

GOVERNMENT OF THE DISTRICT OF COLUMBIA

OFFICE OF EMPLOYEE APPEALS



REPLY TO:
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February 8, 2023

The Honorable Anita Bonds
Council of the District of Columbia
Chairperson, Committee on Executive Administration and Labor
John A. Wilson Building
1350 Pennsylvania Avenue, N.W. Suite 404
Washington D.C. 20004

ATTN: Kevin Chavous
Office of At-Large Councilmember Anita Bonds

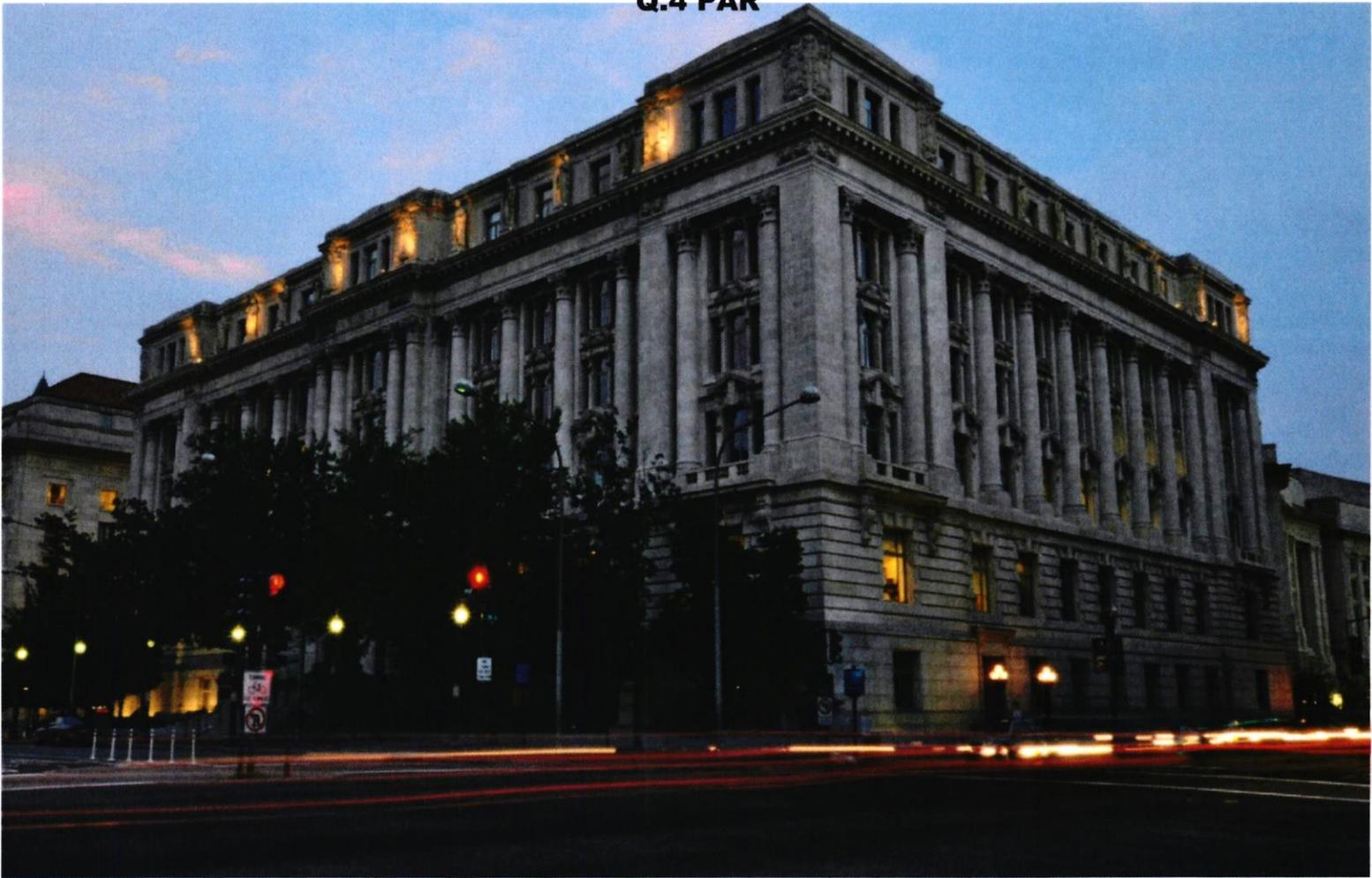
Dear Councilmember Bonds:

Enclosed are the Office of Employee Appeals' answers to the Performance Oversight Hearing for Fiscal Year 2022 and 2023-to-date. Please contact me directly should you have any additional questions before our scheduled hearing on February 15, 2023.

Sincerely,

SHEILA G. BARFIELD, Esq.
Executive Director

ATTACHMENT #1



Office of Employee Appeals

FY 2022 Performance and Accountability Report

January 15, 2023

Contents

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|--|----------|
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1 Office of Employee Appeals

Mission: The Office of Employee Appeals (OEA) is an independent agency with a mission is to adjudicate employee appeals and rendering impartial decisions with sound legal reasoning in a timely manner.

Services: In accordance with DC Official Code I-606.03, the Office of Employee Appeals adjudicates the several types of personnel actions. (a) An employee may appeal a final agency decision affecting a performance rating which results in removal of the employee (pursuant to subchapter XIII-A of this chapter), an adverse action for cause that results in removal, reduction in force (pursuant to subchapter XXIV of this chapter), reduction in grade, placement on enforced leave, or suspension for 10 days or more (pursuant to subchapter XVI-A of this chapter) to the Office upon the record and pursuant to other rules and regulations which the Office may issue.

Q.4 PAR

2 2022 Accomplishments

| Accomplishment | Impact on Agency | Impact on Residents |
|--|--|--|
| Improved efficiency of agency operations | OEA has begun notifying agencies within two business days that an employee has filed a petition for appeal with OEA. By shortening the length of time within which agencies receive this notification, OEA has been able to gather all the necessary documents in a timelier manner thereby allowing an appeal to be assigned to an Administrative Judge more quickly. | This accomplishment had no effect on DC residents. |
| Legally sound decisions | OEA's Administrative Judges and Board continued to issue decisions which successfully withstood judicial scrutiny. This accomplishment reassures the public and legal community that OEA's decisions can be relied upon and cited as legal authority. | This accomplishment positively impacted the residents of DC by reassuring them that OEA's decisions can withstand judicial scrutiny. |

Q.4 PAR

3 2022 Objectives

| Strategic Objective | Number of Measures | Number of Operations |
|--|--------------------|----------------------|
| Render impartial, legally sound decisions in a timely manner. | 8 | 4 |
| Streamline the adjudication process. | 2 | 1 |
| Maintain a system to allow the public to have access to all decisions rendered by the OEA. | 2 | 1 |

Q.4 PAR

4 2022 Operations

| Operation Title | Operation Description | Type of Operation |
|---|---|-------------------|
| Render impartial, legally sound decisions in a timely manner. | | |
| Petitions for Appeal | Intake Coordinator reviews Petition for Appeal, determines the type of appeal and assigns to Administrative Judge. | Daily Service |
| Petitions for Review | Office of the General Counsel reviews Petitions for Review, drafts the Opinion and Order and meets with the Board to present the appeal and issue the decision. | Daily Service |
| Initial Decisions | Administrative Judges process Petitions for Appeal which culminate in the issuance of an Initial Decision. | Daily Service |
| Appeals and Adjudication | Operations that occur within the appeals and adjudication process | Daily Service |
| Streamline the adjudication process. | | |
| Mediation and Settlement | The goal of the mediation program is to help the parties, through the negotiation process, reach a settlement that is agreeable to both of them. | Key Project |
| Maintain a system to allow the public to have access to all decisions rendered by the OEA. | | |
| Website | Decisions are uploaded to the agency's website so that the public is able to view the decisions and research the decisions. | Daily Service |

Q.4 PAR

5 2022 Strategic Initiatives

In FY 2022, Office of Employee Appeals had 0 Strategic Initiatives and completed NaN%.

| Title | Description | Completion to Date | Update | Explanation for Incomplete Initiative |
|-------|-------------|-----------------------|--------|--|
|-------|-------------|-----------------------|--------|--|

Q.4 PAR

6 2022 Key Performance Indicators and Workload Measures

Key Performance Indicators

| Measure | Directionality | FY 2020 | FY 2021 | FY 2022 Target | FY 2022 Q1 | FY 2022 Q2 | FY 2022 Q3 | FY 2022 Q4 | FY 2022 | Was 2022 KPI Met? | Explanation of Unmet KPI |
|--|----------------|-------------|---------------|----------------|----------------|----------------|----------------|----------------|---------|-------------------|---|
| Render impartial, legally sound decisions in a timely manner. | | | | | | | | | | | |
| Number of Opinions and Orders Issued | Up is Better | 18 | 18 | 18 | 4 | 2 | 6 | 1 | 13 | Unmet | There were thirteen petitions filed this fiscal year. The Board issued all of the decisions that were pending on its docket. The only reason that the Board did not reach its target is because there were not at least eighteen cases pending on the Board's docket this year. |
| Time Required to Complete Adjudications | Down is Better | New in 2022 | New in 2022 | 120 | Annual Measure | Annual Measure | Annual Measure | Annual Measure | 236 | - | |
| Time Required to Resolve Petitions for Review | Down is Better | 8 | 3 | 9 | Annual Measure | Annual Measure | Annual Measure | Annual Measure | 3 | Met | |
| Percent of OEA decisions upheld by D.C. Superior Court and the D.C. Court of Appeals | Up is Better | 97.3% | Not Available | 100% | Annual Measure | Annual Measure | Annual Measure | Annual Measure | 100% | Met | |

Q.4 PAR

Key Performance Indicators (continued)

| Measure | Directionality | FY 2020 | FY 2021 | FY 2022 Target | FY 2022 Q1 | FY 2022 Q2 | FY 2022 Q3 | FY 2022 Q4 | FY 2022 | Was 2022 KPI Met? | Explanation of Unmet KPI |
|---|----------------|-------------|---------------|----------------|-------------------|-----------------|-----------------|----------------|---------|-------------------|---|
| Number of Initial Decisions Issued | Up is Better | 98 | 70 | 100 | 10 | 37 | 20 | 23 | 90 | Unmet | During the second half of this fiscal year one of OEA's Administrative Judges resigned full-time employment with the agency and became a part-time judge for the remainder of the fiscal year. As a result, no more appeals were assigned to this judge during the second half of the fiscal year. Moreover, one of OEA's Senior Administrative Judges did not issue as many decisions as the other Senior Administrative Judges. For these reasons, OEA was not able to meet its target. |
| Percent of cases reversing agency decisions | Neutral | 13.8% | Not Available | - | Annual Measure | Annual Measure | Annual Measure | Annual Measure | 12.62% | - | |
| Percent of agency answers timely filed | Up is Better | New in 2022 | New in 2022 | 100% | No data available | Waiting on Data | Waiting on Data | 83.3% | 83.3% | - | |
| Percent of decisions published within the D.C. Register | Up is Better | New in 2022 | New in 2022 | 100% | 100% | 114.3% | Waiting on Data | 100% | 106.8% | - | |
| Streamline the adjudication process. | | | | | | | | | | | |
| Percent of appeals involved in mediation process | Neutral | 69.3% | Not Available | - | Waiting on Data | Waiting on Data | Waiting on Data | 71.4% | 71.4% | - | |
| Percent of appeals resolved through mediation | Neutral | 47.4% | Not Available | - | Waiting on Data | Waiting on Data | Waiting on Data | 14.3% | 14.3% | - | |
| Maintain a system to allow the public to have access to all decisions rendered by the OEA. | | | | | | | | | | | |
| Percent of Initial Decisions uploaded to website | Neutral | 100% | Not Available | - | 100% | 100% | 100% | 100% | 100% | - | |

Q.4 PAR

Workload Measures

| Measure | FY 2020 | FY 2021 | FY 2022 Q1 | FY 2022 Q2 | FY 2022 Q3 | FY 2022 Q4 | FY 2022 |
|--|-------------|-------------|-------------------|------------|-----------------|------------|---------|
| Appeals and Adjudication | | | | | | | |
| Number of evidentiary hearings conducted | New in 2022 | New in 2022 | 4 | 1 | 4 | 3 | 12 |
| Number of Board meetings conducted | New in 2022 | New in 2022 | 2 | 1 | 1 | 1 | 4 |
| Number of safety-sensitive designation appeals filed | New in 2022 | New in 2022 | 0 | 0 | 0 | 0 | 0 |
| Mediation and Settlement | | | | | | | |
| Number of attorney fee appeals mediated | 0 | 0 | 0 | 0 | Waiting on Data | 0 | 0 |
| Number of mediations declined by the agency | New in 2022 | New in 2022 | No data available | 4 | Waiting on Data | 4 | 8 |
| Number of mediations declined by the employee | New in 2022 | New in 2022 | No data available | 0 | Waiting on Data | 0 | 0 |

ATTACHMENT #2

Q.5 Perf Plan

Office of Employee Appeals FY2023

Agency Office of Employee Appeals

Agency Code CHO

Fiscal Year 2023

Mission The Office of Employee Appeals (OEA) is an independent agency with a mission is to adjudicate employee appeals and rendering impartial decisions with sound legal reasoning in a timely manner.

Strategic Objectives

| Objective Number | Strategic Objective |
|------------------|--|
| 1 | Render impartial, legally sound decisions in a timely manner. |
| 2 | Streamline the adjudication process. |
| 3 | Maintain a system to allow the public to have access to all decisions rendered by the OEA. |

Key Performance Indicators (KPIs)

| Measure | Directionality | FY 2020 Actual | FY 2021 Actual | FY 2022 Target | FY2022 Actual | FY 2023 Target |
|---|----------------|----------------|----------------|----------------|---------------|----------------|
| 1 - Render impartial, legally sound decisions in a timely manner. (8 Measure records) | | | | | | |
| Number of Opinions and Orders Issued | Up is Better | 18 | 18 | 18 | 13 | 18 |
| Time Required to Resolve Petitions for Review | Down is Better | 8 | 3 | 9 | 71 | 9 |
| Percent of OEA decisions upheld by D.C. Superior Court and the D.C. Court of Appeals | Up is Better | 97.3% | 100% | 100% | 100% | 100% |
| Number of Initial Decisions Issued | Up is Better | 98 | 70 | 100 | 90 | 100 |
| Percent of cases reversing agency decisions | Neutral | 13.8% | 18.2% | No Target Set | 12.6% | 30% |
| Percent of agency answers timely filed | Up is Better | New in 2022 | New in 2022 | New in 2022 | New in 2022 | 100% |
| Percent of decisions published within the D.C. Register | Up is Better | New in 2022 | New in 2022 | New in 2022 | New in 2022 | 100% |
| Time Required to Complete Adjudications | Down is Better | New in 2022 | New in 2022 | New in 2022 | New in 2022 | 120 |
| 2 - Streamline the adjudication process. (2 Measure records) | | | | | | |
| Percent of appeals involved in mediation process | Neutral | 69.3% | 87.2% | No Target Set | 71.4% | 18% |
| Percent of appeals resolved through mediation | Neutral | 47.4% | 4.9% | No Target Set | 14.3% | 9% |
| 3 - Maintain a system to allow the public to have access to all decisions rendered by the OEA. (2 Measure records) | | | | | | |
| Percent of Initial Decisions uploaded to website | Neutral | 100% | 100% | 100% | 100% | 100% |
| Percent of Opinions and Orders uploaded to website | Neutral | 100% | 100% | 100% | 100% | 100% |

Operations

| Operations Title | Operations Description | Type of Operations |
|---|---|--------------------|
| 1 - Render impartial, legally sound decisions in a timely manner. (4 Activity records) | | |
| Petitions for Appeal | Intake Coordinator reviews Petition for Appeal, determines the type of appeal and assigns to Administrative Judge. | Daily Service |
| Petitions for Review | Office of the General Counsel reviews Petitions for Review, drafts the Opinion and Order and meets with the Board to present the appeal and issue the decision. | Daily Service |
| Initial Decisions | Administrative Judges process Petitions for Appeal which culminate in the issuance of an Initial Decision. | Daily Service |
| Appeals and Adjudication | Operations that occur within the appeals and adjudication process | Daily Service |
| 2 - Streamline the adjudication process. (1 Activity) | | |
| Mediation and Settlement | The goal of the mediation program is to help the parties, through the negotiation process, reach a settlement that is agreeable to both of them. | Key Project |

Q.5 Perf Plan

| Operations Title | Operations Description | Type of Operations |
|------------------|---|--------------------|
| | 3 - Maintain a system to allow the public to have access to all decisions rendered by the OEA. (1 Activity) | |
| Website | Decisions are uploaded to the agency's website so that the public is able to view the decisions and research the decisions. | Daily Service |

Workload Measures (WMs)

| Measure | FY 2020 Actual | FY 2021 Actual | FY2022 Actual |
|---|----------------|----------------|---------------|
| 1 - Appeals and Adjudication (3 Measure records) | | | |
| Number of evidentiary hearings conducted | Not Available | Not Available | 12 |
| Number of Board meetings conducted | Not Available | Not Available | 4 |
| Number of safety-sensitive designation appeals filed | Not Available | Not Available | 0 |
| 2 - Mediation and Settlement (3 Measure records) | | | |
| Number of mediations declined by the agency | Not Available | Not Available | 8 |
| Number of mediations declined by the employee | Not Available | Not Available | 0 |
| Number of attorney fee appeals mediated | 0 | 0 | 0 |

ATTACHMENT #3

Q.7 Budget (1 of 3)

CH0 - Office of Employee Appeals (FY 2023 -Budget ALL LOCAL FUNDS)

| Program | Program (Parent Level 1) Description | Cost Center | Cost Center (Parent Level 1) Description | Sum of Initial Budget | Sum of Revised Budget | Sum of Expenditure | Sum of Available Budget |
|---------------|--------------------------------------|-------------|--|-----------------------|-----------------------|---------------------|-------------------------|
| 100022 | CONTRACTING AND PROCUREMENT | 50280 | EXECUTIVE DIRECTOR'S OFFICE | \$116,631.73 | \$116,631.73 | \$26,404.40 | \$82,741.55 |
| 100028 | CUSTOMER SERVICE | 50280 | EXECUTIVE DIRECTOR'S OFFICE | \$61,448.64 | \$61,448.64 | \$18,071.34 | \$43,377.30 |
| 100151 | EXECUTIVE ADMINISTRATION | 50281 | EXECUTIVE DIRECTOR'S OFFICE | \$684,341.86 | \$684,341.86 | \$147,488.59 | \$536,853.27 |
| 100154 | PERFORMANCE AND STRATEGIC MANAGEMENT | 50280 | EXECUTIVE DIRECTOR'S OFFICE | \$276,728.05 | \$276,728.05 | \$87,056.61 | \$189,671.44 |
| 100071 | INFORMATION TECHNOLOGY SERVICES | 50280 | EXECUTIVE DIRECTOR'S OFFICE | \$68,602.95 | \$68,602.95 | \$20,150.18 | \$48,452.77 |
| 500198 | ADJUDICATION PROCESS | 50281 | EXECUTIVE DIRECTOR'S OFFICE | \$1,012,674.19 | \$1,012,674.19 | \$207,012.81 | \$805,661.38 |
| 500200 | MEDIATION | 50281 | EXECUTIVE DIRECTOR'S OFFICE | \$89,283.36 | \$89,283.36 | \$18,870.04 | \$70,413.32 |
| 500199 | APPEALS | 50281 | EXECUTIVE DIRECTOR'S OFFICE | \$1,000.00 | \$1,000.00 | \$360.00 | \$640.00 |
| Totals | | | | \$2,310,710.78 | \$2,310,710.78 | \$525,413.97 | \$1,777,811.03 |

Q.7 Budget (2 of 3)

CH0 - Office of Employee Appeals (FY 2022 - Budget By Ac

| Object Category | CSG |
|---|-----------------------------|
| 1010 - PERSONNEL | |
| 1015 - TRAINING & EMPLOYEE DEVELOPMENT | |
| 1020 - CONTRACTING & PROCUREMENT | |
| NON-PERSONNEL SERVICES | 0020-NON-PERSONNEL SERVICES |
| | 0040-NON-PERSONNEL SERVICES |
| | 0041-NON-PERSONNEL SERVICES |
| NON-PERSONNEL SERVICES | |
| 1020 - CONTRACTING & PROCUREMENT | |
| 1030 - PROPERTY MANAGEMENT | |
| 1040 - INFORMATION TECHNOLOGY | |
| PERSONNEL SERVICES | 0011-PERSONNEL SERVICES |
| | 0013-PERSONNEL SERVICES |
| | 0014-PERSONNEL SERVICES |
| PERSONNEL SERVICES | |
| 1040 - INFORMATION TECHNOLOGY | |
| 1085 - CUSTOMER SERVICE | |
| PERSONNEL SERVICES | 0011-PERSONNEL SERVICES |
| | 0013-PERSONNEL SERVICES |
| | 0014-PERSONNEL SERVICES |
| PERSONNEL SERVICES | |
| 1085 - CUSTOMER SERVICE | |
| 1090 - PERFORMANCE MANAGEMENT | |
| PERSONNEL SERVICES | 0011-PERSONNEL SERVICES |
| | 0012-PERSONNEL SERVICES |
| | 0013-PERSONNEL SERVICES |
| | 0014-PERSONNEL SERVICES |
| PERSONNEL SERVICES | |
| 1090 - PERFORMANCE MANAGEMENT | |
| 1100 - OFFICE OF EMPLOYEE APPEALS | |
| PERSONNEL SERVICES | 0011-PERSONNEL SERVICES |
| | 0013-PERSONNEL SERVICES |
| | 0014-PERSONNEL SERVICES |
| PERSONNEL SERVICES | |
| 1100 - OFFICE OF EMPLOYEE APPEALS | |
| 2001 - ADJUDICATION PROCESS | |
| PERSONNEL SERVICES | 0011-PERSONNEL SERVICES |
| | 0012-PERSONNEL SERVICES |

Q.7 Budget (2 of 3)

| | |
|---|-----------------------------|
| | 0013-PERSONNEL SERVICES |
| | 0014-PERSONNEL SERVICES |
| PERSONNEL SERVICES | |
| 2001 - ADJUDICATION PROCESS | |
| 2002 - APPEALS | |
| | 0031-NON-PERSONNEL SERVICES |
| | 0070-NON-PERSONNEL SERVICES |
| NON-PERSONNEL SERVICES | |
| 2002 - APPEALS | |
| 2003 - MEDIATION | |
| PERSONNEL SERVICES | 0012-PERSONNEL SERVICES |
| | 0013-PERSONNEL SERVICES |
| | 0014-PERSONNEL SERVICES |
| PERSONNEL SERVICES | |
| 2003 - MEDIATION | |
| OFFICE OF EMPLOYEE APPEALS - TOTAL | |

Q.7 Budget (2 of 3)

Activity) ALL LOCAL FUNDS

| Comptroller Source Group Title | Approved Budget |
|--------------------------------|-----------------|
|--------------------------------|-----------------|

| | |
|------------------------------|-----------------|
| SUPPLIES AND MATERIALS | \$6,500 |
| OTHER SERVICES AND CHARGES | \$55,038 |
| CONTRACTUAL SERVICES - OTHER | \$30,000 |
| | \$91,538 |
| | \$91,538 |

| | |
|------------------------------|-----------------|
| REGULAR PAY - CONT FULL TIME | \$54,323 |
| ADDITIONAL GROSS PAY | |
| FRINGE BENEFITS | \$11,354 |
| | \$65,677 |
| | \$65,677 |

| | |
|------------------------------|-----------------|
| REGULAR PAY - CONT FULL TIME | \$50,120 |
| ADDITIONAL GROSS PAY | |
| FRINGE BENEFITS | \$10,475 |
| | \$60,595 |
| | \$60,595 |

| | |
|------------------------------|------------------|
| REGULAR PAY - CONT FULL TIME | \$187,095 |
| REGULAR PAY - OTHER | \$38,141 |
| ADDITIONAL GROSS PAY | |
| FRINGE BENEFITS | \$47,074 |
| | \$272,311 |
| | \$272,311 |

| | |
|------------------------------|------------------|
| REGULAR PAY - CONT FULL TIME | \$602,487 |
| ADDITIONAL GROSS PAY | |
| FRINGE BENEFITS | \$125,920 |
| | \$728,406 |
| | \$728,406 |

| | |
|------------------------------|-----------|
| REGULAR PAY - CONT FULL TIME | \$751,090 |
| REGULAR PAY - OTHER | \$35,231 |

Q.7 Budget (2 of 3)

| | |
|----------------------|------------------|
| ADDITIONAL GROSS PAY | |
| FRINGE BENEFITS | \$162,558 |
| | \$948,880 |
| | \$948,880 |

| | |
|------------------------------|-----------------|
| TELECOMMUNICATIONS | |
| EQUIPMENT & EQUIPMENT RENTAL | \$26,093 |
| | \$26,093 |
| | \$26,093 |

| | |
|----------------------|-----------------|
| REGULAR PAY - OTHER | \$35,231 |
| ADDITIONAL GROSS PAY | |
| FRINGE BENEFITS | \$5,581 |
| | \$40,811 |
| | \$40,811 |

| | |
|--|--------------------|
| | \$2,234,311 |
|--|--------------------|

Q.7 Budget (2 of 3)

| Revised Budget | Expenditures | Funds Remaining |
|-----------------------|---------------------|------------------------|
| | | |
| | | |
| \$6,500 | \$4,430 | \$2,070 |
| \$55,038 | \$36,146 | \$18,893 |
| \$30,000 | \$30,000 | \$0 |
| \$91,538 | \$70,576 | \$20,963 |
| \$91,538 | \$70,576 | \$20,963 |
| | | |
| | | |
| \$54,323 | \$62,487 | (\$8,164) |
| \$2,028 | \$2,258 | (\$231) |
| \$11,354 | \$20,670 | (\$9,317) |
| \$67,704 | \$85,416 | (\$17,712) |
| \$67,704 | \$85,416 | (\$17,712) |
| | | |
| | | |
| \$50,120 | \$52,111 | (\$1,991) |
| \$1,816 | \$1,816 | \$0 |
| \$10,475 | \$19,314 | (\$8,839) |
| \$62,411 | \$73,241 | (\$10,830) |
| \$62,411 | \$73,241 | (\$10,830) |
| | | |
| | | |
| \$247,095 | \$281,887 | (\$34,792) |
| \$38,141 | \$0 | \$38,141 |
| \$9,709 | \$9,709 | \$0 |
| \$47,074 | \$52,869 | (\$5,794) |
| \$342,020 | \$344,465 | (\$2,445) |
| \$342,020 | \$344,465 | (\$2,445) |
| | | |
| | | |
| \$602,487 | \$526,263 | \$76,224 |
| \$21,971 | \$41,191 | (\$19,221) |
| \$125,920 | \$114,772 | \$11,147 |
| \$750,377 | \$682,227 | \$68,150 |
| \$750,377 | \$682,227 | \$68,150 |
| | | |
| | | |
| \$751,090 | \$726,505 | \$24,585 |
| \$60,886 | \$109,338 | (\$48,451) |

Q.7 Budget (2 of 3)

| | | |
|--------------------|--------------------|-------------------|
| \$30,175 | \$50,618 | (\$20,443) |
| \$162,558 | \$134,207 | \$28,352 |
| \$1,004,710 | \$1,020,668 | (\$15,957) |
| \$1,004,710 | \$1,020,668 | (\$15,957) |
| | | |
| \$0 | \$2,096 | (\$2,096) |
| \$26,093 | \$24,685 | \$1,408 |
| \$26,093 | \$26,781 | (\$688) |
| \$26,093 | \$26,781 | (\$688) |
| | | |
| \$35,231 | \$69,612 | (\$34,381) |
| \$2,419 | \$2,419 | \$0 |
| \$5,581 | \$5,454 | \$127 |
| \$43,230 | \$77,484 | (\$34,254) |
| \$43,230 | \$77,484 | (\$34,254) |
| | | |
| \$2,388,084 | \$2,380,858 | \$7,227 |

Q.7 Budget (2 of 3)

Variance Explanation

Agency spent less on services and supplies to offset PS challenges

Salary increases and one-time payments

Salary increases and one-time payments

Salary increases and one-time payments

FTE realignment

Q.7 Budget (2 of 3)

Salary increases and one-time payments

Unbudgeted telecom expenses

Salary increases and one-time payments

Q.7 Budget (3 of 3)

CH0 - Office of Employee Appeals (FY2022 Budget by Program)

| Object Category | CSG | Comptroller Source Group |
|--|-----------------------------|---------------------------------|
| 1000 - AGENCY MANAGEMENT | | |
| 0100 LOCAL FUND | | |
| PERSONNEL SERVICES | 0011-PERSONNEL SERVICES | REGULAR PAY - CONT FULL TIME |
| | 0012-PERSONNEL SERVICES | REGULAR PAY - OTHER |
| | 0013-PERSONNEL SERVICES | ADDITIONAL GROSS PAY |
| | 0014-PERSONNEL SERVICES | FRINGE BENEFITS |
| PERSONNEL SERVICES | | |
| NON-PERSONNEL SERVICES | 0020-NON-PERSONNEL SERVICES | SUPPLIES AND MATERIALS |
| | 0040-NON-PERSONNEL SERVICES | OTHER SERVICES AND CHARGES |
| | 0041-NON-PERSONNEL SERVICES | CONTRACTUAL SERVICES - OTHER |
| NON-PERSONNEL SERVICES | | |
| 1000 - AGENCY MANAGEMENT PROGRAM | | |
| 1000 - OFFICE OF EMPLOYEE APPEALS | | |
| 2000 - ADJUDICATION | | |
| 0100 LOCAL FUND | | |
| PERSONNEL SERVICES | 0011-PERSONNEL SERVICES | REGULAR PAY - CONT FULL TIME |
| | 0012-PERSONNEL SERVICES | REGULAR PAY - OTHER |
| | 0013-PERSONNEL SERVICES | ADDITIONAL GROSS PAY |
| | 0014-PERSONNEL SERVICES | FRINGE BENEFITS |
| PERSONNEL SERVICES | | |
| | 0031-NON-PERSONNEL SERVICES | TELECOMMUNICATIONS |
| | 0070-NON-PERSONNEL SERVICES | EQUIPMENT & EQUIPMENT RENTAL |
| NON-PERSONNEL SERVICES | | |
| 2000 - ADJUDICATION | | |
| OFFICE OF EMPLOYEE APPEALS TOTAL | | |

Q.7 Budget (3 of 3)

| Approved Budget | Revised Budget | Expenditures | Funds Remaining |
|------------------------|-----------------------|---------------------|------------------------|
| | | | |
| \$894,025 | \$954,025 | \$922,748 | \$31,277 |
| \$38,141 | \$38,141 | \$0 | \$38,141 |
| | \$35,523 | \$54,975 | (\$19,451) |
| \$194,823 | \$194,823 | \$207,625 | (\$12,803) |
| \$1,126,989 | \$1,222,512 | \$1,185,348 | \$37,164 |
| \$6,500 | \$6,500 | \$4,430 | \$2,070 |
| \$55,038 | \$55,038 | \$36,146 | \$18,893 |
| \$30,000 | \$30,000 | \$30,000 | \$0 |
| \$91,538 | \$91,538 | \$70,576 | \$20,963 |
| \$1,218,527 | \$1,314,051 | \$1,255,924 | \$58,126 |
| | | | |
| | | | |
| \$751,090 | \$751,090 | \$726,505 | \$24,585 |
| \$70,462 | \$96,117 | \$178,949 | (\$82,832) |
| | \$32,594 | \$53,037 | (\$20,443) |
| \$168,139 | \$168,139 | \$139,661 | \$28,478 |
| \$989,691 | \$1,047,941 | \$1,098,152 | (\$50,211) |
| | \$0 | \$2,096 | (\$2,096) |
| \$26,093 | \$26,093 | \$24,685 | \$1,408 |
| \$26,093 | \$26,093 | \$26,781 | (\$688) |
| \$1,015,784 | \$1,074,034 | \$1,124,933 | (\$50,900) |
| | | | |
| \$2,234,311 | \$2,388,084 | \$2,380,858 | \$7,227 |

Q.7 Budget (3 of 3)

Variance

Vacancy and NPS savings offset by salary increases and one-time payments

PS underfunding including salary increases and one-time payments

ATTACHMENT #4

Q.9 MOU (OEA)

OEA INTERAGENCY MOUS, FY2022 AND FY2023, INCLUDING ANTICIPATED MOUS (Q9)

| Buyer agency name | Seller agency name | Seller Program name | Seller Program code | Buyer Activity name | Buyer Activity code | Original funding source (i.e. local, federal, SPR) | Service period (dates) | Description of MOU services, including name of project or initiative | Total MOU amount (\$), including any modifications | (Final) Date of signature on letter of intent | Date that funds were transferred to the buyer agency |
|-------------------|--------------------|---------------------|---------------------|---------------------------|---------------------|--|-------------------------|--|--|---|--|
| OEA | OCTO | | | CONTRACTING & PROCUREMENT | 11020 | Local | 10/01/2021 - 09/30/2022 | OEA Case Management System | 19,472.00 | | *** |

Q.9 MOU FY23

| | |
|--|--|
| <p>OFFICE OF THE CHIEF TECHNOLOGY OFFICER GOVERNMENT OF THE DISTRICT OF COLUMBIA</p>  | <p>MOU Executive Brief OCTO Division</p> |
| <p>OCTO Deputy/Executive: Carol Harrison</p> | <p>Program Manager: Mark McDermott</p> |
| <p>Agency: DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS (OEA)</p> | <p>Dollar Amount: \$35,297.92</p> |
| <p>Date Submitted: Oct 6 2021 3:15PM</p> | <p>eMOU#: TO0CH0-2022-01659</p> |
| <p>Project Description:</p> <p>This MOU represents services provided by OCTO to the Office of Employee Appeals to support the currently in production OEA CaseTrack application, which was developed by OCTO's Applications Development & Operations program in Fiscal Year 2019. Phase 2 development, which focused on reporting features and functionality, were completed in Fiscal Year 2022.</p> | |
| <p>Risks:</p> | |
| <p>Challenges:</p> | |
| <p>Urgency: <input checked="" type="checkbox"/> Normal <input type="checkbox"/> Rush <input type="checkbox"/> Expedite</p> | |



MEMORANDUM OF UNDERSTANDING

BETWEEN

DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS

AND

**DISTRICT OF COLUMBIA OFFICE OF THE CHIEF TECHNOLOGY
OFFICER**

FOR FISCAL YEAR 2022

MOU Number: TO0CH0-2022-01659

I. INTRODUCTION

This Memorandum of Understanding ("MOU") is entered into between the **DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS ("OEA or "Buyer Agency")** and the **DISTRICT OF COLUMBIA OFFICE OF THE CHIEF TECHNOLOGY OFFICER ("OCTO" or "Seller Agency")**, collectively referred to herein as the "Parties" and individually as "Party."

II. LEGAL AUTHORITY FOR MOU

D.C. Official Code § 1-301.01(k).

III. OVERVIEW OF PROGRAM GOALS AND OBJECTIVES

This MOU covers production application support for the OEA CaseTrack application ("Application") for Fiscal Year 2022.

IV. SCOPE OF SERVICES

Pursuant to the applicable authorities and in the furtherance of the shared goals of the Parties to carry out the purposes of this MOU expeditiously and economically, the Parties hereby agree as follows:

A. RESPONSIBILITIES OF SELLER AGENCY

The Seller Agency shall provide a total of 160 hours of:

- (1) Application management and maintenance;
- (2) Monthly Application patching to address know vulnerabilities;
- (3) Technical support;
- (4) Minor enhancements to the Application which:
 - (a) fall within the scope of development;

Q.9 MOU FY23

(b) do not require underlying architecture;

(5) Provide monthly status on expenses related to the funds provided in this MOU

B. RESPONSIBILITIES OF BUYER AGENCY

The Buyer Agency shall:

- (1) Provide a Point of Contact (POC) for OEA;
- (2) Verify from the OEA side that the Application is operating without issue after each patching cycle;
- (3) Provide the funding identified under the heading, "Payment," below.

V. DURATION OF MOU

The duration of this MOU shall be for **Fiscal Year 2022**, shall begin on the last date of execution by the Parties, and shall expire on **Sep 30, 2022**, unless terminated in writing by the Parties prior to expiration pursuant to Section VII of this MOU.

VI. FUNDING PROVISIONS

A. COST OF SERVICES

The total cost for goods and/or services under this MOU shall not exceed **\$35,297.92** for Fiscal Year 2022. Funding for goods and/or services shall not exceed the actual cost of the goods and/or services provided, and is based on 15% of the total cost of services to develop the Application (\$229,769.12) as support costs.

B. PAYMENT

(1) Payment for the goods and/or services shall be made through an Intra-District advance by the Buyer Agency to the Seller Agency based on the total amount of this MOU (**\$35,297.92**).

a. Advances to the Seller Agency for the services to be performed and/or goods to be provided shall not exceed the actual costs of the goods or services or the amount of this MOU.

b. The Seller Agency shall receive the advance and bill the Buyer Agency through the Intra-District process only for those goods and/or services actually provided pursuant to the terms of this MOU.

(2) Upon request of the Buyer Agency, the Seller Agency shall provide the Buyer Agency with a listing of itemized services.

(3) The Seller Agency shall:

a. Notify the Buyer Agency within forty-five (45) days prior to the close of the fiscal year if it has reason to believe that all of the advance will not be billed during the current fiscal year; and

b. Return any excess advance to the Buyer Agency by September 30 of the current fiscal year.

(4) In the event of termination of this MOU, payment to the Seller Agency shall be held in abeyance until all required fiscal reconciliation, but not later than September 30 of the then current fiscal year.

C. ANTI-DEFICIENCY CONSIDERATIONS

Q.9 MOU FY23

The Parties acknowledge and agree that nothing in this MOU creates a financial obligation in anticipation of an appropriation, and that all provisions of this MOU, or any subsequent agreement entered into by the Parties pursuant to this MOU, are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349, 1351, (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01-355.08, (iii) D.C. Official Code § 47-105, and (iv) D.C. Official Code § 1-204.46, as the foregoing statutes may be amended from time to time, regardless of whether a particular obligation has been expressly so conditioned.

VII. TERMINATION

Either Party may terminate this MOU in whole or in part by giving thirty (30) calendar days advance written notice to the other Party.

VIII. NOTICES

The following individuals are the contact points for each Party:

OEA

Hemraj, Hemchand (OEA)
gabrielle.smith-barrow@dc.gov
955 L'enfant Plaza, SW, Suite 2500
Washington, D.C., 20024
Phone: (202) 727-5895
Email: hemchand.hemraj@dc.gov

OCTO

Mark McDermott
Interim Program Manager - Applications Development and Operations
200 I Street, SE, 5th Floor
Washington, D.C. 20003
Phone: 202.727.5959
Email: mark.mcdermott@dc.gov

IX. MODIFICATIONS

This MOU may be modified only upon written agreement of the Parties. Modifications shall be dated and signed by the authorized representatives of the Parties.

X. CONSISTENT WITH LAW

The Parties shall comply with all applicable federal and District laws, rules and regulations whether now in effect or hereafter enacted or promulgated.

XI. COMPLIANCE AND MONITORING

The Seller Agency will be subject to scheduled and unscheduled monitoring reviews to ensure compliance with all applicable requirements.

XII. RECORDS AND REPORTS

The Seller Agency shall maintain records and receipts for the expenditure of all funds provided pursuant to this MOU for a period of no less than three (3) years from the date of expiration or termination of this MOU

Q.9 MOU FY23

and, upon the Buyer Agency's request or the request of other officials of the District of Columbia, make these documents available for inspection by duly authorized representatives of the Buyer Agency or other officials of the District of Columbia as may be specified in their respective sole discretion.

XIII. PROCUREMENT PRACTICES REFORM ACT

If a District of Columbia agency or instrumentality plans to utilize the goods and/or services of an agent, contractor, consultant or other third party to provide any of the goods and/or services under this MOU, then the agency or instrumentality shall abide by the provisions of the District of Columbia Procurement Practices Reform Act of 2010 (D.C. Official Code § 2-351.01, et seq.) to procure the goods or services.

XIV. RESOLUTION OF DISPUTES

The Parties' Directors or designees shall resolve all adjustments and disputes arising from services performed under this MOU. The decision of the Parties' Directors related to any disputes referred shall be final. In the event that the Parties are unable to resolve a financial issue, the matter shall be referred to the D.C. Office of the Chief Financial Officer, Office of Financial Operations and Systems.

XV. CONFIDENTIAL INFORMATION

The Parties to this MOU will use, restrict, safeguard and dispose of all information related to services provided by this MOU in accordance with all relevant federal and District statutes, regulations, and policies. Information received by either Party in the performance of responsibilities associated with the performance of this MOU shall remain the property of the Buyer Agency.

Q.9 MOU FY23

IN WITNESS WHEREOF, the Parties hereto have executed this MOU as follows:

DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS, District of Columbia

Sheila G. Barfield

Date: 12/3/2021

Executive Director
Sheila G. Barfield

Office of the Chief Technology Officer, District of Columbia

Lindsey V. Parker

Date: 12/16/2021

Chief Technology Officer
Lindsey V. Parker

Q.9 MOU FY23

INTRA-DISTRICT STANDARD REQUEST FORM

Government of District of Columbia

**MOU
Number:**

TO0CH0-2022-01659

**Date of
MOU:**

12/03/2021

Buyer Information

Agency Name: OEA

Agency Code: CH0

Name of Contact: Paul Blake

Address: 955 L'enfant Plaza, SW, Suite 2500

Telephone #: (202) 727-5895

Fax #:

Paul Blake

Date: 02/18/2022

Signature

Seller Information

Agency Name: OCTO

Agency Code: TO0

Name of Contact: philpeng

Address: 200 I ST, SE WASHINGTON, DC 20003

Telephone #:

Fax #:

philpeng

Date: 02/18/2022

Signature

Service Information and Funding Codes

GOOD/SERVICE: Web Maintenance

Q.9 MOU FY23

Buyer

| AGY | YR | ORG | FUND | INDEX | PCA | OBJ | AOBJ | GRANT | PROJ | AG1 | AG2 | AG3 | AMOUNT |
|-----|----|-----|------|-------|-------|------|------|-------|------|-----|-----|-----|-------------|
| CH0 | 22 | NA | 0100 | 10000 | 11020 | 0409 | 0409 | NA | NA | NA | NA | NA | \$15,000.00 |

Seller

| AGY | YR | ORG | FUND | INDEX | PCA | OBJ | AOBJ | GRANT | PROJ | AG1 | AG2 | AG3 | AMOUNT |
|-----|----|------|------|-------|-------|------|------|-------|---------------|-----|-----|-----|-------------|
| TO0 | 22 | 2000 | 1363 | 2EACH | 20011 | 4600 | 4600 | N/A | 2OEA CH/02 | N/A | N/A | N/A | \$15,000.00 |

**eMOU Approval History
TO0CH0-2022-01659**

2/6/2023 1:32:39 PM

| Step Name | Name | Status Name | Status Date | Comments |
|----------------------------------|------------------------------|-------------|------------------------|---|
| OCTO Program Manager Review | Stephen Miller (OCTO) | Approved | 11/17/2021 2:21:14 PM | approving as PM - and forwarding to legal - will review again during executive approval |
| OCTO General Counsel Review | Todd Smith (OCTO) | Approved | 11/17/2021 5:42:47 PM | |
| OCTO Executives Review | Carol Harrison (OCTO) | Approved | 11/19/2021 11:11:45 AM | |
| Buyer Agency Final Review of MOU | Hemraj, Hemchand (OEA) (OEA) | Approved | 12/3/2021 3:25:51 PM | |
| MOU Signature - Buyer Agency | Sheila Barfield (OEA) | Signed | 12/3/2021 6:07:03 PM | |
| MOU Signature - OCTO | Lindsey Parker (OCTO) | Signed | 12/16/2021 1:58:44 PM | |

Q.9 MOU FY23

MOU Author Review Juan Easley (OCTO) Approved 12/22/2021 10:38:41 AM

IDSR Form Signature - Buyer Agency Paul Blake, AFO (OCFO) Signed 2/18/2022 9:24:20 PM

IDSR Form Signature - OCTO Phil Peng, AFO (OCFO) Signed 3/11/2022 7:48:42 AM

Q.9 MOU FY22

| | |
|--|--|
| <p>OFFICE OF THE CHIEF TECHNOLOGY OFFICER GOVERNMENT OF THE DISTRICT OF COLUMBIA</p>  | <p>MOU Executive Brief OCTO Division</p> |
| <p>OCTO Deputy/Executive: Carol Harrison</p> | <p>Program Manager: Mark McDermott</p> |
| <p>Agency: DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS (OEA)</p> | <p>Dollar Amount: \$22,000.00</p> |
| <p>Date Submitted: Oct 11 2022 3:35PM</p> | <p>eMOU#: TO0CH0-2023-01853</p> |
| <p>Project Description: This MOU covers production application support for the OEA CaseTrack application ("Application") for Fiscal Year 2023.</p> | |
| <p>Risks:</p> | |
| <p>Challenges:</p> | |
| <p>Urgency: <input checked="" type="checkbox"/> Normal <input type="checkbox"/> Rush <input type="checkbox"/> Expedite</p> | |



MEMORANDUM OF UNDERSTANDING

BETWEEN

DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS

AND

**DISTRICT OF COLUMBIA OFFICE OF THE CHIEF TECHNOLOGY
OFFICER**

FOR FISCAL YEAR 2023

MOU Number: TO0CH0-2023-01853

I. INTRODUCTION

This Memorandum of Understanding ("MOU") is entered into between the **DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS** ("Buyer Agency") and the **Office of the Chief Technology Officer** ("Seller Agency"), each of which is individually referred to in this MOU as a "Party" and both of which together are collectively referred to in this MOU as the "Parties."

II. LEGAL AUTHORITY FOR MOU

D.C. Official Code § 1-301.01(k).

III. OVERVIEW OF PROGRAM GOALS AND OBJECTIVES

This MOU represents services provided by OCTO to the Office of Employee Appeals to support the currently in production OEA CaseTrack application, which was developed by OCTO's Applications Development & Operations program in Fiscal Year 2019. Phase 2 development, which focused on reporting features and functionality, were completed in Fiscal Year 2022.

IV. SCOPE OF SERVICES

Pursuant to the applicable authorities and in furtherance of the shared goals of the Parties, the Parties agree as follows:

A. RESPONSIBILITIES OF SELLER AGENCY

The Seller Agency shall provide a total of 160 hours of:

1. Application management and maintenance;
2. Monthly Application patching to address known vulnerabilities;
3. Technical support;
4. Provide monthly status on expenses related to the funds provided in this MOU;
5. Minor enhancements to the Application which:
 1. do not require underlying architecture change.

B. RESPONSIBILITIES OF BUYER AGENCY

The Buyer Agency shall:

1. Provide a Point of Contact (POC) for OEA;
2. Verify from the OEA side that the Application is operating without issue after each patching cycle;
3. Provide the funding identified under the heading, "Payment," below.

V. DURATION OF THIS MOU

A. PERIOD

The period of this MOU shall be from **Oct 01, 2022** (the "effective date") through **Sep 30, 2023**, unless early terminated pursuant to Section XI of this MOU.

B. EXTENSION

The Parties may extend the period of this MOU by exercising a maximum of four **(4)** twelve-month option period(s). Option periods may consist of a fiscal year, a fraction thereof, or multiple successive fractions of a fiscal year. Buyer Agency shall provide Seller Agency with written notice of its intent to exercise an option period at least sixty **(60)** days before the expiration of the initial or extended term of this MOU. The exercise of an option period is subject to the availability of funds at the time it is exercised.

VI. FUNDING PROVISIONS

A. COST OF SERVICES

The total cost to the Buyer Agency for the goods and/or services provided under this MOU shall not exceed **\$22,000.00** for Fiscal Year 2023. The total cost of the goods and/or services is based on the Seller Agency's estimate of the actual cost of the goods and/or services that will be provided under this MOU.

B. PAYMENT

1. **Within thirty (30)** days after this MOU is **fully executed**, the Buyer Agency shall create an Interagency Project and fund it through an Award in the amount set forth in Section VI.A of this MOU. The Interagency Project shall be established in a manner that allows the Seller Agency to directly charge the Project for the costs the Seller Agency incurs in providing goods and/or services under this MOU.
2. The Seller Agency shall charge the Interagency Project only for the actual cost of goods and/or services provided under this MOU.
3. For each charge against the Interagency Project, including personnel costs documented in Peoplesoft, the Seller Agency shall attach, to the Project, documentation that supports the charge, including invoices as applicable.

C. ANTI-DEFICIENCY CONSIDERATIONS

The Parties acknowledge and agree that nothing in this MOU creates a financial obligation in anticipation of an appropriation and that all provisions of this MOU are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349, 1351, (ii) the District of Columbia Anti-

Q.9 MOU FY22

deficiency Act, D.C. Official Code §§ 47-355.01-355.08, (iii) D.C. Official Code § 47-105, and (iv) D.C. Official Code § 1-204.46, as the foregoing statutes may be amended from time to time, regardless of whether a particular obligation has been expressly so conditioned.

VII. AMENDMENTS

This MOU may be amended only by the written agreement of the Parties. Amendments shall be dated and signed by authorized representatives of the Parties.

VIII. CONSISTENT WITH LAW

The Parties shall comply with all applicable laws, rules, and regulations whether now in effect of hereafter enacted or promulgated.

IX. COMPLIANCE AND MONITORING

The Seller Agency will be subject to scheduled and unscheduled monitoring reviews to ensure compliance with all applicable requirements of this MOU.

X. RECORDS AND REPORTS

A. The Buyer Agency and Seller Agency shall maintain records and receipts for the expenditure of all funds provided pursuant to this MOU for a period of no less than three (3) years after the date of expiration or termination of this MOU.

B. Both the Buyer Agency and Seller Agency shall have access to all records in the Interagency Project established pursuant to section VI.B. of this MOU.

XI. TERMINATION

A. Either Party may terminate this MOU in whole or in part by giving thirty (30) calendar days advance written notice to the other Party.

B. In the event of termination of this MOU, the Buyer Agency and Seller Agency shall reconcile any amounts due to the Seller Agency under this MOU. The Buyer Agency shall not remove funding from the Interagency Project established pursuant to section VI.B. of this MOU until the Seller Agency has drawn down the amounts due, except to the extent that the funding in the Interagency Project exceeds the amounts due to the Seller Agency.

XII. NOTICES

The following individuals are the contact points for each Party:

OEA

Hemraj, Hemchand (OEA)

955 L'enfant Plaza, SW, Suite 2500

Washington, D.C., 20024

Phone: (202) 727-5895

Email : hemchand.hemraj@dc.gov

Q.9 MOU FY22

OCTO

Mark McDermott

200 I ST SE, 5th Floor
Washington, D.C. 20003

Phone : (202) 727 5959

Email : mark.mcdermott@dc.gov

XIII. RESOLUTION OF DISPUTES

All disputes arising under this MOU shall be referred to the Hemraj, Hemchand (OEA) and the Mark McDermott for resolution. If these individuals are unable to resolve such a dispute, the dispute shall be referred to the directors of **DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS** and **OCTO** for resolution.

XIV. CONFIDENTIAL INFORMATION

The Parties shall use, restrict, safeguard, and dispose of all information related to good and/or services provided under this MOU in accordance with all relevant federal and District statutes, regulations, and policies.

Q.9 MOU FY22

IN WITNESS WHEREOF, the Parties hereto have executed this MOU as follows:

DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS, District of Columbia

Sheila G. Barfield

Date: 11/4/2022

Executive Director

Sheila G. Barfield

Office of the Chief Technology Officer, District of Columbia

Lindsey V. Parker

Date: 12/2/2022

Chief Technology Officer

Lindsey V. Parker

Q.9 MOU FY22

INTRA-DISTRICT STANDARD REQUEST FORM

Government of District of Columbia

**MOU
Number:**

TO0CH0-2023-01853

**Date of
MOU:**

10/18/2022

Buyer Information

Agency Name: OEA

Agency Code: CH0

Name of Contact: Paul K. Blake

Address: 955 L'enfant Plaza, SW, Suite 2500

Telephone #: (202) 727-5895

Fax #:

Paul K. Blake

Date: 12/02/2022

Signature

Seller Information

Agency Name: OCTO

Agency Code: TO0

Name of Contact:

Address: 200 I ST, SE WASHINGTON, DC 20003

Telephone #:

Fax #:

Date:

Signature

Service Information and Funding Codes

GOOD/
SERVICE:

Buyer

| AGY | YR | ORG | FUND | INDEX | PCA | OBJ | AOBJ | GRANT | PROJ | AG1 | AG2 | AG3 | AMOUNT |
|-----|----|-----|------|-------|-----|-----|------|-------|------|-----|-----|-----|--------|
|-----|----|-----|------|-------|-----|-----|------|-------|------|-----|-----|-----|--------|

Seller

| AGY | YR | ORG | FUND | INDEX | PCA | OBJ | AOBJ | GRANT | PROJ | AG1 | AG2 | AG3 | AMOUNT |
|-----|----|-----|------|-------|-----|-----|------|-------|------|-----|-----|-----|--------|
|-----|----|-----|------|-------|-----|-----|------|-------|------|-----|-----|-----|--------|

Q.9 MOU FY22**eMOU Approval History
TO0CH0-2023-01853**

2/6/2023 1:33:13 PM

| Step Name | Name | Status Name | Status Date | Comments |
|------------------------------------|------------------------------|--------------------|------------------------|--|
| MOU Author Review | Juan Easley (OCTO) | Approved | 10/18/2022 12:46:29 PM | Removed instructions in Payment section |
| OCTO Program Manager Review | Mark McDermott (OCTO) | Approved | 10/18/2022 12:58:39 PM | |
| OCTO General Counsel Review | Todd Smith (OCTO) | Approved | 10/18/2022 4:13:42 PM | |
| OCTO Executives Review | Carol Harrison (OCTO) | Approved | 10/18/2022 4:46:39 PM | |
| Buyer Agency Final Review of MOU | Hemraj, Hemchand (OEA) (OEA) | Approved | 10/20/2022 9:13:49 AM | Approved FY23 MOU agreement; monthly burndown report submission to monitor utilization throughout the fiscal year. |
| MOU Signature - Buyer Agency | Sheila Barfield (OEA) | Signed | 11/4/2022 5:18:36 PM | |
| IDSR Form Signature - Buyer Agency | Paul Blake, AFO (OCFO) | Signed | 12/2/2022 12:42:03 PM | |
| MOU Signature - OCTO | Lindsey Parker (OCTO) | Signed | 12/2/2022 3:49:13 PM | |

ATTACHMENT #5

Q.11 InterAge Reprogramming

OEA INTERAGENCY REPROGRAMMINGS, FY2022 AND FY2023 (Q11)

Including anticipated reprogrammings for remainder of FY2023

| Sending agency name | Receiving agency name | Date of execution (actual or expected) | Dollar amount (actual or expected) | Originating funding source (i.e. local, federal, SPR) | Originating funds | | | Received funds | | | Detailed rationale for the reprogramming |
|---------------------------------|----------------------------|--|------------------------------------|---|-------------------|---------------|----------|----------------|---------------|----------|--|
| | | | | | Program code | Activity code | CSG code | Program code | Activity code | CSG code | |
| Public Employee Relations Board | Office of Employee Appeals | 9/30/2022 | \$60,000.00 | Local | 2002 | 2002 | 0011 | 1090 | 1090 | 0011 | To cover unbudgeted personnel services expenditures in the 2022 fiscal year. |
| | | | | | | | | | | | |
| | | | | | | | | | | | |
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| | | | | | | | | | | | |
| | | | | | | | | | | | |

ATTACHMENT #6

Q.12 IntraAge Reprogramming

OEA INTRA-AGENCY REPROGRAMMINGS, FY2022 AND FY2023 (Q12)

Including anticipated reprogrammings for remainder of FY2023

| Date of execution (actual or expected) | Dollar amount (actual or expected) | Originating funding source (i.e. local, federal, SPR) | Originating funds | | | Received funds | | | Detailed rationale for the reprogramming |
|---|---------------------------------------|--|-------------------|---------------|----------|----------------|---------------|----------|--|
| | | | Program code | Activity code | CSG code | Program code | Activity code | CSG code | |
| | | | | | | | | | |
| N/A | | | | | | | | | |
| | | | | | | | | | |
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| | | | | | | | | | |

ATTACHMENT #7

Q.13 Budget Enhancement Request (1 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

Complete a separate Form 2 for each enhancement request for FY 2024.

SECTION I. OVERVIEW Required for ALL requests

ENHANCEMENT TITLE*

OEA's PS Cost

ENHANCEMENT PRIORITY*

1 OUT OF **3**

AGENCY*

Office of Employee Appeals

AGENCY CODE*

CHO

AGENCY POINT OF CONTACT*

Sheila G. Barfield

POINT OF CONTACT EMAIL*

sheila.barfield@dc.gov

REQUEST TYPE*

Mark the one request type that best describes this enhancement. No type is preferred over any other, but the questions in Section II: Rationale differ by type.

- A. Restore previous budget reduction/one-time funding
- B. Increased cost to maintain existing program/activity
- C. Operational improvement with strong business case
- D. Expand high-performing existing program/activity
- E. Completely new program/activity with highly likely or proven positive outcomes for District residents

For these request types, complete Sections I-IV only

For these request types, complete Sections I-VI

FUNDING REQUEST*

Enter amount of Local Funds requested and indicate whether funds are one-time or recurring.

| FY24 PERSONAL SERVICES (PS) | FY24 NON-PERSONAL SERVICES (NPS) | FY24 TOTAL REQUEST AMOUNT |
|-----------------------------|----------------------------------|---------------------------|
| \$130,000 | \$0 | \$130,000 |

- ONE-TIME PARTIALLY RECURRING RECURRING

FUTURE COSTS*

If recurring, enter estimated costs over the life of the Financial Plan.

| TOTAL FY 2025 | TOTAL FY 2026 | TOTAL FY 2027 |
|---------------|---------------|---------------|
| \$0 | \$0 | \$0 |

ENHANCEMENT SUMMARY*

In 3-5 sentences, describe this enhancement, what problem it aims to solve, and the expected positive impact on District residents or government operations.

OEA's FY 2024 MARC will not adequately fund the agency's operating budget in FY 2024. The agency projects that its PS costs will total \$2,444,000 in FY 2024. This will cause a deficit of approximately \$130,000 in the agency's PS budget with no funding for the NPS budget.

Should the FY 2024 MARC remain unchanged, the agency will not be able to perform any of its statutorily mandated, mission-critical services. This would delay the adjudication of appeals and the issuance of decisions, thereby creating a backlog of cases.

Will legislative support be required to implement this enhancement?*

If yes, please submit a proposed BSA subtitle using Attachment D.

- YES NO

AGENCIES: Use this form to provide details about enhancement requests in your agency's FY 2024 budget request. This information is essential for decision-making. Well thought out and reasoned requests are much more likely to receive favorable consideration.

REQUIRED SECTIONS

- Sections I-IV are required for ALL requests.
- Sections I-V are required for Type D and E requests.
- Section VI is optional.

Please remember to submit the Form 2 Summary spreadsheet, including spend plan details, along with the detailed Form 2s for each enhancement request.

RACIAL EQUITY BUDGET TOOL (REBT)

The Office of Racial Equity (ORE) has developed the Racial Equity Budget Tool (REBT) to guide agencies in assessing how their budgets benefit and/or negatively impact communities based on race, specifically Black, Indigenous, and People of Color (BIPOC) communities. Please use Section IV to show how your agency considered racial equity in developing this enhancement request.

EDITING RESTRICTIONS: This form uses editing restrictions to ensure consistent displays of information. If needed, the restrictions can be disabled by going to the Review tab at the top of the window, clicking on Protect, then Restrict Editing, and clicking Stop Protection. If prompted for a password, click OK.

Q.13 Budget Enhancement Request (1 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION II. RATIONALE

Required for ALL requests

What problem facing the District will this enhancement address and why does this problem exist?*

Please provide as much detail as possible. Responses that identify and quantify specific problems will receive more favorable consideration.

The problem facing the District is that without this enhancement, the agency will be forced to make significant cuts to its PS budget. The resulting effect is that the agency will not be able to carry out its statutory mandate of adjudicating appeals filed by District government employees, thereby creating a backlog of cases that could potentially increase the District's liability. This problem exists because the FY 2024 MARC does not fully fund the agency's projected PS costs in FY 2024. [Click or tap here to enter text.](#)

How does this enhancement address this problem and its underlying causes?*

Please provide as much detail as possible. Responses that clearly demonstrate how the proposed enhancement will address the underlying causes will receive more favorable consideration.

This enhancement will enable the agency to carry out its statutory mandate of adjudicating appeals filed by District government employees.

Why is this the right level of increased investment to address need?*

Please explain the agency's rationale for requesting this level of investment for this activity, including why a lower level of investment would not be more appropriate.

This level of investment is requested based on the pay scale associated with each agency employee and the need to align salaries with the work that is actually being performed by agency employees.

QUESTIONS SPECIFIC TO ENHANCEMENT TYPE*

Mark the appropriate enhancement type and use the space below the table to answer the questions for that enhancement type.

| IF YOUR ENHANCEMENT TYPE IS... | THEN ANSWER THESE QUESTIONS... |
|--|---|
| <input type="checkbox"/> A. Restore previous budget reduction/one-time funding | Why is the restoration of this reduction critical for the District at this time? What negative impact will result if this reduction is not restored? |
| <input checked="" type="checkbox"/> B. Increased cost to <u>maintain</u> existing program/activity | Why are costs increasing to maintain existing levels of service? What are the main cost drivers and what options has the agency already implemented or considered implementing to lower these costs? |
| <input type="checkbox"/> C. Operational improvement with a strong business case | How will this enhancement help the District save money in this or future fiscal years? How much will it save? |
| <input type="checkbox"/> D. Expand high-performing existing program/activity | Why is this program or activity considered to be high performing? How do the outputs or outcomes compare to those of similar programs within or outside of District government? Please cite any relevant agency KPIs or workload measures that support your response. |
| <input type="checkbox"/> E. Completely new program or initiative with highly likely or proven positive outcomes for District residents | What will be the District's return on investment, as measured by how many and/or which District residents are served, or some other measure? |

Responses to Questions*

The FY 2024 MARC does not fully fund the agency's projected PS costs in FY 2024. The agency's FY 2023 budget does not adequately fund its PS costs. This shortfall will carry over into FY 2024 and continue to grow because of step increases that

Q.13 Budget Enhancement Request (1 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

will become due in FY 2024 along with the need to align salaries in FY 2024 to reflect an increase in the workload of certain positions.

Q.13 Budget Enhancement Request (1 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION III. PERFORMANCE RATIONALE & IMPACT *Required for ALL requests*

IMPACT STATEMENT

In 2-3 sentences, describe the expected positive impact of this enhancement on District residents or government operations.*

This enhancement will enable the agency to carry out its statutory mandate of adjudicating appeals filed by District government employees.

PERFORMANCE RATIONALE

What data that the agency collects or has access to informed the development of this enhancement requests?*

The pay scale and increased workload informed this request.

Please list any agency Key Performance Indicators (KPIs) or Workload Measures (WMs) that informed the development of this enhancement request.*

If you are proposing a new metric, write "NEW" in the columns for FY 2020-FY 2022. Metrics can be measurements of outputs, desired outcomes, operational efficiency, inputs or resources, or volume of demand or work for a particular program.

PERFORMANCE TEAM IS HERE TO HELP!
Need help thinking through this section or identifying data sources, KPIs, or Workload Measures? Reach out to your OBPM Performance Analyst or to Deputy Performance Director Lia Katz (lia.katz@dc.gov).

HELPFUL TIPS & DEFINITIONS

- **Key Performance Indicators (KPIs)** are quantitative measures of performance associated with targets. They typically include a statistic, like a percentage, and an object, like "tickets dismissed when contested."
- **Workload Measures (WMs)** measure the volume of work performed—e.g., the number of parking tickets issued—and do not have associated targets. Typically, workload measures provide information about service demand.
- **In most cases**, agency activities do not aim to increase or decrease workload measures. In rare instances, if an agency is working to increase or decrease volume of work directly, a measure may be tracked as a KPI, with an associated target (e.g., "number of trees planted.").

| KEY PERFORMANCE INDICATOR (KPI) or WORKLOAD MEASURE (WM) | New KPI or WM for FY24? | If new for FY24, please explain how this metric was developed: | WHICH DIRECTION IS DESIRED? | FY 2020 ACTUAL | FY 2021 ACTUAL | FY 2022 TARGET | FY 2022 ACTUAL | FY 2023 TARGET |
|--|-------------------------|--|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Number of Initial Decisions Issued | | | Up | 98 | 70 | 100 | 90 | 85 |
| Number of Opinions and Orders Issued | | | Up | 18 | 18 | 18 | 13 | 15 |
| Time Required to Complete Adjudications | | | Down | 8 | 10 | 120 | 236 | 120 |
| Time Required to Resolve Petitions for Review | | | Down | 8 | 3 | 9 | 71 | 71 |

Q.13 Budget Enhancement Request (1 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

| | | | | | | | |
|---|--|---------|------|-----|----------------|-----|---------------|
| Number of Evidentiary Hearings Conducted | | Neutral | | | New in FY 2022 | 12 | No Target Set |
| Number of Board Meetings Conducted | | Neutral | | | New in FY 2022 | 5 | No Target Set |
| Percent of Decisions Upheld by Superior Court/D.C. Court of Appeals | | Up | 97.3 | 100 | 100 | 100 | 100 |

SECTION III. PERFORMANCE RATIONALE & IMPACT (continued)

Required for ALL requests

PERFORMANCE IMPACT

What data that the agency collects or plans to collect will indicate what impact this enhancement has made?*

All data related to the processing and adjudicating of appeals will indicate what impact this enhancement has made.

Please list any agency Key Performance Indicators (KPIs) or Workload Measures (WMs) that will be impacted by this enhancement.*

If you are proposing a new metric, write "NEW" in the columns for FY 2020-2022. Metrics can be measurements of outputs, desired outcomes, operational efficiency, inputs or resources, or volume of demand or work for a particular program. Metrics may appear in both tables in this section.

| | New KPI or WM for FY24? | If new for FY24, please explain how this metric was developed: | WHICH DIRECTION IS DESIRED? | FY 2020 ACTUAL | FY 2021 ACTUAL | FY 2022 TARGET | FY 2022 ACTUAL | FY 2023 TARGET |
|--------------------------------------|-------------------------|--|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Number of Initial Decisions Issued | | | Up | 98 | 70 | 100 | 90 | 85 |
| Number of Opinions and Orders Issued | | | Up | 18 | 18 | 18 | 13 | 15 |

Q.13 Budget Enhancement Request (1 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

| | | | | | | | | |
|---|--|--|---------|------|-----|----------------|-----|---------------|
| Time Required to Complete Adjudications | | | Down | 8 | 10 | 120 | 236 | 120 |
| Time Required to Resolve Petitions for Review | | | Down | 8 | 3 | 9 | 71 | 71 |
| Number of Evidentiary Hearings Conducted | | | Neutral | | | New in FY 2022 | 12 | No Target Set |
| Number of Board Meetings Conducted | | | Neutral | | | New in FY 2022 | 5 | No Target Set |
| Percent of Decisions Upheld by Superior Court/D.C. Court of Appeals | | | Up | 97.3 | 100 | 100 | 100 | 100 |

Q.13 Budget Enhancement Request (1 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION IV. BUDGETING FOR RACIAL EQUITY

Required for ALL requests

Does this enhancement specifically seek to mitigate racial equity gaps in the District?*

YES

NO

What racial inequity does this enhancement request address?*

For example, does the enhancement address a health disparity, educational gap, disproportionality in housing, bolstering existing community resources, etc. Please be as specific as possible.

N/A

What is the rationale for addressing the inequity in this way and/or with this program?*

For example, is the enhancement in response to a legislative requirement or mandate, community engagement efforts, demographic data, or something else?

N/A

In what ways have you meaningfully involved internal and external stakeholders in the development of your agency's budget request, including staff and communities of color?* For more, see ORE's [Meaningful Community Engagement Guide](#).

N/A

If this budget enhancement could potentially cause unintended benefits or burdens, please detail what racial or ethnic groups might be positively or negatively impacted.* For example, the location for a new airport could disrupt traffic patterns and create noise and air pollution that impact residents in the immediate vicinity, which could worsen racial health inequities.

N/A

STOP HERE for enhancement types **A, B, or C.**

CONTINUE to Section IV for enhancement types **D or E.**

Q.13 Budget Enhancement Request (1 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION V. EVALUATION

Required for Type D and E requests

This section is required for all Type D and E enhancement requests—that is, enhancements that would expand existing programs or activities or launch completely new programs or activities. Incomplete submissions will be returned.

What evidence supports the likelihood that this enhancement will achieve the desired outcome?*

Please describe outcomes from similar efforts that have been undertaken before in the District or in other cities. If possible, include formal evaluation studies and lessons learned from both successes and failures. Provide links to cite your sources.

[Click or tap here to enter text.](#)

Is your enhancement identical to the model the evidence comes from?*

- YES.** The enhancement is identical to the model the evidence comes from and the population served is similar. Indicate below how you will ensure your agency implements the model fully.
- NO.** The enhancement differs from the model the evidence comes from, is just a part of that model, serves a different population, etc. Below, describe how it differs and why.

[Click or tap here to enter text.](#)

If the enhancement is granted, is your agency willing to evaluate whether the enhancement achieves the desired outcome?*

This could involve piloting the enhancement. The Lab @ DC can provide additional guidance.

- YES NO

Which KPI or Workload Measure listed in Section III (Performance Rationale & Impact) captures the most important outcome(s) in the evidence provided?*

OBPM expects that it will be possible for agencies to identify for almost all enhancement requests a new or existing KPI or workload measure that aligns with the outcome measures identified in the evidence provided. If this is not feasible, please explain below.

[Click or tap here to enter text.](#)

EVALUATING ENHANCEMENTS

As part of the budget formulation process, OBPM will categorize the research evidence you cite based on whether:

- the study design was rigorous, and the study was well implemented;
- the findings are positive and statistically significant; and
- the evidence is based on a model and population similar to the proposed enhancement.

THE LAB@DC TEAM IS HERE TO HELP!

Have questions about the evidence? Email thelab@dc.gov (and CC your OBPM Budget Analyst). The Lab can pre-review evidence, brainstorm future evaluation ideas, offer suggestions on where to look for evidence, and help you think through the evidence you've found.

Q.13 Budget Enhancement Request (1 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION VI. PROJECT PLAN

Optional for All Requests

This section is now optional. However, it remains recommended for Type D and E enhancement requests—that is, enhancements that would expand existing programs or activities or launch completely new programs or activities.

This project plan can be used to show how the agency will deliver the intended results before the end of the fiscal year. Complete as best you can, knowing the plan might evolve.

PROJECT OWNER

Who is the single person who will be most responsible for this initiative? If the project owner must be hired, specify who will own the project until that time.

NAME [Click or tap here to enter text.](#)
 TITLE [Click or tap here to enter text.](#)
 EMAIL [Click or tap here to enter text.](#)
 PHONE [Click or tap here to enter text.](#)

BUSINESS PARTNER COORDINATION

What other agencies or stakeholders would be critical to this project’s success, and what communication have you had with them?

[Click or tap here to enter text.](#)

PROJECT TIMELINE

Describe below anticipated implementation milestones by month to show how the agency will deliver the intended results.

| PREPARATION FOR PROJECT LAUNCH (before start of fiscal year) | |
|--|-------------------------|
| JUNE 2023 | [enter] |
| JULY | [enter] |
| AUG | [enter] |
| SEPT | [enter] |
| FISCAL YEAR STARTS, FUNDS DISBURSED | |
| OCT 2023 | [enter] |
| NOV | [enter] |
| DEC | [enter] |
| JAN 2024 | [enter] |
| FEB | [enter] |
| MARCH | [enter] |
| APRIL | [enter] |
| MAY | [enter] |
| JUNE | [enter] |
| JULY | [enter] |
| AUG | [enter] |
| SEPT | [enter] |

Q.13 Budget Enhancement Request (2 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

Complete a separate Form 2 for each enhancement request for FY 2024.

SECTION I. OVERVIEW Required for ALL requests

| | |
|--|---|
| <p>ENHANCEMENT TITLE* OEA's Request to Purchase Copier</p> <p>AGENCY* Office of Employee Appeals</p> <p>AGENCY POINT OF CONTACT* Sheila G. Barfield</p> | <p>ENHANCEMENT PRIORITY* 2 OUT OF 3</p> <p>AGENCY CODE* CHO</p> <p>POINT OF CONTACT EMAIL* sheila.barfield@dc.gov</p> |
|--|---|

REQUEST TYPE*

Mark the one request type that best describes this enhancement. No type is preferred over any other, but the questions in **Section II: Rationale** differ by type.

- A. Restore previous budget reduction/one-time funding
 - B. Increased cost to maintain existing program/activity
 - C. Operational improvement with strong business case
 - D. Expand high-performing existing program/activity
 - E. Completely new program/activity with highly likely or proven positive outcomes for District residents
- } For these request types, complete Sections I-IV only

} For these request types, complete Sections I-VI

FUNDING REQUEST*

Enter amount of Local Funds requested and indicate whether funds are one-time or recurring.

| FY24 PERSONAL SERVICES (PS) | FY24 NON-PERSONAL SERVICES (NPS) | FY24 TOTAL REQUEST AMOUNT |
|-----------------------------|----------------------------------|---------------------------|
| \$0 | \$30,000 | \$0 |

ONE-TIME
 PARTIALLY RECURRING
 RECURRING

FUTURE COSTS*

If recurring, enter estimated costs over the life of the Financial Plan.

| TOTAL FY 2025 | TOTAL FY 2026 | TOTAL FY 2027 |
|---------------|---------------|---------------|
| \$0 | \$0 | \$0 |

ENHANCEMENT SUMMARY*

In 3-5 sentences, describe this enhancement, what problem it aims to solve, and the expected positive impact on District residents or government operations.

This funding would be used to purchase a brand-new, large-capacity copier. The agency's current copier was purchased in FY 2012. Because of its age and outdated accessories, the agency's current copier can no longer process the volume of work that is necessary and requires continual maintenance.

Will legislative support be required to implement this enhancement?*

If yes, please submit a proposed BSA subtitle using Attachment D.

YES
 NO

AGENCIES: Use this form to provide details about enhancement requests in your agency's FY 2024 budget request. This information is essential for decision-making. Well thought out and reasoned requests are much more likely to receive favorable consideration.

REQUIRED SECTIONS

- Sections I-IV are required for ALL requests.
- Sections I-V are required for Type D and E requests.
- Section VI is optional.

Please remember to submit the Form 2 Summary spreadsheet, including spend plan details, along with the detailed Form 2s for each enhancement request.

RACIAL EQUITY BUDGET TOOL (REBT)

The Office of Racial Equity (ORE) has developed the Racial Equity Budget Tool (REBT) to guide agencies in assessing how their budgets benefit and/or negatively impact communities based on race, specifically Black, Indigenous, and People of Color (BIPOC) communities. Please use **Section IV** to show how your agency considered racial equity in developing this enhancement request.

EDITING RESTRICTIONS: This form uses editing restrictions to ensure consistent displays of information. If needed, the restrictions can be disabled by going to the Review tab at the top of the window, clicking on Protect, then Restrict Editing, and clicking Stop Protection. If prompted for a password, click OK.

Q.13 Budget Enhancement Request (2 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION II. RATIONALE

Required for ALL requests

What problem facing the District will this enhancement address and why does this problem exist?*

Please provide as much detail as possible. Responses that identify and quantify specific problems will receive more favorable consideration.

The agency's current copier, which was purchased in 2012, frequently breaks down. The problem that will be addressed with this enhancement is that the agency will be able to purchase a large-capacity copier, thereby enabling it to make copies of all the documents it is required to file without interruption or undue delay.

How does this enhancement address this problem and its underlying causes?*

Please provide as much detail as possible. Responses that clearly demonstrate how the proposed enhancement will address the underlying causes will receive more favorable consideration.

A brand-new, large-capacity copier with the necessary accessories will make processing and copying voluminous files more efficient.

Why is this the right level of increased investment to address need?*

Please explain the agency's rationale for requesting this level of investment for this activity, including why a lower level of investment would not be more appropriate.

Based on quotes that have been received, this is the approximate cost of a large-capacity copier.

QUESTIONS SPECIFIC TO ENHANCEMENT TYPE*

Mark the appropriate enhancement type and use the space below the table to answer the questions for that enhancement type.

| IF YOUR ENHANCEMENT TYPE IS... | THEN ANSWER THESE QUESTIONS... |
|--|---|
| <input type="checkbox"/> A. Restore previous budget reduction/one-time funding | Why is the restoration of this reduction critical for the District at this time? What negative impact will result if this reduction is not restored? |
| <input checked="" type="checkbox"/> B. Increased cost to <u>maintain</u> existing program/activity | Why are costs increasing to maintain existing levels of service? What are the main cost drivers and what options has the agency already implemented or considered implementing to lower these costs? |
| <input type="checkbox"/> C. Operational improvement with a strong business case | How will this enhancement help the District save money in this or future fiscal years? How much will it save? |
| <input type="checkbox"/> D. Expand high-performing existing program/activity | Why is this program or activity considered to be high performing? How do the outputs or outcomes compare to those of similar programs within or outside of District government? Please cite any relevant agency KPIs or workload measures that support your response. |
| <input type="checkbox"/> E. Completely new program or initiative with highly likely or proven positive outcomes for District residents | What will be the District's return on investment, as measured by how many and/or which District residents are served, or some other measure? |

Responses to Questions*

By law, OEA must file, within a time certain, a complete record with the court whenever a party appeals a decision to the court. This involves making multiple copies of often voluminous records. Moreover, OEA must provide copies of all of its decisions and other documents to multiple entities on an almost daily basis. This requires a large capacity copier that can accommodate the demands being placed on it. There are no other options available to the agency.

Q.13 Budget Enhancement Request (2 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION III. PERFORMANCE RATIONALE & IMPACT *Required for ALL requests*

IMPACT STATEMENT

In 2-3 sentences, describe the expected positive impact of this enhancement on District residents or government operations.*

The purchase of a new copier will positively impact the agency by making its operations more efficient.

PERFORMANCE RATIONALE

What data that the agency collects or has access to informed the development of this enhancement requests?*

The fact that the agency's current copier was purchased in FY 2012 informed the development of this enhancement request.

Please list any agency Key Performance Indicators (KPIs) or Workload Measures (WMs) that informed the development of this enhancement request.*

If you are proposing a new metric, write "NEW" in the columns for FY 2020-FY 2022. Metrics can be measurements of outputs, desired outcomes, operational efficiency, inputs or resources, or volume of demand or work for a particular program.

PERFORMANCE TEAM IS HERE TO HELP!
 Need help thinking through this section or identifying data sources, KPIs, or Workload Measures? Reach out to your OBPM Performance Analyst or to Deputy Performance Director Lia Katz (lia.katz@dc.gov).

HELPFUL TIPS & DEFINITIONS

- **Key Performance Indicators (KPIs)** are quantitative measures of performance associated with targets. They typically include a statistic, like a percentage, and an object, like "tickets dismissed when contested."
- **Workload Measures (WMs)** measure the volume of work performed—e.g., the number of parking tickets issued—and do not have associated targets. Typically, workload measures provide information about service demand.
- **In most cases**, agency activities do not aim to increase or decrease workload measures. In rare instances, if an agency is working to increase or decrease volume of work directly, a measure may be tracked as a KPI, with an associated target (e.g., "number of trees planted.").

| KEY PERFORMANCE INDICATOR (KPI) or WORKLOAD MEASURE (WM) | New KPI or WM for FY24? | If new for FY24, please explain how this metric was developed: | WHICH DIRECTION IS DESIRED? | FY 2020 ACTUAL | FY 2021 ACTUAL | FY 2022 TARGET | FY 2022 ACTUAL | FY 2023 TARGET |
|--|-------------------------|--|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |

No KPIs or Workload Measures informed the development of this enhancement request.

Q.13 Budget Enhancement Request (2 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION III. PERFORMANCE RATIONALE & IMPACT (continued)

Required for ALL requests

PERFORMANCE IMPACT

What data that the agency collects or plans to collect will indicate what impact this enhancement has made?*

The agency does not collect any data in this regard.

Please list any agency Key Performance Indicators (KPIs) or Workload Measures (WMs) that will be impacted by this enhancement.*

If you are proposing a new metric, write "NEW" in the columns for FY 2020-2022. Metrics can be measurements of outputs, desired outcomes, operational efficiency, inputs or resources, or volume of demand or work for a particular program. Metrics may appear in both tables in this section.

| KEY PERFORMANCE INDICATOR (KPI) or WORKLOAD MEASURE (WM) | New KPI or WM for FY24? | If new for FY24, please explain how this metric was developed: | WHICH DIRECTION IS DESIRED? | FY 2020 ACTUAL | FY 2021 ACTUAL | FY 2022 TARGET | FY 2022 ACTUAL | FY 2023 TARGET |
|--|-------------------------|--|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |

No KPIs or Workload Measures will be impacted by this enhancement request.

Q.13 Budget Enhancement Request (2 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION IV. BUDGETING FOR RACIAL EQUITY

Required for ALL requests

Does this enhancement specifically seek to mitigate racial equity gaps in the District?*

YES

NO

What racial inequity does this enhancement request address?*

For example, does the enhancement address a health disparity, educational gap, disproportionality in housing, bolstering existing community resources, etc. Please be as specific as possible.

N/A

What is the rationale for addressing the inequity in this way and/or with this program?*

For example, is the enhancement in response to a legislative requirement or mandate, community engagement efforts, demographic data, or something else?

N/A

In what ways have you meaningfully involved internal and external stakeholders in the development of your agency's budget request, including staff and communities of color? * For more, see ORE's [Meaningful Community Engagement Guide](#).

N/A

If this budget enhancement could potentially cause unintended benefits or burdens, please detail what racial or ethnic groups might be positively or negatively impacted. *For example, the location for a new airport could disrupt traffic patterns and create noise and air pollution that impact residents in the immediate vicinity, which could worsen racial health inequities.

N/A

STOP HERE for enhancement types **A, B, or C.**
CONTINUE to Section IV for enhancement types **D or E.**

Q.13 Budget Enhancement Request (2 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION V. EVALUATION

Required for Type D and E requests

This section is required for all Type D and E enhancement requests—that is, enhancements that would expand existing programs or activities or launch completely new programs or activities. Incomplete submissions will be returned.

What evidence supports the likelihood that this enhancement will achieve the desired outcome?*

Please describe outcomes from similar efforts that have been undertaken before in the District or in other cities. If possible, include formal evaluation studies and lessons learned from both successes and failures. [Provide links to cite your sources.](#)

[Click or tap here to enter text.](#)

Is your enhancement identical to the model the evidence comes from?*

- YES.** The enhancement is identical to the model the evidence comes from and the population served is similar. Indicate below how you will ensure your agency implements the model fully.
- NO.** The enhancement differs from the model the evidence comes from, is just a part of that model, serves a different population, etc. Below, describe how it differs and why.

[Click or tap here to enter text.](#)

If the enhancement is granted, is your agency willing to evaluate whether the enhancement achieves the desired outcome?*

This could involve piloting the enhancement. The Lab @ DC can provide additional guidance.

- YES NO

Which KPI or Workload Measure listed in Section III (Performance Rationale & Impact) captures the most important outcome(s) in the evidence provided?* OBPM expects that it will be possible for agencies to identify for almost all enhancement requests a new or existing KPI or workload measure that aligns with the outcome measures identified in the evidence provided. If this is not feasible, please explain below.

[Click or tap here to enter text.](#)

EVALUATING ENHANCEMENTS

As part of the budget formulation process, OBPM will categorize the research evidence you cite based on whether:

- the study design was rigorous, and the study was well implemented;
- the findings are positive and statistically significant; and
- the evidence is based on a model and population similar to the proposed enhancement.

THE LAB@DC TEAM IS HERE TO HELP!

Have questions about the evidence? Email thelab@dc.gov (and CC your OBPM Budget Analyst). The Lab can pre-review evidence, brainstorm future evaluation ideas, offer suggestions on where to look for evidence, and help you think through the evidence you've found.

Q.13 Budget Enhancement Request (2 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION VI. PROJECT PLAN

Optional for All Requests

This section is now optional. However, it remains recommended for Type D and E enhancement requests—that is, enhancements that would expand existing programs or activities or launch completely new programs or activities.

This project plan can be used to show how the agency will deliver the intended results before the end of the fiscal year. Complete as best you can, knowing the plan might evolve.

PROJECT OWNER

Who is the single person who will be most responsible for this initiative? If the project owner must be hired, specify who will own the project until that time.

NAME [Click or tap here to enter text.](#)
 TITLE [Click or tap here to enter text.](#)
 EMAIL [Click or tap here to enter text.](#)
 PHONE [Click or tap here to enter text.](#)

BUSINESS PARTNER COORDINATION

What other agencies or stakeholders would be critical to this project’s success, and what communication have you had with them?

[Click or tap here to enter text.](#)

PROJECT TIMELINE

Describe below anticipated implementation milestones by month to show how the agency will deliver the intended results.

| PREPARATION FOR PROJECT LAUNCH (before start of fiscal year) | |
|--|---------|
| JUNE 2023 | [enter] |
| JULY | [enter] |
| AUG | [enter] |
| SEPT | [enter] |
| FISCAL YEAR STARTS, FUNDS DISBURSED | |
| OCT 2023 | [enter] |
| NOV | [enter] |
| DEC | [enter] |
| JAN 2024 | [enter] |
| FEB | [enter] |
| MARCH | [enter] |
| APRIL | [enter] |
| MAY | [enter] |
| JUNE | [enter] |
| JULY | [enter] |
| AUG | [enter] |
| SEPT | [enter] |

Q.13 Budget Enhancement Request (3 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

Complete a separate Form 2 for each enhancement request for FY 2024.

SECTION I. OVERVIEW Required for ALL requests

ENHANCEMENT TITLE* ENHANCEMENT PRIORITY*
OEA MOU With DCHR **3** OUT OF **3**

AGENCY* AGENCY CODE*
 Office of Employee Appeals **CHO**

AGENCY POINT OF CONTACT* POINT OF CONTACT EMAIL*
 Sheila G. Barfield sheila.barfield@dc.gov

REQUEST TYPE*

Mark the one request type that best describes this enhancement. No type is preferred over any other, but the questions in **Section II: Rationale** differ by type.

- A. Restore previous budget reduction/one-time funding
 - B. Increased cost to maintain existing program/activity
 - C. Operational improvement with strong business case
 - D. Expand high-performing existing program/activity
 - E. Completely new program/activity with highly likely or proven positive outcomes for District residents
- For these request types, complete Sections I-IV only
 For these request types, complete Sections I-VI

FUNDING REQUEST*

Enter amount of Local Funds requested and indicate whether funds are one-time or recurring.

| FY24 PERSONAL SERVICES (PS) | FY24 NON-PERSONAL SERVICES (NPS) | FY24 TOTAL REQUEST AMOUNT |
|-----------------------------|----------------------------------|---------------------------|
| \$0 | \$10,000 | \$10,000 |

ONE-TIME
 PARTIALLY RECURRING
 RECURRING

FUTURE COSTS*

If recurring, enter estimated costs over the life of the Financial Plan.

| TOTAL FY 2025 | TOTAL FY 2026 | TOTAL FY 2027 |
|---------------|---------------|---------------|
| \$10,000 | \$10,000 | \$10,000 |

ENHANCEMENT SUMMARY*

In 3-5 sentences, describe this enhancement, what problem it aims to solve, and the expected positive impact on District residents or government operations.

The agency needs to be able to enter into an MOU with DCHR so that DCHR can provide human resource services to OEA.

Will legislative support be required to implement this enhancement?*

If yes, please submit a proposed BSA subtitle using Attachment D.

YES
 NO

AGENCIES: Use this form to provide details about enhancement requests in your agency's FY 2024 budget request. This information is essential for decision-making. Well thought out and reasoned requests are much more likely to receive favorable consideration.

REQUIRED SECTIONS

- Sections I-IV are required for ALL requests.
- Sections I-V are required for Type D and E requests.
- Section VI is optional.

Please remember to submit the Form 2 Summary spreadsheet, including spend plan details, along with the detailed Form 2s for each enhancement request.

RACIAL EQUITY BUDGET TOOL (REBT)

The Office of Racial Equity (ORE) has developed the Racial Equity Budget Tool (REBT) to guide agencies in assessing how their budgets benefit and/or negatively impact communities based on race, specifically Black, Indigenous, and People of Color (BIPOC) communities. Please use **Section IV** to show how your agency considered racial equity in developing this enhancement request.

EDITING RESTRICTIONS: This form uses editing restrictions to ensure consistent displays of information. If needed, the restrictions can be disabled by going to the Review tab at the top of the window, clicking on Protect, then Restrict Editing, and clicking Stop Protection. If prompted for a password, click OK.

Q.13 Budget Enhancement Request (3 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION II. RATIONALE

Required for ALL requests

What problem facing the District will this enhancement address and why does this problem exist?*

Please provide as much detail as possible. Responses that identify and quantify specific problems will receive more favorable consideration.

This enhancement would enable OEA to enter into an MOU with DCHR so that DCHR would be able to process various personnel actions on behalf of OEA.

How does this enhancement address this problem and its underlying causes?*

Please provide as much detail as possible. Responses that clearly demonstrate how the proposed enhancement will address the underlying causes will receive more favorable consideration.

Currently, OEA does not have a designated “point person” at DCHR to advise it on how to accurately process various personnel actions especially in PeopleSoft. By having an MOU with DCHR, OEA would then have a personnel specialist assigned to OEA who would advise the agency on the processing of various personnel actions.

Why is this the right level of increased investment to address need?*

Please explain the agency’s rationale for requesting this level of investment for this activity, including why a lower level of investment would not be more appropriate.

DCHR has advised OEA that an MOU with it would cost OEA \$10,000 in FY 2024.

QUESTIONS SPECIFIC TO ENHANCEMENT TYPE*

Mark the appropriate enhancement type and use the space below the table to answer the questions for that enhancement type.

| IF YOUR ENHANCEMENT TYPE IS... | THEN ANSWER THESE QUESTIONS... |
|---|---|
| <input type="checkbox"/> A. Restore previous budget reduction/one-time funding | Why is the restoration of this reduction critical for the District at this time? What negative impact will result if this reduction is not restored? |
| <input checked="" type="checkbox"/> B. Increased cost to <u>maintain</u> existing program/activity | Why are costs increasing to maintain existing levels of service? What are the main cost drivers and what options has the agency already implemented or considered implementing to lower these costs? |
| <input type="checkbox"/> C. Operational improvement with a strong business case | How will this enhancement help the District save money in this or future fiscal years? How much will it save? |
| <input type="checkbox"/> D. Expand high-performing existing program/activity | Why is this program or activity considered to be high performing? How do the outputs or outcomes compare to those of similar programs within or outside of District government? Please cite any relevant agency KPIs or workload measures that support your response. |
| <input type="checkbox"/> E. Completely new program or initiative with highly likely or proven positive outcomes for District residents | What will be the District’s return on investment, as measured by how many and/or which District residents are served, or some other measure? |

Responses to Questions*

This enhancement would enable OEA to enter into an MOU with DCHR so that DCHR can advise OEA on various personnel actions and also process various personnel actions on behalf of OEA. Currently, OEA does not have a designated “point person” at DCHR to advise it on how to accurately process various personnel actions especially in PeopleSoft. By having an MOU with DCHR, OEA would then have a personnel specialist assigned to OEA who would advise the agency on the processing of various personnel actions.

Q.13 Budget Enhancement Request (3 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION III. PERFORMANCE RATIONALE & IMPACT *Required for ALL requests*

IMPACT STATEMENT

In 2-3 sentences, describe the expected positive impact of this enhancement on District residents or government operations.*

This enhancement would enable OEA to enter into an MOU with DCHR so that DCHR can advise OEA on various personnel matters and process various personnel actions on behalf of OEA.

PERFORMANCE RATIONALE

What data that the agency collects or has access to informed the development of this enhancement requests?*

The agency collects no data as it pertains to this enhancement request.

Please list any agency Key Performance Indicators (KPIs) or Workload Measures (WMs) that informed the development of this enhancement request.*

If you are proposing a new metric, write "NEW" in the columns for FY 2020-FY 2022. Metrics can be measurements of outputs, desired outcomes, operational efficiency, inputs or resources, or volume of demand or work for a particular program.

PERFORMANCE TEAM IS HERE TO HELP!
 Need help thinking through this section or identifying data sources, KPIs, or Workload Measures? Reach out to your OBPM Performance Analyst or to Deputy Performance Director Lia Katz (lia.katz@dc.gov).

HELPFUL TIPS & DEFINITIONS

- **Key Performance Indicators (KPIs)** are quantitative measures of performance associated with targets. They typically include a statistic, like a percentage, and an object, like "tickets dismissed when contested."
- **Workload Measures (WMs)** measure the volume of work performed—e.g., the number of parking tickets issued—and do not have associated targets. Typically, workload measures provide information about service demand.
- **In most cases**, agency activities do not aim to increase or decrease workload measures. In rare instances, if an agency is working to increase or decrease volume of work directly, a measure may be tracked as a KPI, with an associated target (e.g., "number of trees planted.").

| KEY PERFORMANCE INDICATOR (KPI) or WORKLOAD MEASURE (WM) | New KPI or WM for FY24? | If new for FY24, please explain how this metric was developed: | WHICH DIRECTION IS DESIRED? | FY 2020 ACTUAL | FY 2021 ACTUAL | FY 2022 TARGET | FY 2022 ACTUAL | FY 2023 TARGET |
|--|-------------------------|--|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |

No KPIs or Workload Measures informed the development of this enhancement request.

Q.13 Budget Enhancement Request (3 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION III. PERFORMANCE RATIONALE & IMPACT (continued)

Required for ALL requests

PERFORMANCE IMPACT

What data that the agency collects or plans to collect will indicate what impact this enhancement has made?*

The agency collects no data as it pertains to this enhancement request.

Please list any agency Key Performance Indicators (KPIs) or Workload Measures (WMs) that will be impacted by this enhancement.*

If you are proposing a new metric, write "NEW" in the columns for FY 2020-2022. Metrics can be measurements of outputs, desired outcomes, operational efficiency, inputs or resources, or volume of demand or work for a particular program. Metrics may appear in both tables in this section.

| KEY PERFORMANCE INDICATOR (KPI) or WORKLOAD MEASURE (WM) | New KPI or WM for FY24? | If new for FY24, please explain how this metric was developed: | WHICH DIRECTION IS DESIRED? | FY 2020 ACTUAL | FY 2021 ACTUAL | FY 2022 TARGET | FY 2022 ACTUAL | FY 2023 TARGET |
|--|-------------------------|--|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |

No KPIs or Workload Measures will be impacted by this enhancement request.

Q.13 Budget Enhancement Request (3 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION IV. BUDGETING FOR RACIAL EQUITY

Required for ALL requests

Does this enhancement specifically seek to mitigate racial equity gaps in the District?*

YES

NO

What racial inequity does this enhancement request address?*

For example, does the enhancement address a health disparity, educational gap, disproportionality in housing, bolstering existing community resources, etc. Please be as specific as possible.

N/A

What is the rationale for addressing the inequity in this way and/or with this program?*

For example, is the enhancement in response to a legislative requirement or mandate, community engagement efforts, demographic data, or something else?

N/A

In what ways have you meaningfully involved internal and external stakeholders in the development of your agency's budget request, including staff and communities of color? * For more, see ORE's [Meaningful Community Engagement Guide](#).

N/A

If this budget enhancement could potentially cause unintended benefits or burdens, please detail what racial or ethnic groups might be positively or negatively impacted. *For example, the location for a new airport could disrupt traffic patterns and create noise and air pollution that impact residents in the immediate vicinity, which could worsen racial health inequities.

N/A

STOP HERE for enhancement types **A, B, or C.**
CONTINUE to Section IV for enhancement types **D or E.**

Q.13 Budget Enhancement Request (3 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION V. EVALUATION

Required for Type D and E requests

This section is required for all Type D and E enhancement requests—that is, enhancements that would expand existing programs or activities or launch completely new programs or activities. Incomplete submissions will be returned.

What evidence supports the likelihood that this enhancement will achieve the desired outcome?*

Please describe outcomes from similar efforts that have been undertaken before in the District or in other cities. If possible, include formal evaluation studies and lessons learned from both successes and failures. Provide links to cite your sources.

[Click or tap here to enter text.](#)

Is your enhancement identical to the model the evidence comes from?*

- YES.** The enhancement is identical to the model the evidence comes from and the population served is similar. Indicate below how you will ensure your agency implements the model fully.
- NO.** The enhancement differs from the model the evidence comes from, is just a part of that model, serves a different population, etc. Below, describe how it differs and why.

[Click or tap here to enter text.](#)

If the enhancement is granted, is your agency willing to evaluate whether the enhancement achieves the desired outcome?*

This could involve piloting the enhancement. The Lab @ DC can provide additional guidance.

- YES NO

Which KPI or Workload Measure listed in Section III (Performance Rationale & Impact) captures the most important outcome(s) in the evidence provided?*

OBPM expects that it will be possible for agencies to identify for almost all enhancement requests a new or existing KPI or workload measure that aligns with the outcome measures identified in the evidence provided. If this is not feasible, please explain below.

[Click or tap here to enter text.](#)

EVALUATING ENHANCEMENTS

As part of the budget formulation process, OBPM will categorize the research evidence you cite based on whether:

- the study design was rigorous, and the study was well implemented;
- the findings are positive and statistically significant; and
- the evidence is based on a model and population similar to the proposed enhancement.

THE LAB@DC TEAM IS HERE TO HELP!

Have questions about the evidence? Email thelab@dc.gov (and CC your OBPM Budget Analyst). The Lab can pre-review evidence, brainstorm future evaluation ideas, offer suggestions on where to look for evidence, and help you think through the evidence you've found.

Q.13 Budget Enhancement Request (3 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION VI. PROJECT PLAN

Optional for All Requests

This section is now optional. However, it remains recommended for Type D and E enhancement requests—that is, enhancements that would expand existing programs or activities or launch completely new programs or activities.

This project plan can be used to show how the agency will deliver the intended results before the end of the fiscal year. Complete as best you can, knowing the plan might evolve.

PROJECT OWNER

Who is the single person who will be most responsible for this initiative? If the project owner must be hired, specify who will own the project until that time.

NAME [Click or tap here to enter text.](#)
 TITLE [Click or tap here to enter text.](#)
 EMAIL [Click or tap here to enter text.](#)
 PHONE [Click or tap here to enter text.](#)

BUSINESS PARTNER COORDINATION

What other agencies or stakeholders would be critical to this project’s success, and what communication have you had with them?

[Click or tap here to enter text.](#)

PROJECT TIMELINE

Describe below anticipated implementation milestones by month to show how the agency will deliver the intended results.

| PREPARATION FOR PROJECT LAUNCH (before start of fiscal year) | |
|--|---------|
| JUNE 2023 | [enter] |
| JULY | [enter] |
| AUG | [enter] |
| SEPT | [enter] |
| FISCAL YEAR STARTS, FUNDS DISBURSED | |
| OCT 2023 | [enter] |
| NOV | [enter] |
| DEC | [enter] |
| JAN 2024 | [enter] |
| FEB | [enter] |
| MARCH | [enter] |
| APRIL | [enter] |
| MAY | [enter] |
| JUNE | [enter] |
| JULY | [enter] |
| AUG | [enter] |
| SEPT | [enter] |

ATTACHMENT #8

OEa CONTRACTS AND PROCUREMENTS, FY2022 AND FY2023, AS OF JAN. 1, 2023 (Q14)

(complete columns A-W)

Q.14 Contracts

| Contract Number, as it appears in OC P's Awarded Contracts Database | Contractor /Vendor Name | Specific description of contractual goods and/or services | Names of any subcontractors | Period of performance (dates) | Current year of contract (e.g. Base Year, Option Year 1, etc.) | Program | Cost Center | Index code | PCA code | Requisition numbers | Purchase order numbers | Maximum or total contract or procurement value in FY2022, per contract | Actual expenditures in FY2022 for each contract | Maximum or total contract or procurement value in FY2023 | Total actual payments made in FY2023 for each contract |
|---|-------------------------|---|-----------------------------|-------------------------------|--|---------|-------------|------------|----------|---------------------|------------------------|--|---|--|--|
| | WEST PUBLISHING CORP | Legal Research | | 10/01/2021 - 09/30/2022 | Option Year 2 | 1020 | 1020 | 10000 | 11020 | | PO655276 | 10,849 | 10,849 | - | - |
| | WEST PUBLISHING CORP | Legal Research | | 10/01/2022 - 09/30/2023 | Option Year 3 | 100022 | 50280 | | | | PO674181 | | | 11,391 | 11,391 |
| | NEAL R GROSS AND CO INC | Court Reporting and Transcription | | 10/01/2022 - 09/30/2023 | | 100022 | 50280 | | | | PO674968 | | | 10,000 | 2,514 |

ATTACHMENT #9

Q.15 P Card

| FY2022 | | | | |
|----------------------|-------------------------|--|----------------------|---|
| <i>Employee name</i> | <i>Date of purchase</i> | <i>Vendor name (do not list "Pay Pal;" name the ultimate vendor)</i> | <i>Dollar amount</i> | <i>Purpose of expenditure</i> |
| HEMRAJ,HEMCHAND | 12/2/2021 | METRO FARE AUTOLOAD | 200.00 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 12/10/2021 | STANDARD OFFICE SUPPLY | 203.60 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 12/13/2021 | STANDARD OFFICE SUPPLY | 754.30 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 01/07/2022 | NEAL R. GROSS & CO., I | 2,205.99 | Professional Services |
| HEMRAJ,HEMCHAND | 01/07/2022 | NEAL R. GROSS & CO., I | 1,071.15 | Professional Services |
| HEMRAJ,HEMCHAND | 01/07/2022 | NEAL R. GROSS & CO., I | 492.15 | Professional Services |
| HEMRAJ,HEMCHAND | 01/13/2022 | NEAL R. GROSS & CO., I | 1,129.05 | Professional Services |
| HEMRAJ,HEMCHAND | 01/13/2022 | NEAL R. GROSS & CO., I | 272.13 | Professional Services |
| HEMRAJ,HEMCHAND | 02/08/2022 | CDW GOVT #R911735 | 358.55 | Computer, Hardware, Software and Peripherals |
| HEMRAJ,HEMCHAND | 02/02/2022 | DC BAR | 360.00 | OEA Training session (Marijuana_Law update) AJ, GC and DO (participants) |
| HEMRAJ,HEMCHAND | 02/08/2022 | FEDERAL EMPLOYMENT LAW | 585.00 | OEA Training session (Vaccine mandate_Policy update) AJ, GC and DO (participants) |
| HEMRAJ,HEMCHAND | 02/11/2022 | NEAL R. GROSS & CO., I | 1,499.61 | Professional Services |
| HEMRAJ,HEMCHAND | 02/07/2022 | STANDARD OFFICE SUPPLY | 112.15 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 3/7/2022 | SENODA INC | 770.00 | Print and Duplicating Services |
| HEMRAJ,HEMCHAND | 3/23/2022 | NEAL R. GROSS & CO., I | 250.00 | Professional Services |
| HEMRAJ,HEMCHAND | 3/23/2022 | NEAL R. GROSS & CO., I | 370.56 | Professional Services |
| HEMRAJ,HEMCHAND | 4/25/2022 | STANDARD OFFICE SUPPLY | 49.34 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 5/3/2022 | STANDARD OFFICE SUPPLY | 402.67 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 5/5/2022 | NEAL R. GROSS & CO., I | 758.49 | Professional Services |
| HEMRAJ,HEMCHAND | 5/18/2022 | STANDARD OFFICE SUPPLY | 536.89 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 5/18/2022 | STANDARD OFFICE SUPPLY | 1,192.17 | Maintenance Repair Operation |

Q.15 P Card

| | | | | |
|-----------------|-----------|------------------------|----------|--|
| HEMRAJ,HEMCHAND | 5/19/2022 | STANDARD OFFICE SUPPLY | 67.62 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 5/26/2022 | STANDARD OFFICE SUPPLY | 171.35 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 6/1/2022 | STANDARD OFFICE SUPPLY | 88.98 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 6/10/2022 | NEAL R. GROSS & CO., I | 250.00 | Professional Services |
| HEMRAJ,HEMCHAND | 7/6/2022 | NEAL R. GROSS & CO., I | 250.00 | Professional Services |
| HEMRAJ,HEMCHAND | 7/8/2022 | NEAL R. GROSS & CO., I | 1,800.69 | Professional Services |
| HEMRAJ,HEMCHAND | 7/8/2022 | NEAL R. GROSS & CO., I | 4,226.70 | Professional Services |
| HEMRAJ,HEMCHAND | 7/8/2022 | NEAL R. GROSS & CO., I | 1,534.35 | Professional Services |
| HEMRAJ,HEMCHAND | 7/8/2022 | NEAL R. GROSS & CO., I | 2,321.79 | Professional Services |
| HEMRAJ,HEMCHAND | 7/12/2022 | ADOBE ACROPRO SUBS | 2,242.68 | Computer, Hardware, Software and Peripherals |
| HEMRAJ,HEMCHAND | 7/18/2022 | STANDARD OFFICE SUPPLY | 117.00 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 8/2/2022 | NEAL R. GROSS & CO., I | 3,097.65 | Professional Services |
| HEMRAJ,HEMCHAND | 8/8/2022 | NEAL R. GROSS & CO., I | 347.40 | Professional Services |
| HEMRAJ,HEMCHAND | 8/19/2022 | STANDARD OFFICE SUPPLY | 82.54 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 8/24/2022 | STANDARD OFFICE SUPPLY | 486.40 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 8/31/2022 | NEAL R. GROSS & CO., I | 1,250.64 | Professional Services |
| HEMRAJ,HEMCHAND | 9/14/2022 | NEAL R. GROSS & CO., I | 1,667.52 | Professional Services |
| HEMRAJ,HEMCHAND | 9/19/2022 | NEAL R. GROSS & CO., I | 185.28 | Professional Services |
| HEMRAJ,HEMCHAND | 9/20/2022 | STANDARD OFFICE SUPPLY | 101.24 | Maintenance Repair Operation |

FY2023

| <i>Employee name</i> | <i>Date of purchase</i> | <i>Vendor name (do not list "Pay Pal;" name the ultimate vendor)</i> | <i>Dollar amount</i> | <i>Purpose of expenditure</i> |
|----------------------|-------------------------|--|----------------------|-------------------------------|
| HEMRAJ,HEMCHAND | 11/1/2022 | STANDARD OFFICE SUPPLY | 464.00 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 11/7/2022 | STANDARD OFFICE SUPPLY | 35.25 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 11/9/2022 | FEDERAL EMPLOYMENT LAW | 325.00 | Government |
| HEMRAJ,HEMCHAND | 11/21/2022 | STANDARD OFFICE SUPPLY | 1,892.62 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 12/5/2022 | STANDARD OFFICE SUPPLY | 343.36 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 12/6/2022 | PITNEY BOWES | 186.98 | Professional Services |
| HEMRAJ,HEMCHAND | 12/12/2022 | STANDARD OFFICE SUPPLY | 394.08 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 12/14/2022 | STANDARD OFFICE SUPPLY | 100.36 | Maintenance Repair Operation |

Q.15 P Card

| | | | | |
|-----------------|------------|--------------------|--------|---------------------------------|
| HEMRAJ,HEMCHAND | 12/15/2022 | CDW GOVT #FQ88231 | 430.25 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 12/22/2022 | USPS PO 1049480240 | 11.74 | Government |

ATTACHMENT #10

CHART OF OEA AGENCY PERSONNEL, as of JAN. 1, 2023 (Q18)

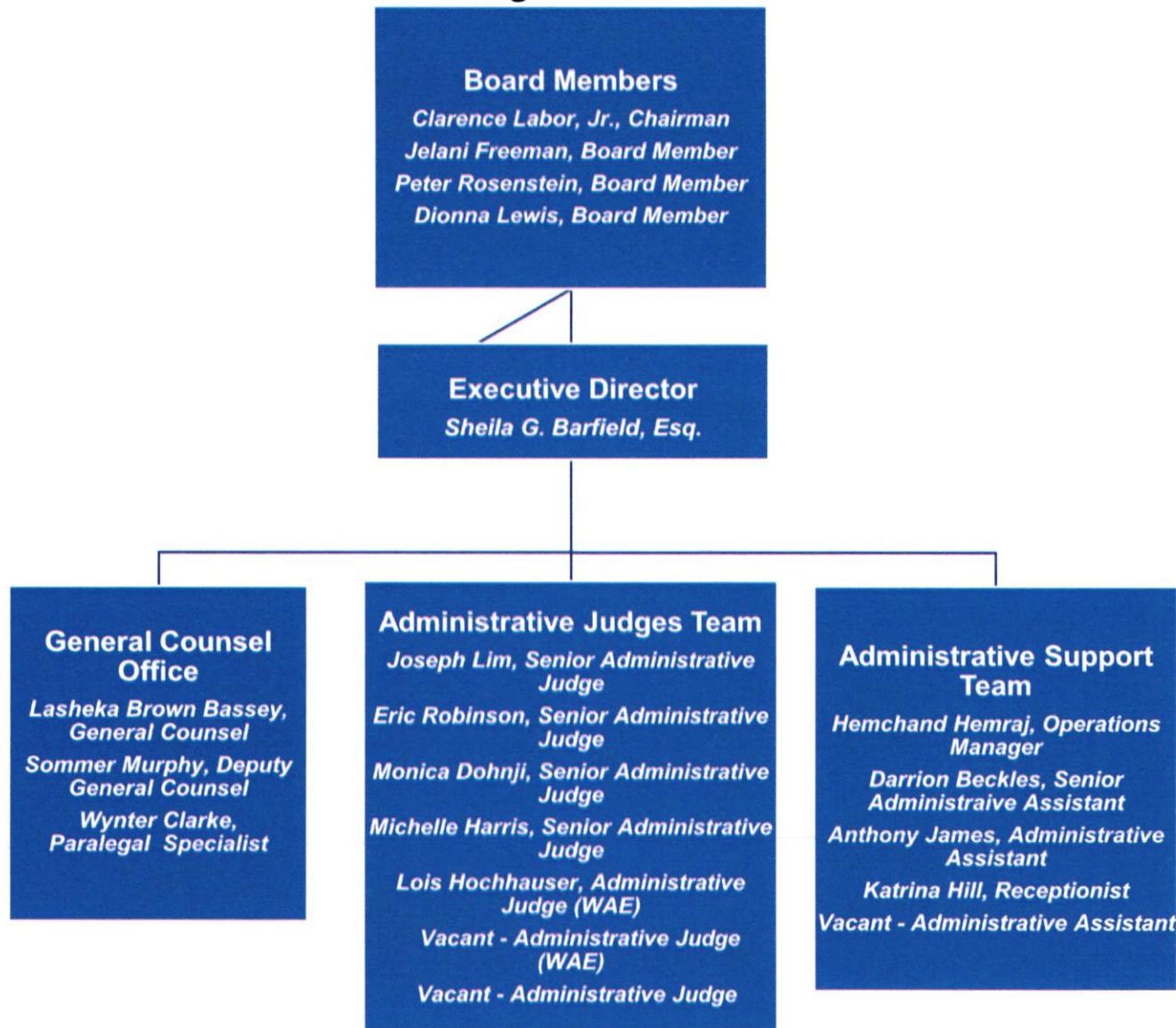
Q.19 Personnel

| Position number | Position status (A-active, R-frozen) | Vacancy Status (V/F) | Job title | Program | Cost Center | Employee's name (leave blank if position is vacant) | Reports to name | Grade level | Step | Salary | Fund code | Type of appointment (e.g. career, excepted, MSS) | Job status (i.e. continuing, term, or temporary) | Full-time, part-time | WAE (yes/no) | Seasonal or year-round | Hire Date | Not-to-Exceed date | Hire (start) date in District government | DC Residency status (Yes/no) |
|-----------------|--------------------------------------|----------------------|---------------------------------|---------|-------------|---|-----------------------|-------------|------|---------------|-----------|--|--|----------------------|--------------|------------------------|------------|--------------------|--|------------------------------|
| 00001974 | A | F | HEARING EXAMINER | 500198 | 50281 | Hochhauser, Lots C | Barfield, Sheila | 14 | 4 | \$ 70,837.50 | 1010001 | Attorneys | TERM | P | Y | | 4/3/1985 | 9/30/2023 | | |
| 00006993 | A | F | GEN COUNSEL | 100151 | 50281 | Bassey, Lasheka Brown | Barfield, Sheila | 15 | 10 | \$ 193,382.00 | 1010001 | Attorneys | Rcg | F | N | | 5/15/2005 | | | |
| 00007174 | A | F | EXECUTIVE DIRECTOR | 100154 | 50280 | Barfield, Sheila | Barfield, Sheila | 10 | 0 | \$ 202,971.97 | 1010001 | Excepted Service | Reg | F | N | | 10/18/1993 | | | |
| 00010846 | A | V | HEARING EXAMINER | 500200 | 50281 | | VACANT | 14 | 4 | \$ 141,675.00 | 1010001 | Attorneys | Rcg | P | Y | | | | | |
| 00014026 | A | F | SENIOR HEARING EXAMINER | 500198 | 50281 | Lim, Joseph Edward | Barfield, Sheila | 15 | 7 | \$ 181,792.00 | 1010001 | Attorneys | Reg | F | N | | 8/3/1998 | | | |
| 00018547 | A | V | Operations Manager | 100151 | 50281 | | VACANT | 14 | 1 | \$ 109,999.00 | 1010001 | Career Service (General) | Rcg | F | N | | | | | |
| 00019834 | A | F | SENIOR HEARING EXAMINER | 500198 | 50281 | Doimji, Monica N | Barfield, Sheila | 15 | 6 | \$ 176,744.00 | 1010001 | Attorneys | Reg | F | N | | 5/26/2011 | | | |
| 00026005 | A | F | Receptionist | 100028 | 50280 | Hill, Kairina | Hemraj, Hemchand | 6 | 10 | \$ 53,186.00 | 1010001 | Career Service (General) | Rcg | F | N | | 5/5/1997 | | | |
| 00032406 | A | F | Senior Administrative Assistant | 100071 | 50280 | Beckles, Darriou James | Hemraj, Hemchand | 9 | 5 | \$ 61,110.00 | 1010001 | Career Service (General) | Rcg | F | N | | 3/29/2020 | | | |
| 00036540 | A | F | PARALEGAL SPECIALIST | 100151 | 50281 | Clarke, Wynne A | Bassey, Lasheka Brown | 12 | 6 | \$ 93,311.00 | 1010001 | Career Service (General) | Rcg | F | N | | 5/23/2016 | | | |
| 00036642 | A | F | SENIOR HEARING EXAMINER | 100151 | 50281 | Robinson, Eric Theodore | Barfield, Sheila | 15 | 6 | \$ 176,744.11 | 1010001 | Attorneys | Reg | F | N | | 6/12/2005 | | | |
| 00037517 | A | F | Administrative Assistant | 100151 | 50281 | James, Anthony Lester | Hemraj, Hemchand | 6 | 10 | \$ 53,186.00 | 1010001 | Career Service (General) | Rcg | F | N | | 7/25/2005 | | | |
| 00047295 | A | F | Deputy General Counsel | 500198 | 50281 | Murphy, Souaner Joy | Bassey, Lasheka Brown | 14 | 8 | \$ 158,849.00 | 1010001 | Attorneys | Reg | F | N | | 6/9/2008 | | | |
| 00075085 | A | F | Senior Hearing Examiner | 500198 | 50281 | Harris, Michelle R | Barfield, Sheila | 14 | 6 | \$ 150,262.00 | 1010001 | Attorneys | Reg | F | N | | 7/27/2015 | | | |
| 00077069 | A | V | HEARING EXAMINER | 500198 | 50281 | | VACANT | 14 | 0 | \$ 128,795.00 | 1010001 | Attorneys | Reg | F | N | | | | | |
| 00088930 | A | F | Operations Manager | 100154 | 50280 | Hemraj, Hemchand | Barfield, Sheila | 12 | 4 | \$ 88,300.00 | 1010001 | Career Service (General) | Rcg | F | N | | 9/20/2021 | | | |

ATTACHMENT #11

Q.18 Org Chart

Office of Employee Appeals (OEA) Organizational Chart



ATTACHMENT #12

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

GEORGE RESPER :
 :
v. : Case No. 2019 CA 008286 P(MPA)
 :
DISTRICT OF COLUMBIA, *et al.* :

ORDER

The Court grants George Resper’s petition for review of a decision by the Office of Employee Appeals (“OEA”).¹

I. BACKGROUND

The D.C. Department of Corrections (“DOC”) hired Mr. Resper in 2009 as a painter at the D.C. Jail. In 2016, Mr. Resper, through his doctor Rodney Brooks, requested accommodations due to a permanent medical disability involving his back. *See* R.69-72. In 2017, DOC approved intermittent leave over a period of two years under the Family and Medical Leave Act (“FLMA”) because of Mr. Resper’s disability. In 2018, Mr. Resper submitted another request for accommodation of his disability based on an evaluation by Dr. Melis Sener, who stated that Mr. Resper “can perform his job in full duty” provided he (1) gets a 5-minute break after standing 30 minutes on a ladder or standing for two hours and (2) avoids lifting objects heavier than 40 pounds at a time. R. 162. Later in 2018, Dr. Karen Singleton performed a fitness for duty (“FFD”) examination at DOC’s request. Dr. Singleton confirmed that Mr. Resper had a disability and could not perform the essential functions of his position without significant accommodations, and she recommended accommodations more substantial than those recommended by Drs. Brooks and Sener. *See* R.79-84.

¹ The undersigned judge assumed responsibility for this case while the calendar judge is on leave.

Q.31 REMAND REVS

After the FFD examination, the D.C. Department of Human Resources (“DCHR”) instructed DOC to “engage in the interactive process to determine whether these specific accommodations [recommended by Dr. Singleton] or any other subsequently identified accommodations will enable Mr. Resper to perform the essential functions of his position.” *See* R. 101. DOC Brief at 4. DOC decided that it could not provide the necessary accommodations, and it decided to remove Mr. Resper because he could not perform the essential functions of his job without assistance from inmates.

Mr. Resper appealed DOC’s decision to OEA. In the OEA proceedings, Mr. Resper was represented by his wife, who is an ADA disability specialist with the D.C. Office of Disability Rights. Resper Brief at 5 n.6. On October 29, 2019, a senior administrative judge upheld DOC’s decision terminating Mr. Resper’s employment (“OEA Decision”).

Mr. Resper filed a timely petition for review in this Court. On May 13, 2021, Mr. Resper filed his brief (“Resper Brief”). On June 24, OEA submitted in lieu of a brief a statement attaching its final decision. On July 16, intervenor DOC filed its brief (“DOC Brief”). On September 9, Mr. Resper filed a reply (“Resper Reply”).

II. STANDARD OF REVIEW

“We review an OEA decision to ensure it is not arbitrary, capricious, or an abuse of discretion.” *Sium v. Office of the State Superintendent of Education*, 218 A.3d 228, 234 (D.C. 2019). “For an OEA decision to pass muster, the agency must state findings of fact on each material contested factual issue; those findings must be supported by substantial evidence in the agency record; and its conclusions of law must follow rationally from its findings.” *Id.* (cleaned up). The court “must accept the OEA ALJ’s findings of fact unless they are not supported by substantial evidence.” *Id.* (cleaned up). “Substantial evidence is relevant evidence such as a

reasonable mind might accept as adequate to support a conclusion.” *Davidson v. Office of Employee Appeals*, 886 A.2d 70, 72 (D.C. 2005) (cleaned up). “As long as agency decisions are supported by substantial evidence in the record, they must be affirmed notwithstanding that there may be contrary evidence in the record (as there usually is).” *Id.* (cleaned up).

III. DISCUSSION

The Court grants Mr. Resper’s petition for review and remands the case to OEA because OEA’s legal analysis and findings of fact did not address all of the material legal and factual issues, and some of its findings of fact were not supported by substantial evidence in the agency record. *See Sium*, 218 A.3d at 234. Because the Court sets OEA’s decision aside on substantive grounds, it does not reach Mr. Resper’s alternative argument OEA erred by failing to conduct a hearing, even though Mr. Resper did not request a hearing. *See id.* (discussing an agency’s discretion to conduct a hearing).

DOC’s stated ground for termination was that Mr. Resper was unable to perform the essential functions of his job. Mr. Resper’s primary argument is that he could perform these essential functions with the reasonable accommodations to which he was legally entitled. *See, e.g.*, Resper Brief at 7. For good reason, Mr. Resper “does not dispute that OEA does not have jurisdiction to adjudicate claims consisting *solely* of ADA violations.” Resper Reply at 2 (emphasis added). OEA does not have jurisdiction to review claims of disability-based discrimination under the D.C. Human Rights Act (“DCHRA”) or the federal Americans with Disabilities Act (“ADA”). *Davidson*, 886 A.2d at 74 (OEA does not have jurisdiction to consider petitioner’s claim that his removal violated his rights under the ADA); *El-Amin v. D.C. Department of Public Works*, 730 A.2d 164, 165 (D.C. 1999). Accordingly, OEA correctly ruled that Mr. Resper’s “claims of human rights violations by Agency due to his disability status and

Q.31 REMAND REVS

request for workplace accommodations/restrictions are outside the scope of OEA's jurisdiction." OEA Decision at 5 (R. 428).

However, the OEA did have jurisdiction to decide whether DOC lawfully removed Mr. Resper under 6B DCMR § 1607.2(n). Section 1607.2(n) permits removal based on "[a]ny circumstance that prevents an employee from performing the essential functions of his or her position, and for which no reasonable accommodation has been requested or can be made, unless eligible for leave protected under the D.C. Family Medical Leave Act." DOC therefore correctly acknowledges that because OEA determined that circumstances prevented Mr. Resper from carrying out his assigned duties, it had the function to determine "whether any reasonable accommodation could enable him to perform those functions." DOC Brief at 11.

Tension may exist between (1) OEA's duty to decide whether a reasonable accommodation by DOC would have enabled Mr. Resper to perform the essential functions of his position and (2) OEA's lack of jurisdiction to decide whether DOC violated the DCHRA or the ADA. One way to reconcile these two principles is the way chosen by OEA in the decision on which DOC relies: *Falls v. D.C. Department of General Services*, OEA Matter No. 1601-0044-12, Opinion and Order on Interlocutory Appeal (Oct. 29, 2013) (available at <https://oea.dc.gov/sites/default/files/dc/sites/oea/publication/attachments/Karen%20Falls%20v%20%20DGS.pdf>); see DOC Brief at 7. In *Falls*, the agency contended that it terminated Ms. Falls for neglect of duty and other causes, and Ms. Falls contended that the agency terminated her in retaliation for complaints about sexual harassment and race discrimination. As OEA explained in *Falls*, the case therefore presented two separate, albeit related, issues: (1) whether OEA has jurisdiction over discrimination claims; and (2) whether it has jurisdiction to review a claim of unlawful termination without cause. OEA concluded that it did have jurisdiction to

Q.31 REMAND REVS

determine whether the agency had cause to remove the employee, even though it did not have jurisdiction to determine whether the removal violated the DCHRA.

Here, OEA had jurisdiction to determine whether DOC had cause to remove Mr. Resper because no reasonable accommodation would permit him to perform the essential duties of his job, even though it did not have jurisdiction to determine whether his removal violated the DCHRA. OEA could resolve the issue concerning cause for termination without also deciding whether any failure by DOC to provide reasonable accommodations violated the DCHRA or the ADA. The issue that OEA had the jurisdiction and the obligation to decide was intertwined with issues involving the DCHRA and the ADA, but this intertwinement did not eliminate OEA's jurisdiction or relieve it of the obligation to decide whether DOC had cause for removal under 6B DCMR § 1607.2(n).

That is true even if the term "reasonable accommodation" for a disabled employee means the same thing both in § 1607.2(n) and in disability law. In its brief, DOC argues (counterintuitively) that OEA should determine whether an accommodation is "reasonable" without reference to the DCHRA or the ADA. DOC Brief at 11-12. However, OEA did not adopt that argument in its decision, and "it is the rationale of the agency that we review, not the *post hoc* rationalizations of counsel" – and certainly not the *post hoc* rationalizations of counsel for a party and not the agency itself. *See Durant v. D.C. Zoning Commission*, 99 A.3d 253, 260-61 (D.C. 2014) (cleaned up); *Motor Vehicle Manufacturers Ass'n v. State Farm Mutual Automobile Ins. Co.*, 463 U.S. 29, 43 (1983) (a reviewing court "may not supply a reasoned basis for the agency's action that the agency itself has not given").

Despite disclaiming any jurisdiction relating to compliance with the DCHRA and the ADA, OEA discussed the reasonableness of some accommodations for Mr. Resper's disability,

Q.31 REMAND REVS

but it did not adequately explain its conclusions. OEA criticized Mr. Resper's "insistence that Agency allow him to work at a much slower and limited pace with assistance from others." OEA Decision at 5 (R.428). However, but OEA did not cite any record evidence that Mr. Resper made such a non-negotiable demand, and this does not appear to be an accurate characterization of the accommodations recommended by Drs. Brooks and Sener. OEA at least implicitly accepted Dr. Singleton's assessment of what accommodations were necessary for Mr. Resper, but it did not explain why the more limited accommodations that he requested through Drs. Brooks and Sener would not have been sufficient.² OEA's ultimate finding was, "Since Employee could not return to full duty *with no restriction*, I find that Agency established the requisite cause to take adverse action against Employee." OEA Decision at 5 (emphasis added) (R.428). But this finding seems tantamount to a finding that the agency is justified in removing any employee whose disability required any accommodations at all – a finding inconstant with the explicit recognition in § 1607.2(n) that reasonable accommodations are required.

Moreover, like the ADA, the DCHRA requires employers to engage in an "interactive process" to identify potential accommodations that could overcome a disabled employee's limitations. *See Hunt v. District of Columbia*, 66 A.3d 987, 992 (D.C. 2013). This interactive process is mandated because an employer that does not engage in an interactive process "risks not discovering a means by which an employee's disability could have been accommodated." *Id.* (cleaned up). It appears undisputed that despite DCHR's directive (R.101), DOC did not engage in an interactive process with Mr. Resper. *See* R.150 (Mr. Resper's prehearing statement complaining about the lack of an interactive process). OEA did not explain how it or DOC could

² The Court need not and does not decide (1) whether DOC had a sufficient basis to require a FFD examination by Dr. Singleton, (2) whether DOC provided Mr. Resper with the required notice for the examination, or (3) whether any failure to provide written notice affected Mr. Resper's substantial rights. *See* Resper Brief at 22-23.

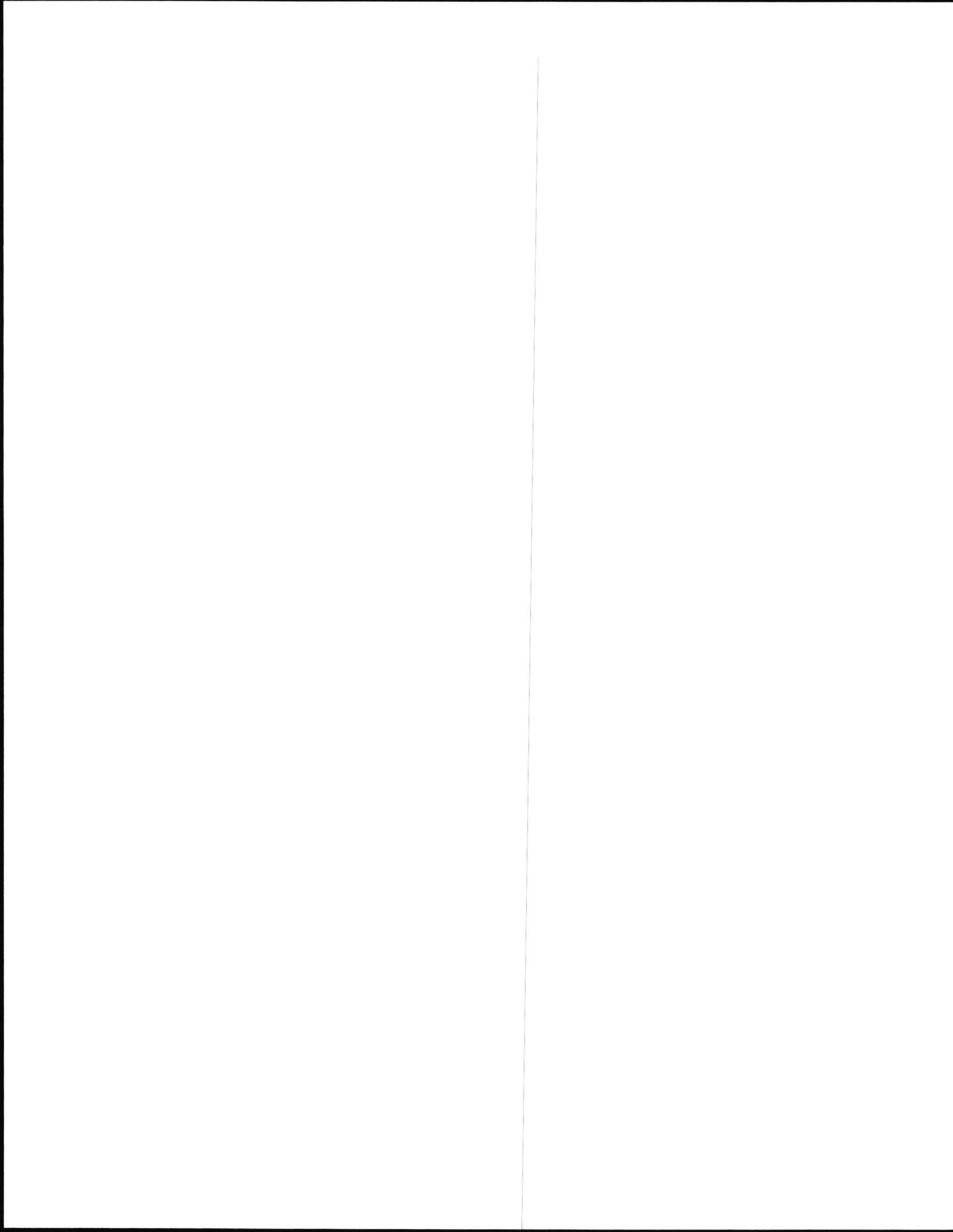
be confident that Mr. Resper's disability could not be accommodated even though DOC did not complete or even start this interactive process.

The Court does not agree with Mr. Resper that that DOC could not lawfully terminate him for failing to perform his duties because he in fact continued to perform his duties despite the lack of any accommodation: "Most importantly, an Agency cannot terminate an employee for failing to perform his duties, if he never failed to do so." Resper Brief at 7-8. The whole premise of Mr. Resper's request for accommodations was that he could not continue to perform his duties without them. Each of his treating physicians agreed that he needed accommodations to perform essential job duties, and the necessary implication is that he could not – at least indefinitely – perform these duties without these accommodations. Mr. Resper stresses that he experienced "pain and hardship" when he continued to perform his duties without the accommodations to which the ADA entitled him. *See, e.g.*, Resper Brief at 14. Indeed, he characterizes the pain as "excruciating." *Id.* at 18; *see* Resper Reply at 7 (Mr. Resper performed his duties in "extreme pain" because of DOC's failure to provide reasonable accommodations). The basic problem with OEA's analysis is not that it concluded Mr. Resper could not perform essential job functions without reasonable accommodation, but instead that it did not provide a complete and reasoned explanation of its conclusion that no reasonable accommodations would have enabled Mr. Resper to do his job.

IV. CONCLUSION

For these reasons, the Court orders that:

1. The petition for review is granted.



Q.31 REMAND REVS

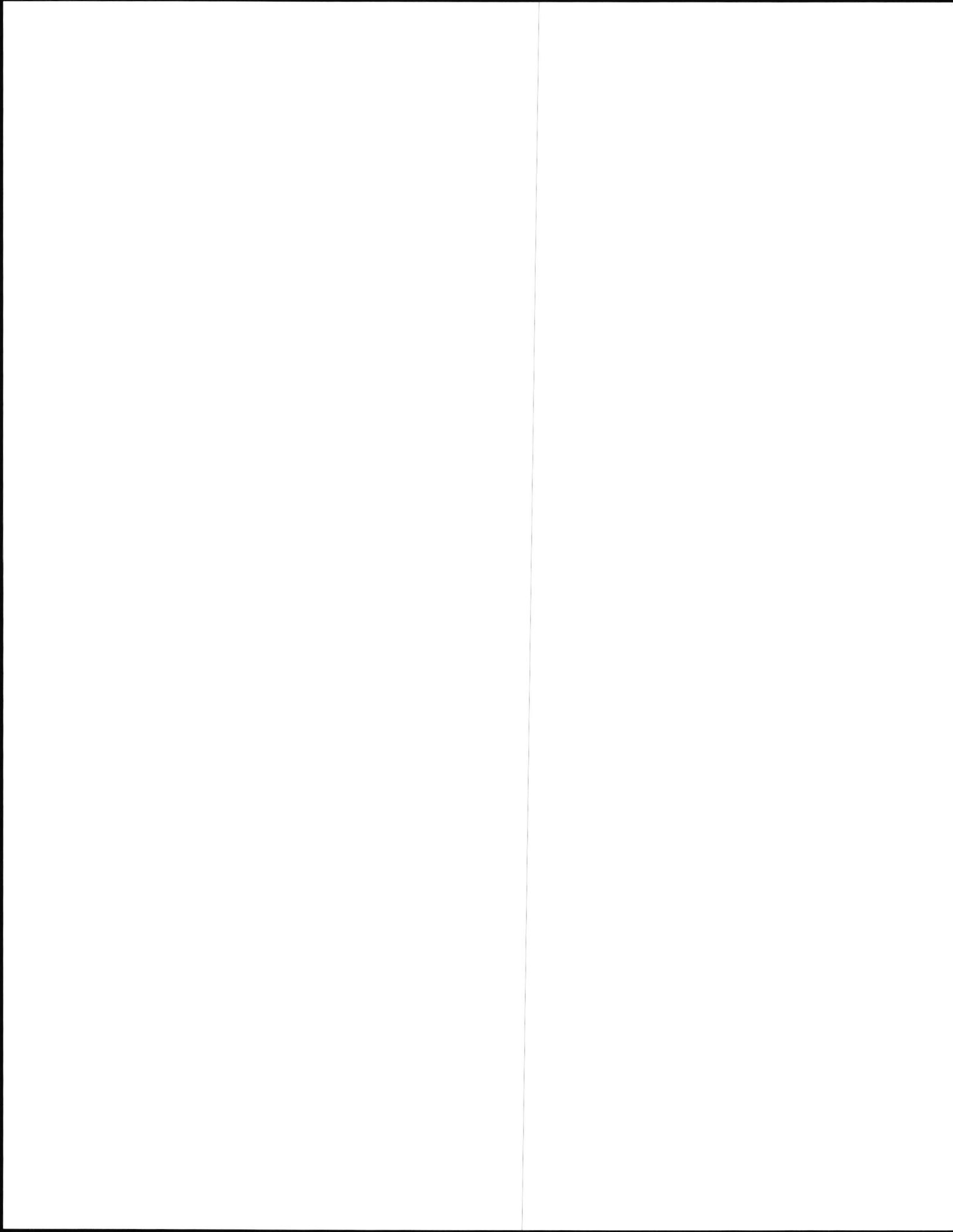
2. The case is remanded to OEA for further proceedings consistent with this Order.

Anthony C Epstein

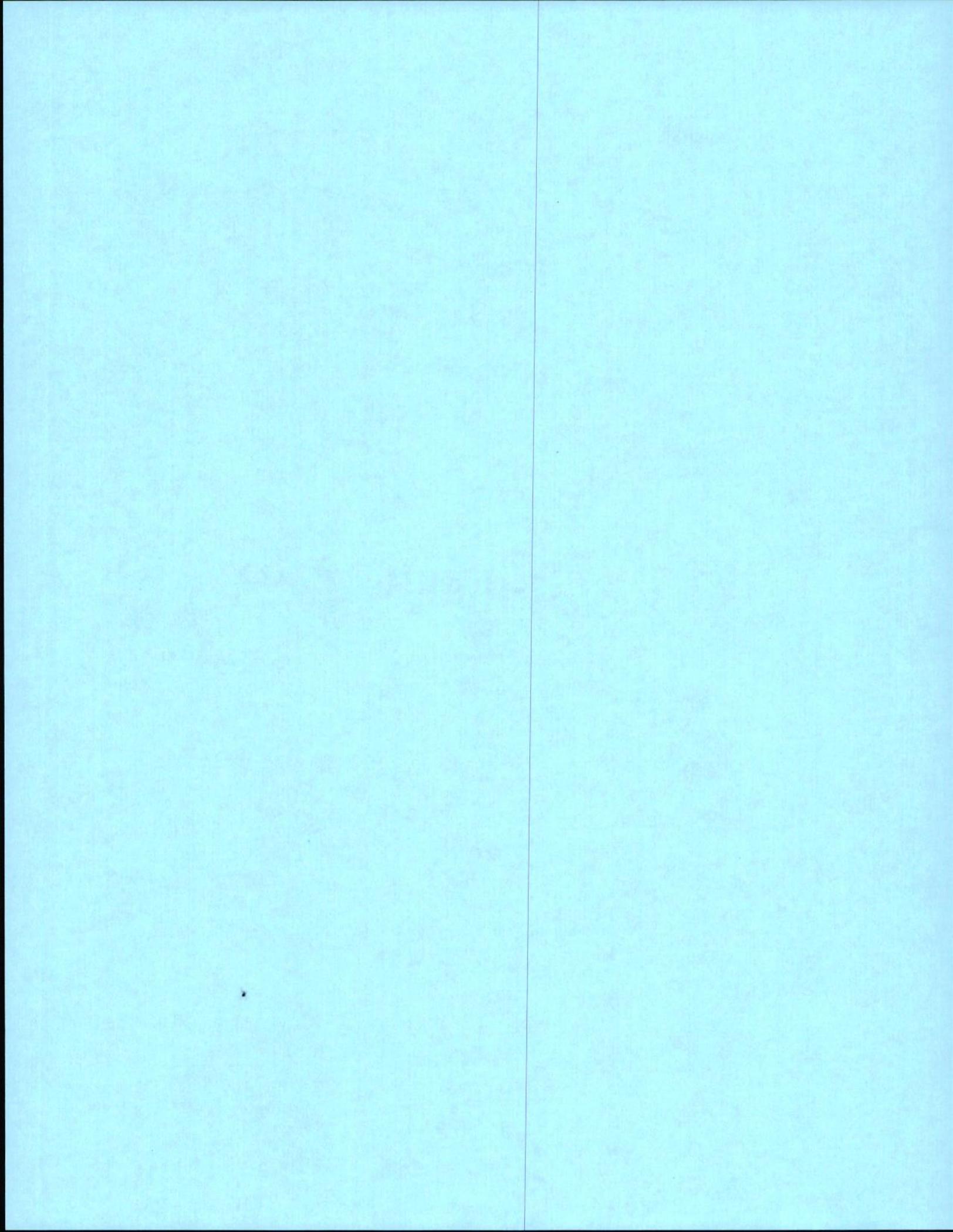
Anthony C. Epstein
Judge

Dated: February 23, 2022

Copies via CaseFileXpress to all counsel of record



ATTACHMENT #13



SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

| | | |
|---------------------------|---|--------------------------------|
| GINA VAUGHN | : | |
| | : | |
| v. | : | Case No. 2020 CA 002891 P(MPA) |
| | : | |
| METROPOLITAN POLICE | : | |
| DEPARTMENT, <i>et al.</i> | : | |

ORDER

The Court grants Gina Vaughn’s petition for review of a decision by the Office of Employee Appeals (“OEA”).¹

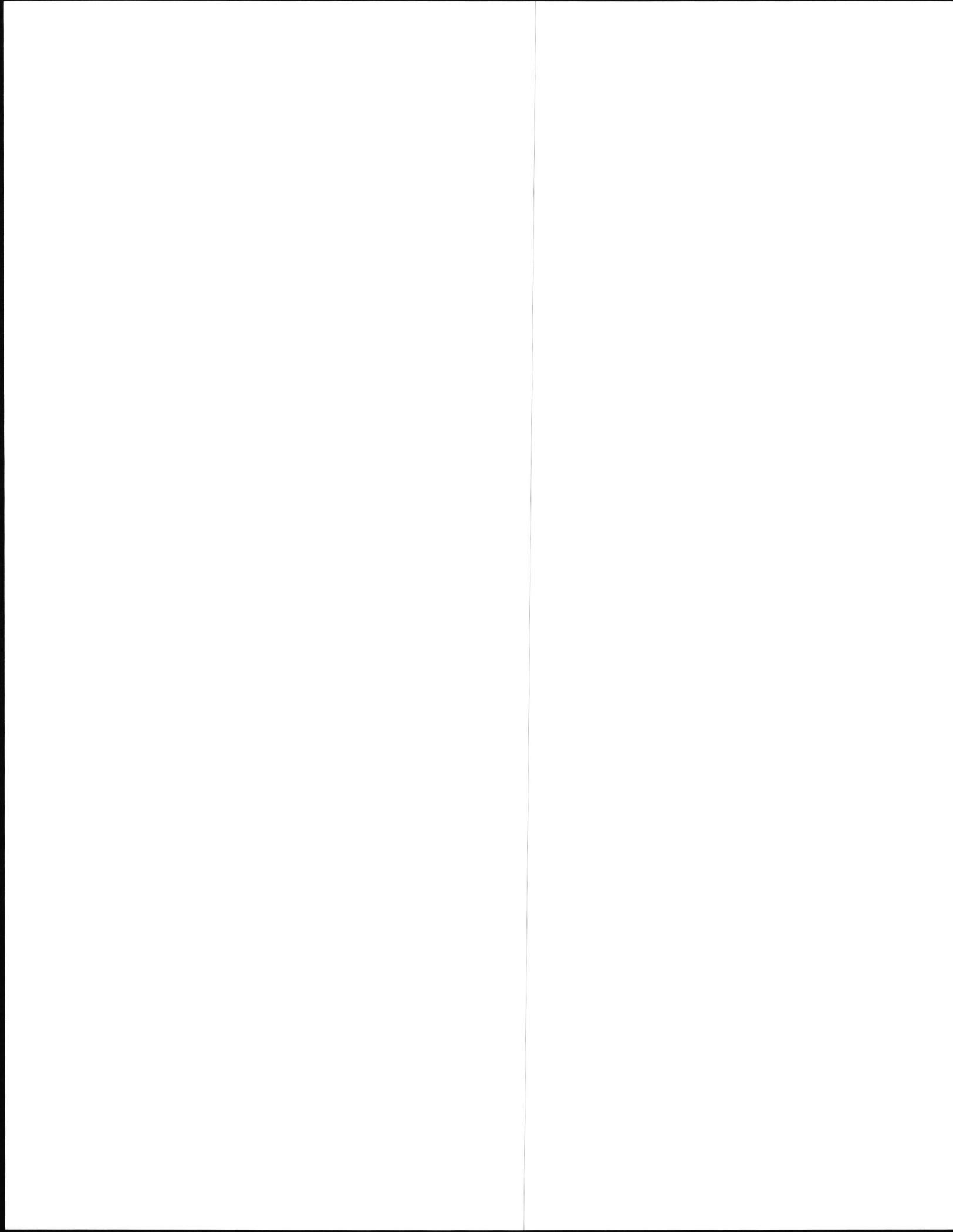
I. BACKGROUND

Ms. Vaughn began working for the D.C. government in August 1985. In 2011, she was working for the Metropolitan Police Department (“MPD”) as a Computer Specialist, Grade CS-12.

In 2011, MPD implemented a Reduction in Force (“RIF”) that abolished 14 positions, including Ms. Vaughn’s. Second Opinion and Order on Remand (“OEA Decision”) at 6 (R.766). MPD did not give Ms. Vaughn an opportunity to compete for another position, and she lost her job on October 14, 2011. *Id.* at 1 (R.761).

Ms. Vaughn petitioned OEA to review her separation. In 2014, an Administrative Judge ruled in her favor based on a finding that her separation was based on inaccurate RIF documents. OEA Decision at 1 (R.761). In 2016, OEA’s Board remanded the case. On remand in 2016, the Administrative Judge reversed his ruling and upheld the RIF. *Id.* at 2. In 2017, the Board denied Ms. Vaughn’s petition for review on procedural grounds. *Id.*

¹ The undersigned judge assumed responsibility for this case while the calendar judge is on leave.



Q.31 REMAND REVS

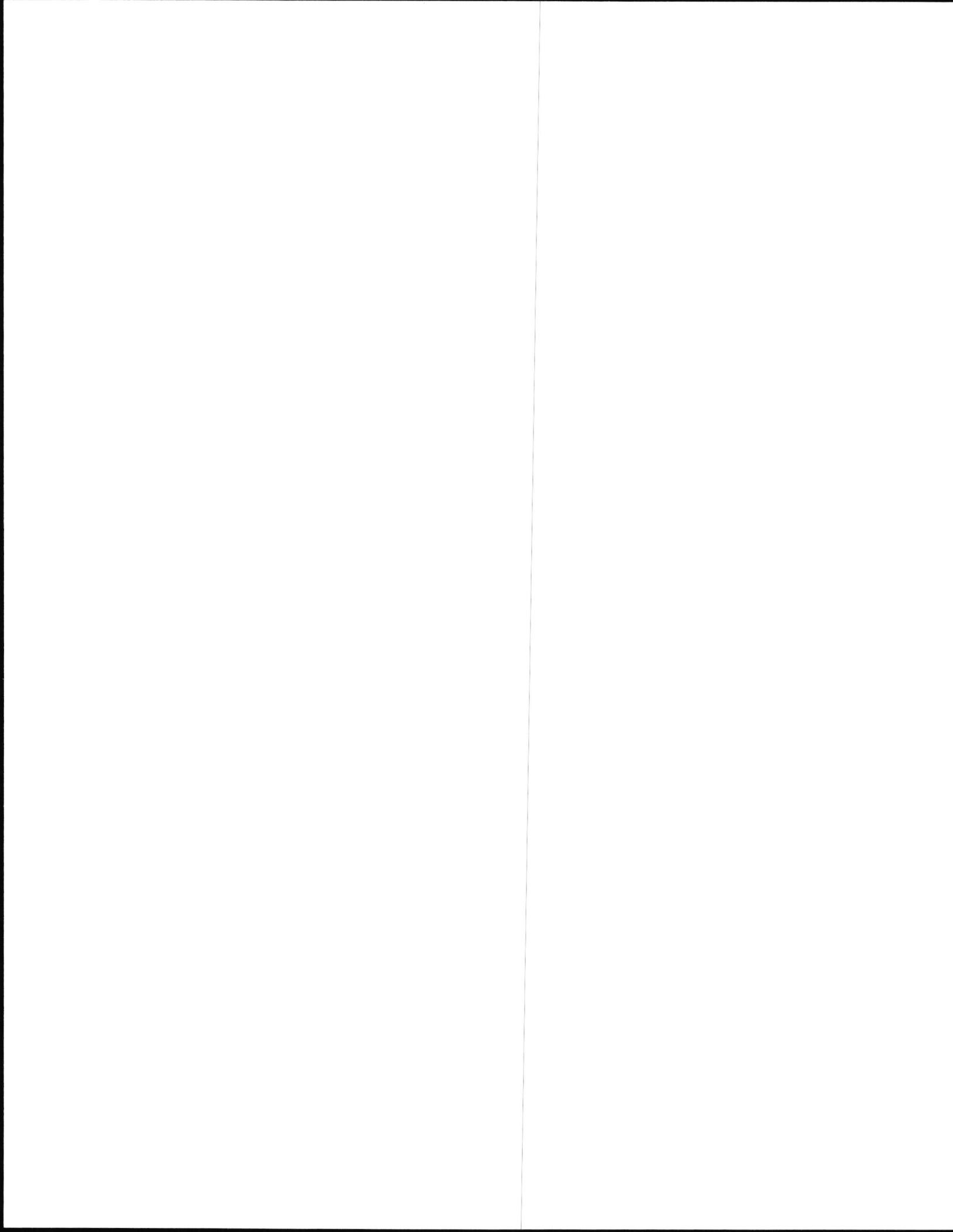
In 2018, Ms. Vaughn filed a timely petition for review by this Court. The Court remanded the case back to OEA for consideration of the merits of her challenges to her removal. OEA Decision at 3-4 (R.763-64). On remand in 2020, the Board issued its Second Opinion and Order on Remand upholding the RIF.

Ms. Vaughn filed a timely petition for review in this Court. On May 21, 2021, Ms. Vaughn filed her brief (“Vaughn Brief”). On October 4, 2021, MPD filed its brief (“MPD Brief”). On October 22, 2021, OEA submitted in lieu of a brief a statement attaching its final decision.

II. STANDARD OF REVIEW

“We review an OEA decision to ensure it is not arbitrary, capricious, or an abuse of discretion.” *Sium v. Office of the State Superintendent of Education*, 218 A.3d 228, 234 (D.C. 2019). “For an OEA decision to pass muster, the agency must state findings of fact on each material contested factual issue; those findings must be supported by substantial evidence in the agency record; and its conclusions of law must follow rationally from its findings.” *Id.* (cleaned up). “When an administrative body fails to make findings on material, contested issues of fact, a reviewing court cannot fill in the gap and make its own findings, and the court must remand the case to the agency for it to make the necessary factual determinations.” *Walker v. Office of the Chief Information Technology Officer*, 127 A.3d 524, 536 (D.C. 2015) (cleaned up).

The court “must accept the OEA ALJ’s findings of fact unless they are not supported by substantial evidence.” *Sium*, 218 A.3d at 234 (cleaned up). “Substantial evidence is relevant evidence such as a reasonable mind might accept as adequate to support a conclusion.” *Davidson v. Office of Employee Appeals*, 886 A.2d 70, 72 (D.C. 2005) (cleaned up). “As long as agency decisions are supported by substantial evidence in the record, they must be affirmed



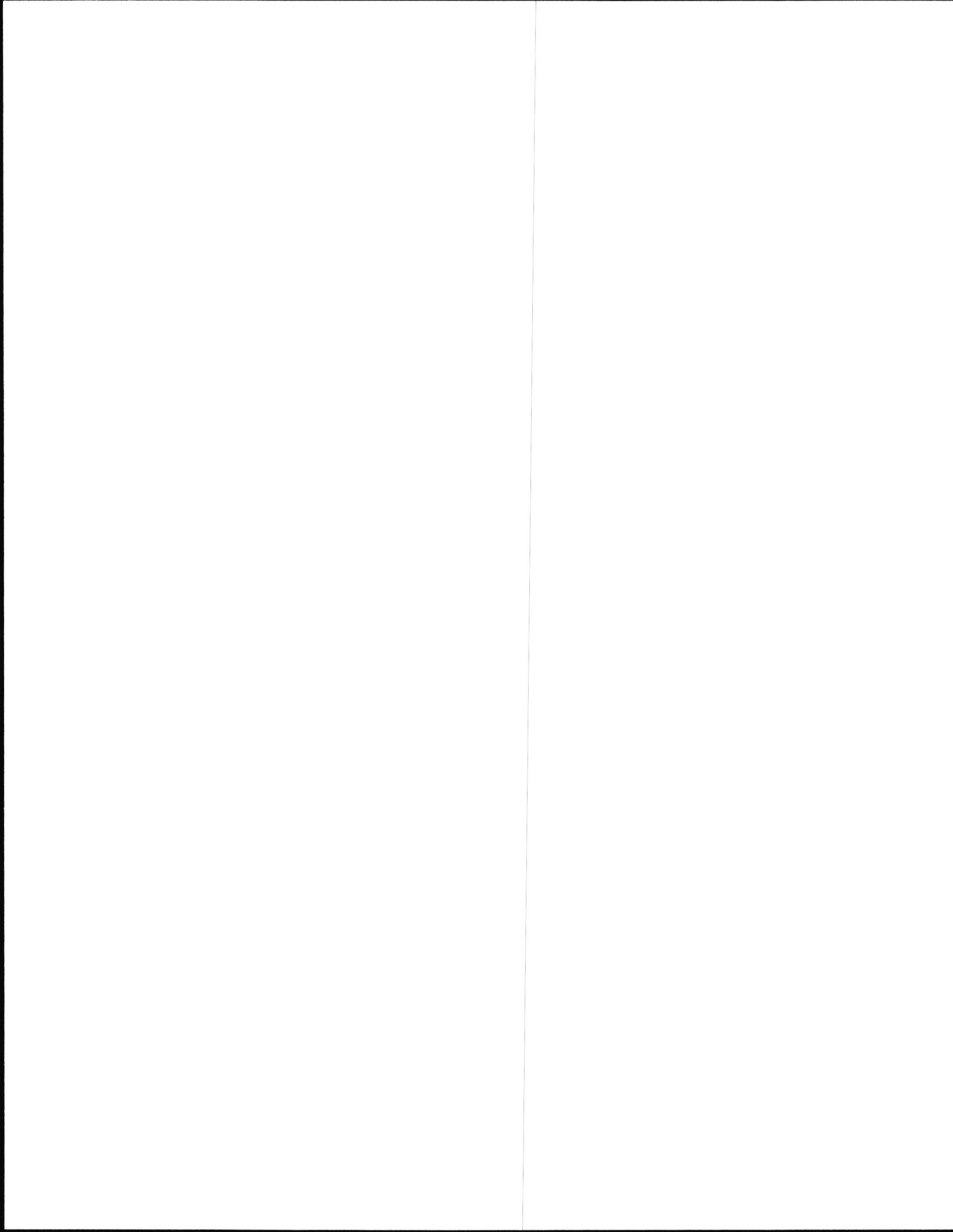
notwithstanding that there may be contrary evidence in the record (as there usually is).” *Id.* (cleaned up). “We will reverse only if the OEA's decision was arbitrary, capricious, or an abuse of discretion.” *Walker*, 127 A.3d at 529. “On questions of law, however, our review is de novo.” *Id.*

III. DISCUSSION

Ms. Vaughn argues that OEA should have ruled that her removal was unlawful for three reasons: (a) the RIF was a sham intended to remove her and not her position; (b) flawed documents made her separation illegal; and (c) MPD denied her an opportunity to compete for a remaining position at the same competitive level. The Court disagrees with the first two arguments, but agrees with the third.

A. The challenge to the RIF as a sham

Ms. Vaughn argues that the RIF was a sham because MPD hired several new IT specialists for vacant positions and created several new IT positions after the RIF, and she cites federal cases stating that an agency cannot use a RIF to disguise an adverse action aimed at a particular employee. Vaughn Brief at 5-7, 11-12. OEA has narrow authority to determine whether a RIF is a sham because the agency had sufficient funds for the positions. *See Levitt v. D.C. Office of Employee Appeals*, 869 A.2d 364, 366 (D.C. 2005); *Anjuwan v. D.C. Department of Public Works*, 729 A.2d 883, 885 (D.C. 1998). OEA must conduct a hearing if the employee makes a “non-frivolous” contention that the position was not abolished for lack of funds. *See Levitt*, 869 A.2d at 366; *Thompson v. District of Columbia*, 530 F.3d 914, 918 (D.C. Cir. 2008). However, the Court need not decide whether Ms. Vaughn has a non-frivolous contention that her position was abolished for pretextual reasons, because she did not make this argument to OEA. “In the absence of exceptional circumstances, a reviewing court will refuse to consider



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contentions not presented before the administrative agency at the appropriate time.” *Goodman v. D.C. Rental Housing Commission*, 573 A.2d 1293, 1301 (D.C. 1990). Ms. Vaughn does not demonstrate that the circumstances of this case are sufficiently exceptional to warrant the Court’s consideration of a fact-based issue that she did not give OEA an opportunity to address.

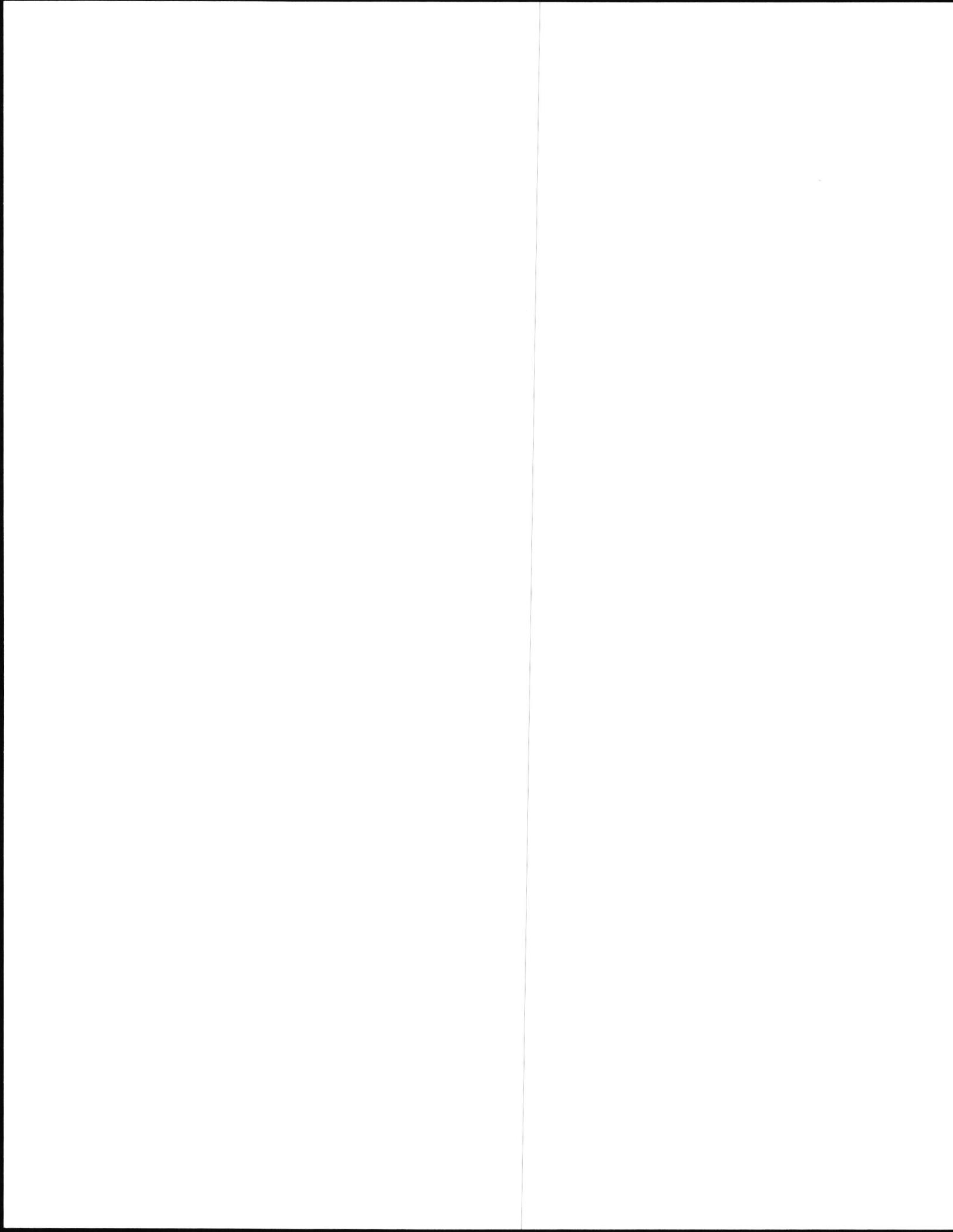
B. Inconsistencies in RIF documents

MPD acknowledged that its notice of separation to Ms. Vaughn identified her Competitive Level Code (“CLC”) as DS-0334-12-07-N and that her actual CLC was DS-0334-12-10-N. OEA concluded that the error was not harmful because the notice correctly identified the competitive level, which involves the first three of the five elements in the CLC. *See* OEA Decision at 11-12 (R.771-72). Ms. Vaughn does not demonstrate that this conclusion was unsupported by substantial evidence or that it was arbitrary or capricious. Ms. Vaughn does not dispute that MPD intended all along to eliminate her position; indeed, as discussed in Section III.A above, she contends that MPD specifically targeted her for removal.

Ms. Vaughn also argues that the Administrative Order governing the RIF does not identify her position. Here again, she does not demonstrate that OEA’s analysis of this issue was arbitrary, capricious, or unsupported by substantial evidence. *See* OEA Decision at 12-13 (R.772-73).

C. Competitive level

MPD agrees that Ms. Vaughn had the right to compete for another position in the same competitive level, which means jobs in the same classification series and grade. However, MPD contends that her position was in classification “334” and the only available positions with the



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same grade were in classification “2210,” so she had no right to compete for these positions.

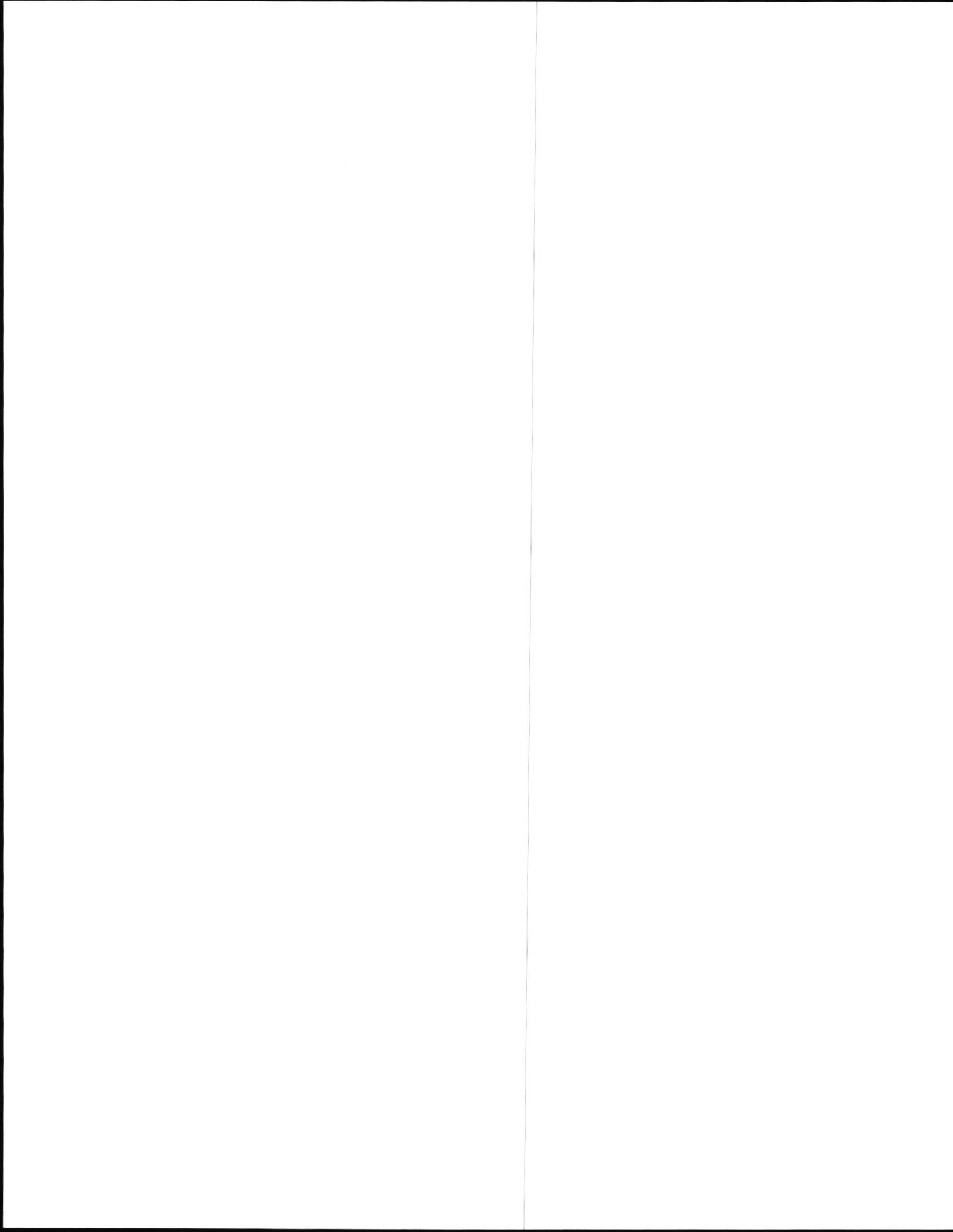
OEA agreed with this contention, but its decision to do so was error.²

Before 2001, Ms. Vaughn’s job was classified in the 334 series for computer specialists. OEA Decision at 7-8 (R.767-68). In its discovery responses, MPD stated that the District follows the personnel policies of the federal Office of Personnel Management (“OPM”), and “[i]n 2001, OPM cancelled the 334 series and replaced it with the 2210 occupational series.” *Id.* at 8 (quoting MPD’s discovery responses) (R.768). Because of administrative convenience or inertia, MPD did not take action “to reclassify the 334 series position to the existing 2210 series” unless the agency promoted the employee or took other affirmative action concerning the employee. *Id.* Because MPD did not take an affirmative action concerning Ms. Vaughn between 2001 and 2011 when it RIF’d Ms. Vaughn, MPD never got around to updating Ms. Vaughn’s paperwork to reflect that her position was now in the 2210 series.

OEA agreed with MPD that because MPD adopted a passive policy and did not update Ms. Vaughn’s paperwork to reflect replacement of the cancelled 334 series with the 2210 series, Ms. Vaughn still in the 334 series a decade after it was cancelled. This position elevates form over substance. MPD’s failure to formalize the reclassification of Ms. Vaughn’s position after cancellation of the 334 series does not change the fact that the reclassification in 2001 changed the classification of Ms. Vaughn’s position. The 334 position simply did not exist in 2011, no matter what vestigial paperwork said.

Ms. Vaughn therefore had the right to compete for any position at the same competitive level in the 2210 series.

² MPD argues that Ms. Vaughn waived this argument because she did not make it to OEA. MPD Brief at 9-10. The fact that OEA addressed the argument indicates that Ms. Vaughn preserved it.



IV. CONCLUSION

For these reasons, the Court orders that:

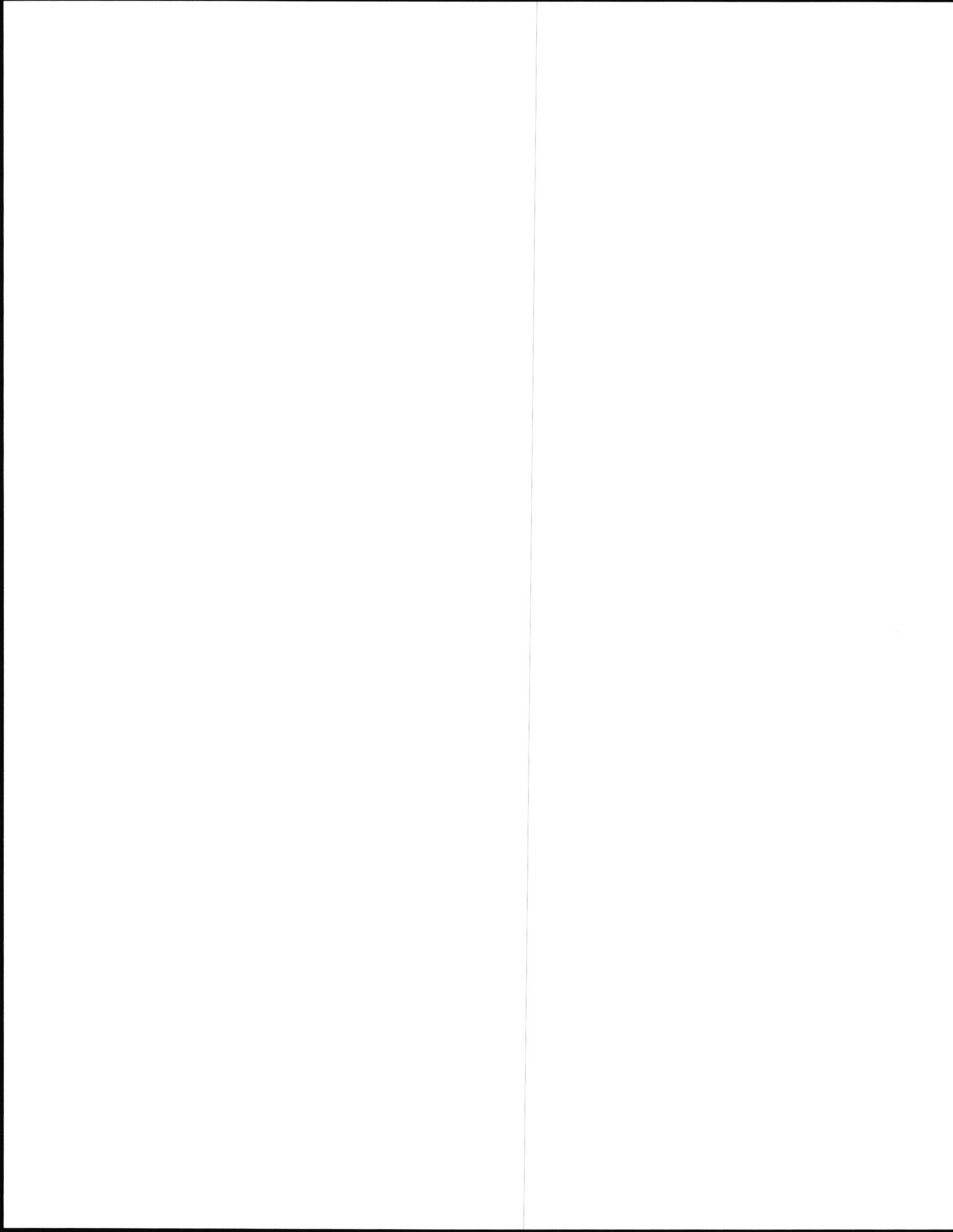
1. The petition for review is granted.
2. The case is remanded to OEA for further proceedings consistent with this Order.

Anthony C Epstein

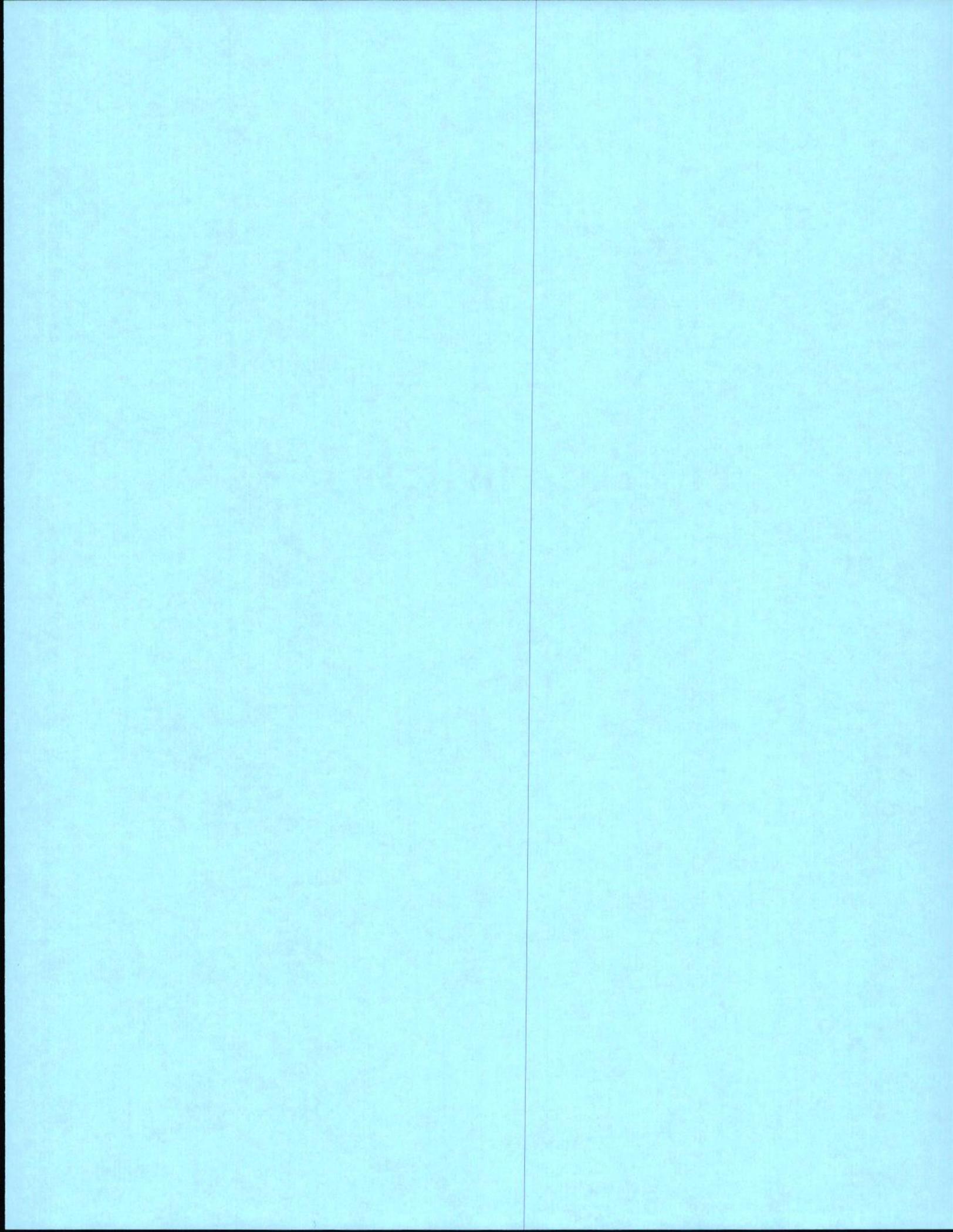
Anthony C. Epstein
Judge

Dated: February 23, 2022

Copies via CaseFileXpress to all counsel of record



ATTACHMENT #14



SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

CIVIL DIVISION

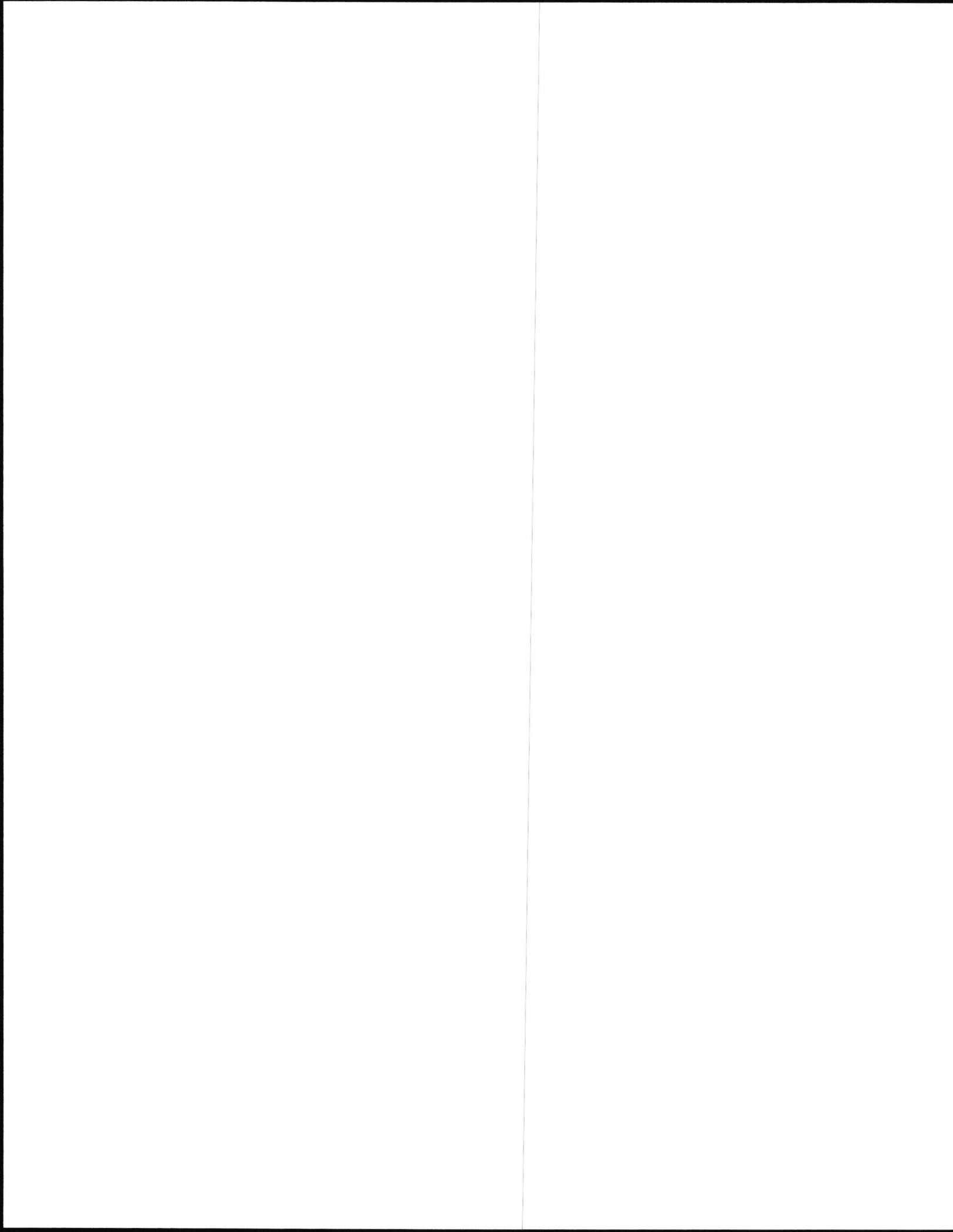
| | | |
|--------------------|---|--------------------------------|
| ROXANNE CROMWELL, | : | |
| | : | |
| Petitioner, | : | Case No. 2021 CA 002345 P(MPA) |
| | : | Judge Todd E. Edelman |
| v. | : | |
| | : | |
| OFFICE OF EMPLOYEE | : | |
| APPEALS, | : | |
| | : | |
| Respondent. | : | |

ORDER

This matter comes before the Court upon Petitioner’s Petition for Review of Agency Order or Decision (“Petitioner’s Motion”), filed July 9, 2021. For the reasons set forth *infra*, Petitioner’s Motion is granted.

I. Factual and Procedural History

Roxanne Cromwell (“Petitioner”) had a career permanent civil service position with the District of Columbia Office of Human Resources (“DCHR”) when she accepted a term appointment as an Administrative Officer with Intervenor, the District of Columbia Department of Small and Local Business Development (“Agency”). R. 1-2. On September 11, 2017, Petitioner received notice from the Agency that she was terminated effective October 9, 2017. R. 2, 5-6. On October 17, 2017, Petitioner, proceeding *pro se*, filed a Petition for Appeal with the District of Columbia Office of Employee Appeals (“OEA”) contesting her removal. R. 1-4. The Agency sought dismissal of the Petition on the grounds that Petitioner was terminated while serving a required year-long probation period, during which her termination was not appealable



Q.31 REMAND REVS

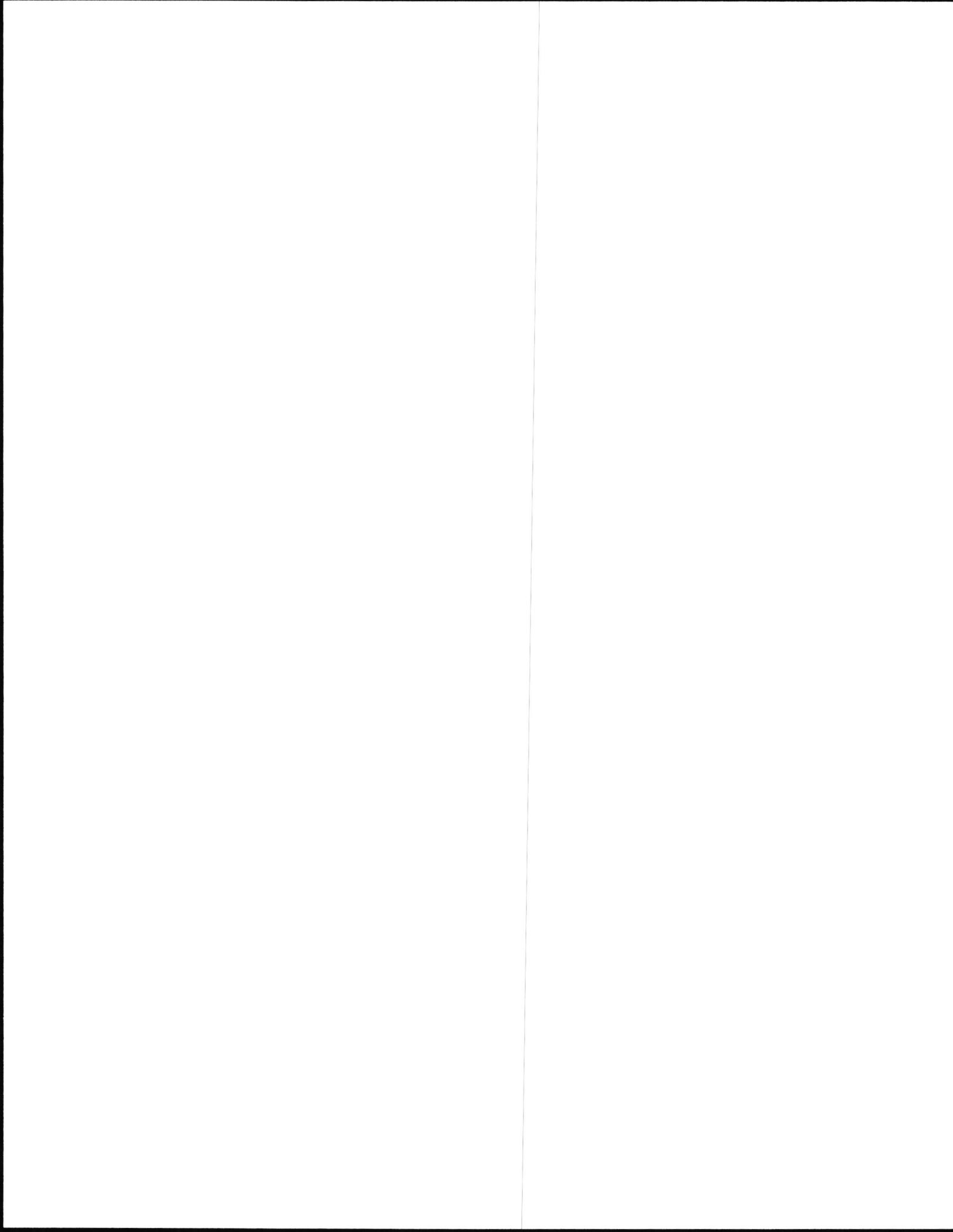
to OEA under the District Personnel Manual (“DPM”) § 814.3.¹ R. 20-22. On January 29, 2018, an OEA Senior Administrative Judge (“AJ”) issued an Initial Decision agreeing with the Agency’s position and dismissing Ms. Cromwell’s Petition for lack of jurisdiction. R. 85-91. The AJ found that Petitioner was serving a second probationary period under DPM § 813.9(c)² because she was hired through open competition, and thus was not entitled to appeal the termination to OEA. R. 88-89.

On July 26, 2019, Petitioner, still proceeding *pro se*, filed a Petition for Review of the AJ’s Initial Decision with the Board of the OEA (“Board”), arguing that she was not serving a probationary period when she was terminated; instead, she contended she was entitled to appeal any adverse action to OEA because she was promoted non-competitively, and therefore continued to serve in Career Permanent status. R. 92-107. On May 19, 2020, the Board issued an Order and Opinion (“O&O”) finding that there was not “substantial evidence in the record to support the AJ’s ruling regarding open competition” (and thus whether Petitioner was completing a second probationary term at the time of her termination), R. 147, and remanded the matter to the AJ for consideration of the case on the merits, R. 148.

The AJ issued an Initial Decision on Remand (“IDR”) on May 29, 2020, finding that “as a career service permanent employee, [Petitioner] could only be terminated for cause” and retained the “right to appeal any adverse action that leads to termination.” R. 153-54. After finding that the Agency’s termination of Petitioner without conducting any *Douglas* factor

¹ “A termination during a probationary period is not appealable or grievable. However, a probationer alleging that his or her termination resulted from a violation of public policy, the whistleblower protection law, or District of Columbia or federal anti-discrimination laws, may file action under any such laws, as appropriate.” DPM § 814.3.

² “An employee who once satisfactorily completed a probationary period in Career Service shall be required to serve another probationary period when the employee . . . [i]s appointed as a result of open competition to a position in a different line of work, as determined by the appropriate personnel authority based on the employee’s actual duties and responsibilities.” DPM § 813.9(c).



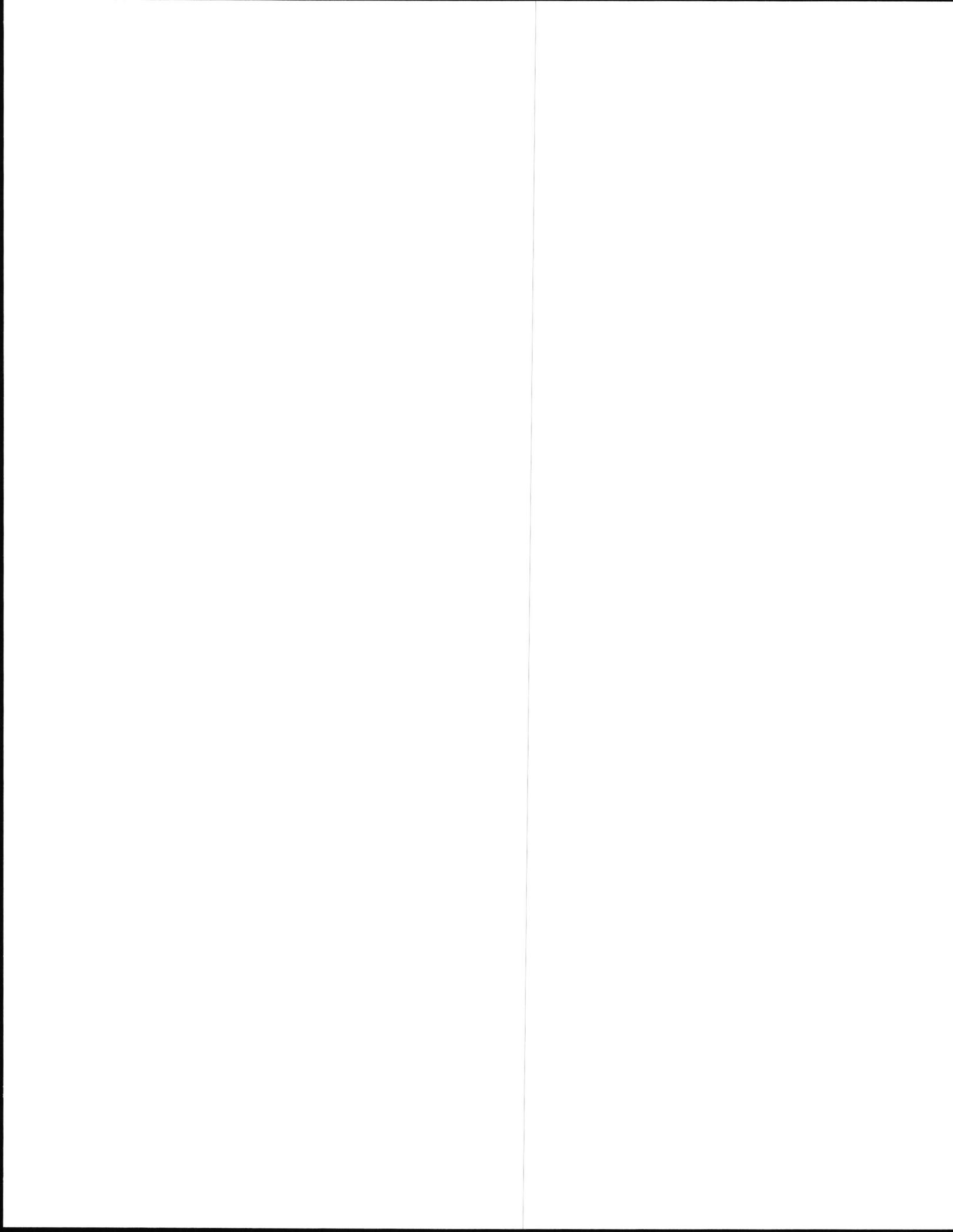
Q.31 REMAND REVS

analysis constituted an abuse of discretion, the IDR reversed Petitioner's termination and ordered the Agency to "restore [Petitioner] to her previous position of record" and "reimburse her all back-pay[] and benefits lost as a result of her removal." R. 154-55. The IDR reached no conclusions as to which position (i.e., a career permanent position or her term appointment with the Agency) represented Petitioner's "previous position of record" or as to the amount of back-pay and benefits she had lost. R. 152-57. The IDR did, however, appear to accept Petitioner's characterization of her employment status as being that of "a career service permanent employee." See R. 153 ("I further agree with [Petitioner's] assertion that as a career service permanent employee, she could only be terminated for cause."); R. 154 ("As a permanent Career Service employee, [Petitioner] may only be subject to adverse action for cause . . ."). Neither party appealed the IDR, which became final 35 days after issuance. OEA Rules 632.1-632.2.

On September 21, 2020, Petitioner (now represented by counsel) filed a Petition for Enforcement alleging that the Agency had not reinstated her or reimbursed her back-pay and benefits despite the clear mandate of the IDR. R. 164-68. The Agency filed a Response on October 26, 2020 contending that it "ha[d] complied with the [IDR] to the extent possible." R. 174. Specifically, the Agency's Response argued that Petitioner was a term employee at the time of her termination; as the term was not to exceed May 27, 2018,³ the Agency maintained that, even though the IDR required it to reinstate Petitioner, it was not required to reinstate Petitioner beyond the expiration of her term.⁴ R. 175-76. The Agency's Response concluded that "it is not

³ There is discrepancy as to whether the expiration date was May 27 or June 27, 2018; this discrepancy does not affect the outcome of this case. See R. 204 n.17.

⁴ The Agency also argued that back-pay and benefits had not been reimbursed as Petitioner had not completed the paperwork required to do so. R. 176-77.



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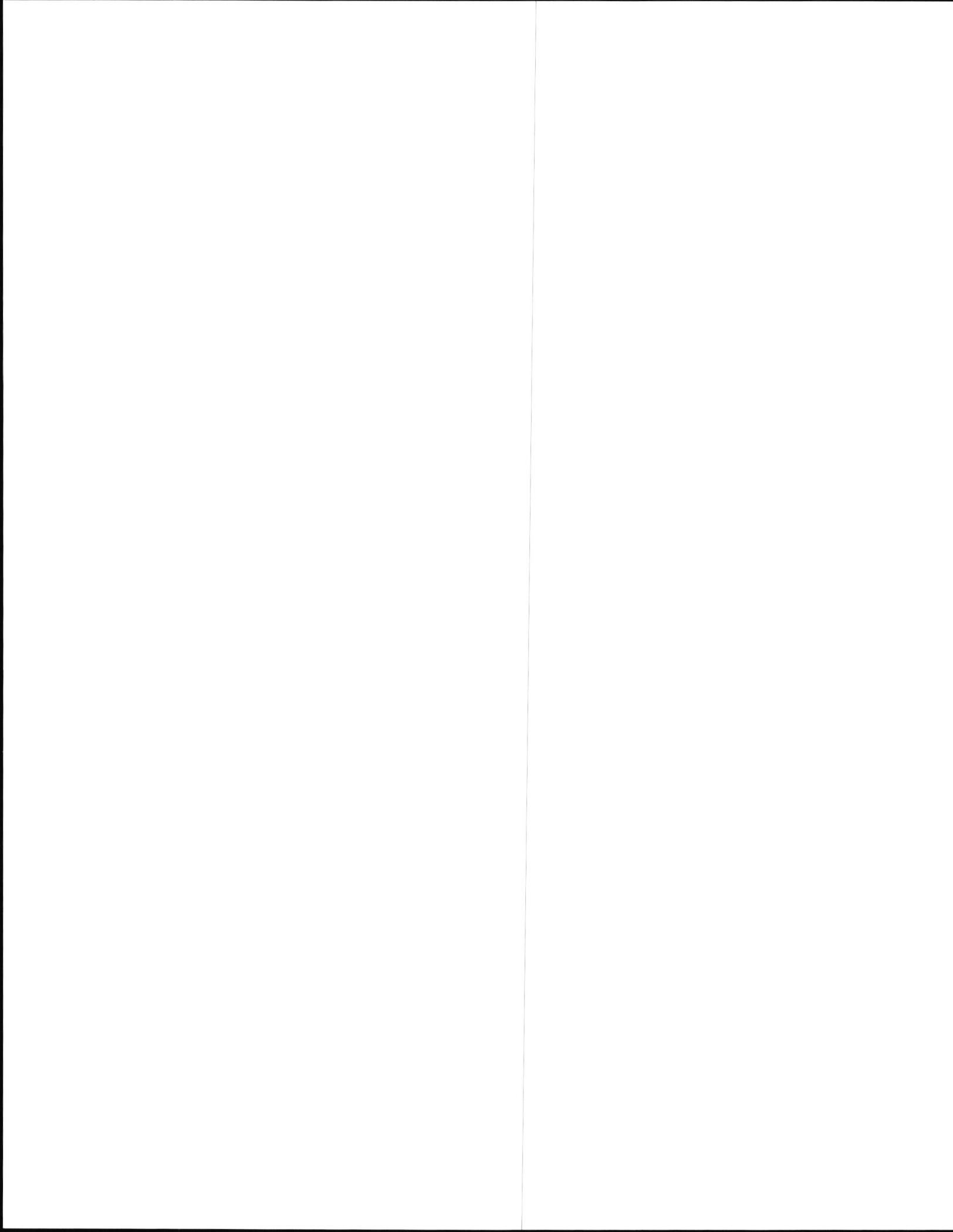
required by law, Mayor's Order, regulation or agency policy to reinstate [Petitioner] to an expired term appointment." R. 178.

Before ruling on the Petition for Enforcement, the AJ required the parties to submit briefs on a question not directly addressed in the IDR: "the issue of whether [Petitioner] had reversion rights back to her prior career service permanent position that she held in a different District agency prior to accepting the career service term position with Agency." R. at 202. In her brief, Petitioner argued that the only issue before the AJ was whether the Agency complied with the IDR as Petitioner noted that the issue of reversion "was not litigated in the initial proceeding, before the OEA Board, or on remand." R. 184. Petitioner also argued that a Petition for Enforcement was not the appropriate vehicle in which to litigate the question of reversion rights. R. 184. The Agency responded that the DPM offered no method through which to convert a term employee hired non-competitively to a career permanent employee and thus, a term employee could not be automatically converted to a permanent appointment. R. 196-97. The Agency asserted that not only did Petitioner not possess a reversion right, but also that it would be impossible for a conversion to occur under DPM regulations. R. 198. The Agency thus took the position that the IDR

merely ordered Agency to constructively reinstate [Petitioner] solely for the calculation of back[-]pay and benefits between the time of her termination and the NTE ["not to exceed"] date of her term (since her term had long since expired). This is the only permissible remedy. At no point in time did Agency believe it was ordered to reinstate a term appointee to a CS permanent position.

R. 195.

On February 17, 2021, the AJ issued an Addendum Decision on Compliance ("ADC"), finding that the Agency was not required to reinstate Petitioner because her term appointment



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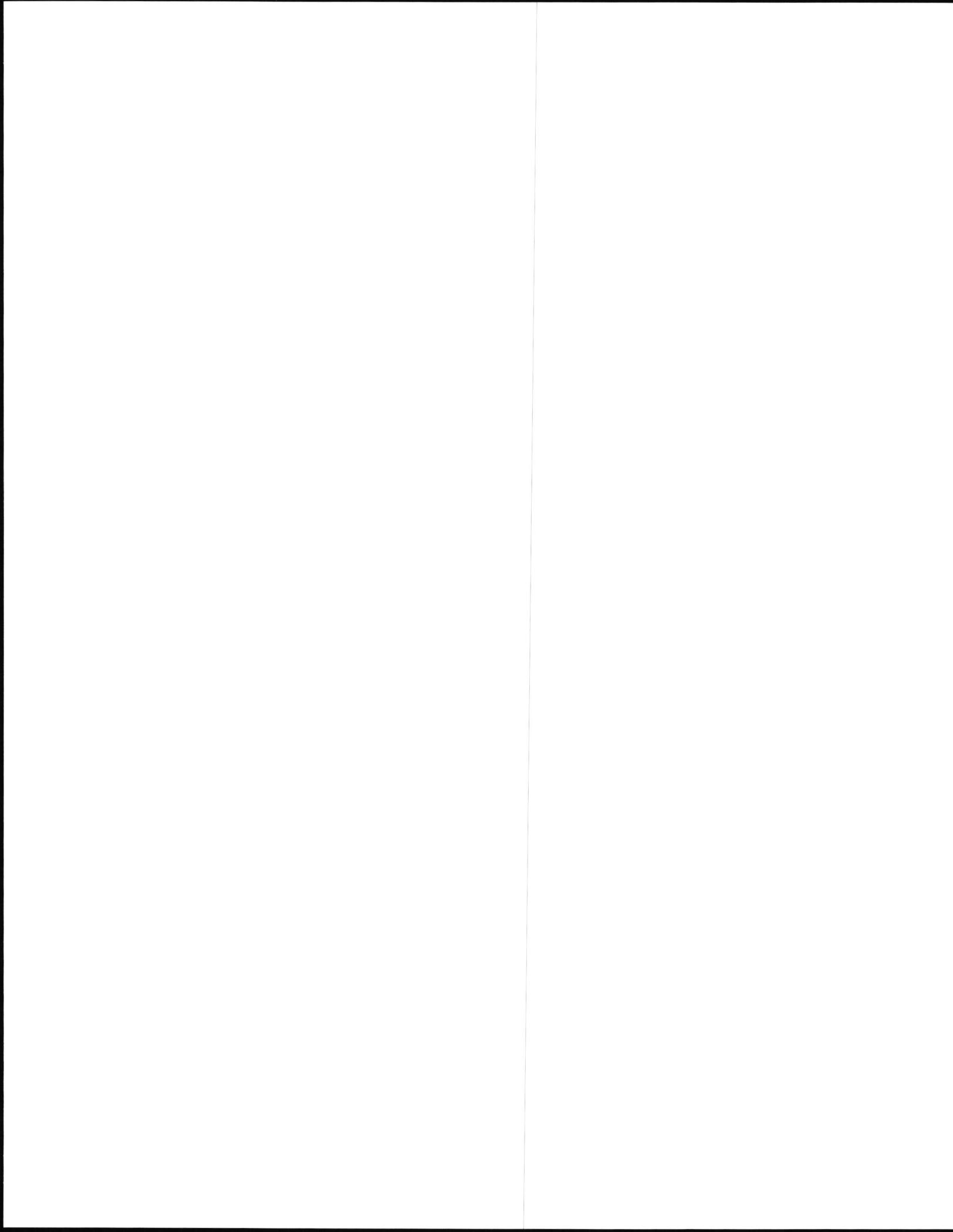
had expired.⁵ R. 209. The AJ agreed that the issue of whether Petitioner reverted to a permanent career services position was “not proper[ly] before OEA at this time” as the issue was not “raised prior to the issuance of the [Initial Decision], O&O or IDR.” R. 205. The AJ noted that

[T]he final Order . . . was to reinstate [Petitioner] to her previous position of record within *Agency*, and not to reopen the record to include other parties . . . to the claim. Because the record is clear with regards to Employee’s appointment status (Career Term appointment) at the time of her termination, and without any information to contradict this assertion, I conclude that the undersigned cannot go any further into this issue.

R. 205. The AJ acknowledged that she had made an “error in the IDR which referenced the rights afforded to permanent career service appointment within an agency” and that this “might have been confusing,” but asserted that the AJ “did not in any way intend to imply in the IDR that [Petitioner’s] position of record changed from a Term appointment to a permanent appointment.” R. 206. On the contrary, the AJ asserted that Petitioner was “being disingenuous in arguing that the IDR afforded her a permanent career service appointment” as Petitioner was “fully aware that her previous position of record with Agency was a Term NTE [“not to exceed”] appointment.” R. 206.

The AJ also held that Petitioner’s position did not automatically convert into a permanent position. The AJ found that Petitioner forfeited her career permanent position for a term appointment and that it was fully within the Agency’s discretion whether to convert Petitioner’s term appointment to a career permanent position under DPM § 823.3, as evidence in the record showed that the term appointment was supported by grant funds. R. 205-07; DPM § 823.3 (“If an employee is serving in a term appointment supported by grant funds, the conversion of his or her position shall be determined by the personnel authority.”). The AJ also pointed out that

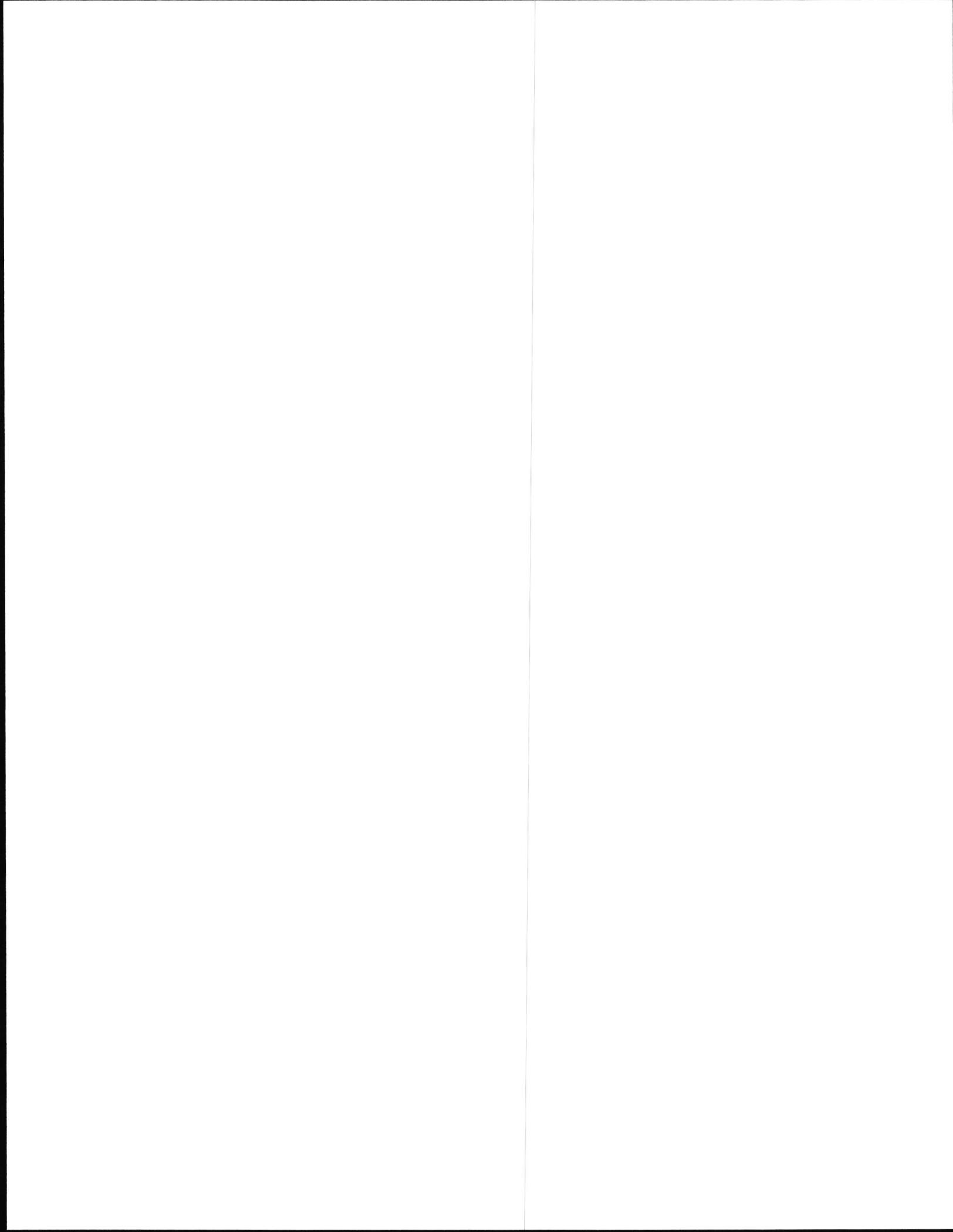
⁵ The AJ also required Agency to reimburse the back-pay and benefits for the period between Petitioner’s termination and the expiration of her term appointment. R. 209.



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under DPM § 823.8, a term employee cannot be converted to a regular career service appointment unless the employee was appointed through open competition and completed a probationary period. R. 208. Given that the O&O had found that Petitioner was appointed non-competitively, the AJ held that Petitioner's term appointment was not eligible for conversion into a permanent appointment. R. 209. The AJ thus concluded that the Agency did not have to reinstate Petitioner as her "term appointment has expired and Agency has decided not to extend the term appointment." R. 209. As such, the Agency was, according to the AJ, in partial compliance with the IDR. R. 209

On March 23, 2021, Petitioner filed a Petition for Review of the Administrative Judge's Initial Decision. R. 212-24. Despite its caption, this Petition did not seek reversal of the IDR, but instead asked the Board to "review and reverse the [AJ]'s Addendum Decision on Compliance," R. 212, arguing that Petitioner retained her permanent career appointment after her promotion because her promotion to the Agency was an internal placement and because she did not relinquish her rights in writing, R. 215-23. The Agency argued that the Board lacked jurisdiction to review an ADC and thus that the Petition must be denied. R. 240. In response, Petitioner argued that the ADC's conclusions about the nature of Petitioner's employment status made that decision, in substance, "actually an Addendum Initial Decision, or Second Initial Decision [and therefore] NOT an Addendum Decision on Compliance." R. 231. Given the substance of the ADC and its ruling on a central factual and legal issue not addressed in the IDR, Petitioner asserted that "[i]t is intellectually dishonest to contend that this order was substantively an order on compliance." R. 232. Specifically, Petitioner argued that "the AJ upended the case by" making detailed findings of fact and conclusions of law of the type that usually comprise an Initial Decision. R. 234. She also noted that the ADC had an attached



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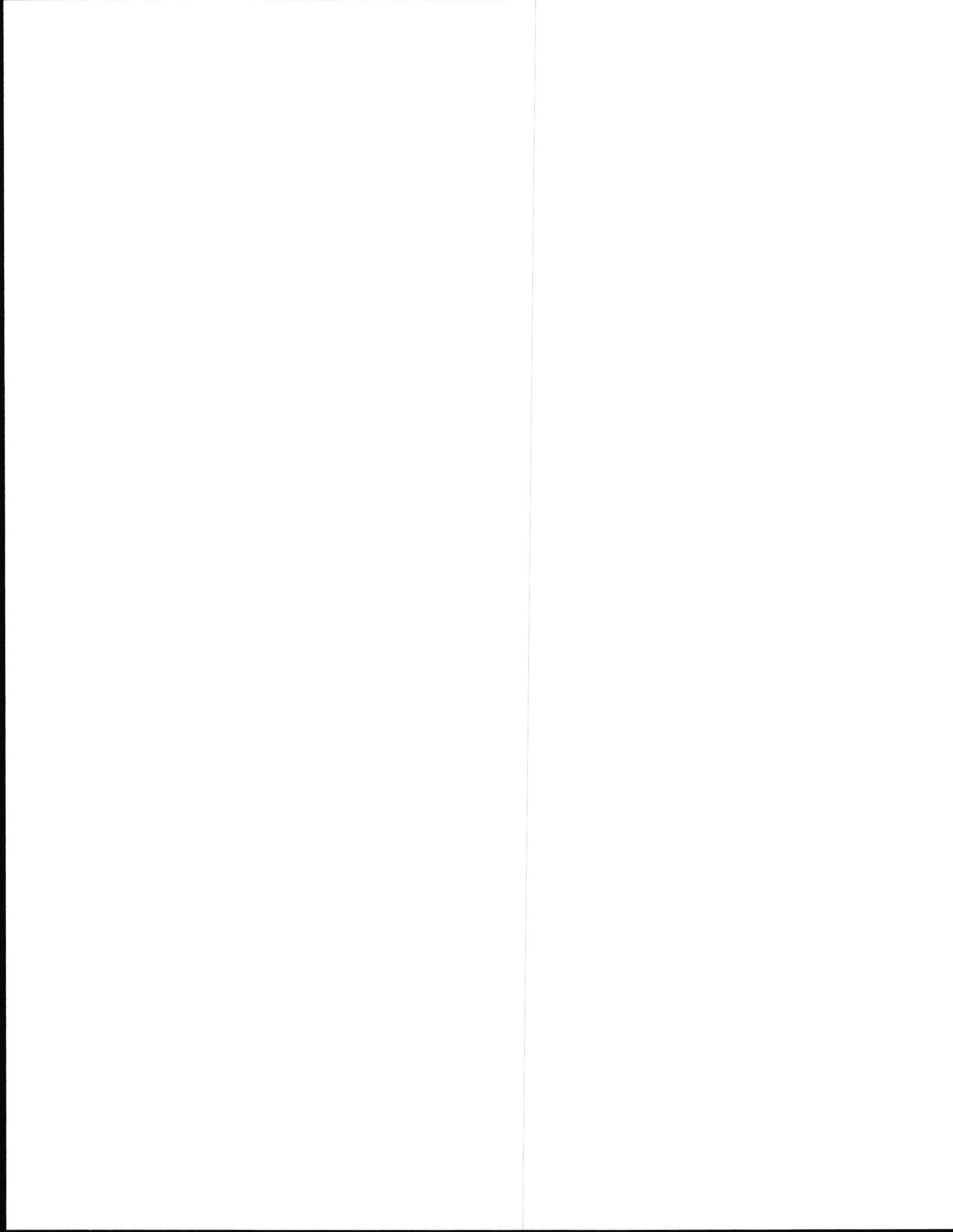
Notice of Appeal Rights that referred to the decision as an Initial Decision and that directed Petitioner as to how to appeal. R. 235.

The Board issued a Second Opinion and Order on Petition for Review (“Second O&O”) on June 17, 2021 finding that the OEA rules “provide[] no procedural avenue for an employee to appeal an Addendum Decision on Compliance to the OEA Board.” R. 250. The Board further ruled that, given that the IDR was not appealed within 35 days, any appeal of the IDR was untimely. R. 249. Accordingly, the Board denied the Petition for Review. R. 251.

Petitioner filed this Petition for Review of Agency Order or Decision with the D.C. Superior Court on July 9, 2021, seeking a reversal of the Board’s June 17, 2021 Second O&O and a remand of the matter to OEA. The Agency filed a Notice of Intent to Intervene on August 9, 2021. Petitioner filed her Opening Brief on December 28, 2021, and OEA filed a Statement in Lieu of Brief on January 28, 2022. The Agency filed an Opposition Brief on February 4, 2022, to which Plaintiff filed a Reply on April 29, 2022.

II. Standard of Review

District of Columbia courts review the decisions of administrative agencies on the limited grounds set forth in D.C. Code § 2-510(a)(3). “An agency decision must not be disturbed unless it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.” *Orius Telecomms., Inc. v. District of Columbia Dep’t of Emp. Servs.*, 857 A.2d 1061, 1065 (D.C. 2004). The court “must review the administrative record alone,” *Kegley v. District of Columbia*, 440 A.2d 1013, 1018 (D.C. 1982), and will generally give “‘deference to an agency’s interpretation of the statute under which it acts’ unless ‘inconsistent with the plain language of

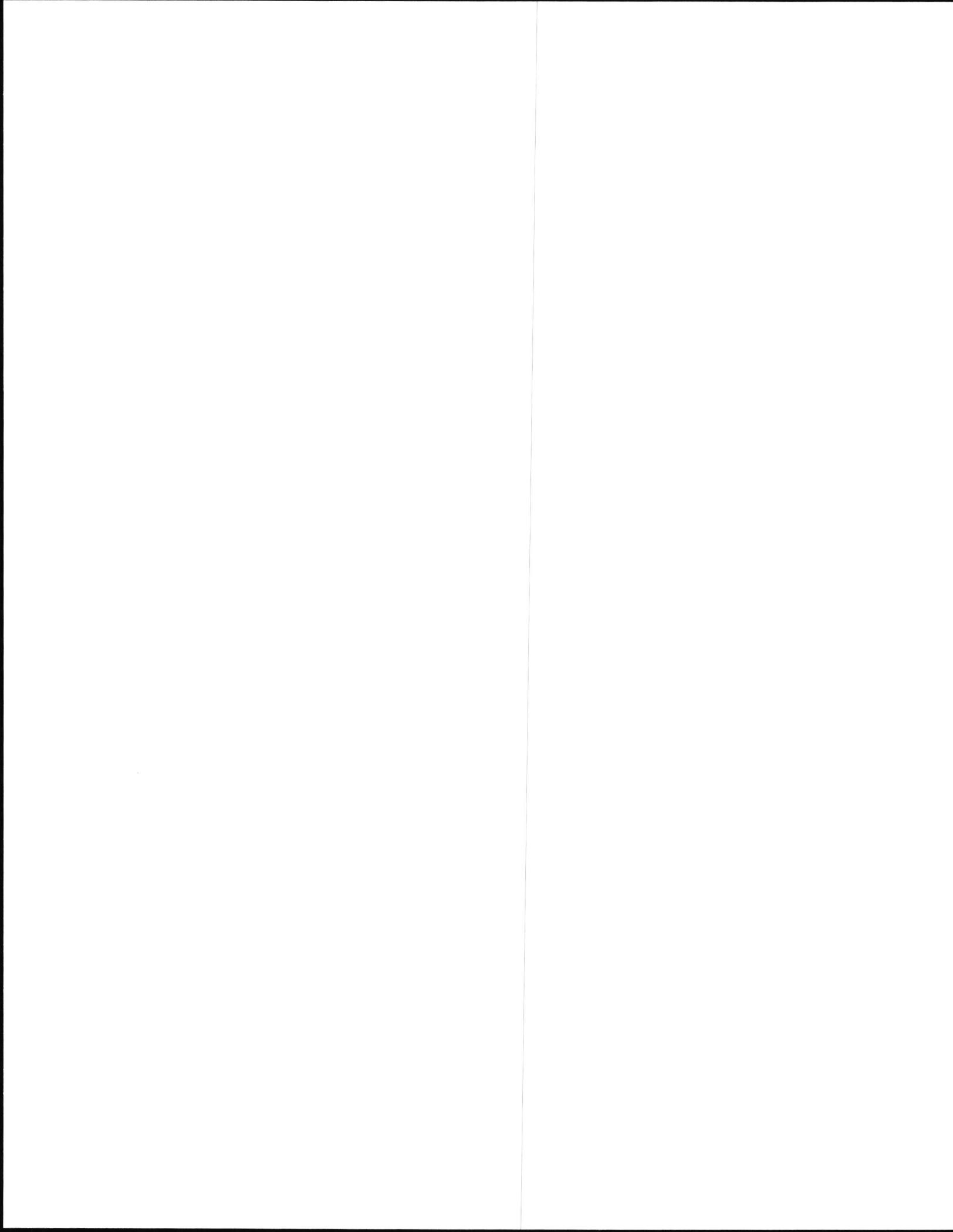


the statute itself,”” *D.C. Fire & Med. Servs. Dep’t v. D.C. Off. of Emp. Appeals*, 986 A.2d 419, 424 (D.C. 2010) (quoting *D.C. Metro. Police Dep’t v. Pinkard*, 801 A.2d 86, 90 (D.C. 2002)).

III. Analysis

Resolution of this case requires explication of the details of the OEA process. A District employee may appeal a final agency decision to the OEA within 30 days of the effective date of the action. 6-B DCMR §§ 604.1-604.2. After appropriate briefing, an Administrative Judge (“AJ”) will issue an Initial Decision which contains “[f]indings of fact and conclusions of law, as well as the reasons or bases therefore, upon all the material issues of fact and law presented on the record” as well as “[a]n order as to the final disposition of the case” and “[a] statement of the right to seek further administrative remedy.” § 631.2(a)-(c). An Initial Decision becomes final after 35 days; however, either party may file a Petition for Review with the Board within that 35-day period. § 632.1-2. On a Petition for Review, the Board may “affirm, reverse, remand, modify, or vacate the [I]nitial [D]ecision, in whole or in part.” § 633.10. An agency has thirty days to comply with a final decision. § 635.1.

When an agency fails to timely comply, “the employee may file a motion [with the AJ who decided the appeal] to enforce the final decision,” § 635.2; the AJ “shall take all necessary action to determine whether the final decision is being complied with” and issue a written Decision on Compliance, § 635.7. Decisions on Compliance are typically not appealable. *See* OEA Rules §§ 640.11-.12 *see also Delores Junious v. D.C. Child and Fam. Servs.*, OEA Matter No. 1601-0057-01C07, *Opinion and Order on Petition for Review* (January 25, 2010) at 4 (“OEA’s rules do not contain a specific provision for filing a petition for review in response to an addendum decision on compliance. If a party wishes to contest the findings of a decision



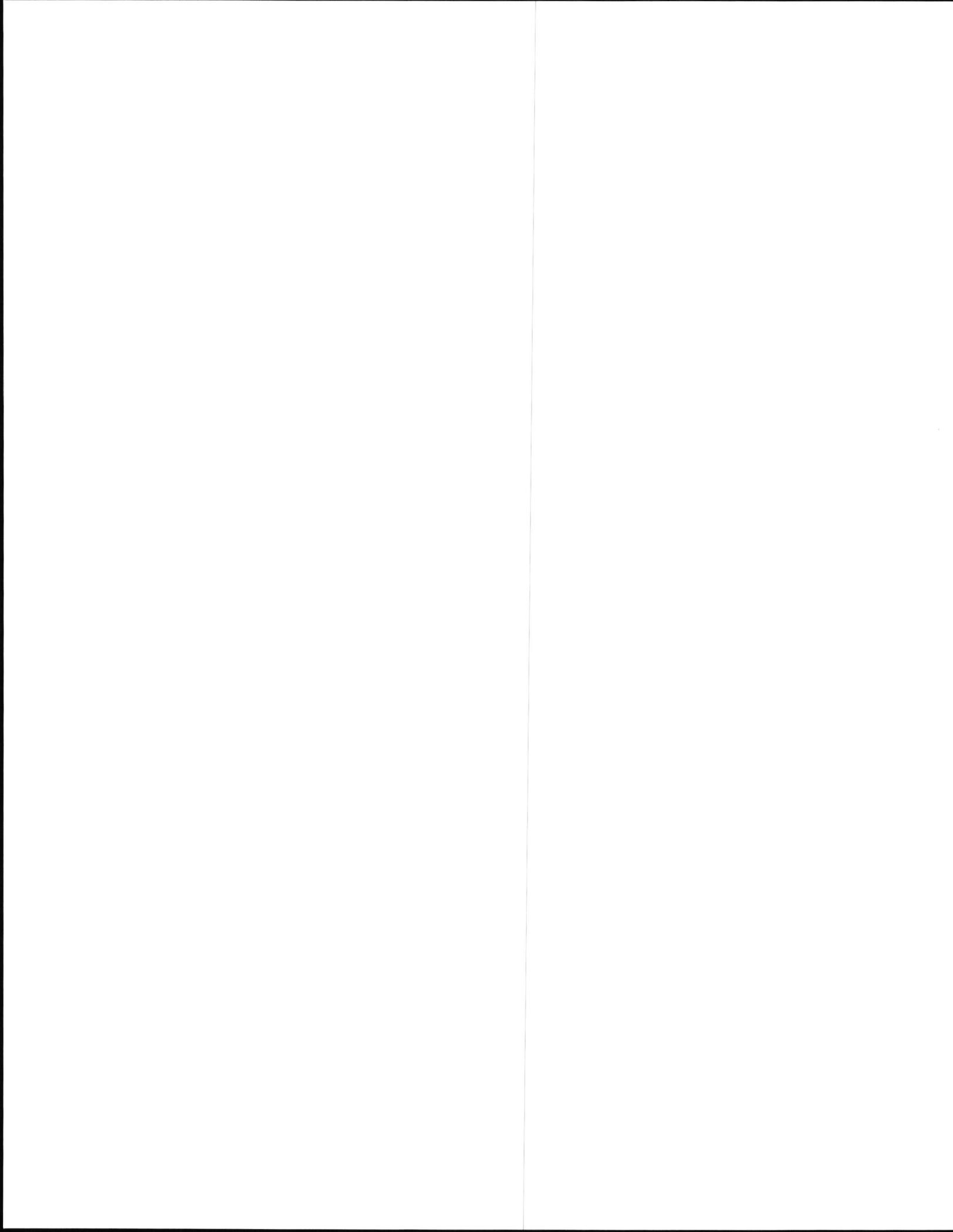
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regarding compliance, the matter must first be certified to this Office’s General Counsel for enforcement.”); *Willie Porter v. D.C. Dep’t of Behav. Health*, OEA Matter No. 1601-0046-12C16, *Opinion and Order on Compliance* (December 3, 2019) at 14 (“If an [AJ] has determined that an agency adhered with an order on compliance, then the procedural remedies are exhausted because the terms of the AJ’s order have been satisfied.”).

The procedural history of this case and the manner in which the AJ considered the issue regarding the position to which Petitioner should be reinstated demonstrate that the ADC was, in part, a decision that should properly have been designated as a modified or supplemental Initial Decision—and thus been subject to appeal to the OEA Board. In this case, Petitioner appealed her termination to the OEA and prevailed in the IDR, with the AJ issuing a decision that awarded her reinstatement to her position with back-pay and benefits. The IDR did not, however, address the question as to *which* position Petitioner should be reinstated to as a result of the AJ’s ruling. The AJ did not address this question—central to the resolution of Petitioner’s claim—until she issued the ADC. *See* R. 207-09. In the ADC, the AJ acknowledged that the IDR was, at best, ambiguous as to the nature of the position to which Petitioner was being restored. R. 206. Indeed, to the extent the IDR spoke to this issue, it twice referred to Petitioner as having a career *permanent* civil service position. R. 153-54. As noted *supra*, the ADC admitted “the error in the IDR . . . might have been confusing.” R. 206.

In reaching this aspect of her decision, the AJ undertook a process similar to that involved in reaching an Initial Decision⁶: requiring the parties to submit briefs addressing the unresolved factual and legal question, i.e., “the issue of whether [Petitioner] had reversion rights

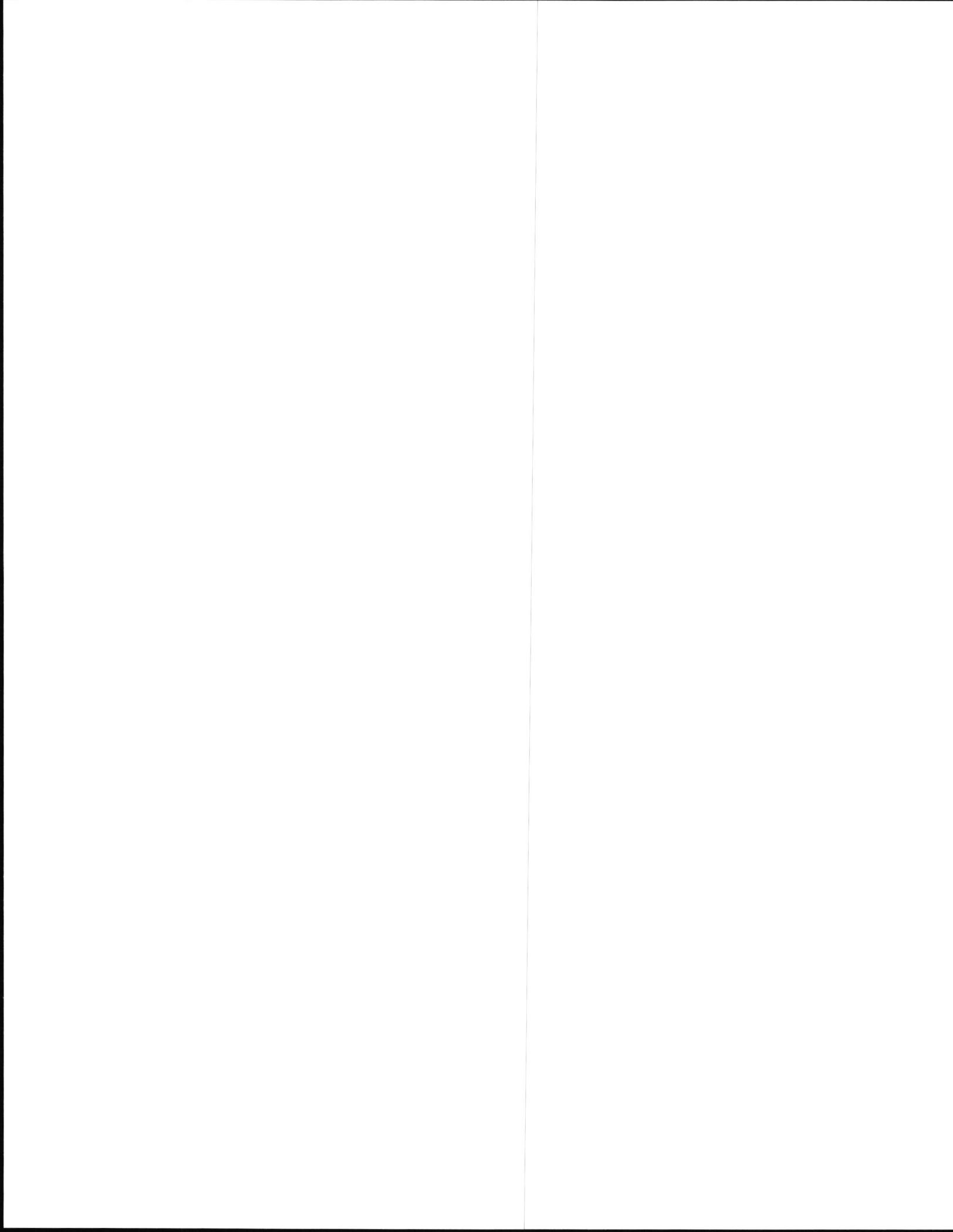
⁶ Indeed, OEA appeared to treat the ADC as an Initial Decision in some formal respects. OEA attached a “Notice of Appeals Rights” to the ADC describing the ruling as an Initial Decision (“This is an Initial Decision . . .”) and explaining the means by which such a decision could be appealed. R. 210. Moreover, the Certificate of Service appended to the ADC again referred to it as the “attached INITIAL DECISION.” R. 211.



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back to her prior career service permanent position that she held in a different District agency prior to accepting the career service term position with Agency.” R. 202. After considering those briefs, the AJ made factual findings and reached legal conclusions as to the issue, finding that Petitioner “did not retain her career service permanent appointment status when she accepted the Term position with Agency” and that Petitioner “did not have any reversion/retreat rights to her previous career service permanent status upon her acceptance of the career service term position with Agency.” R. 208. These conclusions modified, or at least clarified, the conclusions previously reached in the IDR. In the end, the IDR—which should have addressed “all the material issues of fact and law,” 6-B DCMR § 634.2(a)—was essentially not completed until the AJ made these additional findings in the ADC.

The OEA Board’s conclusions in the Second O&O thus appear to be beside the point. These conclusions combine to place Petitioner in a particularly unfair catch-22: according to the Second O&O, Petitioner is too late to appeal the IDR and the ADC is not appealable, thus shielding one of the most essential factual and legal findings of the AJ from any review. Of course, Petitioner had no reason to seek review of the IDR—the findings to which she objects were not made in that decision—and has attempted to obtain review of the ADC only to be told that, regardless of the nature of its findings, it is beyond review. Such a situation strikes the undersigned as unfair and impossible to uphold given the procedural history of this case and the manner in which the AJ made her decision. The findings made in the ADC regarding the position to which Petitioner was entitled to reinstatement represent a modification, clarification, or amendment of the IDR. Given that the ADC—and the aspect of it which the Court deems to be a supplemental or amended Initial Decision—was issued on February 17, 2021 and that



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Petitioner timely sought review on March 23, 2021, the Court remands this matter to OEA for consideration of the merits of that review petition.

For the foregoing reasons, it is this 8th day of September, 2022 hereby

ORDERED that Petitioner's Petition for Review is GRANTED; and it is

FURTHER ORDERED that the Office of Employee Appeals' Second Opinion and Order on Petition for Review, issued June 17, 2021, is VACATED; and it is

FURTHER ORDERED that the case is REMANDED to the District of Columbia Office of Employee Appeals for further proceedings consistent with this decision; and it is

FURTHER ORDERED that the Status Hearing scheduled for September 9, 2022 is VACATED.



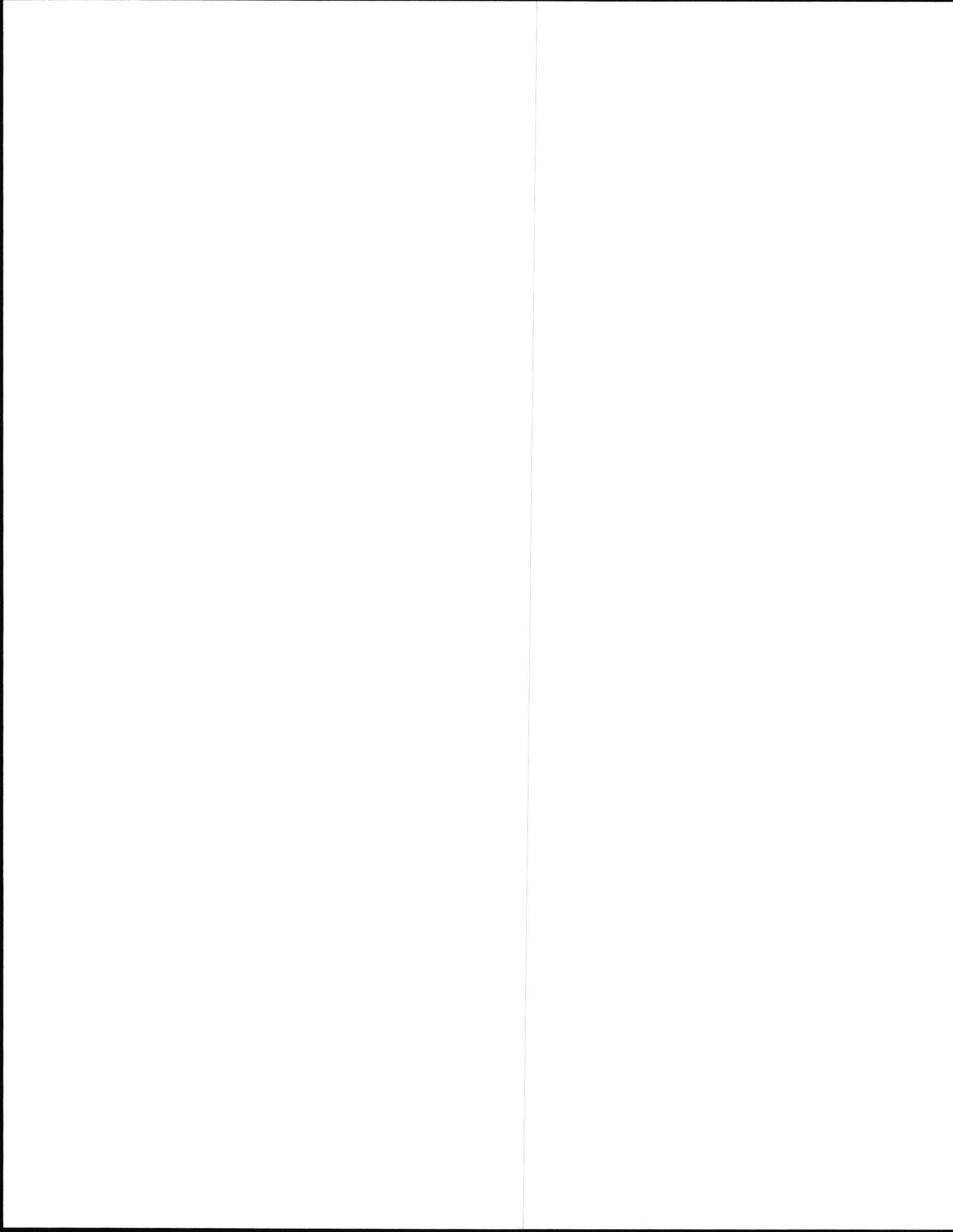
Todd E. Edelman
Associate Judge
(Signed in Chambers)

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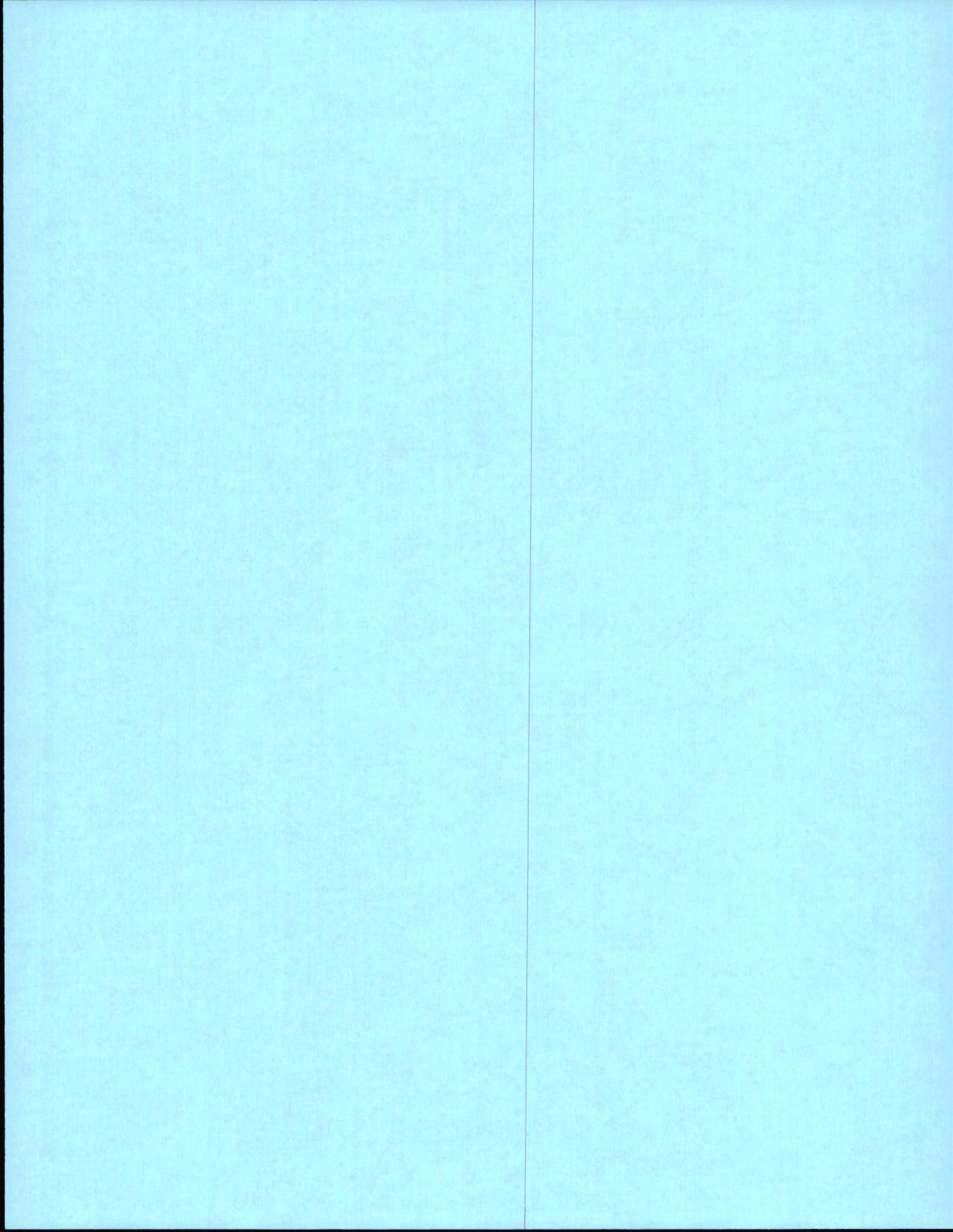
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ATTACHMENT #15



**District of Columbia
Court of Appeals**

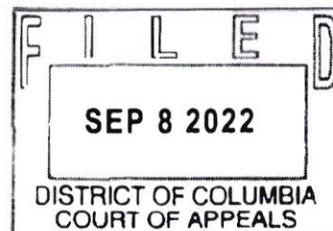
No. 19-CV-1223

ABRAHAM EVANS,

Appellant,

v.

CAP4909-18



DISTRICT OF COLUMBIA
OFFICE OF EMPLOYEE APPEALS, *et al.*,
Appellees.

BEFORE: Easterly and Deahl, Associate Judges, and Long, Senior Judge of the
Superior Court of the District of Columbia.*

ORDER

On consideration of appellee's petition for rehearing, appellant's response to appellee's petition for rehearing, appellee's motion for leave to file the lodged reply in support of its petition, and appellant's opposition thereto, it is

ORDERED that appellee's motion for leave to file the lodged reply in support of its petition is granted, and the Clerk shall file appellee's reply in support of its petition. It is

FURTHER ORDERED that appellee's petition for rehearing is denied.

PER CURIAM

*Sitting by designation pursuant to D.C. Code § 11-707 (a)(2012 Repl.)

No. 19-CV-1223

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Director, Civil Division

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Solicitor General – DC

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ATTACHMENT #16

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

DISTRICT OF COLUMBIA :
DEPARTMENT OF YOUTH :
REHABILITATION SERVICES : Case Number: 2022 CA 1505 P(MPA)
 :
v. : Judge: Shana Frost Matini
 :
DISTRICT OF COLUMBIA OFFICE OF :
EMPLOYEE APPEALS :

ORDER

This matter comes before the Court upon consideration of the District of Columbia Department of Youth Rehabilitation Services’ (“Agency” or “Petitioner”) Petition for Review of Agency Order, filed April 5, 2022. On May 17, 2022, the Office of Employee Appeals (“OEA”) filed the agency record (“Record”) with the Court.¹ On June 27, 2022, employee Samuel Murray filed a Notice of Intention to Intervene. Petitioner filed its opening Brief on August 29, 2022 (Pet’r’s Br.”) and Mr. Murray filed his Opposition (“Murray Opp.”) on October 11, 2022. OEA filed its Statement in Lieu of Brief on October 13, 2022 (“OEA Stmt.”), and the Agency filed its Reply on November 3, 2022. The Court has reviewed the filings and relevant law and for the reasons contained herein, the Court reverses OEA’s Addendum Decision on Compliance as to the interest on back pay.

Factual and Procedural Background

On July 30, 2010, Mr. Murray’s left shoulder was injured while working as a motor vehicle driver for the Agency. Pet’r’s Br. at 2. Mr. Murray was unable to work following the injury, and, with the exception of a brief return to work from November 5, 2012 through

¹ The Court notes that, while it received a hard copy of the Record to chambers, the Record still does not appear on the electronic docket.

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December 17, 2012, Mr. Murray's absence from work continued until his November 29, 2013 removal for an inability to perform his duties. *Id.*

On December 17, 2013, Mr. Murray filed an appeal with OEA challenging his removal. Pet'r's Br. at 2. After three appeals to the OEA Board and two remands, OEA ultimately found that Mr. Murray was entitled to a two-year grace period to return to his job following his work injury under D.C. Code § 1-623.45(b)(1). *Id.* Mr. Murray's return to work from November 5, 2012 to December 17, 2012 was found to have restarted the two-year clock, and thus OEA reversed Mr. Murray's removal pursuant to D.C. Code § 1-623.45(b)(1). *Id.* at 2-3. In its Second Initial Decision on Remand dated October 31, 2018, OEA found that Mr. Murray should be reimbursed with "all backpay and benefits lost as a result of his removal[.]" *Id.* at 3; R. at 569.

The Agency appealed the Second Initial Decision on Remand to the OEA Board; the Board affirmed its decision on October 23, 2019. Pet'r's Br. at 3. The Superior Court of the District of Columbia denied the Agency's Petition for Review on September 21, 2020 and the remedies became final on October 21, 2020. *Id.*; see *D.C. Dep't of Youth Rehab. Servs. v. D.C. Office of Emp. Appeals*, Case No. 2019 CA 007692 P(MPA) (D.C. Super. Ct. Sept. 21, 2020).

On February 10, 2021, Mr. Murray filed a Motion to Reopen, asserting that he had not yet received back pay or benefits from the Agency; OEA treated the motion as a motion for enforcement/compliance. Pet'r's Br. at 3; R. at 625-629. The parties engaged in six status conferences on the issue of compliance, during which the issue of interest was raised. Pet'r's Br. at 3-4. The Agency submitted a brief at the request of OEA to argue that an assessment of interest would be untimely because the Second Initial Decision on Remand and remedies had become final, and thus an award of interest would constitute an improper amendment of a final judgment. *Id.* at 4.

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On March 22, 2022, OEA issued the Addendum Decision finding no outstanding compliance issues by the Agency and ordering the Agency to pay four percent per annum simple interest on the back pay amount, from December 1, 2013 through March 31, 2021. *Id.* at 4. OEA found that Mr. Murray had “endured a long and procedurally complicated ordeal” such that “an assessment of interest on the back pay here is appropriate to provide [Mr. Murray] the full value of his benefits lost as a result of his unlawful termination.” R. at 871. On April 5, 2022, the Agency filed its Petition for Review to appeal the award of interest in the Addendum Decision.

Standard of Review

“An agency’s decision is presumed to be correct, so that the burden of demonstrating error is on the appellant or petitioner who challenges the decision.” *Union Market Neighbors v. D.C. Zoning Commission*, 204 A.3d 1267, 1270 (D.C. 2019) (quotations omitted). An agency’s legal conclusions “must be sustained unless they are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” *Smallwood v. D.C. Metro Police Dep’t*, 956 A.2d 705, 707 (D.C. 2008) (internal citations and quotations omitted). The Court will generally give weight to the “reasonable construction of a regulatory statute by the agency charged with its administration so long as it is not plainly wrong or inconsistent with the legislature’s intent.” *Jones v. D.C. Dep’t of Empl. Servs.*, 158 A.3d 906, 909 (D.C. 2017) (internal quotation marks and citations omitted). The Court will also “review mixed questions of law and fact under [the] usual deferential standard of review for factual findings . . . and apply *de novo* review to the ultimate legal conclusions based on those facts.” *Office of Tax & Revenue v. BAE Systems Enterprise Systems*, 56 A.3d 477, 480 (D.C. 2012).

Analysis

The Agency seeks review of OEA's award of back pay interest to Mr. Murray. Pet'r's Br. at 1. The Agency argues that OEA lacked jurisdiction to subsequently add interest to a final judgment, as the District of Columbia Circuit Court of Appeals found in *Winslow v. Federal Energy Regulatory Commission*, 587 F.3d 1133, 1135 (D.C. Cir. 2009) following the Supreme Court's holding in *Osterneck v. Ernst & Whinney*, 489 U.S. 169 (1989). Pet'r's Br. at 8-10. The Agency asserts that *Osterneck* and *Winslow* stand for the assertion that interest cannot be awarded to a final decision. Pet'r's Br. at 10. Additionally, the Agency argues that OEA cannot award interest on back pay because it exceeds its statutory authority. *Id.* at 11-14.

In his Opposition to the Petition for Review, Mr. Murray reiterates OEA's rationale in its Addendum on Compliance to assert that *Osterneck* is distinguishable from the instant matter, Murray Opp. at 2, and argues that the District of Columbia Court of Appeals has previously addressed the assessment of interest on back pay and has found, while not available in every case, interest was appropriate to compensate a claimant for the lost time-value of their recovery, particularly in lengthy and complicated proceedings. Murray Opp. at 2; *see D.C. Office of Human Rights v. D.C. Dep't of Corrections*, 40 A.3d 917 (D.C. 2012) ("*Office of Human Rights*") (finding that the agency had authority to award interest in an order awarding back pay). Mr. Murray argues that OEA indicated in its March 2, 2022 Order that the issue of whether OEA has the authority to address pre- or post-judgment interest under the CMPA is a matter of first impression. Murray Opp. at 3. Mr. Murray then makes an alternative argument that 5 U.S.C. § 5596(a)(5) provides for back pay due to unjustified personnel actions and is applicable to the District of Columbia government. *Id.* at 4.

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In the Reply, the Agency asserts that *Osterneck*'s holding applies broadly to post-judgment requests for interest, and likewise was applied by the District of Columbia Circuit Court of Appeals in *Winslow*. Reply at 2.

With respect to the jurisdictional issue, the Agency argues that under *Osterneck*, the OEA did not have the authority to order interest, as the Second Initial Decision on Remand was a final decision that was not timely amended. Pet'r's Br. at 8-10. Mr. Murray and OEA reiterate the rationale from the Addendum Decision on Compliance, wherein OEA found that *Osterneck* was distinguishable from the instant matter as it involved violations of federal securities and compensatory damages awarded by a jury, whereas Mr. Murray's matter involves an appropriate issuance of interest on back pay. R. at 870-871; Murray Opp. at 2-3; OEA Stmt. Ex. 1.

Pursuant to Title 6B of the District of Columbia Municipal Regulations, initial decisions issued for appeals under Section 604.1 for government employees become final thirty-five days after issuance unless a party files a petition for review. 6B DCMR § 635.1-635.3. If the Board grants a petition for review, the subsequent decision becomes the final decision. *Id.* § 635.5. For appeals under Section 604.1, the agency must comply within thirty days unless the decision is appealed to the Superior Court of the District of Columbia. *Id.* § 640.1. If the agency fails to comply within that time, the employee may file a motion to enforce the final decision. *Id.* § 640.3.

“After issuing the initial decision, the Hearing Examiner shall retain jurisdiction over the case *only* to the extent necessary to correct the record, rule on a motion for attorney fees, or process any petition for enforcement filed under the authority of the Office.” D.C. Code § 1-606.03(c) (emphasis added). If the OEA determines that the agency has not complied with an

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order within thirty days of service, OEA shall certify the matter to the General Counsel. *Id.* § 1-606.09.

In the instant matter, Mr. Murray filed his motion to enforce his award of back pay on February 10, 2021, arguing that the Agency failed to comply with the decision that reinstated Mr. Murray on December 20, 2020. The parties acknowledged at a subsequent status conference that the back pay was awarded with a check dated March 31, 2021, and therefore, the issue of enforcement of back pay became moot. R. at 870. OEA then addressed the question of interest on back pay, which had also been raised by Mr. Murray in his motion. *Id.* The Administrative Judge reasoned that, as in *Office of Human Rights*, there was no good reason to withhold an award of interest on Mr. Murray's back pay, as Mr. Murray had been wrongfully terminated over seven years prior to the issuance of the Addendum Order. *Id.* at 871. The Administrative Judge found that the "assessment of interest here considers the purpose of fully compensating [Mr. Murray] for the lost value of his recovery due to the significant passage of time." *Id.*

As stated, an administrative judge retains jurisdiction over a case "only to the extent necessary to correct the record, rule on a motion for attorney fees, or process any petition for enforcement filed under the authority of the Office." D.C. Code § 1-606.03(c). Here, the Administrative Judge's Second Initial Decision on Remand became a final order. While Mr. Murray properly sought enforcement of this order when the Agency had not yet given him his back pay after thirty days, that issue became moot with the payment of the March 31, 2021 check.

While the Administrative Judge may have found it appropriate here, given the lengthy litigation, to award Mr. Murray interest on the back pay, the Court finds that the Administrative

Q.31 REMAND REVS

Judge did not have the jurisdiction to do so.² Mr. Murray's request for an award of interest on the back pay award does not fall within the Administrative Judge's jurisdiction: to correct ministerial errors in the record, to rule on attorney fees, or to process a petition for enforcement. *See* D.C. Code § 1-606.03(c). Here, the Administrative Judge did process Mr. Murray's Motion to Reopen, treating it as a motion to enforce compliance with the order to award Mr. Murray back pay; however, the jurisdiction ended there, particularly when the issue of compliance became moot.

In *Osterneck*, the Supreme Court found that a post-judgment motion for discretionary prejudgment interest involved the type of reconsideration that falls within Federal Rule of Civil Procedure 59(e). *Osterneck*, 489 U.S. at 176. Similarly, the Court in *Winslow* found that a motion seeking discretionary or mandatory pre- and post-judgment interest constituted a motion to amend or alter a final judgment, such that Rule 59(e) applied and the moving party was required to file the motion within ten days of the final order. *Winslow*, 587 F.3d at 1135. The moving party in *Winslow* waited two and a half years to file his motion, and thus the Court affirmed the District Court's finding that the motion was untimely. *Id.*

Similarly, in the instant matter, the Administrative Judge's order became final in October of 2020, and Mr. Murray did not file his motion requesting, *inter alia*, that the Administrative Judge amend the final judgment to add interest on the back pay award, until February 10, 2021.

² In this regard, the authority relied upon by the Administrative Judge, *Office of Human Rights*, R. at 871, is inapplicable to the issue of jurisdiction. In *Office of Human Rights*, a case with a particularly tortured procedural history, the Superior Court remanded the matter back to OHR in June 1998 with the express direction "to reexamine the award of retroactive promotion and back pay under the correct legal standard, and charged OHR with making a factual determination on the amount of damages." *Office of Human Rights*, 40 A.3d at 921. During that remand, the employee requested interest on her back pay award, and that request was rejected in the OHR decision issued in June 2007, as OHR determined it did not have the legal authority to order interest on the back pay award. *Id.* at 921-22. On appeal, the Superior Court determined that OHR did in fact have the authority, where appropriate, to award such interest, and the Court of Appeals agreed. Thus, unlike in the instant case, the issue of interest was raised by the employee and considered as part of the Superior Court's remand to the agency, before the damages award was final, and thus while the agency still had jurisdiction to consider the issue.

Q.31 REMAND REVS

As the Administrative Judge's decision had become final and the request for interest on back pay falls outside the scope of the Administrative Judge's jurisdiction, *see* D.C. Code § 1-606.03(c), the Court reverses the award of interest.³

Conclusion

Accordingly, it is this 5th day of January 2023 hereby:

ORDERED that the District of Columbia Department of Youth Rehabilitation Services' Petition for Review of Agency Order is **GRANTED**; and it is further

ORDERED that the portion of the Office of Employee Appeals' Addendum Decision on Compliance that awards prejudgment simple interest on the back pay amount owed to Mr. Murray is **REVERSED**.

SO ORDERED.



Judge Shana Frost Matini
Superior Court of the District of Columbia

Copies electronically served on counsel and parties of record

³ The Agency then argues that, even if OEA had jurisdiction to award interest on back pay ordered in the Second Initial Order on Remand, OEA lacked the statutory authority to award interest in the first place. Pet'r's Br. at 11. Because the Court finds that OEA did not have jurisdiction to amend a final order to award interest on Mr. Murray's back pay, the Court need not address the Agency's alternative argument.

ATTACHMENT #17

Q.43 FOIA FY21

Agency Name

Office of Employee Appeals (OEA)

**Annual Freedom of Information Act Report for Fiscal Year 2021
October 1, 2020 through September 30, 2021**

FOIA Officer Reporting Sheila G. Barfield

PROCESSING OF FOIA REQUESTS

- 1. Number of FOIA requests received during reporting period0.....
- 2. Number of FOIA requests pending on October 1, 2020.....0.....
- 3. Number of FOIA requests pending on September 30, 20210.....
- 4. The average number of days unfilled requests have been pending before each public body as of September 30, 2021
.....N/A.....

DISPOSITION OF FOIA REQUESTS

- 5. Number of requests granted, in whole.....N/A.....
- 6. Number of requests granted, in part, denied, in part.....N/A.....
- 7. Number of requests denied, in whole.....N/A.....
- 8. Number of requests withdrawn.....N/A.....
- 9. Number of requests referred or forwarded to other public bodies.....N/A.....
- 10. Other dispositionN/A.....

NUMBER OF REQUESTS THAT RELIED UPON EACH FOIA EXEMPTION

- 11. Exemption 1 - D.C. Official Code § 2-534(a)(1).....N/A.....
- 12. Exemption 2 - D.C. Official Code § 2-534(a)(2).....N/A.....
- 13. Exemption 3 - D.C. Official Code § 2-534(a)(3)
 - Subcategory (A) N/A.....
 - Subcategory (B) N/A.....
 - Subcategory (C) N/A.....
 - Subcategory (D) N/A.....
 - Subcategory (E) N/A.....
 - Subcategory (F) N/A.....
- 14. Exemption 4 - D.C. Official Code § 2-534(a)(4) N/A.....
- 15. Exemption 5 - D.C. Official Code § 2-534(a)(5) N/A.....

Q.43 FOIA FY21

- 16. Exemption 6 - D.C. Official Code § 2-534(a)(6)
 - Subcategory (A) N/A.....
 - Subcategory (B) N/A.....
- 17. Exemption 7 - D.C. Official Code § 2-534(a)(7).....N/A.....
- 18. Exemption 8 - D.C. Official Code § 2-534(a)(8).....N/A.....
- 19. Exemption 9 - D.C. Official Code § 2-534(a)(9).....N/A.....
- 20. Exemption 10 - D.C. Official Code § 2-534(a)(10).....N/A.....
- 21. Exemption 11 - D.C. Official Code § 2-534(a)(11).....N/A.....
- 22. Exemption 12 - D.C. Official Code § 2-534(a)(12).....N/A.....

TIME-FRAMES FOR PROCESSING FOIA REQUESTS

- 23. Number of FOIA requests processed within 15 days.....N/A.....
- 24. Number of FOIA requests processed between 16 and 25 days.....N/A.....
- 25. Number of FOIA requests processed in 26 days or more.....N/A.....
- 26. Median number of days to process FOIA Requests.....N/A.....

RESOURCES ALLOCATED TO PROCESSING FOIA REQUESTS

- 27. Number of staff hours devoted to processing FOIA requests.....N/A.....
- 28. Total dollar amount expended by public body for processing FOIA requests...N/A.....

FEEES FOR PROCESSING FOIA REQUESTS

- 29. Total amount of fees collected by public body.....N/A.....

PROSECUTIONS PURSUANT TO SECTION 207(d) OF THE D.C. FOIA

- 30. Number of employees found guilty of a misdemeanor for arbitrarily or capriciously violating any provision of the District of Columbia Freedom of Information Act
.....N/A.....

QUALITATIVE DESCRIPTION OR SUMMARY STATEMENT

Pursuant to section 208(a)(9) of the D.C. FOIA, provide in the space below or as an attachment, “[a] qualitative description or summary statement, and conclusions drawn from the data regarding compliance [with the provisions of the Act].”

No FOIA requests were submitted to OEA during Fiscal Year 2021

ATTACHMENT #18

Q.44 FOIA FY22

Agency Name

Office of Employee Appeals (OEA)

**Annual Freedom of Information Act Report for Fiscal Year 2022
October 1, 2022 through September 30, 2022**

FOIA Officer Reporting Sheila G. Barfield, Executive Director

PROCESSING OF FOIA REQUESTS

- 1. Number of FOIA requests received during reporting period0.....
- 2. Number of FOIA requests pending on October 1, 2021.....0.....
- 3. Number of FOIA requests pending on September 30, 2022.....0.....
- 4. The average number of days unfilled requests have been pending before each public body as of September 30, 2022.....N/A.....

DISPOSITION OF FOIA REQUESTS

- 5. Number of requests granted, in whole.....N/A.....
- 6. Number of requests granted, in part, denied, in part.....N/A.....
- 7. Number of requests denied, in whole.....N/A.....
- 8. Number of requests withdrawn.....N/A.....
- 9. Number of requests referred or forwarded to other public bodies.....N/A.....
- 10. Other dispositionN/A.....

NUMBER OF REQUESTS THAT RELIED UPON EACH FOIA EXEMPTION

- 11. Exemption 1 - D.C. Official Code § 2-534(a)(1).....N/A.....
- 12. Exemption 2 - D.C. Official Code § 2-534(a)(2).....N/A.....
- 13. Exemption 3 - D.C. Official Code § 2-534(a)(3)
 - Subcategory(A).....
 - Subcategory (B).....N/A.....
 - Subcategory (C) N/A.....
 - Subcategory (D) N/A.....
 - Subcategory (E) N/A.....
 - Subcategory (F) N/A.....
- 14. Exemption 4 - D.C. Official Code § 2-534(a)(4) N/A.....
- 15. Exemption 5 - D.C. Official Code § 2-534(a)(5) N/A.....

Q.44 FOIA FY22

- 16. Exemption 6 - D.C. Official Code § 2-534(a)(6)
 - Subcategory (A).....N/A
 - Subcategory (B).....N/A
- 17. Exemption 7 - D.C. Official Code § 2-534(a)(7).....N/A
- 18. Exemption 8 - D.C. Official Code § 2-534(a)(8).....N/A
- 19. Exemption 9 - D.C. Official Code § 2-534(a)(9).....N/A
- 20. Exemption 10 - D.C. Official Code § 2-534(a)(10).....N/A
- 21. Exemption 11 - D.C. Official Code § 2-534(a)(11).....N/A
- 22. Exemption 12 - D.C. Official Code § 2-534(a)(12).....N/A

TIME-FRAMES FOR PROCESSING FOIA REQUESTS

- 23. Number of FOIA requests processed within 15 days.....0.....
- 24. Number of FOIA requests processed between 16 and 25 days.....0.....
- 25. Number of FOIA requests processed in 26 days or more.....0.....
- 26. Median number of days to process FOIA Requests.....N/A.....

RESOURCES ALLOCATED TO PROCESSING FOIA REQUESTS

- 27. Number of staff hours devoted to processing FOIA requests.....0.....
- 28. Total dollar amount expended by public body for processing FOIA requests.....0.....

FEEES FOR PROCESSING FOIA REQUESTS

- 29. Total amount of fees collected by public body...0.....

PROSECUTIONS PURSUANT TO SECTION 207(d) OF THE D.C. FOIA

- 30. Number of employees found guilty of a misdemeanor for arbitrarily or capriciously violating any provision of the District of Columbia Freedom of Information Act ...0.....

QUALITATIVE DESCRIPTION OR SUMMARY STATEMENT

Pursuant to section 208(a)(9) of the D.C. FOIA, provide in the space below or as an attachment, “[a] qualitative description or summary statement, and conclusions drawn from the data regarding compliance [with the provisions of the Act].”

OEA did not receive any FOIA requests in FY 2022.



OFFICE OF EMPLOYEE APPEALS
FY 2022 PERFORMANCE AND ACCOUNTABILITY REPORT
JANUARY 15, 2023

CONTENTS

| | |
|--|----------|
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| 6 2022 Key Performance Indicators and Workload Measures | 8 |

Q.4 PAR

1 OFFICE OF EMPLOYEE APPEALS

Mission: The Office of Employee Appeals (OEA) is an independent agency with a mission is to adjudicate employee appeals and rendering impartial decisions with sound legal reasoning in a timely manner.

Services: In accordance with DC Official Code 1-606.03, the Office of Employee Appeals adjudicates the several types of personnel actions. (a) An employee may appeal a final agency decision affecting a performance rating which results in removal of the employee (pursuant to subchapter XIII-A of this chapter), an adverse action for cause that results in removal, reduction in force (pursuant to subchapter XXIV of this chapter), reduction in grade, placement on enforced leave, or suspension for 10 days or more (pursuant to subchapter XVI-A of this chapter) to the Office upon the record and pursuant to other rules and regulations which the Office may issue.

Q.4 PAR

2 2022 ACCOMPLISHMENTS

| Accomplishment | Impact on Agency | Impact on Residents |
|--|--|--|
| Improved efficiency of agency operations | OEA has begun notifying agencies within two business days that an employee has filed a petition for appeal with OEA. By shortening the length of time within which agencies receive this notification, OEA has been able to gather all the necessary documents in a timelier manner thereby allowing an appeal to be assigned to an Administrative Judge more quickly. | This accomplishment had no effect on DC residents. |
| Legally sound decisions | OEA's Administrative Judges and Board continued to issue decisions which successfully withstood judicial scrutiny. This accomplishment reassures the public and legal community that OEA's decisions can be relied upon and cited as legal authority. | This accomplishment positively impacted the residents of DC by reassuring them that OEA's decisions can withstand judicial scrutiny. |

Q.4 PAR

3 2022 OBJECTIVES

| Strategic Objective | Number of Measures | Number of Operations |
|--|--------------------|----------------------|
| Render impartial, legally sound decisions in a timely manner. | 8 | 4 |
| Streamline the adjudication process. | 2 | 1 |
| Maintain a system to allow the public to have access to all decisions rendered by the OEA. | 2 | 1 |

Q.4 PAR

4 2022 OPERATIONS

| Operation Title | Operation Description | Type of Operation |
|---|---|-------------------|
| Render impartial, legally sound decisions in a timely manner. | | |
| Petitions for Appeal | Intake Coordinator reviews Petition for Appeal, determines the type of appeal and assigns to Administrative Judge. | Daily Service |
| Petitions for Review | Office of the General Counsel reviews Petitions for Review, drafts the Opinion and Order and meets with the Board to present the appeal and issue the decision. | Daily Service |
| Initial Decisions | Administrative Judges process Petitions for Appeal which culminate in the issuance of an Initial Decision. | Daily Service |
| Appeals and Adjudication | Operations that occur within the appeals and adjudication process | Daily Service |
| Streamline the adjudication process. | | |
| Mediation and Settlement | The goal of the mediation program is to help the parties, through the negotiation process, reach a settlement that is agreeable to both of them. | Key Project |
| Maintain a system to allow the public to have access to all decisions rendered by the OEA. | | |
| Website | Decisions are uploaded to the agency's website so that the public is able to view the decisions and research the decisions. | Daily Service |

Q.4 PAR

5 2022 STRATEGIC INITIATIVES

In FY 2022, Office of Employee Appeals had 0 Strategic Initiatives and completed NaN%.

| Title | Description | Completion Update to Date | Explanation for Incomplete Initiative |
|-------|-------------|---------------------------|---------------------------------------|
|-------|-------------|---------------------------|---------------------------------------|

Q.4 PAR

6 2022 KEY PERFORMANCE INDICATORS AND WORKLOAD MEASURES

Key Performance Indicators

| Measure | Directionality | FY 2020 | FY 2021 | FY 2022 Target | FY 2022 Q1 | FY 2022 Q2 | FY 2022 Q3 | FY 2022 Q4 | FY 2022 | Was 2022 KPI Met? | Explanation of Unmet KPI |
|--|----------------|-------------|---------------|----------------|----------------|----------------|----------------|----------------|---------|-------------------|---|
| Render impartial, legally sound decisions in a timely manner. | | | | | | | | | | | |
| Number of Opinions and Orders Issued | Up is Better | 18 | 18 | 18 | 4 | 2 | 6 | 1 | 13 | Unmet | There were thirteen petitions filed this fiscal year. The Board issued all of the decisions that were pending on its docket. The only reason that the Board did not reach its target is because there were not at least eighteen cases pending on the Board's docket this year. |
| Time Required to Complete Adjudications | Down is Better | New in 2022 | New in 2022 | 120 | Annual Measure | Annual Measure | Annual Measure | Annual Measure | 236 | - | |
| Time Required to Resolve Petitions for Review | Down is Better | 8 | 3 | 9 | Annual Measure | Annual Measure | Annual Measure | Annual Measure | 3 | Met | |
| Percent of OEA decisions upheld by D.C. Superior Court and the D.C. Court of Appeals | Up is Better | 97.3% | Not Available | 100% | Annual Measure | Annual Measure | Annual Measure | Annual Measure | 100% | Met | |

Q.4 PAR

Key Performance Indicators *(continued)*

| Measure | Directionality | FY 2020 | FY 2021 | FY 2022 Target | FY 2022 Q1 | FY 2022 Q2 | FY 2022 Q3 | FY 2022 Q4 | FY 2022 | Was 2022 KPI Met? | Explanation of Unmet KPI |
|---|----------------|-------------|---------------|----------------|-------------------|-----------------|-----------------|----------------|---------|-------------------|---|
| Number of Initial Decisions Issued | Up is Better | 98 | 70 | 100 | 10 | 37 | 20 | 23 | 90 | Unmet | During the second half of this fiscal year one of OEA's Administrative Judges resigned full-time employment with the agency and became a part-time judge for the remainder of the fiscal year. As a result, no more appeals were assigned to this judge during the second half of the fiscal year. Moreover, one of OEA's Senior Administrative Judges did not issue as many decisions as the other Senior Administrative Judges. For these reasons, OEA was not able to meet its target. |
| Percent of cases reversing agency decisions | Neutral | 13.8% | Not Available | - | Annual Measure | Annual Measure | Annual Measure | Annual Measure | 12.62% | - | |
| Percent of agency answers timely filed | Up is Better | New in 2022 | New in 2022 | 100% | No data available | Waiting on Data | Waiting on Data | 83.3% | 83.3% | - | |
| Percent of decisions published within the D.C. Register | Up is Better | New in 2022 | New in 2022 | 100% | 100% | 114.3% | Waiting on Data | 100% | 106.8% | - | |
| Streamline the adjudication process. | | | | | | | | | | | |
| Percent of appeals involved in mediation process | Neutral | 69.3% | Not Available | - | Waiting on Data | Waiting on Data | Waiting on Data | 71.4% | 71.4% | - | |
| Percent of appeals resolved through mediation | Neutral | 47.4% | Not Available | - | Waiting on Data | Waiting on Data | Waiting on Data | 14.3% | 14.3% | - | |
| Maintain a system to allow the public to have access to all decisions rendered by the OEA. | | | | | | | | | | | |
| Percent of Initial Decisions uploaded to website | Neutral | 100% | Not Available | - | 100% | 100% | 100% | 100% | 100% | - | |

Q.4 PAR

| | | | | | | | | | | |
|---|---------|------|------------------|---|------|------|------|------|------|---|
| Percent of Opinions and Orders uploaded to website | Neutral | 100% | Not Available | - | 100% | 100% | 100% | 100% | 100% | - |
|---|---------|------|------------------|---|------|------|------|------|------|---|

Q.4 PAR

Workload Measures

| Measure | FY 2020 | FY 2021 | FY 2022 Q1 | FY 2022 Q2 | FY 2022 Q3 | FY 2022 Q4 | FY 2022 |
|--|-------------|-------------|-------------------|------------|-----------------|------------|---------|
| Appeals and Adjudication | | | | | | | |
| Number of evidentiary hearings conducted | New in 2022 | New in 2022 | 4 | 1 | 4 | 3 | 12 |
| Number of Board meetings conducted | New in 2022 | New in 2022 | 2 | 1 | 1 | 1 | 4 |
| Number of safety-sensitive designation appeals filed | New in 2022 | New in 2022 | 0 | 0 | 0 | 0 | 0 |
| Mediation and Settlement | | | | | | | |
| Number of attorney fee appeals mediated | 0 | 0 | 0 | 0 | Waiting on Data | 0 | 0 |
| Number of mediations declined by the agency | New in 2022 | New in 2022 | No data available | 4 | Waiting on Data | 4 | 8 |
| Number of mediations declined by the employee | New in 2022 | New in 2022 | No data available | 0 | Waiting on Data | 0 | 0 |

Q.5 Perf Plan

Office of Employee Appeals FY2023

Agency Office of Employee Appeals

Agency Code CHO

Fiscal Year 2023

Mission The Office of Employee Appeals (OEA) is an independent agency with a mission is to adjudicate employee appeals and rendering impartial decisions with sound legal reasoning in a timely manner.

Strategic Objectives

| Objective Number | Strategic Objective |
|------------------|--|
| 1 | Render impartial, legally sound decisions in a timely manner. |
| 2 | Streamline the adjudication process. |
| 3 | Maintain a system to allow the public to have access to all decisions rendered by the OEA. |

Key Performance Indicators (KPIs)

| Measure | Directionality | FY 2020 Actual | FY 2021 Actual | FY 2022 Target | FY2022 Actual | FY 2023 Target |
|---|----------------|----------------|----------------|----------------|---------------|----------------|
| 1 - Render impartial, legally sound decisions in a timely manner. (8 Measure records) | | | | | | |
| Number of Opinions and Orders Issued | Up is Better | 18 | 18 | 18 | 13 | 18 |
| Time Required to Resolve Petitions for Review | Down is Better | 8 | 3 | 9 | 71 | 9 |
| Percent of OEA decisions upheld by D.C. Superior Court and the D.C. Court of Appeals | Up is Better | 97.3% | 100% | 100% | 100% | 100% |
| Number of Initial Decisions Issued | Up is Better | 98 | 70 | 100 | 90 | 100 |
| Percent of cases reversing agency decisions | Neutral | 13.8% | 18.2% | No Target Set | 12.6% | 30% |
| Percent of agency answers timely filed | Up is Better | New in 2022 | New in 2022 | New in 2022 | New in 2022 | 100% |
| Percent of decisions published within the D.C. Register | Up is Better | New in 2022 | New in 2022 | New in 2022 | New in 2022 | 100% |
| Time Required to Complete Adjudications | Down is Better | New in 2022 | New in 2022 | New in 2022 | New in 2022 | 120 |
| 2 - Streamline the adjudication process. (2 Measure records) | | | | | | |
| Percent of appeals involved in mediation process | Neutral | 69.3% | 87.2% | No Target Set | 71.4% | 18% |
| Percent of appeals resolved through mediation | Neutral | 47.4% | 4.9% | No Target Set | 14.3% | 9% |
| 3 - Maintain a system to allow the public to have access to all decisions rendered by the OEA. (2 Measure records) | | | | | | |
| Percent of Initial Decisions uploaded to website | Neutral | 100% | 100% | 100% | 100% | 100% |
| Percent of Opinions and Orders uploaded to website | Neutral | 100% | 100% | 100% | 100% | 100% |

Operations

| Operations Title | Operations Description | Type of Operations |
|---|---|--------------------|
| 1 - Render impartial, legally sound decisions in a timely manner. (4 Activity records) | | |
| Petitions for Appeal | Intake Coordinator reviews Petition for Appeal, determines the type of appeal and assigns to Administrative Judge. | Daily Service |
| Petitions for Review | Office of the General Counsel reviews Petitions for Review, drafts the Opinion and Order and meets with the Board to present the appeal and issue the decision. | Daily Service |
| Initial Decisions | Administrative Judges process Petitions for Appeal which culminate in the issuance of an Initial Decision. | Daily Service |
| Appeals and Adjudication | Operations that occur within the appeals and adjudication process | Daily Service |
| 2 - Streamline the adjudication process. (1 Activity) | | |
| Mediation and Settlement | The goal of the mediation program is to help the parties, through the negotiation process, reach a settlement that is agreeable to both of them. | Key Project |

Q.5 Perf Plan

| Operations Title | Operations Description | Type of Operations |
|--|---|--------------------|
| 3 - Maintain a system to allow the public to have access to all decisions rendered by the OEA. (1 Activity) | | |
| Website | Decisions are uploaded to the agency's website so that the public is able to view the decisions and research the decisions. | Daily Service |

Workload Measures (WMs)

| Measure | FY 2020 Actual | FY 2021 Actual | FY2022 Actual |
|---|----------------|----------------|---------------|
| 1 - Appeals and Adjudication (3 Measure records) | | | |
| Number of evidentiary hearings conducted | Not Available | Not Available | 12 |
| Number of Board meetings conducted | Not Available | Not Available | 4 |
| Number of safety-sensitive designation appeals filed | Not Available | Not Available | 0 |
| 2 - Mediation and Settlement (3 Measure records) | | | |
| Number of mediations declined by the agency | Not Available | Not Available | 8 |
| Number of mediations declined by the employee | Not Available | Not Available | 0 |
| Number of attorney fee appeals mediated | 0 | 0 | 0 |

Q.7 Budget (1 of 3)

CH0 - Office of Employee Appeals (FY 2023 -Budget ALL LOCAL FUNDS)

| Program | Program (Parent Level 1) Description | Cost Center | Cost Center (Parent Level 1) Description | Sum of Initial Budget | Sum of Revised Budget | Sum of Expenditure | Sum of Available Budget |
|---------------|--------------------------------------|-------------|--|-----------------------|-----------------------|---------------------|-------------------------|
| 100022 | CONTRACTING AND PROCUREMENT | 50280 | EXECUTIVE DIRECTOR'S OFFICE | \$116,631.73 | \$116,631.73 | \$26,404.40 | \$82,741.55 |
| 100028 | CUSTOMER SERVICE | 50280 | EXECUTIVE DIRECTOR'S OFFICE | \$61,448.64 | \$61,448.64 | \$18,071.34 | \$43,377.30 |
| 100151 | EXECUTIVE ADMINISTRATION | 50281 | EXECUTIVE DIRECTOR'S OFFICE | \$684,341.86 | \$684,341.86 | \$147,488.59 | \$536,853.27 |
| 100154 | PERFORMANCE AND STRATEGIC MANAGEMENT | 50280 | EXECUTIVE DIRECTOR'S OFFICE | \$276,728.05 | \$276,728.05 | \$87,056.61 | \$189,671.44 |
| 100071 | INFORMATION TECHNOLOGY SERVICES | 50280 | EXECUTIVE DIRECTOR'S OFFICE | \$68,602.95 | \$68,602.95 | \$20,150.18 | \$48,452.77 |
| 500198 | ADJUDICATION PROCESS | 50281 | EXECUTIVE DIRECTOR'S OFFICE | \$1,012,674.19 | \$1,012,674.19 | \$207,012.81 | \$805,661.38 |
| 500200 | MEDIATION | 50281 | EXECUTIVE DIRECTOR'S OFFICE | \$89,283.36 | \$89,283.36 | \$18,870.04 | \$70,413.32 |
| 500199 | APPEALS | 50281 | EXECUTIVE DIRECTOR'S OFFICE | \$1,000.00 | \$1,000.00 | \$360.00 | \$640.00 |
| Totals | | | | \$2,310,710.78 | \$2,310,710.78 | \$525,413.97 | \$1,777,811.03 |

Q.7 Budget (2 of 3)

CH0 - Office of Employee Appeals (FY 2022 - Budget By Ac

| Object Category | CSG |
|---|-----------------------------|
| 1010 - PERSONNEL | |
| 1015 - TRAINING & EMPLOYEE DEVELOPMENT | |
| 1020 - CONTRACTING & PROCUREMENT | |
| NON-PERSONNEL SERVICES | 0020-NON-PERSONNEL SERVICES |
| | 0040-NON-PERSONNEL SERVICES |
| | 0041-NON-PERSONNEL SERVICES |
| NON-PERSONNEL SERVICES | |
| 1020 - CONTRACTING & PROCUREMENT | |
| 1030 - PROPERTY MANAGEMENT | |
| 1040 - INFORMATION TECHNOLOGY | |
| PERSONNEL SERVICES | 0011-PERSONNEL SERVICES |
| | 0013-PERSONNEL SERVICES |
| | 0014-PERSONNEL SERVICES |
| PERSONNEL SERVICES | |
| 1040 - INFORMATION TECHNOLOGY | |
| 1085 - CUSTOMER SERVICE | |
| PERSONNEL SERVICES | 0011-PERSONNEL SERVICES |
| | 0013-PERSONNEL SERVICES |
| | 0014-PERSONNEL SERVICES |
| PERSONNEL SERVICES | |
| 1085 - CUSTOMER SERVICE | |
| 1090 - PERFORMANCE MANAGEMENT | |
| PERSONNEL SERVICES | 0011-PERSONNEL SERVICES |
| | 0012-PERSONNEL SERVICES |
| | 0013-PERSONNEL SERVICES |
| | 0014-PERSONNEL SERVICES |
| PERSONNEL SERVICES | |
| 1090 - PERFORMANCE MANAGEMENT | |
| 1100 - OFFICE OF EMPLOYEE APPEALS | |
| PERSONNEL SERVICES | 0011-PERSONNEL SERVICES |
| | 0013-PERSONNEL SERVICES |
| | 0014-PERSONNEL SERVICES |
| PERSONNEL SERVICES | |
| 1100 - OFFICE OF EMPLOYEE APPEALS | |
| 2001 - ADJUDICATION PROCESS | |
| PERSONNEL SERVICES | 0011-PERSONNEL SERVICES |
| | 0012-PERSONNEL SERVICES |

Q.7 Budget (2 of 3)

| | |
|---|-----------------------------|
| | 0013-PERSONNEL SERVICES |
| | 0014-PERSONNEL SERVICES |
| PERSONNEL SERVICES | |
| 2001 - ADJUDICATION PROCESS | |
| 2002 - APPEALS | |
| | 0031-NON-PERSONNEL SERVICES |
| | 0070-NON-PERSONNEL SERVICES |
| NON-PERSONNEL SERVICES | |
| 2002 - APPEALS | |
| 2003 - MEDIATION | |
| PERSONNEL SERVICES | 0012-PERSONNEL SERVICES |
| | 0013-PERSONNEL SERVICES |
| | 0014-PERSONNEL SERVICES |
| PERSONNEL SERVICES | |
| 2003 - MEDIATION | |
| OFFICE OF EMPLOYEE APPEALS - TOTAL | |

Q.7 Budget (2 of 3)

activity) ALL LOCAL FUNDS

| Comptroller Source Group Title | Approved Budget |
|--------------------------------|-----------------|
|--------------------------------|-----------------|

| | |
|------------------------------|-----------------|
| SUPPLIES AND MATERIALS | \$6,500 |
| OTHER SERVICES AND CHARGES | \$55,038 |
| CONTRACTUAL SERVICES - OTHER | \$30,000 |
| | \$91,538 |
| | \$91,538 |

| | |
|------------------------------|-----------------|
| REGULAR PAY - CONT FULL TIME | \$54,323 |
| ADDITIONAL GROSS PAY | |
| FRINGE BENEFITS | \$11,354 |
| | \$65,677 |
| | \$65,677 |

| | |
|------------------------------|-----------------|
| REGULAR PAY - CONT FULL TIME | \$50,120 |
| ADDITIONAL GROSS PAY | |
| FRINGE BENEFITS | \$10,475 |
| | \$60,595 |
| | \$60,595 |

| | |
|------------------------------|------------------|
| REGULAR PAY - CONT FULL TIME | \$187,095 |
| REGULAR PAY - OTHER | \$38,141 |
| ADDITIONAL GROSS PAY | |
| FRINGE BENEFITS | \$47,074 |
| | \$272,311 |
| | \$272,311 |

| | |
|------------------------------|------------------|
| REGULAR PAY - CONT FULL TIME | \$602,487 |
| ADDITIONAL GROSS PAY | |
| FRINGE BENEFITS | \$125,920 |
| | \$728,406 |
| | \$728,406 |

| | |
|------------------------------|-----------|
| REGULAR PAY - CONT FULL TIME | \$751,090 |
| REGULAR PAY - OTHER | \$35,231 |

Q.7 Budget (2 of 3)

| | |
|-----------------------------|------------------|
| ADDITIONAL GROSS PAY | |
| FRINGE BENEFITS | \$162,558 |
| | \$948,880 |
| | \$948,880 |

| | |
|---|-----------------|
| TELECOMMUNICATIONS | |
| EQUIPMENT & EQUIPMENT RENTAL | \$26,093 |
| | \$26,093 |
| | \$26,093 |

| | |
|-----------------------------|-----------------|
| REGULAR PAY - OTHER | \$35,231 |
| ADDITIONAL GROSS PAY | |
| FRINGE BENEFITS | \$5,581 |
| | \$40,811 |
| | \$40,811 |

| | |
|--|--------------------|
| | \$2,234,311 |
|--|--------------------|

Q.7 Budget (2 of 3)

| Revised Budget | Expenditures | Funds Remaining |
|------------------|------------------|-------------------|
| | | |
| | | |
| \$6,500 | \$4,430 | \$2,070 |
| \$55,038 | \$36,146 | \$18,893 |
| \$30,000 | \$30,000 | \$0 |
| \$91,538 | \$70,576 | \$20,963 |
| \$91,538 | \$70,576 | \$20,963 |
| | | |
| | | |
| \$54,323 | \$62,487 | (\$8,164) |
| \$2,028 | \$2,258 | (\$231) |
| \$11,354 | \$20,670 | (\$9,317) |
| \$67,704 | \$85,416 | (\$17,712) |
| \$67,704 | \$85,416 | (\$17,712) |
| | | |
| | | |
| \$50,120 | \$52,111 | (\$1,991) |
| \$1,816 | \$1,816 | \$0 |
| \$10,475 | \$19,314 | (\$8,839) |
| \$62,411 | \$73,241 | (\$10,830) |
| \$62,411 | \$73,241 | (\$10,830) |
| | | |
| | | |
| \$247,095 | \$281,887 | (\$34,792) |
| \$38,141 | \$0 | \$38,141 |
| \$9,709 | \$9,709 | \$0 |
| \$47,074 | \$52,869 | (\$5,794) |
| \$342,020 | \$344,465 | (\$2,445) |
| \$342,020 | \$344,465 | (\$2,445) |
| | | |
| | | |
| \$602,487 | \$526,263 | \$76,224 |
| \$21,971 | \$41,191 | (\$19,221) |
| \$125,920 | \$114,772 | \$11,147 |
| \$750,377 | \$682,227 | \$68,150 |
| \$750,377 | \$682,227 | \$68,150 |
| | | |
| | | |
| \$751,090 | \$726,505 | \$24,585 |
| \$60,886 | \$109,338 | (\$48,451) |

Q.7 Budget (2 of 3)

| | | |
|--------------------|--------------------|-------------------|
| \$30,175 | \$50,618 | (\$20,443) |
| \$162,558 | \$134,207 | \$28,352 |
| \$1,004,710 | \$1,020,668 | (\$15,957) |
| \$1,004,710 | \$1,020,668 | (\$15,957) |
| \$0 | \$2,096 | (\$2,096) |
| \$26,093 | \$24,685 | \$1,408 |
| \$26,093 | \$26,781 | (\$688) |
| \$26,093 | \$26,781 | (\$688) |
| \$35,231 | \$69,612 | (\$34,381) |
| \$2,419 | \$2,419 | \$0 |
| \$5,581 | \$5,454 | \$127 |
| \$43,230 | \$77,484 | (\$34,254) |
| \$43,230 | \$77,484 | (\$34,254) |
| \$2,388,084 | \$2,380,858 | \$7,227 |

Q.7 Budget (2 of 3)

Variance Explanation

Agency spent less on services and supplies to offset PS challenges

Salary increases and one-time payments

Salary increases and one-time payments

Salary increases and one-time payments

FTE realignment

Q.7 Budget (2 of 3)

Salary increases and one-time payments

Unbudgeted telecom expenses

Salary increases and one-time payments

Q.7 Budget (3 of 3)

CH0 - Office of Employee Appeals (FY2022 Budget by Program)

| Object Category | CSG | Comptroller Source Group |
|--|-----------------------------|---------------------------------|
| 1000 - AGENCY MANAGEMENT | | |
| 0100 LOCAL FUND | | |
| PERSONNEL SERVICES | 0011-PERSONNEL SERVICES | REGULAR PAY - CONT FULL TIME |
| | 0012-PERSONNEL SERVICES | REGULAR PAY - OTHER |
| | 0013-PERSONNEL SERVICES | ADDITIONAL GROSS PAY |
| | 0014-PERSONNEL SERVICES | FRINGE BENEFITS |
| PERSONNEL SERVICES | | |
| NON-PERSONNEL SERVICES | 0020-NON-PERSONNEL SERVICES | SUPPLIES AND MATERIALS |
| | 0040-NON-PERSONNEL SERVICES | OTHER SERVICES AND CHARGES |
| | 0041-NON-PERSONNEL SERVICES | CONTRACTUAL SERVICES - OTHER |
| NON-PERSONNEL SERVICES | | |
| 1000 - AGENCY MANAGEMENT PROGRAM | | |
| 1000 - OFFICE OF EMPLOYEE APPEALS | | |
| 2000 - ADJUDICATION | | |
| 0100 LOCAL FUND | | |
| PERSONNEL SERVICES | 0011-PERSONNEL SERVICES | REGULAR PAY - CONT FULL TIME |
| | 0012-PERSONNEL SERVICES | REGULAR PAY - OTHER |
| | 0013-PERSONNEL SERVICES | ADDITIONAL GROSS PAY |
| | 0014-PERSONNEL SERVICES | FRINGE BENEFITS |
| PERSONNEL SERVICES | | |
| | 0031-NON-PERSONNEL SERVICES | TELECOMMUNICATIONS |
| | 0070-NON-PERSONNEL SERVICES | EQUIPMENT & EQUIPMENT RENTAL |
| NON-PERSONNEL SERVICES | | |
| 2000 - ADJUDICATION | | |
| OFFICE OF EMPLOYEE APPEALS TOTAL | | |

Q.7 Budget (3 of 3)

| Approved Budget | Revised Budget | Expenditures | Funds Remaining |
|------------------------|-----------------------|---------------------|------------------------|
| | | | |
| \$894,025 | \$954,025 | \$922,748 | \$31,277 |
| \$38,141 | \$38,141 | \$0 | \$38,141 |
| | \$35,523 | \$54,975 | (\$19,451) |
| \$194,823 | \$194,823 | \$207,625 | (\$12,803) |
| \$1,126,989 | \$1,222,512 | \$1,185,348 | \$37,164 |
| \$6,500 | \$6,500 | \$4,430 | \$2,070 |
| \$55,038 | \$55,038 | \$36,146 | \$18,893 |
| \$30,000 | \$30,000 | \$30,000 | \$0 |
| \$91,538 | \$91,538 | \$70,576 | \$20,963 |
| \$1,218,527 | \$1,314,051 | \$1,255,924 | \$58,126 |
| | | | |
| | | | |
| \$751,090 | \$751,090 | \$726,505 | \$24,585 |
| \$70,462 | \$96,117 | \$178,949 | (\$82,832) |
| | \$32,594 | \$53,037 | (\$20,443) |
| \$168,139 | \$168,139 | \$139,661 | \$28,478 |
| \$989,691 | \$1,047,941 | \$1,098,152 | (\$50,211) |
| | \$0 | \$2,096 | (\$2,096) |
| \$26,093 | \$26,093 | \$24,685 | \$1,408 |
| \$26,093 | \$26,093 | \$26,781 | (\$688) |
| \$1,015,784 | \$1,074,034 | \$1,124,933 | (\$50,900) |
| | | | |
| \$2,234,311 | \$2,388,084 | \$2,380,858 | \$7,227 |

Q.7 Budget (3 of 3)

Variance

Vacancy and NPS savings offset by salary increases and one-time payments

PS underfunding including salary increases and one-time payments

Q.9 MOU (OEA)

OEA INTERAGENCY MOUS, FY2022 AND FY2023, INCLUDING ANTICIPATED MOUS (Q9)

| Buyer agency name | Seller agency name | Seller Program name | Seller Program code | Buyer Activity name | Buyer Activity code | Original funding source (i.e. local, federal, SPR) | Service period (dates) | Description of MOU services, including name of project or initiative | Total MOU amount (\$), including any modifications | (Final) Date of signature on letter of intent | Date that funds were transferred to the buyer agency |
|-------------------|--------------------|---------------------|---------------------|---------------------------|---------------------|--|-------------------------|--|--|---|--|
| OEA | OCTO | | | CONTRACTING & PROCUREMENT | 11020 | Local | 10/01/2021 - 09/30/2022 | OEA Case Management System | 19,472.00 | | *** |
| | | | | | | | | | | | |
| | | | | | | | | | | | |

Q.9 MOU FY23

| | |
|--|--|
| <p>OFFICE OF THE CHIEF TECHNOLOGY OFFICER GOVERNMENT OF THE DISTRICT OF COLUMBIA</p>  | <p>MOU Executive Brief OCTO Division</p> |
| <p>OCTO Deputy/Executive: Carol Harrison</p> | <p>Program Manager: Mark McDermott</p> |
| <p>Agency: DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS (OEA)</p> | <p>Dollar Amount: \$35,297.92</p> |
| <p>Date Submitted: Oct 6 2021 3:15PM</p> | <p>eMOU#: TO0CH0-2022-01659</p> |
| <p>Project Description:</p> <p>This MOU represents services provided by OCTO to the Office of Employee Appeals to support the currently in production OEA CaseTrack application, which was developed by OCTO's Applications Development & Operations program in Fiscal Year 2019. Phase 2 development, which focused on reporting features and functionality, were completed in Fiscal Year 2022.</p> | |
| <p>Risks:</p> | |
| <p>Challenges:</p> | |
| <p>Urgency: <input checked="" type="checkbox"/> Normal <input type="checkbox"/> Rush <input type="checkbox"/> Expedite</p> | |



MEMORANDUM OF UNDERSTANDING

BETWEEN

DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS

AND

DISTRICT OF COLUMBIA OFFICE OF THE CHIEF TECHNOLOGY OFFICER

FOR FISCAL YEAR 2022

MOU Number: TO0CH0-2022-01659

I. INTRODUCTION

This Memorandum of Understanding ("MOU") is entered into between the **DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS ("OEA or "Buyer Agency")** and the **DISTRICT OF COLUMBIA OFFICE OF THE CHIEF TECHNOLOGY OFFICER ("OCTO" or "Seller Agency")**, collectively referred to herein as the "Parties" and individually as "Party."

II. LEGAL AUTHORITY FOR MOU

D.C. Official Code § 1-301.01(k).

III. OVERVIEW OF PROGRAM GOALS AND OBJECTIVES

This MOU covers production application support for the OEA CaseTrack application ("Application") for Fiscal Year 2022.

IV. SCOPE OF SERVICES

Pursuant to the applicable authorities and in the furtherance of the shared goals of the Parties to carry out the purposes of this MOU expeditiously and economically, the Parties hereby agree as follows:

A. RESPONSIBILITIES OF SELLER AGENCY

The Seller Agency shall provide a total of 160 hours of:

- (1) Application management and maintenance;
- (2) Monthly Application patching to address know vulnerabilities;
- (3) Technical support;
- (4) Minor enhancements to the Application which:
 - (a) fall within the scope of development;

Q.9 MOU FY23

(b) do not require underlying architecture;

(5) Provide monthly status on expenses related to the funds provided in this MOU

B. RESPONSIBILITIES OF BUYER AGENCY

The Buyer Agency shall:

- (1) Provide a Point of Contact (POC) for OEA;
- (2) Verify from the OEA side that the Application is operating without issue after each patching cycle;
- (3) Provide the funding identified under the heading, "Payment," below.

V. DURATION OF MOU

The duration of this MOU shall be for **Fiscal Year 2022**, shall begin on the last date of execution by the Parties, and shall expire on **Sep 30, 2022**, unless terminated in writing by the Parties prior to expiration pursuant to Section VII of this MOU.

VI. FUNDING PROVISIONS

A. COST OF SERVICES

The total cost for goods and/or services under this MOU shall not exceed **\$35,297.92** for Fiscal Year 2022. Funding for goods and/or services shall not exceed the actual cost of the goods and/or services provided, and is based on 15% of the total cost of services to develop the Application (\$229,769.12) as support costs.

B. PAYMENT

(1) Payment for the goods and/or services shall be made through an Intra-District advance by the Buyer Agency to the Seller Agency based on the total amount of this MOU (**\$35,297.92**).

- a. Advances to the Seller Agency for the services to be performed and/or goods to be provided shall not exceed the actual costs of the goods or services or the amount of this MOU.
- b. The Seller Agency shall receive the advance and bill the Buyer Agency through the Intra-District process only for those goods and/or services actually provided pursuant to the terms of this MOU.

(2) Upon request of the Buyer Agency, the Seller Agency shall provide the Buyer Agency with a listing of itemized services.

(3) The Seller Agency shall:

- a. Notify the Buyer Agency within forty-five (45) days prior to the close of the fiscal year if it has reason to believe that all of the advance will not be billed during the current fiscal year; and
- b. Return any excess advance to the Buyer Agency by September 30 of the current fiscal year.

(4) In the event of termination of this MOU, payment to the Seller Agency shall be held in abeyance until all required fiscal reconciliation, but not later than September 30 of the then current fiscal year.

C. ANTI-DEFICIENCY CONSIDERATIONS

Q.9 MOU FY23

The Parties acknowledge and agree that nothing in this MOU creates a financial obligation in anticipation of an appropriation, and that all provisions of this MOU, or any subsequent agreement entered into by the Parties pursuant to this MOU, are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349, 1351, (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01-355.08, (iii) D.C. Official Code § 47-105, and (iv) D.C. Official Code § 1-204.46, as the foregoing statutes may be amended from time to time, regardless of whether a particular obligation has been expressly so conditioned.

VII. TERMINATION

Either Party may terminate this MOU in whole or in part by giving thirty (30) calendar days advance written notice to the other Party.

VIII. NOTICES

The following individuals are the contact points for each Party:

OEA

Hemraj, Hemchand (OEA)
gabrielle.smith-barrow@dc.gov
955 L'enfant Plaza, SW, Suite 2500
Washington, D.C., 20024
Phone: (202) 727-5895
Email: hemchand.hemraj@dc.gov

OCTO

Mark McDermott
Interim Program Manager - Applications Development and Operations
200 I Street, SE, 5th Floor
Washington, D.C. 20003
Phone: 202.727.5959
Email: mark.mcdermott@dc.gov

IX. MODIFICATIONS

This MOU may be modified only upon written agreement of the Parties. Modifications shall be dated and signed by the authorized representatives of the Parties.

X. CONSISTENT WITH LAW

The Parties shall comply with all applicable federal and District laws, rules and regulations whether now in effect or hereafter enacted or promulgated.

XI. COMPLIANCE AND MONITORING

The Seller Agency will be subject to scheduled and unscheduled monitoring reviews to ensure compliance with all applicable requirements.

XII. RECORDS AND REPORTS

The Seller Agency shall maintain records and receipts for the expenditure of all funds provided pursuant to this MOU for a period of no less than three (3) years from the date of expiration or termination of this MOU

Q.9 MOU FY23

and, upon the Buyer Agency's request or the request of other officials of the District of Columbia, make these documents available for inspection by duly authorized representatives of the Buyer Agency or other officials of the District of Columbia as may be specified in their respective sole discretion.

XIII. PROCUREMENT PRACTICES REFORM ACT

If a District of Columbia agency or instrumentality plans to utilize the goods and/or services of an agent, contractor, consultant or other third party to provide any of the goods and/or services under this MOU, then the agency or instrumentality shall abide by the provisions of the District of Columbia Procurement Practices Reform Act of 2010 (D.C. Official Code § 2-351.01, et seq.) to procure the goods or services.

XIV. RESOLUTION OF DISPUTES

The Parties' Directors or designees shall resolve all adjustments and disputes arising from services performed under this MOU. The decision of the Parties' Directors related to any disputes referred shall be final. In the event that the Parties are unable to resolve a financial issue, the matter shall be referred to the D.C. Office of the Chief Financial Officer, Office of Financial Operations and Systems.

XV. CONFIDENTIAL INFORMATION

The Parties to this MOU will use, restrict, safeguard and dispose of all information related to services provided by this MOU in accordance with all relevant federal and District statutes, regulations, and policies. Information received by either Party in the performance of responsibilities associated with the performance of this MOU shall remain the property of the Buyer Agency.

Q.9 MOU FY23

IN WITNESS WHEREOF, the Parties hereto have executed this MOU as follows:

DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS, District of Columbia

Sheila G. Barfield

Date: 12/3/2021

Executive Director
Sheila G. Barfield

Office of the Chief Technology Officer, District of Columbia

Lindsey V. Parker

Date: 12/16/2021

Chief Technology Officer
Lindsey V. Parker

Q.9 MOU FY23

INTRA-DISTRICT STANDARD REQUEST FORM

Government of District of Columbia

MOU TO0CH0-2022-01659 **Date of** 12/03/2021
Number: **MOU:**

Buyer Information

Agency Name: OEA Agency Code: CH0
Name of Contact: Paul Blake Address: 955 L'enfant Plaza, SW, Suite 2500
Telephone #: (202) 727-5895 Fax #:
Paul Blake Date: 02/18/2022

Signature

Seller Information

Agency Name: OCTO Agency Code: TO0
Name of Contact: philpeng Address: 200 I ST, SE WASHINGTON, DC 20003
Telephone #: Fax #:
philpeng Date: 02/18/2022

Signature

Service Information and Funding Codes

GOOD/ SERVICE: Web Maintenance

Q.9 MOU FY23

Buyer

| AGY | YR | ORG | FUND | INDEX | PCA | OBJ | AOBJ | GRANT | PROJ | AG1 | AG2 | AG3 | AMOUNT |
|-----|----|-----|------|-------|-------|------|------|-------|------|-----|-----|-----|-------------|
| CH0 | 22 | NA | 0100 | 10000 | 11020 | 0409 | 0409 | NA | NA | NA | NA | NA | \$15,000.00 |

Seller

| AGY | YR | ORG | FUND | INDEX | PCA | OBJ | AOBJ | GRANT | PROJ | AG1 | AG2 | AG3 | AMOUNT |
|-----|----|------|------|-------|-------|------|------|-------|---------------|-----|-----|-----|-------------|
| TO0 | 22 | 2000 | 1363 | 2EACH | 20011 | 4600 | 4600 | N/A | 2OEA CH/02 | N/A | N/A | N/A | \$15,000.00 |

**eMOU Approval History
TO0CH0-2022-01659**

2/6/2023 1:32:39 PM

| Step Name | Name | Status Name | Status Date | Comments |
|----------------------------------|------------------------------|-------------|------------------------|---|
| OCTO Program Manager Review | Stephen Miller (OCTO) | Approved | 11/17/2021 2:21:14 PM | approving as PM - and forwarding to legal - will review again during executive approval |
| OCTO General Counsel Review | Todd Smith (OCTO) | Approved | 11/17/2021 5:42:47 PM | |
| OCTO Executives Review | Carol Harrison (OCTO) | Approved | 11/19/2021 11:11:45 AM | |
| Buyer Agency Final Review of MOU | Hemraj, Hemchand (OEA) (OEA) | Approved | 12/3/2021 3:25:51 PM | |
| MOU Signature - Buyer Agency | Sheila Barfield (OEA) | Signed | 12/3/2021 6:07:03 PM | |
| MOU Signature - OCTO | Lindsey Parker (OCTO) | Signed | 12/16/2021 1:58:44 PM | |

Q.9 MOU FY23

| | | | |
|-------------------|--------------------|----------|------------------------|
| MOU Author Review | Juan Easley (OCTO) | Approved | 12/22/2021 10:38:41 AM |
|-------------------|--------------------|----------|------------------------|

| | | | |
|-----------------------------------|------------------------|--------|----------------------|
| IDS Form Signature - Buyer Agency | Paul Blake, AFO (OCFO) | Signed | 2/18/2022 9:24:20 PM |
|-----------------------------------|------------------------|--------|----------------------|

| | | | |
|---------------------------|-----------------------|--------|----------------------|
| IDS Form Signature - OCTO | Phil Peng, AFO (OCFO) | Signed | 3/11/2022 7:48:42 AM |
|---------------------------|-----------------------|--------|----------------------|

Q.9 MOU FY22

| | |
|--|--|
| <p>OFFICE OF THE CHIEF TECHNOLOGY OFFICER GOVERNMENT OF THE DISTRICT OF COLUMBIA</p>  | <p>MOU Executive Brief OCTO Division</p> |
| <p>OCTO Deputy/Executive: Carol Harrison</p> | <p>Program Manager: Mark McDermott</p> |
| <p>Agency: DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS (OEA)</p> | <p>Dollar Amount: \$22,000.00</p> |
| <p>Date Submitted: Oct 11 2022 3:35PM</p> | <p>eMOU#: TO0CH0-2023-01853</p> |
| <p>Project Description: This MOU covers production application support for the OEA CaseTrack application ("Application") for Fiscal Year 2023.</p> | |
| <p>Risks:</p> | |
| <p>Challenges:</p> | |
| <p>Urgency: <input checked="" type="checkbox"/> Normal <input type="checkbox"/> Rush <input type="checkbox"/> Expedite</p> | |



MEMORANDUM OF UNDERSTANDING

BETWEEN

DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS

AND

DISTRICT OF COLUMBIA OFFICE OF THE CHIEF TECHNOLOGY OFFICER

FOR FISCAL YEAR 2023

MOU Number: TO0CH0-2023-01853

I. INTRODUCTION

This Memorandum of Understanding ("MOU") is entered into between the **DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS** ("Buyer Agency") and the **Office of the Chief Technology Officer** ("Seller Agency"), each of which is individually referred to in this MOU as a "Party" and both of which together are collectively referred to in this MOU as the "Parties."

II. LEGAL AUTHORITY FOR MOU

D.C. Official Code § 1-301.01(k).

III. OVERVIEW OF PROGRAM GOALS AND OBJECTIVES

This MOU represents services provided by OCTO to the Office of Employee Appeals to support the currently in production OEA CaseTrack application, which was developed by OCTO's Applications Development & Operations program in Fiscal Year 2019. Phase 2 development, which focused on reporting features and functionality, were completed in Fiscal Year 2022.

IV. SCOPE OF SERVICES

Pursuant to the applicable authorities and in furtherance of the shared goals of the Parties, the Parties agree as follows:

A. RESPONSIBILITIES OF SELLER AGENCY

The Seller Agency shall provide a total of 160 hours of:

1. Application management and maintenance;
2. Monthly Application patching to address know vulnerabilities;
3. Technical support;
4. Provide monthly status on expenses related to the funds provided in this MOU;
5. Minor enhancements to the Application which:
 1. do not require underlying architecture change.

B. RESPONSIBILITIES OF BUYER AGENCY

The Buyer Agency shall:

1. Provide a Point of Contact (POC) for OEA;
2. Verify from the OEA side that the Application is operating without issue after each patching cycle;
3. Provide the funding identified under the heading, "Payment," below.

V. DURATION OF THIS MOU

A. PERIOD

The period of this MOU shall be from **Oct 01, 2022** (the "effective date") through **Sep 30, 2023**, unless early terminated pursuant to Section XI of this MOU.

B. EXTENSION

The Parties may extend the period of this MOU by exercising a maximum of four (4) twelve-month option period(s). Option periods may consist of a fiscal year, a fraction thereof, or multiple successive fractions of a fiscal year. Buyer Agency shall provide Seller Agency with written notice of its intent to exercise an option period at least sixty (60) days before the expiration of the initial or extended term of this MOU. The exercise of an option period is subject to the availability of funds at the time it is exercised.

VI. FUNDING PROVISIONS

A. COST OF SERVICES

The total cost to the Buyer Agency for the goods and/or services provided under this MOU shall not exceed **\$22,000.00** for Fiscal Year 2023. The total cost of the goods and/or services is based on the Seller Agency's estimate of the actual cost of the goods and/or services that will be provided under this MOU.

B. PAYMENT

1. **Within thirty (30) days** after this MOU is **fully executed**, the Buyer Agency shall create an Interagency Project and fund it through an Award in the amount set forth in Section VI.A of this MOU. The Interagency Project shall be established in a manner that allows the Seller Agency to directly charge the Project for the costs the Seller Agency incurs in providing goods and/or services under this MOU.
2. The Seller Agency shall charge the Interagency Project only for the actual cost of goods and/or services provided under this MOU.
3. For each charge against the Interagency Project, including personnel costs documented in Peoplesoft, the Seller Agency shall attach, to the Project, documentation that supports the charge, including invoices as applicable.

C. ANTI-DEFICIENCY CONSIDERATIONS

The Parties acknowledge and agree that nothing in this MOU creates a financial obligation in anticipation of an appropriation and that all provisions of this MOU are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349, 1351, (ii) the District of Columbia Anti-

Q.9 MOU FY22

deficiency Act, D.C. Official Code §§ 47-355.01-355.08, (iii) D.C. Official Code § 47-105, and (iv) D.C. Official Code § 1-204.46, as the foregoing statutes may be amended from time to time, regardless of whether a particular obligation has been expressly so conditioned.

VII. AMENDMENTS

This MOU may be amended only by the written agreement of the Parties. Amendments shall be dated and signed by authorized representatives of the Parties.

VIII. CONSISTENT WITH LAW

The Parties shall comply with all applicable laws, rules, and regulations whether now in effect of hereafter enacted or promulgated.

IX. COMPLIANCE AND MONITORING

The Seller Agency will be subject to scheduled and unscheduled monitoring reviews to ensure compliance with all applicable requirements of this MOU.

X. RECORDS AND REPORTS

A. The Buyer Agency and Seller Agency shall maintain records and receipts for the expenditure of all funds provided pursuant to this MOU for a period of no less than three (3) years after the date of expiration or termination of this MOU.

B. Both the Buyer Agency and Seller Agency shall have access to all records in the Interagency Project established pursuant to section VI.B. of this MOU.

XI. TERMINATION

A. Either Party may terminate this MOU in whole or in part by giving thirty (30) calendar days advance written notice to the other Party.

B. In the event of termination of this MOU, the Buyer Agency and Seller Agency shall reconcile any amounts due to the Seller Agency under this MOU. The Buyer Agency shall not remove funding from the Interagency Project established pursuant to section VI.B. of this MOU until the Seller Agency has drawn down the amounts due, except to the extent that the funding in the Interagency Project exceeds the amounts due to the Seller Agency.

XII. NOTICES

The following individuals are the contact points for each Party:

OEA

Hemraj, Hemchand (OEA)

955 L'enfant Plaza, SW, Suite 2500

Washington, D.C., 20024

Phone: (202) 727-5895

Email : hemchand.hemraj@dc.gov

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OCTO

Mark McDermott

200 I ST SE, 5th Floor

Washington, D.C. 20003

Phone : (202) 727 5959

Email :mark.mcdermott@dc.gov

XIII. RESOLUTION OF DISPUTES

All disputes arising under this MOU shall be referred to the Hemraj, Hemchand (OEA) and the Mark McDermott for resolution. If these individuals are unable to resolve such a dispute, the dispute shall be referred to the directors of **DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS** and **OCTO** for resolution.

XIV. CONFIDENTIAL INFORMATION

The Parties shall use, restrict, safeguard, and dispose of all information related to good and/or services provided under this MOU in accordance with all relevant federal and District statutes, regulations, and policies.

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IN WITNESS WHEREOF, the Parties hereto have executed this MOU as follows:

DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS, District of Columbia

Sheila G. Barfield

Date: 11/4/2022

Executive Director

Sheila G. Barfield

Office of the Chief Technology Officer, District of Columbia

Lindsey V. Parker

Date: 12/2/2022

Chief Technology Officer

Lindsey V. Parker

Q.9 MOU FY22

INTRA-DISTRICT STANDARD REQUEST FORM

Government of District of Columbia

MOU TO0CH0-2023-01853
Number:

Date of 10/18/2022
MOU:

Buyer Information

| | | | |
|----------------------|----------------|--------------|------------------------------------|
| Agency Name: | OEA | Agency Code: | CH0 |
| Name of Contact: | Paul K. Blake | Address: | 955 L'enfant Plaza, SW, Suite 2500 |
| Telephone #: | (202) 727-5895 | Fax #: | |
| <i>Paul K. Blake</i> | | Date: | 12/02/2022 |

Signature

Seller Information

| | | | |
|------------------|------|--------------|-----------------------------------|
| Agency Name: | OCTO | Agency Code: | TO0 |
| Name of Contact: | | Address: | 200 I ST, SE WASHINGTON, DC 20003 |
| Telephone #: | | Fax #: | |
| | | Date: | |

Signature

Service Information and Funding Codes

GOOD/
SERVICE:

Buyer

| AGY | YR | ORG | FUND | INDEX | PCA | OBJ | AOBJ | GRANT | PROJ | AG1 | AG2 | AG3 | AMOUNT |
|-----|----|-----|------|-------|-----|-----|------|-------|------|-----|-----|-----|--------|
|-----|----|-----|------|-------|-----|-----|------|-------|------|-----|-----|-----|--------|

Seller

| AGY | YR | ORG | FUND | INDEX | PCA | OBJ | AOBJ | GRANT | PROJ | AG1 | AG2 | AG3 | AMOUNT |
|-----|----|-----|------|-------|-----|-----|------|-------|------|-----|-----|-----|--------|
|-----|----|-----|------|-------|-----|-----|------|-------|------|-----|-----|-----|--------|

Q.9 MOU FY22**eMOU Approval History
TO0CH0-2023-01853**

2/6/2023 1:33:13 PM

| Step Name | Name | Status Name | Status Date | Comments |
|------------------------------------|------------------------------|--------------------|------------------------|--|
| MOU Author Review | Juan Easley (OCTO) | Approved | 10/18/2022 12:46:29 PM | Removed instructions in Payment section |
| OCTO Program Manager Review | Mark McDermott (OCTO) | Approved | 10/18/2022 12:58:39 PM | |
| OCTO General Counsel Review | Todd Smith (OCTO) | Approved | 10/18/2022 4:13:42 PM | |
| OCTO Executives Review | Carol Harrison (OCTO) | Approved | 10/18/2022 4:46:39 PM | |
| Buyer Agency Final Review of MOU | Hemraj, Hemchand (OEA) (OEA) | Approved | 10/20/2022 9:13:49 AM | Approved FY23 MOU agreement; monthly burndown report submission to monitor utilization throughout the fiscal year. |
| MOU Signature - Buyer Agency | Sheila Barfield (OEA) | Signed | 11/4/2022 5:18:36 PM | |
| IDSR Form Signature - Buyer Agency | Paul Blake, AFO (OCFO) | Signed | 12/2/2022 12:42:03 PM | |
| MOU Signature - OCTO | Lindsey Parker (OCTO) | Signed | 12/2/2022 3:49:13 PM | |

Q.11 InterAge Reprogramming

OEA INTERAGENCY REPROGRAMMINGS, FY2022 AND FY2023 (Q11)

Including anticipated reprogrammings for remainder of FY2023

| Sending agency name | Receiving agency name | Date of execution (actual or expected) | Dollar amount (actual or expected) | Originating funding source (i.e. local, federal, SPR) | Originating funds | | | Received funds | | | Detailed rationale for the reprogramming |
|---------------------------------|----------------------------|--|------------------------------------|---|-------------------|---------------|----------|----------------|---------------|----------|--|
| | | | | | Program code | Activity code | CSG code | Program code | Activity code | CSG code | |
| Public Employee Relations Board | Office of Employee Appeals | 9/30/2022 | \$60,000.00 | Local | 2002 | 2002 | 0011 | 1090 | 1090 | 0011 | To cover unbudgeted personnel services expenditures in the 2022 fiscal year. |
| | | | | | | | | | | | |
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Q.12 IntraAge Reprogramming

OEA INTRA-AGENCY REPROGRAMMINGS, FY2022 AND FY2023 (Q12)

Including anticipated reprogrammings for remainder of FY2023

| Date of execution (actual or expected) | Dollar amount (actual or expected) | Originating funding source (i.e. local, federal, SPR) | Originating funds | | | Received funds | | | Detailed rationale for the reprogramming |
|---|---------------------------------------|--|-------------------|---------------|----------|----------------|---------------|----------|--|
| | | | Program code | Activity code | CSG code | Program code | Activity code | CSG code | |
| | | | | | | | | | |
| N/A | | | | | | | | | |
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Q.13 Budget Enhancement Request (1 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

Complete a separate Form 2 for each enhancement request for FY 2024.

SECTION I. OVERVIEW Required for ALL requests

ENHANCEMENT TITLE* **OEA's PS Cost** ENHANCEMENT PRIORITY* **1** OUT OF **3**

AGENCY* **Office of Employee Appeals** AGENCY CODE* **CHO**

AGENCY POINT OF CONTACT* **Sheila G. Barfield** POINT OF CONTACT EMAIL* **sheila.barfield@dc.gov**

REQUEST TYPE*
 Mark the one request type that best describes this enhancement. No type is preferred over any other, but the questions in **Section II: Rationale** differ by type.

A. Restore previous budget reduction/one-time funding For these request types, complete Sections I-IV only

B. Increased cost to maintain existing program/activity

C. Operational improvement with strong business case

D. Expand high-performing existing program/activity For these request types, complete Sections I-VI

E. Completely new program/activity with highly likely or proven positive outcomes for District residents

FUNDING REQUEST*
 Enter amount of Local Funds requested and indicate whether funds are one-time or recurring.

| FY24 PERSONAL SERVICES (PS) | FY24 NON-PERSONAL SERVICES (NPS) | FY24 TOTAL REQUEST AMOUNT |
|-----------------------------|----------------------------------|---------------------------|
| \$130,000 | \$0 | \$130,000 |

ONE-TIME PARTIALLY RECURRING RECURRING

FUTURE COSTS*
 If recurring, enter estimated costs over the life of the Financial Plan.

| TOTAL FY 2025 | TOTAL FY 2026 | TOTAL FY 2027 |
|---------------|---------------|---------------|
| \$0 | \$0 | \$0 |

ENHANCEMENT SUMMARY*
 In 3-5 sentences, describe this enhancement, what problem it aims to solve, and the expected positive impact on District residents or government operations.

OEA's FY 2024 MARC will not adequately fund the agency's operating budget in FY 2024. The agency projects that its PS costs will total \$2,444,000 in FY 2024. This will cause a deficit of approximately \$130,000 in the agency's PS budget with no funding for the NPS budget.

Should the FY 2024 MARC remain unchanged, the agency will not be able to perform any of its statutorily mandated, mission-critical services. This would delay the adjudication of appeals and the issuance of decisions, thereby creating a backlog of cases.

AGENCIES: Use this form to provide details about enhancement requests in your agency's FY 2024 budget request. This information is essential for decision-making. Well thought out and reasoned requests are much more likely to receive favorable consideration.

REQUIRED SECTIONS

- Sections I-IV are required for ALL requests.
- Sections I-V are required for Type D and E requests.
- Section VI is optional.

Please remember to submit the Form 2 Summary spreadsheet, including spend plan details, along with the detailed Form 2s for each enhancement request.

RACIAL EQUITY BUDGET TOOL (REBT)

The Office of Racial Equity (ORE) has developed the Racial Equity Budget Tool (REBT) to guide agencies in assessing how their budgets benefit and/or negatively impact communities based on race, specifically Black, Indigenous, and People of Color (BIPOC) communities. Please use **Section IV** to show how your agency considered racial equity in developing this enhancement request.

EDITING RESTRICTIONS: This form uses editing restrictions to ensure consistent displays of information. If needed, the restrictions can be disabled by going to the Review tab at the top of the window, clicking on Protect, then Restrict Editing, and clicking Stop Protection. If prompted for a password, click OK.

Will legislative support be required to implement this enhancement?*
 If yes, please submit a proposed BSA subtitle using Attachment D. YES NO

Q.13 Budget Enhancement Request (1 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION II. RATIONALE

Required for ALL requests

What problem facing the District will this enhancement address and why does this problem exist?*

Please provide as much detail as possible. Responses that identify and quantify specific problems will receive more favorable consideration.

The problem facing the District is that without this enhancement, the agency will be forced to make significant cuts to its PS budget. The resulting effect is that the agency will not be able to carry out its statutory mandate of adjudicating appeals filed by District government employees, thereby creating a backlog of cases that could potentially increase the District's liability. This problem exists because the FY 2024 MARC does not fully fund the agency's projected PS costs in FY 2024. [Click or tap here to enter text.](#)

How does this enhancement address this problem and its underlying causes?*

Please provide as much detail as possible. Responses that clearly demonstrate how the proposed enhancement will address the underlying causes will receive more favorable consideration.

This enhancement will enable the agency to carry out its statutory mandate of adjudicating appeals filed by District government employees.

Why is this the right level of increased investment to address need?*

Please explain the agency's rationale for requesting this level of investment for this activity, including why a lower level of investment would not be more appropriate.

This level of investment is requested based on the pay scale associated with each agency employee and the need to align salaries with the work that is actually being performed by agency employees.

QUESTIONS SPECIFIC TO ENHANCEMENT TYPE*

Mark the appropriate enhancement type and use the space below the table to answer the questions for that enhancement type.

| IF YOUR ENHANCEMENT TYPE IS... | THEN ANSWER THESE QUESTIONS... |
|--|---|
| <input type="checkbox"/> A. Restore previous budget reduction/one-time funding | Why is the restoration of this reduction critical for the District at this time? What negative impact will result if this reduction is not restored? |
| <input checked="" type="checkbox"/> B. Increased cost to maintain existing program/activity | Why are costs increasing to maintain existing levels of service? What are the main cost drivers and what options has the agency already implemented or considered implementing to lower these costs? |
| <input type="checkbox"/> C. Operational improvement with a strong business case | How will this enhancement help the District save money in this or future fiscal years? How much will it save? |
| <input type="checkbox"/> D. Expand high-performing existing program/activity | Why is this program or activity considered to be high performing? How do the outputs or outcomes compare to those of similar programs within or outside of District government? Please cite any relevant agency KPIs or workload measures that support your response. |
| <input type="checkbox"/> E. Completely new program or initiative with highly likely or proven positive outcomes for District residents | What will be the District's return on investment, as measured by how many and/or which District residents are served, or some other measure? |

Responses to Questions*

The FY 2024 MARC does not fully fund the agency's projected PS costs in FY 2024. The agency's FY 2023 budget does not adequately fund its PS costs. This shortfall will carry over into FY 2024 and continue to grow because of step increases that

Q.13 Budget Enhancement Request (1 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

will become due in FY 2024 along with the need to align salaries in FY 2024 to reflect an increase in the workload of certain positions.

Q.13 Budget Enhancement Request (1 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION III. PERFORMANCE RATIONALE & IMPACT *Required for ALL requests*

IMPACT STATEMENT

In 2-3 sentences, describe the expected positive impact of this enhancement on District residents or government operations.*

This enhancement will enable the agency to carry out its statutory mandate of adjudicating appeals filed by District government employees.

PERFORMANCE RATIONALE

What data that the agency collects or has access to informed the development of this enhancement requests?*

The pay scale and increased workload informed this request.

Please list any agency Key Performance Indicators (KPIs) or Workload Measures (WMs) that informed the development of this enhancement request.*

If you are proposing a new metric, write "NEW" in the columns for FY 2020-FY 2022. Metrics can be measurements of outputs, desired outcomes, operational efficiency, inputs or resources, or volume of demand or work for a particular program.

PERFORMANCE TEAM IS HERE TO HELP!
 Need help thinking through this section or identifying data sources, KPIs, or Workload Measures? Reach out to your OBPM Performance Analyst or to Deputy Performance Director Lia Katz (lia.katz@dc.gov).

HELPFUL TIPS & DEFINITIONS

- **Key Performance Indicators (KPIs)** are quantitative measures of performance associated with targets. They typically include a statistic, like a percentage, and an object, like "tickets dismissed when contested."
- **Workload Measures (WMs)** measure the volume of work performed—e.g., the number of parking tickets issued—and do not have associated targets. Typically, workload measures provide information about service demand.
- **In most cases**, agency activities do not aim to increase or decrease workload measures. In rare instances, if an agency is working to increase or decrease volume of work directly, a measure may be tracked as a KPI, with an associated target (e.g., "number of trees planted.").

| KEY PERFORMANCE INDICATOR (KPI) or WORKLOAD MEASURE (WM) | New KPI or WM for FY24? | If new for FY24, please explain how this metric was developed: | WHICH DIRECTION IS DESIRED? | FY 2020 ACTUAL | FY 2021 ACTUAL | FY 2022 TARGET | FY 2022 ACTUAL | FY 2023 TARGET |
|--|-------------------------|--|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Number of Initial Decisions Issued | | | Up | 98 | 70 | 100 | 90 | 85 |
| Number of Opinions and Orders Issued | | | Up | 18 | 18 | 18 | 13 | 15 |
| Time Required to Complete Adjudications | | | Down | 8 | 10 | 120 | 236 | 120 |
| Time Required to Resolve Petitions for Review | | | Down | 8 | 3 | 9 | 71 | 71 |

Q.13 Budget Enhancement Request (1 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

| | | | | | | | | |
|---|--|--|---------|------|-----|----------------|-----|---------------|
| Number of Evidentiary Hearings Conducted | | | Neutral | | | New in FY 2022 | 12 | No Target Set |
| Number of Board Meetings Conducted | | | Neutral | | | New in FY 2022 | 5 | No Target Set |
| Percent of Decisions Upheld by Superior Court/D.C. Court of Appeals | | | Up | 97.3 | 100 | 100 | 100 | 100 |

SECTION III. PERFORMANCE RATIONALE & IMPACT (continued) *Required for ALL requests*

PERFORMANCE IMPACT

What data that the agency collects or plans to collect will indicate what impact this enhancement has made?*

All data related to the processing and adjudicating of appeals will indicate what impact this enhancement has made.

Please list any agency Key Performance Indicators (KPIs) or Workload Measures (WMs) that will be impacted by this enhancement.*

If you are proposing a new metric, write "NEW" in the columns for FY 2020-2022. Metrics can be measurements of outputs, desired outcomes, operational efficiency, inputs or resources, or volume of demand or work for a particular program. Metrics may appear in both tables in this section.

| | New KPI or WM for FY24? | If new for FY24, please explain how this metric was developed: | WHICH DIRECTION IS DESIRED? | FY 2020 ACTUAL | FY 2021 ACTUAL | FY 2022 TARGET | FY 2022 ACTUAL | FY 2023 TARGET |
|--------------------------------------|-------------------------|--|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Number of Initial Decisions Issued | | | Up | 98 | 70 | 100 | 90 | 85 |
| Number of Opinions and Orders Issued | | | Up | 18 | 18 | 18 | 13 | 15 |

Q.13 Budget Enhancement Request (1 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

| | | | | | | | | |
|--|--|--|---------|------|-----|----------------|-----|---------------|
| Time Required to Complete Adjudications | | | Down | 8 | 10 | 120 | 236 | 120 |
| Time Required to Resolve Petitions for Review | | | Down | 8 | 3 | 9 | 71 | 71 |
| Number of Evidentiary Hearings Conducted | | | Neutral | | | New in FY 2022 | 12 | No Target Set |
| Number of Board Meetings Conducted | | | Neutral | | | New in FY 2022 | 5 | No Target Set |
| Percent of Decisions Upheld by Superior Court/D.C. Court of Appeals | | | Up | 97.3 | 100 | 100 | 100 | 100 |

Q.13 Budget Enhancement Request (1 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION IV. BUDGETING FOR RACIAL EQUITY

Required for ALL requests

Does this enhancement specifically seek to mitigate racial equity gaps in the District?*

YES

NO

What racial inequity does this enhancement request address?*

For example, does the enhancement address a health disparity, educational gap, disproportionality in housing, bolstering existing community resources, etc. Please be as specific as possible.

N/A

What is the rationale for addressing the inequity in this way and/or with this program?*

For example, is the enhancement in response to a legislative requirement or mandate, community engagement efforts, demographic data, or something else?

N/A

In what ways have you meaningfully involved internal and external stakeholders in the development of your agency's budget request, including staff and communities of color?* For more, see ORE's [Meaningful Community Engagement Guide](#).

N/A

If this budget enhancement could potentially cause unintended benefits or burdens, please detail what racial or ethnic groups might be positively or negatively impacted.* For example, the location for a new airport could disrupt traffic patterns and create noise and air pollution that impact residents in the immediate vicinity, which could worsen racial health inequities.

N/A

STOP HERE for enhancement types **A, B, or C.**

CONTINUE to Section IV for enhancement types **D or E.**

Q.13 Budget Enhancement Request (1 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION V. EVALUATION

Required for Type D and E requests

This section is required for all Type D and E enhancement requests—that is, enhancements that would expand existing programs or activities or launch completely new programs or activities. Incomplete submissions will be returned.

What evidence supports the likelihood that this enhancement will achieve the desired outcome?*

Please describe outcomes from similar efforts that have been undertaken before in the District or in other cities. If possible, include formal evaluation studies and lessons learned from both successes and failures. Provide links to cite your sources.

[Click or tap here to enter text.](#)

Is your enhancement identical to the model the evidence comes from?*

- YES.** The enhancement is identical to the model the evidence comes from and the population served is similar. Indicate below how you will ensure your agency implements the model fully.
- NO.** The enhancement differs from the model the evidence comes from, is just a part of that model, serves a different population, etc. Below, describe how it differs and why.

[Click or tap here to enter text.](#)

If the enhancement is granted, is your agency willing to evaluate whether the enhancement achieves the desired outcome?*

This could involve piloting the enhancement. The Lab @ DC can provide additional guidance.

- YES NO

Which KPI or Workload Measure listed in Section III (Performance Rationale & Impact) captures the most important outcome(s) in the evidence provided?* OBPM expects that it will be possible for agencies to identify for almost all enhancement requests a new or existing KPI or workload measure that aligns with the outcome measures identified in the evidence provided. If this is not feasible, please explain below.

[Click or tap here to enter text.](#)

EVALUATING ENHANCEMENTS

As part of the budget formulation process, OBPM will categorize the research evidence you cite based on whether:

- the study design was rigorous, and the study was well implemented;
- the findings are positive and statistically significant; and
- the evidence is based on a model and population similar to the proposed enhancement.

THE LAB@DC TEAM IS HERE TO HELP!

Have questions about the evidence? Email thelab@dc.gov (and CC your OBPM Budget Analyst). The Lab can pre-review evidence, brainstorm future evaluation ideas, offer suggestions on where to look for evidence, and help you think through the evidence you've found.

Q.13 Budget Enhancement Request (1 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION VI. PROJECT PLAN

Optional for All Requests

This section is now optional. However, it remains recommended for Type D and E enhancement requests—that is, enhancements that would expand existing programs or activities or launch completely new programs or activities.

This project plan can be used to show how the agency will deliver the intended results before the end of the fiscal year. Complete as best you can, knowing the plan might evolve.

PROJECT OWNER

Who is the single person who will be most responsible for this initiative? If the project owner must be hired, specify who will own the project until that time.

NAME [Click or tap here to enter text.](#)
 TITLE [Click or tap here to enter text.](#)
 EMAIL [Click or tap here to enter text.](#)
 PHONE [Click or tap here to enter text.](#)

BUSINESS PARTNER COORDINATION

What other agencies or stakeholders would be critical to this project’s success, and what communication have you had with them?

[Click or tap here to enter text.](#)

PROJECT TIMELINE

Describe below anticipated implementation milestones by month to show how the agency will deliver the intended results.

| PREPARATION FOR PROJECT LAUNCH (before start of fiscal year) | |
|--|-------------------------|
| JUNE 2023 | [enter] |
| JULY | [enter] |
| AUG | [enter] |
| SEPT | [enter] |
| FISCAL YEAR STARTS, FUNDS DISBURSED | |
| OCT 2023 | [enter] |
| NOV | [enter] |
| DEC | [enter] |
| JAN 2024 | [enter] |
| FEB | [enter] |
| MARCH | [enter] |
| APRIL | [enter] |
| MAY | [enter] |
| JUNE | [enter] |
| JULY | [enter] |
| AUG | [enter] |
| SEPT | [enter] |

Q.13 Budget Enhancement Request (2 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

Complete a separate Form 2 for each enhancement request for FY 2024.

SECTION I. OVERVIEW Required for ALL requests

ENHANCEMENT TITLE* **OEA's Request to Purchase Copier** ENHANCEMENT PRIORITY* **2** OUT OF **3**

AGENCY* **Office of Employee Appeals** AGENCY CODE* **CHO**

AGENCY POINT OF CONTACT* **Sheila G. Barfield** POINT OF CONTACT EMAIL* **sheila.barfield@dc.gov**

REQUEST TYPE*
 Mark the one request type that best describes this enhancement. No type is preferred over any other, but the questions in **Section II: Rationale** differ by type.

A. Restore previous budget reduction/one-time funding For these request types, complete Sections I-IV only

B. Increased cost to maintain existing program/activity

C. Operational improvement with strong business case

D. Expand high-performing existing program/activity For these request types, complete Sections I-VI

E. Completely new program/activity with highly likely or proven positive outcomes for District residents

FUNDING REQUEST*
 Enter amount of Local Funds requested and indicate whether funds are one-time or recurring.

| FY24 PERSONAL SERVICES (PS) | FY24 NON-PERSONAL SERVICES (NPS) | FY24 TOTAL REQUEST AMOUNT |
|-----------------------------|----------------------------------|---------------------------|
| \$0 | \$30,000 | \$0 |

ONE-TIME PARTIALLY RECURRING RECURRING

FUTURE COSTS*
 If recurring, enter estimated costs over the life of the Financial Plan.

| TOTAL FY 2025 | TOTAL FY 2026 | TOTAL FY 2027 |
|---------------|---------------|---------------|
| \$0 | \$0 | \$0 |

ENHANCEMENT SUMMARY*
 In 3-5 sentences, describe this enhancement, what problem it aims to solve, and the expected positive impact on District residents or government operations.

This funding would be used to purchase a brand-new, large-capacity copier. The agency's current copier was purchased in FY 2012. Because of its age and outdated accessories, the agency's current copier can no longer process the volume of work that is necessary and requires continual maintenance.

AGENCIES: Use this form to provide details about enhancement requests in your agency's FY 2024 budget request. This information is essential for decision-making. Well thought out and reasoned requests are much more likely to receive favorable consideration.

REQUIRED SECTIONS

- Sections I-IV are required for ALL requests.
- Sections I-V are required for Type D and E requests.
- Section VI is optional.

Please remember to submit the Form 2 Summary spreadsheet, including spend plan details, along with the detailed Form 2s for each enhancement request.

RACIAL EQUITY BUDGET TOOL (REBT)

The Office of Racial Equity (ORE) has developed the Racial Equity Budget Tool (REBT) to guide agencies in assessing how their budgets benefit and/or negatively impact communities based on race, specifically Black, Indigenous, and People of Color (BIPOC) communities. Please use **Section IV** to show how your agency considered racial equity in developing this enhancement request.

EDITING RESTRICTIONS: This form uses editing restrictions to ensure consistent displays of information. If needed, the restrictions can be disabled by going to the Review tab at the top of the window, clicking on Protect, then Restrict Editing, and clicking Stop Protection. If prompted for a password, click OK.

Will legislative support be required to implement this enhancement?*
 If yes, please submit a proposed BSA subtitle using Attachment D. YES NO

Q.13 Budget Enhancement Request (2 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION II. RATIONALE

Required for ALL requests

What problem facing the District will this enhancement address and why does this problem exist?*

Please provide as much detail as possible. Responses that identify and quantify specific problems will receive more favorable consideration.

The agency's current copier, which was purchased in 2012, frequently breaks down. The problem that will be addressed with this enhancement is that the agency will be able to purchase a large-capacity copier, thereby enabling it to make copies of all the documents it is required to file without interruption or undue delay.

How does this enhancement address this problem and its underlying causes?*

Please provide as much detail as possible. Responses that clearly demonstrate how the proposed enhancement will address the underlying causes will receive more favorable consideration.

A brand-new, large-capacity copier with the necessary accessories will make processing and copying voluminous files more efficient.

Why is this the right level of increased investment to address need?*

Please explain the agency's rationale for requesting this level of investment for this activity, including why a lower level of investment would not be more appropriate.

Based on quotes that have been received, this is the approximate cost of a large-capacity copier.

QUESTIONS SPECIFIC TO ENHANCEMENT TYPE*

Mark the appropriate enhancement type and use the space below the table to answer the questions for that enhancement type.

| IF YOUR ENHANCEMENT TYPE IS... | THEN ANSWER THESE QUESTIONS... |
|--|---|
| <input type="checkbox"/> A. Restore previous budget reduction/one-time funding | Why is the restoration of this reduction critical for the District at this time? What negative impact will result if this reduction is not restored? |
| <input checked="" type="checkbox"/> B. Increased cost to <u>maintain</u> existing program/activity | Why are costs increasing to maintain existing levels of service? What are the main cost drivers and what options has the agency already implemented or considered implementing to lower these costs? |
| <input type="checkbox"/> C. Operational improvement with a strong business case | How will this enhancement help the District save money in this or future fiscal years? How much will it save? |
| <input type="checkbox"/> D. Expand high-performing existing program/activity | Why is this program or activity considered to be high performing? How do the outputs or outcomes compare to those of similar programs within or outside of District government? Please cite any relevant agency KPIs or workload measures that support your response. |
| <input type="checkbox"/> E. Completely new program or initiative with highly likely or proven positive outcomes for District residents | What will be the District's return on investment, as measured by how many and/or which District residents are served, or some other measure? |

Responses to Questions*

By law, OEA must file, within a time certain, a complete record with the court whenever a party appeals a decision to the court. This involves making multiple copies of often voluminous records. Moreover, OEA must provide copies of all of its decisions and other documents to multiple entities on an almost daily basis. This requires a large capacity copier that can accommodate the demands being placed on it. There are no other options available to the agency.

Q.13 Budget Enhancement Request (2 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION III. PERFORMANCE RATIONALE & IMPACT *Required for ALL requests*

IMPACT STATEMENT

In 2-3 sentences, describe the expected positive impact of this enhancement on District residents or government operations.*

The purchase of a new copier will positively impact the agency by making its operations more efficient.

PERFORMANCE RATIONALE

What data that the agency collects or has access to informed the development of this enhancement requests?*

The fact that the agency’s current copier was purchased in FY 2012 informed the development of this enhancement request.

Please list any agency Key Performance Indicators (KPIs) or Workload Measures (WMs) that informed the development of this enhancement request.*

If you are proposing a new metric, write “NEW” in the columns for FY 2020-FY 2022. Metrics can be measurements of outputs, desired outcomes, operational efficiency, inputs or resources, or volume of demand or work for a particular program.

PERFORMANCE TEAM IS HERE TO HELP!
 Need help thinking through this section or identifying data sources, KPIs, or Workload Measures? Reach out to your OBPM Performance Analyst or to Deputy Performance Director Lia Katz (lia.katz@dc.gov).

HELPFUL TIPS & DEFINITIONS

- **Key Performance Indicators (KPIs)** are quantitative measures of performance associated with targets. They typically include a statistic, like a percentage, and an object, like “tickets dismissed when contested.”
- **Workload Measures (WMs)** measure the volume of work performed—e.g., the number of parking tickets issued—and do not have associated targets. Typically, workload measures provide information about service demand.
- **In most cases**, agency activities do not aim to increase or decrease workload measures. In rare instances, if an agency is working to increase or decrease volume of work directly, a measure may be tracked as a KPI, with an associated target (e.g., “number of trees planted.”).

| KEY PERFORMANCE INDICATOR (KPI) or WORKLOAD MEASURE (WM) | New KPI or WM for FY24? | If new for FY24, please explain how this metric was developed: | WHICH DIRECTION IS DESIRED? | FY 2020 ACTUAL | FY 2021 ACTUAL | FY 2022 TARGET | FY 2022 ACTUAL | FY 2023 TARGET |
|--|-------------------------|--|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |

No KPIs or Workload Measures informed the development of this enhancement request.

Q.13 Budget Enhancement Request (2 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION III. PERFORMANCE RATIONALE & IMPACT (continued) *Required for ALL requests*

PERFORMANCE IMPACT

What data that the agency collects or plans to collect will indicate what impact this enhancement has made?*

The agency does not collect any data in this regard.

Please list any agency Key Performance Indicators (KPIs) or Workload Measures (WMs) that will be impacted by this enhancement.*

If you are proposing a new metric, write "NEW" in the columns for FY 2020-2022. Metrics can be measurements of outputs, desired outcomes, operational efficiency, inputs or resources, or volume of demand or work for a particular program. Metrics may appear in both tables in this section.

| KEY PERFORMANCE INDICATOR (KPI) or WORKLOAD MEASURE (WM) | New KPI or WM for FY24? | If new for FY24, please explain how this metric was developed: | WHICH DIRECTION IS DESIRED? | FY 2020 ACTUAL | FY 2021 ACTUAL | FY 2022 TARGET | FY 2022 ACTUAL | FY 2023 TARGET |
|--|-------------------------|--|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |

No KPIs or Workload Measures will be impacted by this enhancement request.

Q.13 Budget Enhancement Request (2 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION IV. BUDGETING FOR RACIAL EQUITY

Required for ALL requests

Does this enhancement specifically seek to mitigate racial equity gaps in the District?*

YES

NO

What racial inequity does this enhancement request address?*

For example, does the enhancement address a health disparity, educational gap, disproportionality in housing, bolstering existing community resources, etc. Please be as specific as possible.

N/A

What is the rationale for addressing the inequity in this way and/or with this program?*

For example, is the enhancement in response to a legislative requirement or mandate, community engagement efforts, demographic data, or something else?

N/A

In what ways have you meaningfully involved internal and external stakeholders in the development of your agency's budget request, including staff and communities of color?* For more, see ORE's [Meaningful Community Engagement Guide](#).

N/A

If this budget enhancement could potentially cause unintended benefits or burdens, please detail what racial or ethnic groups might be positively or negatively impacted.* For example, the location for a new airport could disrupt traffic patterns and create noise and air pollution that impact residents in the immediate vicinity, which could worsen racial health inequities.

N/A

STOP HERE for enhancement types **A, B, or C.**
CONTINUE to Section IV for enhancement types **D or E.**

Q.13 Budget Enhancement Request (2 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION V. EVALUATION

Required for Type D and E requests

This section is required for all Type D and E enhancement requests—that is, enhancements that would expand existing programs or activities or launch completely new programs or activities. Incomplete submissions will be returned.

What evidence supports the likelihood that this enhancement will achieve the desired outcome?*

Please describe outcomes from similar efforts that have been undertaken before in the District or in other cities. If possible, include formal evaluation studies and lessons learned from both successes and failures. Provide links to cite your sources.

[Click or tap here to enter text.](#)

Is your enhancement identical to the model the evidence comes from?*

- YES.** The enhancement is identical to the model the evidence comes from and the population served is similar. Indicate below how you will ensure your agency implements the model fully.
- NO.** The enhancement differs from the model the evidence comes from, is just a part of that model, serves a different population, etc. Below, describe how it differs and why.

[Click or tap here to enter text.](#)

If the enhancement is granted, is your agency willing to evaluate whether the enhancement achieves the desired outcome?*

This could involve piloting the enhancement. The Lab @ DC can provide additional guidance.

- YES** **NO**

Which KPI or Workload Measure listed in Section III (Performance Rationale & Impact) captures the most important outcome(s) in the evidence provided?* OBPM expects that it will be possible for agencies to identify for almost all enhancement requests a new or existing KPI or workload measure that aligns with the outcome measures identified in the evidence provided. If this is not feasible, please explain below.

[Click or tap here to enter text.](#)

EVALUATING ENHANCEMENTS

As part of the budget formulation process, OBPM will categorize the research evidence you cite based on whether:

- the study design was rigorous, and the study was well implemented;
- the findings are positive and statistically significant; and
- the evidence is based on a model and population similar to the proposed enhancement.

THE LAB@DC TEAM IS HERE TO HELP!

Have questions about the evidence? Email thelab@dc.gov (and CC your OBPM Budget Analyst). The Lab can pre-review evidence, brainstorm future evaluation ideas, offer suggestions on where to look for evidence, and help you think through the evidence you've found.

Q.13 Budget Enhancement Request (2 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION VI. PROJECT PLAN

Optional for All Requests

This section is now optional. However, it remains recommended for Type D and E enhancement requests—that is, enhancements that would expand existing programs or activities or launch completely new programs or activities.

This project plan can be used to show how the agency will deliver the intended results before the end of the fiscal year. Complete as best you can, knowing the plan might evolve.

PROJECT OWNER

Who is the single person who will be most responsible for this initiative? If the project owner must be hired, specify who will own the project until that time.

NAME [Click or tap here to enter text.](#)
 TITLE [Click or tap here to enter text.](#)
 EMAIL [Click or tap here to enter text.](#)
 PHONE [Click or tap here to enter text.](#)

BUSINESS PARTNER COORDINATION

What other agencies or stakeholders would be critical to this project’s success, and what communication have you had with them?

[Click or tap here to enter text.](#)

PROJECT TIMELINE

Describe below anticipated implementation milestones by month to show how the agency will deliver the intended results.

| PREPARATION FOR PROJECT LAUNCH (before start of fiscal year) | |
|--|-------------------------|
| JUNE 2023 | [enter] |
| JULY | [enter] |
| AUG | [enter] |
| SEPT | [enter] |
| FISCAL YEAR STARTS, FUNDS DISBURSED | |
| OCT 2023 | [enter] |
| NOV | [enter] |
| DEC | [enter] |
| JAN 2024 | [enter] |
| FEB | [enter] |
| MARCH | [enter] |
| APRIL | [enter] |
| MAY | [enter] |
| JUNE | [enter] |
| JULY | [enter] |
| AUG | [enter] |
| SEPT | [enter] |

Q.13 Budget Enhancement Request (3 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

Complete a separate Form 2 for each enhancement request for FY 2024.

SECTION I. OVERVIEW Required for ALL requests

ENHANCEMENT TITLE* **OEA MOU With DCHR** ENHANCEMENT PRIORITY* **3 OUT OF 3**

AGENCY* **Office of Employee Appeals** AGENCY CODE* **CHO**

AGENCY POINT OF CONTACT* **Sheila G. Barfield** POINT OF CONTACT EMAIL* **sheila.barfield@dc.gov**

REQUEST TYPE*
 Mark the one request type that best describes this enhancement. No type is preferred over any other, but the questions in **Section II: Rationale** differ by type.

A. Restore previous budget reduction/one-time funding For these request types, complete Sections I-IV only

B. Increased cost to maintain existing program/activity

C. Operational improvement with strong business case

D. Expand high-performing existing program/activity For these request types, complete Sections I-VI

E. Completely new program/activity with highly likely or proven positive outcomes for District residents

FUNDING REQUEST*
 Enter amount of Local Funds requested and indicate whether funds are one-time or recurring.

| FY24 PERSONAL SERVICES (PS) | FY24 NON-PERSONAL SERVICES (NPS) | FY24 TOTAL REQUEST AMOUNT |
|-----------------------------|----------------------------------|---------------------------|
| \$0 | \$10,000 | \$10,000 |

ONE-TIME PARTIALLY RECURRING RECURRING

FUTURE COSTS*
 If recurring, enter estimated costs over the life of the Financial Plan.

| TOTAL FY 2025 | TOTAL FY 2026 | TOTAL FY 2027 |
|---------------|---------------|---------------|
| \$10,000 | \$10,000 | \$10,000 |

ENHANCEMENT SUMMARY*
 In 3-5 sentences, describe this enhancement, what problem it aims to solve, and the expected positive impact on District residents or government operations.

The agency needs to be able to enter into an MOU with DCHR so that DCHR can provide human resource services to OEA.

AGENCIES: Use this form to provide details about enhancement requests in your agency's FY 2024 budget request. This information is essential for decision-making. Well thought out and reasoned requests are much more likely to receive favorable consideration.

REQUIRED SECTIONS

- Sections I-IV are required for ALL requests.
- Sections I-V are required for Type D and E requests.
- Section VI is optional.

Please remember to submit the Form 2 Summary spreadsheet, including spend plan details, along with the detailed Form 2s for each enhancement request.

RACIAL EQUITY BUDGET TOOL (REBT)

The Office of Racial Equity (ORE) has developed the Racial Equity Budget Tool (REBT) to guide agencies in assessing how their budgets benefit and/or negatively impact communities based on race, specifically Black, Indigenous, and People of Color (BIPOC) communities. Please use **Section IV** to show how your agency considered racial equity in developing this enhancement request.

EDITING RESTRICTIONS: This form uses editing restrictions to ensure consistent displays of information. If needed, the restrictions can be disabled by going to the Review tab at the top of the window, clicking on Protect, then Restrict Editing, and clicking Stop Protection. If prompted for a password, click OK.

Will legislative support be required to implement this enhancement?*
 If yes, please submit a proposed BSA subtitle using Attachment D. YES NO

Q.13 Budget Enhancement Request (3 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION II. RATIONALE

Required for ALL requests

What problem facing the District will this enhancement address and why does this problem exist?*

Please provide as much detail as possible. Responses that identify and quantify specific problems will receive more favorable consideration.

This enhancement would enable OEA to enter into an MOU with DCHR so that DCHR would be able to process various personnel actions on behalf of OEA.

How does this enhancement address this problem and its underlying causes?*

Please provide as much detail as possible. Responses that clearly demonstrate how the proposed enhancement will address the underlying causes will receive more favorable consideration.

Currently, OEA does not have a designated “point person” at DCHR to advise it on how to accurately process various personnel actions especially in PeopleSoft. By having an MOU with DCHR, OEA would then have a personnel specialist assigned to OEA who would advise the agency on the processing of various personnel actions.

Why is this the right level of increased investment to address need?*

Please explain the agency’s rationale for requesting this level of investment for this activity, including why a lower level of investment would not be more appropriate.

DCHR has advised OEA that an MOU with it would cost OEA \$10,000 in FY 2024.

QUESTIONS SPECIFIC TO ENHANCEMENT TYPE*

Mark the appropriate enhancement type and use the space below the table to answer the questions for that enhancement type.

| IF YOUR ENHANCEMENT TYPE IS... | THEN ANSWER THESE QUESTIONS... |
|--|---|
| <input type="checkbox"/> A. Restore previous budget reduction/one-time funding | Why is the restoration of this reduction critical for the District at this time? What negative impact will result if this reduction is not restored? |
| <input checked="" type="checkbox"/> B. Increased cost to <u>maintain</u> existing program/activity | Why are costs increasing to maintain existing levels of service? What are the main cost drivers and what options has the agency already implemented or considered implementing to lower these costs? |
| <input type="checkbox"/> C. Operational improvement with a strong business case | How will this enhancement help the District save money in this or future fiscal years? How much will it save? |
| <input type="checkbox"/> D. Expand high-performing existing program/activity | Why is this program or activity considered to be high performing? How do the outputs or outcomes compare to those of similar programs within or outside of District government? Please cite any relevant agency KPIs or workload measures that support your response. |
| <input type="checkbox"/> E. Completely new program or initiative with highly likely or proven positive outcomes for District residents | What will be the District’s return on investment, as measured by how many and/or which District residents are served, or some other measure? |

Responses to Questions*

This enhancement would enable OEA to enter into an MOU with DCHR so that DCHR can advise OEA on various personnel actions and also process various personnel actions on behalf of OEA. Currently, OEA does not have a designated “point person” at DCHR to advise it on how to accurately process various personnel actions especially in PeopleSoft. By having an MOU with DCHR, OEA would then have a personnel specialist assigned to OEA who would advise the agency on the processing of various personnel actions.

Q.13 Budget Enhancement Request (3 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION III. PERFORMANCE RATIONALE & IMPACT *Required for ALL requests*

IMPACT STATEMENT

In 2-3 sentences, describe the expected positive impact of this enhancement on District residents or government operations.*

This enhancement would enable OEA to enter into an MOU with DCHR so that DCHR can advise OEA on various personnel matters and process various personnel actions on behalf of OEA.

PERFORMANCE RATIONALE

What data that the agency collects or has access to informed the development of this enhancement requests?*

The agency collects no data as it pertains to this enhancement request.

Please list any agency Key Performance Indicators (KPIs) or Workload Measures (WMs) that informed the development of this enhancement request.*

If you are proposing a new metric, write "NEW" in the columns for FY 2020-FY 2022. Metrics can be measurements of outputs, desired outcomes, operational efficiency, inputs or resources, or volume of demand or work for a particular program.

PERFORMANCE TEAM IS HERE TO HELP!
 Need help thinking through this section or identifying data sources, KPIs, or Workload Measures? Reach out to your OBPM Performance Analyst or to Deputy Performance Director Lia Katz (lia.katz@dc.gov).

HELPFUL TIPS & DEFINITIONS

- **Key Performance Indicators (KPIs)** are quantitative measures of performance associated with targets. They typically include a statistic, like a percentage, and an object, like "tickets dismissed when contested."
- **Workload Measures (WMs)** measure the volume of work performed—e.g., the number of parking tickets issued—and do not have associated targets. Typically, workload measures provide information about service demand.
- **In most cases**, agency activities do not aim to increase or decrease workload measures. In rare instances, if an agency is working to increase or decrease volume of work directly, a measure may be tracked as a KPI, with an associated target (e.g., "number of trees planted.").

| KEY PERFORMANCE INDICATOR (KPI) or WORKLOAD MEASURE (WM) | New KPI or WM for FY24? | If new for FY24, please explain how this metric was developed: | WHICH DIRECTION IS DESIRED? | FY 2020 ACTUAL | FY 2021 ACTUAL | FY 2022 TARGET | FY 2022 ACTUAL | FY 2023 TARGET |
|--|-------------------------|--|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |

No KPIs or Workload Measures informed the development of this enhancement request.

Q.13 Budget Enhancement Request (3 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION III. PERFORMANCE RATIONALE & IMPACT (continued) *Required for ALL requests*

PERFORMANCE IMPACT

What data that the agency collects or plans to collect will indicate what impact this enhancement has made?*

The agency collects no data as it pertains to this enhancement request.

Please list any agency Key Performance Indicators (KPIs) or Workload Measures (WMs) that will be impacted by this enhancement.*

If you are proposing a new metric, write "NEW" in the columns for FY 2020-2022. Metrics can be measurements of outputs, desired outcomes, operational efficiency, inputs or resources, or volume of demand or work for a particular program. Metrics may appear in both tables in this section.

| KEY PERFORMANCE INDICATOR (KPI) or WORKLOAD MEASURE (WM) | New KPI or WM for FY24? | If new for FY24, please explain how this metric was developed: | WHICH DIRECTION IS DESIRED? | FY 2020 ACTUAL | FY 2021 ACTUAL | FY 2022 TARGET | FY 2022 ACTUAL | FY 2023 TARGET |
|--|-------------------------|--|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |
| [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] | [enter] |

No KPIs or Workload Measures will be impacted by this enhancement request.

Q.13 Budget Enhancement Request (3 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION IV. BUDGETING FOR RACIAL EQUITY

Required for ALL requests

Does this enhancement specifically seek to mitigate racial equity gaps in the District?*

YES

NO

What racial inequity does this enhancement request address?*

For example, does the enhancement address a health disparity, educational gap, disproportionality in housing, bolstering existing community resources, etc. Please be as specific as possible.

N/A

What is the rationale for addressing the inequity in this way and/or with this program?*

For example, is the enhancement in response to a legislative requirement or mandate, community engagement efforts, demographic data, or something else?

N/A

In what ways have you meaningfully involved internal and external stakeholders in the development of your agency's budget request, including staff and communities of color?* For more, see ORE's [Meaningful Community Engagement Guide](#).

N/A

If this budget enhancement could potentially cause unintended benefits or burdens, please detail what racial or ethnic groups might be positively or negatively impacted.* For example, the location for a new airport could disrupt traffic patterns and create noise and air pollution that impact residents in the immediate vicinity, which could worsen racial health inequities.

N/A

STOP HERE for enhancement types **A, B, or C.**
CONTINUE to Section IV for enhancement types **D or E.**

Q.13 Budget Enhancement Request (3 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION V. EVALUATION

Required for Type D and E requests

This section is required for all Type D and E enhancement requests—that is, enhancements that would expand existing programs or activities or launch completely new programs or activities. Incomplete submissions will be returned.

What evidence supports the likelihood that this enhancement will achieve the desired outcome?*

Please describe outcomes from similar efforts that have been undertaken before in the District or in other cities. If possible, include formal evaluation studies and lessons learned from both successes and failures. Provide links to cite your sources.

[Click or tap here to enter text.](#)

Is your enhancement identical to the model the evidence comes from?*

- YES.** The enhancement is identical to the model the evidence comes from and the population served is similar. Indicate below how you will ensure your agency implements the model fully.
- NO.** The enhancement differs from the model the evidence comes from, is just a part of that model, serves a different population, etc. Below, describe how it differs and why.

[Click or tap here to enter text.](#)

If the enhancement is granted, is your agency willing to evaluate whether the enhancement achieves the desired outcome?*

This could involve piloting the enhancement. The Lab @ DC can provide additional guidance.

- YES NO

Which KPI or Workload Measure listed in Section III (Performance Rationale & Impact) captures the most important outcome(s) in the evidence provided?* OBPM expects that it will be possible for agencies to identify for almost all enhancement requests a new or existing KPI or workload measure that aligns with the outcome measures identified in the evidence provided. If this is not feasible, please explain below.

[Click or tap here to enter text.](#)

EVALUATING ENHANCEMENTS

As part of the budget formulation process, OBPM will categorize the research evidence you cite based on whether:

- the study design was rigorous, and the study was well implemented;
- the findings are positive and statistically significant; and
- the evidence is based on a model and population similar to the proposed enhancement.

THE LAB@DC TEAM IS HERE TO HELP!

Have questions about the evidence? Email thelab@dc.gov (and CC your OBPM Budget Analyst). The Lab can pre-review evidence, brainstorm future evaluation ideas, offer suggestions on where to look for evidence, and help you think through the evidence you've found.

Q.13 Budget Enhancement Request (3 of 3)

Form 2: Operating Budget Enhancement Requests (Detail)

FY 2024 Agency Budget Request

SECTION VI. PROJECT PLAN

Optional for All Requests

This section is now optional. However, it remains recommended for Type D and E enhancement requests—that is, enhancements that would expand existing programs or activities or launch completely new programs or activities.

This project plan can be used to show how the agency will deliver the intended results before the end of the fiscal year. Complete as best you can, knowing the plan might evolve.

PROJECT OWNER

Who is the single person who will be most responsible for this initiative? If the project owner must be hired, specify who will own the project until that time.

NAME [Click or tap here to enter text.](#)
 TITLE [Click or tap here to enter text.](#)
 EMAIL [Click or tap here to enter text.](#)
 PHONE [Click or tap here to enter text.](#)

BUSINESS PARTNER COORDINATION

What other agencies or stakeholders would be critical to this project’s success, and what communication have you had with them?

[Click or tap here to enter text.](#)

PROJECT TIMELINE

Describe below anticipated implementation milestones by month to show how the agency will deliver the intended results.

| PREPARATION FOR PROJECT LAUNCH (before start of fiscal year) | |
|--|-------------------------|
| JUNE 2023 | [enter] |
| JULY | [enter] |
| AUG | [enter] |
| SEPT | [enter] |
| FISCAL YEAR STARTS, FUNDS DISBURSED | |
| OCT 2023 | [enter] |
| NOV | [enter] |
| DEC | [enter] |
| JAN 2024 | [enter] |
| FEB | [enter] |
| MARCH | [enter] |
| APRIL | [enter] |
| MAY | [enter] |
| JUNE | [enter] |
| JULY | [enter] |
| AUG | [enter] |
| SEPT | [enter] |

OEA CONTRACTS AND PROCUREMENTS, FY2022 AND FY2023, AS OF JAN. 1, 2023 (Q14)

(complete columns A-W)

Q.14 Contracts

| Contract Number, as it appears in OCP's Awarded Contracts Database | Contractor /Vendor Name | Specific description of contractual goods and/or services | Names of any subcontractors | Period of performance (dates) | Current year of contract (e.g. Base Year, Option Year 1, etc.) | Program | Cost Center | Index code | PCA code | Requisition numbers | Purchase order numbers | Maximum or total contract or procurement value in FY2022, per contract | Actual expenditures in FY2022 for each contract | Maximum or total contract or procurement value in FY2023 | Total actual payments made in FY2023 for each contract |
|--|-------------------------|---|-----------------------------|-------------------------------|--|---------|-------------|------------|----------|---------------------|------------------------|--|---|--|--|
| | WEST PUBLISHING CORP | Legal Research | | 10/01/2021 - 09/30/2022 | Option Year 2 | 1020 | 1020 | 10000 | 11020 | | PO655276 | 10,849 | 10,849 | - | - |
| | WEST PUBLISHING CORP | Legal Research | | 10/01/2022 - 09/30/2023 | Option Year 3 | 100022 | 50280 | | | | PO674181 | | | 11,391 | 11,391 |
| | NEAL R GROSS AND CO INC | Court Reporting and Transcription | | 10/01/2022 - 09/30/2023 | | 100022 | 50280 | | | | PO674968 | | | 10,000 | 2,514 |

Q.15 P Card

| FY2022 | | | | |
|----------------------|-------------------------|--|----------------------|---|
| <i>Employee name</i> | <i>Date of purchase</i> | <i>Vendor name (do not list "Pay Pal;" name the ultimate vendor)</i> | <i>Dollar amount</i> | <i>Purpose of expenditure</i> |
| HEMRAJ,HEMCHAND | 12/2/2021 | METRO FARE AUTOLOAD | 200.00 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 12/10/2021 | STANDARD OFFICE SUPPLY | 203.60 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 12/13/2021 | STANDARD OFFICE SUPPLY | 754.30 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 01/07/2022 | NEAL R. GROSS & CO., I | 2,205.99 | Professional Services |
| HEMRAJ,HEMCHAND | 01/07/2022 | NEAL R. GROSS & CO., I | 1,071.15 | Professional Services |
| HEMRAJ,HEMCHAND | 01/07/2022 | NEAL R. GROSS & CO., I | 492.15 | Professional Services |
| HEMRAJ,HEMCHAND | 01/13/2022 | NEAL R. GROSS & CO., I | 1,129.05 | Professional Services |
| HEMRAJ,HEMCHAND | 01/13/2022 | NEAL R. GROSS & CO., I | 272.13 | Professional Services |
| HEMRAJ,HEMCHAND | 02/08/2022 | CDW GOVT #R911735 | 358.55 | Computer, Hardware, Software and Peripherals |
| HEMRAJ,HEMCHAND | 02/02/2022 | DC BAR | 360.00 | OEA Training session (Marijuana_Law update) AJ, GC and DO (participants) |
| HEMRAJ,HEMCHAND | 02/08/2022 | FEDERAL EMPLOYMENT LAW | 585.00 | OEA Training session (Vaccine mandate_Policy update) AJ, GC and DO (participants) |
| HEMRAJ,HEMCHAND | 02/11/2022 | NEAL R. GROSS & CO., I | 1,499.61 | Professional Services |
| HEMRAJ,HEMCHAND | 02/07/2022 | STANDARD OFFICE SUPPLY | 112.15 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 3/7/2022 | SENODA INC | 770.00 | Print and Duplicating Services |
| HEMRAJ,HEMCHAND | 3/23/2022 | NEAL R. GROSS & CO., I | 250.00 | Professional Services |
| HEMRAJ,HEMCHAND | 3/23/2022 | NEAL R. GROSS & CO., I | 370.56 | Professional Services |
| HEMRAJ,HEMCHAND | 4/25/2022 | STANDARD OFFICE SUPPLY | 49.34 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 5/3/2022 | STANDARD OFFICE SUPPLY | 402.67 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 5/5/2022 | NEAL R. GROSS & CO., I | 758.49 | Professional Services |
| HEMRAJ,HEMCHAND | 5/18/2022 | STANDARD OFFICE SUPPLY | 536.89 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 5/18/2022 | STANDARD OFFICE SUPPLY | 1,192.17 | Maintenance Repair Operation |

Q.15 P Card

| | | | | |
|-----------------|-----------|------------------------|----------|--|
| HEMRAJ,HEMCHAND | 5/19/2022 | STANDARD OFFICE SUPPLY | 67.62 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 5/26/2022 | STANDARD OFFICE SUPPLY | 171.35 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 6/1/2022 | STANDARD OFFICE SUPPLY | 88.98 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 6/10/2022 | NEAL R. GROSS & CO., I | 250.00 | Professional Services |
| HEMRAJ,HEMCHAND | 7/6/2022 | NEAL R. GROSS & CO., I | 250.00 | Professional Services |
| HEMRAJ,HEMCHAND | 7/8/2022 | NEAL R. GROSS & CO., I | 1,800.69 | Professional Services |
| HEMRAJ,HEMCHAND | 7/8/2022 | NEAL R. GROSS & CO., I | 4,226.70 | Professional Services |
| HEMRAJ,HEMCHAND | 7/8/2022 | NEAL R. GROSS & CO., I | 1,534.35 | Professional Services |
| HEMRAJ,HEMCHAND | 7/8/2022 | NEAL R. GROSS & CO., I | 2,321.79 | Professional Services |
| HEMRAJ,HEMCHAND | 7/12/2022 | ADOBE ACROPRO SUBS | 2,242.68 | Computer, Hardware, Software and Peripherals |
| HEMRAJ,HEMCHAND | 7/18/2022 | STANDARD OFFICE SUPPLY | 117.00 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 8/2/2022 | NEAL R. GROSS & CO., I | 3,097.65 | Professional Services |
| HEMRAJ,HEMCHAND | 8/8/2022 | NEAL R. GROSS & CO., I | 347.40 | Professional Services |
| HEMRAJ,HEMCHAND | 8/19/2022 | STANDARD OFFICE SUPPLY | 82.54 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 8/24/2022 | STANDARD OFFICE SUPPLY | 486.40 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 8/31/2022 | NEAL R. GROSS & CO., I | 1,250.64 | Professional Services |
| HEMRAJ,HEMCHAND | 9/14/2022 | NEAL R. GROSS & CO., I | 1,667.52 | Professional Services |
| HEMRAJ,HEMCHAND | 9/19/2022 | NEAL R. GROSS & CO., I | 185.28 | Professional Services |
| HEMRAJ,HEMCHAND | 9/20/2022 | STANDARD OFFICE SUPPLY | 101.24 | Maintenance Repair Operation |

FY2023

| <i>Employee name</i> | <i>Date of purchase</i> | <i>Vendor name (do not list "Pay Pal;" name the ultimate vendor)</i> | <i>Dollar amount</i> | <i>Purpose of expenditure</i> |
|----------------------|-------------------------|--|----------------------|-------------------------------|
| HEMRAJ,HEMCHAND | 11/1/2022 | STANDARD OFFICE SUPPLY | 464.00 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 11/7/2022 | STANDARD OFFICE SUPPLY | 35.25 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 11/9/2022 | FEDERAL EMPLOYMENT LAW | 325.00 | Government |
| HEMRAJ,HEMCHAND | 11/21/2022 | STANDARD OFFICE SUPPLY | 1,892.62 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 12/5/2022 | STANDARD OFFICE SUPPLY | 343.36 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 12/6/2022 | PITNEY BOWES | 186.98 | Professional Services |
| HEMRAJ,HEMCHAND | 12/12/2022 | STANDARD OFFICE SUPPLY | 394.08 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 12/14/2022 | STANDARD OFFICE SUPPLY | 100.36 | Maintenance Repair Operation |

Q.15 P Card

| | | | | |
|-----------------|------------|--------------------|--------|---------------------------------|
| HEMRAJ,HEMCHAND | 12/15/2022 | CDW GOVT #FQ88231 | 430.25 | Maintenance Repair Operation |
| HEMRAJ,HEMCHAND | 12/22/2022 | USPS PO 1049480240 | 11.74 | Government |

Q.18 Org Chart

Office of Employee Appeals (OEA) Organizational Chart

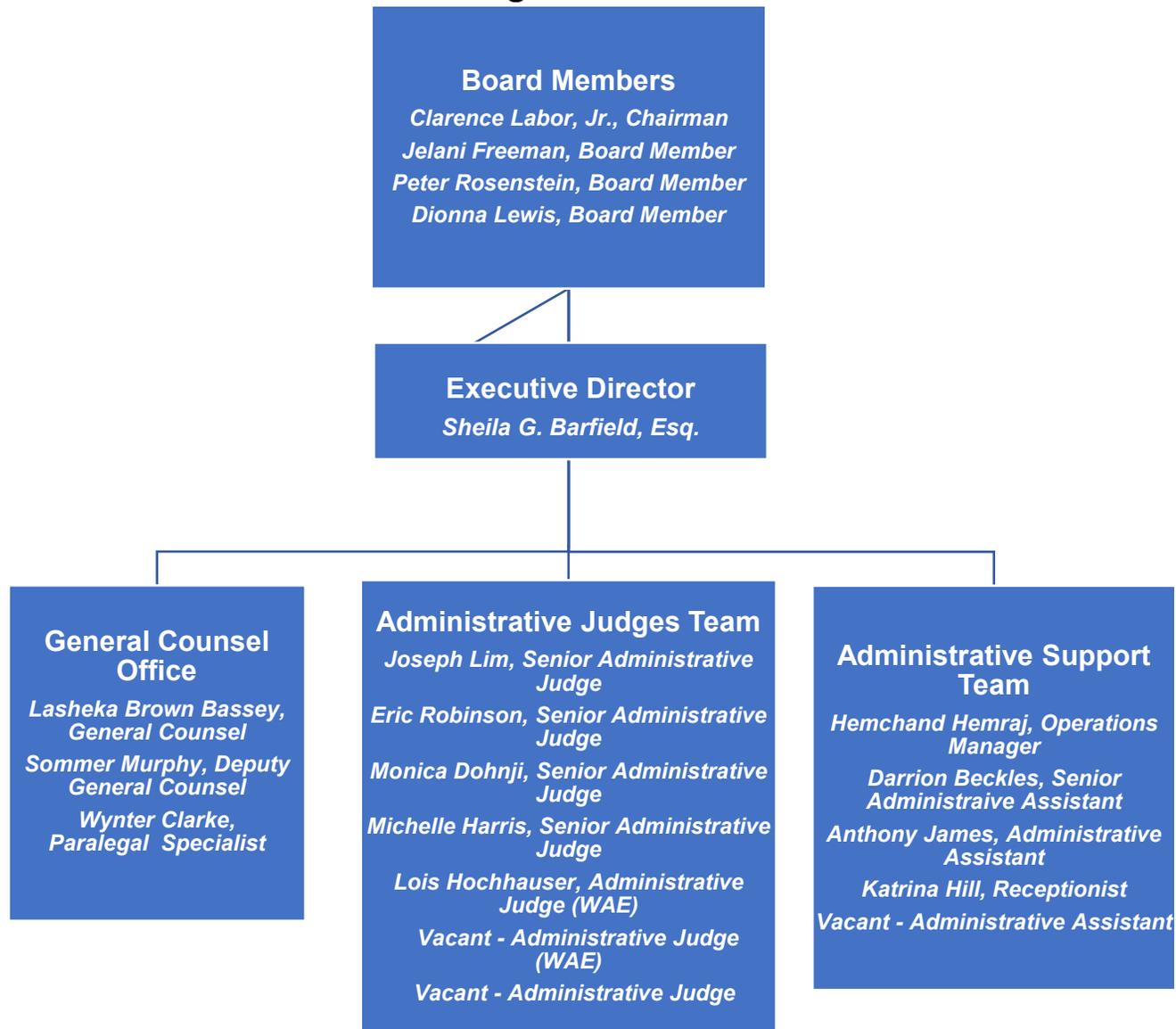


CHART OF OEA AGENCY PERSONNEL, as of JAN. 1, 2023 (Q18)

Q.19 Personnel

| Position number | Position status (A-active, R-frozen) | Vacancy Status (V/F) | Job title | Program | Cost Center | Employee's name (leave blank if position is vacant) | Reports to name | Grade level | Step | Salary | Fund code | Type of appointment (e.g. career, excepted, MSS) | Job status (i.e. continuing, term, or temporary) | Full-time, part-time | WAE (yes/no) | Seasonal or year-round | Hire Date | Not-to-Exceed date | Hire (start) date in District government | DC Residency status (Yes/no) |
|-----------------|--------------------------------------|----------------------|--------------------------------|---------|-------------|---|----------------------|-------------|------|---------------|-----------|--|--|----------------------|--------------|------------------------|------------|--------------------|--|------------------------------|
| 00001974 | A | F | HEARING EXAMINER | 500198 | 50281 | Hochhauser,Lois C | Barfield,Sheila | 14 | 4 | \$ 70,837.50 | 1010001 | Attorneys | TERM | P | Y | | 4/3/1985 | 9/30/2023 | | |
| 00006993 | A | F | GEN COUNSEL | 100151 | 50281 | Bassey,Lasheka Brown | Barfield,Sheila | 15 | 10 | \$ 193,382.00 | 1010001 | Attorneys | Reg | F | N | | 5/15/2005 | | | |
| 00007174 | A | F | EXECUTIVE DIRECTOR | 100154 | 50280 | Barfield,Sheila | Barfield,Sheila | 10 | 0 | \$ 202,971.97 | 1010001 | Excepted Service | Reg | F | N | | 10/18/1993 | | | |
| 00010846 | A | V | HEARING EXAMINER | 500200 | 50281 | | VACANT | 14 | 4 | \$ 141,675.00 | 1010001 | Attorneys | Reg | P | Y | | | | | |
| 00014026 | A | F | SENIOR HEARING EXAMINER | 500198 | 50281 | Lim,Joseph Edward | Barfield,Sheila | 15 | 7 | \$ 181,792.00 | 1010001 | Attorneys | Reg | F | N | | 8/3/1998 | | | |
| 00018547 | A | V | Operations Manager | 100151 | 50281 | | VACANT | 14 | 1 | \$ 109,999.00 | 1010001 | Career Service (General) | Reg | F | N | | | | | |
| 00019834 | A | F | SENIOR HEARING EXAMINER | 500198 | 50281 | Dohnji,Monica N | Barfield,Sheila | 15 | 6 | \$ 176,744.00 | 1010001 | Attorneys | Reg | F | N | | 5/26/2011 | | | |
| 00026005 | A | F | Receptionist | 100028 | 50280 | Hill,Katrina | Hemraj,Hemchand | 6 | 10 | \$ 53,186.00 | 1010001 | Career Service (General) | Reg | F | N | | 5/5/1997 | | | |
| 00032406 | A | F | Senior Administrative Assistan | 100071 | 50280 | Beckles,Darrion James | Hemraj,Hemchand | 9 | 5 | \$ 61,110.00 | 1010001 | Career Service (General) | Reg | F | N | | 3/29/2020 | | | |
| 00036540 | A | F | PARALEGAL SPECIALIST | 100151 | 50281 | Clarke,Wynter A | Bassey,Lasheka Brown | 12 | 6 | \$ 93,311.00 | 1010001 | Career Service (General) | Reg | F | N | | 5/23/2016 | | | |
| 00036642 | A | F | SENIOR HEARING EXAMINER | 100151 | 50281 | Robinson,Eric Theodore | Barfield,Sheila | 15 | 6 | \$ 176,744.11 | 1010001 | Attorneys | Reg | F | N | | 6/12/2005 | | | |
| 00037517 | A | F | Administrative Assistant | 100151 | 50281 | James,Anthony Lester | Hemraj,Hemchand | 6 | 10 | \$ 53,186.00 | 1010001 | Career Service (General) | Reg | F | N | | 7/25/2005 | | | |
| 00047295 | A | F | Deputy General Counsel | 500198 | 50281 | Murphy,Sommer Joy | Bassey,Lasheka Brown | 14 | 8 | \$ 158,849.00 | 1010001 | Attorneys | Reg | F | N | | 6/9/2008 | | | |
| 00075085 | A | F | Senior Hearing Examiner | 500198 | 50281 | Harris,Michelle R | Barfield,Sheila | 14 | 6 | \$ 150,262.00 | 1010001 | Attorneys | Reg | F | N | | 7/27/2015 | | | |
| 00077069 | A | V | HEARING EXAMINER | 500198 | 50281 | | VACANT | 14 | 0 | \$ 128,795.00 | 1010001 | Attorneys | Reg | F | N | | | | | |
| 00088930 | A | F | Operations Manager | 100154 | 50280 | Hemraj,Hemchand | Barfield,Sheila | 12 | 4 | \$ 88,300.00 | 1010001 | Career Service (General) | Reg | F | N | | 9/20/2021 | | | |

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

GEORGE RESPER :
v. : Case No. 2019 CA 008286 P(MPA)
DISTRICT OF COLUMBIA, *et al.* :

ORDER

The Court grants George Resper’s petition for review of a decision by the Office of Employee Appeals (“OEA”).¹

I. BACKGROUND

The D.C. Department of Corrections (“DOC”) hired Mr. Resper in 2009 as a painter at the D.C. Jail. In 2016, Mr. Resper, through his doctor Rodney Brooks, requested accommodations due to a permanent medical disability involving his back. *See* R.69-72. In 2017, DOC approved intermittent leave over a period of two years under the Family and Medical Leave Act (“FLMA”) because of Mr. Resper’s disability. In 2018, Mr. Resper submitted another request for accommodation of his disability based on an evaluation by Dr. Melis Sener, who stated that Mr. Resper “can perform his job in full duty” provided he (1) gets a 5-minute break after standing 30 minutes on a ladder or standing for two hours and (2) avoids lifting objects heavier than 40 pounds at a time. R. 162. Later in 2018, Dr. Karen Singleton performed a fitness for duty (“FFD”) examination at DOC’s request. Dr. Singleton confirmed that Mr. Resper had a disability and could not perform the essential functions of his position without significant accommodations, and she recommended accommodations more substantial than those recommended by Drs. Brooks and Sener. *See* R.79-84.

¹ The undersigned judge assumed responsibility for this case while the calendar judge is on leave.

After the FFD examination, the D.C. Department of Human Resources (“DCHR”) instructed DOC to “engage in the interactive process to determine whether these specific accommodations [recommended by Dr. Singleton] or any other subsequently identified accommodations will enable Mr. Resper to perform the essential functions of his position.” *See* R. 101. DOC Brief at 4. DOC decided that it could not provide the necessary accommodations, and it decided to remove Mr. Resper because he could not perform the essential functions of his job without assistance from inmates.

Mr. Resper appealed DOC’s decision to OEA. In the OEA proceedings, Mr. Resper was represented by his wife, who is an ADA disability specialist with the D.C. Office of Disability Rights. Resper Brief at 5 n.6. On October 29, 2019, a senior administrative judge upheld DOC’s decision terminating Mr. Resper’s employment (“OEA Decision”).

Mr. Resper filed a timely petition for review in this Court. On May 13, 2021, Mr. Resper filed his brief (“Resper Brief”). On June 24, OEA submitted in lieu of a brief a statement attaching its final decision. On July 16, intervenor DOC filed its brief (“DOC Brief”). On September 9, Mr. Resper filed a reply (“Resper Reply”).

II. STANDARD OF REVIEW

“We review an OEA decision to ensure it is not arbitrary, capricious, or an abuse of discretion.” *Sium v. Office of the State Superintendent of Education*, 218 A.3d 228, 234 (D.C. 2019). “For an OEA decision to pass muster, the agency must state findings of fact on each material contested factual issue; those findings must be supported by substantial evidence in the agency record; and its conclusions of law must follow rationally from its findings.” *Id.* (cleaned up). The court “must accept the OEA ALJ’s findings of fact unless they are not supported by substantial evidence.” *Id.* (cleaned up). “Substantial evidence is relevant evidence such as a

reasonable mind might accept as adequate to support a conclusion.” *Davidson v. Office of Employee Appeals*, 886 A.2d 70, 72 (D.C. 2005) (cleaned up). “As long as agency decisions are supported by substantial evidence in the record, they must be affirmed notwithstanding that there may be contrary evidence in the record (as there usually is).” *Id.* (cleaned up).

III. DISCUSSION

The Court grants Mr. Resper’s petition for review and remands the case to OEA because OEA’s legal analysis and findings of fact did not address all of the material legal and factual issues, and some of its findings of fact were not supported by substantial evidence in the agency record. *See Sium*, 218 A.3d at 234. Because the Court sets OEA’s decision aside on substantive grounds, it does not reach Mr. Resper’s alternative argument OEA erred by failing to conduct a hearing, even though Mr. Resper did not request a hearing. *See id.* (discussing an agency’s discretion to conduct a hearing).

DOC’s stated ground for termination was that Mr. Resper was unable to perform the essential functions of his job. Mr. Resper’s primary argument is that he could perform these essential functions with the reasonable accommodations to which he was legally entitled. *See, e.g.*, Resper Brief at 7. For good reason, Mr. Resper “does not dispute that OEA does not have jurisdiction to adjudicate claims consisting *solely* of ADA violations.” Resper Reply at 2 (emphasis added). OEA does not have jurisdiction to review claims of disability-based discrimination under the D.C. Human Rights Act (“DCHRA”) or the federal Americans with Disabilities Act (“ADA”). *Davidson*, 886 A.2d at 74 (OEA does not have jurisdiction to consider petitioner’s claim that his removal violated his rights under the ADA); *El-Amin v. D.C. Department of Public Works*, 730 A.2d 164, 165 (D.C. 1999). Accordingly, OEA correctly ruled that Mr. Resper’s “claims of human rights violations by Agency due to his disability status and

Q.31 REMAND REVS

request for workplace accommodations/restrictions are outside the scope of OEA’s jurisdiction.” OEA Decision at 5 (R. 428).

However, the OEA did have jurisdiction to decide whether DOC lawfully removed Mr. Resper under 6B DCMR § 1607.2(n). Section 1607.2(n) permits removal based on “[a]ny circumstance that prevents an employee from performing the essential functions of his or her position, and for which no reasonable accommodation has been requested or can be made, unless eligible for leave protected under the D.C. Family Medical Leave Act.” DOC therefore correctly acknowledges that because OEA determined that circumstances prevented Mr. Resper from carrying out his assigned duties, it had the function to determine “whether any reasonable accommodation could enable him to perform those functions.” DOC Brief at 11.

Tension may exist between (1) OEA’s duty to decide whether a reasonable accommodation by DOC would have enabled Mr. Resper to perform the essential functions of his position and (2) OEA’s lack of jurisdiction to decide whether DOC violated the DCHRA or the ADA. One way to reconcile these two principles is the way chosen by OEA in the decision on which DOC relies: *Falls v. D.C. Department of General Services*, OEA Matter No. 1601-0044-12, Opinion and Order on Interlocutory Appeal (Oct. 29, 2013) (available at <https://oea.dc.gov/sites/default/files/dc/sites/oea/publication/attachments/Karen%20Falls%20v%20%20DGS.pdf>); see DOC Brief at 7. In *Falls*, the agency contended that it terminated Ms. Falls for neglect of duty and other causes, and Ms. Falls contended that the agency terminated her in retaliation for complaints about sexual harassment and race discrimination. As OEA explained in *Falls*, the case therefore presented two separate, albeit related, issues: (1) whether OEA has jurisdiction over discrimination claims; and (2) whether it has jurisdiction to review a claim of unlawful termination without cause. OEA concluded that it did have jurisdiction to

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determine whether the agency had cause to remove the employee, even though it did not have jurisdiction to determine whether the removal violated the DCHRA.

Here, OEA had jurisdiction to determine whether DOC had cause to remove Mr. Resper because no reasonable accommodation would permit him to perform the essential duties of his job, even though it did not have jurisdiction to determine whether his removal violated the DCHRA. OEA could resolve the issue concerning cause for termination without also deciding whether any failure by DOC to provide reasonable accommodations violated the DCHRA or the ADA. The issue that OEA had the jurisdiction and the obligation to decide was intertwined with issues involving the DCHRA and the ADA, but this intertwinement did not eliminate OEA's jurisdiction or relieve it of the obligation to decide whether DOC had cause for removal under 6B DCMR § 1607.2(n).

That is true even if the term “reasonable accommodation” for a disabled employee means the same thing both in § 1607.2(n) and in disability law. In its brief, DOC argues (counterintuitively) that OEA should determine whether an accommodation is “reasonable” without reference to the DCHRA or the ADA. DOC Brief at 11-12. However, OEA did not adopt that argument in its decision, and “it is the rationale of the agency that we review, not the *post hoc* rationalizations of counsel” – and certainly not the *post hoc* rationalizations of counsel for a party and not the agency itself. *See Durant v. D.C. Zoning Commission*, 99 A.3d 253, 260-61 (D.C. 2014) (cleaned up); *Motor Vehicle Manufacturers Ass’n v. State Farm Mutual Automobile Ins. Co.*, 463 U.S. 29, 43 (1983) (a reviewing court “may not supply a reasoned basis for the agency’s action that the agency itself has not given”).

Despite disclaiming any jurisdiction relating to compliance with the DCHRA and the ADA, OEA discussed the reasonableness of some accommodations for Mr. Resper’s disability,

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but it did not adequately explain its conclusions. OEA criticized Mr. Resper's "insistence that Agency allow him to work at a much slower and limited pace with assistance from others." OEA Decision at 5 (R.428). However, but OEA did not cite any record evidence that Mr. Resper made such a non-negotiable demand, and this does not appear to be an accurate characterization of the accommodations recommended by Drs. Brooks and Sener. OEA at least implicitly accepted Dr. Singleton's assessment of what accommodations were necessary for Mr. Resper, but it did not explain why the more limited accommodations that he requested through Drs. Brooks and Sener would not have been sufficient.² OEA's ultimate finding was, "Since Employee could not return to full duty *with no restriction*, I find that Agency established the requisite cause to take adverse action against Employee." OEA Decision at 5 (emphasis added) (R.428). But this finding seems tantamount to a finding that the agency is justified in removing any employee whose disability required any accommodations at all – a finding inconstant with the explicit recognition in § 1607.2(n) that reasonable accommodations are required.

Moreover, like the ADA, the DCHRA requires employers to engage in an "interactive process" to identify potential accommodations that could overcome a disabled employee's limitations. *See Hunt v. District of Columbia*, 66 A.3d 987, 992 (D.C. 2013). This interactive process is mandated because an employer that does not engage in an interactive process "risks not discovering a means by which an employee's disability could have been accommodated." *Id.* (cleaned up). It appears undisputed that despite DCHR's directive (R.101), DOC did not engage in an interactive process with Mr. Resper. *See* R.150 (Mr. Resper's prehearing statement complaining about the lack of an interactive process). OEA did not explain how it or DOC could

² The Court need not and does not decide (1) whether DOC had a sufficient basis to require a FFD examination by Dr. Singleton, (2) whether DOC provided Mr. Resper with the required notice for the examination, or (3) whether any failure to provide written notice affected Mr. Resper's substantial rights. *See* Resper Brief at 22-23.

be confident that Mr. Resper's disability could not be accommodated even though DOC did not complete or even start this interactive process.

The Court does not agree with Mr. Resper that that DOC could not lawfully terminate him for failing to perform his duties because he in fact continued to perform his duties despite the lack of any accommodation: "Most importantly, an Agency cannot terminate an employee for failing to perform his duties, if he never failed to do so." Resper Brief at 7-8. The whole premise of Mr. Resper's request for accommodations was that he could not continue to perform his duties without them. Each of his treating physicians agreed that he needed accommodations to perform essential job duties, and the necessary implication is that he could not – at least indefinitely – perform these duties without these accommodations. Mr. Resper stresses that he experienced "pain and hardship" when he continued to perform his duties without the accommodations to which the ADA entitled him. *See, e.g.*, Resper Brief at 14. Indeed, he characterizes the pain as "excruciating." *Id.* at 18; *see* Resper Reply at 7 (Mr. Resper performed his duties in "extreme pain" because of DOC's failure to provide reasonable accommodations). The basic problem with OEA's analysis is not that it concluded Mr. Resper could not perform essential job functions without reasonable accommodation, but instead that it did not provide a complete and reasoned explanation of its conclusion that no reasonable accommodations would have enabled Mr. Resper to do his job.

IV. CONCLUSION

For these reasons, the Court orders that:

1. The petition for review is granted.

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2. The case is remanded to OEA for further proceedings consistent with this Order.

Anthony C Epstein

Anthony C. Epstein
Judge

Dated: February 23, 2022

Copies via CaseFileXpress to all counsel of record

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

GINA VAUGHN

:
:
:
:
:
:

v.

Case No. 2020 CA 002891 P(MPA)

METROPOLITAN POLICE
DEPARTMENT, *et al.*

ORDER

The Court grants Gina Vaughn’s petition for review of a decision by the Office of Employee Appeals (“OEA”).¹

I. BACKGROUND

Ms. Vaughn began working for the D.C. government in August 1985. In 2011, she was working for the Metropolitan Police Department (“MPD”) as a Computer Specialist, Grade CS-12.

In 2011, MPD implemented a Reduction in Force (“RIF”) that abolished 14 positions, including Ms. Vaughn’s. Second Opinion and Order on Remand (“OEA Decision”) at 6 (R.766). MPD did not give Ms. Vaughn an opportunity to compete for another position, and she lost her job on October 14, 2011. *Id.* at 1 (R.761).

Ms. Vaughn petitioned OEA to review her separation. In 2014, an Administrative Judge ruled in her favor based on a finding that her separation was based on inaccurate RIF documents. OEA Decision at 1 (R.761). In 2016, OEA’s Board remanded the case. On remand in 2016, the Administrative Judge reversed his ruling and upheld the RIF. *Id.* at 2. In 2017, the Board denied Ms. Vaughn’s petition for review on procedural grounds. *Id.*

¹ The undersigned judge assumed responsibility for this case while the calendar judge is on leave.

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In 2018, Ms. Vaughn filed a timely petition for review by this Court. The Court remanded the case back to OEA for consideration of the merits of her challenges to her removal. OEA Decision at 3-4 (R.763-64). On remand in 2020, the Board issued its Second Opinion and Order on Remand upholding the RIF.

Ms. Vaughn filed a timely petition for review in this Court. On May 21, 2021, Ms. Vaughn filed her brief (“Vaughn Brief”). On October 4, 2021, MPD filed its brief (“MPD Brief”). On October 22, 2021, OEA submitted in lieu of a brief a statement attaching its final decision.

II. STANDARD OF REVIEW

“We review an OEA decision to ensure it is not arbitrary, capricious, or an abuse of discretion.” *Sium v. Office of the State Superintendent of Education*, 218 A.3d 228, 234 (D.C. 2019). “For an OEA decision to pass muster, the agency must state findings of fact on each material contested factual issue; those findings must be supported by substantial evidence in the agency record; and its conclusions of law must follow rationally from its findings.” *Id.* (cleaned up). “When an administrative body fails to make findings on material, contested issues of fact, a reviewing court cannot fill in the gap and make its own findings, and the court must remand the case to the agency for it to make the necessary factual determinations.” *Walker v. Office of the Chief Information Technology Officer*, 127 A.3d 524, 536 (D.C. 2015) (cleaned up).

The court “must accept the OEA ALJ’s findings of fact unless they are not supported by substantial evidence.” *Sium*, 218 A.3d at 234 (cleaned up). “Substantial evidence is relevant evidence such as a reasonable mind might accept as adequate to support a conclusion.” *Davidson v. Office of Employee Appeals*, 886 A.2d 70, 72 (D.C. 2005) (cleaned up). “As long as agency decisions are supported by substantial evidence in the record, they must be affirmed

notwithstanding that there may be contrary evidence in the record (as there usually is).” *Id.* (cleaned up). “We will reverse only if the OEA's decision was arbitrary, capricious, or an abuse of discretion.” *Walker*, 127 A.3d at 529. “On questions of law, however, our review is de novo.” *Id.*

III. DISCUSSION

Ms. Vaughn argues that OEA should have ruled that her removal was unlawful for three reasons: (a) the RIF was a sham intended to remove her and not her position; (b) flawed documents made her separation illegal; and (c) MPD denied her an opportunity to compete for a remaining position at the same competitive level. The Court disagrees with the first two arguments, but agrees with the third.

A. The challenge to the RIF as a sham

Ms. Vaughn argues that the RIF was a sham because MPD hired several new IT specialists for vacant positions and created several new IT positions after the RIF, and she cites federal cases stating that an agency cannot use a RIF to disguise an adverse action aimed at a particular employee. Vaughn Brief at 5-7, 11-12. OEA has narrow authority to determine whether a RIF is a sham because the agency had sufficient funds for the positions. *See Levitt v. D.C. Office of Employee Appeals*, 869 A.2d 364, 366 (D.C. 2005); *Anjuwan v. D.C. Department of Public Works*, 729 A.2d 883, 885 (D.C. 1998). OEA must conduct a hearing if the employee makes a “non-frivolous” contention that the position was not abolished for lack of funds. *See Levitt*, 869 A.2d at 366; *Thompson v. District of Columbia*, 530 F.3d 914, 918 (D.C. Cir. 2008). However, the Court need not decide whether Ms. Vaughn has a non-frivolous contention that her position was abolished for pretextual reasons, because she did not make this argument to OEA. “In the absence of exceptional circumstances, a reviewing court will refuse to consider

contentions not presented before the administrative agency at the appropriate time.” *Goodman v. D.C. Rental Housing Commission*, 573 A.2d 1293, 1301 (D.C. 1990). Ms. Vaughn does not demonstrate that the circumstances of this case are sufficiently exceptional to warrant the Court’s consideration of a fact-based issue that she did not give OEA an opportunity to address.

B. Inconsistencies in RIF documents

MPD acknowledged that its notice of separation to Ms. Vaughn identified her Competitive Level Code (“CLC”) as DS-0334-12-07-N and that her actual CLC was DS-0334-12-10-N. OEA concluded that the error was not harmful because the notice correctly identified the competitive level, which involves the first three of the five elements in the CLC. *See* OEA Decision at 11-12 (R.771-72). Ms. Vaughn does not demonstrate that this conclusion was unsupported by substantial evidence or that it was arbitrary or capricious. Ms. Vaughn does not dispute that MPD intended all along to eliminate her position; indeed, as discussed in Section III.A above, she contends that MPD specifically targeted her for removal.

Ms. Vaughn also argues that the Administrative Order governing the RIF does not identify her position. Here again, she does not demonstrate that OEA’s analysis of this issue was arbitrary, capricious, or unsupported by substantial evidence. *See* OEA Decision at 12-13 (R.772-73).

C. Competitive level

MPD agrees that Ms. Vaughn had the right to compete for another position in the same competitive level, which means jobs in the same classification series and grade. However, MPD contends that her position was in classification “334” and the only available positions with the

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same grade were in classification “2210,” so she had no right to compete for these positions. OEA agreed with this contention, but its decision to do so was error.²

Before 2001, Ms. Vaughn’s job was classified in the 334 series for computer specialists. OEA Decision at 7-8 (R.767-68). In its discovery responses, MPD stated that the District follows the personnel policies of the federal Office of Personnel Management (“OPM”), and “[i]n 2001, OPM cancelled the 334 series and replaced it with the 2210 occupational series.” *Id.* at 8 (quoting MPD’s discovery responses) (R.768). Because of administrative convenience or inertia, MPD did not take action “to reclassify the 334 series position to the existing 2210 series” unless the agency promoted the employee or took other affirmative action concerning the employee. *Id.* Because MPD did not take an affirmative action concerning Ms. Vaughn between 2001 and 2011 when it RIF’d Ms. Vaughn, MPD never got around to updating Ms. Vaughn’s paperwork to reflect that her position was now in the 2210 series.

OEA agreed with MPD that because MPD adopted a passive policy and did not update Ms. Vaughn’s paperwork to reflect replacement of the cancelled 334 series with the 2210 series, Ms. Vaughn still in the 334 series a decade after it was cancelled. This position elevates form over substance. MPD’s failure to formalize the reclassification of Ms. Vaughn’s position after cancellation of the 334 series does not change the fact that the reclassification in 2001 changed the classification of Ms. Vaughn’s position. The 334 position simply did not exist in 2011, no matter what vestigial paperwork said.

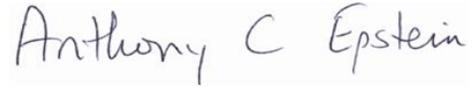
Ms. Vaughn therefore had the right to compete for any position at the same competitive level in the 2210 series.

² MPD argues that Ms. Vaughn waived this argument because she did not make it to OEA. MPD Brief at 9-10. The fact that OEA addressed the argument indicates that Ms. Vaughn preserved it.

IV. CONCLUSION

For these reasons, the Court orders that:

1. The petition for review is granted.
2. The case is remanded to OEA for further proceedings consistent with this Order.



Anthony C. Epstein
Judge

Dated: February 23, 2022

Copies via CaseFileXpress to all counsel of record

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

CIVIL DIVISION

| | | |
|---------------------------|---|---------------------------------------|
| ROXANNE CROMWELL, | : | |
| | : | |
| Petitioner, | : | Case No. 2021 CA 002345 P(MPA) |
| | : | Judge Todd E. Edelman |
| v. | : | |
| | : | |
| OFFICE OF EMPLOYEE | : | |
| APPEALS, | : | |
| | : | |
| Respondent. | : | |

ORDER

This matter comes before the Court upon Petitioner’s Petition for Review of Agency Order or Decision (“Petitioner’s Motion”), filed July 9, 2021. For the reasons set forth *infra*, Petitioner’s Motion is granted.

I. Factual and Procedural History

Roxanne Cromwell (“Petitioner”) had a career permanent civil service position with the District of Columbia Office of Human Resources (“DCHR”) when she accepted a term appointment as an Administrative Officer with Intervenor, the District of Columbia Department of Small and Local Business Development (“Agency”). R. 1-2. On September 11, 2017, Petitioner received notice from the Agency that she was terminated effective October 9, 2017. R. 2, 5-6. On October 17, 2017, Petitioner, proceeding *pro se*, filed a Petition for Appeal with the District of Columbia Office of Employee Appeals (“OEA”) contesting her removal. R. 1-4. The Agency sought dismissal of the Petition on the grounds that Petitioner was terminated while serving a required year-long probation period, during which her termination was not appealable

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to OEA under the District Personnel Manual (“DPM”) § 814.3.¹ R. 20-22. On January 29, 2018, an OEA Senior Administrative Judge (“AJ”) issued an Initial Decision agreeing with the Agency’s position and dismissing Ms. Cromwell’s Petition for lack of jurisdiction. R. 85-91. The AJ found that Petitioner was serving a second probationary period under DPM § 813.9(c)² because she was hired through open competition, and thus was not entitled to appeal the termination to OEA. R. 88-89.

On July 26, 2019, Petitioner, still proceeding *pro se*, filed a Petition for Review of the AJ’s Initial Decision with the Board of the OEA (“Board”), arguing that she was not serving a probationary period when she was terminated; instead, she contended she was entitled to appeal any adverse action to OEA because she was promoted non-competitively, and therefore continued to serve in Career Permanent status. R. 92-107. On May 19, 2020, the Board issued an Order and Opinion (“O&O”) finding that there was not “substantial evidence in the record to support the AJ’s ruling regarding open competition” (and thus whether Petitioner was completing a second probationary term at the time of her termination), R. 147, and remanded the matter to the AJ for consideration of the case on the merits, R. 148.

The AJ issued an Initial Decision on Remand (“IDR”) on May 29, 2020, finding that “as a career service permanent employee, [Petitioner] could only be terminated for cause” and retained the “right to appeal any adverse action that leads to termination.” R. 153-54. After finding that the Agency’s termination of Petitioner without conducting any *Douglas* factor

¹ “A termination during a probationary period is not appealable or grievable. However, a probationer alleging that his or her termination resulted from a violation of public policy, the whistleblower protection law, or District of Columbia or federal anti-discrimination laws, may file action under any such laws, as appropriate.” DPM § 814.3.

² “An employee who once satisfactorily completed a probationary period in Career Service shall be required to serve another probationary period when the employee . . . [i]s appointed as a result of open competition to a position in a different line of work, as determined by the appropriate personnel authority based on the employee’s actual duties and responsibilities.” DPM § 813.9(c).

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analysis constituted an abuse of discretion, the IDR reversed Petitioner’s termination and ordered the Agency to “restore [Petitioner] to her previous position of record” and “reimburse her all back-pay[] and benefits lost as a result of her removal.” R. 154-55. The IDR reached no conclusions as to which position (i.e., a career permanent position or her term appointment with the Agency) represented Petitioner’s “previous position of record” or as to the amount of back-pay and benefits she had lost. R. 152-57. The IDR did, however, appear to accept Petitioner’s characterization of her employment status as being that of “a career service permanent employee.” *See* R. 153 (“I further agree with [Petitioner’s] assertion that as a career service permanent employee, she could only be terminated for cause.”); R. 154 (“As a permanent Career Service employee, [Petitioner] may only be subject to adverse action for cause”). Neither party appealed the IDR, which became final 35 days after issuance. OEA Rules 632.1-632.2.

On September 21, 2020, Petitioner (now represented by counsel) filed a Petition for Enforcement alleging that the Agency had not reinstated her or reimbursed her back-pay and benefits despite the clear mandate of the IDR. R. 164-68. The Agency filed a Response on October 26, 2020 contending that it “ha[d] complied with the [IDR] to the extent possible.” R. 174. Specifically, the Agency’s Response argued that Petitioner was a term employee at the time of her termination; as the term was not to exceed May 27, 2018,³ the Agency maintained that, even though the IDR required it to reinstate Petitioner, it was not required to reinstate Petitioner beyond the expiration of her term.⁴ R. 175-76. The Agency’s Response concluded that “it is not

³ There is discrepancy as to whether the expiration date was May 27 or June 27, 2018; this discrepancy does not affect the outcome of this case. *See* R. 204 n.17.

⁴ The Agency also argued that back-pay and benefits had not been reimbursed as Petitioner had not completed the paperwork required to do so. R. 176-77.

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required by law, Mayor’s Order, regulation or agency policy to reinstate [Petitioner] to an expired term appointment.” R. 178.

Before ruling on the Petition for Enforcement, the AJ required the parties to submit briefs on a question not directly addressed in the IDR: “the issue of whether [Petitioner] had reversion rights back to her prior career service permanent position that she held in a different District agency prior to accepting the career service term position with Agency.” R. at 202. In her brief, Petitioner argued that the only issue before the AJ was whether the Agency complied with the IDR as Petitioner noted that the issue of reversion “was not litigated in the initial proceeding, before the OEA Board, or on remand.” R. 184. Petitioner also argued that a Petition for Enforcement was not the appropriate vehicle in which to litigate the question of reversion rights. R. 184. The Agency responded that the DPM offered no method through which to convert a term employee hired non-competitively to a career permanent employee and thus, a term employee could not be automatically converted to a permanent appointment. R. 196-97. The Agency asserted that not only did Petitioner not possess a reversion right, but also that it would be impossible for a conversion to occur under DPM regulations. R. 198. The Agency thus took the position that the IDR

merely ordered Agency to constructively reinstate [Petitioner] solely for the calculation of back[-]pay and benefits between the time of her termination and the NTE [“not to exceed”] date of her term (since her term had long since expired). This is the only permissible remedy. At no point in time did Agency believe it was ordered to reinstate a term appointee to a CS permanent position.

R. 195.

On February 17, 2021, the AJ issued an Addendum Decision on Compliance (“ADC”), finding that the Agency was not required to reinstate Petitioner because her term appointment

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had expired.⁵ R. 209. The AJ agreed that the issue of whether Petitioner reverted to a permanent career services position was “not proper[ly] before OEA at this time” as the issue was not “raised prior to the issuance of the [Initial Decision], O&O or IDR.” R. 205. The AJ noted that

[T]he final Order . . . was to reinstate [Petitioner] to her previous position of record within *Agency*, and not to reopen the record to include other parties . . . to the claim. Because the record is clear with regards to Employee’s appointment status (Career Term appointment) at the time of her termination, and without any information to contradict this assertion, I conclude that the undersigned cannot go any further into this issue.

R. 205. The AJ acknowledged that she had made an “error in the IDR which referenced the rights afforded to permanent career service appointment within an agency” and that this “might have been confusing,” but asserted that the AJ “did not in any way intend to imply in the IDR that [Petitioner’s] position of record changed from a Term appointment to a permanent appointment.” R. 206. On the contrary, the AJ asserted that Petitioner was “being disingenuous in arguing that the IDR afforded her a permanent career service appointment” as Petitioner was “fully aware that her previous position of record with Agency was a Term NTE [“not to exceed”] appointment.” R. 206.

The AJ also held that Petitioner’s position did not automatically convert into a permanent position. The AJ found that Petitioner forfeited her career permanent position for a term appointment and that it was fully within the Agency’s discretion whether to convert Petitioner’s term appointment to a career permanent position under DPM § 823.3, as evidence in the record showed that the term appointment was supported by grant funds. R. 205-07; DPM § 823.3 (“If an employee is serving in a term appointment supported by grant funds, the conversion of his or her position shall be determined by the personnel authority.”). The AJ also pointed out that

⁵ The AJ also required Agency to reimburse the back-pay and benefits for the period between Petitioner’s termination and the expiration of her term appointment. R. 209.

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under DPM § 823.8, a term employee cannot be converted to a regular career service appointment unless the employee was appointed through open competition and completed a probationary period. R. 208. Given that the O&O had found that Petitioner was appointed non-competitively, the AJ held that Petitioner’s term appointment was not eligible for conversion into a permanent appointment. R. 209. The AJ thus concluded that the Agency did not have to reinstate Petitioner as her “term appointment has expired and Agency has decided not to extend the term appointment.” R. 209. As such, the Agency was, according to the AJ, in partial compliance with the IDR. R. 209

On March 23, 2021, Petitioner filed a Petition for Review of the Administrative Judge’s Initial Decision. R. 212-24. Despite its caption, this Petition did not seek reversal of the IDR, but instead asked the Board to “review and reverse the [AJ]’s Addendum Decision on Compliance,” R. 212, arguing that Petitioner retained her permanent career appointment after her promotion because her promotion to the Agency was an internal placement and because she did not relinquish her rights in writing, R. 215-23. The Agency argued that the Board lacked jurisdiction to review an ADC and thus that the Petition must be denied. R. 240. In response, Petitioner argued that the ADC’s conclusions about the nature of Petitioner’s employment status made that decision, in substance, “actually an Addendum Initial Decision, or Second Initial Decision [and therefore] NOT an Addendum Decision on Compliance.” R. 231. Given the substance of the ADC and its ruling on a central factual and legal issue not addressed in the IDR, Petitioner asserted that “[i]t is intellectually dishonest to contend that this order was substantively an order on compliance.” R. 232. Specifically, Petitioner argued that “the AJ upended the case by” making detailed findings of fact and conclusions of law of the type that usually comprise an Initial Decision. R. 234. She also noted that the ADC had an attached

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Notice of Appeal Rights that referred to the decision as an Initial Decision and that directed Petitioner as to how to appeal. R. 235.

The Board issued a Second Opinion and Order on Petition for Review (“Second O&O”) on June 17, 2021 finding that the OEA rules “provide[] no procedural avenue for an employee to appeal an Addendum Decision on Compliance to the OEA Board.” R. 250. The Board further ruled that, given that the IDR was not appealed within 35 days, any appeal of the IDR was untimely. R. 249. Accordingly, the Board denied the Petition for Review. R. 251.

Petitioner filed this Petition for Review of Agency Order or Decision with the D.C. Superior Court on July 9, 2021, seeking a reversal of the Board’s June 17, 2021 Second O&O and a remand of the matter to OEA. The Agency filed a Notice of Intent to Intervene on August 9, 2021. Petitioner filed her Opening Brief on December 28, 2021, and OEA filed a Statement in Lieu of Brief on January 28, 2022. The Agency filed an Opposition Brief on February 4, 2022, to which Plaintiff filed a Reply on April 29, 2022.

II. Standard of Review

District of Columbia courts review the decisions of administrative agencies on the limited grounds set forth in D.C. Code § 2-510(a)(3). “An agency decision must not be disturbed unless it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.” *Orius Telecomms., Inc. v. District of Columbia Dep’t of Emp. Servs.*, 857 A.2d 1061, 1065 (D.C. 2004). The court “must review the administrative record alone,” *Kegley v. District of Columbia*, 440 A.2d 1013, 1018 (D.C. 1982), and will generally give “‘deference to an agency’s interpretation of the statute under which it acts’ unless ‘inconsistent with the plain language of

the statute itself,” *D.C. Fire & Med. Servs. Dep’t v. D.C. Off. of Emp. Appeals*, 986 A.2d 419, 424 (D.C. 2010) (quoting *D.C. Metro. Police Dep’t v. Pinkard*, 801 A.2d 86, 90 (D.C. 2002)).

III. Analysis

Resolution of this case requires explication of the details of the OEA process. A District employee may appeal a final agency decision to the OEA within 30 days of the effective date of the action. 6-B DCMR §§ 604.1-604.2. After appropriate briefing, an Administrative Judge (“AJ”) will issue an Initial Decision which contains “[f]indings of fact and conclusions of law, as well as the reasons or bases therefore, upon all the material issues of fact and law presented on the record” as well as “[a]n order as to the final disposition of the case” and “[a] statement of the right to seek further administrative remedy.” § 631.2(a)-(c). An Initial Decision becomes final after 35 days; however, either party may file a Petition for Review with the Board within that 35-day period. §§ 632.1-2. On a Petition for Review, the Board may “affirm, reverse, remand, modify, or vacate the [I]nitial [D]ecision, in whole or in part.” § 633.10. An agency has thirty days to comply with a final decision. § 635.1.

When an agency fails to timely comply, “the employee may file a motion [with the AJ who decided the appeal] to enforce the final decision,” § 635.2; the AJ “shall take all necessary action to determine whether the final decision is being complied with” and issue a written Decision on Compliance, § 635.7. Decisions on Compliance are typically not appealable. *See* OEA Rules §§ 640.11-.12 *see also Delores Junious v. D.C. Child and Fam. Servs.*, OEA Matter No. 1601-0057-01C07, *Opinion and Order on Petition for Review* (January 25, 2010) at 4 (“OEA’s rules do not contain a specific provision for filing a petition for review in response to an addendum decision on compliance. If a party wishes to contest the findings of a decision

regarding compliance, the matter must first be certified to this Office’s General Counsel for enforcement.”); *Willie Porter v. D.C. Dep’t of Behav. Health*, OEA Matter No. 1601-0046-12C16, *Opinion and Order on Compliance* (December 3, 2019) at 14 (“If an [AJ] has determined that an agency adhered with an order on compliance, then the procedural remedies are exhausted because the terms of the AJ’s order have been satisfied.”).

The procedural history of this case and the manner in which the AJ considered the issue regarding the position to which Petitioner should be reinstated demonstrate that the ADC was, in part, a decision that should properly have been designated as a modified or supplemental Initial Decision—and thus been subject to appeal to the OEA Board. In this case, Petitioner appealed her termination to the OEA and prevailed in the IDR, with the AJ issuing a decision that awarded her reinstatement to her position with back-pay and benefits. The IDR did not, however, address the question as to *which* position Petitioner should be reinstated to as a result of the AJ’s ruling. The AJ did not address this question—central to the resolution of Petitioner’s claim—until she issued the ADC. *See* R. 207-09. In the ADC, the AJ acknowledged that the IDR was, at best, ambiguous as to the nature of the position to which Petitioner was being restored. R. 206. Indeed, to the extent the IDR spoke to this issue, it twice referred to Petitioner as having a career *permanent* civil service position. R. 153-54. As noted *supra*, the ADC admitted “the error in the IDR . . . might have been confusing.” R. 206.

In reaching this aspect of her decision, the AJ undertook a process similar to that involved in reaching an Initial Decision⁶: requiring the parties to submit briefs addressing the unresolved factual and legal question, i.e., “the issue of whether [Petitioner] had reversion rights

⁶ Indeed, OEA appeared to treat the ADC as an Initial Decision in some formal respects. OEA attached a “Notice of Appeals Rights” to the ADC describing the ruling as an Initial Decision (“This is an Initial Decision . . .”) and explaining the means by which such a decision could be appealed. R. 210. Moreover, the Certificate of Service appended to the ADC again referred to it as the “attached INITIAL DECISION.” R. 211.

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back to her prior career service permanent position that she held in a different District agency prior to accepting the career service term position with Agency.” R. 202. After considering those briefs, the AJ made factual findings and reached legal conclusions as to the issue, finding that Petitioner “did not retain her career service permanent appointment status when she accepted the Term position with Agency” and that Petitioner “did not have any reversion/retreat rights to her previous career service permanent status upon her acceptance of the career service term position with Agency.” R. 208. These conclusions modified, or at least clarified, the conclusions previously reached in the IDR. In the end, the IDR—which should have addressed “all the material issues of fact and law,” 6-B DCMR § 634.2(a)—was essentially not completed until the AJ made these additional findings in the ADC.

The OEA Board’s conclusions in the Second O&O thus appear to be beside the point. These conclusions combine to place Petitioner in a particularly unfair catch-22: according to the Second O&O, Petitioner is too late to appeal the IDR and the ADC is not appealable, thus shielding one of the most essential factual and legal findings of the AJ from any review. Of course, Petitioner had no reason to seek review of the IDR—the findings to which she objects were not made in that decision—and has attempted to obtain review of the ADC only to be told that, regardless of the nature of its findings, it is beyond review. Such a situation strikes the undersigned as unfair and impossible to uphold given the procedural history of this case and the manner in which the AJ made her decision. The findings made in the ADC regarding the position to which Petitioner was entitled to reinstatement represent a modification, clarification, or amendment of the IDR. Given that the ADC—and the aspect of it which the Court deems to be a supplemental or amended Initial Decision—was issued on February 17, 2021 and that

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Petitioner timely sought review on March 23, 2021, the Court remands this matter to OEA for consideration of the merits of that review petition.

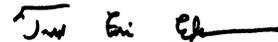
For the foregoing reasons, it is this 8th day of September, 2022 hereby

ORDERED that Petitioner's Petition for Review is GRANTED; and it is

FURTHER ORDERED that the Office of Employee Appeals' Second Opinion and Order on Petition for Review, issued June 17, 2021, is VACATED; and it is

FURTHER ORDERED that the case is REMANDED to the District of Columbia Office of Employee Appeals for further proceedings consistent with this decision; and it is

FURTHER ORDERED that the Status Hearing scheduled for September 9, 2022 is VACATED.



Todd E. Edelman
Associate Judge
(Signed in Chambers)

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**District of Columbia
Court of Appeals**

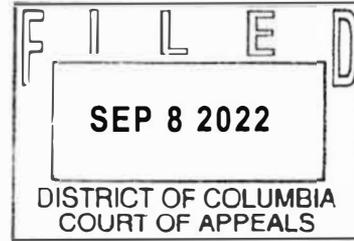
No. 19-CV-1223

ABRAHAM EVANS,

Appellant,

v.

CAP4909-18



DISTRICT OF COLUMBIA
OFFICE OF EMPLOYEE APPEALS, *et al.*,
Appellees.

BEFORE: Easterly and Deahl, Associate Judges, and Long, Senior Judge of the
Superior Court of the District of Columbia.*

ORDER

On consideration of appellee’s petition for rehearing, appellant’s response to
appellee’s petition for rehearing, appellee’s motion for leave to file the lodged reply
in support of its petition, and appellant’s opposition thereto, it is

ORDERED that appellee’s motion for leave to file the lodged reply in support
of its petition is granted, and the Clerk shall file appellee’s reply in support of its
petition. It is

FURTHER ORDERED that appellee’s petition for rehearing is denied.

PER CURIAM

*Sitting by designation pursuant to D.C. Code § 11-707 (a)(2012 Repl.)

No. 19-CV-1223

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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

DISTRICT OF COLUMBIA :
DEPARTMENT OF YOUTH :
REHABILITATION SERVICES : Case Number: 2022 CA 1505 P(MPA)
v. : Judge: Shana Frost Matini
DISTRICT OF COLUMBIA OFFICE OF :
EMPLOYEE APPEALS :

ORDER

This matter comes before the Court upon consideration of the District of Columbia Department of Youth Rehabilitation Services’ (“Agency” or “Petitioner”) Petition for Review of Agency Order, filed April 5, 2022. On May 17, 2022, the Office of Employee Appeals (“OEA”) filed the agency record (“Record”) with the Court.¹ On June 27, 2022, employee Samuel Murray filed a Notice of Intention to Intervene. Petitioner filed its opening Brief on August 29, 2022 (Pet’r’s Br.”) and Mr. Murray filed his Opposition (“Murray Opp.”) on October 11, 2022. OEA filed its Statement in Lieu of Brief on October 13, 2022 (“OEA Stmt.”), and the Agency filed its Reply on November 3, 2022. The Court has reviewed the filings and relevant law and for the reasons contained herein, the Court reverses OEA’s Addendum Decision on Compliance as to the interest on back pay.

Factual and Procedural Background

On July 30, 2010, Mr. Murray’s left shoulder was injured while working as a motor vehicle driver for the Agency. Pet’r’s Br. at 2. Mr. Murray was unable to work following the injury, and, with the exception of a brief return to work from November 5, 2012 through

¹ The Court notes that, while it received a hard copy of the Record to chambers, the Record still does not appear on the electronic docket.

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December 17, 2012, Mr. Murray's absence from work continued until his November 29, 2013 removal for an inability to perform his duties. *Id.*

On December 17, 2013, Mr. Murray filed an appeal with OEA challenging his removal. Pet'r's Br. at 2. After three appeals to the OEA Board and two remands, OEA ultimately found that Mr. Murray was entitled to a two-year grace period to return to his job following his work injury under D.C. Code § 1-623.45(b)(1). *Id.* Mr. Murray's return to work from November 5, 2012 to December 17, 2012 was found to have restarted the two-year clock, and thus OEA reversed Mr. Murray's removal pursuant to D.C. Code § 1-623.45(b)(1). *Id.* at 2-3. In its Second Initial Decision on Remand dated October 31, 2018, OEA found that Mr. Murray should be reimbursed with "all backpay and benefits lost as a result of his removal[.]" *Id.* at 3; R. at 569.

The Agency appealed the Second Initial Decision on Remand to the OEA Board; the Board affirmed its decision on October 23, 2019. Pet'r's Br. at 3. The Superior Court of the District of Columbia denied the Agency's Petition for Review on September 21, 2020 and the remedies became final on October 21, 2020. *Id.*; see *D.C. Dep't of Youth Rehab. Servs. v. D.C. Office of Emp. Appeals*, Case No. 2019 CA 007692 P(MPA) (D.C. Super. Ct. Sept. 21, 2020).

On February 10, 2021, Mr. Murray filed a Motion to Reopen, asserting that he had not yet received back pay or benefits from the Agency; OEA treated the motion as a motion for enforcement/compliance. Pet'r's Br. at 3; R. at 625-629. The parties engaged in six status conferences on the issue of compliance, during which the issue of interest was raised. Pet'r's Br. at 3-4. The Agency submitted a brief at the request of OEA to argue that an assessment of interest would be untimely because the Second Initial Decision on Remand and remedies had become final, and thus an award of interest would constitute an improper amendment of a final judgment. *Id.* at 4.

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On March 22, 2022, OEA issued the Addendum Decision finding no outstanding compliance issues by the Agency and ordering the Agency to pay four percent per annum simple interest on the back pay amount, from December 1, 2013 through March 31, 2021. *Id.* at 4. OEA found that Mr. Murray had “endured a long and procedurally complicated ordeal” such that “an assessment of interest on the back pay here is appropriate to provide [Mr. Murray] the full value of his benefits lost as a result of his unlawful termination.” R. at 871. On April 5, 2022, the Agency filed its Petition for Review to appeal the award of interest in the Addendum Decision.

Standard of Review

“An agency’s decision is presumed to be correct, so that the burden of demonstrating error is on the appellant or petitioner who challenges the decision.” *Union Market Neighbors v. D.C. Zoning Commission*, 204 A.3d 1267, 1270 (D.C. 2019) (quotations omitted). An agency’s legal conclusions “must be sustained unless they are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” *Smallwood v. D.C. Metro Police Dep’t*, 956 A.2d 705, 707 (D.C. 2008) (internal citations and quotations omitted). The Court will generally give weight to the “reasonable construction of a regulatory statute by the agency charged with its administration so long as it is not plainly wrong or inconsistent with the legislature’s intent.” *Jones v. D.C. Dep’t of Empl. Servs.*, 158 A.3d 906, 909 (D.C. 2017) (internal quotation marks and citations omitted). The Court will also “review mixed questions of law and fact under [the] usual deferential standard of review for factual findings . . . and apply *de novo* review to the ultimate legal conclusions based on those facts.” *Office of Tax & Revenue v. BAE Systems Enterprise Systems*, 56 A.3d 477, 480 (D.C. 2012).

Analysis

The Agency seeks review of OEA's award of back pay interest to Mr. Murray. Pet'r's Br. at 1. The Agency argues that OEA lacked jurisdiction to subsequently add interest to a final judgment, as the District of Columbia Circuit Court of Appeals found in *Winslow v. Federal Energy Regulatory Commission*, 587 F.3d 1133, 1135 (D.C. Cir. 2009) following the Supreme Court's holding in *Osterneck v. Ernst & Whinney*, 489 U.S. 169 (1989). Pet'r's Br. at 8-10. The Agency asserts that *Osterneck* and *Winslow* stand for the assertion that interest cannot be awarded to a final decision. Pet'r's Br. at 10. Additionally, the Agency argues that OEA cannot award interest on back pay because it exceeds its statutory authority. *Id.* at 11-14.

In his Opposition to the Petition for Review, Mr. Murray reiterates OEA's rationale in its Addendum on Compliance to assert that *Osterneck* is distinguishable from the instant matter, Murray Opp. at 2, and argues that the District of Columbia Court of Appeals has previously addressed the assessment of interest on back pay and has found, while not available in every case, interest was appropriate to compensate a claimant for the lost time-value of their recovery, particularly in lengthy and complicated proceedings. Murray Opp. at 2; *see D.C. Office of Human Rights v. D.C. Dep't of Corrections*, 40 A.3d 917 (D.C. 2012) ("*Office of Human Rights*") (finding that the agency had authority to award interest in an order awarding back pay). Mr. Murray argues that OEA indicated in its March 2, 2022 Order that the issue of whether OEA has the authority to address pre- or post-judgment interest under the CMPA is a matter of first impression. Murray Opp. at 3. Mr. Murray then makes an alternative argument that 5 U.S.C. § 5596(a)(5) provides for back pay due to unjustified personnel actions and is applicable to the District of Columbia government. *Id.* at 4.

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In the Reply, the Agency asserts that *Osterneck*'s holding applies broadly to post-judgment requests for interest, and likewise was applied by the District of Columbia Circuit Court of Appeals in *Winslow*. Reply at 2.

With respect to the jurisdictional issue, the Agency argues that under *Osterneck*, the OEA did not have the authority to order interest, as the Second Initial Decision on Remand was a final decision that was not timely amended. Pet'r's Br. at 8-10. Mr. Murray and OEA reiterate the rationale from the Addendum Decision on Compliance, wherein OEA found that *Osterneck* was distinguishable from the instant matter as it involved violations of federal securities and compensatory damages awarded by a jury, whereas Mr. Murray's matter involves an appropriate issuance of interest on back pay. R. at 870-871; Murray Opp. at 2-3; OEA Stmt. Ex. 1.

Pursuant to Title 6B of the District of Columbia Municipal Regulations, initial decisions issued for appeals under Section 604.1 for government employees become final thirty-five days after issuance unless a party files a petition for review. 6B DCMR § 635.1-635.3. If the Board grants a petition for review, the subsequent decision becomes the final decision. *Id.* § 635.5. For appeals under Section 604.1, the agency must comply within thirty days unless the decision is appealed to the Superior Court of the District of Columbia. *Id.* § 640.1. If the agency fails to comply within that time, the employee may file a motion to enforce the final decision. *Id.* § 640.3.

“After issuing the initial decision, the Hearing Examiner shall retain jurisdiction over the case *only* to the extent necessary to correct the record, rule on a motion for attorney fees, or process any petition for enforcement filed under the authority of the Office.” D.C. Code § 1-606.03(c) (emphasis added). If the OEA determines that the agency has not complied with an

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order within thirty days of service, OEA shall certify the matter to the General Counsel. *Id.* § 1-606.09.

In the instant matter, Mr. Murray filed his motion to enforce his award of back pay on February 10, 2021, arguing that the Agency failed to comply with the decision that reinstated Mr. Murray on December 20, 2020. The parties acknowledged at a subsequent status conference that the back pay was awarded with a check dated March 31, 2021, and therefore, the issue of enforcement of back pay became moot. R. at 870. OEA then addressed the question of interest on back pay, which had also been raised by Mr. Murray in his motion. *Id.* The Administrative Judge reasoned that, as in *Office of Human Rights*, there was no good reason to withhold an award of interest on Mr. Murray's back pay, as Mr. Murray had been wrongfully terminated over seven years prior to the issuance of the Addendum Order. *Id.* at 871. The Administrative Judge found that the "assessment of interest here considers the purpose of fully compensating [Mr. Murray] for the lost value of his recovery due to the significant passage of time." *Id.*

As stated, an administrative judge retains jurisdiction over a case "only to the extent necessary to correct the record, rule on a motion for attorney fees, or process any petition for enforcement filed under the authority of the Office." D.C. Code § 1-606.03(c). Here, the Administrative Judge's Second Initial Decision on Remand became a final order. While Mr. Murray properly sought enforcement of this order when the Agency had not yet given him his back pay after thirty days, that issue became moot with the payment of the March 31, 2021 check.

While the Administrative Judge may have found it appropriate here, given the lengthy litigation, to award Mr. Murray interest on the back pay, the Court finds that the Administrative

Judge did not have the jurisdiction to do so.² Mr. Murray's request for an award of interest on the back pay award does not fall within the Administrative Judge's jurisdiction: to correct ministerial errors in the record, to rule on attorney fees, or to process a petition for enforcement. *See* D.C. Code § 1-606.03(c). Here, the Administrative Judge did process Mr. Murray's Motion to Reopen, treating it as a motion to enforce compliance with the order to award Mr. Murray back pay; however, the jurisdiction ended there, particularly when the issue of compliance became moot.

In *Osterneck*, the Supreme Court found that a post-judgment motion for discretionary prejudgment interest involved the type of reconsideration that falls within Federal Rule of Civil Procedure 59(e). *Osterneck*, 489 U.S. at 176. Similarly, the Court in *Winslow* found that a motion seeking discretionary or mandatory pre- and post-judgment interest constituted a motion to amend or alter a final judgment, such that Rule 59(e) applied and the moving party was required to file the motion within ten days of the final order. *Winslow*, 587 F.3d at 1135. The moving party in *Winslow* waited two and a half years to file his motion, and thus the Court affirmed the District Court's finding that the motion was untimely. *Id.*

Similarly, in the instant matter, the Administrative Judge's order became final in October of 2020, and Mr. Murray did not file his motion requesting, *inter alia*, that the Administrative Judge amend the final judgment to add interest on the back pay award, until February 10, 2021.

² In this regard, the authority relied upon by the Administrative Judge, *Office of Human Rights*, R. at 871, is inapplicable to the issue of jurisdiction. In *Office of Human Rights*, a case with a particularly tortured procedural history, the Superior Court remanded the matter back to OHR in June 1998 with the express direction "to reexamine the award of retroactive promotion and back pay under the correct legal standard, and charged OHR with making a factual determination on the amount of damages." *Office of Human Rights*, 40 A.3d at 921. During that remand, the employee requested interest on her back pay award, and that request was rejected in the OHR decision issued in June 2007, as OHR determined it did not have the legal authority to order interest on the back pay award. *Id.* at 921-22. On appeal, the Superior Court determined that OHR did in fact have the authority, where appropriate, to award such interest, and the Court of Appeals agreed. Thus, unlike in the instant case, the issue of interest was raised by the employee and considered as part of the Superior Court's remand to the agency, before the damages award was final, and thus while the agency still had jurisdiction to consider the issue.

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As the Administrative Judge's decision had become final and the request for interest on back pay falls outside the scope of the Administrative Judge's jurisdiction, *see* D.C. Code § 1-606.03(c), the Court reverses the award of interest.³

Conclusion

Accordingly, it is this 5th day of January 2023 hereby:

ORDERED that the District of Columbia Department of Youth Rehabilitation Services' Petition for Review of Agency Order is **GRANTED**; and it is further

ORDERED that the portion of the Office of Employee Appeals' Addendum Decision on Compliance that awards prejudgment simple interest on the back pay amount owed to Mr. Murray is **REVERSED**.

SO ORDERED.



Judge Shana Frost Matini
Superior Court of the District of Columbia

Copies electronically served on counsel and parties of record

³ The Agency then argues that, even if OEA had jurisdiction to award interest on back pay ordered in the Second Initial Order on Remand, OEA lacked the statutory authority to award interest in the first place. Pet'r's Br. at 11. Because the Court finds that OEA did not have jurisdiction to amend a final order to award interest on Mr. Murray's back pay, the Court need not address the Agency's alternative argument.

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Agency Name

Office of Employee Appeals (OEA)

**Annual Freedom of Information Act Report for Fiscal Year 2021
October 1, 2020 through September 30, 2021**

FOIA Officer Reporting Sheila G. Barfield

PROCESSING OF FOIA REQUESTS

- 1. Number of FOIA requests received during reporting period0.....
- 2. Number of FOIA requests pending on October 1, 2020.....0.....
- 3. Number of FOIA requests pending on September 30, 2021.....0.....
- 4. The average number of days unfilled requests have been pending before each public body as of September 30, 2021
.....N/A.....

DISPOSITION OF FOIA REQUESTS

- 5. Number of requests granted, in whole.....N/A.....
- 6. Number of requests granted, in part, denied, in part.....N/A.....
- 7. Number of requests denied, in whole.....N/A.....
- 8. Number of requests withdrawn.....N/A.....
- 9. Number of requests referred or forwarded to other public bodies.....N/A.....
- 10. Other dispositionN/A.....

NUMBER OF REQUESTS THAT RELIED UPON EACH FOIA EXEMPTION

- 11. Exemption 1 - D.C. Official Code § 2-534(a)(1).....N/A.....
- 12. Exemption 2 - D.C. Official Code § 2-534(a)(2).....N/A.....
- 13. Exemption 3 - D.C. Official Code § 2-534(a)(3)
 - Subcategory (A) N/A.....
 - Subcategory (B) N/A.....
 - Subcategory (C) N/A.....
 - Subcategory (D) N/A.....
 - Subcategory (E) N/A.....
 - Subcategory (F) N/A.....
- 14. Exemption 4 - D.C. Official Code § 2-534(a)(4) N/A.....
- 15. Exemption 5 - D.C. Official Code § 2-534(a)(5) N/A.....

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- 16. Exemption 6 - D.C. Official Code § 2-534(a)(6)
 Subcategory (A) N/A.....
 Subcategory (B) N/A.....
- 17. Exemption 7 - D.C. Official Code § 2-534(a)(7).....N/A.....
- 18. Exemption 8 - D.C. Official Code § 2-534(a)(8).....N/A.....
- 19. Exemption 9 - D.C. Official Code § 2-534(a)(9).....N/A.....
- 20. Exemption 10 - D.C. Official Code § 2-534(a)(10).....N/A.....
- 21. Exemption 11 - D.C. Official Code § 2-534(a)(11).....N/A.....
- 22. Exemption 12 - D.C. Official Code § 2-534(a)(12).....N/A.....

TIME-FRAMES FOR PROCESSING FOIA REQUESTS

- 23. Number of FOIA requests processed within 15 days.....N/A.....
- 24. Number of FOIA requests processed between 16 and 25 days.....N/A.....
- 25. Number of FOIA requests processed in 26 days or more.....N/A.....
- 26. Median number of days to process FOIA Requests.....N/A.....

RESOURCES ALLOCATED TO PROCESSING FOIA REQUESTS

- 27. Number of staff hours devoted to processing FOIA requests.....N/A.....
- 28. Total dollar amount expended by public body for processing FOIA requests...N/A.....

FEES FOR PROCESSING FOIA REQUESTS

- 29. Total amount of fees collected by public body.....N/A.....

PROSECUTIONS PURSUANT TO SECTION 207(d) OF THE D.C. FOIA

- 30. Number of employees found guilty of a misdemeanor for arbitrarily or capriciously violating any provision of the District of Columbia Freedom of Information Act
 N/A.....

QUALITATIVE DESCRIPTION OR SUMMARY STATEMENT

Pursuant to section 208(a)(9) of the D.C. FOIA, provide in the space below or as an attachment, “[a] qualitative description or summary statement, and conclusions drawn from the data regarding compliance [with the provisions of the Act].”

No FOIA requests were submitted to OEA during Fiscal Year 2021

Q.44 FOIA FY22

Agency Name

Office of Employee Appeals (OEA)

**Annual Freedom of Information Act Report for Fiscal Year 2022
October 1, 2022 through September 30, 2022**

FOIA Officer Reporting Sheila G. Barfield, Executive Director

PROCESSING OF FOIA REQUESTS

- 1. Number of FOIA requests received during reporting period0.....
- 2. Number of FOIA requests pending on October 1, 2021.....0.....
- 3. Number of FOIA requests pending on September 30, 2022.....0.....
- 4. The average number of days unfilled requests have been pending before each public body as of September 30, 2022.....N/A.....

DISPOSITION OF FOIA REQUESTS

- 5. Number of requests granted, in whole.....N/A.....
- 6. Number of requests granted, in part, denied, in part.....N/A.....
- 7. Number of requests denied, in whole.....N/A.....
- 8. Number of requests withdrawn.....N/A.....
- 9. Number of requests referred or forwarded to other public bodies.....N/A.....
- 10. Other dispositionN/A.....

NUMBER OF REQUESTS THAT RELIED UPON EACH FOIA EXEMPTION

- 11. Exemption 1 - D.C. Official Code § 2-534(a)(1).....N/A.....
- 12. Exemption 2 - D.C. Official Code § 2-534(a)(2).....N/A.....
- 13. Exemption 3 - D.C. Official Code § 2-534(a)(3)
 - Subcategory (A).....
 - Subcategory (B).....N/A.....
 - Subcategory (C) N/A.....
 - Subcategory (D) N/A.....
 - Subcategory (E) N/A.....
 - Subcategory (F) N/A.....
- 14. Exemption 4 - D.C. Official Code § 2-534(a)(4) N/A.....
- 15. Exemption 5 - D.C. Official Code § 2-534(a)(5) N/A.....

Q.44 FOIA FY22

- 16. Exemption 6 - D.C. Official Code § 2-534(a)(6)
 - Subcategory (A).....N/A
 - Subcategory (B).....N/A
- 17. Exemption 7 - D.C. Official Code § 2-534(a)(7).....N/A
- 18. Exemption 8 - D.C. Official Code § 2-534(a)(8).....N/A
- 19. Exemption 9 - D.C. Official Code § 2-534(a)(9).....N/A
- 20. Exemption 10 - D.C. Official Code § 2-534(a)(10).....N/A
- 21. Exemption 11 - D.C. Official Code § 2-534(a)(11).....N/A
- 22. Exemption 12 - D.C. Official Code § 2-534(a)(12).....N/A

TIME-FRAMES FOR PROCESSING FOIA REQUESTS

- 23. Number of FOIA requests processed within 15 days.....0.....
- 24. Number of FOIA requests processed between 16 and 25 days.....0.....
- 25. Number of FOIA requests processed in 26 days or more.....0.....
- 26. Median number of days to process FOIA Requests.....N/A.....

RESOURCES ALLOCATED TO PROCESSING FOIA REQUESTS

- 27. Number of staff hours devoted to processing FOIA requests.....0.....
- 28. Total dollar amount expended by public body for processing FOIA requests.....0.....

FEES FOR PROCESSING FOIA REQUESTS

- 29. Total amount of fees collected by public body...0.....

PROSECUTIONS PURSUANT TO SECTION 207(d) OF THE D.C. FOIA

- 30. Number of employees found guilty of a misdemeanor for arbitrarily or capriciously violating any provision of the District of Columbia Freedom of Information Act ...0.....

QUALITATIVE DESCRIPTION OR SUMMARY STATEMENT

Pursuant to section 208(a)(9) of the D.C. FOIA, provide in the space below or as an attachment, “[a] qualitative description or summary statement, and conclusions drawn from the data regarding compliance [with the provisions of the Act].”

OEA did not receive any FOIA requests in FY 2022.