defaulted out of their pensions, some after decades of service and at the end of their healthy working years.

Only 73% of eligible workers end up joining BERS, with over 28,000 eligible employees unenrolled – a number vastly inflated by those who default out of the system. As a result, this leads to some of these hard working New Yorkers (largely ethnic minorities, 64% of which are women, and who make an average salary of approximately \$22,410) being impoverished when they can no longer work. These are the workers who slip through the cracks and find that, at the end of their working life, they have no pension to retire on – even though they simply cannot afford not to accrue a pension. We need this bill so that no one else suddenly finds themselves unable to retire.

This bill does not eliminate the unique class of optional employees outright or diverge from current practice (stemming from a 1988 Court of Appeals decision ruling that part-time city employees are eligible for pension benefits). The legislation does not mandate universal participation in the pension system. Instead, the bill implements a creative model that preserves



optional employees' freedom of choice to enroll into BERS – respecting the personal decision of those who affirmatively opt not to enroll – while at the same time eliminating the possibility of future employees unintentionally defaulting out of enrollment.

A prior iteration of this legislation (A.7193-C/S.5634-B) received Veto No. 180 in 2017. The veto message expressed that the bill “would necessarily impose a substantial and unplanned burden on New York State taxpayers” and that the costs would “place an undue fiscal pressure on local governments to provide vital services to their residents.” However, the cost of the legislation, which represents a mere rounding error compared to the \$4 billion in assets BERS currently holds, reflects money that the City of New York (City) would have paid had employees not defaulted out of enrollment, and Local 372 has even been notified that the City has no objections to the legislation and is prepared to absorb its entire cost.

Simply put, if we let the current system remain as-is, it becomes a bigger financial burden in the long run. When an employee can no longer physically work yet accrued no pension, they create a cost to social services or to their relatives. Establishing this delayed auto-enrollment system will protect future pensioners, and the one-time auto-enrollment window the bill creates for current employees unenrolled in BERS will mitigate the loss for those who have already defaulted out of the system. Together, these simple fixes will eliminate the very real threat of senior poverty for countless future retirees.

Local 372 has worked closely with the bill sponsors, as well as with BERS and a broad coalition of supporters in labor, government, and throughout our community to see this bill succeed. Together, we are convinced that this bill will prevent countless hardworking public employees from defaulting out of the pension they need and deserve, and I am proud of this

coalition for its deep investment in our optional employees. I welcome the Committee and the Council to count yourselves among us as supporters of this significant legislation.

In contrast to federal actions hostile to workers and labor protections, this legislation provides New York the opportunity to embrace its progressive vision by preventing some of our most vulnerable public workers from falling through the cracks by defaulting out of BERS, losing time earned pension benefits they often cannot afford to buy back, and facing an unstable financial future once no longer able to work. With these principles in mind, Local 372 strongly supports Res. 566 and the state legislation it advances, A.10935-A and S.8844-A.

I thank you for the opportunity to submit and testify on behalf of Local 372 and our optional employees. I am happy to answer any questions.



**New York City Board of Education Employees**

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THE COUNCIL  
THE CITY OF NEW YORK

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