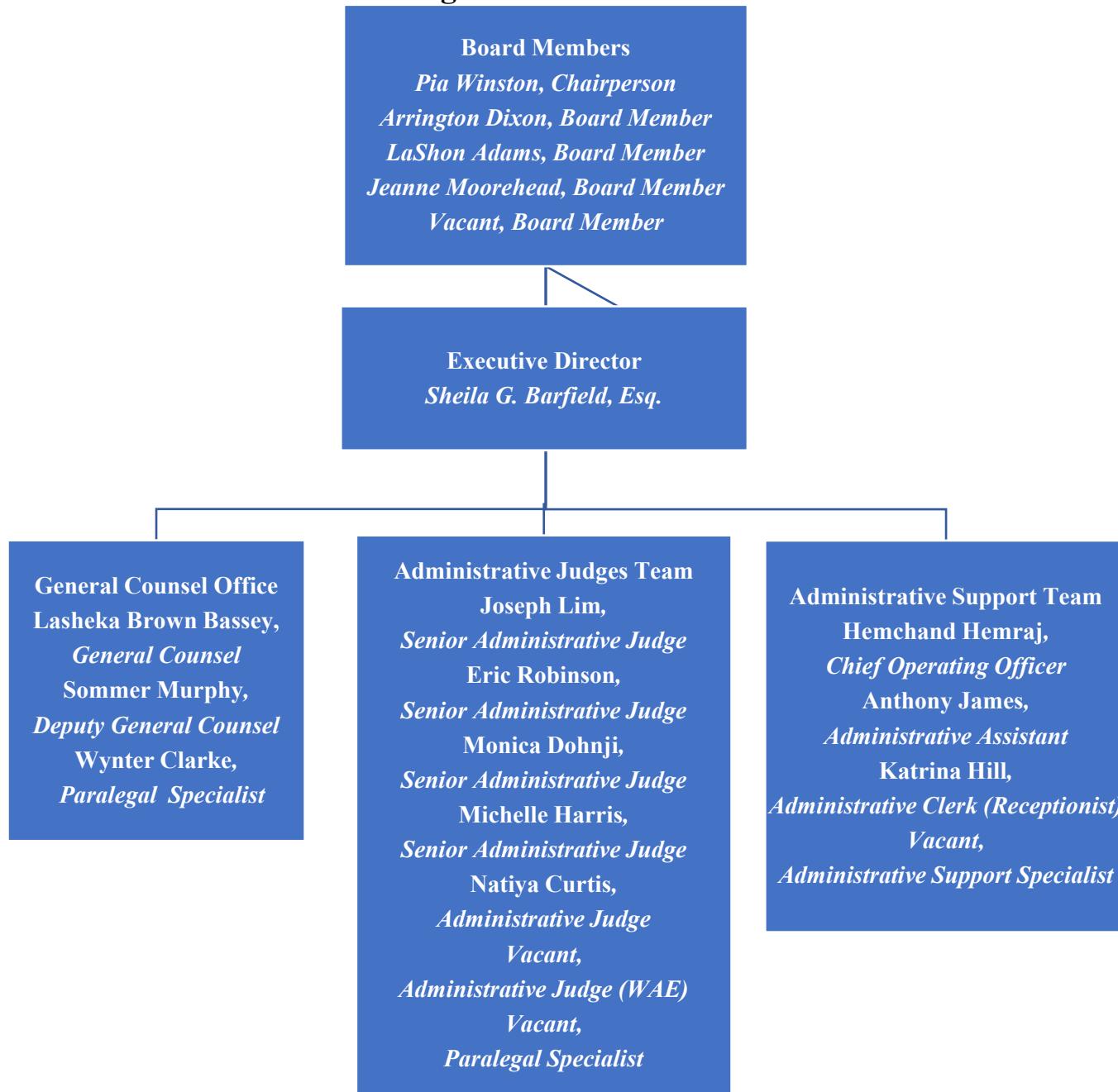


Attachment # 1

Q.1 Org Chart

Office of Employee Appeals (OEA) Organizational Chart



Q.1 Org Chart

Office of Employee Appeals (OEA) Organizational Chart

Agency Division	Number of Staff	Lead Person and Contact	Lead Person Tenure	Roles and Responsibilities
OEA Board	5	Pia Winston, Board Chair 955 L'Enfant Plaza, SW Washington, DC 20024 Email: pia.winston@dc.gov Phone: (202) 727-0004	1	The Chairperson serves as the Chief Executive of the office.
Executive Office	1	Sheila Barfield, Esq. Executive Director 955 L'Enfant Plaza, SW Washington, DC 20024 Email: sheila.barfield@dc.gov Phone: (202) 727-1811	32	The Executive Director is the administrator of the Office and serves as its chief personnel officer.
General Counsel Office	3	Lasheka Brown, Esq. General Counsel 955 L'Enfant Plaza, SW Washington, DC 20024 Email: lasheka.brown@dc.gov Phone: (202) 727-0738	20	The General Counsel, with the assistance of the Deputy General Counsel, provides legal advice to the Board and the Office, prepares opinions and orders as directed by the board, assists in the enforcement of orders pursuant to law, and represents the Office before the Courts.
Administrative Judge Team	6.5	Sheila Barfield, Esq. Executive Director 955 L'Enfant Plaza, SW Washington, DC 20024 Email: sheila.barfield@dc.gov Phone: (202) 727-1811	32	Administrative Judges, subject to the provisions of the agency rules and regulations, adjudicate and mediate appeals filed before the Office.
Operation/Administrative Support Team	4	Hemchand Hemraj, Chief Operating Officer 955 L'Enfant Plaza, SW Washington, DC 20024 Email: hemchand.hemraj@dc.gov Phone: (202) 727-5895	4	The Operation/Administrative Team provides support services to the Office.

Q.1 Org Chart

Office of Employee Appeals (OEA) Organizational Chart

Office of Employee Appeals (OEA) FY2025-2026 (Q1) Performance Evaluation Summary:

1. Changes to the OEA Board:
 - Dionna M. Lewis: Outgoing Chair
 - Pia Winston: Incoming Chair
2. Staffing Updates:
 - Monyea Briggs (Paralegal Specialist) resigned on April 25, 2025.
 - Lois Hochhauser (Administrative Judge) retired on June 13, 2025.

Attachment # 2

Q.2 Personnel

CHART OF OEA AGENCY PERSONNEL, as of JAN 28, 2026 (Q.2)

Position Number	Position status (A-active, R-frozen)	Vacancy Status (V/F)	Title	Employee's name (leave blank if position is vacant)	Reports to Name	Fund	Fund Name	Program	Cost Center	Grade	Step	Salary	Fringe	Total	Emplid	Hire Date	Type of appointment (e.g. career, excepted, MSS)	Reg/Temp/Term	DC Residency status (Yes/No)	Tenure with Agency
7174	A	F	Executive Director	Barfield,Sheila	Barfield,Sheila	1010001	LOCAL FUNDS	100154	50280	10	0	\$ 202,971.97	\$ 41,000.34	\$ 243,972.31	7080	10/18/1993	Excepted Service	Reg	No	32
6993	A	F	General Counsel	Bassey,Lashcka Brown	Barfield,Sheila	1010001	LOCAL FUNDS	100151	50281	15	10	\$ 193,382.00	\$ 39,063.16	\$ 232,445.16	29086	5/15/2005	Legal Service	Reg	No	20
47295	A	F	Deputy General Counsel	Murphy,Sommer Joy	Bassey,Lashcka Brown	1010001	LOCAL FUNDS	500198	50281	14	10	\$ 167,437.00	\$ 33,822.27	\$ 201,259.27	39028	6/9/2008	Legal Service	Reg	Yes	17
36540	A	F	Paralegal Specialist	Clarke,Wynter A	Bassey,Lashcka Brown	1010001	LOCAL FUNDS	100151	50281	13	5	\$ 105,001.00	\$ 21,210.20	\$ 126,211.20	91024	5/23/2016	Career Service (General)	Reg	No	9
14026	A	F	Senior Hearing Examiner	Lim,Joseph Edward	Barfield,Sheila	1010001	LOCAL FUNDS	500198	50281	15	8	\$ 186,840.00	\$ 37,741.68	\$ 224,581.68	14147	8/3/1998	Legal Service	Reg	No	33
36642	A	F	Senior Hearing Examiner	Robinson,Eric Theodore	Barfield,Sheila	1010001	LOCAL FUNDS	100151	50281	15	8	\$ 186,840.00	\$ 37,741.68	\$ 224,581.68	29185	6/12/2005	Legal Service	Reg	No	20
19834	A	F	Senior Hearing Examiner	Dohnji,Monica N	Barfield,Sheila	1010001	LOCAL FUNDS	500198	50281	15	8	\$ 186,840.00	\$ 37,741.68	\$ 224,581.68	64979	5/26/2011	Legal Service	Reg	No	14
75085	A	F	Senior Hearing Examiner	Harris,Michelle R	Barfield,Sheila	1010001	LOCAL FUNDS	500198	50281	15	5	\$ 171,697.00	\$ 34,682.79	\$ 206,379.79	87056	7/27/2015	Legal Service	Reg	No	10
77069	A	F	Hearing Examiner	Curtis,Natiya	Barfield,Sheila	1010001	LOCAL FUNDS	500198	50281	15	3	\$ 161,600.00	\$ 32,643.20	\$ 194,243.20	130040	7/31/2023	Legal Service	Reg	Yes	2
1974	A	V	Hearing Examiner	Vacant	Barfield,Sheila	1010001	LOCAL FUNDS	500198	50281	14	4	\$ 70,837.50	\$ 14,309.18	\$ 85,146.68	1990	4/3/1985	Legal Service	-	-	-
18547	A	V	Paralegal Specialist	Vacant	Barfield,Sheila	1010001	LOCAL FUNDS	100151	50281	13	1	\$ 93,069.00	\$ 18,799.94	\$ 111,868.94	137958	11/18/2024	Career Service (General)	-	-	-
113349	A	F	Chief Operating Officer	Hemraj,Hemchand	Barfield,Sheila	1010001	LOCAL FUNDS	100154	50280	14	0	\$ 137,328.50	\$ 27,740.36	\$ 165,068.86	119147	9/20/2021	Management Supervisory Services (MSS)	Reg	No	4
26005	A	F	Receptionist	Hill,Katrina	Hemraj,Hemchand	1010001	LOCAL FUNDS	100028	50280	7	9	\$ 57,322.00	\$ 11,579.04	\$ 68,901.04	26164	5/5/1997	Career Service (General)	Reg	No	28
37517	A	F	Administrative Assistant	James,Anthony Lester	Hemraj,Hemchand	1010001	LOCAL FUNDS	100151	50281	7	9	\$ 57,322.00	\$ 11,579.04	\$ 68,901.04	30026	7/25/2005	Career Service (General)	Reg	Yes	20
32406	A	V	Senior Administrative Assistant	Vacant	Hemraj,Hemchand	1010001	LOCAL FUNDS	100071	50280	9	3	\$ 57,647.00	\$ 11,644.69	\$ 69,291.69			Career Service (General)	-	-	-
TOTAL														\$ 2,036,134.97	\$ 411,299.27	\$ 2,447,434.24				

Attachment # 3

GOVERNMENT OF THE DISTRICT OF COLUMBIA

OFFICE OF EMPLOYEE APPEALS



REPLY TO:
 955 L'Enfant Plaza, S.W.
 Suite 2500
 Washington, DC 20024
 (202)727-0004
 FAX (202)727-5631

Memo

To: Sheila G. Barfield, Esq. – Executive Director 

From: Hemchand Hemraj – Chief Operating Officer 

Date: November 08, 2024

Re: Travel/Training Justification – Artificial Intelligence for all Judges and Lawyers: A Comprehensive Course (Pittsburgh, PA)

Per our discussion on October 28, 2024, and email sent to the OEA legal team on participating in the National Judicial College (NJC) first-ever Artificial Intelligence course for all Judges and Lawyers: A Comprehensive Course. I am hereby requesting your approval for the following staff: Eric Robinson, Joseph Lim (Senior Administrative Judges), and Wynter Clarke (Paralegal Specialist) to participate in the above mentioned in-person training.

The in-person training will take place at the Kline Center for Judicial Education at Duquesne University in Pittsburgh, Pennsylvania between Dec 2 -5, 2024. The learning objectives of this training on Artificial Intelligence is tailored specifically to the needs of judges and lawyers, to provide them with a solid grounding in AI essentials as well as a variety of legal and policy issues (Artificial Intelligence (AI) for all Judges and Lawyers: A Comprehensive Course - The National Judicial College).

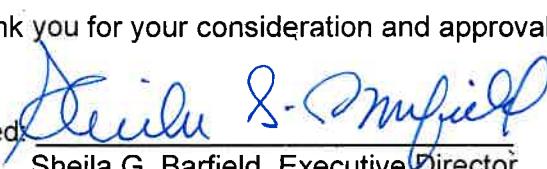
The following is the training/travel budget information for the NJC training–Artificial Intelligence for all Judges and Lawyers: A Comprehensive Course (Pittsburgh, PA) for your consideration and approval.

i.	Registration fee (conference and tuition)	- \$5,400.00
ii.	Estimated Airfare (Washington, DC to Pittsburgh, PA)	- \$2,400.00
iii.	Estimated Hotel accommodation (Pittsburgh, PA)	- \$2,400.00
iv.	Reduced Per Diem (December 1-6)	- \$1,200.00
v.	Miscellaneous Expense (estimated)	- \$600.00

Please find the following copy of documents to support the training/travel in accordance with the District government travel checklist (training brochure, airfare cost, hotel accommodation cost, registration cost, and copy of the program agenda).

Thank you for your consideration and approval of this training/travel.

Approved



Sheila G. Barfield, Executive Director

Q.4 Staff Expenses



GOVERNMENT OF THE DISTRICT OF COLUMBIA TR-1 REQUEST FOR TRAINING AND TRAVEL AUTHORIZATION FORM



I. Training/Travel Request Summary

1. Name of Traveler Eric Robinson	2. Employee ID: 00029188	3. Agency/Department (including Budget Code) OEA (CHO)
4. Position Title Hearing Examiner	5. Training or Conference Dates: To: 12/2/2024	From: 12/5/2024
6. Description of Travel/Training Artificial Intelligence for all Judges and Lawyers: A Comprehensive Course	7. Travel Destination Pittsburgh, PA	8. Total Cost (Travel, Training, or Conference) \$4,027.23
9. Training, Conference or Seminar Event Location Address Kline Center for Judicial Education at Duquesne University 600 Forbes Ave, Pittsburgh, PA 15282	10. Training or Conference Vendor Name and Address (as it must appear on check) National Judicial College (Reno, NV)	
11. If Travel is Sponsored (List Sponsor) Locally funded (OEA operating budget)	12. Donation Application Request No. N/A	13. Sponsor's Donation Amount

II. Transportation

14. Mode of Transportation <input checked="" type="checkbox"/> Airline <input type="checkbox"/> Train <input type="checkbox"/> Other Private Vehicle	15. Point of Departure BWI	16. Point of Arrival PIT	17. Travel Date 12/1/2024	18. Carrier Name SouthWest	19. Flight or Train IDs 3951/73W	20. Departure Time 9:25 AM	21. Arrival Time 10:30 AM
Transportation to Destination Air	22. Point of Departure PIT	23. Point of Arrival BWI	24. Travel Date 12/6/2024	25. Carrier Name SouthWest	26. Flight or Train IDs 1111/73H	27. Departure Time 1:45 PM	28. Arrival Time 2:50 PM

III. Lodging

29. Hotel Name and Address Kimpton Hotel Manaco Pittsburgh / 620 William Penn Place, Pittsburgh, PA 15219	30. Hotel Phone 412-471-1170
31. Lodging Dates From 12/01/2024 To 12/05/2024	32. Length of Stay(Nights) 5 nights

Special Notes:

IV. Total Cost

Item	Quantity	Unit Cost	Subtotal	Tax Rate	Total Rate	Total Cost	P-Card	Advance
Transportation (Airline, Train, etc.)	1	\$631.97	\$631.97	\$169.66	\$169.66	\$801.63	\$801.63	\$0.00
Lodging (Government Rate)	5	\$138.00	\$690.00	\$96.60	\$96.60	\$786.60	\$786.60	\$0.00
Per Diem	1	\$320.00	\$320.00	\$0.00	\$0.00	\$320.00	\$0.00	\$320.00
Per Diem (First and Last Day of Travel)	1	\$120.00	\$120.00	\$0.00	\$0.00	\$120.00	\$0.00	\$120.00
Car Rental (Only if Approved)	0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Training/Registration Fees	1	\$1,799.00	\$1,799.00	\$0.00	\$0.00	\$1,799.00	\$1,799.00	\$0.00
Other Expenses (Ground Travel including shuttles, Taxis, Car Rental, Parking Fees / Baggage fees)	1	\$200.00	\$0.00	\$0.00	\$0.00	\$200.00	\$0.00	\$200.00
TOTAL						\$3,387.23	\$640.00	

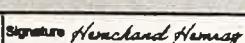
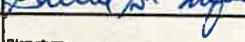
V. Funding Attributes (Provided by Agency Budget Responsible Manager or Agency Fiscal Officer)

Fund	Agency	Program	Cost Center	Account	Project	Award	Interfund	Future 1	Future 2
1010001	CHO	100022	50280	7131027	0000000	0000000	N/A	N/A	N/A

VI. Traveler Signature

I certify that I am requesting authorization to travel on official District government business. I will keep original receipts for all expenses and submit them, along with a properly completed travel reconciliation form, within ten (10) business days of the authorized travel completion date. I understand that I will not be reimbursed for any expenses that are not associated with official business, not authorized by this form, or not authorized by Title 1, Chapter 8 of the D.C. Municipal Regulations, District of Columbia Employees Travel and Related Expenses or other applicable District or federal law or regulations. I understand that if expenses are incurred by the District (such as through an advance to me or through advance payments to third parties) and I fail to travel or attend the training, fail to submit a properly completed travel reconciliation form by the required date, or fail to reimburse the District for any advance in excess of actual and authorized expenses, the balance due may be withheld from my pay or from other District payments due to me now or in the future; I may also be subject to disciplinary action.

Signature  Date **11/15/2024**

VII. Authorizations					
Administration Representative	Name: Hemchand Hemraj		Title: Chief Operating Officer	Signature  Date: 11/15/2024	
AFO or Budget Analyst	Name: Paul Blake		Title: Agency Fiscal Officer	Signature  Date: 11/15/2024	
Agency Director or Designee	Name: Shelia Berfield		Title: Executive Director	Signature  Date: 11/15/2024	
City Administrator (If required per Mayor's Order)	Name (Printed)		Title:	Signature Date	
Office of the Chief of Staff (International Only)	Name (Printed)		Title:	Signature Date	

Q.4 Staff Expenses



GOVERNMENT OF THE DISTRICT OF COLUMBIA

(Agency Name)

TR-3 REQUEST FOR TRAVEL EXPENSE REIMBURSEMENT FORM



I. Travel Package Control

1. Name of Traveler Eric Robinson	2. Employee ID: 00029185	3.. Agency OEA (CHO)
4. Position Title Hearing Examiner	5. Travel Date: To: 12/2/2024	From: 12/5/2024
6. Description of Travel/Training Artificial Intelligence for all Judges and Lawyers: A Comprehensive Course	7. Travel Destination Pittsburgh, PA	8. Training, Conference or Seminar Cost \$4,027.23

II. Traveler Advance Request

7. Traveler Home Address:	9. Reimbursement Requested
	Reimbursement Owed to Traveler <input checked="" type="checkbox"/> Complete section III not IV Reimbursement Owed to the District <input type="checkbox"/> Complete section IV no III
11. Special Notes:	10. Phone Number

III. Owed to the Traveler

Item	Dollar Amount	Item	Dollar Amount
Total Cost of Travel	\$4,027.23	Total Cost of Travel	\$4,027.23
Advance Amount	\$640.00	Advance Amount	\$0.00
Reimbursement Amount Owed	\$129.97	Reimbursement Amount Owed	\$0.00
TOTAL Amount Requested for Reimbursement	\$129.97		
Enter Amount either from Section III or Section IV			

VI. Traveler Signature

I certify that I am requesting expense reimbursement for travel on official District government business. I will keep original receipts for all expenses and submit them, along with a properly completed travel reconciliation form, within ten (10) business days of the authorized travel completion date. I understand that I will not be reimbursed for any expenses that are not associated with official business, not authorized by this form, or not authorized by Title 1, Chapter 8 of the D.C. Municipal Regulations, District of Columbia Employees Travel and Related Expenses or other applicable District or federal law or regulations. I understand that if expenses are incurred by the District (such as through an advance to me or through advance payments to third parties) and I fail to travel or attend the training, fail to submit a properly completed travel reconciliation form by the required date, or fail to reimburse the District for any advance in excess of actual and authorized expenses, the balance due may be withheld from my pay or from other District payments due to me now or in the future; I may also be subject to disciplinary action.

Signature 	Date 12/16/2024
---------------	-----------------

V. Review Checklist

Travel Coordinator signs that the package is Complete, containing all required documentation: refer to SOP 890.100 for required documentation

Signature of Coordinator

Line Item	Receipt #1	Receipt #2	Receipt #3	Total Cost	Line Item	Receipt #1	Receipt #2	Receipt #3	Total Cost
Reviewers must calculate each expense item and write total amounts by hand.									
Training/Registration Fee	\$1,799.00	\$0.00	\$0.00	\$1,799.00	Training/Registration Fee	\$0.00	\$0.00	\$0.00	\$0.00
Transportation (Airlines, Train, Luggage, Fee)	\$801.63	\$0.00	\$0.00	\$801.63	Transportation (Airlines, Train, Luggage, Fee)	\$0.00	\$0.00	\$0.00	\$0.00
Lodging (Hotel, Tax)	\$786.60	\$0.00	\$0.00	\$786.60	Lodging (Hotel, Tax)	\$0.00	\$0.00	\$0.00	\$0.00
Food & Beverages (if more than 15 receipts are provided for food, reviewers should agree to use a combined per day calculation)					Food & Beverages (if more than 15 receipts are provided for food, reviewers should agree to use a combined per day calculation)				
	\$440.00	\$0.00	\$0.00	\$440.00		\$0.00	\$0.00	\$0.00	\$0.00
Personal Car (Mileage x \$0.535)	\$0.00	\$0.00	\$0.00	\$0.00	Personal Car (Mileage x \$0.535)	\$0.00	\$0.00	\$0.00	\$0.00
Ground Travel (Shuttles, Car Rental, Parking Fees)	\$329.97	\$0.00	\$0.00	\$329.97	Ground Travel (Shuttles, Car Rental, Parking Fees)	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL COST	\$4,157.20				TOTAL COST	\$4,157.20			
Paperwork Accuracy	<input checked="" type="checkbox"/>				Paperwork Accuracy	<input type="checkbox"/>			
All receipts were provided					All receipts were provided				
All Required Fields are Completed					All Required Fields are Completed				
Dollar Amount calculate correctly					Dollar Amount calculate correctly				
Information appears to be accurate					Information appears to be accurate				
No Found Spelling Errors					No Found Spelling Errors				
Reviewer # 1	Reviewer #2 _____								
Print Name: Hemchand Hemraj, Chief Operating Officer	Print Name:								

Q.4 Staff Expenses



GOVERNMENT OF THE DISTRICT OF COLUMBIA TR-1 REQUEST FOR TRAINING AND TRAVEL AUTHORIZATION FORM



I. Training/Travel Request Summary											
1. Name of Traveler Joseph Lim		2. Employee ID 00014147		3. Agency/Department (Including Budget Code) OEA (CHO)							
4. Position Title Hearing Examiner		5. Training or Conference Dates To 12/2/2024		From 12/5/2024							
6. Description of Travel/Training Artificial Intelligence for all Judges and Lawyers: A Comprehensive Course		7. Travel Destination Pittsburgh, PA		8. Total Cost (Travel,Training or Conference) \$4,027.23							
9. Training, Conference or Seminar Event Location Address Kline Center for Judicial Education at Duquesne University 600 Forbes Ave, Pittsburgh, PA 15282				10. Training or Conference Vendor Name and Address (as it must appear on check) National Judicial College (Reno, NV)							
11. If Travel is Sponsored (List Sponsor) Locally funded (OEA operating budget)				12. Donation Application Request No.		13. Sponsor's Donation Amount N/A					
II. Transportation											
14. Mode of Transportation Airline <input checked="" type="checkbox"/> Train <input type="checkbox"/> Other Private Vehicle <input type="checkbox"/>				15. Method of Payment <input checked="" type="checkbox"/> Advance <input checked="" type="checkbox"/> Travel Card <input type="checkbox"/> Other							
Transportation to Destination Air		16. Point of Departure BWI		17. Travel Date 12/1/2024		18. Carrier Name SouthWest		19. Flight or Train IDs 3951/73W		20. Departure Time 9:25 AM	21. Arrival Time 10:30 AM
Transportation to Return Air		22. Point of Departure PIT		23. Travel Date 12/6/2024		24. Carrier Name SouthWest		25. Flight or Train IDs 1111/73H		26. Departure Time 1:45 PM	27. Arrival Time 2:50 PM
III. Lodging											
28. Hotel Name and Address Kimpton Hotel Manaco Pittsburgh / 620 William Penn Place, Pittsburgh, PA 15219				29. Hotel Phone 412-471-1170							
				30. Lodging Dates From 12/01/2024 To 12/06/2024							
				31. Length of Stay(Nights) 5 nights							
Special Notes											
IV. Total Cost											
Item	Quantity	Unit Cost	Subtotal	Tax Rate	Total Rate	Total Cost	P-Card	Advance			
Transportation (Airline, Train, etc.)	1	\$631.97	\$631.97	\$169.66	\$169.66	\$801.63	\$801.63	\$0.00			
Lodging (Government Rate)	5	\$138.00	\$690.00	\$96.60	\$96.60	\$786.60	\$786.60	\$0.00			
Per Diem	1	\$320.00	\$320.00	\$0.00	\$0.00	\$320.00	\$0.00	\$320.00			
Per Diem (First and Last Day of Travel)	1	\$120.00	\$120.00	\$0.00	\$0.00	\$120.00	\$0.00	\$120.00			
Car Rental (Only If Approved)	0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
Training/Registration Fees	1	\$1,799.00	\$1,799.00	\$0.00	\$0.00	\$1,799.00	\$1,799.00	\$0.00			
Other Expenses (Ground Travel including shuttles, Taxis, Car Rental, Parking Fees / Baggage fees)	1	\$200.00	\$0.00	\$0.00	\$0.00	\$200.00	\$0.00	\$200.00			
					TOTAL	\$3,387.23		\$640.00			
V. Funding Attributes (Provided by Agency Budget Responsible Manager or Agency Fiscal Officer)											
Fund	Agency	Program	Cost Center	Account	Project	Award	Interfund	Future 1	Future 2		
1010001	CHO	100022	50280	7131027	000000	000000	N/A	N/A	N/A		
VI. Traveler Signature											
I certify that I am requesting authorization to travel on official District government business. I will keep original receipts for all expenses and submit them, along with a properly completed travel reconciliation form, within ten (10) business days of the authorized travel completion date. I understand that I will not be reimbursed for any expenses that are not associated with official business, not authorized by this form, or not authorized by Title 1, Chapter 8 of the D.C. Municipal Regulations, District of Columbia Employees Travel and Related Expenses or other applicable District or federal law or regulations. I understand that if expenses are incurred by the District (such as through an advance to me or through advance payments to third parties) and I fail to travel or attend the training, fail to submit a properly completed travel reconciliation form by the required date, or fail to reimburse the District for any advance in excess of actual and authorized expenses, the balance due may be withheld from my pay or from other District payments due to me now or in the future; I may also be subject to disciplinary action.											
Signature /s/ Joseph Lim					Date 11/15/2024						
VII. Authorizations											
Administration Representative	Name: Hemchand Hemraj			Title: Chief Operating Officer		Signature Hemchand Hemraj		Date: 11/15/2024			
AFO or Budget Analyst	Name: Paul Blake			Title: Agency Fiscal Officer		Signature Paul K. Blake		Date: 11/15/2024			
Agency Director or Designee	Name: Sheila Barfield			Title: Executive Director		Signature Sheila Barfield		Date: 11/15/2024			
City Administrator (If required per Mayor's Order)	Name (Printed)			Title:		Signature		Date			
Office of the Chief of Staff (International Only)	Name (Printed)			Title:		Signature		Date			



Q.4 Staff Expenses
GOVERNMENT OF THE DISTRICT OF COLUMBIA
(Agency Name)



TR-3 REQUEST FOR TRAVEL EXPENSE REIMBURSEMENT FORM

I. Travel Package Control

1. Name of Traveler Joseph Lim	2. Employee ID: 00014147	3.. Agency OEA (CHO)
4. Position Title Hearing Examiner	5. Travel Date: To: 12/2/2024	From: 12/5/2024
6. Description of Travel/Training Artificial Intelligence for all Judges and Lawyers: A Comprehensive Course	7. Travel Destination Pittsburgh, PA	8. Training, Conference or Seminar Cost \$4,027.23

II. Traveler Advance Request

7. Traveler Home Address:	9. Reimbursement Requested
	Reimbursement Owed to Traveler <input type="checkbox"/> Complete section III not IV Reimbursement Owed to the District <input checked="" type="checkbox"/> Complete section IV no III
	10. Phone Number

11. Special Notes:

III. Owed to the Traveler		IV. Owed to the District	
Item	Dollar Amount	Item	Dollar Amount
Total Cost of Travel	\$0.00	Total Cost of Travel	\$4,027.23
Advance Amount	\$0.00	Advance Amount	\$640.00
Reimbursement Amount Owed	\$0.00	Reimbursement Amount Owed	\$72.24
TOTAL Amount Requested for Reimbursement	\$72.24		
Enter Amount either from Section III or Section IV			

VI. Traveler Signature

I certify that I am requesting expense reimbursement for travel on official District government business. I will keep original receipts for all expenses and submit them, along with a properly completed travel reconciliation form, within ten (10) business days of the authorized travel completion date. I understand that I will not be reimbursed for any expenses that are not associated with official business, not authorized by this form, or not authorized by Title 1, Chapter 8 of the D.C. Municipal Regulations, District of Columbia Employees Travel and Related Expenses or other applicable District or federal law or regulations. I understand that if expenses are incurred by the District (such as through an advance to me or through advance payments to third parties) and I fail to travel or attend the training, fail to submit a properly completed travel reconciliation form by the required date, or fail to reimburse the District for any advance in excess of actual and authorized expenses, the balance due may be withheld from my pay or from other District payments due to me now or in the future; I may also be subject to disciplinary action.

Signature 	Date 12/16/2024
---------------	-----------------

V. Review Checklist

Travel Coordinator signs that the package is <u>Complete</u> , containing all required documentation: refer to SOP 890.100 for required documentation Signature of Coordinator									
Line Item	Receipt #1	Receipt #2	Receipt #3	Total Cost	Line Item	Receipt #1	Receipt #2	Receipt #3	Total Cost
Reviewers must calculate each expense item and write total amounts by hand.									
Training/Registration Fee	\$1,799.00	\$0.00	\$0.00	\$1,799.00	Training/Registration Fee	\$0.00	\$0.00	\$0.00	\$0.00
Transportation (Airlines, Train, Luggage, Fee)	\$801.63	\$0.00	\$0.00	\$801.63	Transportation (Airlines, Train, Luggage, Fee)	\$0.00	\$0.00	\$0.00	\$0.00
Lodging (Hotel, Tax)	\$786.60	\$0.00	\$0.00	\$786.60	Lodging (Hotel, Tax)	\$0.00	\$0.00	\$0.00	\$0.00
Food & Beverages (if more than 15 receipts are provided for food, reviewers should agree to use a combined per day calculation)	\$440.00	\$0.00	\$0.00	\$440.00	Food & Beverages (if more than 15 receipts are provided for food, reviewers should agree to use a combined per day calculation)	\$0.00	\$0.00	\$0.00	\$0.00
Personal Car (Milage x \$0.535)	\$0.00	\$0.00	\$0.00	\$0.00	Personal Car (Milage x \$0.535)	\$0.00	\$0.00	\$0.00	\$0.00
Ground Travel (Shuttles, Car Rental, Parking Fees)	\$127.26	\$0.00	\$0.00	\$127.26	Ground Travel (Shuttles, Car Rental, Parking Fees)	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL COST	\$3,954.49				TOTAL COST	\$3,954.49			
Paperwork Accuracy <input checked="" type="checkbox"/>				Paperwork Accuracy <input type="checkbox"/>					
All receipts were provided				All receipts were provided					
All Required Fields are Completed				All Required Fields are Completed					
Dollar Amount calculate correctly				Dollar Amount calculate correctly					
Information appears to be accurate				Information appears to be accurate					
No Found Spelling Errors				No Found Spelling Errors					
Reviewer # 1	Reviewer #2 _____								
Print Name: Hemchand Hemraj, Chief Operating Officer	Print Name:								

Q.4 Staff Expenses



GOVERNMENT OF THE DISTRICT OF COLUMBIA TR-1 REQUEST FOR TRAINING AND TRAVEL AUTHORIZATION FORM



I. Training/Travel Request Summary											
1. Name of Traveler Wynter Clarke				2. Employee ID 00091024		3. Agency/Department (including Budget Code) OEA (CHO)					
4. Position Title Hearing Examiner				5. Training or Conference Dates To 12/2/2024		From 12/5/2024					
6. Description of Travel/Training Artificial Intelligence for all Judges and Lawyers: A Comprehensive Course				7. Travel Destination Pittsburgh, PA		8. Total Cost (Travel/Training or Conference) \$4,027.23					
9. Training, Conference or Seminar Event Location Address Kline Center for Judicial Education at Duquesne University 600 Forbes Ave, Pittsburgh, PA 15282				10. Training or Conference Vendor Name and Address (as it must appear on check) National Judicial College (Reno, NV)							
11. If Travel is Sponsored (List Sponsor) Locally funded (OEA operating budget)				12. Donation Application Request No.		13. Sponsor's Donation Amount N/A					
II. Transportation											
14. Mode of Transportation Airline <input checked="" type="checkbox"/> Train <input type="checkbox"/> Other Private Vehicle <input type="checkbox"/>				15. Method of Payment <input checked="" type="checkbox"/> Advance <input checked="" type="checkbox"/> Travel Card <input type="checkbox"/> Other							
Transportation to Destination Air		16. Point of Departure BWI		17. Travel Date 12/1/2024		18. Carrier Name SouthWest		19. Flight or Train IDs 3951/73W		20. Departure Time 9:25 AM	21. Arrival Time 10:30 AM
Transportation to Return Air		22. Point of Departure PIT		23. Travel Date 12/6/2024		24. Carrier Name SouthWest		25. Flight or Train IDs 1111/73H		26. Departure Time 1:45 PM	27. Arrival Time 2:50 PM
III. Lodging											
28. Hotel Name and Address Kimpton Hotel Manaco Pittsburgh / 620 William Penn Place, Pittsburgh, PA 15219				29. Hotel Phone 412-471-1170							
				30. Lodging Dates From 12/01/2024 To 12/06/2024							
				31. Length of Stay(Nights) 5 nights							
Special Notes											
IV. Total Cost											
Item	Quantity	Unit Cost	Subtotal	Tax Rate	Total Rate	Total Cost	P-Card	Advance			
Transportation (Airline, Train, etc.)	1	\$631.97	\$631.97	\$169.66	\$169.66	\$801.63	\$801.63	\$0.00			
Lodging (Government Rate)	5	\$138.00	\$690.00	\$96.60	\$96.60	\$786.60	\$786.60	\$0.00			
Per Diem	1	\$320.00	\$320.00	\$0.00	\$0.00	\$320.00	\$0.00	\$320.00			
Per Diem (First and Last Day of Travel)	1	\$120.00	\$120.00	\$0.00	\$0.00	\$120.00	\$0.00	\$120.00			
Car Rental (Only If Approved)	0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
Training/Registration Fees	1	\$1,799.00	\$1,799.00	\$0.00	\$0.00	\$1,799.00	\$1,799.00	\$0.00			
Other Expenses (Ground Travel including shuttles, Taxis, Car Rental, Parking Fees / Baggage fees)	1	\$200.00	\$0.00	\$0.00	\$0.00	\$200.00	\$0.00	\$200.00			
					TOTAL	\$3,387.23		\$640.00			
V. Funding Attributes (Provided by Agency Budget Responsible Manager or Agency Fiscal Officer)											
Fund	Agency	Program	Cost Center	Account	Project	Award	Interfund	Future 1	Future 2		
1010001	CHO	100022	50280	7131027	000000	000000	N/A	N/A	N/A		
VI. Traveler Signature											
I certify that I am requesting authorization to travel on official District government business. I will keep original receipts for all expenses and submit them, along with a properly completed travel reconciliation form, within ten (10) business days of the authorized travel completion date. I understand that I will not be reimbursed for any expenses that are not associated with official business, not authorized by this form, or not authorized by Title 1, Chapter 8 of the D.C. Municipal Regulations, District of Columbia Employees Travel and Related Expenses or other applicable District or federal law or regulations. I understand that if expenses are incurred by the District (such as through an advance to me or through advance payments to third parties) and I fail to travel or attend the training, fail to submit a properly completed travel reconciliation form by the required date, or fail to reimburse the District for any advance in excess of actual and authorized expenses, the balance due may be withheld from my pay or from other District payments due to me now or in the future; I may also be subject to disciplinary action.											
Signature <i>Wynter Clarke</i>					Date 11/15/2024						
VII. Authorizations											
Administration Representative	Name: Hemchand Hemraj			Title: Chief Operating Officer		Signature <i>Hemchand Hemraj</i>		Date: 11/15/2024			
AFO or Budget Analyst	Name: Paul Blake			Title: Agency Fiscal Officer		Signature <i>Paul K. Blake</i>		Date: 11/15/2024			
Agency Director or Designee	Name: Sheila Barfield			Title: Executive Director		Signature <i>Sheila Barfield</i>		Date: 11/15/2024			
City Administrator (If required per Mayor's Order)	Name (Printed)			Title:		Signature		Date			
Office of the Chief of Staff (International Only)	Name (Printed)			Title:		Signature		Date			



Q.4 Staff Expenses
GOVERNMENT OF THE DISTRICT OF COLUMBIA
(Agency Name)



TR-3 REQUEST FOR TRAVEL EXPENSE REIMBURSEMENT FORM

I. Travel Package Control

1. Name of Traveler Wynter Clarke	2. Employee ID: 00091024	3.. Agency OEA (CHO)
4. Position Title Hearing Examiner	5. Travel Date: To: 12/2/2024	From: 12/5/2024
6. Description of Travel/Training Artificial Intelligence for all Judges and Lawyers: A Comprehensive Course	7. Travel Destination Pittsburgh, PA	8. Training, Conference or Seminar Cost \$4,027.23

II. Traveler Advance Request

7. Traveler Home Address:	9. Reimbursement Requested
	Reimbursement Owed to Traveler <input type="checkbox"/> Complete section III not IV Reimbursement Owed to the District <input checked="" type="checkbox"/> Complete section IV no III
	10. Phone Number

11. Special Notes:

III. Owed to the Traveler		IV. Owed to the District	
Item	Dollar Amount	Item	Dollar Amount
Total Cost of Travel	\$0.00	Total Cost of Travel	\$4,027.23
Advance Amount	\$0.00	Advance Amount	\$640.00
Reimbursement Amount Owed	\$0.00	Reimbursement Amount Owed	\$27.86
TOTAL Amount Requested for Reimbursement Enter Amount either from Section III or Section IV		\$27.86	

VI. Traveler Signature

I certify that I am requesting expense reimbursement for travel on official District government business. I will keep original receipts for all expenses and submit them, along with a properly completed travel reconciliation form, within ten (10) business days of the authorized travel completion date. I understand that I will not be reimbursed for any expenses that are not associated with official business, not authorized by this form, or not authorized by Title 1, Chapter 8 of the D.C. Municipal Regulations, District of Columbia Employees Travel and Related Expenses or other applicable District or federal law or regulations. I understand that if expenses are incurred by the District (such as through an advance to me or through advance payments to third parties) and I fail to travel or attend the training, fail to submit a properly completed travel reconciliation form by the required date, or fail to reimburse the District for any advance in excess of actual and authorized expenses, the balance due may be withheld from my pay or from other District payments due to me now or in the future; I may also be subject to disciplinary action.

Signature 	Date 12/12/2024
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V. Review Checklist

Travel Coordinator signs that the package is Complete, containing all required documentation: refer to SOP 890.100 for required documentation

Signature of Coordinator

Line Item	Receipt #1	Receipt #2	Receipt #3	Total Cost	Line Item	Receipt #1	Receipt #2	Receipt #3	Total Cost
Reviewers must calculate each expense item and write total amounts by hand.					Reviewers must calculate each expense item and write total amounts by hand.				
Training/Registration Fee	\$1,799.00	\$0.00	\$0.00	\$1,799.00	Training/Registration Fee	\$0.00	\$0.00	\$0.00	\$0.00
Transportation (Airlines, Train, Luggage, Fee)	\$801.63	\$0.00	\$0.00	\$801.63	Transportation (Airlines, Train, Luggage, Fee)	\$0.00	\$0.00	\$0.00	\$0.00
Lodging (Hotel, Tax)	\$786.60	\$0.00	\$0.00	\$786.60	Lodging (Hotel, Tax)	\$0.00	\$0.00	\$0.00	\$0.00
Food & Beverages (if more than 15 receipts are provided for food, reviewers should agree to use a combined per day calculation)	\$440.00	\$0.00	\$0.00	\$440.00	Food & Beverages (if more than 15 receipts are provided for food, reviewers should agree to use a combined per day calculation)	\$0.00	\$0.00	\$0.00	\$0.00
Personal Car (Milage x \$0.535)	\$0.00	\$0.00	\$0.00	\$0.00	Personal Car (Milage x \$0.535)	\$0.00	\$0.00	\$0.00	\$0.00
Ground Travel (Shuttles, Car Rental, Parking Fees)	\$172.14	\$0.00	\$0.00	\$172.14	Ground Travel (Shuttles, Car Rental, Parking Fees)	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL COST				\$3,999.37	TOTAL COST				\$3,999.37

Paperwork Accuracy <input checked="" type="checkbox"/>	Paperwork Accuracy <input type="checkbox"/>
All receipts were provided	All receipts were provided
All Required Fields are Completed	All Required Fields are Completed
Dollar Amount calculate correctly	Dollar Amount calculate correctly
Information appears to be accurate	Information appears to be accurate
No Found Spelling Errors	No Found Spelling Errors

Reviewer # 1
Reviewer #2 _____

Print Name: **Hemchand Hemraj, Chief Operating Officer** Print Name: _____

Office of Employee Appeals (OEA) - Employee Expenses (FY25 and Q1 of FY26)

	Employee Name	Job Title	Agency-issued Cellphones	MRC (cellphones cost)	Travel Expenses
1	Barfield, Sheila	Executive Director	Yes	\$ 6,942.47	\$ -
2	Bassey, Lasheka Brown	General Counsel	Yes		\$ -
3	Murphy, Sommer Joy	Deputy General Counsel	Yes		\$ -
4	Clarke, Wynter A	Paralegal Specialist	Yes		\$ 3,999.37
5	Lim, Joseph Edward	Senior Administrative Judge/Examiner	Yes		\$ 3,954.49
6	Robinson, Eric Theodore	Senior Administrative Judge/Examiner	Yes		\$ 4,157.20
7	Dohnji, Monica N	Senior Administrative Judge/Examiner	Yes		\$ -
8	Harris, Michelle R	Senior Administrative Judge/Examiner	Yes		\$ -
9	Curtis, Natiya	Administrative Judge/Examiner	Yes		\$ -
10	Briggs, Monyea ¹	Paralegal Specialist	Yes		\$ -
11	Hemraj, Hemchand	Chief Operating Officer	Yes		\$ -
12	Hill, Katrina	Receptionist	Yes		\$ -

¹ Employee exit April 25, 2025

Q4. Staff Expenses

Monthly Recurring Cost (MRC) for Agency-issued Cellphones - (FY25 and Q1 of FY26)

Phone# / Circuit	Invoice Month	Vendor	Agency	MRC	OCC	Total
2028081874	2024-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028081913	2024-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028081936	2024-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028081992	2024-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084019	2024-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084745	2024-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084790	2024-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084806	2024-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084835	2024-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084873	2024-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084924	2024-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 0.01	\$ -	\$ 0.01
2028084948	2024-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084964	2024-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 0.01	\$ -	\$ 0.01
2028081874	2024-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028081913	2024-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028081936	2024-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028081992	2024-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084019	2024-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084745	2024-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084790	2024-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084806	2024-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084835	2024-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084873	2024-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084924	2024-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 0.01	\$ -	\$ 0.01
2028084948	2024-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084964	2024-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ (0.82)	\$ 8.62	\$ 7.80
2028081874	2024-12	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028081913	2024-12	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028081936	2024-12	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028081992	2024-12	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084019	2024-12	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084745	2024-12	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084790	2024-12	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084806	2024-12	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084835	2024-12	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084873	2024-12	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084924	2024-12	AT&T WL Citywide (FAN No=00072572)	CH	\$ 0.01	\$ -	\$ 0.01
2028084948	2024-12	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.01	\$ 43.00
2028084964	2024-12	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.69	\$ 7.31	\$ 44.00
2028081874	2025-01	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028081913	2025-01	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028081936	2025-01	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028081992	2025-01	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084019	2025-01	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084745	2025-01	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084790	2025-01	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02

Q4. Staff Expenses

Monthly Recurring Cost (MRC) for Agency-issued Cellphones - (FY25 and Q1 of FY26)

2028084806	2025-01	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084835	2025-01	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084873	2025-01	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084924	2025-01	AT&T WL Citywide (FAN No=00072572)	CH	\$ 0.01	\$ -	\$ 0.01
2028084948	2025-01	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084964	2025-01	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028081874	2025-02	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028081913	2025-02	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028081936	2025-02	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028081992	2025-02	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084019	2025-02	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084745	2025-02	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084790	2025-02	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084806	2025-02	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084835	2025-02	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084873	2025-02	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084924	2025-02	AT&T WL Citywide (FAN No=00072572)	CH	\$ 0.01	\$ -	\$ 0.01
2028084948	2025-02	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084964	2025-02	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028081874	2025-03	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028081913	2025-03	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028081936	2025-03	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028081992	2025-03	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084019	2025-03	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084745	2025-03	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084790	2025-03	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084806	2025-03	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084835	2025-03	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084873	2025-03	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084924	2025-03	AT&T WL Citywide (FAN No=00072572)	CH	\$ 0.01	\$ -	\$ 0.01
2028084948	2025-03	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028084964	2025-03	AT&T WL Citywide (FAN No=00072572)	CH	\$ 36.99	\$ 6.03	\$ 43.02
2028081874	2025-04	AT&T WL Citywide (FAN No=00072572)	CH	\$ 39.99	\$ (4.06)	\$ 35.93
2028081913	2025-04	AT&T WL Citywide (FAN No=00072572)	CH	\$ 39.99	\$ (4.06)	\$ 35.93
2028081936	2025-04	AT&T WL Citywide (FAN No=00072572)	CH	\$ 39.99	\$ (4.06)	\$ 35.93
2028081992	2025-04	AT&T WL Citywide (FAN No=00072572)	CH	\$ 39.99	\$ (4.06)	\$ 35.93
2028084019	2025-04	AT&T WL Citywide (FAN No=00072572)	CH	\$ 39.99	\$ (4.06)	\$ 35.93
2028084745	2025-04	AT&T WL Citywide (FAN No=00072572)	CH	\$ 39.99	\$ (4.06)	\$ 35.93
2028084790	2025-04	AT&T WL Citywide (FAN No=00072572)	CH	\$ 39.99	\$ (4.06)	\$ 35.93
2028084806	2025-04	AT&T WL Citywide (FAN No=00072572)	CH	\$ 39.99	\$ (4.06)	\$ 35.93
2028084835	2025-04	AT&T WL Citywide (FAN No=00072572)	CH	\$ 39.99	\$ (4.06)	\$ 35.93
2028084873	2025-04	AT&T WL Citywide (FAN No=00072572)	CH	\$ 39.99	\$ (4.06)	\$ 35.93
2028084924	2025-04	AT&T WL Citywide (FAN No=00072572)	CH	\$ 0.01	\$ -	\$ 0.01
2028084948	2025-04	AT&T WL Citywide (FAN No=00072572)	CH	\$ 39.99	\$ (4.06)	\$ 35.93
2028084964	2025-04	AT&T WL Citywide (FAN No=00072572)	CH	\$ 39.99	\$ (4.06)	\$ 35.93
2028081874	2025-05	AT&T WL Citywide (FAN No=00072572)	CH	\$ 34.99	\$ 3.91	\$ 38.90
2028081913	2025-05	AT&T WL Citywide (FAN No=00072572)	CH	\$ 34.99	\$ 3.91	\$ 38.90
2028081936	2025-05	AT&T WL Citywide (FAN No=00072572)	CH	\$ 34.99	\$ 3.91	\$ 38.90

Q4. Staff Expenses

Monthly Recurring Cost (MRC) for Agency-issued Cellphones - (FY25 and Q1 of FY26)

Q4. Staff Expenses

Monthly Recurring Cost (MRC) for Agency-issued Cellphones - (FY25 and Q1 of FY26)

2028084964	2025-08	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.00	\$ 41.99
2028081874	2025-09	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.00	\$ 41.99
2028081913	2025-09	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.00	\$ 41.99
2028081936	2025-09	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.00	\$ 41.99
2028081992	2025-09	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.00	\$ 41.99
2028084019	2025-09	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.00	\$ 41.99
2028084745	2025-09	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.00	\$ 41.99
2028084790	2025-09	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.00	\$ 41.99
2028084806	2025-09	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.00	\$ 41.99
2028084835	2025-09	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.00	\$ 41.99
2028084873	2025-09	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.00	\$ 41.99
2028084924	2025-09	AT&T WL Citywide (FAN No=00072572)	CH	\$ 0.01	\$ -	\$ 0.01
2028084948	2025-09	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.00	\$ 41.99
2028084964	2025-09	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.00	\$ 41.99
2028081874	2025-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028081913	2025-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028081936	2025-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028081992	2025-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028084019	2025-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028084745	2025-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028084790	2025-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028084806	2025-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028084835	2025-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028084873	2025-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028084924	2025-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 0.01	\$ -	\$ 0.01
2028084948	2025-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028084964	2025-10	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028081874	2025-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028081913	2025-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028081936	2025-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028081992	2025-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028084019	2025-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028084745	2025-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028084790	2025-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028084806	2025-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028084835	2025-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028084873	2025-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028084924	2025-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 0.01	\$ -	\$ 0.01
2028084948	2025-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
2028084964	2025-11	AT&T WL Citywide (FAN No=00072572)	CH	\$ 35.99	\$ 6.06	\$ 42.05
Total Cost					\$ 6,942.47	

GOVERNMENT OF THE DISTRICT OF COLUMBIA

OFFICE OF EMPLOYEE APPEALS



REPLY TO:
 955 L'Enfant Plaza, S.W.
 Suite 2500
 Washington, DC 20024
 (202)727-0004
 FAX (202)727-5631

Memo

To: Sheila G. Barfield, Esq. – Executive Director 

From: Hemchand Hemraj – Chief Operating Officer 

Date: November 08, 2024

Re: Travel/Training Justification – Artificial Intelligence for all Judges and Lawyers: A Comprehensive Course (Pittsburgh, PA)

Per our discussion on October 28, 2024, and email sent to the OEA legal team on participating in the National Judicial College (NJC) first-ever Artificial Intelligence course for all Judges and Lawyers: A Comprehensive Course. I am hereby requesting your approval for the following staff: Eric Robinson, Joseph Lim (Senior Administrative Judges), and Wynter Clarke (Paralegal Specialist) to participate in the above mentioned in-person training.

The in-person training will take place at the Kline Center for Judicial Education at Duquesne University in Pittsburgh, Pennsylvania between Dec 2 -5, 2024. The learning objectives of this training on Artificial Intelligence is tailored specifically to the needs of judges and lawyers, to provide them with a solid grounding in AI essentials as well as a variety of legal and policy issues (Artificial Intelligence (AI) for all Judges and Lawyers: A Comprehensive Course - The National Judicial College).

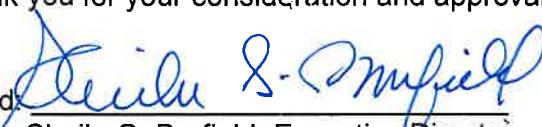
The following is the training/travel budget information for the NJC training–Artificial Intelligence for all Judges and Lawyers: A Comprehensive Course (Pittsburgh, PA) for your consideration and approval.

i.	Registration fee (conference and tuition)	- \$5,400.00
ii.	Estimated Airfare (Washington, DC to Pittsburgh, PA)	- \$2,400.00
iii.	Estimated Hotel accommodation (Pittsburgh, PA)	- \$2,400.00
iv.	Reduced Per Diem (December 1-6)	- \$1,200.00
v.	Miscellaneous Expense (estimated)	- \$600.00

Please find the following copy of documents to support the training/travel in accordance with the District government travel checklist (training brochure, airfare cost, hotel accommodation cost, registration cost, and copy of the program agenda).

Thank you for your consideration and approval of this training/travel.

Approved


 Sheila G. Barfield, Executive Director

Q.4 Staff Expenses



GOVERNMENT OF THE DISTRICT OF COLUMBIA TR-1 REQUEST FOR TRAINING AND TRAVEL AUTHORIZATION FORM



I. Training/Travel Request Summary

1. Name of Traveler Eric Robinson	2. Employee ID: 00029188	3. Agency/Department (including Budget Code) OEA (CHO)
4. Position Title Hearing Examiner	5. Training or Conference Dates: To: 12/2/2024	From: 12/5/2024
6. Description of Travel/Training Artificial Intelligence for all Judges and Lawyers: A Comprehensive Course	7. Travel Destination Pittsburgh, PA	8. Total Cost (Travel, Training, or Conference) \$4,027.23
9. Training, Conference or Seminar Event Location Address Kline Center for Judicial Education at Duquesne University 600 Forbes Ave, Pittsburgh, PA 15282	10. Training or Conference Vendor Name and Address (as it must appear on check) National Judicial College (Reno, NV)	
11. If Travel is Sponsored (List Sponsor) Locally funded (OEA operating budget)	12. Donation Application Request No. N/A	13. Sponsor's Donation Amount

II. Transportation

14. Mode of Transportation <input checked="" type="checkbox"/> Airline <input type="checkbox"/> Train <input type="checkbox"/> Other Private Vehicle	15. Point of Departure BWI	16. Point of Arrival PIT	17. Travel Date 12/1/2024	18. Carrier Name SouthWest	19. Flight or Train IDs 3951/73W	20. Departure Time 9:25 AM	21. Arrival Time 10:30 AM
Transportation to Destination Air	22. Point of Departure PIT	23. Point of Arrival BWI	24. Travel Date 12/6/2024	25. Carrier Name SouthWest	26. Flight or Train IDs 1111/73H	27. Departure Time 1:45 PM	28. Arrival Time 2:50 PM

III. Lodging

29. Hotel Name and Address Kimpton Hotel Manaco Pittsburgh / 620 William Penn Place, Pittsburgh, PA 15219	30. Hotel Phone 412-471-1170
31. Lodging Dates From 12/01/2024 To 12/05/2024	32. Length of Stay(Nights) 5 nights

Special Notes:

IV. Total Cost

Item	Quantity	Unit Cost	Subtotal	Tax Rate	Total Rate	Total Cost	P-Card	Advance
Transportation (Airline, Train, etc.)	1	\$631.97	\$631.97	\$169.66	\$169.66	\$801.63	\$801.63	\$0.00
Lodging (Government Rate)	5	\$138.00	\$690.00	\$96.60	\$96.60	\$786.60	\$786.60	\$0.00
Per Diem	1	\$320.00	\$320.00	\$0.00	\$0.00	\$320.00	\$0.00	\$320.00
Per Diem (First and Last Day of Travel)	1	\$120.00	\$120.00	\$0.00	\$0.00	\$120.00	\$0.00	\$120.00
Car Rental (Only if Approved)	0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Training/Registration Fees	1	\$1,799.00	\$1,799.00	\$0.00	\$0.00	\$1,799.00	\$1,799.00	\$0.00
Other Expenses (Ground Travel including shuttles, Taxis, Car Rental, Parking Fees / Baggage fees)	1	\$200.00	\$0.00	\$0.00	\$0.00	\$200.00	\$0.00	\$200.00
TOTAL						\$3,387.23	\$640.00	

V. Funding Attributes (Provided by Agency Budget Responsible Manager or Agency Fiscal Officer)

Fund	Agency	Program	Cost Center	Account	Project	Award	Interfund	Future 1	Future 2
1010001	CHO	100022	50280	7131027	0000000	0000000	N/A	N/A	N/A

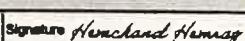
VI. Traveler Signature

I certify that I am requesting authorization to travel on official District government business. I will keep original receipts for all expenses and submit them, along with a properly completed travel reconciliation form, within ten (10) business days of the authorized travel completion date. I understand that I will not be reimbursed for any expenses that are not associated with official business, not authorized by this form, or not authorized by Title 1, Chapter 8 of the D.C. Municipal Regulations, District of Columbia Employees Travel and Related Expenses or other applicable District or federal law or regulations. I understand that if expenses are incurred by the District (such as through an advance to me or through advance payments to third parties) and I fail to travel or attend the training, fail to submit a properly completed travel reconciliation form by the required date, or fail to reimburse the District for any advance in excess of actual and authorized expenses, the balance due may be withheld from my pay or from other District payments due to me now or in the future; I may also be subject to disciplinary action.

Signature  Date **11/15/2024**

11/15/2024

VII. Authorizations

Administration Representative	Name: Hemchand Hemraj	Title: Chief Operating Officer	Signature 	Date: 11/15/2024
AFO or Budget Analyst	Name: Paul Blake	Title: Agency Fiscal Officer	Signature 	Date: 11/15/2024
Agency Director or Designee	Name: Sheila Berfield	Title: Executive Director	Signature 	Date: 11/15/2024
City Administrator (If required per Mayor's Order)	Name (Printed)	Title:	Signature	Date
Office of the Chief of Staff (International Only)	Name (Printed)	Title:	Signature	Date

Q.4 Staff Expenses



GOVERNMENT OF THE DISTRICT OF COLUMBIA (Agency Name)



TR-3 REQUEST FOR TRAVEL EXPENSE REIMBURSEMENT FORM

I. Travel Package Control

1. Name of Traveler Eric Robinson	2. Employee ID: 00029185	3.. Agency OEA (CHO)
4. Position Title Hearing Examiner	5. Travel Date: To:	From: 12/2/2024
6. Description of Travel/Training Artificial Intelligence for all Judges and Lawyers: A Comprehensive Course	7. Travel Destination Pittsburgh, PA	8. Training, Conference or Seminar Cost \$4,027.23

II. Traveler Advance Request

7. Traveler Home Address:	9. Reimbursement Requested
	Reimbursement Owed to Traveler <input checked="" type="checkbox"/> Complete section III not IV Reimbursement Owed to the District <input type="checkbox"/> Complete section IV no III
11. Special Notes:	10. Phone Number

III. Owed to the Traveler

Item	Dollar Amount	Item	Dollar Amount
Total Cost of Travel	\$4,027.23	Total Cost of Travel	\$4,027.23
Advance Amount	\$640.00	Advance Amount	\$0.00
Reimbursement Amount Owed	\$129.97	Reimbursement Amount Owed	\$0.00
TOTAL Amount Requested for Reimbursement	\$129.97		
Enter Amount either from Section III or Section IV			

VI. Traveler Signature

I certify that I am requesting expense reimbursement for travel on official District government business. I will keep original receipts for all expenses and submit them, along with a properly completed travel reconciliation form, within ten (10) business days of the authorized travel completion date. I understand that I will not be reimbursed for any expenses that are not associated with official business, not authorized by this form, or not authorized by Title 1, Chapter 8 of the D.C. Municipal Regulations, District of Columbia Employees Travel and Related Expenses or other applicable District or federal law or regulations. I understand that if expenses are incurred by the District (such as through an advance to me or through advance payments to third parties) and I fail to travel or attend the training, fail to submit a properly completed travel reconciliation form by the required date, or fail to reimburse the District for any advance in excess of actual and authorized expenses, the balance due may be withheld from my pay or from other District payments due to me now or in the future; I may also be subject to disciplinary action.

Signature 	Date 12/16/2024
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V. Review Checklist

Travel Coordinator signs that the package is Complete, containing all required documentation: refer to SOP 890.100 for required documentation

Signature of Coordinator

Line Item	Receipt #1	Receipt #2	Receipt #3	Total Cost	Line Item	Receipt #1	Receipt #2	Receipt #3	Total Cost
Reviewers must calculate each expense item and write total amounts by hand.									
Training/Registration Fee	\$1,799.00	\$0.00	\$0.00	\$1,799.00	Training/Registration Fee	\$0.00	\$0.00	\$0.00	\$0.00
Transportation (Airlines, Train, Luggage, Fee)	\$801.63	\$0.00	\$0.00	\$801.63	Transportation (Airlines, Train, Luggage, Fee)	\$0.00	\$0.00	\$0.00	\$0.00
Lodging (Hotel, Tax)	\$786.60	\$0.00	\$0.00	\$786.60	Lodging (Hotel, Tax)	\$0.00	\$0.00	\$0.00	\$0.00
Food & Beverages (if more than 15 receipts are provided for food, reviewers should agree to use a combined per day calculation)					Food & Beverages (if more than 15 receipts are provided for food, reviewers should agree to use a combined per day calculation)				
	\$440.00	\$0.00	\$0.00	\$440.00		\$0.00	\$0.00	\$0.00	\$0.00
Personal Car (Mileage x \$0.535)	\$0.00	\$0.00	\$0.00	\$0.00	Personal Car (Mileage x \$0.535)	\$0.00	\$0.00	\$0.00	\$0.00
Ground Travel (Shuttles, Car Rental, Parking Fees)	\$329.97	\$0.00	\$0.00	\$329.97	Ground Travel (Shuttles, Car Rental, Parking Fees)	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL COST	\$4,157.20				TOTAL COST	\$4,157.20			
Paperwork Accuracy	<input checked="" type="checkbox"/>				Paperwork Accuracy	<input type="checkbox"/>			
All receipts were provided					All receipts were provided				
All Required Fields are Completed					All Required Fields are Completed				
Dollar Amount calculate correctly					Dollar Amount calculate correctly				
Information appears to be accurate					Information appears to be accurate				
No Found Spelling Errors					No Found Spelling Errors				
Reviewer # 1	Reviewer #2 _____								
Print Name: Hemchand Hemraj, Chief Operating Officer	Print Name:								

Q.4 Staff Expenses



GOVERNMENT OF THE DISTRICT OF COLUMBIA TR-1 REQUEST FOR TRAINING AND TRAVEL AUTHORIZATION FORM



I. Training/Travel Request Summary											
1. Name of Traveler Joseph Lim		2. Employee ID 00014147		3. Agency/Department (Including Budget Code) OEA (CHO)							
4. Position Title Hearing Examiner		5. Training or Conference Dates To 12/2/2024		From 12/5/2024							
6. Description of Travel/Training Artificial Intelligence for all Judges and Lawyers: A Comprehensive Course		7. Travel Destination Pittsburgh, PA		8. Total Cost (Travel,Training or Conference) \$4,027.23							
9. Training, Conference or Seminar Event Location Address Kline Center for Judicial Education at Duquesne University 600 Forbes Ave, Pittsburgh, PA 15282				10. Training or Conference Vendor Name and Address (as it must appear on check) National Judicial College (Reno, NV)							
11. If Travel is Sponsored (List Sponsor) Locally funded (OEA operating budget)				12. Donation Application Request No.		13. Sponsor's Donation Amount N/A					
II. Transportation											
14. Mode of Transportation Airline <input checked="" type="checkbox"/> Train <input type="checkbox"/> Other Private Vehicle <input type="checkbox"/>				15. Method of Payment <input checked="" type="checkbox"/> Advance <input checked="" type="checkbox"/> Travel Card <input type="checkbox"/> Other							
Transportation to Destination Air		16. Point of Departure BWI		17. Travel Date 12/1/2024		18. Carrier Name SouthWest		19. Flight or Train IDs 3951/73W		20. Departure Time 9:25 AM	21. Arrival Time 10:30 AM
Transportation to Return Air		22. Point of Departure PIT		23. Travel Date 12/6/2024		24. Carrier Name SouthWest		25. Flight or Train IDs 1111/73H		26. Departure Time 1:45 PM	27. Arrival Time 2:50 PM
III. Lodging											
28. Hotel Name and Address Kimpton Hotel Manaco Pittsburgh / 620 William Penn Place, Pittsburgh, PA 15219				29. Hotel Phone 412-471-1170							
				30. Lodging Dates From 12/01/2024 To 12/06/2024							
				31. Length of Stay(Nights) 5 nights							
Special Notes											
IV. Total Cost											
Item	Quantity	Unit Cost	Subtotal	Tax Rate	Total Rate	Total Cost	P-Card	Advance			
Transportation (Airline, Train, etc.)	1	\$631.97	\$631.97	\$169.66	\$169.66	\$801.63	\$801.63	\$0.00			
Lodging (Government Rate)	5	\$138.00	\$690.00	\$96.60	\$96.60	\$786.60	\$786.60	\$0.00			
Per Diem	1	\$320.00	\$320.00	\$0.00	\$0.00	\$320.00	\$0.00	\$320.00			
Per Diem (First and Last Day of Travel)	1	\$120.00	\$120.00	\$0.00	\$0.00	\$120.00	\$0.00	\$120.00			
Car Rental (Only If Approved)	0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
Training/Registration Fees	1	\$1,799.00	\$1,799.00	\$0.00	\$0.00	\$1,799.00	\$1,799.00	\$0.00			
Other Expenses (Ground Travel including shuttles, Taxis, Car Rental, Parking Fees / Baggage fees)	1	\$200.00	\$0.00	\$0.00	\$0.00	\$200.00	\$0.00	\$200.00			
					TOTAL	\$3,387.23		\$640.00			
V. Funding Attributes (Provided by Agency Budget Responsible Manager or Agency Fiscal Officer)											
Fund	Agency	Program	Cost Center	Account	Project	Award	Interfund	Future 1	Future 2		
1010001	CHO	100022	50280	7131027	000000	000000	N/A	N/A	N/A		
VI. Traveler Signature											
I certify that I am requesting authorization to travel on official District government business. I will keep original receipts for all expenses and submit them, along with a properly completed travel reconciliation form, within ten (10) business days of the authorized travel completion date. I understand that I will not be reimbursed for any expenses that are not associated with official business, not authorized by this form, or not authorized by Title 1, Chapter 8 of the D.C. Municipal Regulations, District of Columbia Employees Travel and Related Expenses or other applicable District or federal law or regulations. I understand that if expenses are incurred by the District (such as through an advance to me or through advance payments to third parties) and I fail to travel or attend the training, fail to submit a properly completed travel reconciliation form by the required date, or fail to reimburse the District for any advance in excess of actual and authorized expenses, the balance due may be withheld from my pay or from other District payments due to me now or in the future; I may also be subject to disciplinary action.											
Signature /s/ Joseph Lim					Date 11/15/2024						
VII. Authorizations											
Administration Representative	Name: Hemchand Hemraj			Title: Chief Operating Officer		Signature <i>Hemchand Hemraj</i>		Date: 11/15/2024			
AFO or Budget Analyst	Name: Paul Blake			Title: Agency Fiscal Officer		Signature <i>Paul K. Blake</i>		Date: 11/15/2024			
Agency Director or Designee	Name: Sheila Barfield			Title: Executive Director		Signature <i>Sheila Barfield</i>		Date: 11/15/2024			
City Administrator (If required per Mayor's Order)	Name (Printed)			Title:		Signature		Date			
Office of the Chief of Staff (International Only)	Name (Printed)			Title:		Signature		Date			



Q.4 Staff Expenses
GOVERNMENT OF THE DISTRICT OF COLUMBIA
(Agency Name)



TR-3 REQUEST FOR TRAVEL EXPENSE REIMBURSEMENT FORM

I. Travel Package Control

1. Name of Traveler Joseph Lim	2. Employee ID: 00014147	3.. Agency OEA (CHO)
4. Position Title Hearing Examiner	5. Travel Date: To: 12/2/2024	From: 12/5/2024
6. Description of Travel/Training Artificial Intelligence for all Judges and Lawyers: A Comprehensive Course	7. Travel Destination Pittsburgh, PA	8. Training, Conference or Seminar Cost \$4,027.23

II. Traveler Advance Request

7. Traveler Home Address:	9. Reimbursement Requested
	Reimbursement Owed to Traveler <input type="checkbox"/> Complete section III not IV Reimbursement Owed to the District <input checked="" type="checkbox"/> Complete section IV no III
	10. Phone Number

11. Special Notes:

III. Owed to the Traveler		IV. Owed to the District	
Item	Dollar Amount	Item	Dollar Amount
Total Cost of Travel	\$0.00	Total Cost of Travel	\$4,027.23
Advance Amount	\$0.00	Advance Amount	\$640.00
Reimbursement Amount Owed	\$0.00	Reimbursement Amount Owed	\$72.24
TOTAL Amount Requested for Reimbursement	\$72.24		
Enter Amount either from Section III or Section IV			

VI. Traveler Signature

I certify that I am requesting expense reimbursement for travel on official District government business. I will keep original receipts for all expenses and submit them, along with a properly completed travel reconciliation form, within ten (10) business days of the authorized travel completion date. I understand that I will not be reimbursed for any expenses that are not associated with official business, not authorized by this form, or not authorized by Title 1, Chapter 8 of the D.C. Municipal Regulations, District of Columbia Employees Travel and Related Expenses or other applicable District or federal law or regulations. I understand that if expenses are incurred by the District (such as through an advance to me or through advance payments to third parties) and I fail to travel or attend the training, fail to submit a properly completed travel reconciliation form by the required date, or fail to reimburse the District for any advance in excess of actual and authorized expenses, the balance due may be withheld from my pay or from other District payments due to me now or in the future; I may also be subject to disciplinary action.

Signature 	Date 12/16/2024
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V. Review Checklist

Travel Coordinator signs that the package is <u>Complete</u> , containing all required documentation: refer to SOP 890.100 for required documentation Signature of Coordinator									
Line Item	Receipt #1	Receipt #2	Receipt #3	Total Cost	Line Item	Receipt #1	Receipt #2	Receipt #3	Total Cost
Reviewers must calculate each expense item and write total amounts by hand.									
Training/Registration Fee	\$1,799.00	\$0.00	\$0.00	\$1,799.00	Training/Registration Fee	\$0.00	\$0.00	\$0.00	\$0.00
Transportation (Airlines, Train, Luggage, Fee)	\$801.63	\$0.00	\$0.00	\$801.63	Transportation (Airlines, Train, Luggage, Fee)	\$0.00	\$0.00	\$0.00	\$0.00
Lodging (Hotel, Tax)	\$786.60	\$0.00	\$0.00	\$786.60	Lodging (Hotel, Tax)	\$0.00	\$0.00	\$0.00	\$0.00
Food & Beverages (if more than 15 receipts are provided for food, reviewers should agree to use a combined per day calculation)	\$440.00	\$0.00	\$0.00	\$440.00	Food & Beverages (if more than 15 receipts are provided for food, reviewers should agree to use a combined per day calculation)	\$0.00	\$0.00	\$0.00	\$0.00
Personal Car (Milage x \$0.535)	\$0.00	\$0.00	\$0.00	\$0.00	Personal Car (Milage x \$0.535)	\$0.00	\$0.00	\$0.00	\$0.00
Ground Travel (Shuttles, Car Rental, Parking Fees)	\$127.26	\$0.00	\$0.00	\$127.26	Ground Travel (Shuttles, Car Rental, Parking Fees)	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL COST	\$3,954.49				TOTAL COST	\$3,954.49			
Paperwork Accuracy <input checked="" type="checkbox"/>				Paperwork Accuracy <input type="checkbox"/>					
All receipts were provided				All receipts were provided					
All Required Fields are Completed				All Required Fields are Completed					
Dollar Amount calculate correctly				Dollar Amount calculate correctly					
Information appears to be accurate				Information appears to be accurate					
No Found Spelling Errors				No Found Spelling Errors					
Reviewer # 1	Reviewer #2 _____								
Print Name: Hemchand Hemraj, Chief Operating Officer	Print Name:								

Q.4 Staff Expenses



GOVERNMENT OF THE DISTRICT OF COLUMBIA TR-1 REQUEST FOR TRAINING AND TRAVEL AUTHORIZATION FORM



I. Training/Travel Request Summary											
1. Name of Traveler Wynter Clarke				2. Employee ID 00091024		3. Agency/Department (including Budget Code) OEA (CHO)					
4. Position Title Hearing Examiner				5. Training or Conference Dates To 12/2/2024		From 12/5/2024					
6. Description of Travel/Training Artificial Intelligence for all Judges and Lawyers: A Comprehensive Course				7. Travel Destination Pittsburgh, PA		8. Total Cost (Travel/Training or Conference) \$4,027.23					
9. Training, Conference or Seminar Event Location Address Kline Center for Judicial Education at Duquesne University 600 Forbes Ave, Pittsburgh, PA 15282				10. Training or Conference Vendor Name and Address (as it must appear on check) National Judicial College (Reno, NV)							
11. If Travel is Sponsored (List Sponsor) Locally funded (OEA operating budget)				12. Donation Application Request No.		13. Sponsor's Donation Amount N/A					
II. Transportation											
14. Mode of Transportation Airline <input checked="" type="checkbox"/> Train <input type="checkbox"/> Other Private Vehicle <input type="checkbox"/>				15. Method of Payment <input checked="" type="checkbox"/> Advance <input checked="" type="checkbox"/> Travel Card <input type="checkbox"/> Other							
Transportation to Destination Air		16. Point of Departure BWI		17. Travel Date 12/1/2024		18. Carrier Name SouthWest		19. Flight or Train IDs 3951/73W		20. Departure Time 9:25 AM	21. Arrival Time 10:30 AM
Transportation to Return Air		22. Point of Departure PIT		23. Travel Date 12/6/2024		24. Carrier Name SouthWest		25. Flight or Train IDs 1111/73H		26. Departure Time 1:45 PM	27. Arrival Time 2:50 PM
III. Lodging											
28. Hotel Name and Address Kimpton Hotel Manaco Pittsburgh / 620 William Penn Place, Pittsburgh, PA 15219				29. Hotel Phone 412-471-1170							
				30. Lodging Dates From 12/01/2024 To 12/06/2024							
				31. Length of Stay(Nights) 5 nights							
Special Notes											
IV. Total Cost											
Item	Quantity	Unit Cost	Subtotal	Tax Rate	Total Rate	Total Cost	P-Card	Advance			
Transportation (Airline, Train, etc.)	1	\$631.97	\$631.97	\$169.66	\$169.66	\$801.63	\$801.63	\$0.00			
Lodging (Government Rate)	5	\$138.00	\$690.00	\$96.60	\$96.60	\$786.60	\$786.60	\$0.00			
Per Diem	1	\$320.00	\$320.00	\$0.00	\$0.00	\$320.00	\$0.00	\$320.00			
Per Diem (First and Last Day of Travel)	1	\$120.00	\$120.00	\$0.00	\$0.00	\$120.00	\$0.00	\$120.00			
Car Rental (Only If Approved)	0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
Training/Registration Fees	1	\$1,799.00	\$1,799.00	\$0.00	\$0.00	\$1,799.00	\$1,799.00	\$0.00			
Other Expenses (Ground Travel including shuttles, Taxis, Car Rental, Parking Fees / Baggage fees)	1	\$200.00	\$0.00	\$0.00	\$0.00	\$200.00	\$0.00	\$200.00			
					TOTAL	\$3,387.23		\$640.00			
V. Funding Attributes (Provided by Agency Budget Responsible Manager or Agency Fiscal Officer)											
Fund	Agency	Program	Cost Center	Account	Project	Award	Interfund	Future 1	Future 2		
1010001	CHO	100022	50280	7131027	000000	000000	N/A	N/A	N/A		
VI. Traveler Signature											
I certify that I am requesting authorization to travel on official District government business. I will keep original receipts for all expenses and submit them, along with a properly completed travel reconciliation form, within ten (10) business days of the authorized travel completion date. I understand that I will not be reimbursed for any expenses that are not associated with official business, not authorized by this form, or not authorized by Title 1, Chapter 8 of the D.C. Municipal Regulations, District of Columbia Employees Travel and Related Expenses or other applicable District or federal law or regulations. I understand that if expenses are incurred by the District (such as through an advance to me or through advance payments to third parties) and I fail to travel or attend the training, fail to submit a properly completed travel reconciliation form by the required date, or fail to reimburse the District for any advance in excess of actual and authorized expenses, the balance due may be withheld from my pay or from other District payments due to me now or in the future; I may also be subject to disciplinary action.											
Signature <i>Wynter Clarke</i>					Date 11/15/2024						
VII. Authorizations											
Administration Representative	Name: Hemchand Hemraj			Title: Chief Operating Officer		Signature <i>Hemchand Hemraj</i>		Date: 11/15/2024			
AFO or Budget Analyst	Name: Paul Blake			Title: Agency Fiscal Officer		Signature <i>Paul K. Blake</i>		Date: 11/15/2024			
Agency Director or Designee	Name: Sheila Barfield			Title: Executive Director		Signature <i>Sheila Barfield</i>		Date: 11/15/2024			
City Administrator (If required per Mayor's Order)	Name (Printed)			Title:		Signature		Date			
Office of the Chief of Staff (International Only)	Name (Printed)			Title:		Signature		Date			



Q.4 Staff Expenses
GOVERNMENT OF THE DISTRICT OF COLUMBIA
(Agency Name)



TR-3 REQUEST FOR TRAVEL EXPENSE REIMBURSEMENT FORM

I. Travel Package Control

1. Name of Traveler Wynter Clarke	2. Employee ID: 00091024	3.. Agency OEA (CHO)
4. Position Title Hearing Examiner	5. Travel Date: To: 12/2/2024	From: 12/5/2024
6. Description of Travel/Training Artificial Intelligence for all Judges and Lawyers: A Comprehensive Course	7. Travel Destination Pittsburgh, PA	8. Training, Conference or Seminar Cost \$4,027.23

II. Traveler Advance Request

7. Traveler Home Address:	9. Reimbursement Requested
	Reimbursement Owed to Traveler <input type="checkbox"/> Complete section III not IV Reimbursement Owed to the District <input checked="" type="checkbox"/> Complete section IV no III
	10. Phone Number

11. Special Notes:

III. Owed to the Traveler		IV. Owed to the District	
Item	Dollar Amount	Item	Dollar Amount
Total Cost of Travel	\$0.00	Total Cost of Travel	\$4,027.23
Advance Amount	\$0.00	Advance Amount	\$640.00
Reimbursement Amount Owed	\$0.00	Reimbursement Amount Owed	\$27.86
TOTAL Amount Requested for Reimbursement Enter Amount either from Section III or Section IV		\$27.86	

VI. Traveler Signature

I certify that I am requesting expense reimbursement for travel on official District government business. I will keep original receipts for all expenses and submit them, along with a properly completed travel reconciliation form, within ten (10) business days of the authorized travel completion date. I understand that I will not be reimbursed for any expenses that are not associated with official business, not authorized by this form, or not authorized by Title 1, Chapter 8 of the D.C. Municipal Regulations, District of Columbia Employees Travel and Related Expenses or other applicable District or federal law or regulations. I understand that if expenses are incurred by the District (such as through an advance to me or through advance payments to third parties) and I fail to travel or attend the training, fail to submit a properly completed travel reconciliation form by the required date, or fail to reimburse the District for any advance in excess of actual and authorized expenses, the balance due may be withheld from my pay or from other District payments due to me now or in the future; I may also be subject to disciplinary action.

Signature 	Date 12/12/2024
---------------	-----------------

V. Review Checklist

Travel Coordinator signs that the package is Complete, containing all required documentation: refer to SOP 890.100 for required documentation

Signature of Coordinator

Line Item	Receipt #1	Receipt #2	Receipt #3	Total Cost	Line Item	Receipt #1	Receipt #2	Receipt #3	Total Cost
Reviewers must calculate each expense item and write total amounts by hand.					Reviewers must calculate each expense item and write total amounts by hand.				
Training/Registration Fee	\$1,799.00	\$0.00	\$0.00	\$1,799.00	Training/Registration Fee	\$0.00	\$0.00	\$0.00	\$0.00
Transportation (Airlines, Train, Luggage, Fee)	\$801.63	\$0.00	\$0.00	\$801.63	Transportation (Airlines, Train, Luggage, Fee)	\$0.00	\$0.00	\$0.00	\$0.00
Lodging (Hotel, Tax)	\$786.60	\$0.00	\$0.00	\$786.60	Lodging (Hotel, Tax)	\$0.00	\$0.00	\$0.00	\$0.00
Food & Beverages (if more than 15 receipts are provided for food, reviewers should agree to use a combined per day calculation)	\$440.00	\$0.00	\$0.00	\$440.00	Food & Beverages (if more than 15 receipts are provided for food, reviewers should agree to use a combined per day calculation)	\$0.00	\$0.00	\$0.00	\$0.00
Personal Car (Milage x \$0.535)	\$0.00	\$0.00	\$0.00	\$0.00	Personal Car (Milage x \$0.535)	\$0.00	\$0.00	\$0.00	\$0.00
Ground Travel (Shuttles, Car Rental, Parking Fees)	\$172.14	\$0.00	\$0.00	\$172.14	Ground Travel (Shuttles, Car Rental, Parking Fees)	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL COST				\$3,999.37	TOTAL COST				\$3,999.37

Paperwork Accuracy <input checked="" type="checkbox"/>	Paperwork Accuracy <input type="checkbox"/>
All receipts were provided	All receipts were provided
All Required Fields are Completed	All Required Fields are Completed
Dollar Amount calculate correctly	Dollar Amount calculate correctly
Information appears to be accurate	Information appears to be accurate
No Found Spelling Errors	No Found Spelling Errors

Reviewer # 1
Reviewer #2 _____

Print Name: **Hemchand Hemraj, Chief Operating Officer** Print Name: _____

Attachment # 4

OFFICE OF THE CHIEF TECHNOLOGY OFFICER GOVERNMENT OF THE DISTRICT OF COLUMBIA 		MOU Executive Brief OCTO Division	
OCTO Deputy/Executive: Carol Harrison		Program Manager: Anup Sharma	
Agency: DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS (OEA)		Dollar Amount: \$16,400.00	
Date Submitted: Oct 3 2024 3:53PM		eMOU#: TOOCH0-2025-02163	
Project Description: <p>This MOU covers production application support for the OEA CaseTrack/CaseSearch applications ("Application") for Fiscal Year 2025</p>			
Risks:			
Challenges:			
Urgency: <input checked="" type="checkbox"/> Normal <input type="checkbox"/> Rush <input type="checkbox"/> Expedite			



MEMORANDUM OF UNDERSTANDING
 BETWEEN
DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS
 AND
**DISTRICT OF COLUMBIA OFFICE OF THE CHIEF TECHNOLOGY
 OFFICER**
FOR FISCAL YEAR 2025

MOU Number: TO0CH0-2025-02163

I. INTRODUCTION

This Memorandum of Understanding ("MOU") is entered into between the **DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS** ("Buyer Agency" or "OEA") and the **OFFICE OF THE CHIEF TECHNOLOGY OFFICER** ("Seller Agency" or "OCTO"), 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 covers production application support for the OEA CaseTrack/CaseSearch applications ("Application") for Fiscal Year 2025.

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 and
3. Technical support

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; and
3. Provide the funding described under the heading "Payment" in this MOU

V. DURATION OF THIS MOU

A. PERIOD

The period of this MOU shall be from **Oct 01, 2024** (the "effective date") through **Sep 30, 2025**, 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), 12-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 **\$16,400.00** for Fiscal Year 2025. The total cost of the goods and/or services is based on the Buyer and Seller Agency's estimate of the actual cost of the goods and/or services provided under this MOU, including labor, materials, and overhead.

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 to allow 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, other than 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-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 or 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 Seller Agency shall return any remaining advance of funds that exceeds the amounts due within thirty (30) days after the reconciliation or at the end of the fiscal year, whichever is earlier.

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

OCTO

Anup Sharma
200 I ST SE, 5th Floor
Washington, D.C. 20003
(202) 445-7383
Email: anup.sharma@dc.gov

XIII. RESOLUTION OF DISPUTES

All disputes arising under this MOU shall be referred to the Hemraj, Hemchand (OEA) and the Anup Sharma 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 **OFFICE OF THE CHIEF TECHNOLOGY OFFICER** for resolution.

XIV. CONFIDENTIAL INFORMATION

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

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: 10/8/2024

Executive Director
Sheila G. Barfield

Office of the Chief Technology Officer, District of Columbia

Stephen N Miller

Date: 12/9/2024

Chief Technology Officer
Stephen N Miller

Attachment A – Spend Plan

Department	Description	Account Name	Split Amount
DEVOPS (500228)		7131036 - IT SOFTWARE MAINTENANCE	\$14760.00
SQA (500227)		7131036 - IT SOFTWARE MAINTENANCE	\$1640.00
Total Amount:			\$16,400.00



Interagency Standard Request Form (IASRF) Agreement

(Completed by Awarding Agency after approval of MOU and Setup a Project, Budget & Award in DIFS)

Agreement Title: OEA 2025 Maintenance MOU

Agreement Number: TOOCHO-2025-02163

Buyer Contact

	Program Management	Agency Budget	Agency Accountant
Name:	Hemraj, Hemchand (OEA)		
Phone:	(202) 727-5895		

Buyer Agency: DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS

Signature: _____

Date: _____

Seller Contact

	Program Management	Agency Budget	Agency Accountant
Name:	Anup Sharma		
Phone:	(202) 741 5841		

Seller Agency: DISTRICT OF COLUMBIA OFFICE OF THE CHIEF TECHNOLOGY OFFICER

Signature: _____

Date: _____

Description	Attributes	Attributes (additional if needed)	Attributes (additional if needed)
Seller Agency Code and Name	DISTRICT OF COLUMBIA OFFICE OF THE CHIEF TECHNOLOGY OFFICER - OCTO - TOO		
Buyer Agency Code and Name	DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS - OEA - CHO		
Service Period	10/01/2024-09/30/2025		
Further Scope of Services or Conditions Attached (Y or N)			
Extension Amount (Y or N)			
Services GL –Buyers Program & Cost Center			
Buyers Fund			
Buyer Project # – Assigned to Seller			
Project Name			
Project PATEO (Project, Award, Task, Expense Type, Organization)			
Funding Amount Agreed Upon	\$16,400.00		

Original Date 10/2/20; Rev. 8/2022

District Integrated Financial System

Interagency Standard Agreement v1

Government of The District of Columbia | Office of The Chief Financial Officer

eMOU Approval History

1/23/2025 2:22:41

PM

TO0CH0-2025-02163

Step Name	Name	Status Name	Status Date	Comments
MOU Author Review	Juan Easley (OCTO)	Approved	10/3/2024 4:00:10 PM	Approve
OCTO Program Manager Review	Anup Sharma (OCTO)	Approved	10/3/2024 4:30:57 PM	
OCTO General Counsel Review	Didden, Carly (OCTO) (OCTO)	Approved	10/7/2024 12:47:21 PM	
OCTO Executives Review	Carol Harrison (OCTO)	Approved	10/7/2024 1:45:59 PM	
Buyer Agency Final Review of MOU	Hemraj, Hemchand (OEA) (OEA)	Approved	10/8/2024 10:07:03 AM	Approved
MOU Signature - Buyer Agency	Sheila Barfield (OEA)	Signed	10/8/2024 4:05:58 PM	
MOU Signature - OCTO	Stephen Miller (OCTO)	Signed	12/9/2024 11:11:16 AM	



MEMORANDUM OF UNDERSTANDING

BETWEEN

THE OFFICE OF EMPLOYEE APPEALS

AND

THE DISTRICT OF COLUMBIA DEPARTMENT OF HUMAN RESOURCES

FOR FISCAL YEAR 2025

I. INTRODUCTION

This Memorandum of Understanding (“MOU”) is entered into between the Office of Employee Appeals (OEA or “Buyer Agency”) and the District of Columbia Department of Human Resources (DCHR or “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

The Buyer serves as the personnel authority for its staff and provides personnel and resource support to other offices. However, the Buyer lacks the human resources (HR) processing infrastructure necessary to accommodate its personnel related operations. Through this MOU, the Seller shall provide the Buyer the needed HR services.

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 the Buyer Agency the HR services listed in *Attachment A*. For each service, the Seller Agency shall provide policy guidance, data processing, and customer service to the Buyer Agency, its management staff, and its employees, when applicable.

B. RESPONSIBILITIES OF BUYER AGENCY

In support of the services listed in *Attachment A*, the Buyer Agency shall:

1. Fund a project in the amount of \$11,126 (eleven thousand, one hundred and twenty-six dollars) within thirty (30) days of the effective date to Seller Agency;
2. Ensure that Seller Agency receives all documentation reasonably necessary in a timely fashion to carry out its responsibilities under this MOU;
3. Ensure that employees are actively enrolled in Employee Self Service;
4. Designate an OEA employee to serve as a Human Resources Advisor (HRA), who will coordinate with DCHR personnel to facilitate the services provided by DCHR.
5. Agree to be bound by the provisions of the Comprehensive Merit Personnel Act, Title 6B of the D.C. Municipal Regulations;
6. Understand that DCHR will not provide guidance and support on actions taken by OEA outside of DCHR's policies, procedures, issuances, and other guidance; and
7. Agree that this MOU does not include any services relating to enhanced suitability assessments pursuant to Chapter 4 of Title 6B of the D.C. Municipal Regulations.

V. DURATION OF THIS MOU

A. PERIOD

The period of this MOU shall be from October 1, 2024 (the "effective date") through September 30, 2025, unless early terminated pursuant to Section XI of this MOU.

VI. FUNDING PROVISIONS

A. COST OF SERVICES

The total cost to the Buyer Agency for the services provided under this MOU shall not exceed \$11,126 for Fiscal Year 2025. The total cost of the services is based on the Seller Agency's estimate of the actual cost of the services that will be provided under this MOU.

B. PAYMENT

1. Within thirty (30) days after this MOU is fully executed, or by November 1, 2024, 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, other than 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-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. COMPLIANCE WITH LAW

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

IX. COMPLIANCE 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.

- C. Both the Buyer Agency and Seller Agency shall meet to reassess the Buyer Agency's HR needs by April 30, 2025. If it is determined that the required level of service provided is less than what was established on the effective date, the Agencies shall work to modify the services and adjust the funding at a prorated amount for the remainder of the fiscal year, as appropriate.

XI. TERMINATION

- A. Either Party may terminate this MOU in whole or in part by giving forty-five (45) 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:

Buyer Agency

Hemchand Hemraj, Chief Operating Officer
955 L'Enfant Plaza, S.W., Suite 2500
Washington, DC 20024
(202) 727-5895

Seller Agency

Nicole A. Cook, Chief Administrative Officer
DC Department of Human Resources
1015 Half Street, SE, 8th Floor
Washington DC 20003
(202) 316-8543

XIII. RESOLUTION OF DISPUTES

All disputes arising under this MOU shall be referred to Hemchand Hemraj, Chief operating Officer and Nicole Cook, Chief Administrative Officer for resolution. If these individuals are unable to resolve such a dispute, the dispute shall be referred to the directors of OEA and DCHR for resolution.

XIV. CONFIDENTIAL INFORMATION

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

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

OFFICE OF EMPLOYEE APPEALS



Sheila G. Barfield
Executive Director



Date

DISTRICT OF COLUMBIA DEPARTMENT OF HUMAN RESOURCES



Charles Hall, Jr.
Director

10/07/2024

Date

DC DEPARTMENT OF HUMAN RESOURCES

Attachment A - HR SUPPORT SERVICES

Q.5 MOU FY2025

- Benefits and Retirement Services**
 - Administrative processing of employee benefits coverage
 - Administrative calculations and processing of retirements
 - Individual retirement counseling
- Legal Review and Consultation Services**
 - Legal consultation and risk mitigation guidance, as requested
- Policy Advisement Services**
 - Management guidance on District Personnel Manual policies
- Recruitment and Staffing Services**
 - Administrative processing of personnel actions
 - Posting of vacancy announcements
 - Rating and ranking of candidates
 - Targeted recruitment
 - Creation and maintenance of Official Personnel Folders
 - New Hire Orientation services
- Employee Relations Services**
 - Management guidance on the progressive discipline process
 - Guidance on FMLA/PFL policies and requirements
- Performance Management Services**
 - Guidance on effective Performance Management principles and implementation of e-Performance Management
 - Oversight of performance management plans & evaluations
 - Access to Performance Management appeals process
- Classification and Compensation Services**
 - Classification of newly created positions
 - Recertification of existing positions
 - Desk audits
 - Agency reorganizations or realignments
 - Establishment of compensation schedules
 - Processing of Within Grade Increases and COLAs

OFFICE OF THE CHIEF TECHNOLOGY OFFICER GOVERNMENT OF THE DISTRICT OF COLUMBIA 	MOU Executive Brief OCTO Division
OCTO Deputy/Executive: Carol Harrison	Program Manager: Anup Sharma
Agency: DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS (OEA)	Dollar Amount: \$16,400.00
Date Submitted: Sep 30 2025 2:08PM	eMOU#: TOOCH0-2026-02294
Project Description: This MOU covers production application support for the OEA CaseTrack/CaseSearch applications ("Application") for Fiscal Year 2025	
Risks:	
Challenges:	
Urgency:	<input checked="" type="checkbox"/> Normal <input type="checkbox"/> Rush <input type="checkbox"/> Expedite



MEMORANDUM OF UNDERSTANDING
 BETWEEN
DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS
 AND
**DISTRICT OF COLUMBIA OFFICE OF THE CHIEF TECHNOLOGY
 OFFICER**
FOR FISCAL YEAR 2026

MOU Number: TO0CH0-2026-02294

I. INTRODUCTION

This Memorandum of Understanding ("MOU") is entered into between the **DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS** ("Buyer Agency", "OEA") and the **OFFICE OF THE CHIEF TECHNOLOGY OFFICER** ("Seller Agency", "OCTO"), 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 covers production application support for the OEA CaseTrack/CaseSearch applications ("Application") for Fiscal Year 2026.

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 and
3. Technical support

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; and
3. Provide the funding described under the heading "Payment" in this MOU

V. DURATION OF THIS MOU

A. PERIOD

The period of this MOU shall be from **Oct 01, 2025** (the "effective date") through **Sep 30, 2026**, 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), 12-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 **\$16,400.00** for Fiscal Year 2026. The total cost of the goods and/or services is based on the [Buyer and] 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 to allow 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, other than 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-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 or 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

Hemchand Hemraj
Chief Operating Officer
955 l'Enfant Plaza, SW Suite 2500
Washington, DC 20024
Phone: (202) 727-5895
Email : hemchand.hemraj@dc.gov

OCTO

Anup Sharma
Program Manager
200 I ST SE, 5th Floor
Washington, D.C. 20003
Phone : (202)445-7383
Email : anup.sharma@dc.gov

XIII. RESOLUTION OF DISPUTES

All disputes arising under this MOU shall be referred to Hemchand Hemraj and Anup Sharma 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.

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: 12/9/2025

Executive Director
Sheila G. Barfield

Office of the Chief Technology Officer, District of Columbia

Stephen N Miller

Date: 12/10/2025

Chief Technology Officer
Stephen N Miller

Attachment A – Spend Plan

Department	Description	Account Name	Split Amount
DEVOPS (500228)		7131036 - IT SOFTWARE MAINTENANCE	\$14760.00
SQA (500227)		7131036 - IT SOFTWARE MAINTENANCE	\$1640.00
Total Amount:			\$16,400.00



Interagency Standard Request Form (IASRF) Agreement
 (Completed by Awarding Agency after approval of MOU and Setup a Project, Budget & Award in DIFS)

Agreement Title: OEA FY2026 Casetrak Maintenance MOU

Agreement Number: TOOCHO-2026-02294

Buyer Contact

	Program Management	Agency Budget	Agency Accountant
Name:	Hemraj, Hemchand (OEA)		
Phone:	(202) 727-5895		

Buyer Agency: DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS

Signature: _____

Date: _____

Seller Contact

	Program Management	Agency Budget	Agency Accountant
Name:	Anup Sharma		
Phone:	(202) 741 5841		

Seller Agency: DISTRICT OF COLUMBIA OFFICE OF THE CHIEF TECHNOLOGY OFFICER

Signature: _____

Date: _____

Description	Attributes	Attributes (additional if needed)	Attributes (additional if needed)
Seller Agency Code and Name	DISTRICT OF COLUMBIA OFFICE OF THE CHIEF TECHNOLOGY OFFICER - OCTO - TOO		
Buyer Agency Code and Name	DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS - OEA - CHO		
Service Period	10/01/2025-09/30/2026		
Further Scope of Services or Conditions Attached (Y or N)			
Extension Amount (Y or N)			
Services GL –Buyers Program & Cost Center			
Buyers Fund			
Buyer Project # – Assigned to Seller			
Project Name			
Project PATEO (Project, Award, Task, Expense Type, Organization)			
Funding Amount Agreed Upon	\$16,400.00		

eMOU Approval History

12/22/2025 12:37:16
PM

TO0CH0-2026-02294

Step Name	Name	Status Name	Status Date	Comments
MOU Author Review	Juan Easley (OCTO)	Approved	9/30/2025 2:53:39 PM	added buyer approval steps to workflow
OCTO Program Manager Review	Anup Sharma (OCTO)	Approved	10/2/2025 5:08:54 PM	
OCTO General Counsel Review	Philip Reisen (OCTO)	Approved	10/6/2025 11:22:25 AM	
Buyer Agency Final Review of MOU	Hemraj, Hemchand (OEA) (OEA)	Approved	12/3/2025 12:49:56 PM	
MOU Signature - Buyer Agency	Sheila G. Barfield (OEA)	Signed	12/9/2025 3:24:33 PM	
MOU Signature - OCTO	Stephen Miller (OCTO)	Signed	12/10/2025 4:36:05 PM	



MEMORANDUM OF UNDERSTANDING

BETWEEN

THE OFFICE OF EMPLOYEE APPEALS

AND

THE DISTRICT OF COLUMBIA DEPARTMENT OF HUMAN RESOURCES

FOR FISCAL YEAR 2026

I. INTRODUCTION

This Memorandum of Understanding (“MOU”) is entered into between the Office of Employee Appeals (OEA or “Buyer Agency”) and the District of Columbia Department of Human Resources (DCHR or “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

The Buyer serves as the personnel authority for its staff; however, the Buyer Agency lacks certain human resources (HR) processing infrastructure necessary to accommodate its personnel-related operations. Through this MOU, the Seller Agency shall provide the Buyer Agency the needed HR services.

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 the Buyer Agency the HR services selected in *Attachment A*. For each service, the Seller Agency shall provide policy guidance, data processing, and customer service to the Buyer Agency, its management staff, and its employees, when applicable.

B. RESPONSIBILITIES OF BUYER AGENCY

In support of the services listed in *Attachment A*, the Buyer Agency shall:

1. Advance to Seller Agency \$6,623 (six thousand, six hundred and twenty-three dollars) for HR services within thirty (30) days of the effective date;
2. Ensure that Seller Agency receives all documentation reasonably necessary in a timely fashion to carry out its responsibilities under this MOU;
3. Ensure that employees are actively enrolled in Employee Self Service;
4. Designate an OEA employee to serve as a Human Resources Advisor (HRA), who will coordinate with DCHR personnel to facilitate the services provided by DCHR.
5. At its discretion, agree to be bound by the provisions of the Comprehensive Merit Personnel Act, Title 6B of the D.C. Municipal Regulations, and all implementing DCHR policies, procedures, issuances and other guidance, unless specifically superseded by statute or regulations, policies, procedures and guidance issued by OEA;
6. Understand and agree that DCHR will not provide guidance or support on actions taken by OEA outside of DCHR's policies, procedures, issuances and other guidance; and
7. Agree that this MOU does not include any services relating to enhanced suitability assessments pursuant to Chapter 4 of Title 6B of the D.C. Municipal Regulations.

V. DURATION OF THIS MOU

A. PERIOD

The period of this MOU shall be from October 1, 2025 (the "effective date") through September 30, 2026, unless early terminated pursuant to Section XI of this MOU.

VI. FUNDING PROVISIONS

A. COST OF SERVICES

1. The total cost to the Buyer Agency for the services provided under this MOU shall not exceed \$6,623 for Fiscal Year 2026.
2. The cost of this MOU is based upon: the current salary for mid-level HR professional(s), equivalent to a grade 12, step 4 of the DC Career Service pay schedule, or \$88,300; the size of the Buyer Agency, or fifteen (15)

full-time employee positions; and the number of services to be provided by the Seller Agency, as selected in *Attachment A*.¹

B. PAYMENT

1. Within thirty (30) days after this MOU is fully executed, or by November 1, 2025, 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, as selected in *Attachment A*.

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-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

- A. 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.
- B. Any amendment that serves to add HR services not selected at the execution of the MOU must be executed no later than June 1, 2026. The Seller Agency cannot accommodate changes to service selection after June 1, 2026.

VIII. COMPLIANCE WITH LAW

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

¹ The FY2026 cost for the full-suite of services is based on the following calculation: the salary for a CS-12-04 position as of October 1, 2025, which is \$88,300 multiplied by the ratio of 1 HR personnel per 100 full-time employees. The resulting formula for the Buyer Agency is \$88,300 x FTECount/100. This cost may be discounted if the Buyer Agency opts out of service categories.

IX. COMPLIANCE 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 forty-five (45) calendar days advance written notice to the other Party.
- B. Within thirty (30) days after the date of expiration or termination of this MOU, the Seller Agency shall return any excess advance to the Buyer Agency.
- C. 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:

Buyer Agency

Hemchand Hemraj, Chief Operating Officer
Office of Employee Appeals
955 L'Enfant Plaza, S.W., Suite 2500
Washington, DC 20024
hemchand.hemraj@dc.gov

Seller Agency

Nicole A. Cook, Chief Administrative Officer
DC Department of Human Resources
1015 Half Street, SE, 8th Floor
Washington DC 20003
Nicole.Cook@dc.gov

XIII. RESOLUTION OF DISPUTES

All disputes arising under this MOU shall be referred to Hemchand Hemraj, Chief Operating Officer and Nicole Cook, Chief Administrative Officer for resolution. If these individuals are unable to resolve such a dispute, the dispute shall be referred to the directors of OEA and DCHR for resolution.

XIV. CONFIDENTIAL INFORMATION

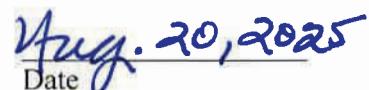
The Parties shall use, restrict, safeguard, and dispose of all information related to goods and/or services provided under this MOU in accordance with all relevant federal and District statutes, regulations, and policies.

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

OFFICE OF EMPLOYEE APPEALS



Sheila G. Barfield
Executive Director



Date

DISTRICT OF COLUMBIA DEPARTMENT OF HUMAN RESOURCES



Charles Hall, Jr.
Director

9/25/2025

Date

DC DEPARTMENT OF HUMAN RESOURCES

Attachment A - HR SUPPORT SERVICES

Q.5 MOU FY2026

- Benefits and Retirement Services**
 - Administrative processing of employee benefits coverage
 - Administrative calculations and processing of retirements
 - Individual retirement counseling
- Legal Review and Consultation Services**
 - Legal consultation and risk mitigation guidance, as requested
- Policy Advisement Services**
 - Management guidance on District Personnel Manual policies
- Recruitment and Staffing Services**
 - Administrative processing of personnel actions
 - Posting of vacancy announcements
 - Rating and ranking of candidates
 - Targeted recruitment
 - Creation and maintenance of Official Personnel Folders
 - New Hire Orientation services
- Employee Relations Services**
 - Management guidance on the progressive discipline process
 - Guidance on FMLA/PFL policies and requirements
- Performance Management Services**
 - Guidance on effective Performance Management principles and implementation of e-Performance Management
 - Oversight of performance management plans & evaluations
 - Access to Performance Management appeals process
- Classification and Compensation Services**
 - Classification of newly created positions
 - Recertification of existing positions
 - Desk audits
 - Agency reorganizations or realignments
 - Establishment of compensation schedules
 - Processing of Within Grade Increases and COLAs

Attachment # 5

Office of Employee Appeals

www.oea.dc.gov
Telephone: 202-727-0004

Table CH0-1

Description	FY 2022	FY 2023	FY 2024	FY 2025	% Change from FY 2024
	Actual	Actual	Approved	Approved	
OPERATING BUDGET	\$2,380,858	\$2,128,359	\$2,530,892	\$2,540,221	0.4
FTEs	14.3	13.9	14.5	14.5	0.0
CAPITAL BUDGET	\$0	\$0	\$0	\$0	N/A
FTEs	0.0	0.0	0.0	0.0	N/A

The mission of the Office of Employee Appeals (OEA) is to render impartial, legally sufficient, and timely decisions on appeals filed by District of Columbia government employees. OEA has jurisdiction over appeals in which an employee has been removed as a result of an adverse action for cause, placed on enforced leave for 10 days or more, suspended for 10 days or more, reduced in grade, subjected to a reduction in force, or appeals affecting a designation of the employee's position as safety-sensitive.

Summary of Services

OEA offers District government agencies and employees the following three-part appeal process: mediation, adjudication, and petitions for review. The mediation process allows the employee and the agency an opportunity to resolve their disputes without going through the lengthy and costly adjudication process. The adjudication process results in disputes being resolved by an administrative judge who issues an initial decision and finds in favor of either the agency or employee. The petition for review process provides an impartial review of initial decisions by OEA's Board.

The agency's FY 2025 approved budget is presented in the following tables:

FY 2025 Approved Gross Funds Operating Budget and FTEs, by Revenue Type

Table CH0-2 contains the approved FY 2025 budget by revenue type compared to the FY 2024 approved budget. It also provides FY 2022 and FY 2023 actual data.

Table CH0-2

(dollars in thousands)

Appropriated Fund	Dollars in Thousands						Full-Time Equivalents					
	Actual		Approved		Change from %		Actual		Approved		Change from %	
	FY 2022	FY 2023	FY 2024	FY 2025	FY 2024	Change*	FY 2022	FY 2023	FY 2024	FY 2025	FY 2024	Change*
GENERAL FUND												
Local Funds	2,381	2,128	2,531	2,540	9	0.4	14.3	13.9	14.5	14.5	0.0	0.0
TOTAL FOR	2,381	2,128	2,531	2,540	9	0.4	14.3	13.9	14.5	14.5	0.0	0.0
GROSS FUNDS	2,381	2,128	2,531	2,540	9	0.4	14.3	13.9	14.5	14.5	0.0	0.0

*Percent change is based on whole dollars.

Note: If applicable, for a breakdown of each Grant (Federal and Private) and Special Purpose Revenue type, please refer to **Schedule 80 Agency Summary by Revenue Source** in the **FY 2025 Operating Appendices** located on the Office of the Chief Financial Officer's website.

FY 2025 Approved Operating Budget, by Account Group

Table CH0-3 contains the approved FY 2025 budget at the Account Group level compared to the FY 2024 approved budget. It also provides FY 2022 and FY 2023 actual expenditures.

Table CH0-3

(dollars in thousands)

Account Group	Actual FY 2022	Actual FY 2023	Approved FY 2024	Approved FY 2025	Change	
					from FY 2024	Percentage Change*
701100C - Continuing Full Time	1,649	1,593	1,762	1,933	171	9.7
701200C - Continuing Full Time - Others	179	88	206	71	-135	-65.6
701300C - Additional Gross Pay	108	1	0	0	0	N/A
701400C - Fringe Benefits - Current Personnel	347	329	396	395	-1	-0.2
SUBTOTAL PERSONNEL SERVICES (PS)	2,284	2,012	2,363	2,399	35	1.5
711100C - Supplies and Materials	4	8	7	7	0	0.0
712100C - Energy, Communications and Building Rentals	2	0	11	0	-11	-100.0
713100C - Other Services and Charges	36	64	39	54	15	38.8
713200C - Contractual Services - Other	30	19	80	80	0	0.0
715100C - Other Expenses	0	8	0	0	0	N/A
717100C - Purchases Equipment and Machinery	25	18	31	1	-30	-95.9
SUBTOTAL NONPERSONNEL SERVICES (NPS)	97	117	168	142	-26	-15.5
GROSS FUNDS	2,381	2,128	2,531	2,540	9	0.4

*Percent change is based on whole dollars.

FY 2025 Approved Operating Budget and FTEs, by Division/Program and Activity

Table CH0-4 contains the approved FY 2025 budget by division/program and activity compared to the FY 2024 approved budget. It also provides FY 2022 and FY 2023 actual data. For a more comprehensive explanation of divisions/programs and activities, please see the Division/Program Description section, which follows the table.

Table CH0-4

(dollars in thousands)

Division/Program and Activity	Dollars in Thousands					Full-Time Equivalents					Change from FY 2024
	Actual FY 2022	Actual FY 2023	Approved FY 2024	Approved FY 2025	Change from FY 2024	Actual FY 2022	Actual FY 2023	Approved FY 2024	Approved FY 2025		
(AMP000) AGENCY MANAGEMENT PROGRAM											
(AMP005) Contracting and Procurement	71	116	117	115	-1	0.0	0.0	0.0	0.0	0.0	0.0
(AMP006) Customer Service	73	73	64	67	3	1.0	0.9	1.0	1.0	0.0	0.0
(AMP012) Information Technology Services	85	43	74	69	-5	1.0	0.9	1.0	1.0	0.0	0.0
(AMP016) Performance and Strategic Management	344	365	442	402	-40	2.0	1.9	2.0	2.0	0.0	0.0
(AMP030) Executive Administration	682	624	759	771	12	5.0	4.6	5.0	5.0	0.0	0.0
SUBTOTAL (AMP000) AGENCY MANAGEMENT PROGRAM	1,256	1,220	1,456	1,425	-31	8.9	8.4	9.0	9.0	0.0	
(GO0054) ADJUDICATION											
(O05401) Adjudication Process	1,021	888	971	1,116	144	5.2	5.1	5.0	5.5	0.5	
(O05402) Appeals	27	1	11	0	-11	0.0	0.0	0.0	0.0	0.0	
(O05403) Mediation	77	19	93	0	-93	0.2	0.5	0.5	0.0	-0.5	
SUBTOTAL (GO0054)	1,125	908	1,075	1,116	40	5.4	5.6	5.5	5.5	0.0	
TOTAL APPROVED OPERATING BUDGET	2,381	2,128	2,531	2,540	9	14.3	13.9	14.5	14.5	0.0	

(Change is calculated by whole numbers and numbers may not add up due to rounding)

Note: For more detailed information regarding the approved funding for the activities within this agency's programs, please see **Schedule 30-PBB Program Summary by Activity**. For detailed information on this agency's Cost Center structure as reflected in the District's Chart of Accounts, please see **Schedule 30-CC FY 2025 Approved Operating Budget and FTEs, by Division/Office**. The schedules can be found in the **FY 2025 Operating Appendices** located on the Office of the Chief Financial Officer's website. Additional information on this agency's interagency agreements can be found in **Appendix H** in the **Executive Summary, Volume 1**.

Program Description

The Office of Employee Appeals operates through the following 2 programs:

Adjudication – provides mediation sessions, impartial hearings, and adjudication appeals for District government employees who challenge an agency's final decision on personnel matters.

This program contains the following activity:

- **Adjudication Process**– provides impartial, fair decisions to employees for timely resolution of their appeal.

Agency Management – provides for administrative support and the required tools to achieve operational and programmatic results. This program is standard for all agencies using performance-based budgeting.

Program Structure Changes

The Office of Employee Appeals has no program structure changes in the FY 2025 approved budget.

FY 2024 Approved Budget to FY 2025 Approved Budget, by Revenue Type

Table CH0-5 itemizes the changes by revenue type between the FY 2024 approved budget and the FY 2025 approved budget. For a more comprehensive explanation of changes, please see the FY 2025 Approved Budget Changes section, which follows the table.

Table CH0-5

(dollars in thousands)

DESCRIPTION	DIVISION/PROGRAM	BUDGET	FTE
LOCAL FUNDS: FY 2024 Approved Budget and FTE		2,531	14.5
Removal of One-Time Funding	Multiple Programs	-40	0.0
LOCAL FUNDS: FY 2025 Recurring Budget		2,491	14.5
Increase: To align personnel services and Fringe Benefits with projected costs	Multiple Programs	35	0.0
Decrease: To realize programmatic cost savings in nonpersonnel services	Multiple Programs	-11	0.0
LOCAL FUNDS: FY 2025 Mayor's Proposed Budget		2,515	14.5
Enhance: To support the MOU with DCHR (one-time)	Agency Management Program	25	0.0
LOCAL FUNDS: FY 2025 District's Approved Budget		2,540	14.5
 GROSS FOR CH0 - OFFICE OF EMPLOYEE APPEALS		 2,540	 14.5

(Change is calculated by whole numbers and numbers may not add up due to rounding)

Note: For more detailed information regarding the approved funding for interagency projects funded within this agency, please see **Appendix H, FY 2025 Interagency Budgets, of the Executive Summary, Volume 1** located on the OCFO's website.

FY 2025 Approved Operating Budget Changes

Table CH0-6 contains the approved FY 2025 budget by fund compared to the FY 2024 approved budget.

Table CH0-6

Appropriated Fund	FY 2024 Approved	FY 2025 Approved	% Change from FY 2024
Local Funds	\$2,530,892	\$2,540,221	0.4
GROSS FUNDS	\$2,530,892	\$2,540,221	0.4

Mayor's Proposed Budget

Increase: The Office of Employee Appeals' (OEA) proposed budget includes an increase of \$35,329 across multiple programs to support projected salary, step, and Fringe Benefit costs.

Decrease: OEA's budget proposal reflects a decrease of \$11,000 across multiple programs to realize programmatic cost savings in nonpersonal service costs.

District's Approved Budget

Enhance: OEA's approved Local funds budget includes an increase of \$25,000 in the Agency Management program to support an Memorandum of Understanding (MOU) with the District of Columbia's Department of Human Resources (DCHR).

Attachment # 6

Office of Employee Appeals (OEA) - Agency FY2025 and FY2026 Program Priorities

AGENCY PROGRAM PRIORITIES FY2025

N#	List of Priorities	Staffing Numbers	Expenditure	Community Outreach	Measurable Outcomes/Metrics
1	Agency Vacant Position - Recruit Senior Administrative Assistant ¹	1	N/A	N/A	N/A
2	Agency Database Upgrade - OCTO to develop an E-filing system to support the CaseTracking System ²	Undetermined	\$ 253,000	N/A	N/A
3	Agency IT Equipment Upgrade - Procurement of Computer Monitors	5	\$ 3,000	N/A	N/A
4	Agency Staff Training - Offering Legal Education training opportunities	4	\$ 15,000	N/A	N/A
5	Agency Quarterly Bulletin (agency performance data) via the OEA Website ³	3	N/A	N/A	N/A

Notes:

¹ The vacancy remained unfilled due to a shift in agency priorities during the implementation year. OEA plans to reassess the agency's HR needs in the near future, aligning with our operational priorities.

² Funding for this initiative was not approved in the FY2026 Budget Cycle. OEA plans to resubmit the enhancement request in the FY2028/FY2029 budget cycle.

³ Agency quarterly bulletin will be re-established in FY2027 as we fill the Paralegal Specialist post.

AGENCY PROGRAM PRIORITIES FY2026

N#	List of Priorities	Staffing Numbers	Expenditure	Community Outreach	Measurable Outcomes/Metrics
1	Agency Vacant Position - Recruit Administrative Judge	1	N/A	N/A	N/A
2	Agency Staff Training - Offering Legal Education training opportunities	10	\$ 30,000	N/A	N/A
3	Agency IT Equipment Upgrade - Procurement of Computer & Laptop system (agency-wide) Phase 1	9	\$ 33,000	N/A	N/A
4	Agency IT Equipment Upgrade - Procurement of Computer & Laptop system (agency-wide) Phase 2 ¹	5	\$ 20,000	N/A	N/A
5	Agency Bate-stamping system - Procure a new IT equipment to improve operational efficiency ¹	2	\$ 5,000	N/A	N/A

Notes:

¹ The funding necessary to achieve these agency priorities will be secured through a reprogram request from agency PS savings, facilitating completion by September 30, 2026.

Attachment # 7



**OFFICE OF EMPLOYEE APPEALS
FY 2026 PERFORMANCE PLAN**

NOVEMBER 26, 2025

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1 INTRODUCTION

This document is the Fiscal Year 2026 Performance Plan for the Office of Employee Appeals.

This Performance Plan is the first of two agency performance documents published each year. The Performance Plan is published twice annually – preliminarily when the Mayor’s budget proposal is delivered, and again at the start of the fiscal year when budget decisions have been finalized. A companion document, the Performance Accountability Report (PAR), is published annually in January following the end of the fiscal year. Each PAR assesses agency performance relative to its annual Performance Plan.

Performance Plan Structure: Performance plans are comprised of agency Objectives, Administrative Structures (such as Divisions, Administrations, and Offices), Activities, Projects and related performance measures. The following describes these plan components, and the types of performance measures agencies use to assess their performance.

Objectives: Objectives are statements of the desired benefits that are expected from the performance of an agency’s mission. They describe the goals of the agency.

Administrative Structures: Administrative Structures represent the organizational units of an agency, such as Departments, Divisions, or Offices.

Activities: Activities represent the programs and services an agency provides. They reflect what an agency does on a regular basis (e.g., processing permits).

Projects: Projects are planned efforts that end once a particular outcome or goal is achieved.

Measures: Performance Measures may be associated with any plan component, or with the agency overall. Performance Measures can answer broad questions about an agency’s overall performance or the performance of an organizational unit, a program or service, or the implementation of a major project. Measures can answer questions like “How much did we do?”, “How well did we do it?”, “How quickly did we do it?”, and “Is anyone better off?” as described in the table below.

Measures are printed in the Performance Plan along with the Objective, Administrative Structure, Activity, or Project that they measure.

Measure Type	Measure Description	Example
Quantity	Quantity measures assess the volume of work an agency performs. These measures can describe the inputs (e.g., requests or cases) that an agency receives or the work that an agency completes (e.g., licenses issued or cases closed). Quantity measures often start with the phrase “Number of...”.	“Number of public art projects completed”
Quality	Quality measures assess how well an agency’s work meets standards, specifications, resident needs, or resident expectations. These measures can directly describe the quality of decisions or products or they can assess resident feelings, like satisfaction.	“Percent of citations issued that were appealed”
Efficiency	Efficiency measures assess the resources an agency used to perform its work and the speed with which that work was performed. Efficiency measures can assess the unit cost to deliver a product or service, but typically these measures assess describe completion rates, processing times, and backlog.	“Percent of claims processed within 10 business days”

(continued)

Measure Type	Measure Description	Example
Outcome	Outcome measures assess the results or impact of an agency's work. These measures describe the intended ultimate benefits associated with a program or service.	"Percent of families returning to homelessness within 6-12 months"
Context	Context measures describe the circumstances or environment that the agency operates in. These measures are typically outside of the agency's direct control.	"Recidivism rate for 18-24 year-olds"
District-wide Indicators	District-wide indicators describe demographic, economic, and environmental trends in the District of Columbia that are relevant to the agency's work, but are not in the control of a single agency.	"Area median income"

Targets: Agencies set targets for most performance measures before the start of the fiscal year. Targets may represent goals, requirements, or national standards for a performance measure. Agencies strive to achieve targets each year, and agencies provide explanations for targets that are not met at the end of the fiscal year in the subsequent Performance Accountability Report.

Not all measures are associated with a target. Newly added measures do not require targets for the first year, as agencies determine a data-informed benchmark. Changes in some measures may not indicate better or worse performance. They may be "neutral" measures of demand or input or outside of the agency's direct control. In some cases, the relative improvement of a measure over a prior period is a more meaningful indicator than meeting or exceeding a particular numerical goal, so a target is not set.

2 OFFICE OF EMPLOYEE APPEALS OVERVIEW

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

Summary of Services: In accordance with DC Official Code Section 1-606.03, the Office of Employee Appeals adjudicates 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.

Objectives:

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

3 OBJECTIVES

3.1 RENDER IMPARTIAL, LEGALLY SOUND DECISIONS IN A TIMELY MANNER

Measure Type	Measure	Directionality	FY2024	FY2025 Target	FY2025	FY2026 Target
Quantity	Number of Initial Decisions issued	Up is Better	89	80	95	80
Quantity	Number of Opinions and Orders issued	Up is Better	16	15	22	15
Outcome	Percent of OEA decisions upheld by D.C. Superior Court and the D.C. Court of Appeals	Up is Better	86.67%	100%	91.3%	Target not required
Outcome	Percent of cases reversing agency decisions	Neutral	10.58%	Target not required	5.98%	Target not required
Outcome	Percent of decisions published within the D.C. Register	Up is Better	100%	100%	100%	100%
Efficiency	Average time to complete Adjudications	Down is Better	200 days	120 days	246 days	120 days
Efficiency	Average time to resolve Petitions for Review	Down is Better	91 days	120 days	114 days	120 days
Efficiency	Percent of agency answers timely filed	Up is Better	88.76%	100%	93.09%	100%

3.2 STREAMLINE THE ADJUDICATION PROCESS

Measure Type	Measure	Directionality	FY2024	FY2025 Target	FY2025	FY2026 Target
Quantity	Number of Petitions for Appeal filed	Neutral	New in 2025	New in 2025	82	Target not required
Quantity	Number of Petitions for Review filed	Neutral	New in 2025	New in 2025	23	Target not required
Quantity	Number of appeals involved in the mediation process	Up is Better	New in 2025	New in 2025	7	Target not required
Outcome	Number of appeals resolved through mediation	Up is Better	New in 2025	New in 2025	0	Target not required

3.3 MAINTAIN A SYSTEM TO ALLOW THE PUBLIC TO HAVE ACCESS TO ALL DECISIONS RENDERED BY THE OEA

Measure Type	Measure	Directionality	FY2024	FY2025 Target	FY2025	FY2026 Target
Outcome	Percent of Initial Decisions uploaded to website	Up is Better	100%	100%	100%	100%
Outcome	Percent of Opinions and Orders uploaded to website	Up is Better	100%	100%	100%	100%

4 ACTIVITIES

4.1 APPEALS AND ADJUDICATION

Operations that occur within the appeals and adjudication process

Measure Type	Measure	Directionality	FY2024	FY2025 Target	FY2025	FY2026 Target
Quantity	Number of Board meetings conducted	Neutral	6	Target not required	6	Target not required
Quantity	Number of evidentiary hearings conducted	Neutral	19	Target not required	20	Target not required
Quantity	Number of safety-sensitive designation appeals filed	Neutral	0	Target not required	0	Target not required

4.2 MEDIATION

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.

Measure Type	Measure	Directionality	FY2024	FY2025 Target	FY2025	FY2026 Target
Quantity	Number of attorney fee appeals mediated	Neutral	1	Target not required	0	Target not required
Quantity	Number of mediations declined by the agency	Neutral	0	Target not required	0	Target not required
Quantity	Number of mediations declined by the employee	Neutral	0	Target not required	0	Target not required

4.3 WEBSITE

Decisions are uploaded to the agency's website so that the public is able to view the decisions and research the decisions.

No Related Measures

4.4 OPINIONS AND ORDERS

The Board reviews the Petitions for Review and related documents and issues an Opinion and Order.

No Related Measures

4.5 PETITIONS FOR APPEAL

Intake Coordinator reviews Petition for Appeal, determines the type of appeal and assigns to Administrative Judge.

No Related Measures

4.6 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.

No Related Measures

4.7 INITIAL DECISIONS

Administrative Judges process Petitions for Appeal which culminate in the issuance of an Initial Decision.

No Related Measures

Attachment # 8



**OFFICE OF EMPLOYEE APPEALS
FY 2025 PERFORMANCE ACCOUNTABILITY REPORT**

JANUARY 15, 2026

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5.7 Initial Decisions	10

1 INTRODUCTION

This document is the Fiscal Year 2025 Performance Accountability Report (PAR) for the Office of Employee Appeals.

The PAR is the second of two agency performance documents published each year. A Performance Plan is published at the start of the fiscal year when budget decisions have been finalized. A PAR is published in January following the end of the fiscal year. Each PAR assesses agency performance relative to its annual Performance Plan.

PAR Structure: PARs are comprised of agency Objectives, Administrative Structures (such as Divisions, Administrations, and Offices), Activities, Projects, and related Performance Measures. The following describes these plan components, and the types of performance measures agencies use to assess their performance.

Objectives: Objectives are statements of the desired benefits that are expected from the performance of an agency's mission. They describe the goals of the agency.

Administrative Structures: Administrative Structures represent the organizational units of an agency, such as Departments, Divisions, or Offices.

Activities: Activities represent the programs and services an agency provides. They reflect what an agency does on a regular basis (e.g., processing permits).

Projects: Projects are planned efforts that end once a particular outcome or goal is achieved.

Measures: Performance Measures may be associated with any plan component, or with the agency overall. Performance Measures can address questions about an agency's overall performance, the performance of an organizational unit, program, or service, or the implementation of a major project. Performance Measures can answer questions like "How much did we do?", "How well did we do it?", "How quickly did we do it?", and "Is anyone better off?" as described in the table below.

Measures are printed in the Performance Plan along with the Objective, Administrative Structure, Activity, or Project that they measure.

Measure Type	Measure Description	Example
Quantity	Quantity measures assess the volume of work an agency performs. These measures can describe the inputs (e.g., requests or cases) that an agency receives or the work that an agency completes (e.g., licenses issued or cases closed). Quantity measures often start with the phrase "Number of...".	"Number of public art projects completed"
Quality	Quality measures assess how well an agency's work meets standards, specifications, resident needs, or resident expectations. These measures can directly describe the quality of decisions or products or they can assess resident feelings, like satisfaction.	"Percent of citations issued that were appealed"
Efficiency	Efficiency measures assess the resources an agency used to perform its work and the speed with which that work was performed. Efficiency measures can assess the unit cost to deliver a product or service, but typically these measures assess describe completion rates, processing times, and backlog.	"Percent of claims processed within 10 business days"
Outcome	Outcome measures assess the results or impact of an agency's work. These measures describe the intended ultimate benefits associated with a program or service.	"Percent of families returning to homelessness within 6-12 months"

(continued)

Measure Type	Measure Description	Example
Context	Context measures describe the circumstances or environment that the agency operates in. These measures are typically outside of the agency's direct control.	"Recidivism rate for 18-24 year-olds"
District-wide Indicators	District-wide indicators describe demographic, economic, and environmental trends in the District of Columbia that are relevant to the agency's work, but are not in the control of a single agency.	"Area median income"

Targets: Agencies set targets for most Performance Measures before the start of the fiscal year. Targets may represent goals, requirements, or national standards for a performance measure. Agencies strive to achieve targets each year, and agencies provide explanations for targets that are not met at the end of the fiscal year in their PAR.

Not all measures are associated with a target. Newly added measures do not require targets for the first year, as agencies determine a data-informed benchmark. Changes in some measures may not indicate better or worse performance. They may be "neutral" measures of demand or input or outside of the agency's direct control. In some cases, the relative improvement of a measure over a prior period is a more meaningful indicator than meeting or exceeding a particular numerical goal, so a target is not set.

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Summary of Services: In accordance with DC Official Code Section 1-606.03, the Office of Employee Appeals adjudicates 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.

Objectives:

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

3 2025 ACCOMPLISHMENTS

3.1 DECISIONS ISSUED

OEA set a target at the start of FY 2025 to issue 80 Initial Decisions and 15 Opinions and Orders on Petitions for Review. OEA exceeded those targets by issuing 95 Initial Decisions and 22 Opinions and Orders on Petitions for Review.

Impact: This accomplishment impacted the District as a whole in that a resolution was brought to more appeals thereby preventing an even larger backlog of cases.

4 OBJECTIVES

4.1 RENDER IMPARTIAL, LEGALLY SOUND DECISIONS IN A TIMELY MANNER

Measure Type	Directionality	Q1	Q2	Q3	Q4	Annual	Target
Number of Initial Decisions issued							
Quantity	Up is Better	22	23	23	27	95	80
Number of Opinions and Orders issued							
Quantity	Up is Better	0	7	6	9	22	15
Percent of OEA decisions upheld by D.C. Superior Court and the D.C. Court of Appeals							
Outcome	Up is Better	Annual	Annual	Annual	Annual	91.3%	100%
Percent of cases reversing agency decisions							
Outcome	Neutral	Semi-annual	3.85%	Semi-annual	3.85%	5.98%	Target not required
Percent of decisions published within the D.C. Register							
Outcome	Up is Better	Data is pending	100%	100%	100%	100%	100%
Average time to complete Adjudications							
Efficiency	Down is Better	Annual	Annual	Annual	Annual	246 days	120 days
Average time to resolve Petitions for Review							
Efficiency	Down is Better	Annual	Annual	Annual	Annual	114 days	120 days
Percent of agency answers timely filed							
Efficiency	Neutral	100%	82.35%	90%	100%	93.09%	Target not required

Explanation of Missed Targets:

1. Average time to complete Adjudications: Our goal is to complete adjudications within the time frame specified in the Code. When an employee files a Petition for Appeal with OEA, OEA immediately begins processing the appeal and notifies the agency within one to two business days that an appeal has been filed and that its answer is due within 30 days. Immediately after the agency files its answer (which usually occurs on the 30th day after the employee filed the Petition for Appeal), OEA's Executive Director assigns the appeal to an Administrative Judge. Usually within five to ten business days after receiving the appeal, the Administrative Judge contacts the parties to schedule a conference. It is at this point that the parties begin requesting extensions of time within which to file pleadings and/or to otherwise comply with the judge's orders. Because the extensions of time are granted for good cause shown, the time to complete adjudications is extended beyond the time frame specified in the Code.

4.2 STREAMLINE THE ADJUDICATION PROCESS

Measure Type	Directionality	Q1	Q2	Q3	Q4	Annual	Target
Number of Petitions for Appeal filed							
Quantity	Neutral	15	19	18	30	82	New in 2025
Number of Petitions for Review filed							
Quantity	Neutral	3	5	5	10	23	New in 2025
Number of appeals involved in the mediation process							
Quantity	Neutral	Data is pending	0	2	2	7	New in 2025

(continued)

Measure Type	Directionality	Q1	Q2	Q3	Q4	Annual	Target
Number of appeals resolved through mediation							
Outcome	Neutral	Data is pending	○	○	○	○	New in 2025

4.3 MAINTAIN A SYSTEM TO ALLOW THE PUBLIC TO HAVE ACCESS TO ALL DECISIONS RENDERED BY THE OEA

Measure Type	Directionality	Q1	Q2	Q3	Q4	Annual	Target
Percent of Initial Decisions uploaded to website							
Outcome	Up is Better	100%	100%	100%	100%	100%	100%
Percent of Opinions and Orders uploaded to website							
Outcome	Up is Better	0%	100%	100%	100%	100%	100%

5 ACTIVITIES

5.1 APPEALS AND ADJUDICATION

Operations that occur within the appeals and adjudication process

Measure Type	Directionality	Q1	Q2	Q3	Q4	Annual	Target
Number of Board meetings conducted							
Quantity	Neutral	○	3	1	2	6	Target not required
Number of evidentiary hearings conducted							
Quantity	Neutral	Data is pending	3	10	○	20	Target not required
Number of safety-sensitive designation appeals filed							
Quantity	Neutral	○	○	○	○	○	Target not required

5.2 MEDIATION

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.

Measure Type	Directionality	Q1	Q2	Q3	Q4	Annual	Target
Number of attorney fee appeals mediated							
Quantity	Neutral	Data is pending	○	○	○	○	Target not required
Number of mediations declined by the agency							
Quantity	Neutral	Data is pending	○	○	○	○	Target not required
Number of mediations declined by the employee							
Quantity	Neutral	Data is pending	○	○	○	○	Target not required

5.3 WEBSITE

Decisions are uploaded to the agency's website so that the public is able to view the decisions and research the decisions.

No Related Measures

5.4 OPINIONS AND ORDERS

The Board reviews the Petitions for Review and related documents and issues an Opinion and Order.

No Related Measures

5.5 PETITIONS FOR APPEAL

Intake Coordinator reviews Petition for Appeal, determines the type of appeal and assigns to Administrative Judge.

No Related Measures

5.6 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.

No Related Measures

5.7 INITIAL DECISIONS

Administrative Judges process Petitions for Appeal which culminate in the issuance of an Initial Decision.

No Related Measures

Attachment # 9

Agency Name

Office of Employee Appeals (OEA)

Annual Freedom of Information Act Report for Fiscal Year 2025

October 1, 2024 through September 30, 2025

FOIA Officer Reporting Sheila G. Barfield, Esq.

PROCESSING OF FOIA REQUESTS

1. Number of FOIA requests received during reporting period0.....
2. Number of FOIA requests pending on October 1, 2024.....0.....
3. Number of FOIA requests pending on September 30, 2025.....0.....
4. The average number of days unfilled requests have been pending before each public body as of September 30, 2025.....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.....

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].”

Because OEA did not receive any FOIA requests during Fiscal Year 2025, it has no “qualitative description or summary statement, or conclusions drawn from the data regarding compliance” to provide.

Attachment # 10

OEA Board Members FY2025-26

**OEA Board Meeting Agendas and Minutes
for Fiscal Year 2025**

January 16, 2025 Board Meeting

**DISTRICT OF COLUMBIA
OFFICE OF EMPLOYEE APPEALS**

NOTICE OF PUBLIC MEETING

The District of Columbia Office of Employee Appeals will hold a meeting on January 16, 2025, at 9:30 a.m. The Board will meet remotely. Below is the agenda for the meeting.

<https://dcnet.webex.com/dcnet/j.php?MTID=m647042502073f3c88647e7c128392f59>

Password: Board (26274 when dialing from a phone or video system)

We recommend logging in ten (10) minutes before the meeting starts. In order to access Webex, laptop or desktop computer users must use Google Chrome, Firefox, or Microsoft Edge Browsers.

Smartphone/Tablets or iPad user must first go to the App Store, download the Webex App (Cisco Webex Meetings), enter the Access Code, and enter your name, email address, and click Join. It is recommended that a laptop or desktop computer be utilized for this platform.

Your computer, tablet, or smartphone's built-in speaker and microphone will be used in the virtual meeting unless you use a headset. Headsets provide better sound quality and privacy.

If you do not have access to the internet, please call-in toll number (US/Canada) 1-650-479-3208, Access code: 2300 321 2401

Questions about the meeting may be directed to wynter.clarke@dc.gov.

Agenda

D.C. OFFICE OF EMPLOYEE APPEALS ("OEA") BOARD MEETING

Thursday, January 16, 2025, at 9:30 a.m.

Location: Virtual Meeting via Webex

I. Call to Order

II. Ascertainment of Quorum

III. Adoption of Agenda

IV. Minutes Reviewed from Previous Meeting

V. New Business

A. Public Comments on Petitions for Review

B. Summary of Cases

1. Employee v. D.C. Fire & Emergency Medical Services Department, OEA Matter

No. 1601-0082-22 – Employee worked as a Firefighter/Technician for the District of Columbia Fire and Emergency Medical Services Department ("Agency"). Agency issued its Notice of Proposed Adverse Action to Employee on December 28, 2021. The notice proposed to demote Employee to the rank of a Firefighter/Emergency Medical Technician. Employee was charged with: (1) Violation of Agency Order Book, Article VI, § 6, Conduct Unbecoming an Employee; (2) Agency Bulletin No. 33, Social Media Policy, § II; and (3) Agency Bulletin No. 24, Anti-Hazing Policy. The proposed action notice explained that these violations amounted to neglect of duty as defined in [Agency's] Order Book Article VII, Section 2(f)(3) and an on-duty/employment-related reason for corrective or adverse action as defined in [Agency's] Order Book Article VII,

§ 2(g). According to Agency, on September 7, 2021, while on duty, Employee made disparaging comments in a chat on an Agency-wide virtual town hall meeting alleging that a colleague attempted to have sexual relations with a minor. On July 28, 2022, Agency issued its Final Notice of Adverse Action against Employee, demoting him from Firefighter/Technician to the rank of Firefighter/Emergency Medical Technician. The effective date of Employee's demotion was August 28, 2022.

On September 27, 2022, Employee filed a Petition for Appeal with the Office of Employee Appeals ("OEA"). He asserted that his remarks about his colleague were made as a private citizen on a matter of public concern; thus, he posited that he did not violate Agency's Anti-Hazing and Social Media policies. Additionally, Employee argued that his demotion was unwarranted and violated his First Amendment rights. As a result, he requested that the demotion be reversed and that he receive back pay and benefits lost as a result of the adverse action.

Agency filed its Answer to the Petition for Appeal on October 27, 2022. It contended that its penalty for Employee's misconduct was warranted based on his inappropriate comments made about a colleague at an Agency virtual town hall meeting. Agency argued that Employee's remarks violated its Social Media and Anti-Hazing policies by bullying, harassing, and publicly shaming a colleague on social media. As it relates to Employee's First Amendment assertion, Agency argued that the free speech claim could not be protected in this instance because Employee did not speak as a private citizen, and his comments were not related to a matter of public concern. Additionally, it opined that it considered the *Douglas* factors before reaching its decision to demote Employee. Therefore, Agency requested that Employee's disciplinary action be upheld.

The OEA Administrative Judge ("AJ") issued an order requesting the parties to submit briefs addressing whether the Fire Trial Board's ("FTB") decision was supported by substantial evidence; whether there was harmful procedural error; and whether Agency's action was done in accordance with applicable laws or regulations. In its brief, Agency asserted many of the same arguments presented in its Answer to the Petition for Appeal. It explained that this was Employee's fourth disciplinary action for misconduct within the past three years. Agency further opined that Employee exhibited a brazen attitude regarding the incident and showed no remorse for the inappropriate comments made against his colleague. Moreover, it contended that Employee's disparaging comments impacted Agency's operations.

In his brief, Employee argued that Agency failed to provide substantial evidence to support any findings of fact. He asserted that the comments posted in the chat during the virtual town hall meeting were not negative or disparaging towards his colleague but were posed as a question of public concern. Thus, Employee reasoned that the comments did not invalidate his right to engage in constitutionally protected speech.

The AJ issued an Initial Decision on April 15, 2024. He found that Employee failed to provide substantial evidence that his First Amendment rights were violated or that his assertions were a mere personal complaint. The AJ held that Agency did not commit harmless error, and it afforded Employee due process in the matter. Furthermore, he determined that Employee's demotion was within the range of the Table of Penalties and that Agency appropriately considered the *Douglas* factors. Consequently, the AJ ruled that Agency's action of demoting Employee be upheld.

Employee filed a Petition for Review with the OEA Board on May 21, 2024. He maintains many of the same assertions made throughout his appeal. Employee argues

that there is no evidence that he had a history of hazing. Additionally, he claims that the Initial Decision was issued past the 120-business day deadline, as required in D.C. Code § 1-606.03. According to Employee, five hundred and sixty-seven (567) days passed before he received the Initial Decision. As a result, he requests that the Initial Decision be reversed.

On June 25, 2024, Agency filed its Opposition to Employee's Petition for Review. It asserts that Employee filed his petition beyond the 35-calander day deadline; thus, the petition should be considered untimely. Agency also argues that the 35-day filing period is a mandatory claim processing rule, and Employee's Petition for Review is not subject to equitable tolling. As it related to Employee's assertions that the AJ did not issue the decision within 120 business days, Agency contends that the District of Columbia Court of Appeals held that the 120-business day timeframe is directory, not mandatory. It cites to *Anjuwan v. D.C. Department of Public Works*, 729 A.2d 883, 886 (D.C. 1998), in which the D.C. Court of Appeals ruled that OEA's failure to comply with the 120-business day requirement was not grounds for a reversal. Agency also notes that Employee contributed to the delay of the decision being issued when he filed his brief past the prescribed deadline. Accordingly, it requests that Employee's Petition for Review be denied.

2. **Employee v. D.C. Public Schools, OEA Matter No. 1601-0412-10R23** – This matter was previously before the Office of Employee Appeals' ("OEA") Board. Employee was a Teacher with the District of Columbia Public Schools ("Agency"). On August 23, 2010, Agency issued a final notice of separation informing Employee that she would be removed from her position because she was not a permanent status employee; she failed to secure a position within sixty days of being excessed; and she did not receive a final rating of at least "Effective" under IMPACT, Agency's performance assessment system. Consequently, she was terminated from employment effective August 23, 2010.

The Administrative Judge ("AJ") issued an Initial Decision on January 29, 2013. The AJ found that Employee was an Education Service employee, and "...educational service employees who are serving in a probationary period are precluded from appealing a removal action to [OEA] until their probationary period is finished." He found that Employee started working for Agency on January 3, 2010, and the effective date of her removal was August 23, 2010. As a result, the AJ held that pursuant to § 814.3 of the District Personnel Manual ("DPM"), OEA lacked jurisdiction over the matter. Accordingly, Employee's appeal was dismissed.

On February 27, 2013, Employee filed a Petition for Review with the OEA Board. She argued that the AJ did not address all issues of the facts and law raised in her appeal. Employee opined that the relevant section of the DPM, used by the AJ, which addressed appeals by probationary employees, did not apply to Educational Service positions. It was Employee's position that any employee can appeal a final agency decision to OEA which resulted in removal. Therefore, she requested that the Board reverse the Initial Decision and hold that OEA has jurisdiction over her appeal.

In response to the Petition for Review, Agency provided that Employee was not terminated based on any of the provisions provided in D.C. Code § 1-606.03, which outlined OEA's jurisdiction. It argued that she was excessed in accordance with the procedures of the Collective Bargaining Agreement ("CBA") that existed between it and the Washington Teachers' Union ("WTU"). Lastly, Agency reasoned that because Employee was in a probationary status, she had no statutory right to appeal to OEA.

This Board issued its Opinion and Order on Petition for Review on June 10, 2014. It found that Employee was correct that the AJ incorrectly applied DPM § 814.3 to uphold her removal. The Board explained that DPM § 814.3 applies to Career Service employees and not Educational employees. Thus, it determined that the AJ improperly cited to this section of the regulation in the Initial Decision. However, the Board opined that the reference was *de minimis* because the AJ properly relied on 5 DCMR § 1307 in reaching his decision that Employee was properly removed. The Board explained that in accordance with 5 DCMR § 1307.3, Employee was required to serve a two-year probationary period. Because Employee was hired by Agency on January 3, 2010, the Board determined that the probationary period would not have ended until January 3, 2012. Specifically, it held that District government employees serving a probationary period did not have a statutory right to be removed for cause and could not utilize the procedures under the Comprehensive Merit Personnel Act, which includes appealing those actions to this Office. Consequently, the Board denied Employee's Petition for Review for lack of jurisdiction.

Employee appealed the matter to the Superior Court of the District of Columbia. The Court found that there was substantial evidence in the record to support that the AJ properly relied on 5 DCMR § 1307.3 to conclude that Employee was required to serve a two-year probationary period. It held that Employee's probationary period ended on January 3, 2012, and Employee was terminated on June 21, 2011, before her probationary period ended. Accordingly, the Court upheld the AJ's decision.

The matter was then appealed to the District of Columbia Court of Appeals. On appeal before the D.C. Court of Appeals, Agency conceded that Employee had rights under the CBA, which according to Agency, made Employee neither an at-will employee nor a permanent employee but rather "something in between." Accordingly, it requested that this matter be remanded to OEA. The Court of Appeals remanded the matter for OEA to determine whether it had jurisdiction over Employee's appeal because Agency argued that Employee was indeed serving within her probationary period. Finally, the Court declined to consider Agency's belated argument that Employee's prior use of the grievance process stripped OEA of jurisdiction to consider Employee's appeal. As a result, it remanded the matter to OEA for further consideration.

After conducting a status conference, the AJ issued a Post-Conference Order on May 15, 2023. He requested that the parties submit briefs on whether the grievance, and subsequent settlement, filed by the WTU precluded Employee from prosecuting her petition for appeal before OEA. Additionally, he asked the parties to brief whether Employee's attempt (intentional or unintentional) at "splitting" her cause of action prevented OEA from exercising jurisdiction over the matter.

Agency filed its brief and argued that the grievance filed by the WTU was a class action litigation that included Employee. It explained that Employee filed her appeal with OEA after the WTU grievance was filed. According to Agency, D.C. Code § 1-616.52(f) provides that an employee shall be deemed to have exercised their option pursuant to subsection (e) to raise a matter either under the applicable statutory procedures or under the negotiated grievance procedure, whichever event occurs first. Thus, it posited that since Employee's WTU grievance was filed before the OEA appeal was filed, the resolution from the grievance would take precedence. Additionally, Agency noted that Employee's attempt to remove herself from the grievance matter was in 2018, eight years after the initial filing of the grievance in 2010. While Agency noted that Employee's assertion was that she was not made aware of the WTU grievance filed on her behalf, it argued that the grievance process was a legal proceeding in which the resolution should

be acknowledged and upheld. Thus, it opined that Employee should be barred from seeking additional redress before OEA.

In her brief, Employee asserted that she did not consent to joining the WTU's grievance process. Consequently, she argued that she is not bound by the terms of the WTU settlement agreement. Moreover, Employee claimed that she did not accept a settlement, nor did she receive funds from the settlement between her union and Agency. Additionally, she contended that OEA did not lack jurisdiction to adjudicate the instant matter and that pursuant to D.C. Code § 1-612.52(e)(f), she was not prohibited from filing an appeal before OEA.

Agency filed a sur-reply to Employee's Post-Status Conference brief. It made many of the same assertions in its previous brief and maintained that since Employee was a member of the union, she gave tacit consent for WTU to act on her behalf in litigious matters. Agency contended that after the grievance was filed, Employee's appeal was impermissible because her union filed a grievance on her behalf first.

On May 9, 2024, the AJ issued an Initial Decision on Remand. He held that OEA lacked jurisdiction and thus, did not have authority to address the merits of Agency's removal action. The AJ explained that D.C. Code § 1-616.52 (f) provides that whichever avenue of redress is first chosen, is the sole venue through which an employee may pursue redress. He determined that Employee's decision, through her union, to first grieve this cause of action through the CBA prevented her from filing with OEA. Additionally, he noted that Employee's grievance withdrawal came seven years after it was first filed. The AJ opined that Employee could not have a second attempt to appeal. Consequently, he ordered that the matter be dismissed for lack of jurisdiction.

Employee disagreed with the Initial Decision and filed a Petition for Review with the OEA Board on June 7, 2024. She reiterates several arguments made throughout the appeal. Employee asserts that OEA has jurisdiction and provides that her only course of action is the appeal before OEA. She emphasizes that she did not consent to join the WTU's grievance and has not accepted any settlement or received funds from Agency related to any settlement. Therefore, she requests that the Initial Decision on Remand be vacated and that the matter be remanded to the AJ for further consideration.

3. **Employee v. D.C. Fire & Emergency Medical Services Department, OEA Matter No. 1601-0050-23** – Employee worked as a Firefighter/Emergency Medical Technician (“FF/EMT”) with the Department of Fire and Emergency Medical Services (“Agency”). On December 30, 2020, Employee was arrested by the Prince George’s County Police Department for possession of a stolen handgun, possession of a loaded handgun on his person, and possession of a loaded handgun in a vehicle, hereinafter (“Case No. U-21-087”). On March 14, 2021, Employee was arrested again in Prince George’s county for second degree assault, acting in a disorderly manner, resisting arrest, and obstructing and hindering a police officer, hereinafter (“Case No. U-21-154”). As a result of Case No. U-21-087, Agency charged Employee with any on-duty or employment-related act or omission that the employee knew or should reasonably have known is a violation of the law; any act which constitutes a criminal offense whether or not the act results in a conviction; and any on-duty or employment-related act or omission that interferes with the efficiency or integrity of government operations to include: neglect of duty.”

As a result of Case No. U-21-154, Employee was similarly charged with any on-duty or employment-related act or omission that the employee knew or should reasonably have known is a violation of the law; any act which constitutes a criminal offense whether or

not the act results in a conviction; and any on-duty or employment-related act or omission that interferes with the efficiency or integrity of government operations to include: neglect of duty.” On December 1, 2022, Agency held a Trial Board hearing wherein Employee pleaded not guilty to the charges for both Case Nos. U-21-087 and U-21-154. The Trial Board determined that Employee was guilty in each matter and recommended termination. The Fire Chief subsequently adopted the Trial Board’s recommendation, and Employee’s termination became effective on June 24, 2023.

The AJ issued an Initial Decision on March 15, 2024. First, the AJ concluded that the Trial Board established cause to discipline Employee in Case No. U-21-087 because Employee pleaded guilty to the charge of “loaded handgun on person.” She also held that cause existed to discipline Employee in Case No. U-21-154 because Agency proved that Employee: assaulted a police officer; disrupted the peace, government, and dignity of the state; willfully acted in a disorderly manner; intentionally resisted arrest; and intentionally annoyed, obstructed, and hindered a police officer in the performance of their lawful duties.

In examining harmful procedural error, the AJ ruled that Agency utilized the incorrect version of the DPM in its charging documents. She explained that under both Case Nos. U-21-087, Charge No. 1, Specification No. 1, and Case No. U-21-154, Charge No. 1, Specification No. 1, Employee was charged with: (1) any on-duty or employment-related act or omission that the employee knew or should reasonably have known is a violation of the law; (2) any act which constitutes a criminal offense whether or not the act results in a conviction; and (3) neglect of duty, pursuant to Agency’s Order Book and the 2012 DPM. However, she assessed that the applicable regulations at the time of Employee’s termination were found in the 2019 DPM based on her reading of the language contained in Article 31, Section A of the Collective Bargaining Agreement (“CBA”) between Employee’s union and Agency, as well as Article VII of Agency’s Order Book. The AJ went on to discuss how all three charges imposed against Employee did not exist in the 2019 iteration of the regulations; thus, she was unable to ascertain which charges should have been levied against Employee had Agency utilized the correct DPM. She, therefore, reasoned that Agency’s failure to provide Employee with the specific charges underlying the proposed termination deprived him of a fair opportunity to defend against his removal. As such, she held that Agency’s failure to follow the appropriate laws, rules, and regulations amounted to a harmful procedural error.

Next, while there was substantial evidence in the record to support the Trial Board’s finding that Employee committed the misconduct as alleged, the AJ opined that his actions on March 14, 2021, and December 30, 2021, were not related to his employment with Agency as a Firefighter/EMT and did not occur while Employee was on duty. Therefore, she held that Agency could not charge Employee with any on-duty or employment-related act or omission that the employee knew or should reasonably have known is a violation of the law. Based on the same rationale, the AJ found that Agency was precluded from charging Employee with neglect of duty since DPM §§ 1605.4(e)(2019) defined this cause of action as “[c]areless or negligent work, general negligence, loafing, sleeping or dozing on-duty, wasting time, and conducting personal business while *on duty*.(emphasis added).

With respect to the charge of any act which constitutes a criminal offense, whether or not the act results in a conviction, the AJ provided that because this cause of action did not exist in the 2019 regulations, she was unable to adjudicate this issue. Additionally, the AJ could identify no basis for deciding Employee’s discrimination claims, noting that OEA lacked jurisdiction over his arguments. Based on the foregoing, she ruled that the

charges were not supported by the record. Therefore, the AJ reversed Agency's termination action and ordered that Employee be reinstated with backpay and benefits.

Agency disagreed with the Initial Decision and filed a Petition for Review with the OEA Board on April 18, 2024. It argues that the AJ erred in finding that the incorrect iteration of the DPM was used in the charging documents. First, Agency posits that by not challenging the use of the 2012 DPM before the Trial Board, Employee waived the issue before OEA. It notes that Employee was represented before the Trial Board and submits that both parties have a common understanding that relying on the Order Book and the 2012 DPM was lawful. Further, Agency contends that any reference to the 2012 DPM was the result of bargaining with Employee's union, International Fire Fighters Local 36, AFL-CIO MWC ("Local 36"). It reasons that Local 36, by agreement, established disciplinary procedures that differed significantly from the default procedures established by regulation. Agency maintains that the AJ overstepped her authority in determining that Agency erred in using the 2012 DPM because the Public Employee Relations Board ("PERB"), and not OEA, has the principal obligation to oversee labor-management relations between the District and its workforce. It, therefore, opines that OEA cannot unilaterally impose a disciplinary scheme that would conflict with PERB case law requiring management to bargain as to any changes that modify a practice or bargaining agreement.

Agency also argues that the AJ misconstrued and ignored past Superior Court decisions in finding that the use of the 2012 DPM was erroneous. It reiterates that even if its reliance on the 2012 regulations was an error, it was harmless. Agency further disagrees with the AJ's finding that Employee could not be charged with neglect of duty or any on-duty or employment-related act or omission that interferes with the efficiency or integrity of government operations because they were not related to his employment and because the conduct was committed while off duty. It asserts that the AJ's conclusions were contrary to both Article VII's definition of "employment-related," as well as OEA Board precedent. Additionally, it is Agency's position that it was in conformance with the 2019 DPM concerning the charge of any act which constitutes a criminal offense, whether or not the act results in a conviction, even if the Board finds that Agency was not permitted to rely on the 2012 DPM. Agency is firm in its position that Employee was able to adequately defend against the charges levied against him. Therefore, it requests that his termination be upheld.

4. **Employee v. D.C. Fire & Emergency Medical Services Department, OEA Matter No. 1601-0027-24** – Employee worked as a Firefighter/EMT with the D.C. Fire & Emergency Medical Services Department ("Agency"). On June 24, 2023, Agency issued a Notice of Proposed Adverse Action, charging Employee with Conduct Unbecoming an Employee (Neglect of Duty) and Insubordination. The charges stemmed from a February 15, 2023, incident wherein Employee refused to assist with cleaning trash in a parking lot/fence line after being directed to do so. Employee pleaded not guilty to each charge and an administrative hearing was held on January 3, 2024. The Trial Board ultimately sustained the charges against Employee, who then filed an appeal with the Fire Chief. On January 8, 2024, the Chief adopted the Trial Board's findings and sustained the charges levied against Employee. The effective date of his termination was January 13, 2024.

An Initial Decision was issued on July 10, 2024. First, the AJ explained that the holding in *Pinkard v. D.C. Metropolitan Police Department*, 801 A.2d 86 (D.C. 2002), limited OEA's review to determining whether the Trial Board's decision was supported by substantial evidence; whether Agency's action was taken in accordance with all

applicable laws and regulations; and whether there was harmful procedural error. Concerning the substantial evidence requirement, the AJ determined that it was undisputed that Captain Himes was Employee's superior, and Employee refused to clean up the grounds after being instructed to do so by Captain Himes. She went on to highlight Himes' testimony that his original request to the members of the Department to clean up the trash was not an order. However, Himes provided that because Employee and his coworkers did not comply with the request, he told them that they were being issued a direct order to clean up the trash. Consequently, the AJ ruled that the termination action was taken for cause because Employee neglected his duties as an FF/EMT by failing to clean the trash site as instructed.

As it related to the harmful procedural error argument, the AJ explained that the 2019 DPM, not the 2012 DPM, was the applicable iteration of the regulations that should have been utilized in Agency's charging documents. She noted that a charge of neglect of duty – and its corresponding penalty – were reflected in both the older and updated versions of the regulations, hence, any error committed by Agency was harmless. However, she went on to discuss that unlike neglect of duty, a charge of insubordination existed in the 2012 version of the DPM but not the 2019 DPM. The AJ opined that it would be improper to speculate what the appropriate penalty would have been had Agency used the appropriate version of the DPM. Because a charge of insubordination did not exist in the 2019 regulations, and there was no corresponding penalty, the AJ concluded that Agency committed a harmful procedural error. Thus, she held that Agency could only rely upon the neglect of duty charge as a basis for disciplining Employee.

Additionally, the AJ cited the holding in *Stokes v. District of Columbia*, 502 A.2d 1006 (D.C. 1985), which held that in assessing whether the imposed penalty was appropriate, OEA must determine whether the penalty was within the range allowed by law, regulation, and any applicable Table of Illustrative Actions ("TIA"); whether the penalty is based on a consideration of the relevant factors; and whether there was a clear error of judgment by Agency. She opined that termination was permissible in this case because a first offense of neglect of duty carried a penalty of counseling to removal under both the 2012 and 2019 DPM. Moreover, the AJ found that Agency weighed each relevant *Douglas* factor and did not abuse its managerial discretion in selecting the penalty.

Finally, the AJ concluded that Employee established a prima facie case of disparate treatment. She agreed that Employee and his coworkers worked in the same organizational unit -- the Logistics division; were disciplined on the same day; for the same cause of action; and by the same supervisor. However, she made the distinction that Employee received a different penalty than the other employees because of his lengthy disciplinary history, highlighting that he was charged with a total of seven disciplinary infractions during the three years preceding his proposed termination. As a result, the AJ reasoned that Agency successfully rebutted Employee's prima facie showing of disparate treatment. As such, she held that Employee's termination was proper.

Employee filed a Petition for Review with the OEA Board on August 13, 2024. He contends that the Initial Decision is not based on substantial evidence; the AJ did not address all issues of law and fact; and Agency failed to properly consider the *Douglas* factors. He also reasserts the many of the same arguments raised in his May 24, 2024, brief. Employee opines that his past disciplinary actions did not warrant termination because they were not related to insubordination or neglect of duty. He believes that Captain Himes committed perjury during the Trial Board Hearing. Employee further submits that his misconduct did not disrupt Agency's operations. Finally, he reiterates

that Agency utilized the incorrect regulations in its charging documents. Employee, therefore, renews his request to reverse the termination action.

Agency filed its answer on September 19, 2024. It contends that the Initial Decision is based on substantial evidence. Agency disagrees with Employee's assessment of Captain Himes' Trial Board testimony, remarking that the AJ correctly held that witness testimony is largely within the province of the trier of fact. It echoes its position that Employee and his coworkers refused to clean up the parking lot after being instructed to do so by a superior; Employee acknowledged that he delayed picking up the trash; and an employee's admission is sufficient to meet an agency's burden of proof. Additionally, Agency posits that its Order Book does not limit a charge of conduct unbecoming to actions that directly prevent an agency task from being accomplished. Alternatively, it suggests that even if it was required to show an interruption in operations, substantial evidence exists to prove that Agency's operations were adversely affected. Agency argues that the AJ addressed all issues of law raised on appeal and reasons that Employee's previous disciplinary history, in addition to other *Douglas* factors, weighed in favor of termination. Agency also maintains its position that no harmful procedural error was committed. Thus, it requests that the Board deny Employee's petition.

C. Deliberations – This portion of the meeting will be closed to the public for deliberations in accordance with D.C. Code § 2-575(b)(13).

D. Open Portion Resumes

E. Final Votes on Cases

F. Public Comments

VI. Adjournment

“This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.”

Minutes

D.C. OFFICE OF EMPLOYEE APPEALS (OEA) BOARD MEETING

Thursday, January 16, 2025

Location: Virtual Meeting Via Webex

Persons Present: Lasheka Brown (OEA General Counsel), Sheila Barfield (OEA Executive Director), Sommer Murphy (OEA Deputy General Counsel), Dionna Maria Lewis, (OEA Board Chair), Arrington Dixon (OEA Board Member), Jeanne Moorhead (OEA Board Member), LaShon Adams (OEA Board Member), Wynter Clarke (OEA Paralegal), Employee 3 (Member of the Public), and Monyea Briggs (Member of the Public).

Call to Order – Dionna Lewis called the meeting to order at 9:42 a.m.

- I. Ascertainment of Quorum** – There was a quorum of Board members present for the office to conduct business.
- II. Adoption of Agenda** – Arrington Dixon moved to adopt the agenda. The agenda was adopted by the Board.
- III. Minutes from Previous Meeting** – September 12, 2024, meeting minutes were reviewed. There were no corrections. The minutes were accepted.
- IV. New Business**
 - A. Summary** — Dionna Lewis provided that a summary of the matters to be decided were provided in the agenda for this meeting. The summaries were posted to the OEA website, the Board of Ethics and Government Accountability's website, and printed and posted in OEA's front office. The matters to be decided are as follows:
 1. Employee v. District of Columbia Fire and Emergency Medical Services, OEA Matter No. 1601-0082-22
 2. Employee v. District of Columbia Public Schools, OEA Matter No. 1601-0412-10R23
 3. Employee v. District of Columbia Fire and Emergency Medical Services, OEA Matter No. 1601-0050-23
 4. Employee v. District of Columbia Fire and Emergency Medical Services, OEA Matter No. 1601-0027-24
 - B. Public Comments on Petitions for Review** – There were no public comments offered.
 - C. Deliberations** – Jeanne Moorehead moved that the meeting be closed for deliberations in accordance with D.C. Code § 2-575(b)(13). All Board members voted in favor of closing the meeting. Dionna Lewis stated that the meeting was closed for deliberations.
 - D. Open Portion of Meeting Resumed**
 - E. Final Votes** – Dionna Lewis provided that the Board considered all of the matters. The following represents the final votes for each case:

1. Employee v. District of Columbia Fire and Emergency Medical Services Department, OEA Matter No. 1601-0082-22

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis			X		
Arrington Dixon			X		
Jeanne Moorehead			X		
LaShon Adams			X		

Four Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

2. Employee v. District of Columbia Public Schools, OEA Matter No. 1601-0412-10R23

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis	X			X	
Arrington Dixon	X			X	
Jeanne Moorehead	X			X	
LaShon Adams	X			X	

Four Board Members voted in favor of granting Employee's Petition for Review and remanding this matter for further consideration. Therefore, the petition was granted, and the matter was remanded.

3. Employee v. District of Columbia Fire and Emergency Medical Services Department, OEA Matter No. 1601-0050-23

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis			X	X	
Arrington Dixon			X	X	
Jeanne Moorehead			X	X	
LaShon Adams			X	X	

Four Board Members voted in favor of denying Agency's petition for review and remanding the matter to the Administrative Judge for findings consistent with this ruling. Therefore, the petition was denied, and the matter was remanded.

4. Employee v. District of Columbia Fire and Emergency Medical Services Department, OEA Matter No. 1601-0027-24

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis			X		
Arrington Dixon			X		
Jeanne Moorehead			X		
LaShon Adams			X		

Four Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

F. Public Comments

1. The employee in *Employee v. District of Columbia Fire and Emergency Medical Services Department*, OEA Matter No. 1601-0050-23, thanked the Board for deliberating on his matter.

V. Adjournment – Arrington Dixon moved that the meeting be adjourned. All members voted affirmatively to adjourn the meeting. Dionna Lewis adjourned the meeting at 10:36 a.m.

Respectfully Submitted,
Wynter Clarke
Paralegal Specialist

March 6, 2025 Board Meeting

**DISTRICT OF COLUMBIA
OFFICE OF EMPLOYEE APPEALS**

NOTICE OF PUBLIC MEETING

The District of Columbia Office of Employee Appeals will hold a meeting on March 6, 2025, at 9:30 a.m. The Board will meet remotely. Below is the agenda for the meeting.

<https://dcnet.webex.com/dcnet/j.php?MTID=m0a55d894fc1c046b42299ba9d0ea44b0>

Password: Board (26274 when dialing from a phone or video system)

We recommend logging in ten (10) minutes before the meeting starts. In order to access Webex, laptop or desktop computer users must use Google Chrome, Firefox, or Microsoft Edge Browsers.

Smartphone/Tablets or iPad user must first go to the App Store, download the Webex App (Cisco Webex Meetings), enter the Access Code, and enter your name, email address, and click Join. It is recommended that a laptop or desktop computer be utilized for this platform.

Your computer, tablet, or smartphone's built-in speaker and microphone will be used in the virtual meeting unless you use a headset. Headsets provide better sound quality and privacy.

If you do not have access to the internet, please call-in toll number (US/Canada) 1-650-479-3208, Access code: 2301 524 7935

Questions about the meeting may be directed to wynter.clarke@dc.gov.

Agenda

D.C. OFFICE OF EMPLOYEE APPEALS (“OEA”) BOARD MEETING

Thursday, March 6, 2025, at 9:30 a.m.

Location: Virtual Meeting via Webex

I. Call to Order

II. Ascertainment of Quorum

III. Adoption of Agenda

IV. Minutes Reviewed from Previous Meeting

V. New Business

A. Public Comments on Petitions for Review

B. Summary of Cases

- 1. Employee v. D.C. Department of Corrections, OEA Matter No. 1601-0020-24 –**
Employee worked as a Correctional Officer with the Department of Corrections (“Agency”). On December 7, 2023, Agency issued a final notice of decision suspending Employee for thirty (30) days. Employee was charged with violating District of Columbia Municipal Regulations (“DCMR”) § 1607.2(d) failure/refusal to follow instructions – negligence and §1607.2(e) neglect of duty. The charges stemmed from a March 7, 2023, incident wherein Employee failed to check the restraints of an inmate which ultimately resulted in the inmate escaping from Howard University Hospital. Employee was subsequently suspended without pay from December 11, 2023, until January 10, 2024.

On January 8, 2024, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”). He asserted that the suspension penalty was too severe. Additionally, Employee contended that Agency’s adverse action was without merit because it lacked evidence to support its claim. Therefore, Employee requested back pay, attorney’s fees, and that the adverse action be removed from his personnel file.

Agency filed an Answer to the Petition for Appeal on February 7, 2024. It argued that Employee failed to maintain physical custody and control of an inmate held at an unsecured medical facility. Therefore, it concluded that a thirty-day suspension was appropriate based on the Table of Illustrative Actions. Consequently, Agency requested that OEA uphold its suspension action.

Prior to issuing an Initial Decision, the OEA Administrative Judge (“AJ”) ordered both parties to submit briefs on jurisdiction. On July 16, 2024, the AJ issued an Initial Decision. He held that in accordance with D.C. Code § 1-616.52(e), Employee could not simultaneously review a matter before OEA and through a negotiated grievance procedure. The AJ provided that § 1-616.52(f) provided that once an avenue of review is first selected, the review in another venue would not be permissible. Because Employee initially appealed through Agency’s grievance procedure, the AJ ruled that OEA lacked jurisdiction over the matter. Consequently, the Petition for Appeal was dismissed.

Employee filed a Petition for Review on August 15, 2024. He asserts that the Public Employee Relations Board (“PERB”) decertified the Fraternal Order of Police/Department of Corrections Labor Committee (“FOP/DOC Union”) on May 20, 2024. Because of the decertification, Agency has declined to arbitrate a matter that falls within the arbitration agreement because the Collective Bargaining Agreement (“CBA”) is null and void. Therefore, Employee requests that the matter be remanded for adjudication on the merits and that he receive back pay.

On September 15, 2024, Agency filed a Response to Employee’s Petition for Review. It concedes that PERB revoked the FOP/DOC Union’s certification as an exclusive bargaining representative on May 20, 2024. Agency submits that it is unable to proceed with Employee’s grievance and demand for arbitration. It acknowledges that Employee’s appeal to OEA was timely. As a result, it no longer contests OEA’s jurisdiction over the matter.

Employee filed a Motion for Reconsideration on September 26, 2024. He requests that the motion supplement the Petition for Review since Agency provided in its response that it no longer contests OEA’s jurisdiction. Therefore, Employee requests that the Initial Decision be overturned, the matter be resolved based on the facts and law, and that he receive back pay.

- 2. Employee v. D.C. Office of the Attorney General, OEA Matter No. 1601-0050-16AF23** – Employee worked as a Support Enforcement Specialist with the D.C. Office of the Attorney General (“Agency”). On February 24, 2016, Agency issued an Advance Notice of Proposed Removal to Employee for “failing to satisfactorily perform one or more of the duties of [her] position” and “any on-duty employment-related act or omission that interferes with the efficiency or integrity of operations.” The charges were based on Employee’s failure to successfully complete the standards identified in her Performance Improvement Plan (“PIP”). On April 20, 2016, Agency issued its Final Decision on Proposed Removal, sustaining the charges against Employee. Her termination was effective on April 25, 2016.

Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) on

May 24, 2016. On October 22, 2018, the OEA Administrative Judge (“AJ”) issued an Initial Decision reversing Agency’s termination action. Thereafter, Employee and Agency sought review of the Initial Decision with the OEA Board. On July 16, 2019, the Board issued an order upholding the Initial Decision. Agency then filed an appeal with the Superior Court for the District of Columbia on August 13, 2019. On July 2, 2020, the Court denied Agency’s petition and affirmed OEA’s ruling reversing Employee’s termination. Agency subsequently appealed to the District of Columbia Court of Appeals. On May 23, 2023, the Court affirmed the Superior Court’s ruling.

On June 21, 2023, Employee, acting in a pro se capacity, filed a third Motion for Attorney’s Fees and Costs with OEA. Employee’s motion included reimbursement requests for services rendered from the following: David Branch, Esq.; William Dansie, Esq.; Alan Lescht and Associates, PC; Berry & Berry, PLLC; David Shapiro, Esq.; and witness Christopher Tate.

Agency submitted its response to the fee petition on July 31, 2023. It asserted that although Employee was the prevailing party in this matter, an award of fees was not required in the interest of justice. Specifically, Agency opined that none of the factors outlined in *Allen v. United States Postal Service*, 2 M.S.P.R. 420 (1980), applied to this matter because it did not engage in a prohibited personnel practice; its termination action was not taken without merit or wholly unfounded; Agency did not act in bad faith; and it did not commit a gross procedural error. It further posited that Employee could not be reimbursed for services that she rendered herself. Therefore, it believed that an award of fees was not warranted.

During a September 20, 2023, status conference, Employee was ordered to submit a supplemental brief to include the fee requests from the attorneys who previously represented her before OEA. Agency was also directed to submit a report regarding the status of Employee’s reinstatement to her position of record. On September 29, 2023, Alan Lescht and Associates, PC filed a fee petition requesting \$54,524.50 in attorney’s fees for work associated with prosecuting Employee’s appeal. However, on October 13, 2023, Employee filed a Motion to Disregard the petition filed for attorney fees as well as a motion for additional time to file her own supplemental brief. In her filings, Employee claimed *inter alia* that the petition was filed without her consent; Alan Lescht & Associates was not rehired to represent her; the firm’s actions were fabricated; and firm attorney, Sara Safriet, Esq., deliberately failed to represent Employee truthfully in 2016 and 2017.

On October 18, 2023, the AJ issued an order scheduling a status conference to discuss the outstanding issues related to attorney’s fees and compliance with the October 22, 2018, Initial Decision. After several continuances, the AJ held a conference on February 21, 2024, to ascertain the status of Employee’s fee request. On March 8, 2024, Employee submitted a brief detailing her basis for requesting attorney’s fees. She reiterated her desire to be reimbursed in accordance with the amounts reflected in her June 21, 2023, motion. Employee also contended that an award was warranted because she was the prevailing party; she paid retainer fees and other costs to three attorneys associated with proceedings before OEA; and the retained attorneys who engaged in unprofessional conduct and failed to protect Employee’s interests in accordance with the law. Hence, Employee reasoned that she was entitled to be reimbursed for the legal costs that she incurred to secure representation.

The AJ issued a Third Addendum Decision on Attorney’s Fees on July 16, 2024. First, she highlighted OEA Rule § 639.1 and D.C. Code § 1-606.08, which collectively provide

that an employee shall be entitled to an award of reasonable attorney's fees if they are the prevailing party, and the award is warranted in the interest of justice. As it related to the prevailing party requirement, the AJ provided that OEA's Initial Decision reversed Agency's termination action; the ruling was upheld by Superior Court on July 2, 2020; and the Court of Appeals affirmed the reversal of Employee's termination on July 2, 2020. Therefore, she concluded that Employee was the prevailing party in this matter.

Next, the AJ relied on the factors provided in *Allen v. United States Postal Service*, which serve as directional markers to determine whether a petitioner is entitled to attorney's fees in the interest of justice. Specifically, she outlined that Agency violated *Allen* factor No. 4, – gross procedural error – because it failed to follow all applicable District laws, rules, and regulations in the administration of Employee's termination action. As such, she held that an award of fees was appropriate in the interest of justice. However, the AJ went on to explain that while Employee was previously represented by Alan Lescht & Associates, PC and Danise & Danise, LLP, both attorneys withdrew their appearances in 2018. Further, the AJ noted that Employee's motion for attorney's fees also requested reimbursement for out-of-pocket expenses paid to David Branch, Esq., Berry & Berry, PLLC, and Dave Shapiro, Esq.

After reviewing the record, the AJ held that D.C. Code § 1-606.08 and OEA Rule 639 did not provide for an award for fees for employees representing themselves. The AJ reasoned that while Employee previously retained legal representation throughout this matter, she required the withdrawal of her representation by those attorneys. Therefore, she deemed Employee to be a pro se litigant at the time the third Motion for Attorney's Fees was filed. Moreover, the AJ provided that Employee's Motion sought reimbursement for fees paid to attorneys who represented her during her appeal, as well reimbursement for fees and services that she completed herself. Thus, the AJ concluded that although attorney's fees were warranted in this case, as a pro se litigant, Employee was not entitled to an award for the out-of-pocket monies she paid for legal services. Assuming *arguendo* Employee could be awarded fees, the AJ nonetheless ruled that the documentation submitted was insufficient to support such an award. As a result, Employee's June 21, 2023, Motion for Attorney's Fees was denied.

Employee disagreed with the AJ's ruling and filed a Petition for Review of the Third Addendum Decision on Attorney's Fees with the OEA Board on August 19, 2024. She argues that the attorneys hired to represent her participated in professional misconduct and misinformed her of the filings, charges, and time spent on prosecuting her appeal. Employee contends that each attorney failed to protect her rights under the applicable labor laws. She asserts that this Office lacks jurisdiction to correct the misclassification of her status under the Fair Labor Standards Act ("FLSA"). Employee also requests that the Board conclude that OEA lacks jurisdiction to award or deny attorney's fees. She further asks that the Board rule that it has no jurisdiction over criminal matters under the purview of the D.C. Office of the Attorney General and the Office of the Inspector General.

In response, Agency submits that Employee's submission fails to meet any of the criterial specified in Chapter 6B, Section 637.4 of the D.C. Municipal Regulations ("DCMR") as a basis for granting her Petition for Review. It characterizes Employee's arguments related to her FLSA status as wholly irrelevant to the instant petition. Agency agrees with the AJ's findings that Employee is not entitled to the award of fees she incurred as a pro se litigant. Finally, it posits that the relief requested by Employee is unrelated to the fee petition at issue. Consequently, Agency asks that the petition be denied.

3. Employee v. D.C. Office of the Attorney General, OEA Matter No. 1601-0050-16C23 – Employee worked as a Support Enforcement Specialist with the D.C. Office of the Attorney General (“Agency”). On February 24, 2016, Agency issued an Advance Notice of Proposed Removal to Employee for “failing to satisfactorily perform one or more of the duties of [her] position” and “any on-duty employment-related act or omission that interferes with the efficiency or integrity of operations.” The charges were based on Employee’s failure to successfully complete the standards specified in her Performance Improvement Plan (“PIP”). On April 20, 2016, Agency issued its Final Decision on Proposed Removal, sustaining the charges against Employee. Her termination was effective on April 25, 2016.

Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) on May 24, 2016. On October 22, 2018, the OEA Administrative Judge (“AJ”) issued an Initial Decision reversing Agency’s termination action. Thereafter, Employee and Agency sought review of the Initial Decision with the OEA Board. On July 16, 2019, the Board issued an order upholding the Initial Decision. Agency then filed an appeal with the Superior Court for the District of Columbia on August 13, 2019. On July 2, 2020, the Court denied Agency’s petition and affirmed OEA’s ruling reversing Employee’s termination. Agency subsequently appealed to the District of Columbia Court of Appeals. On May 23, 2023, the Court affirmed the Superior Court’s ruling.

Employee filed a Motion to Enforce the Order from the District of Columbia Court of Appeals with this Office on July 21, 2023, wherein she argued that Agency failed to comply with the order to reinstate her with back pay and benefits. The AJ subsequently ordered the parties to submit briefs addressing both the compliance issue as well as a separate attorney fee request submitted by Employee. On November 27, 2023, Agency filed a Supplemental Motion in Lieu of Brief requesting that the AJ’s briefing order be vacated. It explained that on November 22, 2023, Employee was issued an offer letter of reinstatement as a Case Management Specialist, CS-301-11/10. In response, the AJ issued a January 2, 2024, order granting Employee’s request for an extension time to address any outstanding compliance issues. Employee submitted a filing on January 29, 2024; however, the AJ assessed that additional status conferences were required to resolve the matter.

During a February 21, 2024, status conference, Employee indicated that she had yet to submit the required documents requested by Agency to effectuate her back pay, stating that it was illegal to do so under the District Personnel Manual (“DPM”). Employee further asserted that she refused to accept Agency’s offer of reinstatement because Agency failed to place her in her previous position within thirty days after the Court of Appeal’s decision became final. The AJ informed Employee that pursuant to DPM Instruction No. 11B-80, an employee’s failure to submit the required documentation necessary to calculate backpay would preclude them from receiving the amount owed. She also reminded Employee that the instant compliance matter was initiated following her own Motion for Enforcement, and that the purpose of the process was to address the outstanding reinstatement and back pay issues. As a result, Employee was again ordered to provide a response to the AJ’s concerns no later than March 8, 2024. Employee’s response brief outlined her arguments pertinent to Agency’s alleged acts of misconduct but did not address the compliance issues.

The AJ issued an Addendum Decision on Compliance on July 16, 2024. She explained that Employee filed a Motion for Enforcement after the Court of Appeals issued its May 23, 2023, order affirming the reversal of Agency’s termination action. The AJ stated that while Agency indicated that it could not initially locate a position identical to that held

by Employee at the time of termination, the same position was ultimately identified. According to the AJ, Agency sent written notice to Employee on November 22, 2023, which provided that she was being reinstated to her previous position effective January 16, 2024. She went on to discuss how Agency's letter informed Employee that she was still required to submit the required documentation to process the restoration of backpay and benefits in accordance with Chapter 6B, Section 1149 of the D.C. Municipal Regulations ("DCMR"); that her orientation would begin on January 16, 2024; and that Employee was required to sign the offer of reinstatement within five business days of the offer, or it would expire.

In assessing whether Agency complied with the reinstatement requirements, the AJ held that Employee refused to accept the position Agency identified in the November 22, 2023, letter of reinstatement, instead offering unrelated assertions of Agency's wrongdoing, fraud, forgery, and other illegal activities. The AJ characterized Employee's claim that it would be illegal for her to complete the paperwork to calculate backpay as wholly unfounded. Moreover, because Employee refused to submit the required paperwork as of the date of the addendum decision, the AJ concluded that this Office had no further measures for which it could take to ensure that Employee received the backpay owed to her. As a result, she ruled that Agency provided Employee reinstatement to her previous position of record with correct salary and grade/step; Agency complied with the October 22, 2018, Initial Decision to reinstate Employee; and Employee's refusal to accept the position was her own choice and not because of Agency's failure to comply. Since Agency complied with the Initial Decision, the AJ denied Employee's Motion for Enforcement.

Employee subsequently filed a Petition for Review of the Addendum Decision on Compliance on August 19, 2024. She presents arguments related to her alleged misclassification under the Fair Labor Standards Act ("FLSA"). Employee also contends that Agency committed acts of fraud, forgery, retaliation, revenge, and concealment of evidence, all of which serve as a basis for reversing her removal. As a result, she requests that the Initial Decision be declared invalid.

In response, Agency submits that Employee's petition related to compliance should be dismissed. It asserts that OEA's rules do not provide an avenue for appealing decisions on compliance to the Board. Therefore, Agency maintains that OEA is unable to address Employee's arguments related to its compliance with the October 22, 2018, Initial Decision.

C. Deliberations – This portion of the meeting will be closed to the public for deliberations.

in accordance with D.C. Code § 2-575(b)(13).

D. Open Portion Resumes

E. Final Votes on Cases

F. Public Comments

VI. Adjournment

Minutes

D.C. OFFICE OF EMPLOYEE APPEALS (OEA) BOARD MEETING

Thursday, March 6, 2025

Location: Virtual Meeting Via Webex

Persons Present: Lasheka Brown (OEA General Counsel), Sheila Barfield (OEA Executive Director), Sommer Murphy (OEA Deputy General Counsel), Dionna Maria Lewis (OEA Board Chair), Arrington Dixon (OEA Board Member), Jeanne Moorhead (OEA Board Member), LaShon Adams (OEA Board Member), Pia Winston (OEA Board Member), Wynter Clarke (OEA Paralegal), and Joan Lelma (Member of the Public/BEGA).

Call to Order – Dionna Lewis called the meeting to order at 9:38 a.m.

- I. Ascertainment of Quorum** – There was a quorum of Board members present for the office to conduct business.
- II. Adoption of Agenda** – Arrington Dixon moved to adopt the agenda. The agenda was adopted by the Board.
- III. Minutes from Previous Meeting** – January 16, 2025, meeting minutes were reviewed. There were no corrections. The minutes were accepted.

IV. New Business

A. Summary — Dionna Lewis provided that a summary of the matters to be decided were provided in the agenda for this meeting. The summaries were posted to the OEA website, the Board of Ethics and Government Accountability's website, and printed and posted in OEA's front office. The matters to be decided are as follows:

1. Employee v. D.C. Department of Corrections, OEA Matter No. 1601-0020-24
2. Employee v. Office of the Attorney General, OEA Matter No. 1601-0050-16AF23
3. Employee v. Office of the Attorney General, OEA Matter No. 1601-0050-16C23

B. Public Comments on Petitions for Review – There were no public comments offered.

C. Deliberations – LaShon Adams moved that the meeting be closed for deliberations in accordance with D.C. Code § 2-575(b)(13). All Board members voted in favor of closing the meeting. Dionna Lewis stated that the meeting was closed for deliberations.

D. Open Portion of Meeting Resumed

E. Final Votes – Dionna Lewis provided that the Board considered all of the matters. The following represents the final votes for each case:

1. Employee v. D.C. Department of Corrections, OEA Matter No. 1601-0020-24

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis	X			X	
Arrington Dixon	X			X	
Jeanne Moorehead	X			X	
LaShon Adams	X			X	
Pia Winston	X			X	

Five Board Members voted in favor of granting Employee's Petition for Review and remanding this matter for further consideration. Therefore, the petition was granted, and the matter was remanded.

2. Employee v. Office of the Attorney General, OEA Matter No. 1601-0050-16AF23

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis			X		
Arrington Dixon			X		
Jeanne Moorehead			X		
LaShon Adams			X		
Pia Winston			X		

Five Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

3. Employee v. Office of the Attorney General, OEA Matter No. 1601-0050-16C23

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis			X		
Arrington Dixon			X		
Jeanne Moorehead			X		
LaShon Adams			X		
Pia Winston			X		

Five Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

F. Public Comments

1. There were no public comments offered.

V. Adjournment – Arrington Dixon moved that the meeting be adjourned. All members voted affirmatively to adjourn the meeting. Dionna Lewis adjourned the meeting at 10:04 a.m.

Respectfully Submitted,
Wynter Clarke
Paralegal Specialist

April 24, 2025 Board Meeting

**DISTRICT OF COLUMBIA
OFFICE OF EMPLOYEE APPEALS**

NOTICE OF PUBLIC MEETING

The District of Columbia Office of Employee Appeals will hold a meeting on April 24, 2025, at 9:30 a.m. The Board will meet remotely. Below is the agenda for the meeting.

<https://dcnet.webex.com/dcnet/j.php?MTID=m8bcaa54a2d255900a246cefb301828af>

Password: Board (26274 when dialing from a phone or video system)

We recommend logging in ten (10) minutes before the meeting starts. In order to access Webex, laptop or desktop computer users must use Google Chrome, Firefox, or Microsoft Edge Browsers.

Smartphone/Tablets or iPad user must first go to the App Store, download the Webex App (Cisco Webex Meetings), enter the Access Code, and enter your name, email address, and click Join. It is recommended that a laptop or desktop computer be utilized for this platform.

Your computer, tablet, or smartphone's built-in speaker and microphone will be used in the virtual meeting unless you use a headset. Headsets provide better sound quality and privacy.

If you do not have access to the internet, please call-in toll number (US/Canada) 1-650-479-3208, Access code: 2300 321 2401

Questions about the meeting may be directed to wynter.clarke@dc.gov.

Agenda

D.C. OFFICE OF EMPLOYEE APPEALS (“OEA”) BOARD MEETING

Thursday, April 24, 2025, at 9:30 a.m.

Location: Virtual Meeting via Webex

I. Call to Order

II. Ascertainment of Quorum

III. Adoption of Agenda

IV. Minutes Reviewed from Previous Meeting

V. New Business

A. Public Comments on Petitions for Review

B. Summary of Petitions for Review

- 1. Employee v. D.C. Public Schools, OEA Matter No. 1601-0065-23** – Employee worked as a Health and Physical Education Teacher with the District of Columbia Public Schools (“Agency”). On July 1, 2023, Agency issued a final notice of separation informing Employee that he would be removed from his position because he received a final rating of “Ineffective” under IMPACT, Agency’s performance effectiveness assessment system, for the 2022-2023 school year. As a result, Agency terminated Employee.

Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) on September 5, 2023. He asserted that his Teacher-Assessed Student Achievement Data

(“TAS”) score was improperly calculated. Employee contended that Agency failed to discuss or evaluate his TAS score. Accordingly, he requested that Agency reconsider its removal action.

On October 6, 2023, Agency filed its Answer to Employee’s Petition for Appeal. It argued that it properly followed the IMPACT process and explained that Employee was terminated because of an “Ineffective” rating for the 2022-2023 school year after he was evaluated over two assessment cycles. Therefore, Agency opined that Employee was properly terminated under IMPACT.

After conducting an evidentiary hearing on May 2, 2024, the OEA Administrative Judge (“AJ”) issued an Initial Decision on August 20, 2024. In the Initial Decision, the AJ noted that Employee did not deny that he received two observations and two post-observation conferences during the school year. However, Employee argued that he was not provided with a TAS conference, and Agency did not provide a clear procedure for submitting his TAS data. On the contrary, Agency asserted that TAS conferences are not required under IMPACT and that Employee failed to submit his TAS data by the submission deadline. Accordingly, Agency gave Employee a TAS score of one (1) and noted the lack of data provided to support the score.

The AJ found that Agency did not comply with the IMPACT process, specifically as it relates to the TAS data submission. She noted that although Agency contended that Principal Daniel made the entire school staff aware that the TAS score submissions were due by June 15, 2023, it failed to provide evidence of this communication and failed to provide the method by which scores were to be submitted. The AJ conceded that the IMPACT guidebook does not provide that a TAS conference is mandatory. However, she ruled that based on the testimony of Employee’s witnesses, Ms. Samball and Mr. Moody, the procedure to submit TAS data occurred during TAS conferences. The AJ found that according to Mr. Cantave, school leaders were to request TAS data from the teachers. The AJ ruled that the record was void of any attempts by Principal Daniel to request or collect data from Employee, as she did with Ms. Samball. The AJ reasoned that Agency should have clearly communicated an alternative TAS submission method, prior to the TAS submission deadline, for those employees with whom it chose not to have TAS conferences. Consequently, she held that Agency violated the IMPACT process due to its failure to collect TAS data and its failure to provide a submission method. As a result, Agency was ordered to reinstate Employee to his last position of record, or a comparable position, and reimburse Employee all back-pay and benefits lost because of the termination action.

Agency disagreed with the Initial Decision and filed a Petition for Review with the OEA Board on September 25, 2024. It argues that the Initial Decision is not supported by substantial evidence. Specifically, Agency contends that a conference is not required for the TAS component and asserts that it is the responsibility of the teacher to submit their data to the school leaders. It highlights Principal Daniel’s testimony that she sent out calendar reminders to the school informing them when the TAS scores were due. Agency opines that the AJ incorrectly determined that TAS conferences are a step in the IMPACT evaluation process; however, it is not. Therefore, it requests that the Board reverse the Initial Decision and dismiss Employee’s appeal of his termination.

2. **Employee v. D.C. Department of Transportation, OEA Matter No. J-0060-23 –** Employee worked as a Maintenance Mechanic with the Department of Transportation (“Agency”). On July 14, 2023, Agency notified Employee that he would be terminated pursuant to Chapter 2, Section 227, of the D.C. Municipal Regulations (“DCMR”). The

notice provided that Employee was being terminated during his probationary period. The effective date of the adverse action was July 28, 2023.

Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) on August 25, 2023. In his appeal, Employee argued that he was subject to acts of discrimination. He further asserted Agency provided him with inaccurate information regarding his employment status, as well as the termination action. Employee proffered that Agency hired him as a Mechanic, CS-4701; however, the job from which he was terminated was classified as a level WS-4749 position. As a result, he requested to be reinstated and asked for retribution against Agency for its discriminatory practices.

On September 22, 2023, Agency filed an answer and a motion to dismiss for lack of jurisdiction. It explained that Employee’s appeal was improper because he was terminated from his position as a Maintenance Mechanic during the required one-year probationary period for Career Service appointments, which was not appealable to this Office. Agency further expressed that Employee’s claims of discrimination were reserved for the Office of Human Rights (“OAH”), not OEA. Therefore, Agency opined that the instant matter should be dismissed.

An OEA Administrative Judge (“AJ”) was assigned to this appeal in September of 2023. On September 25, 2023, the AJ issued an order citing OEA Rule 628.2, which directed that Employee submit a brief on jurisdiction. Agency was also provided with an opportunity to respond. However, Employee failed to submit a response, and the record was subsequently closed.

An Initial Decision was issued on October 30, 2023. The AJ held that in accordance with D.C. Code § 1-606.03 and District Personnel Manual (“DPM”), Section 227.4, separation from government service during an employee’s probationary period is neither appealable nor grievable. Thus, he assessed that Employee was precluded from appealing his termination to OEA because this Office lacked jurisdiction over his appeal. As such, the AJ reasoned that Employee failed to satisfy his burden of proof in this matter. Moreover, the appeal was dismissed pursuant to OEA Rule 621.3 for failure to prosecute because Employee failed to provide a response to the AJ’s September 25, 2023, order for briefs. The AJ reiterated that such a response was necessary to make an informed decision regarding OEA’s ability to properly adjudicate the instant appeal. Consequently, Employee’s Petition for Appeal was dismissed.

Employee filed a Petition for Review with the OEA Board on September 10, 2024. His filing highlights the same arguments presented in his Petition for Appeal. Employee also maintains that he was not in probationary status at the time of the termination action; his official position classification was a Maintenance Mechanic, CS-4701-10, not WS-4749; Agency terminated Employee from a position he never held; and he was not required to serve a second probationary period. Thus, he reasons that the AJ erred and asks the Board to review the aforementioned discrepancies.

C. Public Comments on Motion to Expedite

D. Summary of Motion to Expedite

- 1. Employee v. Department of Corrections, OEA Matter No. 1601-0034-22R23** – On March 20, 2025, Employee filed a Motion to Expedite her case. She argues that the prolonged process before OEA has resulted in significant financial and emotional hardship, coupled with the continued expenditure of time and resources. Agency filed an opposition to Employee’s motion on March 31, 2025. It proffers that Employee’s petition should be heard by the Board in the matter in which it was filed and opines that she has

failed to make an adequate showing of extraordinary circumstances that would warrant hearing her appeal out-of-order. Employee filed a reply to Agency's oppositional brief on April 2, 2025.

E. Deliberations – This portion of the meeting will be closed to the public for deliberations in accordance with D.C. Code § 2-575(b)(13).

F. Open Portion Resumes

G. Final Votes on Cases

H. Final Votes on Motion to Expedite

I. Public Comments

VI. Adjournment

Minutes

D.C. OFFICE OF EMPLOYEE APPEALS (OEA) BOARD MEETING

Thursday, April 24, 2025

Location: Virtual Meeting Via Webex

Persons Present: Lasheka Brown (OEA General Counsel), Sheila Barfield (OEA Executive Director), Sommer Murphy (OEA Deputy General Counsel), Dionna Maria Lewis (OEA Board Chair), Arrington Dixon (OEA Board Member), Jeanne Moorhead (OEA Board Member), LaShon Adams (OEA Board Member), Wynter Clarke (OEA Paralegal), Brandon Lewis (Member of the Public), and Employee on Motion to Expedite (Member of the Public).

Call to Order – Dionna Lewis called the meeting to order at 9:35 a.m.

- I. Ascertainment of Quorum** – There was a quorum of Board members present for the office to conduct business.
- II. Adoption of Agenda** – LaShon Adams moved to adopt the agenda. The agenda was adopted by the Board.
- III. Minutes from Previous Meeting** – March 6, 2025, meeting minutes were reviewed. There were no corrections. The minutes were accepted.

IV. New Business

A. Summary on Petitions for Review — Dionna Lewis provided that a summary of the matters to be decided were provided in the agenda for this meeting. The summaries were posted to the OEA website, the Board of Ethics and Government Accountability's website, and printed and posted in OEA's front office. The matters to be decided are as follows:

1. Employee v. District of Columbia Public Schools, OEA Matter No. 1601-0065-23
2. Employee v. D.C. Department of Transportation, OEA Matter No. J-0060-23

B. Public Comments on Petitions for Review – There were no public comments offered.

C. Public Comments on Motion to Expedite

1. The employee in *Employee v. D.C. Department of Corrections*, OEA Matter No. 1601-0034-22R23, provided that she was subject to a Performance Improvement Plan (PIP) and asserted that the PIP did not include any performance deficiencies. Additionally, Employee explained that she received regularly scheduled step increases due to her satisfactory work performance.

D. Summary on Motion to Expedite — Dionna Lewis provided that in *Employee v. D.C. Department of corrections*, OEA Matter No. 1601-0034-22R23 — Employee requested that her petition for Review be expedited given the length of time that her case has been on appeal before OEA.

E. Deliberations— Jeanne Moorehead moved that the meeting be closed for deliberations in accordance with D.C. Code § 2-575(b)(13). All Board members voted in favor of closing the meeting. Dionna Lewis stated that the meeting was closed for deliberations.

F. Open Portion of Meeting Resumed

G. Final Votes – Dionna Lewis provided that the Board considered all of the matters. The following represents the final votes for each case:

1. Employee v. District of Columbia Public Schools, OEA Matter No. 1601-0065-23

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis	X	X			
Arrington Dixon	X	X			
Jeanne Moorehead	X	X			
LaShon Adams	X	X			

Four Board Members voted in favor of granting Agency's Petition for Review and reversing the Initial Decision. Therefore, the petition was granted, and the Initial Decision was reversed.

2. Employee v. D.C. Department of Transportation, OEA Matter No. J-0060-23

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis	X			X	
Arrington Dixon	X			X	
Jeanne Moorehead	X			X	
LaShon Adams	X			X	

Four Board Members voted in favor of granting Employee's Petition for Review and remanding this matter for further review consistent with this opinion. Therefore, the petition was granted, and the matter was remanded.

3. Employee v. D.C. Department of Corrections, OEA Matter No. 1601-0034-22R23 (Motion to Expedite)

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis			X		
Arrington Dixon	X				
Jeanne Moorehead			X		
LaShon Adams			X		

Three Board Members voted in favor of denying Employee's Motion to Expedite. Therefore, the motion was denied.

H. Public Comments

1. There were no public comments offered.

V. Adjournment – Arrington Dixon moved that the meeting be adjourned. All members voted affirmatively to adjourn the meeting. Dionna Lewis adjourned the meeting at 10:49 a.m.

Respectfully Submitted,
Wynter Clarke
Paralegal Specialist

May 29, 2025 Board Meeting

**DISTRICT OF COLUMBIA
OFFICE OF EMPLOYEE APPEALS**

NOTICE OF PUBLIC MEETING

The District of Columbia Office of Employee Appeals will hold a meeting on May 29, 2025, at 9:30 a.m. The Board will meet remotely. Below is the agenda for the meeting.

<https://dcnet.webex.com/dcnet/j.php?MTID=ma1506b9b8612c83a6e7eb7ee18004ba8>

Password: Board (26274 when dialing from a phone or video system)

We recommend logging in ten (10) minutes before the meeting starts. In order to access Webex, laptop or desktop computer users must use Google Chrome, Firefox, or Microsoft Edge Browsers.

Smartphone/Tablets or iPad user must first go to the App Store, download the Webex App (Cisco Webex Meetings), enter the Access Code, and enter your name, email address, and click Join. It is recommended that a laptop or desktop computer be utilized for this platform.

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Agenda

D.C. OFFICE OF EMPLOYEE APPEALS ("OEA") BOARD MEETING

Thursday, May 29, 2025, at 9:30 a.m.

Location: Virtual Meeting via Webex

I. Call to Order

II. Ascertainment of Quorum

III. Adoption of Agenda

IV. Minutes Reviewed from Previous Meeting

V. New Business

A. Public Comments on Motion for Interlocutory Appeal

B. Summary of Interlocutory Appeal

- 1. Employee v. D.C. Public Schools, OEA Matter No. 1601-0015-20C24** – This matter was previously before the Office of Employee Appeals' ("OEA") Board. Employee was hired to work as a Teacher with D.C. Public Schools ("Agency"). According to Agency, Employee was separated in August of 2009 for performance issues. After conducting an evidentiary hearing, the AJ issued an Initial Decision on September 13, 2023, ordering that Agency reinstate Employee with back pay and benefits. Agency filed a Petition for Review on October 13, 2023. The OEA Board issued its Opinion and Order on Petition for Review on January 4, 2024, upholding the Initial Decision. On March 4, 2024, the Administrative Judge ("AJ") issued an Addendum Decision on Attorney's Fees and found that Employee was the prevailing party but dismissed the attorney's fee motion

without prejudice as premature, noting that Employee had not been reinstated or received back pay.

Employee's counsel filed a Petition for Review on April 1, 2024. Agency filed its response to Employee's petition on May 1, 2024. On August 26, 2024, Employee's counsel filed a notice withdrawing his representation of Employee in this matter. On September 12, 2024, the Board issued an Opinion and Order on Attorney's Fees wherein it granted Employee's Petition for Review and determined that the Motion for Attorney's Fees was ripe for review by the AJ.

On November 20, 2024, the AJ issued an Addendum Decision on Remand. He held that pursuant to the Joint Stipulation Regarding Attorneys' Fees and Costs, Agency and Employee's counsels agreed to a fee award of \$50,000.00. The AJ explained that the award satisfied Employee's counsel's claims for attorney's fees and costs arising out his representation of Employee in this matter. As a result, he ordered that Agency pay Employee's counsel \$50,000 within thirty calendar days from the date of issuance of the Addendum Decision for legal fees and costs.

On December 16, 2024, Employee filed a Motion to Compel. He argued that Agency did not file an appeal of the Initial Decision; thus, he should be reinstated and awarded back pay. Employee asserted that Agency was not in compliance with the Opinion and Order on Petition for Review that became final on February 4, 2024. Additionally, Employee submitted that that due to health issues, he sought to retire rather than return to work.

Agency filed its response to Employee's Motion to Compel on December 9, 2024. It argued that Employee was given several deadlines to complete the requirements for reinstatement. However, he failed to complete the mandated requirements, and in response, Agency issued a second Notice of Termination to Employee. Agency also filed a Motion on Mitigation. It explained that District of Columbia law requires mitigation.

There were several filings related to the Motion to Compel and Employee's back pay filed by both parties. On March 6, 2025, the AJ issued an order and found that the Motion for Compel would be deemed as a Petition for Enforcement. He found that an evidentiary hearing was warranted to determine whether Employee made an adequate attempt to mitigate his damages. Subsequently, Employee filed a Request for Clarification of the AJ's Order. Employee contended that he objected to the hearing on mitigation as time barred and was inconsistent with the law and underlying case law in the matter. In response, Agency asserted that a hearing was warranted to determine back pay.

On April 7, 2024, Employee filed what this Board considers a Motion for Interlocutory Appeal. He disagrees with allowing Agency an opportunity to conduct discovery and determine whether he mitigated his damages to seek other employment. Employee requests that no further evidence be submitted. According to Employee, there has been no OEA case where an AJ reopened a matter to allow testimony on mitigation of damages, without a request from a higher court. Subsequently, the AJ issued an Order granting Employee's Motion for Interlocutory Appeal, referring the matter to the OEA Board for consideration.

Employee filed an Amended Interlocutory Appeal on April 22, 2025. He argues that the AJ cannot reopen a matter after the Initial Decision was issued. Employee contends that the AJ violated OEA Rule 632.2, which provide that once the record is closed, no additional evidence or argument shall be accepted into the record unless the Administrative Judge reopens the record pursuant to OEA Rule 633.1. Additionally, he argues that OEA lacks jurisdiction over the issue of mitigation. Therefore, Employee

requests that he receive back pay and that he be allowed to retire in lieu of reinstatement, as a result of his declining health.

On May 2, 2025, Agency filed its Response to Employee's Interlocutory Appeal. It asserts that OEA does have jurisdiction over mitigation. Agency maintains that Employee has not properly mitigated his damages as required under the District of Columbia Municipal Regulations ("DCMR"). As a result, it requests that the outstanding back pay issue be addressed, and the Interlocutory Appeal be dismissed.

The AJ issued an Amended Order Regarding Employee's Motion for Certification of an Interlocutory Appeal and Motion for Stay on May 13, 2025. He granted Employee's Interlocutory Appeal Motion and rescinded his original Order Regarding Employee's Motion for Certification of an Interlocutory Appeal and Motion for Stay with the instant Order. Accordingly, the matter was referred to the OEA Board for consideration of claims made in Employee's Interlocutory Appeal Motion.

C. Public Comments on Petitions for Review

D. Summary of Petitions for Review

- 1. Employee v. Office of the Chief Technology Officer, OEA Matter No. 1601-0083-22R24** — This matter was previously before this Board. Employee worked as an Information Technology Specialist for the Office of the Chief Technology Officer ("Agency"). On August 31, 2022, Agency issued a final notice of separation removing Employee from his position. Employee was charged with falsifying time entries, in violation of 6-B District of Columbia Municipal Regulations ("DCMR") §§ 1607.2(c)(1) – knowing submission of (or causing or allowing the submission of) falsely stated time logs, leave forms, travel or purchase vouchers, payroll, loan, or other fiscal documents and 1607.2(b)(2) – misrepresentation, falsification, or concealment of material facts or records in connection with an official matter, including investigations. Agency alleged that Employee falsified time logs by submitting entries for hours not worked between August 4, 2021, and February 11, 2022, which resulted in Agency overpaying \$53,391.66 in wages to Employee. Additionally, Agency contended that during its investigation, Employee provided conflicting answers and refused to answer questions related to the overpayment of funds. Consequently, Employee was terminated.

On September 30, 2022, Employee filed a Petition for Appeal with the Office of Employee Appeals ("OEA"). He argued that he did not knowingly or intentionally submit false time logs. Employee contended that he was unaware that PeopleSoft was automatically inputting his time. As a result, he requested that the termination action be rescinded and that he be reinstated to his previous position.

According to Agency, Employee admitted that he manually input his time for days he reported to work in-person, which was a direct violation of its Exception Time Reporting ("ETR") policy. Moreover, Agency argued that Employee received ETR training and was aware that manually entering his regular hours constituted a violation of its policy and that his actions could have resulted in the overpayment of wages. Agency also asserted that Employee misrepresented, falsified, or concealed material facts during an official investigation. Moreover, it contended that based on the Table of Illustrative Actions in 6-B DCMR § 1607.2, removal was appropriate given Employee's conduct. Agency explained that it considered the *Douglas* factors when selecting the penalty of removal. Therefore, it requested that the Petition for Appeal be dismissed.

The Administrative Judge (“AJ”) issued an Initial Decision on July 18, 2023. She held that Employee accurately submitted his time manually into the PeopleSoft system, which was approved by his supervisor. The AJ noted that PeopleSoft automatically recorded the time for the same period that Employee submitted his time; thereby, prompting the payroll system to consider the additional time entered by Employee as overtime pay. Moreover, she determined that although Employee’s lengthy history of complying with the ETR policy proved that he was aware of how to accurately report the time, Agency failed to consider the impact that the Covid-19 Public Health Emergency had on its time recording policy. The AJ reasoned that Agency failed to prove that Employee knowingly submitted, or allowed the submission of, falsified time logs into the payroll system. Furthermore, she held that Employee did not misrepresent, falsify, or conceal material facts or records in connection with Agency’s investigation. According to the AJ, Employee offered to repay the overpayment with one \$25,000 installment, followed by smaller installments. Consequently, she concluded that Agency lacked cause to terminate Employee. As a result, she ordered that Employee be reinstated and that Agency reimburse Employee all back and benefits lost, less the overpayment amount of \$53,391.66.

Agency disagreed with the Initial Decision and filed a Petition for Review with the OEA Board on August 23, 2023. It contended that the AJ’s decision regarding its misrepresentation and falsification charges are based on an erroneous interpretation of the regulations and its policy. Agency claimed that its ETR policy remained the same throughout, and after, the pandemic. It further maintained that employees were required to use PeopleSoft to manually enter time when working out of the office and could not enter time for hours worked in the office. Thus, Agency argued that the AJ incorrectly determined that Employee accurately submitted his time manually; that Agency failed to consider the impact of the pandemic on its ETR policy; and that Agency did not meet its burden of proof to establish that Employee knowingly submitted false time logs. Accordingly, it requested that the Board grant its petition because the AJ’s conclusions of law are unsupported by the record, and the decision was based on an erroneous interpretation of OEA’s regulations and Agency’s policies.

On September 27, 2023, Employee filed a Response to Agency’s Petition for Review. He opined that the AJ correctly determined that Agency failed to offer proof of his intent to falsify his time logs. Employee argued that the AJ took judicial notice that all District employees were required to use the time reporting code “STTW” while teleworking during the Covid-19 Public Health Emergency, which represented a change in policy for reporting time prior to the pandemic. Finally, he contended that Agency lacked proof that Employee offered inconsistent statements or concealed evidence during its investigation. Therefore, Employee requested that Agency’s Petition for Review be denied.

The OEA Board found that the Initial Decision was not based on substantial evidence. Moreover, it determined that the Initial Decision did not address all material issues of fact in this case. The Board explained that although the AJ requested briefs from both parties, the briefs offered conflicting facts, and the documents submitted created more questions than answers. Thus, rendering it even harder for the Board to rule that the Initial Decision was based on substantial evidence.

The Board also held that the parties’ positions regarding time reporting pre-pandemic, during the pandemic, and after the pandemic contradicted each other. As it related to the misrepresentation, falsification, or concealment of material facts in connection with an investigation, the Board held that a review of Agency’s investigation offered evidence of Employee being evasive or providing no response to several questions. It further

opined that Employee seemed to concede that he refused to answer questions during the investigation because he felt that the investigator was “badgering” him. Accordingly, the Board remanded the case to the AJ to conduct an evidentiary hearing to adequately address the material issues of facts in dispute.

On September 23, 2024, the AJ issued an Initial Decision on Remand. She determined that Agency’s ETR time entry procedure did not change during or after the pandemic. Accordingly, she held that Employee violated the time entry policy and should have allowed the system to automatically enter eight hours of regular pay instead of manually entering the hours himself, which resulted in the overtime payments. However, she found that there was no evidence that Employee knowingly supplied incorrect information with the intention of defrauding, deceiving, or misleading Agency and that he provided a plausible explanation to negate an intent to deceive or mislead Agency. Moreover, the AJ opined that Employee had a duty to answer questions during the investigation, and she found that Employee did not answer the questions or found his answers to be evasive. However, she ruled that Employee’s responses were not intended to defraud or mislead Agency for his own private gain. Accordingly, she reversed Agency’s termination action and ordered that Employee be reinstated with backpay, less the \$53,391.66 overpayment.

Agency disagreed and filed a Petition for Review on October 28, 2024. It argues that the AJ erroneously interpreted the law applicable to Employee’s violation of DCMR § 1607.2(b)(2) by insisting that there be an intent to defraud, deceive, or mislead Agency for a private material gain. As for the misrepresentation, falsification, or concealment charge, Agency opines that although the AJ found that Employee had a duty to cooperate with the investigation and failed to do so, she, again, erroneously relied on the intent to defraud, deceive, or mislead for private material gain element. According to Agency, this is a higher burden than should not have been imposed. Therefore, it requests that the OEA Board reverse the Initial Decision on Remand.

On December 9, 2024, Employee filed his response to Agency’s Petition for Review and argues that because DCMR § 1607.2(b)(2) does not explicitly provide a private material gain requirement, does not mean that it cannot be imputed to the requirements for proving the charge. Thus, according to Employee this is not a basis for reversing the Initial Decision on Remand. He also asserts that he did not have the requisite intent and that there was a lack of rebuttal witnesses who could have contradicted his version of events. Therefore, Employee requests that the Petition for Review be denied.

2. **Employee v. D.C. Public Schools, OEA Matter No. 1601-0002-24** – Employee worked as an Educational Aide with the D.C. Public Schools (“Agency”). On August 21, 2023, Agency issued a Notice of Termination informing Employee that he would be removed from his position, charging him with violation of District of Columbia Municipal Regulations (“DCMR”) 5-E § 1401.2 (v) – other conduct during and outside of duty hours that would affect adversely the employee’s or the agency’s ability to perform effectively. Agency alleged that Employee was indicted on charges including involuntary manslaughter. It explained that despite Employee not being convicted, the charges were of such a nature that they would shock the public conscience if disciplinary action were not taken and call into question Employee’s ability to effectively perform his duties as an aide. Consequently, he was terminated from employment, effective September 5, 2023.

Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) on October 5, 2023. He asserted that on February 28, 2022, Agency emailed him a letter informing him that he would be placed on administrative leave and that he may be placed

on enforced leave on March 7, 2023, if his leave extended beyond five days. According to Employee, the involuntary manslaughter charge was dismissed on August 10, 2022. However, on August 21, 2023, Agency emailed Employee a notice of termination letter, which provided that he was terminated because he was indicted on the charge of involuntary manslaughter. To the contrary, Employee asserted that he was not indicted. Additionally, Employee contended that Agency improperly placed him on enforced leave without notice of its decision or notice of his appeal rights. He argued that Agency's decision to terminate him was not supported by substantial evidence; it was procedurally erroneous; it was a violation of law and applicable regulations; and it failed to consider relevant factors when imposing its penalty. As a result, Employee requested that he be reinstated with back pay and benefits.

On November 6, 2023, Agency filed its Answer to the Petition for Appeal. It asserted that Employee's separation was warranted because he was arrested and charged with negligent homicide and involuntary manslaughter after he struck and killed a pedestrian. It was Agency's position that although Employee was not convicted, the charges were of such a nature that they would shock the conscience if disciplinary action was not taken. Therefore, it reasoned that Employee was properly terminated.

Prior to issuing an Initial Decision, the OEA Administrative Judge ("AJ") ordered both parties to submit briefs on whether Agency had cause for the adverse action against Employee. In its brief, Agency argued that as an Educational Aide, Employee was required to exercise appropriate judgment both on and off duty. It asserted that it had cause to remove Employee because he was arrested, charged with a criminal offense, struck and killed a pedestrian, left the scene of an accident, admitted to drinking before the accident, and failed to report his arrest to Agency. Finally, Agency opined that the *Douglas* factors were properly considered in reaching its decision to terminate Employee. Therefore, it requested that its removal action be upheld.

In his brief, Employee maintained that Agency did not have cause to terminate him. He argued that the criminal charges were dismissed by a District of Columbia Superior Court Judge, and thus, his removal should be reversed because he was not indicated as Agency alleged. Additionally, Employee argued that Agency did not offer any evidence showing a nexus between his conduct and the efficiency of him performing his job. He also asserted that the Douglas factors warranted the reversal of Agency's removal action.

In his Initial Decision, the AJ found that there must be a nexus or a reasonable connection between an employee's conduct and their ability to perform their job or the ability for an agency to perform effectively. The AJ found that Agency failed to demonstrate a nexus and noted that Employee's arrest occurred off-site and off-duty; the crime, of which he was absolved, had no relationship to his job; there was no evidence of public notoriety regarding his alleged crime other than the limited time his arrest was in the news; and there was no evidence that his work performance or relations with his superiors or colleagues were negatively affected by Employee's arrest. The AJ also opined that Agency failed to present any evidence that Employee was indicted. Accordingly, the AJ relied on the Court of Appeals ruling in Office of the *District of Columbia Controller v. Frost*, 638 A.2d 657, 662 (D.C. 1994), which held that employees can be expected to defend only against the charges which were levied against them.

Agency disagreed and filed a Petition for Review on December 23, 2024. It argues that as an Education Aide, Employee was required to exercise sound and appropriate judgment both on and off duty. Agency contends that Employee's actions surrounding his arrest were alarming and that his behavior was inconsistent with what Agency expects

of its staff. It also notes that Employee advised police officers that he thought that he may have hit someone and that he was drinking prior to his arrest. Finally, Agency asserts that Employee failed to report his arrest to Agency. Thus, it requests that the OEA Board overrule the Initial Decision or remand the matter to address the issues outlined and convene an evidentiary hearing.

On January 27, 2025, Employee filed a response to Agency's Petition for Review. It explains that a dismissed arrest for lack of probable cause is not an indictment. Thus, as the AJ ruled, it is Employee's position that Agency failed to prove that he was indicted. As it relates to a nexus, Employee asserts that he was involved in a car accident that he did not cause and could not avoid while he was off duty. He contends that Agency's vague references to the local media story and staff discussions about Employee's arrest, do not establish a nexus. Employee also notes that Agency failed to show how his arrest and subsequent dismissed criminal case impacted its efficiency. Consequently, Employee requests that this Board affirm the Initial Decision and order that he be reinstated with back pay and benefits and awarded attorney's fees.

3. **Employee v. D.C. Fire & Emergency Medical Services, OEA Matter No. 1601-0041-24** – Employee worked as a Firefighter Paramedic with the D.C. Fire & Emergency Medical Services Department (“Agency”). On June 16, 2023, Agency issued an Initial Written Notification charging Employee with violation of D.C. Code § 7-2341.05 (Emergency Medical Services Personnel: Certification Required); Order Book Article XXIV, Section 3 (Certification and Credential Requirements); Bulletin No. 83 (NREMT Certification Policy); and Position Description (FS-0081-01). The charges were based on the Department of Health's (“DOH”) revocation of Employee's certification to work as an Emergency Medical Services (“EMS”) provider with Agency, which was required of his position description. On January 17, 2024, Employee appeared before a Fire Trial Board (“Trial Board”) wherein he was found guilty of the violations levied against him. On February 26, 2024, the Fire Chief accepted the Trial Board's recommendation of termination. The effective date of Employee's termination was March 9, 2024.

Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) on April 8, 2024. He argued that he completed remedial paramedic training as instructed by his supervisor; Agency retaliated against him; and the remediation program was arbitrary and unfair. Employee also submitted that his paramedic credentials never lapsed with the Department of American Medical Response (“AMR”). Therefore, he requested that he be reinstated with back pay and benefits lost as a result of his removal.

Agency filed its answer on May 8, 2024. According to Agency, the record established that its medical director withdrew sponsorship of Employee's paramedic credentials to work as a provider which, in turn, prompted DOH to issue a Notice of Summary Revocation of EMS Certification pursuant to Chapter 29, Section 563 of the D.C. Municipal Regulations (“DCMR”). It clarified that the continuing sponsorship of AMR's medical director only authorized Employee to continue working as a provider for AMR, not as a provider with Agency. Thus, it reasoned that substantial evidence existed to support Employee's termination. Finally, Agency submitted that Employee's misconduct warranted termination based on an assessment of the *Douglas* factors. As a result, it requested that the disciplinary action be upheld.

During a June 11, 2024, status conference, the Administrative Judge (“AJ”) determined that the holding in *Pinkard v. Metropolitan Police Department*, 801 A.2d 86 (D.C. 2006), precluded a *de novo* hearing. Accordingly, the parties were ordered to submit written briefs addressing whether Agency's termination action was supported by substantial

evidence; whether Agency committed a harmful procedural error; and whether Employee's termination was taken in accordance with all applicable laws, rules, and regulations.

In its brief, Agency explained that under the Emergency Medical Services Act of 2008 and its implementing regulations, Employee could only serve as a paramedic under the sponsorship of its medical director. Agency stated that on May 10, 2022, Director Robert P. Holman, M.D., issued a Notice of Advance Life Support Sponsorship Withdrawal to the Chief Medical Officer of the Health Emergency Preparedness and Response Administration ("HEPRA"). The withdrawal notice was based on five patient care incidents wherein Agency determined that Employee provided substandard care; Agency's attempts to remediate Employee's deficient care; Employee's performance during remediation; and Dr. Holman's interview with Employee following remediation. Therefore, Agency posited that Employee violated Article XXIV, Section 3, Subparts 3 and 5 of the Department's Order Book and D.C. Code §§ 7-2341.05 and 7-2341.15 because his sponsorship as a paramedic was withdrawn.

Next, Agency submitted that any procedural error it may have committed was harmless. Moreover, it noted that Employee's only recourse to appeal the revocation of his sponsorship withdrawal was by way of appeal to the Office of Administrative Hearings ("OAH"). Finally, it claimed that the penalty of removal was appropriate based on the holding in *Stokes v. District of Columbia* and an assessment of the *Douglas* factors. Since Agency believed that there was no meaningful remedy that could be provided to Employee regarding his sponsorship status, it requested that the termination action be upheld.

In response, Employee argued that he always maintained a valid DOH card to act as an EMS provider in the District of Columbia; his license never lapsed; and Agency's policy only required him to have valid DOH credentials while employed with the Department. Additionally, Employee claimed that an OAH Administrative Law Judge provided that the appeal of the credentialing revocation was a "waste of time" since Employee continued to be sponsored by another EMS agency, AMR. It was Employee's position that Agency's efforts of remedial training were inadequate. Lastly, Employee believed that there were other similarly situated paramedics who were also targeted without basis. Consequently, Employee asked that he be reevaluated by Agency's new medical director, Dr. Vitberg, to determine his fitness for sponsorship as a paramedic.

Agency filed a rebuttal brief on September 6, 2024. It averred that Employee was attempting to relitigate fully decided issues that were outside of OEA's jurisdiction, namely the revocation proceeding before OAH. Agency submitted that Employee made no showing of unfair treatment or inadequate training on its part. Alternatively, it suggested that even if Employee's claims regarding remedial training were truthful, the relevant statutory authority warranted his termination because his sponsorship to operate as a paramedic with Agency was withdrawn by the medical director. Agency reiterated its previous position that OEA could award no meaningful remedy to Employee because this Office could not reverse a decision by the medical director as to the sponsorship of a paramedic. Thus, it renewed its request to uphold Employee's termination.

The AJ issued an Initial Decision on September 25, 2024. First, she held that Agency met its burden of proof by establishing that Employee was noncompliant with D.C. Code §§ 7-2341.05 and 7-2341.15 after DOH revoked his certification to work as an EMS provider with Agency. The AJ went on to discuss that it was uncontested that Dr. Holman withdrew his sponsorship from Employee; Employee appealed the revocation to

DOH; and the appeal was dismissed with prejudice. Since Employee could no longer work as a paramedic with Agency following the revocation, the AJ concluded that cause existed to charge Employee with neglect of duty. She noted that while Employee continued to be sponsored by another EMS agency, his ability to provide paramedic services with Agency was precluded after sponsorship was withdrawn by the medical director.

Next, she found that although Agency violated Article 31, Section (B)(1) of the Collective Bargaining Agreement (“CBA”) with the International Association of Firefighters (“Local 36”) by issuing the Initial Written Notification in an untimely manner, the error was harmless because the procedures did not specify a consequence for the failure to act within the prescribed seventy-five-day period. The AJ further concluded that Agency properly terminated Employee based on a thorough consideration of the relevant *Douglas* factors and the Table of Illustrative Actions. Based on the foregoing, Employee’s termination was upheld.

Employee filed a Petition for Review with the OEA Board on October 30, 2024. He asserts that new and material evidence is available that, despite due diligence, was not available when the record was closed. Employee highlights “Case number R003848-101024 filed with the DC FOIA office” which he purports to be a matter similarly situated to his. Specifically, he contends that the employee in this case also failed remediation training as a paramedic but was not terminated. Employee also disagrees with the wording of Article XXIV, Section 3, of Agency’s Order Book, asserting that the AJ overreached in interpreting the language of the policy related to paramedic credentialing. Further, Employee opines that any testimony provided by Dr. Holman should not be used as substantial evidence because he provided inconsistent and inarticulate reasons for why he required remediation training as a paramedic. He submits that his route of discipline was unregulated by policy and in direct contradiction of the procedures established under the applicable CBA. Finally, Employee argues that the Initial Decision failed to address his argument of disparate treatment. As such, he asks that the Board grant his petition.

Agency filed its response on December 4, 2024. It asserts that Employee’s identification of a new case number is not new evidence and that he makes no compelling argument for determining that the information was not available when the record was closed by the AJ. Agency maintains that the law is clear that all Firefighter Paramedics serving in a regulated EMS agency must hold a certification sponsored by that agency’s medical director. Thus, it reasons that nothing within Article XXIV of the Order Book is inconsistent with the statutory and regulatory law. As it relates to the testimony provided by Dr. Holman, Agency states that OAH was the only administrative body that was permitted to question the medical director’s decision to withdraw Employee’s sponsorship to provide EMS services with Agency. Agency lastly proposes that the medical director retained the broad statutory authority to establish remediation training procedures for its sponsored medical professionals. Thus, it requests that Employee’s petition be denied.

- E. Deliberations** – This portion of the meeting will be closed to the public for deliberations. in accordance with D.C. Code § 2-575(b)(13).
- F. Open Portion Resumes**
- G. Final Votes on Motion for Interlocutory Appeal**
- H. Final Votes on Petitions for Review**

I. Public Comments

VI. Adjournment

“This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.”

Minutes

D.C. OFFICE OF EMPLOYEE APPEALS (OEA) BOARD MEETING

Thursday, May 29, 2025

Location: Virtual Meeting Via Webex

Persons Present: Lasheka Brown (OEA General Counsel), Sheila Barfield (OEA Executive Director), Sommer Murphy (OEA Deputy General Counsel), Dionna Maria Lewis (OEA Board Chair), Arrington Dixon (OEA Board Member), Jeanne Moorhead (OEA Board Member), LaShon Adams (OEA Board Member), Wynter Clarke (OEA Paralegal), and Kimberly Brown (Member of the Public).

Call to Order – Dionna Lewis called the meeting to order at 9:35 a.m.

- I. Ascertainment of Quorum** – There was a quorum of Board members present for the office to conduct business.
- II. Adoption of Agenda** – LaShon Adams moved to adopt the agenda. The agenda was adopted by the Board.
- III. Minutes from Previous Meeting** – April 24, 2025, meeting minutes were reviewed. There were no corrections. The minutes were accepted.
- IV. New Business**
 - A. Summary of Motion for Interlocutory Appeal** — Dionna Lewis provided that a summary of the Motion for Interlocutory Appeal was provided in the agenda for this meeting. The summary was also posted to the OEA website, the Board of Ethics and Government Accountability's website, and in OEA's front office. The following Motion for Interlocutory Appeal was decided.
 1. Employee v. D.C. Public Schools, OEA Matter No. 1601-0015-20C24
 - B. Public Comments on Motion for Interlocutory Appeal** – There were no public comments offered.
 - C. Summary of Petitions for Review** — Dionna Lewis provided that a summary of the matters to be decided were provided in the agenda for this meeting. The summaries were posted to the OEA website, the Board of Ethics and Government Accountability's website, and printed and posted in OEA's front office. The following Petitions for Review were decided.
 1. Employee v. Office of the Chief Technology Officer, OEA Matter No. 1601-0083-22R24
 2. Employee v. D.C. Public Schools, OEA Matter No. 1601-0002-24
 3. Employee v. D.C. Fire and Emergency Medical Services Department, OEA Matter No. 1601-0041-24
 - D. Public Comments on Petitions for Review** – There were no public comments offered.
 - E. Deliberations** – LaShon Adams moved that the meeting be closed for deliberations in accordance with D.C. Code § 2-575(b)(13). All Board members voted in favor of closing the meeting. Dionna Lewis stated that the meeting was closed for deliberations.
 - F. Open Portion of Meeting Resumed**

G. Final Votes on Motion for Interlocutory Appeal – Dionna Lewis provided that the Board considered all of the matters. The following represents the final votes for the Motion for Interlocutory Appeal:

1. Employee v. D.C. Public Schools, OEA Matter No. 1601-0015-20C24

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis			X	X	
Arrington Dixon			X	X	
Jeanne Moorehead			X	X	
LaShon Adams			X	X	

Four Board Members voted in favor of denying Employee's Interlocutory Appeal and remanding the matter to the Administrative Judge. Therefore, the motion was denied, and the matter was remanded.

H. Final Votes on Petitions for Review – Dionna Lewis provided that the Board considered all of the matters. The following represents the final votes for each case:

1. Employee v. Office of the Chief Technology Officer, OEA Matter No. 1601-0083-22R24

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis				X	
Arrington Dixon				X	
Jeanne Moorehead				X	
LaShon Adams				X	

Four Board Members voted in favor of remanding this matter to the Administrative Judge. Therefore, the matter was remanded.

2. Employee v. D.C. Public Schools, OEA Matter No. 1601-0002-24

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis			X		
Arrington Dixon			X		
Jeanne Moorehead			X		
LaShon Adams			X		

Four Board Members voted in favor of denying Agency's Petition for Review. Therefore, the petition was denied.

**3. Employee v. D.C. Fire and Emergency Medical Services Department, OEA Matter
No. 1601-0041-24**

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis			X		
Arrington Dixon			X		
Jeanne Moorehead			X		
LaShon Adams			X		

Four Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

I. Public Comments

1. There were no public comments offered.

V. Adjournment – LaShon Adams moved that the meeting be adjourned. All members voted affirmatively to adjourn the meeting. Dionna Lewis adjourned the meeting at 10:13 a.m.

Respectfully Submitted,
Wynter Clarke
Paralegal Specialist

August 7, 2025 Board Meeting

**DISTRICT OF COLUMBIA
OFFICE OF EMPLOYEE APPEALS
NOTICE OF PUBLIC MEETING**

The District of Columbia Office of Employee Appeals will hold a meeting on August 7, 2025, at 9:30 a.m. The Board will meet remotely. Below is the agenda for the meeting.

<https://dcnet.webex.com/dcnet/j.php?MTID=m7d85cc286b8f0975224faf0f7cc44221>

Password: Board (26274 when dialing from a phone or video system)

We recommend logging in ten (10) minutes before the meeting starts. In order to access Webex, laptop or desktop computer users must use Google Chrome, Firefox, or Microsoft Edge Browsers.

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Questions about the meeting may be directed to wynter.clarke@dc.gov.

Agenda

D.C. OFFICE OF EMPLOYEE APPEALS ("OEA") BOARD MEETING
Thursday, August 7, 2025, at 9:30 a.m.
Location: Virtual Meeting via Webex

I. Call to Order

II. Ascertainment of Quorum

III. Adoption of Agenda

IV. Minutes Reviewed from Previous Meeting

V. New Business

A. Public Comments on Petitions for Review

B. Summary of Cases

- 1. Employee v. D.C. Department of Motor Vehicles, OEA Matter No. J-0084-24 –**
Employee worked as a Hearing Examiner with the D.C. Department of Motor Vehicles ("Agency"). On July 26, 2024, Agency issued a notice of termination to Employee. The notice provided that it would end Employee's employment during his probationary period. On August 30, 2024, Employee filed a Petition for Appeal with the Office of Employee Appeals ("OEA"). It was Employee's position that he was a permanent employee. As a result, he requested that he be reinstated and reimbursed for his salary.

On October 3, 2024, Agency filed its Answer to Employee's Petition for Appeal. It asserted that Employee worked for the District government from 1986 through 2000. Agency explained that he was not hired as a Hearing Examiner until January of 2024. It

contended that pursuant to District of Columbia Municipal Regulations (“DCMR”) § 226.1, if an employee has a break in service of more than three days, then they are required to complete a new probationary period. Moreover, it provided that the offer letter for the Hearing Examiner position clearly advised Employee that he would be a “Probational Career Appointment.” Thus, according to Agency, Employee was still in a probationary status at the time of his termination.

The OEA Administrative Judge (“AJ”) issued an Order Requesting Briefs on Jurisdiction. Employee’s brief provided that he was a Career Service permanent employee entitled to the protections of D.C. Personnel Regulations (“DPR”), Chapter 16. He opined that he accrued fifteen years of permanent employment with the District government and should be reinstated without having to serve another probationary period. Employee further explained that probationary periods were intended for those new to the Career Service designation or for those who entered into a new appointment that is incompatible with their prior service.

Agency filed its Brief on Jurisdiction on December 17, 2024. It maintained its argument that Employee had a break in service for longer than three days, and as a result, he was required to serve a probationary period when he returned to District government employment. Agency asserted that Employee was serving a probationary period at the time of his removal. Accordingly, it contended that OEA lacked jurisdiction to consider his removal and requested that Employee’s appeal be dismissed.

In the Initial Decision, the AJ found that the principal issue in this matter was OEA’s jurisdiction to consider the appeal. According to the AJ, Agency provided a Standard Form 50 which noted that Employee’s position was subject to a one-year probationary term. She also found that OEA has held that pursuant to DPM § 227.4, removals during an employee’s probationary period are neither appealable nor grievable. Finally, the AJ reasoned that even if OEA had jurisdiction over D.C. Water Career Service matters, Employee still had a break in service longer than three (3) days because he left his position at D.C. Water in 2022 and started with Agency in 2024. Consequently, she dismissed Employee’s Petition for Appeal for lack of jurisdiction.

Employee disagreed with the AJ’s ruling and filed a Petition for Review with the OEA Board on March 21, 2025. He contends that employees who are reinstated to Career Service positions after previously achieving tenure are not required to serve a new probationary period unless there is a fundamentally new appointment, which he claims did not occur here. He also asserts that he received no notification that he would be considered a probationary employee. Consequently, he requests that the Board reverse the Initial Decision and allow the matter to be decided on the merits of the case.

2. **Employee v. D.C. Fire & Medical Services Department, OEA Matter No. 1601-0012-24** – Employee worked as a Firefighter/Emergency Medical Technician for the District of Columbia Fire and Emergency Medical Services Department (“Agency”). On October 12, 2023, Agency served Employee with a Final Agency Decision: Termination, charging him with: (1) Violation of [Agency] Order Book Article VI, § 6, Conduct Unbecoming an Employee. Specifically, Agency determined that the misconduct was Neglect of Duty, which is found in Order Book VII, § 2(f)(3). Additionally, Employee was charged with Article XXIV, § 8, Emergency Responses and [Agency] Order Book Article XVII, Driving Safety. According to Agency, while on duty, Employee intentionally delayed his response to a medical dispatch by several minutes when he drove in the opposite direction to make a stop at a Chic-fil-A. The effective date of Employee’s termination was October 28, 2023.

On November 27, 2023, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”). He contended that while there was a slight delay in response time, there was no delay in patient care. Employee explained that the Advanced Life Support (“ALS”) and the Basic Life Support (“BLS”) units were dispatched at the same time and his unit, the BLS, could not provide the level of care needed for the patient who was experiencing chest pain. Thus, he posited that care could not be rendered until the ALS unit arrived. Additionally, Employee asserted that termination was unwarranted due to the nature of the offense. As a result, he requested that Agency’s adverse action be reconsidered.

Agency filed its Answer to the Petition for Appeal on December 15, 2023. It contended that the penalty for Employee’s misconduct was warranted based on his egregious action of stopping at a restaurant instead of immediately responding to a dispatch call. Agency argued that prior to receiving the dispatch call, Employee had a two-hour break, which was sufficient time for him and his partner to eat lunch. Additionally, it opined that the Fire Trial Board (“FTB”) considered the *Douglas* factors before reaching its decision to terminate Employee. Therefore, Agency requested that Employee’s removal action be upheld.

The OEA Administrative Judge (“AJ”) issued an order requesting the parties to submit briefs addressing whether the FTB’s decision was supported by substantial evidence; whether there was harmful procedural error; and whether Agency’s action was done in accordance with applicable laws or regulations. Additionally, the AJ noted that Agency cited to both the 2012 and 2019 District Personnel Manual (“DPM”) versions in its Answer to the Petition for Appeal. Thus, she requested that the parties submit an explanation of which DPM version controls in this case and why.

In its brief, Agency argued that it had cause to terminate Employee for neglect of duty. According to Agency, Employee’s estimated response time to the dispatched location was two minutes. However, his ambulance took over ten minutes to arrive at the dispatched location because Employee drove his partner to pick up lunch. Employee’s prolonged response time triggered an alert in Agency’s system. Agency contended that Employee and his partner had a two-hour break before the dispatch call in question. As for the two DPM versions, Agency reasoned that its use of the 2012 and 2019 DPM versions are immaterial because the neglect of duty charges are substantively the same in both versions and include identical definitions in both versions of the Table of Penalties. Moreover, it provided that the FTB found that the *Douglas* factors were properly considered and that Employee’s misconduct warranted his removal. Accordingly, Agency maintained that Employee’s termination was taken in accordance with all applicable rules, laws, and regulations.

In response, Employee denied Agency’s assertion that he had a two-hour break. He explained that he and his partner had a busy day after receiving dispatches for several runs and that there was no delay in care to get food for his partner, who was feeling fatigued. Again, he argued that his unit was a BLS unit and would likely have been on standby until an ALS unit arrived to properly care for and offer additional services to the patient that his BLS unit was not equipped to handle. Therefore, Employee reasoned that his behavior did not rise to the level of neglect of duty. Regarding the penalty of removal, Employee opined that Agency failed to weigh the relevant *Douglas* factors and provided that the adverse action exceeded the limits of reasonableness.

The AJ issued an Initial Decision on February 18, 2025. She found that Agency provided

substantial evidence to support Employee's charges of Conduct Unbecoming an Employee and Driving Safety. The AJ opined that Employee's decision to delay an emergency response adversely affected Agency's ability to perform effectively. She determined that the charges were supported by the video evidence and testimony offered during the FTB hearing. Moreover, the AJ found that Employee's claim that his partner was fatigued was inconsistent with the video footage of her talking on the phone and laughing. Additionally, she determined that, contrary to Employee's assertion that there was no delay in patient care, he was not the authority on whether a dispatch required an immediate response. Moreover, the AJ held that it was a violation of Agency policy to delay a response to the scene of an emergency. She also found that Employee's removal was within the range of the Table of Penalties and that Agency appropriately considered the *Douglas* factors. As a result, the AJ held that Agency's termination action was taken in accordance with all applicable regulations.

Employee filed a Petition for Review with the OEA Board on March 25, 2025. He maintains many of the same assertions made throughout his appeal. Employee claims that the Initial Decision was not supported by substantial evidence; was the result of harmful evidence; and did not address all the issues of law and fact properly raised in the appeal. Additionally, he argues that the *Douglas* factors analysis was inaccurate since he had no prior discipline before this incident. It is Employee's position that there was no delay in patient care; thus, his actions did not result in any harm or damage. Therefore, he requests that the Initial Decision be reversed.

Agency filed its Opposition to Employee's Petition for Review. It reiterates that Employee's termination was appropriate and necessary given the circumstances. Agency submits that as a Firefighter/EMT, Employee was required to abide by the Order Book, which provides that emergency medical services providers shall immediately respond to an incident. Additionally, it maintains that it properly analyzed and outlined the relevant *Douglas* factors. Agency reasons that termination is consistent with the Table of Penalties based on the charges of neglect of duty and failure to follow driving safety standards. Finally, it disagrees with Employee's argument that he should not have been terminated because it was the first neglect of duty of his career, noting that neglect of duty is not excused under any circumstance. As result, Agency believes that the Initial Decision is supported by substantial evidence and requests that Employee's petition be denied.

3. **Employee v. D.C. Department of Corrections, OEA Matter No. 1601-0034-22R23** – This matter was previously before the Board. Employee worked as an Operations Research Analyst with the Department of Corrections ("Agency"). On September 2, 2021, Employee received a Fifteen-Day Advance Written Notice of Proposed Removal based on charges of failure to meet established performance standards; negligence, including the careless failure to comply with rules, regulations, written procedures, or proper supervisory instructions; and violation of Section 3300.1E of the Employee Code of Ethics and Conduct. Specifically, Agency alleged that Employee failed to meet the performance standards established in a May 24, 2021, Performance Improvement Plan ("PIP"). The effective date of her termination was December 3, 2021.

An OEA Administrative Judge ("AJ") was assigned to the matter in May of 2022. After reviewing the parties' legal briefs, the AJ issued an Initial Decision on May 17, 2023. First, she held that Agency violated Chapter 6-B, Section § 1410.5 of the D.C. Municipal Regulations ("DCMR") because it failed to establish that Employee received written notice of the PIP results within ten business days following the completion of the PIP evaluation period. According to the AJ, Agency did not satisfy its obligation under §

1410.5 until September 10, 2021, when Employee admitted to receiving the PIP results at her home address while she was on approved leave. Further, she concluded that Agency's error was reversible since the mandatory language of DCMR § 1410.11 provides that whenever an immediate supervisor or a reviewer fails to issue a written decision within the specified time period outlined in DCMR § 1410.5, the employee shall be deemed to have met the requirements of the PIP.

Next, the AJ held that assuming *arguendo* Agency complied with DCMR § 1410.5, it nonetheless violated § 1410.3 because Employee was never informed of the duration of her PIP. Finally, the AJ held that Agency violated DCMR § 1410.2 by placing Employee on a PIP based on her Fiscal Year ("FY") 2020 work performance, and not her then-current performance (FY21). Thus, she determined that Agency lacked cause to discipline Employee because of its various violations of DCMR § 1410. Consequently, Employee was ordered to be reinstated with back pay and benefits lost as a result of the termination action.

Agency disagreed with the Initial Decision and filed a Petition for Review and a Memorandum in Support of Petition for Review with the OEA Board on June 21, 2023. Employee subsequently filed a Motion for Summary Affirmance in Support of Denying Agency's Petition for Review on July 6, 2023. On September 7, 2023, the Board issued an Opinion and Order on Petition for Review. It denied Agency's request for relief as to the AJ's denial of its motion to dismiss for timeliness and its request to reopen discovery. However, the matter was remanded to the AJ to conduct an evidentiary hearing because the Board concluded that there were contested facts related to whether Agency followed the procedures established in DCMR § 1410.

The AJ subsequently held a status conference on October 7, 2023, to discuss the issues identified in the Board's remand order. On November 1, 2023, the AJ issued an order convening an evidentiary hearing, outlining the issues to be determined as follows: whether Agency complied with the notice requirement provided in District Personnel Manual ("DPM") § 1410.5; whether the ePerformance Frequently Asked Questions page located on the District of Columbia Human Resources website provided binding legal authority as to DPM § 1410.3; whether Employee was apprised of the ending date of the PIP prior its start date; whether Agency had cause to discipline Employee; and if so, whether the penalty was appropriate under District law. An evidentiary hearing was held on October 17, 2024, wherein the parties presented documentary and testimonial evidence in support of their positions.

The AJ issued an Initial Decision on Remand on February 13, 2025. First, she held that Agency failed to timely notify Employee of the results of her PIP as mandated by DCMR § 1410.5. She explained that the results of the PIP, which concluded on August 22, 2021, were required to be received by Employee within ten business days, or no later than September 3, 2021. While Agency mailed its notice of the PIP results to Employee via U.S. Postal Service Express Mail on September 2, 2021, the AJ nonetheless found that Agency's notice was deficient. She reasoned that Employee did not receive the physical mailing of the PIP results until September 10, 2021; there was no confirmation of a signature receipt on the notice; and Agency failed to provide this Office with a copy of the certificate of service evincing proof of delivery.

Next, the AJ held that Agency violated DCMR § 1410.2 by placing Employee on a PIP based on her FY20 performance and not her FY21 performance. Additionally, she concluded that Agency was not required to apprise Employee of the ending date of the PIP and ruled that Agency was within its discretion to end the PIP on the ninetieth day

in accordance with DCMR § 1410.3. Contrary to her initial ruling, on remand, the AJ found that there was substantial evidence in the record to establish that Employee did not meet the performance requirements of the PIP; therefore, Agency had cause to initiate the termination action in accordance with DCMR § 1410.12. While finding that the termination action was taken for cause, the AJ nonetheless opined that Agency's error related to § 1410.5 was reversible because Employee did not receive the PIP results within the ten-day mandatory deadline. Thus, she concluded that she could not be disciplined pursuant to 6-B DCMR §§ 1607.2(d)(1) and (2) and Section 3300.1E of Agency's Policy and Procedures. Consequently, Employee's termination remained reversed.

Agency sought review of the Initial Decision on Remand with the OEA Board on March 20, 2025. It argues that the AJ erred in finding that it failed to timely issue the results of Employee's PIP. Agency submits that because DCMR § 1410.5 only addresses when a written decision must be issued, without reference to when it must be received, the date on which the decision was physically received by Employee was irrelevant. Agency maintains that its September 2, 2021, mailing to Employee satisfied the notice requirements set forth in the PIP regulations. Moreover, it notes that the only reason that Employee did not receive the notice on the same day that the PIP results were issued was because she was on approved leave beginning on September 1, 2021.

According to Agency, the AJ also erred in finding that it violated DCMR § 1410.2 since its compliance with this subsection was not an issue presented to the AJ on remand, and because OEA lacks the jurisdiction to review whether an employee was rightfully placed on a PIP. Agency avers that prior to the evidentiary hearing, the AJ framed one of the remanded issues as whether Agency violated DCMR § 1410.3, but after the hearing, instead found that Agency violated § 1410.2, which was an error. Alternatively, it suggests that even if the AJ was permitted to adjudicate this issue, the record supports that Dr. Chakraborty, Employee's supervisor, was authorized to make the decision to place her on a PIP. It lastly claims that the AJ erroneously relied on evidence that was not admitted during the evidentiary hearing, namely the ePerformance Frequently Asked Questions ("FAQs") section for Performance Improvement Plans on the D.C. Human Resources website. Therefore, Agency requests that the Initial Decision on Remand be reversed or remanded.

Employee filed a response to Agency's petition on April 2, 2025. She asserts that the AJ did not err or exceed her authority in referencing DCMR § 1410.2, rather than § 1410.3, in the Initial Decision on Remand. According to her, Agency had the opportunity to address this inconsistency prior to the closing of the record. Employee maintains that the AJ was within her discretion to decide whether Agency properly placed her on a PIP in accordance with § 1410.2. She further submits that the AJ correctly found that the PIP was not a result of her underperformance in FY21, and she opines that the PIP was unjustified because Agency could not prove any performance deficiencies prior to the adverse action. As a result, Employee requests that Agency's petition be denied.

4. **Employee v. D.C. Department of Employment Services, OEA Matter No. 1601-0059-20** — Employee worked as an Administrative Law Judge ("ALJ") with the Department of Employment Services ("Agency"). On February 28, 2020, Agency issued Employee a Proposed Notice of Removal charging her with unauthorized absence, in violation of Chapter 6-B, Section 1605.4(f)(2) of the District Personnel Manual ("DPM"). The notice provided that Employee failed to return to duty on February 10, 2020, as agreed, after an April 22, 2016, Initial Decision issued by this Office reversed Agency's termination action and reinstated Employee to her former position with

backpay and benefits. An Agency hearing officer subsequently conducted a review of Agency's proposed adverse action and issued a Written Report and Recommendation on February 28, 2020, finding that Employee's absences were not excused. On August 14, 2020, Agency issued a Notice of Final Decision on Proposed Removal. The effective date of Employee's termination was August 28, 2020.

Employee filed a Petition for Appeal with the Office of Employee Appeals ("OEA") on September 14, 2020. She argued that Agency failed to comply with the Administrative Judge's ("AJ") April 22, 2016, directive to reinstate her. As a result, she requested that her petition be granted.

Agency filed its answer on March 30, 2021. It contended that it was within its authority to terminate Employee for unauthorized absences of five days or more in accordance with DPM § 1605.4(f)(2) and the Table of Illustrative Actions. Agency explained that following the AJ's April 22, 2016, Initial Decision, the parties agreed that Employee would return to work on February 10, 2020. It stated that to comply with the Executive Office of the Mayor's ("EOM") order, Employee was requested to submit medical/fitness-for-duty documentation, which she failed to do. According to Agency, effective July 18, 2018, Employee was reinstated with back pay and the AJ did not remove the requirement that Employee pay her portion of the health insurance and/or return to work to receive health insurance. Thus, its position was that the instant termination action was solely based on Employee's failure to return to work as agreed. Since Agency opined that Employee's absences were not excused, it requested that her removal be upheld.

A new OEA AJ was assigned to this matter in October of 2022. After several continuances, the AJ held a status conference on September 16, 2024. During the conference, the parties conceded that the April 22, 2016, Initial Decision was not at issue, and the only outstanding matter to be adjudicated was Agency's current termination action. As a result, the parties were ordered to submit legal briefs addressing whether Employee's termination was taken for cause and whether the penalty was appropriate.

In its brief, Agency argued that Employee's termination was supported by the record. It explained that Employee could not work as an Administrative Law Judge because she failed to provide the required certificate of good standing from the District of Columbia Bar, in violation of D.C. Code § 1-608.81. Moreover, it maintained that Employee was properly terminated for unauthorized absence of five days or more pursuant to DPM § 1605.4(f)(2). Agency opined that Employee's failure to return to work, coupled with her continued unauthorized absence for fifteen consecutive business days, warranted Employee's removal. Consequently, it requested that the termination action be sustained.

Employee's brief asserted that Agency was now attempting to create a new, retaliatory basis for her termination. According to Employee, a fitness for duty exam was not required as a prerequisite to employment until Agency was forced to reinstate her. She further argued that there was no mention of a new requirement to waive her law license into the District of Columbia, and had she known, she would have obtained the license prior to returning to duty. Additionally, Employee opined that Agency's assertion that she failed to return to work on February 10, 2020, was a result of its refusal to cooperate with an order from the United States District Court for the District of Columbia so that she could obtain medical coverage. Finally, she suggested that the AJ took advantage of the previous AJ's departure from OEA by limiting the issues to be determined during the instant appeal. Since Employee believed that she was eligible for reinstatement, she asked that the AJ reverse the current removal action; require Agency to fully comply

with the District Court's Order; and grant all attorney's fees associated with prosecuting this appeal.

In response, Agency contended that in accordance with Chapter 20, Section 2000.2 of the eDPM, each individual selected for an appointment to the District government must be able to perform the functions of his or her job, with or without restrictions. It reasoned that Employee's fitness to return to duty reasonably included the production of medical documentation, particularly considering her previous request for a reasonable accommodation. As a result, Agency opined that the current termination action was not retaliatory. Further, it highlighted that the requirement that all ALJs employed by the District government be members of the District of Columbia bar became law in 2015. According to Agency, this fact is supported by Employee's 2020 request for a waiver of the licensing requirement or alternatively an extension of time to become a member of the D.C. Bar.

It disagrees with Employee's argument that the current OEA AJ took advantage of the issues to be deciding during this appeal because the parties discussed with the AJ whether the matter decided by the AJ in OEA Matter No. 1601-0012-14 should impact the current matter. Lastly, Agency reiterates its position that Employee's failure to return to work for five or more consecutive days formed the basis of the instant appeal, and it maintains that Employee's brief offered no evidence refuting that she failed to return to work. Therefore, it requests that Employee's termination be upheld.

The AJ issued an Initial Decision on February 13, 2025. As it related to cause, the AJ held that D.C. Code § 1-608.81 requires ALJs and hearing officers to possess a D.C. Bar membership, which Employee provided no credible reason for failing to obtain. He went on to discuss that Employee did not deny the facts underlying Agency's cause of action provided in its termination notice; thus, Agency met its burden of proof in establishing that Employee violated DPM §1605.4(f)(2) for unauthorized absences from February 10, 2020, through February 28, 2020. Concerning the penalty, the AJ concluded that under the Table of Illustrative Actions ("TIA"), the consequence for a first offense for unauthorized absence of five workdays or more includes removal. Because removal was permissible under the TIA, the AJ ruled that Agency's termination action was supported by the record.

Employee disagreed with the Initial Decision and filed a Petition for Review with the OEA Board on March 21, 2025. She argues that the AJ erred by failing to find that ALJs are not classified as safety-sensitive positions requiring medical examination prior to reinstatement. She submits that the previous AJ made a procedural finding that this matter represents a continuation of the compliance matter stemming from the 2016 Initial Decision, which has significant implications affecting how this matter should have proceeded. Thus, she believes that there is no legal basis for the reassigned AJ to override a previous AJ's procedural ruling. Employee further asserts that the Initial Decision failed to address Agency's obligation to engage in an interactive process regarding her 2020 request for a reasonable accommodation. Finally, Employee avers that Agency's medical examination demand lacks substantial evidentiary support; she submitted all necessary documentation in support of her disability and accommodation request; Agency's demand for any additional documentation constitutes retaliatory and disparate treatment; and the AJ's finding that Employee was properly subject to a fitness-for-duty exam was unsupported by the record. Therefore, she requests that the Board grant her petition.

5. Employee v. D.C. Department of Public Works, OEA Matter No. 1601-0071-23 – Employee worked as a Motor Vehicle Operator (“MVO”) with the Department of Public Works (“Agency”). On August 4, 2023, Agency issued Employee an Advance Written Notice of Proposed Removal, charging him with violation of District Personnel Manual (“DPM”) Chapter 16, Sections 1607.2(a)(4), (b)(2), (b)(3), and (d)(2) for: any on-duty conduct that an employee should reasonably know is a violation of law or regulation; misrepresentation, falsification, or concealment of material facts or records in connection with an official matter, including investigations; knowingly and willfully making an incorrect entry on an official record or approving an incorrect official record; and deliberate or malicious failure to comply with rules, regulations, written procedures, or proper supervisory instructions. The charges were based on a December 6, 2022, incident wherein Employee was instructed by Agency’s Deputy Administrator to tow a vehicle “party bus” to the Blue Plains towing facility. Employee instead towed the vehicle to two different locations that were not authorized and subsequently submitted a Crane Report which omitted the additional towing locations. A hearing officer reviewed the proposed notice and issued a Report of Findings and Recommendation on August 31, 2023. On September 14, 2023, Agency issued a Final Decision on Proposed Removal, sustaining the charges against Employee. The effective date of his removal was September 15, 2023.

Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) on September 21, 2023. He argued that Agency wrongly charged him with offenses that he did not commit that were based on conduct in which he did not engage. Employee also contended that Agency improperly applied the *Douglas* factors. Finally, he opined that the penalty constituted disparate treatment. As a result, Employee requested reinstatement with backpay and benefits.

Agency filed its answer on October 23, 2023. It asserted that Employee was disciplined based on his act of intentionally towing privately owned property to an unauthorized location and knowingly omitting vital information from a Crane Report. Agency submitted that Employee’s conduct was sufficiently egregious to warrant the instant adverse action. Further, it posited that termination was appropriate based on a thorough analysis of the *Douglas* factors and Chapter 16, Section 1607 of the DPM. Therefore, Agency requested that Employee’s removal be sustained.

An OEA Administrative Judge (“AJ”) was assigned to the matter in October of 2023. During a December 6, 2023, prehearing conference, the AJ determined that the issues presented warranted an evidentiary hearing. Thereafter, a hearing was held on July 24th and August 22nd of 2024. Employee and Agency were subsequently ordered to submit closing arguments.

The AJ issued an Initial Decision on January 13, 2024, finding that Agency met its burden of proof as to each charge levied against Employee. She stated that on December 6, 2022, Employee was instructed to tow a party bus, located at or near 1717 Hamlin Street, N.E., for failure to “display current tags.” However, she concluded that Employee failed to tow the vehicle to the Blue Plains facility in accordance with the procedures outlined in Agency’s 2016 Standard Operating Procedures (“SOP”). The AJ explained that Employee knowingly and deliberately falsified Agency records by failing to include interim stops made at Bryant Street or 17th Street in his Crane Report and failed to obey instructions given by a supervisor. She further found Employee’s evidentiary hearing testimony to be inconsistent and untrustworthy when questioned about his argument that it was unsafe to tow the party bus to the Blue Plains facility. As a result, the AJ held that Agency established cause to initiate the current adverse action. Lastly, she ruled that termination was a permissible penalty based on the Table of Illustrative Actions and the

holding in *Stokes v. District of Columbia*, 502 A.2d 1006 (D.C. 1985). Therefore, Agency's termination action was upheld.

Employee filed a Petition for Review with the OEA Board on February 14, 2025. He argues that a safety concern arose at the towing site on December 6, 2022, which required his discretion to move the party bus to a more suitable location before proceeding to the Blue Plains lot. Employee contends that the 2016 SOPs were inconsistently applied, with different interpretations among supervisors. He further claims that Agency failed to provide any clear directives regarding restrictions on interim stops and challenges the AJ's credibility determinations relevant to SOPs and instructions for impounded vehicles. According to Employee, Agency's termination action lacked proper documentation; deviated from past disciplinary procedures; and failed to consider exculpatory evidence presented during the OEA evidentiary hearing. Lastly, Employee opines that the penalty of removal was excessive and disproportionate given his clean disciplinary record. As such, he requests that the Board grant his petition.

In response, Agency argues that Employee's petition fails to challenge that he knowingly falsified records, namely the Crane Report that was submitted regarding the tow. It further notes that Employee's submission does not contest or address the AJ's findings pertinent to the substantive charges levied against him. Agency believes that the AJ's rulings are based on substantial evidence and accurate credibility determinations. Thus, it reasons that Employee is improperly second guessing the AJ's findings of veracity related to witness testimony. Agency reiterates its position that the penalty of termination was both warranted and appropriate based on a review of the *Douglas* factors and relevant case law. Consequently, it requests that the Board deny Employee's Petition for Review.

C. Deliberations – This portion of the meeting will be closed to the public for deliberations in accordance with D.C. Code § 2-575(b)(13).

D. Open Portion Resumes

E. Final Votes on Cases

F. Public Comments

VI. Adjournment

"This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov."

Minutes

D.C. OFFICE OF EMPLOYEE APPEALS (OEA) BOARD MEETING

Thursday, August 7, 2025

Location: Virtual Meeting Via Webex

Persons Present: Lasheka Brown (OEA General Counsel), Sheila Barfield (OEA Executive Director), Sommer Murphy (OEA Deputy General Counsel), Dionna Maria Lewis (OEA Board Chair), Arrington Dixon (OEA Board Member), Jeanne Moorhead (OEA Board Member), LaShon Adams (OEA Board Member), Pia Winston (OEA Board Member), Wynter Clarke (OEA Paralegal), Richard Glaze (Member of the Public), Joan Lelma (Member of the Public/BEGA), Employee 3 (Member of the Public), and Kasheyna McDonald (Member of the Public).

Call to Order – Dionna Lewis called the meeting to order at 9:34 a.m.

- I. Ascertainment of Quorum** – There was a quorum of Board members present for the office to conduct business.
- II. Adoption of Agenda** – Arrington Dixon moved to adopt the agenda. The agenda was adopted by the Board.
- III. Minutes from Previous Meeting** – May 29, 2025, meeting minutes were reviewed. There were no corrections. The minutes were accepted.
- IV. New Business**
 - A. Summary** — Dionna Lewis provided that a summary of the matters to be decided were provided in the agenda for this meeting. The summaries were posted to the OEA website, the Board of Ethics and Government Accountability's website, and printed and posted in OEA's front office. The matters to be decided are as follows:
 1. Employee v. D.C. Department of Motor Vehicles, OEA Matter No. J-0084-24
 2. Employee v. D.C. Fire and Emergency Medical Services, OEA Matter No. 1601-0012-24
 3. Employee v. D.C. Department of Corrections, OEA Matter No. 1601-0034-22R23
 4. Employee v. D.C. Department of Employment Services, OEA Matter No. 1601-0059-20
 5. Employee v. D.C. Department of Public Works, OEA Matter No. 1601-0071-23
 - B. Public Comments on Petitions for Review**
 1. The Employee in *Employee v. D.C. Department of Corrections*, OEA Matter No. 1601-0034-22R2, provided that Agency failed to meet its burden of proof pursuant to District Personnel Manual § 1637.7. Additionally, she asserted that the Performance Improvement Plan was unlawfully implemented. As a result, she requested that Agency's petition for review be denied.
 - C. Deliberations**— Arrington Dixon moved that the meeting be closed for deliberations in accordance with D.C. Code § 2-575(b)(13). All Board members voted in favor of closing the meeting. Dionna Lewis stated that the meeting was closed for deliberations.
 - D. Open Portion of Meeting Resumed**

E. Final Votes – Dionna Lewis provided that the Board considered all of the matters. The following represents the final votes for each case:

1. Employee v. D.C. Department of Motor Vehicles, OEA Matter No. J-0084-24

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis			X		
Arrington Dixon			X		
Jeanne Moorehead			X		
LaShon Adams			X		
Pia Winston			X		

Five Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

2. Employee v. D.C. Fire and Emergency Medical Services, OEA Matter No. 1601-0012-24

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis			X		
Arrington Dixon			X		
Jeanne Moorehead			X		
LaShon Adams			X		
Pia Winston			X		

Five Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

3. Employee v. D.C. Department of Corrections, OEA Matter No. 1601-0034-22R23

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis	X	X			
Arrington Dixon	X	X			
Jeanne Moorehead	X	X			
LaShon Adams	X	X			
Pia Winston	X	X			

Five Board Members voted in favor of granting Agency's Petition for Review and reversing the Initial Decision on Remand; therefore, Employee's termination is upheld.

4. Employee v. D.C. Department of Employment Services, OEA Matter No. 1601-0059-20

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis			X		
Arrington Dixon			X		
Jeanne Moorehead			X		
LaShon Adams			X		
Pia Winston			X		

Five Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

5. Employee v. D.C. Department of Public Works, OEA Matter No. 1601-0071-23

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis			X		
Arrington Dixon			X		
Jeanne Moorehead			X		
LaShon Adams			X		
Pia Winston			X		

Five Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

F. Public Comments

1. There were no public comments offered.

V. Adjournment – Arrington Dixon moved that the meeting be adjourned. All members voted affirmatively to adjourn the meeting. Dionna Lewis adjourned the meeting at 10:12 a.m.

Respectfully Submitted,
Wynter Clarke
Paralegal Specialist

September 18, 2025 Board Meeting

**DISTRICT OF COLUMBIA
OFFICE OF EMPLOYEE APPEALS**

NOTICE OF PUBLIC MEETING

The District of Columbia Office of Employee Appeals will hold a meeting on September 18, 2025, at 9:30 a.m. The Board will meet remotely. Below is the agenda for the meeting.

<https://dcnet.webex.com/dcnet/j.php?MTID=mb5aaee7c4097df519fdc0c9c6c881c33>

Password: Board (26274 when dialing from a phone or video system)

We recommend logging in ten (10) minutes before the meeting starts. In order to access Webex, laptop or desktop computer users must use Google Chrome, Firefox, or Microsoft Edge Browsers.

Smartphone/Tablets or iPad user must first go to the App Store, download the Webex App (Cisco Webex Meetings), enter the Access Code, and enter your name, email address, and click Join. It is recommended that a laptop or desktop computer be utilized for this platform.

Your computer, tablet, or smartphone's built-in speaker and microphone will be used in the virtual meeting unless you use a headset. Headsets provide better sound quality and privacy.

If you do not have access to the internet, please call-in toll number (US/Canada) 1-650-479-3208, Access code: 2314 758 3240

Questions about the meeting may be directed to wynter.clarke@dc.gov.

Agenda

D.C. OFFICE OF EMPLOYEE APPEALS (“OEA”) BOARD MEETING

Thursday, September 18, 2025, at 9:30 a.m.

Location: Virtual Meeting via Webex

I. Call to Order

II. Ascertainment of Quorum

III. Adoption of Agenda

IV. Minutes Reviewed from Previous Meeting

V. New Business

A. Public Comments on Petitions for Review

B. Summary of Cases

1. Employee v. D.C. Department of General Services, OEA Matter No. 1601-0079-22

– Employee worked as Special Police Officer with the District of Columbia Department of General Services (“Agency”). On July 25, 2022, Agency issued a final notice of removal to Employee. It charged him with neglect of duty pursuant to District Personnel Manual (“DPM”) § 1607.2(e). According to Agency, while Employee was on duty, he was assigned to post #9 at the District of Columbia National Guard (“DCNG”) building. At this assigned fixed post, Employee was required to remain on the post until he was relieved of his duties by another officer. However, Agency alleged that twice on February

21, 2022, Employee left his post without being relieved. According to Agency, the second time that Employee abandoned his post resulted in a security breach with an unauthorized person gaining access to the building. It was Agency's position that this breach put the building and its occupants at risk, and it required that the entire DCNG be placed in a lockdown mode. As a result, Agency terminated Employee from his position.

On August 22, 2022, Employee filed a Petition for Appeal with the Office of Employee Appeals ("OEA"). Employee argued that he made a request over the radio to be relieved to use the restroom. However, he alleged that he did not receive a response, so he left his post, which he maintained that he did not know was not allowed. According to Employee, his termination was unwarranted and amounted to disparate treatment because similarly situated Special Police Officers who were also charged with neglect of duty received less severe penalties. Additionally, he posited that the *Douglas* factors were not properly considered by Agency. Therefore, he requested that he be reinstated to his position and that Agency reimburse him for back pay and benefits.

On November 10, 2022, Agency filed its Answer to Employee's Petition for Appeal. It argued that as an armed Special Police Officer, Employee was required to maintain his post while on duty until he was relieved. It explained that Employee's abandonment of his post allowed an unknown person to wander into the facility, resulting in a lockdown. Agency contended that Employee's duties included screening individuals who entered the facility, in addition to protecting the safety of the workers within the facility. It opined that pursuant to DPM § 1607(e) the Table of Illustrative Actions, Employee was subject to removal for the first offense of abandoning his post on February 21, 2022, as the penalty ranges from counseling up to removal. It asserted that it did consider the *Douglas* factors and concluded that the security breach and lockdown that resulted from Employee's abandonment were so egregious that termination was warranted. As a result, it requested that Employee's termination be upheld.

After conducting a two-day evidentiary hearing, the OEA Administrative Judge ("AJ") issued an Initial Decision on April 14, 2025. He held that Agency established cause for Employee's failure to carry out official duties pursuant to the neglect of duty charge. The AJ found that the testimonies provided by witnesses Wilhelm, Leo, and Godwin were credible and contradicted Employee's assertions. He also found the video footage of Employee abandoning his post and footage of the intruder breaching his post to be clear and consistent with witness testimony. The AJ held that Employee abandoning his post was egregious because his express duty was to screen incoming people and provide armed security to the DCNG facility. As for Employee's disparate treatment argument, the AJ held that none of the comparators provided by Employee were similarly situated given the nature of Employee's actions. The AJ also opined that removal was within the range of penalties in the Table of Illustrative Actions and that Agency considered relevant factors before rendering its decision to terminate Employee. Consequently, the AJ upheld Agency's termination action.

Employee disagreed with the Initial Decision and filed a Petition for Review on May 23, 2025. He argues that Agency erroneously alleged that he had a duty to be relieved before leaving his post for breaks. Employee asserts that there was no post order requiring such, and he claims that he was not provided with training. It is Employee's position that he did not wait for another officer to relieve him because, based on past practice, he knew that the officers in post #1A were monitoring his post via video surveillance. Employee also argues that the AJ erroneously held that Agency's witnesses were credible and that

the *Douglas* factors were properly considered. As a result, he requests that the Board reverse the Initial Decision.

On July 10, 2025, Agency filed its Opposition to Employee's Petition for Review. It opines that Employee neglected to perform his job duties by leaving his post unmanned twice during one shift. Agency contends that this is untenable behavior for a Special Police Officer whose job is to secure the building to which he was assigned. It explains that the video and audio recordings clearly demonstrate Employee's neglect of duty. Finally, Agency contends that the AJ's credibility determinations were proper. As a result, it requests that Employee's Petition for Review be denied.

2. **Employee v. D.C. Office of the Chief Technology Officer, OEA Matter No. 1601-0019-25** – Employee worked as an Information Technology Specialist with the D.C. Office of the Chief Technology Officer (“Agency”). On December 5, 2024, Agency issued a Proposed Notice of Enforced Leave after it obtained reliable evidence that Employee had been “indicted on, arrested for, charged with, or convicted of a felony charge...” in accordance with Chapter 16, Section 1617.3(c) of the D.C. Municipal Regulations (“DCMR”). Specifically, Employee was charged with four felony counts of sex offenses in the District Court of Maryland for Montgomery County. Agency subsequently issued its final decision placing him on enforced leave effective January 9, 2025.

Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) on January 14, 2025. He argued that the criminal charges levied against him were of a personal nature that had nothing to do with his duties as a District employee. Employee further submitted that he was wrongfully punished based on unfounded accusations and not because of work performance issues or a criminal conviction. Finally, he highlighted that the regulations governing enforced leave were discretionary, not mandatory. As a result, Employee asked that Agency return him to full duty status.

Agency filed its answer on February 13, 2025. It asserted that it fully complied with 6-B DCMR § 1617 and Active Issuance I-202-1017 in placing Employee on enforced leave. Agency explained that Employee was placed on leave following his arrest in the State of Maryland for felony sex crimes. It expressed that Employee conceded that he was both arrested and charged criminally. Further, Agency opined that given the nature of the allegations and the court-mandated prohibition on contact with minors, Employee's presence at work would be inappropriate. Lastly, it reasoned that under 6-B DCMR § 1607.2(a)(3), Employee's placement on enforced leave was the only appropriate course of action. Thus, it requested that the leave action be sustained.

An OEA Administrative Judge (“AJ”) was assigned to the matter in February of 2025. The parties were then ordered to submit legal briefs addressing whether Employee's placement on enforced leave was taken in accordance with District laws and whether the penalty was appropriate under the circumstances. In his brief, Employee argued that the enforced leave action was unwarranted, especially in light of his service to the District government for over twenty-five years. He reiterated that the Maryland criminal charges were of a personal nature and had no bearing on his ability to perform the functions of his position. Employee also noted that he did not receive Agency's December 5, 2024, notice until December 12, 2024, after the United States Marshals confiscated his mailbox key. Additionally, Employee opined that the enforced leave action constituted double jeopardy because the inability to receive wages during this time imposed a significant financial burden on him. Therefore, he requested that Agency reconsider its decision to place him on enforced leave. Alternatively, Employee suggested that Agency could place

him in a fully remote capacity or deplete his annual leave.

The AJ issued an Initial Decision on May 6, 2025. First, she highlighted that under 6-B DCMR § 1617.3(c), an agency can place an employee on enforced leave when they have been indicted on, arrested for, charged with, or convicted of a felony charge. According to the AJ, the record demonstrated that Employee was arrested and later indicted on four felony charges in the State of Maryland as evidenced by the District Court of Maryland for Montgomery County's initial arrest affidavit, Employee's criminal records in the District Court of Maryland for Montgomery County, and the records from the Circuit Court of Maryland for Montgomery County. Thus, she ruled that both the arrest affidavit and Employee's own admission of his arrest could be relied upon in placing him on enforced leave.

Next, the AJ dismissed Employee's arguments regarding alternative penalties like remote work or depletion of his annual leave as irrelevant to Agency's enforced leave action. Because Employee was arrested and charged with four felonies, the AJ assessed that Agency was within its authority to place him on enforced leave in accordance with DCMR § 1617.3. As a result, she held that the Agency's actions were conducted in accordance with all applicable laws, rules, and regulations.

Employee subsequently filed a Petition for Review with the OEA Board on May 22, 2025. He requests that the Initial Decision be reconsidered because the underlying basis of the enforced leave action is no longer applicable. Specifically, Employee submits that as of May 21, 2025, the State of Maryland has "effectively lifted all the charges previously levied against me." According to Employee, a jury trial was conducted in Montgomery County, Maryland, wherein he was found not guilty on all counts. Thus, he reasons that the enforced leave action is moot in light of the verdict. Consequently, Employee asks that the enforced leave action be rescinded.

In response, Agency filed a Notice of Plaintiff's Defective Petition for Review. It contends that Employee's filing makes no reference to the record relied upon by the AJ; he fails to provide a condition under which a petition can be granted pursuant to OEA Rule 637.4; and Employee does not contest the AJ's interpretation or findings relative to the enforced leave action. Additionally, Agency suggests that Employee's purported acquittal of the criminal charges has no bearing on whether his placement on enforced leave should be upheld. Therefore, it believes that the Initial Decision is based on substantial evidence.

3. **Employee v. D.C. Fire & Medical Services Department, OEA Matter No. 1601-0050-23R25** — This matter was previously before the Board. Employee worked as a Firefighter/Emergency Medical Technician ("FF/EMT") with the Department of Fire and Emergency Medical Services ("Agency"). On December 30, 2020, he was arrested by the Prince George's County Police Department for possession of a stolen handgun, possession of a loaded handgun on his person, and possession of a loaded handgun in a vehicle, hereinafter ("Case No. U-21-087"). On March 14, 2021, Employee was arrested again in Prince George's county for second degree assault, acting in a disorderly manner, resisting arrest, and obstructing and hindering a police officer, hereinafter ("Case No. U-21-154").

As a result of Case No. U-21-087, Employee was charged with any on-duty or employment-related act or omission that the employee knew or should reasonably have known is a violation of the law; any act which constitutes a criminal offense whether or not the act results in a conviction; and any on-duty or employment-related act or omission

that interferes with the efficiency or integrity of government operations to include: neglect of duty. As a result of Case No. U-21-154, Employee was similarly charged with any on-duty or employment-related act or omission that the employee knew or should reasonably have known is a violation of the law; any act which constitutes a criminal offense whether or not the act results in a conviction; and any on-duty or employment-related act or omission that interferes with the efficiency or integrity of government operations to include: neglect of duty. The effective date of Employee's termination was June 24, 2023.

Agency subsequently sought review of the March 15, 2024, Initial Decision with the OEA Board. On January 16, 2025, the Board issued an Opinion and Order on Petition for Review remanding the matter to the AJ. It provided that current case law dictated that Agency's use of the 2012 DPM was proper; thus, the AJ's finding to the contrary constituted a reversible error. Additionally, the Board concluded that the AJ failed to make findings related to how, or if, Employee's conduct on December 30, 2020, and March 14, 2021, adversely and materially affected, or was likely to affect, the efficiency of government operations or the performance of Employee's duties. It noted that Article VII, Section 2 of Agency's Order Book did not require a nexus between Employee's off-duty conduct and his position, and members were not required to be on duty as a perquisite to imposing discipline. Since the record was devoid of the aforementioned analyses based on the correct regulations, the Board could not determine if the Initial Decision was based on substantial evidence. As a result, the matter was remanded to be adjudicated based on an analysis of the 2012 regulations and Agency's Order Book.

The AJ issued an Amended Initial Decision on Remand on May 30, 2025. In measuring whether Agency's termination action was taken in accordance with the 2012 DPM and Article VII, Section 2 of the Order Book, the AJ held that while Employee's misconduct on December 30, 2020, and March 14, 2021, occurred while he was off duty, his actions nonetheless adversely and materially affected Agency operations. She assessed that Employee was in possession of a loaded handgun; he failed to inform officers that he was in possession of the weapon; and he acted in a disorderly manner when resisting arrest during the March 14, 2021, incident. Thus, she ruled that Employee's actions directly conflicted with Agency's mission and core values of bravery, accountability, safety, and integrity. The AJ further noted that Article VII did not require a nexus between Employee's conduct and his duties as an FF/EMT. As such, she held that Agency met its burden of proof in establishing the charges of any on-duty or employment-related act or omission that the employee knew or should reasonably have known is a violation of the law and neglect of duty. Finally, she concluded that termination was within the range of penalties permitted by law. Consequently, Employee's removal was upheld on remand.

Employee filed a Petition for Review with the OEA Board on June 5, 2025. He presents many of the same arguments previously submitted to the AJ. Employee further espouses that his petition should be granted because the AJ's rulings are not based on substantial evidence; new and material evidence is available that was unavailable when the record was closed; and the AJ did not address all issues of law and fact properly raised on appeal. According to Employee, the AJ erred in concluding that he failed to mail a physical copy of his legal brief in response to the February 19, 2025, briefing order. Accordingly, he believes that the matter should be remanded again for the AJ to reconsider his substantive claims because his arguments were not considered in her remand decision. Employee also requests that the Board discipline the AJ for failing to render a decision on the entire record.

In response, Agency asserts that Employee's petition to the Board was untimely under OEA Rule 637.2. It submits that he offers no compelling basis for disregarding his duty to file a petition for review one day beyond the deadline. Agency highlights that while Employee's courtesy email filing of his brief on remand was not considered in the April 30, 2025, remand decision, the AJ corrected the administrative mistake and rendered an Amended Decision on Remand which considered Employee's substantive arguments. Consequently, it opines that the Amended Decision on Remand is based on substantial evidence.

4. **Employee v. Metropolitan Police Department, OEA Matter No. 1601-0072-22R23**
— This matter was previously before the Board. Employee worked as a CCTV Evidence Specialist with the Metropolitan Police Department ("Agency"). Employee was served with a Fifteen-Day Advanced Notice of Proposed Adverse Action based on charges of conduct prejudicial to the District government; conduct that employee should reasonably know is a violation of the law; and off-duty conduct that adversely affects the employee's job performance or adversely affects his or her agency's mission or has an otherwise identifiable nexus to the employee's position. Agency's notice initially proposed a thirty-day suspension, but its final decision reduced the imposed penalty to a fifteen-day suspension with seven days held in abeyance. Thereafter, Agency unilaterally rescinded the seven days held in abeyance and updated Employee's records to reflect that the final imposed discipline was an eight-day suspension. Employee served the suspension from September 6, 2022, through September 15, 2022.

The Office of Employee Appeals ("OEA") Administrative Judge ("AJ") issued an Initial Decision on January 26, 2023, finding that OEA lacked jurisdiction over Employee's appeal. In support thereof, he highlighted OEA's governing statute, Title 1, Chapter 6, Subchapter VI of the D.C. Code (2001), which provided *inter alia* that an employee may appeal to this Office suspensions for ten days or more. The AJ noted that the adverse action in this case was rescinded with Employee only having suffered an eight-day suspension. Hence, the AJ concluded that at best, the current appeal constituted a corrective action. Consequently, Employee's appeal was dismissed.

On Petition for Review, the OEA Board ruled that the Initial Decision was not based on substantial evidence. It provided that Employee's suspension was unilaterally reduced nearly four months after Agency issued the final notice of adverse action; there was no evidence in the record to demonstrate that Employee consented to the reduction of the proposed penalty; Agency's subsequent decision to reduce the imposed penalty after Employee filed his petition with OEA could not be used as a basis for denying jurisdiction over the current appeal; and Agency's final notice of adverse action met the threshold for jurisdiction in accordance with D.C. Code § 1-606.03(a). Therefore, the matter was remanded to the AJ for adjudication on its merits.

The AJ held a status conference on September 21, 2023. The parties were subsequently ordered to submit briefs addressing whether Agency complied with all applicable laws, rules, and regulations when it suspended Employee for eight days with seven days held in abeyance. Agency's brief argued that Employee was disciplined for cause because he did not dispute the underlying misconduct that formed the basis of the adverse action. According to Agency, it was undisputed that Employee violated Virginia Code § 46.2-862 (Reckless Driving) on July 13, 2015, when he was issued a Virginia Uniform Summons for driving 106 miles per hour ("mph") in a 70-mph zone. It further provided that it was undisputed that Employee was arrested on the associated contempt of court capias warrant by the Metropolitan Washington Airports Authority Police Department on November 11, 2015. Plus, Employee was later found guilty of reckless driving on

January 27, 2016, in Smyth County District Court. Thus, it reasoned that Employee's actions constituted conduct that an employee should reasonably have known is a violation of the law and conduct prejudicial to the District government. Finally, Agency opined that the imposed suspension was warranted based on an assessment of the *Douglas* factors and the Table of Illustrative Actions. As a result, it requested that the AJ sustain Employee's suspension.

In response, Employee contended that his off-duty conduct did not adversely affect his job performance, trustworthiness, or Agency's mission, citing his exemplary work performance in the execution of his duties. He asserted that his suspension violated the federal statute of limitations for initiating an adverse action because the arrest occurred over seven years prior to Agency issuing its Advanced Notice of Proposed Adverse Action. Additionally, Employee believed that Agency failed in its duty to orient or train him on the reporting requirements related to arrests and criminal convictions for civilian employees. According to him, Agency's suspension action also constituted double jeopardy.

As it related to the penalty, Employee opined that Agency was not reasonable, fair, or consistent in its discipline and that it erred by failing to institute progressive discipline. He further claimed that Agency engaged in discrimination by purposefully waiting until he turned forty years old to initiate the suspension action. Lastly, Employee submitted that his off-duty conduct was not a willful violation of any law or regulation. Consequently, he requested compensation for lost time, work benefits, medical costs, and damages suffered as a result of Agency's suspension action.

The AJ issued an Initial Decision on Remand on May 13, 2025. Concerning Employee's claim of double jeopardy, the AJ clarified that this legal theory was derived from the Fifth Amendment of the U.S. Constitution prohibiting repeated litigation of criminal matters involving the same or a similar offense. He noted that Agency's adverse action was a civil matter, therefore this concept did not apply to the instant appeal. The AJ went on to explain that Employee may have conflated double jeopardy with the concept of res judicata or claim preclusion, which also failed because the State of Virginia was the opposing party in the criminal matter, not Agency, and because the charges in Virginia were criminal, whereas the adverse action at hand was a civil matter.

He also found Employee's federal statute of limitation argument disingenuous because Agency only discovered his misconduct in 2022 after the Internal Affairs Department instituted its own investigation which ultimately led to the suspension action. Moreover, the AJ concluded that Agency's General Orders provided guidelines for all civilian employees which included the requirement that all members familiarize themselves with all governing regulations. As it related to the substantive charges, he ruled that Employee admitted to the salient facts that were the subject of the instant adverse action. Thus, it was the AJ's position that Employee's admission to the underlying conduct was sufficient to meet Agency's burden of proof. Lastly, he concluded that the imposed eight-day suspension was within the range allowed by law. Therefore, Agency's adverse action was upheld.

Employee filed a Petition for Review with the OEA Board on July 16, 2025. He argues that Agency violated D.C. Code § 12-301 by waiting seven years to initiate discipline against him. Employee also believes that Agency ran afoul of the federal statute of limitations for enforcing government actions. He further submits that Agency committed a reversible error by failing to adhere to the requirements of Chapter 6-B, Sections 406.1, 415.3, and 415.4 of the D.C. Municipal Regulations ("DCMR"), which govern enhanced

suitability screenings for District employees. As a result, Employee believes that the Initial Decision is contrary to law and requests that the Petition for Review be granted.

Agency challenges each of Employee's arguments and maintains that there is no evidence to demonstrate that he held a safety, security, or protection sensitive position such that frequent background checks were required. It further asserts that there was no statute of limitations violation in commencing the instant adverse action because both D.C. Code § 12-301 and the statutory timelines for initiating civil government actions are inapplicable to Employee's administrative discipline. Thus, Agency believes that it acted timely when it first learned of Employee's misconduct. It reiterates that Employee admitted to all of the misconduct underlying the adverse action, so the eight-day suspension was both warranted and reasonable under the circumstances. Consequently, it asks that the petition be denied.

C. Deliberations – This portion of the meeting will be closed to the public for deliberations in accordance with D.C. Code § 2-575(b)(13).

D. Open Portion Resumes

E. Final Votes on Cases

F. Public Comments

VI. Adjournment

“This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.”

Minutes

D.C. OFFICE OF EMPLOYEE APPEALS (OEA) BOARD MEETING

Thursday, September 18, 2025

Location: Virtual Meeting Via Webex

Persons Present: Lasheka Brown (OEA General Counsel), Sheila Barfield (OEA Executive Director), Sommer Murphy (OEA Deputy General Counsel), Dionna Maria Lewis (OEA Board Chair), Jeanne Moorhead (OEA Board Member), LaShon Adams (OEA Board Member), Pia Winston (OEA Board Member), Wynter Clarke (OEA Paralegal), and Kimberly Brown (Member of the Public).

Call to Order – Dionna Lewis called the meeting to order at 9:40 a.m.

- I. Ascertainment of Quorum** – There was a quorum of Board members present for the office to conduct business.
- II. Adoption of Agenda** – Pia Winston moved to adopt the agenda. The agenda was adopted by the Board.
- III. Minutes from Previous Meeting** – August 7, 2025, meeting minutes were reviewed. There were no corrections. The minutes were accepted.
- IV. New Business**
 - A. Summary** — Dionna Lewis provided that a summary of the matters to be decided were provided in the agenda for this meeting. The summaries were posted to the OEA website, the Board of Ethics and Government Accountability's website, and printed and posted in OEA's front office. The matters to be decided are as follows:
 1. Employee v. D.C. Department of General Services, OEA Matter No. 1601-0079-22
 2. Employee v. D.C. Office of the Chief Technology Officer, OEA Matter No. 1601-0019-25
 3. Employee v. D.C. Fire and Emergency Medical Services Department, OEA Matter No. 1601-0050-23R25
 4. Employee v. Metropolitan Police Department, OEA Matter No. 1601-0072-22R23
 - B. Public Comments on Petitions for Review** – There were no public comments offered.
 - C. Deliberations** – Pia Winston moved that the meeting be closed for deliberations in accordance with D.C. Code § 2-575(b)(13). All Board members voted in favor of closing the meeting. Dionna Lewis stated that the meeting was closed for deliberations.
 - D. Open Portion of Meeting Resumed**
 - E. Final Votes** – Dionna Lewis provided that the Board considered all of the matters. The following represents the final votes for each case:
 1. **Employee v. D.C. Department of General Services, OEA Matter No. 1601-0079-22**

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis			X		
Jeanne Moorehead			X		
LaShon Adams			X		
Pia Winston			X		

Four Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

2. Employee v. D.C. Office of the Chief Technology Officer, OEA Matter No. 1601-0019-25

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis			X		
Jeanne Moorehead			X		
LaShon Adams			X		
Pia Winston			X		

Four Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

3. Employee v. D.C. Fire and Emergency Medical Services Department, OEA Matter No. 1601-0050-23R25

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis			X		
Jeanne Moorehead			X		
LaShon Adams			X		
Pia Winston			X		

Four Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

4. Employee v. Metropolitan Police Department, OEA Matter No. 1601-0072-22R23

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Dionna Lewis			X		
Jeanne Moorehead			X		
LaShon Adams			X		
Pia Winston			X		

Four Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

F. Public Comments

1. There were no public comments offered.

V. Adjournment – Pia Winston moved that the meeting be adjourned. All members voted affirmatively to adjourn the meeting. Dionna Lewis adjourned the meeting at 10:02 a.m.

Respectfully Submitted,
Wynter Clarke
Paralegal Specialist

OEA Board Meeting Agendas and Minutes

for Fiscal Year 2026

November 6, 2025 Board Meeting

**DISTRICT OF COLUMBIA
OFFICE OF EMPLOYEE APPEALS**

NOTICE OF PUBLIC MEETING

The District of Columbia Office of Employee Appeals will hold a meeting on November 6, 2025, at 9:30 a.m. The Board will meet remotely. Below is the agenda for the meeting.

Members of the public are welcome to observe the meeting. In order to attend the meeting, please visit:
Password: Board (26274 from phones and video systems)

<https://dcnet.webex.com/dcnet/j.php?MTID=m86cc3d5d1c618b18dcd6b05c9d219f6e>

We recommend logging in ten (10) minutes before the meeting starts. In order to access Webex, laptop or desktop computer users must use Google Chrome, Firefox, or Microsoft Edge Browsers.

Smartphone/Tablets or iPad user must first go to the App Store, download the Webex App (Cisco Webex Meetings), enter the Access Code, and enter your name, email address, and click Join. It is recommended that a laptop or desktop computer be utilized for this platform.

Your computer, tablet, or smartphone's built-in speaker and microphone will be used in the virtual meeting unless you use a headset. Headsets provide better sound quality and privacy.

If you do not have access to the internet, please call-in toll number (US/Canada) 1-650-479-3208, Access Code: 2307 176 0106

Questions about the meeting may be directed to wynter.clarke@dc.gov.

Agenda

D.C. OFFICE OF EMPLOYEE APPEALS ("OEA") BOARD MEETING

Thursday, November 6, 2025, at 9:30 a.m.

Location: Virtual Meeting via Webex

I. Call to Order

II. Ascertainment of Quorum

III. Adoption of Agenda

IV. Minutes Reviewed from Previous Meeting

V. New Business

A. Public Comments on Motion for Interlocutory Appeal

B. Summary of Motion for Interlocutory Appeal

- 1. Employee v. Department of Youth Rehabilitation Services, OEA Matter No. 1601-0036-19C23** — Employee worked as a Youth Development Representative ("YDR") with the Department of Youth Rehabilitation Services ("Agency"). On September 10, 2018, Agency issued a Notification of Charge of Absence Without Official Leave ("AWOL"), notifying Employee that she was placed in AWOL status for a total of forty hours between August 20, 2018, and August 26, 2018. On November 29, 2018, Agency issued an Advance Written Notice of Proposed Removal, charging Employee with 1) inability to carry out assigned responsibilities or duties and 2) attendance-related offenses.

Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) on February 28, 2019. Agency filed a Motion to Dismiss and Answer to Employee’s Petition for Appeal on April 1, 2019. The OEA Administrative Judge (“AJ”) issued an Initial Decision on February 3, 2022. Concerning the penalty, the AJ provided that both the proposing and deciding officials only referred to the attendance-related offenses to support Agency’s selection of the penalty. Since this charge was reversed, she remanded the matter to Agency to determine what penalty, if any, was appropriate based on the remaining charge of inability to carry out assigned duties.

Agency filed a Petition for Review with the OEA Board on March 10, 2022. The Board issued an Opinion and Order on Petition for Review on June 30, 2022. It ruled that the AJ’s decision to remand the matter to Agency for reconsideration of the penalty was based on substantial evidence. Therefore, Agency’s Petition for Review was denied, and the matter was remanded to Agency to reconsider the imposed penalty.

According to Agency, during a November 2, 2022, Fitness for Duty Examination, Employee was evaluated by Dr. Karen Singleton, who determined that Employee was not capable of performing the essential functions of the YDR position. Dr. Singleton further concluded that there were no accommodations that would permit Employee to safely perform her duties. Agency’s Human Resources Director then conducted a review of Employee’s resume in concert with all vacancies but determined that there were no positions for which Employee was qualified at her listed grade level. As a result, Agency issued a Final Agency Decision: Removal to Employee on May 4, 2023, because it opined that termination was the only reasonable penalty.

Employee filed a second Petition for Appeal in relation to this matter on June 5, 2023. Agency filed its answer on June 30, 2023. During an August 18, 2023, prehearing conference, the AJ gleaned that Employee’s June 5th filing constituted a challenge to Agency’s compliance with the Board’s order remanding the matter for reconsideration of the penalty. Agency was subsequently ordered to submit a statement of compliance to the AJ no later than March 22, 2024. In response, Agency asserted that in the absence of any option to retain Employee, its proposed her removal was consistent with 6-B DCMR §§ 1605.4(n) and 1607.2(n) because it was determined that Employee could not perform the essential functions of her job. Employee filed a rebuttal to Agency’s compliance statement on June 10, 2024. Agency was then ordered to supplement the record with additional documentation pertinent to Employee’s ankle fracture so that the AJ could determine if Agency properly considered the injury during the fitness evaluation.

On January 29, 2025, the AJ issued a *sua sponte* order requesting further information from Employee’s evaluating physicians, including their resumes, medical qualifications, physical examination results, and other medical opinions. Agency requested reconsideration of the AJ’s order on February 18, 2025, citing issues of confidentiality and the lack of expert witness qualification. The AJ denied the motion in a February 24, 2025, order, and Agency was again directed to submit the documentation identified in the previous order. On March 4, 2025, Agency filed a Motion for Certification of Interlocutory Appeal and Request for Stay of Proceedings contesting the AJ’s February 24th order. The AJ stayed the proceedings on March 10, 2023, but did not certify the matter to the Board.

On June 17, 2025, AJ Lim issued an order informing the parties that the matter was reassigned to him after AJ Hochhauser, who was previously assigned to this matter, left the employ of OEA. The order directed the parties to provide electronic copies of all relevant documents pertaining to the matter including the “[Initial Decision], Opinion &

Order, Motion for Compliance, Motion for Interlocutory Appeal, etc.” He clarified that the “purpose of which is to discuss this matter so that I can determine the best path forward with regards to this appeal.”

During a July 7, 2025, status conference, the parties discussed Employee’s request for leave to file a motion for summary judgment, AJ Hochhauser’s January 29th and February 24th orders, and Agency’s motion to certify an interlocutory appeal of the order to the OEA Board. The AJ informed the parties of his intention to revoke AJ Hochhauser’s orders, and Agency provided that it would submit a formal request to withdraw its request for certification. The July 7, 2025, Order revoked AJ Hochhauser’s January 29, 2025, order, and Employee was also directed to submit her motion for summary judgment no later than July 18, 2025.

Agency submitted a written notice to withdraw its request to certify an interlocutory appeal on July 10, 2025. On July 14, 2025, the AJ accepted Agency’s withdrawal and revoked the February 24th order. Employee filed a Motion for Summary Judgment on August 14, 2025, and Agency filed its response on August 29, 2025.

On September 3, 2025, Employee filed an Affidavit in Support of Motion to Recuse the Reassigned Administrative Judge. In response, Agency filed an opposition to Employee’s recusal motion on September 10, 2025. The AJ issued an Order on Recusal on September 16, 2025, denying Employee’s motion. On September 23, 2025, Employee filed an interlocutory appeal of the AJ’s denial of the Motion for Recusal with the OEA Board. She argues that the AJ (1) failed to impose sanctions for *ex parte* communications by Agency; (2) exhibited bias against Employee at the July 7, 2025, status conference; and (3) displayed bias or prejudice by revoking orders originally issued by AJ Hochhauser. Thereafter, the AJ issued an order certifying Employee’s appeal to the OEA Board, noting that while it was not titled as such, this Office would treat her filing as a Motion for Certification of Interlocutory Appeal. The issue before this Board is whether the AJ should be disqualified from adjudicating this matter.

C. Public Comments on Petitions for Review

D. Summary of Cases

- 1. Employee v. Office of the Chief Technology Officer, OEA Matter No. 1601-0083-22R24R25** — This matter was previously before this Board. Employee worked as an Information Technology Specialist for the Office of the Chief Technology Officer (“Agency”). On August 31, 2022, Agency issued a final notice of separation removing Employee from his position. Employee was charged with falsifying time entries, in violation of 6-B District of Columbia Municipal Regulations (“DCMR”) §§ 1607.2(c)(1) – knowing submission of (or causing or allowing the submission of) falsely stated time logs, leave forms, travel or purchase vouchers, payroll, loan, or other fiscal documents and 1607.2(b)(2) – misrepresentation, falsification, or concealment of material facts or records in connection with an official matter, including investigations. Agency alleged that Employee falsified time logs by submitting entries for hours not worked between August 4, 2021, and February 11, 2022, which resulted in Agency overpaying \$53,391.66 in wages to Employee. Additionally, Agency contended that during its investigation, Employee provided conflicting answers and refused to answer questions related to the overpayment of funds. Consequently, Employee was terminated.

On September 30, 2022, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”). He argued that he did not knowingly submit false time logs.

Employee contended that he was unaware that PeopleSoft was automatically inputting his time. As a result, he requested that the termination action be rescinded and that he be reinstated to his previous position.

According to Agency, Employee admitted that he manually input his time for days he reported to work in-person, which was a direct violation of its Exception Time Reporting (“ETR”) policy. Moreover, it argued that Employee received ETR training and was aware that manually entering his regular hours constituted a violation of its policy and that his actions could have resulted in an overpayment of wages. Agency also asserted that Employee misrepresented, falsified, or concealed material facts during an official investigation. Further, it contended that based on the Table of Illustrative Actions in 6-B DCMR § 1607.2, removal was appropriate given Employee’s conduct. Agency explained that it considered the *Douglas* factors when selecting the penalty of removal. Therefore, it requested that the Petition for Appeal be dismissed.

The Administrative Judge (“AJ”) issued an Initial Decision on July 18, 2023. She held that Employee accurately submitted his time manually into the PeopleSoft system, which was approved by his supervisor. The AJ noted that PeopleSoft automatically recorded the time for the same period that Employee submitted his time; thereby, prompting the payroll system to consider the additional time entered by Employee as overtime pay. Moreover, she determined that although Employee’s lengthy history of complying with the ETR policy proved that he was aware of how to accurately report his time, Agency failed to consider the impact that the Covid-19 Public Health Emergency had on its time recording policy. The AJ reasoned that Agency failed to prove that Employee knowingly submitted, or allowed the submission of, falsified time logs into the payroll system. Furthermore, she held that Employee did not misrepresent, falsify, or conceal material facts or records in connection with Agency’s investigation. According to the AJ, Employee offered to repay the overpayment with one \$25,000 installment, followed by smaller installments. Consequently, she concluded that Agency lacked cause to terminate Employee. As a result, she ordered that Employee be reinstated and that Agency reimburse Employee all back pay and benefits lost, less the overpayment amount of \$53,391.66.

Agency disagreed with the Initial Decision and filed a Petition for Review with the OEA Board on August 23, 2023. It contended that the AJ’s decision regarding its misrepresentation and falsification charges were based on an erroneous interpretation of the regulations and its policy. Agency claimed that its ETR policy remained the same throughout, and after, the pandemic. It further maintained that employees were required to use PeopleSoft to manually enter time when working outside of the office and could not enter time for hours worked in the office. Thus, Agency argued that the AJ incorrectly determined that Employee accurately submitted his time manually; that Agency failed to consider the impact of the pandemic on its ETR policy; and that Agency did not meet its burden of proof to establish that Employee knowingly submitted false time logs. Accordingly, it requested that the Board grant its petition because the AJ’s conclusions of law were unsupported by the record, and the decision was based on an erroneous interpretation of OEA’s regulations and Agency’s policies.

On September 27, 2023, Employee filed a Response to Agency’s Petition for Review. He opined that the AJ correctly determined that Agency failed to offer proof of his intent to falsify his time logs. Employee argued that the AJ took judicial notice that all District employees were required to use the time reporting code “STTW” while teleworking during the Covid-19 Public Health Emergency, which represented a change in policy for reporting time prior to the pandemic. Finally, he contended that Agency lacked proof that

Employee offered inconsistent statements or concealed evidence during its investigation. Therefore, Employee requested that Agency's Petition for Review be denied.

The OEA Board found that the Initial Decision was not based on substantial evidence. Moreover, it determined that the Initial Decision did not address all material issues of fact in this case. The Board explained that although the AJ requested briefs from both parties, the briefs offered conflicting facts, and the documents submitted created more questions than answers. Thus, rendering it harder for the Board to rule that the Initial Decision was based on substantial evidence.

The Board also held that the parties' positions regarding time reporting pre-pandemic, during the pandemic, and after the pandemic contradicted each other. As it related to the misrepresentation, falsification, or concealment of material facts in connection with an investigation, the Board held that a review of Agency's investigation offered evidence of Employee being evasive or providing no response to several questions. It further opined that Employee seemed to concede that he refused to answer questions during the investigation because he felt that the investigator was "badgering" him. Accordingly, the Board remanded the case to the AJ to adequately address the material issues of facts in dispute.

On September 23, 2024, the AJ issued an Initial Decision on Remand. She determined that Agency's ETR time entry procedure did not change during or after the pandemic. Accordingly, she held that Employee violated the time entry policy and should have allowed the system to automatically enter eight hours of regular pay instead of manually entering the hours himself, which resulted in the overtime payments. However, she found that there was no evidence that Employee knowingly supplied incorrect information with the intention of defrauding, deceiving, or misleading Agency and that he provided a plausible explanation to negate an intent to deceive or mislead Agency. Moreover, the AJ opined that Employee had a duty to answer questions during the investigation, and she found that Employee did not answer the questions or found his answers to be evasive. However, she ruled that Employee's responses were not intended to defraud or mislead Agency for his own private gain. Accordingly, she again reversed Agency's termination action and ordered that Employee be reinstated with backpay, less the \$53,391.66 overpayment.

Agency disagreed and filed another Petition for Review on October 28, 2024. It argued that the AJ erroneously interpreted the law applicable to Employee's violation of DCMR § 1607.2(b)(2) by insisting that there be an intent to defraud, deceive, or mislead Agency for a private material gain. As for the misrepresentation, falsification, or concealment charge, Agency opined that although the AJ found that Employee had a duty to cooperate with the investigation and failed to do so, she, again, erroneously relied on the intent to defraud, deceive, or mislead for private material gain element. According to Agency, this is a higher burden and should not have been imposed. Therefore, it requested that the OEA Board reverse the Initial Decision on Remand.

On December 9, 2024, Employee filed his response to Agency's Petition for Review and argued that while DCMR § 1607.2(b)(2) does not explicitly provide a private material gain requirement, it does not mean that it cannot be imputed to the requirements for proving the charge. Thus, according to Employee this is not a basis for reversing the Initial Decision on Remand. He also asserted that he did not have the requisite intent and that there was a lack of rebuttal witnesses who could have contradicted his version of events. Therefore, Employee requested that the Petition for Review be denied.

The OEA Board issued its Second Opinion and Order on Petition for Review. It found that the Initial Decision on Remand was not based on substantial evidence. The Board held that the AJ erred in holding that Agency must prove by preponderance of evidence that Employee knowingly supplied incorrect information with the intent of defrauding, deceiving, or misleading Agency. Additionally, it opined that although the AJ found that Employee's time entry reporting was plausible, the AJ's analysis was based on the incorrect DCMR subsections. Moreover, the Board held that historically, OEA Administrative Judges have correctly relied on an analysis that did not include the private material gain requirement. Therefore, the Board remanded the matter for the AJ to consider the merits of the case while applying the applicable regulations and case law.

On June 11, 2025, the AJ issued her Second Initial Decision on Remand. She held that the record is void of any evidence to suggest that Employee knowingly submitted false time logs for hours not worked. According to the AJ, knowingly is defined as "an attempt to commit fraud" pursuant to the Black's Law Dictionary (12th ed. 2024). The AJ further found that Employee did not deliberately enter his time incorrectly and therefore, was not in violation of 6-B DCMR § 1607.2(c)(1). Additionally, she conceded that Employee's answers during the August 1, 2022, video interview appeared evasive and that he failed to respond to some questions. The AJ concluded that pursuant to 6-B DCMR § 1607.2(b)(2), his responses were not intended to mislead, misrepresent, conceal, or falsify material facts in connection with the investigation. She also determined that Employee's answers were consistent and that his refusal to answer repeated questions was valid, as he felt badgered. Finally, the AJ ruled that Agency lacked cause for its adverse action against Employee. Consequently, she reversed Agency's termination action and ordered that Employee be reinstated with backpay, less the \$53,391.66 overpayment.

Agency disagreed with the Second Initial Decision on Remand and filed a Petition for Review on July 16, 2025. It contends that the AJ's findings regarding the 6-B DCMR §§ 1607.2 (c)(1) and 1607.2(b)(2) charges are based on erroneous interpretations of law and lack substantial evidence. Agency further asserts that the AJ improperly modified the factual findings of the Second Initial Decision on Remand. It argues that the AJ applied the incorrect definition of "knowing" derived from a non-binding source, Black's Law Dictionary, and misrepresented that definition. Accordingly, Agency requests that the OEA Board reverse the Second Initial Decision on Remand, or if further proceedings are necessary, reassign the matter to an impartial Administrative Judge.

On August 21, 2025, Employee filed his Response to Agency's Petition for Review. He argues that the AJ neither erred nor exceeded her authority in referencing 6-B DCMR §§ 1607.2 (c)(1) and 1607.2(b)(2), in the Second Initial Decision on Remand. Employee maintains that the AJ's interpretation of the term "knowingly" was supported by substantial evidence and complied with the Board's remand instructions. He also asserts that the AJ acted within her discretion in concluding that Agency failed to meet its burden of proof. As a result, Employee requests that Agency's Petition for Review be denied.

- 2. Employee v. D.C. Department of For-Hire Vehicles, OEA Matter No. J-0013-24** — Employee worked as a Vehicle Inspection Officer with the D.C. Department of For-Hire Vehicles ("Agency"). On November 20, 2023, Agency issued a notice terminating Employee from her position. According to Agency, Employee was placed on administrative leave on November 20, 2023. The effective date of Employee's removal was December 4, 2023.

Employee filed a Petition for Appeal with the Office of Employee Appeals ("OEA") on

December 4, 2023. She argued that she was in a Career Permanent status, not a probationary status, at the time of termination. Employee contended that she was hired with Agency on October 9, 2022, and her probationary status concluded on October 9, 2023. Thus, she asserted that she was a Career Service employee at the time of termination. Accordingly, she requested that she be reinstated to her position.

On January 3, 2024, Agency filed its response to Employee's Petition for Appeal. It argued that Employee's probationary period was extended because she used 310 hours of Paid Family Leave ("PFL"). Agency explained that Employee's original one-year probationary period was set to expire on October 9, 2023; however, pursuant to District Personnel Manual ("DPM") §§ 225.5 and 1286.9, her probationary period was extended by the duration of the paid family leave. As a result, it argued that Employee was still within her probationary period at the time of her termination. Accordingly, Agency opined that OEA lacked jurisdiction over the appeal and requested that the matter be dismissed.

Before the OEA Administrative Judge ("AJ") issued her Initial Decision, she requested that the parties submit briefs on whether Employee's appeal should be dismissed for lack of jurisdiction. In her brief, Employee argued that her employment contract specified a one-year probationary period, set to conclude on October 9, 2023. During her tenure, she applied for PFL and contended that in accordance with DPM §§ 224.3 and 1286.9, a probationary employee who applies for PFL is required to enter into a one-year Continuation of Service Agreement. Employee asserted that this agreement must be signed by the employee to receive PFL hours and that it extends the probationary period based on the amount of PFL hours used. She further contended that she was not serving a probationary period at the time of her termination and was, therefore, entitled to the rights and protections of a Career Service employee.

In its brief, Agency asserted that OEA lacked jurisdiction over probationary employees. It argued that Employee was designated as a probationary employee because her probationary period was automatically extended when she took PFL to care for a family member. Further, Agency opined that Employee was not entitled to notice because DPM § 225 does not mandate that any notice be given as to the extensions or completion of probationary periods.

Agency contended that D.C. Human Resources ("DCHR") published formal guidance on probationary periods through Issuance I-2021-33. It is Agency's position that an agency cannot observe an employee's job readiness for a permanent position when an employee is on PFL, so DCHR has made clear that workdays for which an employee used PFL do not count toward the completion of the probationary period. Further, Agency noted that the use of the PFL added over seven weeks to her probationary period. Thus, it determined that Employee's probationary period ended no earlier than November 27, 2023. As a result, Agency requested that Employee's appeal be dismissed.

On July 1, 2025, the AJ issued her Initial Decision. She agreed with Agency and held that Employee was required to complete a new probationary period when she accepted the Vehicle Inspection Officer position. The AJ reasoned that Employee's position with Agency had a different licensure, certification, or other similar requirement as provided in DPM § 226.2(c) compared to her previous position as a Correctional Officer. Additionally, the AJ found that Employee was still in a probationary status as of her effective date of termination, December 4, 2023. She found that Employee was hired on October 9, 2022, and was subject to a one-year probationary period and her probationary period was set to conclude on or around October 9, 2023. However, in May of 2023,

Employee was granted PFL and ultimately used 310 hours of PFL between June 2023 and November 2023. The AJ opined that Employee's work schedule and calculation of PFL hours extended her probationary period by the length of the paid family leave, pursuant to DPM § 225.5. Moreover, she agreed that DCHR Issuance I-2021-33 provided further guidance and clarified that any administrative leave provided prior to termination does not count toward the completion of the probationary period. The AJ determined that use of administrative leave from November 20, 2023, to December 4, 2023, had the effect of tolling the calculation of days towards Employee's probationary period, and extended her period beyond November 29, 2023.

Employee filed a Petition for Review with the OEA Board on July 25, 2025. She argues that the AJ's decision was not supported by substantial evidence because she improperly relied on DPM § 226.2(c) instead of considering DPM § 814.3, which provides that an employee who successfully serves a probationary period during an initial appointment is not required to serve another probationary period. Employee also asserts that the AJ failed to hold an evidentiary hearing. Therefore, she requests that the Initial Decision be reversed; that she be reinstated with full back pay and benefits; and that the adverse action be removed from her personnel file.

On August 20, 2025, Agency filed its response to Employee's Petition for Review. It argues that the AJ correctly relied on DPM § 226 and determined that OEA does not have jurisdiction over probationary employees. Agency asserts that Employee was on notice of her need to serve a new probationary period. Additionally, it notes that pursuant to a 2021 rulemaking, DPM § 814 was repealed. As a result, Agency opines that the AJ's legal conclusion that the two positions, Vehicle Inspection Officer and the Correctional Officer, had substantially different qualifications and are classified as a different line of work is accurate. Accordingly, it requests that Employee's Petition for Review be denied.

3. **Employee v. Metropolitan Police Department, OEA Matter No. 1601-0061-23—** Employee worked as a Police Officer with the Metropolitan Police Department (“Agency”). On September 26, 2022, Agency issued an Advance Notice of Proposed Adverse Action to Employee, charging him with violation of General Order Series 120.21, Attachment A, Part A-7 (any act constituting a crime), Part #12 (conduct unbecoming an officer), and Part A-16 (fraud in securing employment). Agency's notice alleged that Employee choked and threatened to kill his romantic partner, K.H.; assaulted K.H.'s minor son, R.J.; and issued verbal threats to K.H. in the presence of her children. Additionally, Agency asserted that Employee knowingly provided false responses on his Personal History Statement (“PHS”) that was completed as part of his reinstatement process. On May 4, 2023, an evidentiary hearing was held before Agency's Adverse Action Panel. On June 1, 2023, the Panel found Employee guilty of all three charges. His termination became effective on August 1, 2023.

On August 25, 2023, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”). He argued that Agency's termination action was arbitrary, capricious, and unsupported by substantial evidence. Employee also asserted that his termination was taken without cause, and he opined that Agency misapplied the *Douglas* factors when selecting the penalty. As a result, he asked to be reinstated with backpay and benefits.

Agency filed its answer on September 22, 2023. It denied Employee's substantive allegations and contended that it had cause to discipline Employee for his misconduct. Agency reasoned that the penalty was appropriate based on the *Douglas* factors. Therefore, it submitted that Employee's termination was taken in accordance with all

laws, rules, and regulations.

An Administrative Judge (“AJ”) was assigned to the matter in October of 2024. During a November 22, 2024, Prehearing Conference, the AJ determined that the holding in *Pinkard v Metropolitan Police Department*, 801 A.2d 86 (D.C. 2006), precluded a *de novo* evidentiary hearing. Accordingly, the parties were ordered to submit briefs addressing whether (1) the Adverse Action Panel’s decision was supported by substantial evidence; (2) whether there was harmful procedural error; and (3) whether Employee’s termination was taken in accordance with all laws and/or regulations.

In its brief, Agency argued that each of the charges and specifications levied against Employee were supported by substantial evidence. According to Agency, an investigation into his criminal background revealed that Employee assaulted and strangled K.H. to the point of unconsciousness in 2019; assaulted R.J. in 2019 by grabbing him by the neck and throwing him on the couch; and threatened to kill K.H. over the telephone on May 11, 2021, while she was in the presence of her children. Agency averred that Employee made misrepresentations on his PHS when he responded ‘no’ to the question of whether he ever committed any previous batteries or assaults, or any acts that would rise to a felony or misdemeanor. It also maintained that after Employee was reinstated, he remained subject to the requirements of all General Orders. Agency lastly posited that the cellphone recording of Employee’s assault on K.H. was admissible before the Adverse Action Panel because Maryland’s two-party consent rule did not apply to a hearing conducted in the District of Columbia. Therefore, it believed that termination was the only appropriate recourse for Employee’s misconduct.

In response, Employee argued that K.H. failed to call the police after the alleged assault; he was never arrested, charged, or prosecuted as a result of the incident; K.H. made the claim in an effort to gain leverage in the custody dispute over their daughter; and any claim of an assault made on R.J. was based on conflicting witness accounts. Employee noted that K.H. later recanted her allegations against him. He further argued that the audio recording of the assault was required to be excluded under Maryland’s two-party consent law. According to Employee, Agency failed to prove that he knowingly provided false information with an intent to mislead; the completion of the PHS violated OEA’s reinstatement directive and D.C. Superior Court’s order affirming this Office’s ruling; and Agency lacked jurisdiction to impose discipline against him for conduct that occurred when he was not employed by the Metropolitan Police Department. Consequently, he requested that the termination action be reversed.

The AJ issued an Initial Decision on June 11, 2025. She held that K.H.’s interview with Agency’s Internal Affairs Division (“IAD”) and the cell phone recording of the 2019 incident constituted substantial evidence to find that that Employee was guilty of any act constituting a crime, namely assault. The AJ similarly ruled that Employee engaged in conduct constituting a crime when he picked up R.J. by the neck and threw him onto a couch. Concerning the conduct unbecoming an officer charge, the AJ determined that Agency met its burden of proof as to each specification identified in Agency’s charging documents. As a result, she found that Employee violated General Order Series 120.21, Attachment A, Parts A-7 and 12.

With respect to the charge of fraud in securing employment, the AJ provided that Agency only met its burden of proof as it related to the PHS questions of whether Employee had engaged in activity amounting to a misdemeanor, and whether Employee ever used force or violence upon another. Finally, the AJ ruled that Agency did not commit any harmful procedural errors in the administration of the termination action; Agency performed a

full assessment of the *Douglas* factors; and Employee failed to establish a claim of disparate treatment. Consequently, Employee's termination was upheld.

Employee filed a Petition for Review with the OEA Board on July 15, 2025. He argues that the AJ's determinations with respect to the charges are incorrect because 1) K.H. recanted her accusation that she was strangled; 2) the AJ failed to assess the inconsistencies in the accounts of the three family members who witnessed Employee's alleged assault of R.J.; 3) text messages between Employee and K.H. reveal that they had a healthy and loving relationship; and 4) the physical contact with R.J. was not a crime because Maryland law permits parents to exercise corporal punishment against their children and stepchildren. He opines that Agency committed harmful procedural errors by admitting illegally obtained cellphone footage of the 2019 assault on K.H. at the hearing; imposing discipline based on conduct that occurred while he was in a terminated status; and inappropriately classified the conduct described in Charge No. 1 as a felony and not a misdemeanor. Lastly, Employee avers that the AJ ran afoul of OEA Rule 634.1 and D.C. Code § 1–606.03 when she issued the Initial Decision more than 120 business days after the Petition for Appeal was filed. As a result, he asks that the Board grant his petition.

In response, Agency submits that it has successfully demonstrated that each charge and specification levied against Employee is supported by substantial evidence. It denies committing any harmful procedural errors during Employee's disciplinary proceedings. Agency maintains that the termination action was taken in accordance with all applicable laws and regulations. Thus, it reasons that the Initial Decision is supported by the record. Therefore, it requests that Employee's petition be denied.

E. Deliberations – This portion of the meeting will be closed to the public for deliberations in accordance with D.C. Official Code § 2-575(b)(13).

F. Open Portion Resumes

G. Final Votes on Motion for Interlocutory Appeal

H. Final Votes on Petitions for Review

I. Public Comments

VI. Adjournment

“This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.”

Minutes

D.C. OFFICE OF EMPLOYEE APPEALS (OEA) BOARD MEETING

Thursday, November 6, 2025

Location: Virtual Meeting Via Webex

Persons Present: Lasheka Brown (OEA General Counsel), Sheila Barfield (OEA Executive Director), Sommer Murphy (OEA Deputy General Counsel), Pia Winston (OEA Board Chair), Arrington Dixon (OEA Board Member), Jeanne Moorhead (OEA Board Member), LaShon Adams (OEA Board Member), Wynter Clarke (OEA Paralegal), Isaac Asima (Member of the Public), Terry Knefley (Member of the Public), Patrick Knefley (Member of the Public), Connor Finch (Member of the Public), Kathryn Thomas (Member of the Public), Anthony Asima (Member of the Public), and Employee 1 on Motion for Interlocutory Appeal (Member of the Public).

Call to Order – Pia Winston called the meeting to order at 9:34 a.m.

- I. Ascertainment of Quorum** – There was a quorum of Board members present for the office to conduct business.
- II. Adoption of Agenda** – LaShon Adams moved to adopt the agenda. The agenda was adopted by the Board.
- III. Minutes from Previous Meeting** – September 18, 2025, meeting minutes were reviewed. There were no corrections. The minutes were accepted.
- IV. New Business**
 - A. Summary of Motion for Interlocutory Appeal** — Pia Winston provided that a summary of the Motion for Interlocutory Appeal was provided in the agenda for this meeting. The summary was also posted to the OEA website, the Board of Ethics and Government Accountability's website, and in OEA's front office. The following Motion for Interlocutory Appeal was decided.
 1. Employee v. D.C. Department of Youth Rehabilitation Services, OEA Matter No. 1601-0036-19C23
 - B. Public Comments on Motion for Interlocutory Appeal**
 1. Patrick Knefley asserted that the new Administrative Judge's decision to revoke two prior orders issued by the former Administrative Judge was made without sufficient justification.
 2. The Employee in *Employee v. D.C. Department of Youth Rehabilitation Services*, OEA Matter No. 1601-0036-19C23, stated that this matter has been ongoing for seven years and that she seeks justice. She asserted that she was wrongfully terminated because the Absent Without Official Leave (AWOL) charge was reversed. Additionally, the Employee expressed concerns regarding the newly assigned Administrative Judge.
 3. Isaac Asima stated that Employee's case has been pending for a long time. He further asserted that the prolonged process has taken an emotional and physical toll on the Employee.
 - C. Summary of Petitions for Review** — Pia Winston provided that a summary of the matters to be decided were provided in the agenda for this meeting. The summaries were posted

to the OEA website, the Board of Ethics and Government Accountability's website, and printed and posted in OEA's front office. The following Petitions for Review were decided.

1. Employee v. Office of the Chief Technology Officer, OEA Matter No. 1601-0083-22R24R25
2. Employee v. D.C. Department of For-Hire Vehicles, OEA Matter No. J-0013-24
3. Employee v. Metropolitan Police Department, OEA Matter No. 1601-0061-23

D. Public Comments on Petitions for Review – There were no public comments offered.

E. Deliberations – LaShon Adams moved that the meeting be closed for deliberations in accordance with D.C. Code § 2-575(b)(13). All Board members voted in favor of closing the meeting. Pia Winston stated that the meeting was closed for deliberations.

F. Open Portion of Meeting Resumed

G. Final Votes on Motion for Interlocutory Appeal – Pia Winston provided that the Board considered all of the matters. The following represents the final votes for the Motion for Interlocutory Appeal:

1. **Employee v. D.C. Department of Youth Rehabilitation Services, OEA Matter No. 1601-0036-19C23**

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Pia Winston			X	X	
Arrington Dixon			X	X	
Jeanne Moorehead			X	X	
LaShon Adams			X	X	

Four Board Members voted in favor of denying Employee's Interlocutory Appeal and remanding the matter to the Administrative Judge. Therefore, the motion was denied, and the matter was remanded.

H. Final Votes on Petitions for Review – Pia Winston provided that the Board considered all of the matters. The following represents the final votes for each case:

1. **Employee v. Office of the Chief Technology Officer, OEA Matter No. 1601-0083-22R24R25**

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Pia Winston	X	X			
Arrington Dixon	X	X			
Jeanne Moorehead	X	X			
LaShon Adams	X	X			

Four Board Members voted in favor of granting Agency's Petition for Review, and the Second Initial Decision on Remand was reversed. Therefore, the petition was granted, and the Second Initial Decision on Remand was reversed.

2. Employee v. D.C. Department of For-Hire Vehicles, OEA Matter No. J-0013-24

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Pia Winston			X		
Arrington Dixon			X		
Jeanne Moorehead			X		
LaShon Adams			X		

Four Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

3. Employee v. Metropolitan Police Department, OEA Matter No. 1601-0061-23

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Pia Winston			X		
Arrington Dixon			X		
Jeanne Moorehead			X		
LaShon Adams			X		

Four Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

I. Public Comments

1. The Employee in *Employee v. D.C. Department of Youth Rehabilitation Services*, OEA Matter No. 1601-0036-19C23, stated that justice has not been served in her case. She maintained that she was wrongfully terminated for actions she took to save an individual's life. She further asserted that she has not received documentation from the new Administrative Judge and expressed frustration regarding the change in judges. The Board explained that the decision would outline its reason for denial and that Employee would receive the decision by email.
2. Patrick Knefley provided that something is wrong with the current Administrative Judge and that the Office should investigate this.

V. Adjournment – Arrington Dixon moved that the meeting be adjourned. All members voted affirmatively to adjourn the meeting. Pia Winston adjourned the meeting at 10:26 a.m.

Respectfully Submitted,
Wynter Clarke
Paralegal Specialist

December 18, 2025 Board Meeting

**DISTRICT OF COLUMBIA
OFFICE OF EMPLOYEE APPEALS**

NOTICE OF PUBLIC MEETING

The District of Columbia Office of Employee Appeals will hold a meeting on December 18, 2025, at 9:30 a.m. The Board will meet remotely. Below is the agenda for the meeting.

Members of the public are welcome to observe the meeting. In order to attend the meeting, please visit:

Password: Board (26274 from phones and video systems)

<https://dcnet.webex.com/dcnet/j.php?MTID=m73fda4cbb934c6be02bf51394b486b4d>

We recommend logging in ten (10) minutes before the meeting starts. In order to access Webex, laptop or desktop computer users must use Google Chrome, Firefox, or Microsoft Edge Browsers.

Smartphone/Tablets or iPad user must first go to the App Store, download the Webex App (Cisco Webex Meetings), enter the Access Code, and enter your name, email address, and click Join. It is recommended that a laptop or desktop computer be utilized for this platform.

Your computer, tablet, or smartphone's built-in speaker and microphone will be used in the virtual meeting unless you use a headset. Headsets provide better sound quality and privacy.

If you do not have access to the internet, please call-in toll number (US/Canada) 1-650-479-3208, Access Code: 2311 978 6969

Questions about the meeting may be directed to wynter.clarke@dc.gov.

Agenda

D.C. OFFICE OF EMPLOYEE APPEALS (“OEA”) BOARD MEETING

Thursday, December 18, 2025, at 9:30 a.m.

Location: Virtual Meeting via Webex

I. Call to Order

II. Ascertainment of Quorum

III. Adoption of Agenda

IV. Minutes Reviewed from Previous Meeting

V. New Business

A. Public Comments on Petitions for Review

B. Summary of Cases

- 1. Employee v. D.C. Fire and Emergency Medical Services Department, OEA Matter No. 1601-0022-25** — Employee worked as a Firefighter/Paramedic with the D.C. Fire and Emergency Medical Services Department (“Agency”). On January 3, 2025, Agency served Employee with a Final Agency Decision charging him with neglect of duty – violating the Department’s protocols and making false statements during a Departmental investigation. According to Agency, on October 30, 2023, while on duty Employee was observed administering an intramuscular (“IM”) Narcan injection through multiple layers of the patient’s clothing without conducting an assessment. Another Firefighter/Emergency Medical Technician filed a complaint with Agency regarding Employee’s misconduct. During the investigation, Agency secured footage of a body-

worn camera showing Employee's actions. Subsequently, he was terminated effective on January 18, 2025.

On January 31, 2025, Employee filed a Petition for Appeal with the Office of Employee Appeals ("OEA"). He acknowledged administering the Narcan through the patient's clothing. However, Employee argued that administering Narcan through clothing was a common practice among other paramedics at Agency. Additionally, he claimed that the patient suffered no adverse effects from the injection. Employee contended that he should have gone through retraining instead of being charged with the adverse action and brought before the Fire Trial Board ("FTB"). He explained that when Agency considered its penalty, his adverse action was compared with two other cases that were not similarly situated to his. As a result, Employee requested that he be reinstated to his previous position.

Agency filed its Answer to Employee's Petition for Appeal on February 26, 2025. It argued that Employee's admission of misconduct warranted termination. Agency contended that Employee's gross negligence of administering IM injections through clothing on multiple occasions contradicts its written policies and protocols in paramedic training. Additionally, it opined that Agency's FTB considered the *Douglas* factors before reaching its decision to terminate Employee. As a result, Agency requested that Employee's removal action be upheld.

The OEA Administrative Judge ("AJ") issued a Post-Status Conference Order on April 1, 2025. The order requested that the parties submit briefs addressing (1) whether the adverse action taken against Employee was supported by substantial evidence; (2) whether there was harmful procedural error with the Trial Board's decision; and (3) whether Agency's action was done in accordance with all applicable laws and regulations. Agency timely filed its brief. However, Employee failed to provide a timely submission. Consequently, the AJ issued an Order for Good Cause Statement, in which Employee was required to submit his brief, along with a statement for good cause by June 23, 2025, for his failure to comply with the April 1, 2025, Order.

The AJ issued an Initial Decision on June 25, 2025. She held that in accordance with OEA Rule 624.3, an Administrative Judge has the authority to impose sanctions upon parties as necessary to serve the ends of justice. The AJ noted that the failure to take reasonable steps to prosecute or defend an appeal includes failure to submit required documents after being provided with a deadline for such submission. The AJ concluded that Employee failed to submit his brief by the prescribed deadline and failed to provide a written response to the Order for Statement of Good Cause, to her June 9, 2025, Order. She opined that Employee did not exercise the diligence expectant of an appellant pursuing an appeal before this Office. Consequently, the AJ dismissed the matter for Employee's failure to prosecute his appeal.

Employee filed a Petition for Review on July 25, 2025. He asserts that he did not intentionally fail to submit his brief on time. Employee explains that on May 30, 2025, he emailed an Unopposed Motion for Modification of Briefing Schedule, requesting an extension of the filing deadline to July 7, 2025, instead of the original June 3, 2025, deadline. According to Employee, he intended to file his brief by July 7th. He argues that Agency already filed its brief and agreed to him modifying the deadline for him to file his brief. Thus, Employee asserts that Agency would not be prejudiced if he was allowed to file his brief. However, he contends that he would suffer prejudice if this appeal was dismissed. As a result, Employee requests that the Board grant his Petition for Review.

In response, Agency asserts that Employee failed to respond to the AJ's order to show cause. It also asserts that Employee's email to the AJ failed to comply with OEA's filing requirements under 6-B DCMR § 608.8. Agency contends that if the Board granted the Petition for Review and remanded the matter, it would be prejudicial to Agency because if Agency prevailed on the merits it would have to expend the resources to defend its adverse action. However, if Employee prevails Agency claims it would be required to reinstate him with backpay. As a result, it requests that Employee's Petition for Review be denied.

2. **Employee v. Metropolitan Police Department, OEA Matter No. 1601-0006-25** — Employee worked as a Police Officer for the Metropolitan Police Department ("Agency"). Agency issued its Notice of Proposed Indefinite Suspension Without Pay on July 9, 2024. The proposed notice charged Employee with (1) violation of General Order 120.21, Number 21, Attachment A, Number 7: "conviction of any member of the force in any court . . . of any offense in which the member either pleads guilty, receives a verdict of guilty or a conviction following a plea of nolo contendere, or is deemed to have been involved in the commission of any act which constitutes a crime . . ." and (2) violation of General Order 201.09, Section II (A)(1), and Mayor's Order 2023-131 Section III(D)(8), (12) and (14), and Section III(E). However, in its final notice, Agency changed the first charge to violation of General Order 120.21, Attachment A, Number 6: "conduct described . . . is prohibited and shall serve as the basis for discipline: engaging in conduct that constitutes a crime." The second charge was unchanged. According to Agency, on July 3, 2024, while on duty, Employee approached the driver's side door of Officer AL's car, reached inside the window, and grabbed Officer AL by her vest. Agency explained that Officer AL pushed Employee away and yelled, "Get off me!" Employee again reached inside and grabbed Officer AL by her vest and pulled her close to his face and opened his mouth. On August 13, 2024, Agency issued its Final Notice of Suspension Without Pay. The effective date of Employee's suspension was October 2, 2024.

On October 16, 2024, Employee filed a Petition for Appeal with the Office of Employee Appeals ("OEA"). He asserted that Agency's adverse action was taken without cause, was arbitrary and capricious, violated his due process rights, and violated the Collective Bargaining Agreement ("CBA") between Agency and the D.C. Police Union. As a result, he requested that Agency's action be reversed; that he receive back pay and benefits lost as a result of the suspension; that he be awarded attorney's fees; and that he be permitted to work in outside employment.

Agency filed its Answer to the Petition for Appeal on November 15, 2024. It contended that its penalty was warranted on its belief that Employee engaged in criminal conduct. Agency explained that on August 29, 2024, an arrest warrant was obtained for Employee in the Superior Court of the District of Columbia. According to Agency, Employee was charged with assault in violation of D.C. Code § 22-404, for unlawfully assaulting and threatening Officer AL in a menacing manner. Therefore, Agency requested that Employee's suspension action be upheld.

The OEA Administrative Judge ("AJ") issued an order requesting the parties to submit briefs addressing whether Agency had cause to place Employee on Indefinite Suspension pending the outcome of his criminal matter. In its brief, Agency asserted that it had cause to impose the indefinite suspension because Employee was accused of serious criminal conduct and arrested for simple assault. It opined that it had cause based on Employee's charging documents. Agency argued that its penalty was warranted because Employee's

alleged misconduct was egregious and threatened its operations as well as its public safety mission. According to Agency, Employee was indefinitely suspended while his criminal charges were pending. However, it returned Employee to paid status and awarded back pay after the criminal matter was resolved when Employee was found not guilty of the assault.

In his brief, Employee argued that Agency lacked cause to indefinitely suspend him without pay. Employee contended that the holding in *District of Columbia v. Green*, 687 A.2d 220 (D.C. 1996), was not applicable because unlike the officer in *Green*, he was never indicted or convicted of a crime. He explained that he was acquitted for his alleged conduct, and consequently, Agency had no cause to impose the penalty of an indefinite suspension without pay. Employee further argued that Agency did not prove that he engaged in unwanted repeated contact or that he sexually assaulted, stalked, trapped, or threatened Officer AL. As a result, Employee opined that the indefinite suspension was inappropriate and requested that OEA rule that he is the prevailing party.

On June 20, 2025, the AJ issued an Initial Decision. She found that Agency prematurely placed Employee on Indefinite Suspension Without Pay and thereby violated the relevant CBA provisions. The AJ also held that Agency did not provide evidence to prove that Employee's conduct constituted a crime. Therefore, she determined that Agency lacked cause for both charges to warrant the adverse action taken against Employee. The AJ also ruled that because Employee was acquitted of the charges and returned to pay status and awarded back pay, he received all remedies that OEA could have provided to him. Consequently, she reversed Agency's action. Because Employee was already made whole, she determined that no further award was warranted.

Agency disagreed with the Initial Decision and filed a Petition for Review with the OEA Board on July 25, 2025. It contends that the Initial Decision is not based on substantial evidence supported by the record; that the AJ failed to address all issues of law and fact; and that the decision was based on an erroneous interpretation of law. Agency asserts that the AJ improperly relied on the proposed notice of indefinite suspension rather than the Agency's final decision. It is also Agency's position that it provided evidence of cause for the charges against Employee with the submission of its investigative report which included witness interviews; a summary of Officer AL's body-worn camera footage; and screenshots of text messages and missed calls between Employee and Officer AL. As a result, it requests that the Initial Decision be reversed.

On August 28, 2025, Employee filed its Answer to Agency's Petition for Review. He argues that the Initial Decision is based on substantial evidence and that Agency's adverse action was taken without cause. Employee asserts that he did not engage in conduct constituting a crime which was evident in his acquittal of criminal wrongdoing. He also contends that a copy of Agency's investigative report was never submitted to OEA. Therefore, Employee requests that the Board deny Agency's petition.

3. **Employee v. D.C. Fire and Emergency Medical Services Department, OEA Matter No. 1601-0005-25** — Employee worked as a Firefighter/Emergency Medical Technician with the D.C. Fire & Emergency Medical Services Department ("Agency"). On December 13, 2023, Employee was issued a Notice of Proposed Adverse Action charging him with conduct unbecoming an employee, insubordination, and neglect of duty/failed patient care. According to Agency, on August 11, 2023, Employee was dispatched to a call for emergency services, but upon arrival, remained in his ambulance

for ten minutes consuming food and perusing his phone. Agency further alleged that Employee left the scene of the emergency without authorization and later became argumentative with a supervisor after being ordered to return to the location to transport the patient. Employee pleaded not guilty during an August 5, 2024, Trial Board hearing. On September 10, 2024, the Trial Board found Employee guilty of each charge and recommended termination. The Fire Chief accepted the Trial Board's recommendation on September 10, 2024, and Employee's termination became effective on September 21, 2024.

Employee filed a Petition for Appeal with the Office of Employee Appeals ("OEA") on October 15, 2024. He argued that the Trial Board failed to honor his objections during the hearing and improperly admitted evidence. Employee also contended that the Trial Board chair exhibited bias by outlining charges that were not included in Agency's advance notice. As a result, he requested to be reinstated with back pay and benefits.

In response, Agency asserted that the charges were supported by witness testimony, video footage, and special reports. It posited that Employee's termination was taken in accordance with all applicable laws and regulations and maintained that no harmful procedural error was committed during the disciplinary proceedings. Finally, Agency submitted that the relevant *Douglas* factors were weighed in favor of termination. Therefore, it opined that Employee's termination was based on substantial evidence.

An OEA Administrative Judge ("AJ") was assigned to the matter in November of 2024. During a December 20, 2024, prehearing conference, the AJ determined that the holding in *Pinkard v. Metropolitan Police Department*, 801 A.2d 86 (D.C. 2006), precluded a *de novo* evidentiary hearing. Accordingly, the parties were ordered to submit briefs addressing whether the Trial Board's decision was supported by substantial evidence; whether Agency committed a harmful procedural error; and whether Employee's termination was taken in accordance with all laws and regulations.

In its brief, Agency argued that radio recordings, video, and related documentation demonstrated that on August 11, 2023, Ambulance 29 announced its arrival at the Psychiatric Institute of Washington. However, Employee and his partner failed to exit the vehicle to assess or aid the patient. According to Agency, Employee was instead observed eating food and looking at his phone for approximately ten minutes before placing Ambulance 29 back in service and departing the scene. It explained that Employee was also insubordinate, argumentative, and unprofessional to a superior, Captain Joseph Kelly, after he was ordered to return to the scene. Agency further asserted that Employee violated protocol related to patient care when he failed to enter the emergency scene to render aid to the patient. Thus, it opined that all three charges were based on substantial evidence. Agency maintained that no harmful procedural errors were committed during Employee's disciplinary proceedings and reasoned that removal was appropriate based on an assessment of the *Douglas* factors. Therefore, it requested that Employee's removal be sustained.

In response, Employee contended that the record did not support a charge of conduct unbecoming because there was no impact on Agency's ability to provide care to the patient and because other personnel were present on the scene who were better equipped to respond to the call for service. As it related to insubordination, Employee stated that he responded reasonably to a public confrontation initiated by his supervisor, Captain Kelly, regarding Ambulance 29's departure from the scene. Consequently, Employee submitted that the penalty was unreasonable under the circumstances.

The AJ issued an Initial Decision on July 18, 2025. First, he held that Employee's conduct on August 11, 2023, amounted to neglect of duty, insubordination, and conduct becoming. The AJ explained that Employee did not deny that he failed to exit Ambulance 29 after arriving at the call for service. He found Employee's excuses for his conduct to be insufficient to overcome Agency's presentation of evidence. Thus, the AJ ruled that there was substantial evidence in the record to support each charge levied against Employee. With respect to harmful procedural error, the AJ disagreed with Employee's argument that his partner was similarly situated because they were not within the same organizational unit; did not work under the same supervisor; and did not incur the same charges for the underlying conduct. As a result, he opined that the *Douglas* factors, particularly Employee's prior disciplinary history, weighed in favor of termination. Consequently, Agency's termination action was upheld.

Employee filed a Petition for Review with the OEA Board on August 21, 2025. He argues that the Initial Decision is not based on substantial evidence because the AJ failed to properly weigh his claim of disparate treatment. According to Employee, his partner held the same role, was his direct supervisor, and was assigned to the same unit as him. However, Employee differentiates that his partner only received a thirty-six-hour suspension whereas he was terminated. As such, he submits that Agency misapplied *Douglas* factor No. 6, consistency of the penalty with those imposed upon other employees for the same or similar offenses. Thus, Employee requests that the Board reverse his termination.

In response, Agency asserts that the AJ properly rejected Employee's claim of disparate treatment. In support thereof, it notes that Employee and his partner did not commit the same misconduct and did not have the same disciplinary history. Therefore, Agency reasons that different disciplinary charges were warranted under the circumstances. Lastly, it reiterates that termination was within the range of penalties allowed by law. Consequently, Agency asks that the Board deny Employee's Petition for Review.

4. **Employee v. Office of the Chief Technology Officer, OEA Matter No. 1601-0058-23**
— Employee worked as a Telecom Specialist with the Office of the Chief Technology Officer ("Agency" or "OCTO"). On June 9, 2023, Agency issued Employee a Notice of Proposed Separation charging him with failure/refusal to follow instructions in violation of Chapter 6-B, Section 1607.2(d)(2) of the D.C. Municipal Regulations ("DCMR"). In its notice, Agency asserted that between May 30, 2023, and June 1, 2023, Employee repeatedly and maliciously refused directives from his supervisor, the Deputy Chief Technology Officer, and the OCTO General Counsel, directing him to report to OCTO headquarters to discuss an unrelated administrative investigation. A hearing officer conducted an administrative review of the charge and found that Agency provided sufficient evidence to support the adverse action. A final decision was issued on June 30, 2023, and Employee's termination became effective on July 14, 2023.

Employee filed a Petition for Appeal with the Office of Employee Appeals ("OEA") on August 14, 2023. He argued that his removal was unlawful and highlighted his excellent work performance throughout his tenure with Agency. Employee asserted that Agency deliberately concealed pertinent sections of the DCMR in the charging documents and negated its legal obligations with respect to DCMR § 1620. Additionally, he opined that Agency's decision to terminate him lacked fairness, reason, and transparency. As a result, Employee requested to be reinstated and awarded compensatory and punitive damages.

Agency filed its response on September 18, 2023. It contended that Employee received

proper supervisory instructions in accordance with 6-B DCMR § 1607.2; the directives were issued by supervisors within the scope of their authority; and Employee was required to comply with all lawful directives. According to Agency, Employee repeatedly failed to respond to email and Microsoft Teams messages nine times over the course of three days in a deliberate and malicious manner. It further claimed that termination was within the scope of penalties permitted by the Table of Illustrative Actions. Therefore, Agency opined that Employee's separation was taken for cause and was in accordance with all applicable laws, rules, and regulations.

An OEA Administrative Judge ("AJ") was assigned to this matter in September of 2023. On February 27, 2024, the AJ held a status conference and determined that an evidentiary hearing was warranted. Therefore, a hearing was held on November 19, 2024, wherein the parties submitted documentary and testimonial evidence in support of their positions. Employee and Agency were subsequently ordered to submit closing statements on or before February 13, 2025. Both parties submitted responses to the order.

The AJ issued an Initial Decision on August 11, 2025. She concluded that Employee did not first refuse a lawful supervisory instruction until May 31, 2023, at 1:13 p.m. when he failed to report to OCTO headquarters to discuss a separate disciplinary matter with OCTO's General Counsel, Todd Smith. The AJ explained that the May 30th and earlier May 31st Microsoft Teams messages from Attorney Smith demanding immediate acknowledgement of receipt of his messages and demanding Employee to respond did not constitute lawful supervisory instructions within the meaning of DCMR § 1607.2(d)(2). She reasoned that there was unclear testimony relative to whether Employee was aware that Attorney Smith had supervisory authority over him; Agency failed to establish that the Deputy Chief Technology Officer ("Lofton") or Employee's direct supervisor ("Noble") delegated such authority to Smith; and the evidence was insufficient to establish that Employee repeatedly, maliciously refused lawful directives nine times over the course of three days.

Moreover, she opined that the severity of Employee's conduct was diminished because Agency could not establish Employee's continuous, intentional, or malicious refusal to respond to the Teams messages; there was a lack of established policy regarding an employee's duty to provide immediate responses to work-related inquiries; and Employee's duties as an offsite warehouse worker did not permit him to check his emails frequently. As a result, she ruled that Agency only established cause as it related to Employee's failure to report to OCTO after being directed to do so by Lofton on May 31, 2023, at 1:13 p.m. and failing to report to OCTO on June 1, 2023.

As it relates to the penalty, the AJ concluded that removal exceeded what was reasonable under the *Douglas* factors. She provided that Agency's narrative relied on inflated descriptions of conduct; mischaracterized the messages from Employee as evincing a malicious failure to follow direct orders; and improperly used unrelated considerations in determining the penalty. According to the AJ, some of the messages that were relied on by Agency in its assessment of the *Douglas* factors were related to a fact-finding investigation in a separate matter, not the misconduct forming the basis of the instant appeal. Thus, she found that Agency's flawed assessment did not support removal for the conduct cited in the advance notice of termination. The AJ further concluded that Agency failed to engage in a responsible balancing of the *Douglas* factors, which ultimately resulted in an abuse of discretion. As a result, Agency's termination action was reversed, and Employee was ordered to be reinstated to his position with back pay and benefits.

Agency filed a Petition for Review with the OEA Board on September 15, 2025. It argues that contrary to the AJ's analysis, the holding in *Douglas* bestows agencies, not OEA, with the primary discretion to select penalties for employee misconduct. Agency maintains that OEA may only overturn a penalty in cases of a clear error of judgment, which did not occur in this case. It stresses that even a single instance of deliberate or malicious refusal to follow proper supervisory instructions is sufficient to warrant removal under the Table of Illustrative Actions and applicable case law. Consequently, Agency submits that the AJ erred by undermining its managerial authority and discretion.

It further contends that the AJ misapplied the legal tenants of *Douglas* by focusing rigidly on the number of times Employee was alleged to have refused instructions rather than their overall seriousness and impact. Agency believes that the AJ ignored witness testimony relevant to workplace disruption; failed to provide it with an opportunity to submit a response brief regarding the *Douglas* factor analysis; and improperly confined her analysis to the reviewing hearing officer's conclusions instead of relying on the deciding official's independent judgment. Additionally, it argues that the AJ disregarded certain aggravating factors, including Employee's use of belligerent language. As such, Agency reasons that the AJ improperly substituted her own judgment for that of management, which constitutes a reversible error. Therefore, it requests that the Board reverse the Initial Decision and uphold Employee's removal.

In response, Employee asserts that the AJ's findings are consistent with all applicable statutes and regulations. He believes that the evidentiary hearing was conducted in a fair and impartial manner. Additionally, Employee agrees with the AJ's conclusion that termination was improper because he lacked any prior disciplinary actions; served in his position for fourteen years; and received consistently high-performance ratings. He reiterates that Agency's assessment of the *Douglas* factors was flawed and disregarded pertinent information. It is Employee's position that the AJ's findings were more than substantiated and he asks that Agency's petition be denied.

- C. Deliberations** – This portion of the meeting will be closed to the public for deliberations in accordance with D.C. Code § 2-575(b)(13).
- D. Open Portion Resumes**
- E. Final Votes on Cases**
- F. Public Comments**

VI. Adjournment

"This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov."

Minutes

D.C. OFFICE OF EMPLOYEE APPEALS (OEA) BOARD MEETING

Thursday, December 18, 2025

Location: Virtual Meeting Via Webex

Persons Present: Lasheka Brown (OEA General Counsel), Sheila Barfield (OEA Executive Director), Sommer Murphy (OEA Deputy General Counsel), Pia Winston (OEA Board Chair), Jeanne Moorhead (OEA Board Member), LaShon Adams (OEA Board Member), and Wynter Clarke (OEA Paralegal).

Call to Order – Pia Winston called the meeting to order at 9:32 a.m.

- I. Ascertainment of Quorum** – There was a quorum of Board members present for the office to conduct business.
- II. Adoption of Agenda** – LaShon Adams moved to adopt the agenda. The agenda was adopted by the Board.
- III. Minutes from Previous Meeting** – November 6, 2025, meeting minutes were reviewed. There were no corrections. The minutes were accepted.

IV. New Business

A. Summary — Pia Winston provided that a summary of the matters to be decided were provided in the agenda for this meeting. The summaries were posted to the OEA website, the Board of Ethics and Government Accountability's website, and printed and posted in OEA's front office. The matters to be decided are as follows:

1. Employee v. D.C. Fire and Emergency Medical Services Department, OEA Matter No. 1601-0022-25
2. Employee v. D.C. Metropolitan Police Department, OEA Matter No. 1601-0006-25
3. Employee v. D.C. Fire and Emergency Medical Services Department, OEA Matter No. 1601-0005-25
4. Employee v. D.C. Office of the Chief Technology Officer, OEA Matter No. 1601-0058-23

B. Public Comments on Petitions for Review – There were no public comments offered.

C. Deliberations – Jeanne Moorehead moved that the meeting be closed for deliberations in accordance with D.C. Code § 2-575(b)(13). All Board members voted in favor of closing the meeting. Pia Winston stated that the meeting was closed for deliberations.

D. Open Portion of Meeting Resumed

E. Final Votes – Pia Winston provided that the Board considered all of the matters. The following represents the final votes for each case:

- 1. Employee v. D.C. Fire and Emergency Medical Services, OEA Matter No. 1601-0022-25**

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Pia Winston	X			X	
Arrington Dixon	X			X	

Jeanne Moorehead	X			X	
LaShon Adams	X			X	

Four Board Members voted in favor of granting Employee's Petition for Review and remanding the matter to the Administrative Judge for consideration on the merits of the case. Therefore, the petition was granted, and the matter was remanded.

2. Employee v. D.C. Metropolitan Police Department, OEA Matter No. 1601-0006-25

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Pia Winston			X		
Arrington Dixon			X		
Jeanne Moorehead			X		
LaShon Adams			X		

Four Board Members voted in favor of denying Agency's Petition for Review. Therefore, the petition was denied.

3. Employee v. D.C. Fire and Emergency Medical Services Department, OEA Matter No. 1601-0005-25

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Pia Winston			X		
Arrington Dixon			X		
Jeanne Moorehead			X		
LaShon Adams			X		

Four Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

4. Employee v. D.C. Office of the Chief Technology Officer, OEA Matter No. 1601-0058-23

MEMBER	GRANTED	REVERSED	DENIED	REMANDED	DISMISSED
Pia Winston			X		
Arrington Dixon			X		
Jeanne Moorehead			X		
LaShon Adams			X		

Four Board Members voted in favor of denying Agency's Petition for Review. Therefore, the petition was denied.

F. Public Comments

1. There were no public comments offered.

V. Adjournment – Arrington Dixon moved that the meeting be adjourned. All members voted affirmatively to adjourn the meeting. Pia Winston adjourned the meeting at 9:55 a.m.

Respectfully Submitted,
Wynter Clarke
Paralegal Specialist

Attachment # 11

Q. 20 Employee Training

Office of Employee Appeals (OEA) - Staff Training (FY25 and Q1 of FY25)

Date	Training	Trainer (Vendor)	Number of Employees
March 24-28, 2025	Center for Alternative Dispute Resolution (ADR) - Virtual Mediation Training	Center for Alternative Dispute Resolution (ADR)	1
May 6 - June 13, 2025	University of Penn (The Wharton School) - Stratgeic Operation Management	University of Penn (The Wharton School)	1

Report as of Jan 28, 2026

Attachment # 12

Q. 38 Employee Evaluation

Office of Employee Appeals (OEA) - Employee Evaluation and Other HR Data (FY25 and Q1 of FY26)

Employee
Rating

Name	Title	Duties/Responsibilities	Grade	Step	Salary	Hire Date	FY25
Barfield, Sheila	Executive Director	The Executive Director is the administrator of the Office and serves as its chief personnel officer.	10	0	202,971.97	10/18/1993	
Bassey, Lasheka Brown	General Counsel		15	10	193,382.00	5/15/2005	
Murphy, Sommer Joy	Deputy General Counsel		14	10	167,437.00	6/9/2008	**
Clarke, Wynter A	Paralegal Specialist		13	5	105,001.00	5/23/2016	**
Lim, Joseph Edward	Senior Hearing Examiner	Administrative Judges, subject to the provisions of the agency rules and regulations, adjudicate and mediate appeals filed before the Office.	15	8	186,840.00	8/3/1998	*
Robinson, Eric Theodore	Senior Hearing Examiner		15	8	186,840.00	6/12/2005	*
Dohnji, Monica N	Senior Hearing Examiner		15	8	186,840.00	5/26/2011	*
Harris, Michelle R	Senior Hearing Examiner		15	5	171,697.00	7/27/2015	*
Hochhauser, Lois C ¹	Hearing Examiner (WAE)		14	4	70,837.50	4/3/1985	N/A
Curtis, Natiya	Hearing Examiner		15	3	161,600.00	7/31/2023	*
Briggs, Monyea ²	Paralegal Specialist		13	1	93,069.00	11/18/2024	N/A
Hemraj, Hemchand	Chief Operating Officer		14	0	137,328.50	9/20/2021	*
Hill, Katrina	Receptionist	The Operation/Administrative Team provides support services to the Office.	7	9	57,322.00	5/5/1997	4
James, Anthony Lester	Administrative Assistant		7	9	57,322.00	7/25/2005	4
Vacant ³	Senior Administrative Assistant		9	3	57,647.00		N/A

¹ Employee resigned on April 25, 2025

² Employee retired on June 13, 2025

³ Employee resigned on April 21, 2023

* Performance evaluations for these employees will be reviewed and finalized by the Executive Director during Q2 of FY26.

** Performance evaluations for these employees will be reviewed and finalized by the General Counsel during Q2 of FY26.

Attachment # 13

Office of Employee Appeals

www.oea.dc.gov
Telephone: 202-727-0004

Table CH0-1

Description	FY 2022	FY 2023	FY 2024	FY 2025	% Change from FY 2024
	Actual	Actual	Approved	Approved	
OPERATING BUDGET	\$2,380,858	\$2,128,359	\$2,530,892	\$2,540,221	0.4
FTEs	14.3	13.9	14.5	14.5	0.0
CAPITAL BUDGET	\$0	\$0	\$0	\$0	N/A
FTEs	0.0	0.0	0.0	0.0	N/A

The mission of the Office of Employee Appeals (OEA) is to render impartial, legally sufficient, and timely decisions on appeals filed by District of Columbia government employees. OEA has jurisdiction over appeals in which an employee has been removed as a result of an adverse action for cause, placed on enforced leave for 10 days or more, suspended for 10 days or more, reduced in grade, subjected to a reduction in force, or appeals affecting a designation of the employee's position as safety-sensitive.

Summary of Services

OEA offers District government agencies and employees the following three-part appeal process: mediation, adjudication, and petitions for review. The mediation process allows the employee and the agency an opportunity to resolve their disputes without going through the lengthy and costly adjudication process. The adjudication process results in disputes being resolved by an administrative judge who issues an initial decision and finds in favor of either the agency or employee. The petition for review process provides an impartial review of initial decisions by OEA's Board.

The agency's FY 2025 approved budget is presented in the following tables:

FY 2025 Approved Gross Funds Operating Budget and FTEs, by Revenue Type

Table CH0-2 contains the approved FY 2025 budget by revenue type compared to the FY 2024 approved budget. It also provides FY 2022 and FY 2023 actual data.

Table CH0-2

(dollars in thousands)

Appropriated Fund	Dollars in Thousands						Full-Time Equivalents					
	Actual		Approved		Change from %		Actual		Approved		Change from %	
	FY 2022	FY 2023	FY 2024	FY 2025	FY 2024	Change*	FY 2022	FY 2023	FY 2024	FY 2025	FY 2024	Change*
GENERAL FUND												
Local Funds	2,381	2,128	2,531	2,540	9	0.4	14.3	13.9	14.5	14.5	0.0	0.0
TOTAL FOR	2,381	2,128	2,531	2,540	9	0.4	14.3	13.9	14.5	14.5	0.0	0.0
GROSS FUNDS	2,381	2,128	2,531	2,540	9	0.4	14.3	13.9	14.5	14.5	0.0	0.0

*Percent change is based on whole dollars.

Note: If applicable, for a breakdown of each Grant (Federal and Private) and Special Purpose Revenue type, please refer to **Schedule 80 Agency Summary by Revenue Source** in the **FY 2025 Operating Appendices** located on the Office of the Chief Financial Officer's website.

FY 2025 Approved Operating Budget, by Account Group

Table CH0-3 contains the approved FY 2025 budget at the Account Group level compared to the FY 2024 approved budget. It also provides FY 2022 and FY 2023 actual expenditures.

Table CH0-3

(dollars in thousands)

Account Group	Actual FY 2022	Actual FY 2023	Approved FY 2024	Approved FY 2025	Change	
					from FY 2024	Percentage Change*
701100C - Continuing Full Time	1,649	1,593	1,762	1,933	171	9.7
701200C - Continuing Full Time - Others	179	88	206	71	-135	-65.6
701300C - Additional Gross Pay	108	1	0	0	0	N/A
701400C - Fringe Benefits - Current Personnel	347	329	396	395	-1	-0.2
SUBTOTAL PERSONNEL SERVICES (PS)	2,284	2,012	2,363	2,399	35	1.5
711100C - Supplies and Materials	4	8	7	7	0	0.0
712100C - Energy, Communications and Building Rentals	2	0	11	0	-11	-100.0
713100C - Other Services and Charges	36	64	39	54	15	38.8
713200C - Contractual Services - Other	30	19	80	80	0	0.0
715100C - Other Expenses	0	8	0	0	0	N/A
717100C - Purchases Equipment and Machinery	25	18	31	1	-30	-95.9
SUBTOTAL NONPERSONNEL SERVICES (NPS)	97	117	168	142	-26	-15.5
GROSS FUNDS	2,381	2,128	2,531	2,540	9	0.4

*Percent change is based on whole dollars.

FY 2025 Approved Operating Budget and FTEs, by Division/Program and Activity

Table CH0-4 contains the approved FY 2025 budget by division/program and activity compared to the FY 2024 approved budget. It also provides FY 2022 and FY 2023 actual data. For a more comprehensive explanation of divisions/programs and activities, please see the Division/Program Description section, which follows the table.

Table CH0-4

(dollars in thousands)

Division/Program and Activity	Dollars in Thousands					Full-Time Equivalents					Change from FY 2024	
	Actual FY 2022	Actual FY 2023	Approved FY 2024	Approved FY 2025	Change from FY 2024	Actual FY 2022	Actual FY 2023	Approved FY 2024	Approved FY 2025			
(AMP000) AGENCY MANAGEMENT PROGRAM												
(AMP005) Contracting and Procurement	71	116	117	115	-1	0.0	0.0	0.0	0.0	0.0	0.0	
(AMP006) Customer Service	73	73	64	67	3	1.0	0.9	1.0	1.0	0.0	0.0	
(AMP012) Information Technology Services	85	43	74	69	-5	1.0	0.9	1.0	1.0	0.0	0.0	
(AMP016) Performance and Strategic Management	344	365	442	402	-40	2.0	1.9	2.0	2.0	0.0	0.0	
(AMP030) Executive Administration	682	624	759	771	12	5.0	4.6	5.0	5.0	0.0	0.0	
SUBTOTAL (AMP000) AGENCY MANAGEMENT PROGRAM	1,256	1,220	1,456	1,425	-31	8.9	8.4	9.0	9.0	0.0		
(GO0054) ADJUDICATION												
(O05401) Adjudication Process	1,021	888	971	1,116	144	5.2	5.1	5.0	5.5	0.5		
(O05402) Appeals	27	1	11	0	-11	0.0	0.0	0.0	0.0	0.0		
(O05403) Mediation	77	19	93	0	-93	0.2	0.5	0.5	0.0	-0.5		
SUBTOTAL (GO0054)	1,125	908	1,075	1,116	40	5.4	5.6	5.5	5.5	0.0		
TOTAL APPROVED OPERATING BUDGET	2,381	2,128	2,531	2,540	9	14.3	13.9	14.5	14.5	0.0		

(Change is calculated by whole numbers and numbers may not add up due to rounding)

Note: For more detailed information regarding the approved funding for the activities within this agency's programs, please see **Schedule 30-PBB Program Summary by Activity**. For detailed information on this agency's Cost Center structure as reflected in the District's Chart of Accounts, please see **Schedule 30-CC FY 2025 Approved Operating Budget and FTEs, by Division/Office**. The schedules can be found in the **FY 2025 Operating Appendices** located on the Office of the Chief Financial Officer's website. Additional information on this agency's interagency agreements can be found in **Appendix H** in the **Executive Summary, Volume 1**.

Program Description

The Office of Employee Appeals operates through the following 2 programs:

Adjudication – provides mediation sessions, impartial hearings, and adjudication appeals for District government employees who challenge an agency's final decision on personnel matters.

This program contains the following activity:

- **Adjudication Process**– provides impartial, fair decisions to employees for timely resolution of their appeal.

Agency Management – provides for administrative support and the required tools to achieve operational and programmatic results. This program is standard for all agencies using performance-based budgeting.

Program Structure Changes

The Office of Employee Appeals has no program structure changes in the FY 2025 approved budget.

FY 2024 Approved Budget to FY 2025 Approved Budget, by Revenue Type

Table CH0-5 itemizes the changes by revenue type between the FY 2024 approved budget and the FY 2025 approved budget. For a more comprehensive explanation of changes, please see the FY 2025 Approved Budget Changes section, which follows the table.

Table CH0-5

(dollars in thousands)

DESCRIPTION	DIVISION/PROGRAM	BUDGET	FTE
LOCAL FUNDS: FY 2024 Approved Budget and FTE		2,531	14.5
Removal of One-Time Funding	Multiple Programs	-40	0.0
LOCAL FUNDS: FY 2025 Recurring Budget		2,491	14.5
Increase: To align personnel services and Fringe Benefits with projected costs	Multiple Programs	35	0.0
Decrease: To realize programmatic cost savings in nonpersonnel services	Multiple Programs	-11	0.0
LOCAL FUNDS: FY 2025 Mayor's Proposed Budget		2,515	14.5
Enhance: To support the MOU with DCHR (one-time)	Agency Management Program	25	0.0
LOCAL FUNDS: FY 2025 District's Approved Budget		2,540	14.5
 GROSS FOR CH0 - OFFICE OF EMPLOYEE APPEALS		 2,540	 14.5

(Change is calculated by whole numbers and numbers may not add up due to rounding)

Note: For more detailed information regarding the approved funding for interagency projects funded within this agency, please see **Appendix H, FY 2025 Interagency Budgets, of the Executive Summary, Volume 1** located on the OCFO's website.

FY 2025 Approved Operating Budget Changes

Table CH0-6 contains the approved FY 2025 budget by fund compared to the FY 2024 approved budget.

Table CH0-6

Appropriated Fund	FY 2024 Approved	FY 2025 Approved	% Change from FY 2024
Local Funds	\$2,530,892	\$2,540,221	0.4
GROSS FUNDS	\$2,530,892	\$2,540,221	0.4

Mayor's Proposed Budget

Increase: The Office of Employee Appeals' (OEA) proposed budget includes an increase of \$35,329 across multiple programs to support projected salary, step, and Fringe Benefit costs.

Decrease: OEA's budget proposal reflects a decrease of \$11,000 across multiple programs to realize programmatic cost savings in nonpersonal service costs.

District's Approved Budget

Enhance: OEA's approved Local funds budget includes an increase of \$25,000 in the Agency Management program to support an Memorandum of Understanding (MOU) with the District of Columbia's Department of Human Resources (DCHR).

Office of Employee Appeals

www.oea.dc.gov
Telephone: 202-727-0004

Table CH0-1

Description	FY 2023	FY 2024	FY 2025	FY 2026	% Change from FY 2025
	Actual	Actual	Approved	Approved	
OPERATING BUDGET	\$2,128,359	\$2,331,210	\$2,540,221	\$2,676,835	5.4
FTEs	13.9	14.6	14.5	15.5	6.9
CAPITAL BUDGET	\$0	\$0	\$0	\$0	N/A
FTEs	0.0	0.0	0.0	0.0	N/A

The mission of the Office of Employee Appeals (OEA) is to render impartial, legally sufficient, and timely decisions on appeals filed by District of Columbia government employees. OEA has jurisdiction over appeals in which an employee has been removed as a result of an adverse action for cause, placed on enforced leave for 10 days or more, suspended for 10 days or more, reduced in grade, subjected to a reduction in force, or appeals affecting a designation of the employee's position as safety-sensitive.

Summary of Services

OEA offers District government agencies and employees the following three-part appeal process: mediation, adjudication, and petitions for review. The mediation process allows the employee and the agency an opportunity to resolve their disputes without going through the lengthy and costly adjudication process. The adjudication process results in disputes being resolved by an administrative judge who issues an initial decision and finds in favor of either the agency or employee. The petition for review process provides an impartial review of initial decisions by OEA's Board.

The agency's FY 2026 approved budget is presented in the following tables:

FY 2026 Approved Gross Funds Operating Budget and FTEs, by Revenue Type

Table CH0-2 contains the approved FY 2026 budget and approved Full-Time Equivalents by revenue type compared to the FY 2025 approved budget. It also provides FY 2023 and FY 2024 actual data.

Table CH0-2

(dollars in thousands)

Appropriated Fund	Dollars in Thousands						Full-Time Equivalents					
	Actual		Actual		Change		Actual		Actual		Change	
	FY 2023	FY 2024	FY 2025	FY 2026	FY 2025	Change*	FY 2023	FY 2024	FY 2025	FY 2026	FY 2025	Change
GENERAL FUND												
Local Funds	2,128	2,331	2,540	2,677	137	5.4	13.9	14.6	14.5	15.5	1.0	6.9
TOTAL FOR	2,128	2,331	2,540	2,677	137	5.4	13.9	14.6	14.5	15.5	1.0	6.9
GROSS FUNDS	2,128	2,331	2,540	2,677	137	5.4	13.9	14.6	14.5	15.5	1.0	6.9

*Percent change is based on whole dollars.

Note: If applicable, for a breakdown of each Grant (Federal and Private) and Special Purpose Revenue type, please refer to **Schedule 80 Agency Summary by Revenue Source** in the **FY 2026 Operating Appendices** located on the Office of the Chief Financial Officer's website.

FY 2026 Approved Operating Budget, by Account Group

Table CH0-3 contains the approved FY 2026 budget at the Account Group level compared to the FY 2025 approved budget. It also provides FY 2023 and FY 2024 actual expenditures.

Table CH0-3

(dollars in thousands)

Account Group	Actual FY 2023	Actual FY 2024	Approved FY 2025	Approved FY 2026	Change from FY 2025		Percentage Change*
					Approved FY 2025	Approved FY 2026	
701100C - Continuing Full Time	1,593	1,757	1,933	2,007	74	74	3.8
701200C - Continuing Full Time - Others	88	71	71	71	0	0	0.0
701300C - Additional Gross Pay	1	0	0	0	0	0	N/A
701400C - Fringe Benefits - Current Personnel	329	348	395	420	25	25	6.3
SUBTOTAL PERSONNEL SERVICES (PS)	2,012	2,177	2,399	2,497	99	99	4.1
711100C - Supplies and Materials	8	7	7	7	0	0	0.0
712100C - Energy, Communications and Building Rentals	0	9	0	0	0	0	N/A
713100C - Other Services and Charges	64	36	54	87	33	33	61.6
713200C - Contractual Services - Other	19	73	80	85	5	5	6.2
715100C - Other Expenses	8	0	0	0	0	0	N/A
717100C - Purchases Equipment and Machinery	18	30	1	1	0	0	0.1
SUBTOTAL NONPERSONNEL SERVICES (NPS)	117	154	142	180	38	38	26.8
GROSS FUNDS	2,128	2,331	2,540	2,677	137	137	5.4

*Percent change is based on whole dollars.

FY 2026 Approved Operating Budget and FTEs, by Division/Program and Activity

Table CH0-4 contains the approved FY 2026 budget by division/program and activity compared to the FY 2025 approved budget. It also provides FY 2023 and FY 2024 actual data. For a more comprehensive explanation of divisions/programs and activities, please see the Division/Program Description section, which follows the table.

Table CH0-4

(dollars in thousands)

Division/Program and Activity	Dollars in Thousands					Full-Time Equivalents														
	Actual FY 2023	Actual FY 2024	Approved FY 2025	Approved FY 2026	Change from FY 2025	Actual FY 2023	Actual FY 2024	Approved FY 2025	Approved FY 2026	Change from FY 2025										
(AMP000) AGENCY MANAGEMENT PROGRAM																				
(AMP005) Contracting and Procurement																				
Procurement	116	106	115	115	0	0.0	0.0	0.0	0.0	0.0										
(AMP006) Customer Experience	73	77	67	69	2	0.9	1.0	1.0	1.0	0.0										
(AMP012) Information Technology Services	43	0	69	131	62	0.9	1.0	1.0	2.0	1.0										
(AMP016) Performance and Strategic Management	365	426	402	473	71	1.9	2.0	2.0	2.0	0.0										
(AMP030) Executive Administration	624	651	771	758	-13	4.6	5.0	5.0	5.0	0.0										
SUBTOTAL (AMP000) AGENCY MANAGEMENT PROGRAM	1,220	1,260	1,425	1,547	122	8.4	9.1	9.0	10.0	1.0										
(GO0054) ADJUDICATION																				
(O05401) Adjudication Process	888	1,062	1,116	1,130	15	5.1	5.0	5.5	5.5	0.0										
(O05402) Appeals	1	9	0	0	0	0.0	0.0	0.0	0.0	0.0										
(O05403) Mediation	19	0	0	0	0	0.5	0.5	0.0	0.0	0.0										
SUBTOTAL (GO0054)	908	1,071	1,116	1,130	15	5.6	5.6	5.5	5.5	0.0										
TOTAL APPROVED OPERATING BUDGET	2,128	2,331	2,540	2,677	137	13.9	14.6	14.5	15.5	1.0										

(Change is calculated by whole numbers and numbers may not add up due to rounding)

Note: For more detailed information regarding the approved funding for the activities within this agency's programs, please see **Schedule 30-PBB Program Summary by Activity**. For detailed information on this agency's Cost Center structure as reflected in the District's Chart of Accounts, please see **Schedule 30-CC FY 2026 Approved Operating Budget and FTEs, by Division/Office**. The schedules can be found in the **FY 2026 Operating Appendices** located on the Office of the Chief Financial Officer's website. Additional information on this agency's interagency agreements can be found in **Appendix H** in the **Executive Summary, Volume 1**.

Program Description

The Office of Employee Appeals operates through the following 2 programs:

Adjudication – provides mediation sessions, impartial hearings, and adjudication appeals for District government employees who challenge an agency's final decision on personnel matters.

This program contains the following activity:

- **Adjudication Process** – provides impartial, fair decisions to employees for timely resolution of their appeal.

Agency Management— provides for administrative support and the required tools to achieve operational and programmatic results. This program is standard for all agencies using performance-based budgeting.

Program Structure Changes

The Office of Employee Appeals has no program structure changes in the FY 2026 approved budget.

FY 2025 Approved Budget to FY 2026 Approved Budget, by Revenue Type

Table CH0-5 itemizes the changes by revenue type between the FY 2025 approved budget and the FY 2026 approved budget. For a more comprehensive explanation of changes, please see the FY 2026 Approved Budget Changes section, which follows the table.

Table CH0-5

(dollars in thousands)

DESCRIPTION	DIVISION/PROGRAM	BUDGET	FTE
LOCAL FUNDS: FY 2025 Approved Budget and FTE		2,540	14.5
Removal of One-Time Funding	Multiple Programs	-25	0.0
LOCAL FUNDS: FY 2026 Recurring Budget		2,515	14.5
Increase: To align resources with operational spending goals	Agency Management Program	24	0.0
Increase: To align personnel services and Fringe Benefits with projected costs	Multiple Programs	15	0.0
Enhance: To support nonpersonnel services costs (one-time)	Agency Management Program	1	0.0
Reduce: To reflect the proposed one-time reduction of step increases and associated fringe benefit costs	Multiple Programs	-13	0.0
LOCAL FUNDS: FY 2026 Mayor's Proposed Budget		2,542	14.5
Enhance: To support additional FTE	Agency Management Program	97	1.0
Enhance: To support training costs for the legal team	Agency Management Program	38	0.0
LOCAL FUNDS: FY 2026 District's Approved Budget		2,677	15.5
GROSS FOR CH0 - OFFICE OF EMPLOYEE APPEALS		2,677	15.5

(Change is calculated by whole numbers and numbers may not add up due to rounding)

Note: For more detailed information regarding the approved funding for interagency projects funded within this agency, please see **Appendix H, FY 2026 Interagency Budgets, of the Executive Summary, Volume 1** located on the OCFO's website.

FY 2026 Approved Operating Budget Changes

Table CH0-6 contains the approved FY 2026 budget by fund compared to the FY 2025 approved budget.

Table CH0-6

Appropriated Fund	FY 2025 Approved	FY 2026 Approved	% Change from FY 2025
Local Funds	\$2,540,221	\$2,676,835	5.4
GROSS FUNDS	\$2,540,221	\$2,676,835	5.4

Mayor's Proposed Budget

Increase: The Office of Employee Appeals' (OEA) proposed budget includes an increase of \$23,570 in nonpersonnel services in the Agency Management program, primarily in contracts. Additionally, the proposed budget includes an increase of \$14,577 across multiple programs to align the budget with projected personnel services costs.

Enhance: OEA's budget proposal reflects a one-time increase of \$1,430 in the Agency Management program to support nonpersonnel services. This adjustment includes \$1,298 for equipment purchases and \$132 for supplies.

Reduce: The budget submission reflects a proposed one-time reduction of \$13,066 in Local funds to step increases and associated fringe benefit costs across multiple programs.

District's Approved Budget

Enhance: OEA's Agency Management program includes an increase of \$97,102 to support an additional 1.0 FTE and an increase of \$38,000 to support continuing education for the legal team

Budget Details	FY2025	FY2026 (Q1)
District Approved Budget	\$ 2,540,221	\$ 2,676,835
Revised Budget	\$ 2,396,095	\$ 2,676,835
YTD Expenditure	\$ 2,395,097	\$ 646,825
Federal Funding	\$ -	\$ -

¹ FY2026 Year-to-date Expenditure is as of Jan 26, 2026

Attachment # 14

Q.40 MOU (OEA)

OEA INTERAGENCY MOUS, FY2025 AND Q1 of FY2026, INCLUDING ANTICIPATED MOUS (Q40)

Buyer agency name	Seller agency name	Seller Program name	Seller Program code	Buyer Activity name	Program	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	100022	Local	10/01/2024 - 09/30/2025	OEA Case Management System	\$ 16,400.00		*
OEA	DCHR			CONTRACTING & PROCUREMENT	100022	Local	10/01/2024 - 09/30/2025	OEA HR Support Services	\$ 11,126.00		**

*The transfer of \$16,400 was processed; however, OCTO only utilized \$15,890, which was recorded in OEA's NPS YTD expenditure as of Sept 30, 2025.

**The transfer of \$11,126, as per the approved MOU, was fully executed between agencies within the fiscal year.

Buyer agency name	Seller agency name	Seller Program name	Seller Program code	Buyer Activity name	Program	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	100022	Local	10/01/2025 - 09/30/2026	OEA CaseTrack application	\$ 16,400.00		*
OEA	DCHR			CONTRACTING & PROCUREMENT	100022	Local	10/01/2025 - 09/30/2026	OEA HR Support Services	\$ 6,623.00		**

*The transfer of \$16,400, as per the approved MOU, is currently being processed by the respective Agency Budget Team.

**The transfer of \$6,623, as per the approved MOU, is currently being processed by the respective Agency Budget Team.

Attachment # 15

Q.44 Budget Enhancement**OEA BUDGET ENHANCEMENT REQUESTS, FY2025 AND Q1 of FY2026**

Fiscal Year	No#	Budget Enhancement Request	Amount Requested (\$)	Approved (Yes/No)	Amount Received (\$)	Current Status Update (Implementation)
FY2025						Nil Submission
FY2026	1	OEA's Request to Upgrade Case Tracking Database: Fully E-filing System	\$ 253,000.00	No	\$ -	Not applicable
FY2026	2	Additional funding for OEA Personnel Services	\$ 100,000.00	Yes	\$ 97,102.00	OEA plans to hire and onboard an Administrative Judge (Hearing Examiner) by Q3-Q4, FY26
FY2026	3	OEA's Request to Support Agency Emerging Training Needs (Staff Learning and Development)	\$ 30,000.00	Yes	\$ 38,000.00	OEA has developed a staff training plan to support the agency's legal professionals through offering legal educational courses throughout the fiscal year. By equipping the team with these advanced skills, OEA aims to stay ahead of legal innovations and enhance the team's ability to manage complex cases more efficiently.

Form 2 Detail: FY 2026 Enhancement Request

FY 2026 Agency Budget Request

Complete a separate Form 2 for each enhancement request. Agencies are limited to three Type D & E enhancement requests.

SECTION I. OVERVIEW		Required for ALL requests						
ENHANCEMENT TITLE*	ENHANCEMENT PRIORITY*							
OEA's PS Cost	1 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*	<input type="checkbox"/> A. Restore previous reduction or one-time funding <input type="checkbox"/> B. Increased cost to maintain existing activity <input type="checkbox"/> C. Operational improvement with strong business case <input type="checkbox"/> D. Expand high-performing existing activity <input type="checkbox"/> E. Completely new activity with highly likely or proven positive outcomes							
Mark the <u>one</u> request type that best describes this enhancement. No type is preferred over any other, but the questions in Section II: Rationale differ by type.	<div style="border-left: 1px solid black; padding-left: 10px; margin-left: 10px;"> <i>Complete Sections I-IV. Complete Section V to be considered for evidence rating.</i> </div> <div style="border-left: 1px solid black; padding-left: 10px; margin-left: 10px;"> <i>Complete Sections I-V.</i> </div>							
FUNDING REQUEST*	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center; padding: 5px;">FY 2026 PERSONAL SERVICES (PS)</th> <th style="text-align: center; padding: 5px;">FY 2026 NON-PERSONAL SERVICES (NPS)</th> <th style="text-align: center; padding: 5px;">FY 2026 TOTAL REQUEST AMOUNT</th> </tr> </thead> <tbody> <tr> <td style="text-align: center; padding: 5px;">\$100,000</td> <td style="text-align: center; padding: 5px;">\$0</td> <td style="text-align: center; padding: 5px;">\$100,000</td> </tr> </tbody> </table> <div style="text-align: center; margin-top: 10px;"> <input type="checkbox"/> ONE-TIME <input type="checkbox"/> PARTIALLY RECURRING <input checked="" type="checkbox"/> RECURRING </div>		FY 2026 PERSONAL SERVICES (PS)	FY 2026 NON-PERSONAL SERVICES (NPS)	FY 2026 TOTAL REQUEST AMOUNT	\$100,000	\$0	\$100,000
FY 2026 PERSONAL SERVICES (PS)	FY 2026 NON-PERSONAL SERVICES (NPS)	FY 2026 TOTAL REQUEST AMOUNT						
\$100,000	\$0	\$100,000						
FUTURE COSTS*	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center; padding: 5px;">TOTAL FY 2027</th> <th style="text-align: center; padding: 5px;">TOTAL FY 2028</th> <th style="text-align: center; padding: 5px;">TOTAL FY 2029</th> </tr> </thead> <tbody> <tr> <td style="text-align: center; padding: 5px;">\$0</td> <td style="text-align: center; padding: 5px;">\$0</td> <td style="text-align: center; padding: 5px;">\$0</td> </tr> </tbody> </table>		TOTAL FY 2027	TOTAL FY 2028	TOTAL FY 2029	\$0	\$0	\$0
TOTAL FY 2027	TOTAL FY 2028	TOTAL FY 2029						
\$0	\$0	\$0						
ENHANCEMENT SUMMARY*	<p>OEA's FY 2026 MARC will not adequately fund the agency's operating budget in FY 2026. The agency projects that its PS costs will total \$2,513,000 in FY 2026. This will cause a deficit of approximately \$100,000 in the agency's PS budget with no funding for the NPS budget.</p> <p>Should the FY 2026 MARC remain unchanged, the agency will not be able to fill the vacant position of the Senior Administrative Assistant which is an essential member of the OEA staff. The Senior Administrative Assistant works under the direct supervision of OEA's Chief Operating Officer and provides support to carry out OEA's mission-critical services.</p>							
<p>Will legislative support be required to implement this enhancement?* If yes, please submit a proposed BSA subtitle using Attachment D.</p> <p>Has this enhancement request been submitted in past formulation cycles?* If yes, in which fiscal years was it submitted? Mark all that apply.</p>								
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> FY 2025 <input type="checkbox"/> FY 2024 <input type="checkbox"/> FY 2023 <input type="checkbox"/> FY 2022 <input type="checkbox"/> FY 2021 </div> <div style="width: 45%;"> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%;"> <input type="checkbox"/> YES </div> <div style="width: 45%;"> <input checked="" type="checkbox"/> NO </div> </div>								

AGENCIES: Use this form to provide details about enhancement requests in your agency's FY 2026 budget request.

REQUIRED SECTIONS

- **Sections I-IV** for ALL requests.
- **Section V** for Type D/E requests. *Types A, B, and C can complete this section to be considered for an evidence rating.*
- **Section VII** for Type F requests.
- **Section VI** optional for all requests.

You must also submit a completed **Form 2 Summary spreadsheet**, including spend plan details for each enhancement request.

IMPORTANT: Agencies are limited to three Type D & E enhancement requests for FY 2026. If more than three Type D & E enhancements are submitted, OBPM will only consider and analyze the highest ranked.

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,

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.

Form 2 Detail: FY 2026 Enhancement Request**FY 2026 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 does not directly impact any problem facing the District. This enhancement does, however, directly impact OEA's ability to carry out its mission-critical services in that the Senior Administrative Assistant is needed to work with the Operations Division to ensure the timely processing of appeals filed by District workers. This problem exists because the FY 2026 MARC does not fully fund the agency's projected PS costs in FY 2026.

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. Please describe any data the agency has collected and/or any analysis the agency has conducted to understand the problem and its potential solutions.

This enhancement will enable the agency to offer a competitive salary thereby attracting qualified candidates as it seeks to fill the vacant Senior Administrative Assistant position.

Is this enhancement meant to sustain a project initiated with non-local funding (e.g.**ARPA, federal grants, SPRs)?** YES NO

If yes, please provide a rationale for why these non-local funds are no longer available:

N/A

How can this enhancement be scaled down to be accommodated within a constrained budget?*

Scaling can occur in FY 2026 or the out-years and can be based on fewer residents served, scaled back staffing, adjusted implementation timeline, etc. Please add a new row for each scaled down scenario and rank the scaled down options in order of agency preference.

Use the text box below the table to provide additional detail. If the enhancement cannot be scaled down, please indicate so in the textbox.

RANKING	Describe each proposed approach to scale down the enhancement request and explain the expected impact with each scenario	FY 2026	FY 2027	FY 2028	FY 2029
1	OEA believes the enhancement cannot be scaled down as it directly impacts the agency critical mission work.	\$0	\$0	\$0	\$0

Form 2 Detail: FY 2026 Enhancement Request

FY 2026 Agency Budget Request

SECTION II. RATIONALE (continued)

Required for **ALL** requests

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 reduction or 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? Please cite any relevant agency performance measures or other data that support your response.
<input checked="" type="checkbox"/> B. Increased cost to <u>maintain</u> existing activity	Why are costs increasing to maintain existing levels of service? What are the main cost drivers and what options have the agency already implemented or considered implementing to lower these costs? <i>Changes to the number of people served or the type of services provided should be categorized as a Type D request.</i>
<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 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 performance measures or other data that support your response.
<input type="checkbox"/> E. Completely new activity with highly likely or proven positive outcomes	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 2026 MARC does not fully cover the Office of Employee Appeals' projected personnel costs. The agency has faced persistent underfunding while costs continue to rise. Without adequate funding, the current shortfall will negatively impact the agency's ability to meet its budgetary needs in both the present and future which will impact the agency's ability to fulfil its mission critical mandates.

SECTION III. PERFORMANCE RATIONALE & IMPACT

Required for ALL requests

PERFORMANCE IMPACT

What data will the agency collect to understand the impact of this enhancement?*

Data may include measurements of the demand or need for programs over time, monitoring the quality and/or efficiency of programs, and/or assessing the impact of the enhancement on longer term goals. Please list specific data sources that will be collected and analyzed.

Not Applicable

PERFORMANCE TEAM IS HERE TO HELP!

Need help thinking through this section or identifying data sources or performance measures? Reach out to your OBPM Performance Analyst or to Chief Performance Officer Lia Katz (lia.katz@dc.gov).

What challenges or risks does the agency anticipate related to this enhancement request? What mitigation or management strategies will the agency adopt to address those challenges?

The challenge the agency anticipates related to this enhancement request is that the agency will not be able to offer a competitive salary which will hinder its ability to attract the most qualified candidates. Moreover, the workload of its current operations staff members will continue to increase while this position remains vacant.

Will any performance measures currently in the agency's performance plan be impacted by this enhancement? What new measures will be added to understand the impact of the enhancement?*

- If you are proposing a new metric, write “NEW” in the columns for FY 2024 and FY 2025.
- Identify the “measure type: will the metric measure quantity; quality; efficiency; outcome; context; or is a District wide indicator of environmental trends.
- Please provide the previous year’s data and the current year’s target for the metric. Please also provide the anticipated targets for next year in the case that (a) the enhancement is funded and (b) the enhancement is not funded.

Not Applicable

Form 2 Detail: FY 2026 Enhancement Request
 FY 2026 Agency Budget Request

Performance Measure	New for FY26?	Measure Type	Which direction is desired?	FY 2024 Actual	FY 2025 Target	Anticipated FY 2026 Target	
						With enhancement funding	Without enhancement funding
Number of Initial Decisions Issued	No	Outcome	Up	89	80		
Number of Opinions and Orders Issued	No	Outcome	Up	16	15		
Time Required to Complete Adjudications	No	Outcome	Down	120	120		
Number of Evidentiary Hearings Conducted	No	Outcome	Neutral	19	No Target Set		
Number of Board Meetings Conducted	No	Outcome	Neutral	6	6		
Percent of Decisions Upheld by Superior Court/D.C. Court of Appeals	No	Outcome	Up	86	100		

SECTION IV. BUDGETING FOR RACIAL EQUITY

Required for All requests

Is one of the goals of this enhancement to reduce or eliminate a racial equity gap?*

YES NO

Which of the four goals in the District's [Racial Equity Action Plan](#) (REAP) or your agency specific REAP does this enhancement request advance?* Check all that apply.

- 1. Improving DC Government staff understanding and commitment to achieving racial equity** (e.g., training, capacity building, or use of racial equity tools)
- 2. Reducing or eliminating a known racial and ethnic inequity** (domains include housing, health, economic opportunity, safety, education, neighborhood life, and civic engagement)
- 3. Enhancing opportunities to meaningfully engage DC residents in decision-making processes and strengthening partnerships**
- 4. Improving DC government ability to be an equitable employer and engage in racially equitable hiring, promotion, and retention practices** (e.g., building pipelines with HBCU/HSI, staff development funds, or community of practice on hiring)

What racial inequity or REAP sub-goal(s) does this enhancement request address?*

For example, health disparity, educational gap, disproportionality in housing, bolstering existing community resources, etc. Please be as specific as possible. For REAP goals, please list the specific action (e.g. 1B, see District's REAP for supporting actions).

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?* 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

SECTION V. EVIDENCE-BASED BUDGETING

Required for Type D & E requests. Optional for Types A, B & C.

This section is required for all Type D and E enhancement requests that would expand existing activities or launch completely new activities. This section may be completed for Type A, B and C enhancement requests to be considered for an evidence rating.

If the activities described in this enhancement are successfully implemented, what outcome(s) will improve?* O BPM expects that it will be possible for agencies to identify for almost all enhancement requests a new performance measure (Section III of this form) 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.

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

Please describe the quantitative studies or other measures that show the outcomes of similar efforts previously undertaken in the District or in other cities (see sidebar for what O BPM will look for to review enhancements as evidence-based or supported by preliminary evidence). Provide links to cite your sources, which may include formal evaluation studies, evidence standards, or evidence clearinghouses.

Click or tap here to enter text.

Which parts of your enhancement are identical to the model(s) the evidence comes from?*

As applicable, your answer should describe sameness in the target population, intervention, and availability of inputs/resources needed, etc.

Click or tap here to enter text.

Which parts of your enhancement are different from the model(s) evaluated in the studies linked?*

Explain why deviations are necessary for success in DC.

Click or tap here to enter text.

Are you building or planning to build evidence to support this enhancement using a formal program evaluation?*

If yes, please describe or link below to the planned evaluation design, research question(s), and timeline for results.

Click or tap here to enter text.

THE LAB@DC TEAM IS HERE TO HELP!

Have questions about the evidence? Email the.lab@dc.gov (and CC your O BPM 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.

HELPFUL TIPS TO GET STARTED:

In general, evidence ratings follow the principles listed below; the quality of the evidence provided and how well it matches the enhancement may also affect the final evidence rating:

- Experimental studies (also called randomized evaluations or randomized control trials) that show that a program or intervention *caused* an outcome may receive a **STRONG/4-star** evidence rating
- Quasi-experimental studies that suggest that a program or intervention *caused* an outcome by comparing outcomes between the group receiving the enhancement and a very similar group that doesn't receive the enhancement may receive a **MODERATE/3-star** evidence rating
- Correlational studies with appropriate statistical controls may receive a **PROMISING/2-star** evidence rating
- Before-and-after comparison studies (also called pre-post comparison studies) may receive a **SOME/1-star** evidence rating

Consider the positive impact(s) this enhancement should have on District residents or government operations. These are the outcome(s) of the enhancement. Try searching [Google Scholar](#) or a similar database for relevant existing research. Government evidence clearinghouses (like [What Works Clearinghouse](#) for education and [CrimeSolutions](#) for public safety) are also good places to search according to specialized topics.

Form 2 Detail: FY 2026 Enhancement Request

FY 2026 Agency Budget Request

SECTION VI. PROJECT PLAN

Optional for All Requests

This section is optional. However, it is recommended for Type D and E enhancement requests that would expand existing activities or launch completely new 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 quarter to show how the agency will deliver the intended results. Please identify specific months or dates, if known.

PREPARATION FOR PROJECT LAUNCH (before start of fiscal year)

FY 2025 Q4	[enter]
------------	---------

FISCAL YEAR STARTS, FUNDS DISBURSED

FY 2026 Q1	[enter]
FY 2026 Q2	[enter]
FY 2026 Q3	[enter]
FY 2026 Q4	[enter]

Form 2 Detail: FY 2026 Enhancement Request

FY 2026 Agency Budget Request

Complete a separate Form 2 for each enhancement request. Agencies are limited to three Type D & E enhancement requests.

SECTION I. OVERVIEW		Required for ALL requests						
ENHANCEMENT TITLE* OEA's Database Upgrade								
AGENCY* Office of Employee Appeals	ENHANCEMENT PRIORITY* 2 OUT OF 3							
AGENCY POINT OF CONTACT* Sheila G Barfield	AGENCY CODE* CHO							
POINT OF CONTACT EMAIL* Sheila.barfield@dc.gov								
REQUEST TYPE* Mark the <u>one</u> request type that best describes this enhancement. No type is preferred over any other, but the questions in Section II: Rationale differ by type.	<input type="checkbox"/> A. Restore previous reduction or one-time funding <input type="checkbox"/> B. Increased cost to maintain existing activity <input checked="" type="checkbox"/> C. Operational improvement with strong business case <input type="checkbox"/> D. Expand high-performing existing activity <input type="checkbox"/> E. Completely new activity with highly likely or proven positive outcomes							
	<i>Complete Sections I-IV.</i> <i>Complete Section V to be considered for evidence rating.</i>							
FUNDING REQUEST* Enter amount of <u>Local Funds</u> requested and indicate whether funds are one-time or recurring.	<table border="1" style="width: 100%;"> <thead> <tr> <th>FY 2026 PERSONAL SERVICES (PS)</th> <th>FY 2026 NON-PERSONAL SERVICES (NPS)</th> <th>FY 2026 TOTAL REQUEST AMOUNT</th> </tr> </thead> <tbody> <tr> <td>\$0</td> <td>\$253,000</td> <td>\$253,000</td> </tr> </tbody> </table> <input checked="" type="checkbox"/> ONE-TIME <input type="checkbox"/> PARTIALLY RECURRING <input type="checkbox"/> RECURRING		FY 2026 PERSONAL SERVICES (PS)	FY 2026 NON-PERSONAL SERVICES (NPS)	FY 2026 TOTAL REQUEST AMOUNT	\$0	\$253,000	\$253,000
FY 2026 PERSONAL SERVICES (PS)	FY 2026 NON-PERSONAL SERVICES (NPS)	FY 2026 TOTAL REQUEST AMOUNT						
\$0	\$253,000	\$253,000						
FUTURE COSTS* If recurring, enter estimated costs over next four years.	<table border="1" style="width: 100%;"> <thead> <tr> <th>TOTAL FY 2027</th> <th>TOTAL FY 2028</th> <th>TOTAL FY 2029</th> </tr> </thead> <tbody> <tr> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </tbody> </table>		TOTAL FY 2027	TOTAL FY 2028	TOTAL FY 2029	\$0	\$0	\$0
TOTAL FY 2027	TOTAL FY 2028	TOTAL FY 2029						
\$0	\$0	\$0						
ENHANCEMENT SUMMARY* In your response:	<p>OEA is requesting a one-time budget enhancement to upgrade its case-tracking system, enabling full electronic filing for all stakeholders, including agencies and employees. This critical modernization effort will improve efficiency by reducing postage and paper-related costs, providing real-time status updates for ongoing cases, and streamlining case management processes.</p> <p>This enhancement will result in quicker decision issuance, reducing delays and improving service delivery. This investment will not only address the agency's immediate operational needs but also ensure long-term benefits. By adopting a fully digital platform, OEA will reduce administrative overhead, increase transparency, and enhance flexibility in managing growing case volumes and complexities.</p> <p>The return on investment is expected to be substantial, leading to long-term cost savings and a more efficient, responsive agency.</p>							
Will legislative support be required to implement this enhancement?* If yes, please submit a proposed BSA subtitle using Attachment D.								
Has this enhancement request been submitted in past formulation cycles?* If yes, in which fiscal years was it submitted? Mark all that apply.								
<input type="checkbox"/> FY 2025 <input type="checkbox"/> FY 2024 <input type="checkbox"/> FY 2023 <input type="checkbox"/> FY 2022 <input type="checkbox"/> FY 2021								

AGENCIES: Use this form to provide details about enhancement requests in your agency's FY 2026 budget request.

REQUIRED SECTIONS

- **Sections I-IV** for ALL requests.
- **Section V** for Type D/E requests. *Types A, B, and C can complete this section to be considered for an evidence rating.*
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You must also submit a completed **Form 2 Summary spreadsheet**, including spend plan details for each enhancement request.

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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,

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YES NO

YES NO

Form 2 Detail: FY 2026 Enhancement Request**FY 2026 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.

OEA's current database is a manual system (paper based) that is used daily to manage and process employees petition for appeal filed with the agency. The system is outdated, leading to inefficiencies, delays, and higher administrative costs, particularly from postage and manual processing. These inefficiencies contribute to delay in case resolutions, increase case backlog, and potential data inaccuracy through manual processes.

Additionally, without real-time updates, agencies and employees face a lack of transparency in case status, further prolonging decision-making. The requested budget enhancement addresses these issues by transitioning to a fully electronic filing system, which will significantly streamline processes, reduce overhead, and expedite decision issuance, improving service delivery for all stakeholders.

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. Please describe any data the agency has collected and/or any analysis the agency has conducted to understand the problem and its potential solutions.

OEA believes this enhancement will address the problem by replacing OEA's manual, paper-based processes with a fully electronic case-tracking system, reducing delays caused by physical mail and manual updates while enabling real-time status tracking for all parties. This shift streamlines case management, reduces administrative costs, and improves transparency, with OEA's internal analysis indicating that automation could significantly decrease decision issuance times and administrative overhead.

Is this enhancement meant to sustain a project initiated with non-local funding (e.g. ARPA, federal grants, SPRs)?

If yes, please provide a rationale for why these non-local funds are no longer available:

 YES NO

N/A

How can this enhancement be scaled down to be accommodated within a constrained budget?*

Scaling can occur in FY 2026 or the out-years and can be based on fewer residents served, scaled back staffing, adjusted implementation timeline, etc. Please add a new row for each scaled down scenario and rank the scaled down options in order of agency preference.

Use the text box below the table to provide additional detail. If the enhancement cannot be scaled down, please indicate so in the textbox.

RANKING	Describe each proposed approach to scale down the enhancement request and explain the expected impact with each scenario	FY 2026	FY 2027	FY 2028	FY 2029
1	OEA believes the enhancement cannot be scaled down as it directly impacts the agency critical mission work.	\$0	\$0	\$0	\$0

Form 2 Detail: FY 2026 Enhancement Request

FY 2026 Agency Budget Request

SECTION II. RATIONALE (continued)

Required for **ALL** requests

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 reduction or 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? Please cite any relevant agency performance measures or other data that support your response.
<input type="checkbox"/> B. Increased cost to <u>maintain</u> existing activity	Why are costs increasing to maintain existing levels of service? What are the main cost drivers and what options have the agency already implemented or considered implementing to lower these costs? <i>Changes to the number of people served or the type of services provided should be categorized as a Type D request.</i>
<input checked="" 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 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 performance measures or other data that support your response.
<input type="checkbox"/> E. Completely new activity with highly likely or proven positive outcomes	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*

OEA believes this enhancement will save the District money by reducing operating costs associated with postage, paper, and manual case management processes, while allowing the agency to better position its limited human resources to support other mission- critical functions.

By automating case tracking and filing, the agency expects to decrease administrative overhead and improve resource allocation, potentially leading to faster case resolutions and reduced backlog-related expenses. Furthermore, the agency believes this enhancement will improve operational efficiency and provide long-term savings as case complexity and volumes grow in the near future.

SECTION III. PERFORMANCE RATIONALE & IMPACT

Required for ALL requests

PERFORMANCE IMPACT

What data will the agency collect to understand the impact of this enhancement?*

Data may include measurements of the demand or need for programs over time, monitoring the quality and/or efficiency of programs, and/or assessing the impact of the enhancement on longer term goals. Please list specific data sources that will be collected and analyzed.

OEA will continue to collect data related to its email filing and transmission of documents. OEA believes its email filing initiative is a precursor to full electronic filing and, as such, will provide the agency with valuable data as to how agencies and employees will interact with full electronic filing.

What challenges or risks does the agency anticipate related to this enhancement request? What mitigation or management strategies will the agency adopt to address those challenges?

The only challenge the agency anticipates related to this enhancement is that the agency will not receive adequate funding to support this enhancement which will further delay the upgrade and modernization of OEA's case tracking system.

Will any performance measures currently in the agency's performance plan be impacted by this enhancement? What new measures will be added to understand the impact of the enhancement?*

- If you are proposing a new metric, write "NEW" in the columns for FY 2024 and FY 2025.
- Identify the "measure type: will the metric measure quantity; quality; efficiency; outcome; context; or is a District wide indicator of environmental trends.
- Please provide the previous year's data and the current year's target for the metric. Please also provide the anticipated targets for next year in the case that (a) the enhancement is funded and (b) the enhancement is not funded.

Not Applicable

PERFORMANCE TEAM IS HERE TO HELP!

Need help thinking through this section or identifying data sources or performance measures? Reach out to your OBPM Performance Analyst or to Chief Performance Officer Lia Katz (lia.katz@dc.gov).

Form 2 Detail: FY 2026 Enhancement Request

FY 2026 Agency Budget Request

Performance Measure	New for FY26?	Measure Type	Which direction is desired?	FY 2024 Actual	FY 2025 Target	Anticipated FY 2026 Target	
						With enhancement funding	Without enhancement funding
Number of Initial Decisions Issued	No	Outcome	Up	89	80		
Number of Opinions and Orders Issued	No	Outcome	Up	16	15		
Time Required to Complete Adjudications	No	Outcome	Down	120	120		
Number of Evidentiary Hearings Conducted	No	Outcome	Neutral	19	No Target Set		
Number of Board Meetings Conducted	No	Outcome	Neutral	6	6		
Percent of Decisions Upheld by Superior Court/D.C. Court of Appeals	No	Outcome	Up	86	100		

SECTION IV. BUDGETING FOR RACIAL EQUITY

Required for All requests

Is one of the goals of this enhancement to reduce or eliminate a racial equity gap?*

YES NO

Which of the four goals in the District's [Racial Equity Action Plan](#) (REAP) or your agency specific REAP does this enhancement request advance?* Check all that apply.

- 1. Improving DC Government staff understanding and commitment to achieving racial equity** (e.g., training, capacity building, or use of racial equity tools)
- 2. Reducing or eliminating a known racial and ethnic inequity** (domains include housing, health, economic opportunity, safety, education, neighborhood life, and civic engagement)
- 3. Enhancing opportunities to meaningfully engage DC residents in decision-making processes and strengthening partnerships**
- 4. Improving DC government ability to be an equitable employer and engage in racially equitable hiring, promotion, and retention practices** (e.g., building pipelines with HBCU/HSI, staff development funds, or community of practice on hiring)

What racial inequity or REAP sub-goal(s) does this enhancement request address?*

For example, health disparity, educational gap, disproportionality in housing, bolstering existing community resources, etc. Please be as specific as possible. For REAP goals, please list the specific action (e.g. 1B, see District's REAP for supporting actions).

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?* 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

SECTION V. EVIDENCE-BASED BUDGETING

Required for Type D & E requests. Optional for Types A, B & C.

This section is required for all Type D and E enhancement requests that would expand existing activities or launch completely new activities. This section may be completed for Type A, B and C enhancement requests to be considered for an evidence rating.

If the activities described in this enhancement are successfully implemented, what outcome(s) will improve?* O BPM expects that it will be possible for agencies to identify for almost all enhancement requests a new performance measure (Section III of this form) 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.

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

Please describe the quantitative studies or other measures that show the outcomes of similar efforts previously undertaken in the District or in other cities (see sidebar for what O BPM will look for to review enhancements as evidence-based or supported by preliminary evidence). Provide links to cite your sources, which may include formal evaluation studies, evidence standards, or evidence clearinghouses.

Click or tap here to enter text.

Which parts of your enhancement are identical to the model(s) the evidence comes from?*

As applicable, your answer should describe sameness in the target population, intervention, and availability of inputs/resources needed, etc.

Click or tap here to enter text.

Which parts of your enhancement are different from the model(s) evaluated in the studies linked?*

Explain why deviations are necessary for success in DC.

Click or tap here to enter text.

Are you building or planning to build evidence to support this enhancement using a formal program evaluation?*

If yes, please describe or link below to the planned evaluation design, research question(s), and timeline for results.

Click or tap here to enter text.

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Have questions about the evidence? Email the.lab@dc.gov (and CC your O BPM 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.

HELPFUL TIPS TO GET STARTED:

In general, evidence ratings follow the principles listed below; the quality of the evidence provided and how well it matches the enhancement may also affect the final evidence rating:

- Experimental studies (also called randomized evaluations or randomized control trials) that show that a program or intervention *caused* an outcome may receive a **STRONG/4-star** evidence rating
- Quasi-experimental studies that suggest that a program or intervention *caused* an outcome by comparing outcomes between the group receiving the enhancement and a very similar group that doesn't receive the enhancement may receive a **MODERATE/3-star** evidence rating
- Correlational studies with appropriate statistical controls may receive a **PROMISING/2-star** evidence rating
- Before-and-after comparison studies (also called pre-post comparison studies) may receive a **SOME/1-star** evidence rating

Consider the positive impact(s) this enhancement should have on District residents or government operations. These are the outcome(s) of the enhancement. Try searching [Google Scholar](#) or a similar database for relevant existing research. Government evidence clearinghouses (like [What Works Clearinghouse](#) for education and [CrimeSolutions](#) for public safety) are also good places to search according to specialized topics.

Form 2 Detail: FY 2026 Enhancement Request

FY 2026 Agency Budget Request

SECTION VI. PROJECT PLAN

Optional for All Requests

This section is optional. However, it is recommended for Type D and E enhancement requests that would expand existing activities or launch completely new 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 quarter to show how the agency will deliver the intended results. Please identify specific months or dates, if known.

PREPARATION FOR PROJECT LAUNCH (before start of fiscal year)

FY 2025 Q4	[enter]
------------	---------

FISCAL YEAR STARTS, FUNDS DISBURSED

FY 2026 Q1	[enter]
FY 2026 Q2	[enter]
FY 2026 Q3	[enter]
FY 2026 Q4	[enter]

Form 2 Detail: FY 2026 Enhancement Request

FY 2026 Agency Budget Request

Complete a separate Form 2 for each enhancement request. Agencies are limited to three Type D & E enhancement requests.

SECTION I. OVERVIEW

Required for **ALL** requests

ENHANCEMENT TITLE*

OEA's Staff Training (L&D)

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 reduction or one-time funding
- B. Increased cost to maintain existing activity
- C. Operational improvement with strong business case
- D. Expand high-performing existing activity
- E. Completely new activity with highly likely or proven positive outcomes

Complete Sections I-IV.
Complete Section V to be considered for evidence rating.

Complete Sections I-V.

FUNDING REQUEST*

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

FY 2026 PERSONAL SERVICES (PS)	FY 2026 NON-PERSONAL SERVICES (NPS)	FY 2026 TOTAL REQUEST AMOUNT
\$0	\$30,000	\$30,000

ONE-TIME PARTIALLY RECURRING RECURRING

FUTURE COSTS*

If recurring, enter estimated costs over next four years.

TOTAL FY 2027	TOTAL FY 2028	TOTAL FY 2029
\$0	\$0	\$0

ENHANCEMENT SUMMARY*

In your response:

- State the problem this enhancement is designed to address
- Describe what the enhancement is and/or how it will work
- Describe the impact the enhancement will have on the problem

OEA is requesting a one-time budget enhancement to support its legal team's learning and development needs, including administrative judges, general counsel staff, and the executive director. This investment will provide training in emerging areas, particularly the application of artificial intelligence (AI) in the legal profession, a field that is becoming increasingly relevant.

By equipping the team with these advanced skills, OEA aims to stay ahead of legal innovations and enhance the team's ability to manage complex cases more efficiently. The agency views this initiative as a strategic investment that will yield substantial returns through improved decision-making and streamlined legal processes.

While this is a one-time request, OEA hopes to make this a recurring expenditure to ensure continuous professional development.

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 2026 budget request.

REQUIRED SECTIONS

- Sections I-IV for ALL requests.
- Section V for Type D/E requests. Types A, B, and C can complete this section to be considered for an evidence rating.
- Section VII for Type F requests.
- Section VI optional for all requests.

You must also submit a completed Form 2 Summary spreadsheet, including spend plan details for each enhancement request.

IMPORTANT: Agencies are limited to three Type D & E enhancement requests for FY 2026. If more than three Type D & E enhancements are submitted, OBPM will only consider and analyze the highest ranked.

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,

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.

Form 2 Detail: FY 2026 Enhancement Request**FY 2026 Agency Budget Request****SECTION II. RATIONALE (continued)***Required for ALL requests***Has this enhancement request been submitted in past formulation cycles?***

If yes, in which fiscal years was it submitted? Mark all that apply.

 YES NO FY 2025 FY 2024 FY 2023 FY 2022 FY 2021**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 budget enhancement will address OEA's growing needs for adequate training of its legal team in emerging areas such as artificial intelligence (AI) and emerging case law issued by the Merit Systems Protection Board (MSPB) which is OEA's federal counterpart. Due to budgetary constraints, the agency has struggled to provide adequate and up-to-date legal training over the years. To address this gap, OEA seeks funding to ensure its legal team is equipped with the necessary skills and resources.

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. Please describe any data the agency has collected and/or any analysis the agency has conducted to understand the problem and its potential solutions.

This enhancement will enable the agency's Administrative Judges and General Counsel's Office to engage in continuing legal education aimed at increasing their knowledge and adjudication skills.

Is this enhancement meant to sustain a project initiated with non-local funding (e.g.**ARPA, federal grants, SPRs)?** YES NO

If yes, please provide a rationale for why these non-local funds are no longer available:

N/A

How can this enhancement be scaled down to be accommodated within a constrained budget?*

Scaling can occur in FY 2026 or the out-years and can be based on fewer residents served, scaled back staffing, adjusted implementation timeline, etc. Please add a new row for each scaled down scenario and rank the scaled down options in order of agency preference.

Use the text box below the table to provide additional detail. If the enhancement cannot be scaled down, please indicate so in the textbox.

RANKING	Describe each proposed approach to scale down the enhancement request and explain the expected impact with each scenario	FY 2026	FY 2027	FY 2028	FY 2029
1	OEA believes the enhancement cannot be scaled down as it directly impacts the agency critical mission work.	\$0	\$0	\$0	\$0

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...

Form 2 Detail: FY 2026 Enhancement Request

FY 2026 Agency Budget Request

A. Restore previous reduction or 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? Please cite any relevant agency performance measures or other data that support your response.

B. Increased cost to maintain existing activity

Why are costs increasing to maintain existing levels of service? What are the main cost drivers and what options have the agency already implemented or considered implementing to lower these costs?
Changes to the number of people served or the type of services provided should be categorized as a Type D request.

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?

D. Expand high-performing existing 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 performance measures or other data that support your response.

E. Completely new activity with highly likely or proven positive outcomes

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*

OEA believes the costs for maintaining existing service levels are increasing due to the growing complexity of appeals being filed. The main cost drivers include the growing demand for advanced legal skills, evolving industry standards, and the necessity to keep up with technological advancements.

OEA plans to explore cost-saving measures such as in-house training, online learning platforms, and collaborative partnerships but recognizes that external expertise is required to fully equip staff with cutting-edge legal tools and knowledge.

SECTION III. PERFORMANCE RATIONALE & IMPACT

Required for ALL requests

PERFORMANCE IMPACT

What data will the agency collect to understand the impact of this enhancement?*

Data may include measurements of the demand or need for programs over time, monitoring the quality and/or efficiency of programs, and/or assessing the impact of the enhancement on longer term goals. Please list specific data sources that will be collected and analyzed.

Not Applicable

PERFORMANCE TEAM IS HERE TO HELP!

Need help thinking through this section or identifying data sources or performance measures? Reach out to your OBPM Performance Analyst or to Chief Performance Officer Lia Katz (lia.katz@dc.gov).

What challenges or risks does the agency anticipate related to this enhancement request? What mitigation or management strategies will the agency adopt to address those challenges?

Not Applicable

Will any performance measures currently in the agency's performance plan be impacted by this enhancement? What new measures will be added to understand the impact of the enhancement?*

- If you are proposing a new metric, write “NEW” in the columns for FY 2024 and FY 2025.
- Identify the “measure type: will the metric measure quantity; quality; efficiency; outcome; context; or is a District wide indicator of environmental trends.
- Please provide the previous year’s data and the current year’s target for the metric. Please also provide the anticipated targets for next year in the case that (a) the enhancement is funded and (b) the enhancement is not funded.

Not Applicable

Form 2 Detail: FY 2026 Enhancement Request
FY 2026 Agency Budget Request

Performance Measure	New for FY26?	Measure Type	Which direction is desired?	FY 2024 Actual	FY 2025 Target	Anticipated FY 2026 Target	
						With enhancement funding	Without enhancement funding
Number of Initial Decisions Issued	No	Outcome	Up	89	80		
Number of Opinions and Orders Issued	No	Outcome	Up	16	15		
Time Required to Complete Adjudications	No	Outcome	Down	120	120		
Number of Evidentiary Hearings Conducted	No	Outcome	Neutral	19	No Target Set		
Number of Board Meetings Conducted	No	Outcome	Neutral	6	6		
Percent of Decisions Upheld by Superior Court/D.C. Court of Appeals	No	Outcome	Up	86	100		
Number of Initial Decisions Issued	No	Outcome	Up	89	80		

SECTION IV. BUDGETING FOR RACIAL EQUITY

Required for All requests

Is one of the goals of this enhancement to reduce or eliminate a racial equity gap?*

YES NO

Which of the four goals in the District's [Racial Equity Action Plan](#) (REAP) or your agency specific REAP does this enhancement request advance?* Check all that apply.

- 1. Improving DC Government staff understanding and commitment to achieving racial equity** (e.g., training, capacity building, or use of racial equity tools)
- 2. Reducing or eliminating a known racial and ethnic inequity** (domains include housing, health, economic opportunity, safety, education, neighborhood life, and civic engagement)
- 3. Enhancing opportunities to meaningfully engage DC residents in decision-making processes and strengthening partnerships**
- 4. Improving DC government ability to be an equitable employer and engage in racially equitable hiring, promotion, and retention practices** (e.g., building pipelines with HBCU/HSI, staff development funds, or community of practice on hiring)

What racial inequity or REAP sub-goal(s) does this enhancement request address?*

For example, health disparity, educational gap, disproportionality in housing, bolstering existing community resources, etc. Please be as specific as possible. For REAP goals, please list the specific action (e.g. 1B, see District's REAP for supporting actions).

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?* 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

SECTION V. EVIDENCE-BASED BUDGETING

Required for Type D & E requests. Optional for Types A, B & C.

This section is required for all Type D and E enhancement requests that would expand existing activities or launch completely new activities. This section may be completed for Type A, B and C enhancement requests to be considered for an evidence rating.

If the activities described in this enhancement are successfully implemented, what outcome(s) will improve?* O BPM expects that it will be possible for agencies to identify for almost all enhancement requests a new performance measure (Section III of this form) 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.

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

Please describe the quantitative studies or other measures that show the outcomes of similar efforts previously undertaken in the District or in other cities (see sidebar for what O BPM will look for to review enhancements as evidence-based or supported by preliminary evidence). Provide links to cite your sources, which may include formal evaluation studies, evidence standards, or evidence clearinghouses.

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Which parts of your enhancement are different from the model(s) evaluated in the studies linked?*

Explain why deviations are necessary for success in DC.

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Are you building or planning to build evidence to support this enhancement using a formal program evaluation?*

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Form 2 Detail: FY 2026 Enhancement Request

FY 2026 Agency Budget Request

SECTION VI. PROJECT PLAN

Optional for All Requests

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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?

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PROJECT TIMELINE

Describe below anticipated implementation milestones by quarter to show how the agency will deliver the intended results. Please identify specific months or dates, if known.

PREPARATION FOR PROJECT LAUNCH (before start of fiscal year)

FY 2025 Q4	[enter]
------------	---------

FISCAL YEAR STARTS, FUNDS DISBURSED

FY 2026 Q1	[enter]
FY 2026 Q2	[enter]
FY 2026 Q3	[enter]
FY 2026 Q4	[enter]

Fiscal Year 2025 Superior Court Remands

Elizabeth Marso

v.

**Department of Forensic Sciences and D.C. Office of Employee
Appeals**

Case No. 2024-CAB-000343

Attachment # 16

**SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

ELIZABETH MARSO,

Petitioner,

v.

D.C. DEPARTMENT OF FORENSIC SCIENCES,

and

D.C. OFFICE OF EMPLOYEE APPEALS,

Respondents.

Case No. 2024-CAB-000343

Judge Jonathan H. Pittman

MEMORANDUM OPINION AND ORDER

Pending before the Court is the Petitioner Elizabeth Marso’s (“Employee” or “Petitioner”) Petition for Review of Agency Decision (“Petition”), filed on January 18, 2024. The Court has received Petitioner’s Opening Brief, filed June 28, 2024, the Respondent Office of Employee Appeals’ (“OEA”) Statement in Lieu of Brief, filed August 6, 2024, Respondent District of Columbia Department of Forensic Science’s (“Agency” or “DFS”) Brief in Opposition, filed September 13, 2024, and Petitioner’s Reply Brief, filed October 11, 2024. In addition, the Court has reviewed the 1862-page agency record in this matter.

Petitioner seeks review of the Initial Decision on Remand issued on August 23, 2023, and all rulings encompassed therein, issued by Respondent Office of Employee

Appeals in the matter of *Elizabeth Marso v. D.C. Department of Forensic Science*, OEA Matt. No. 2401-0017-22. Petitioner asks the Court to reverse OEA's Initial Decision, reverse her separation from employment, and award her back pay and benefits and all other appropriate relief.

FACTUAL AND PROCEDURAL HISTORY

In January 2020, DFS received a complaint from the United States Attorney's Office for the District of Columbia that alleged misconduct within the agency. R. 85-88. After an investigation substantiated this complaint, the ANSI National Accreditation Board, the accrediting body for DFS, suspended DFS's accreditation in April 2021. R. 125. Without accreditation, DFS could not conduct any forensic work. R. 1553, 1559. Due to the lack of work caused by the loss of accreditation, DFS Interim Director, Anthony Crispino determined that a Reduction-in-Force (RIF) was necessary. R. 473-74. On August 10, 2021, Crispino sent a letter ("Memorandum") to the City Administrator requesting approval for a RIF of all employees in the Firearms Examination Unit ("FEU") at DFS. R. 1488-89. Ventris Gibson, the Director of D.C. Human Resources ("DCHR"), approved the RIF on September 9, 2021. R. 1492. DFS issued RIF notice letters to the affected FEU employees on September 22, 2021. R. 4. Separation of the FEU employees was effective October 22, 2021. *Id.*

Employee was a Career Service employee at FEU who was separated from her position because of the RIF. *Id.* On November 29, 2021, she filed a Petition for Appeal with OEA contesting DFS's decision to separate her from her position pursuant to the

RIF. OEA held an evidentiary hearing on March 21, 2023. R. 1516. Employee argued that her position should not have been abolished because DFS did not follow RIF procedure set forth in D.C. statutes and regulations. Under D.C. Code § 1-624.02(a), RIF procedures apply to Career Service employees and shall include, in pertinent part:

- (2) One round of lateral competition limited to positions within the employee's competitive level;
- (3) Priority reemployment consideration for employees separated; [and]
- (4) Consideration of job sharing and reduced hours.

In the Initial Decision, OEA found that the statutory provision affording Employee one round of lateral competition was inapplicable. I.D. at 13. The Memorandum authorizing the RIF designated the FEU as a lesser competitive area. *Id.* at 12. Because all positions within the FEU were abolished, all the positions within Employee's competitive level were also abolished, and there were no lateral positions for her to compete for. *Id.* at 13. Employee argued that DFS did not provide any evidence that it legitimately created a lesser competitive area. *Id.* at 12. OEA disagreed, noting that the RIF Authorization Memorandum and the retention register listed FEU as a lesser competitive area and finding that § 2409 of the District Personnel Manual (“DPM”) authorized DFS to establish a lesser competitive area when conducting a RIF. *Id.*

Priority reemployment consideration for employees separated due to a RIF is accomplished by placing those employees in the Agency Reemployment Priority Program (“ARPP”) and the Displaced Employee Program (“DEP”). Employee argued

that DFS did not afford her priority reemployment prior to the effective date of her separation. I.D. at 14. In the Initial Decision, OEA noted that the RIF Separation notice that DFS issued to Employee on September 22, 2021 stated that she was entitled to priority reemployment through ARPP and DEP. *Id.* OEA found that by placing Employee in these programs prior to the effective date of the RIF, October 22, 2021, DFS afforded Employee priority reemployment consideration. *Id.*

OEA found that DFS did consider job sharing and reduced hours. *Id.* at 16. OEA also determined that even if DFS failed to meet its burden of considering job sharing and reduced hours as part of the RIF, such an error would be harmless. *Id.* at 17. D.C. Mun. Reg. 6-B § 2405.7 provides that, “to be harmful, an error shall be of such magnitude that in its absence the employee would not have been released from his or her competitive level.” OEA found that because Employee’s entire competitive level (the FEU) was abolished, regardless of whether DFS considered job sharing and reduced hours, there were no jobs to share. *Id.*

RELATED PROCEEDINGS

Petitioner is one of ten RIF’d FEU employees who challenged their dismissals before the OEA. OEA upheld the dismissals in each case, and each employee sought review in this Court. *See* Case Nos. 2024-CAB-000335 (Ashley Bobek), 2024-CAB-0003336 (Kim Brittingham), 2024-CAB-000337 (Cody Elder), 2024-CAB-000339 (Maya Gilliam), 2024-CAB-000343 (this case), 2024-CAB-00344 (Richard McGraw), 2024-CAB-000345 (Jakeline Ruiz-Reyes), 2024-CAB-000346 (Julia Washington), 2024-CAB-

000387(Phinon Beckham), and 2024-CAB-000393 (Laketa Bailey). The first eight petitions for review were filed on January 18, 2024. The petition for review in Case No. 2024-CAB-000387 was filed on January 19, 2024, and the petition for review in Case No. 2024-CAB-000393 was filed on January 22, 2024. The petitioners in these cases are all represented by the same counsel. Petitioners concede that each of the petitions for review were untimely filed under D.C. SUPER. CT. AGENCY REV. R. 1, which requires petitions for review to be filed within 30 days of notice of the order sought to be reviewed. Accordingly, each of the ten petitioners filed a motion to extend the deadline for filing the petitions for review. DFS filed motions to dismiss each of the petitions on the ground that the Superior Court lacks the ability to consider untimely petitions for review.

The ten petitions for review have been assigned to different judges, and the motions to extend and motions to dismiss have received different treatment. Three of the pending petitions for review (2024-CAB-000339, 2024-CAB-000345, and 2024-CAB-000346) were dismissed on the ground that the petitions were untimely filed. The petitioners in those cases have appealed the dismissals of their petitions, and the appeals remain pending in the Court of Appeals. Proceedings in three other petitions for review (2024-CAB-000335, 2024-CAB-000344, and 2024-CAB-000387) have been stayed pending the resolution of these appeals.

The motions to extend were granted and the motions to dismiss were denied in the remaining four petitions for review, including this one (2024-CAB-000336, 2024-

CAB-000337, 2024-CAB-000343 (this case), and 2024-CAB-000393) and those cases are currently pending. In particular, the judge previously assigned to this case granted the motion to extend and denied the motion to dismiss on February 27, 2024. Of the four pending cases, only this case is currently ripe for decision, as briefing has not been concluded in the other three cases.

STANDARD OF REVIEW

In the 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 . . . [t]he court defers to the determination of the director . . . as long as the director’s decision flows rationally from the facts, and those facts are supported by substantial evidence in the record.” *Orius Telcoms Inc. v. D.C. Dep’t of Empl. Servs.*, 857 A.2d 1061, 1065 (D.C. 2004). Additionally, an agency’s interpretation of the applicable regulations “becomes of controlling weight unless it is plainly erroneous or inconsistent with the regulation.” *Id.* at 1065 (citing *Bowles v. Seminole Rock & Sand Co.*, 325 U.S. 410, 414 (1945)).

The trial court “must review the administrative record alone . . . [;] [t]he function is to determine if the requirements of procedural due process are met, and whether the decision of the [agency] is supported by substantial evidence on the whole record.” *Kegley v. District of Columbia*, 440 A.2d 1013, 1018 (D.C. 1982).

This Court defers to the factual conclusions reached by administrative agencies, so long as those conclusions are supported by substantial evidence in the record. D.C. Code § 2-510(3)(E). “[R]eview generally is limited to ensuring that the agency (1) made findings of fact on each material, contested factual issue, (2) based those findings on substantial evidence, and (3) drew conclusions of law which followed rationally from the findings.” *Walsh v. District of Columbia Bd. of Appeals & Review*, 826 A.2d 375, 379 (D.C. 2003) (quotation and citation omitted). Courts are particularly deferential when considering the factual conclusions reached by administrative agencies and the court must defer to an agency’s findings of fact where substantial evidence supports each finding. *District of Columbia Dep’t of Emp’t Servs. v. Vilche*, 934 A.2d 356, 360 (D.C. 2007). “Substantial evidence is ‘more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.’” *Giles v. District of Columbia Dep’t of Emp’t Servs.*, 758 A.2d 522, 524 (D.C. 2000) (quoting *Gardner v. District of Columbia Dep’t of Emp’t Servs.*, 736 A.2d 1012, 1015 (D.C. 1999)). Should the Court determine that “there is substantial evidence to support the [the agency’s] finding, the mere existence of substantial evidence to the contrary does not allow the reviewing court to substitute its judgment for that of the [agency].” *Scott v. Police & Fireman’s Ret. & Relief Bd.*, 447 A.2d 447, 449 (D.C. 1982); *see also Brown v. Watts*, 993 A.2d 529, 533 (D.C. 2010) (when there is substantial evidence to support OEA’s decision, the court “must uphold OEA’s decision even though the record might support a contrary conclusion”); *Metropolitan Police Dep’t v. Baker*, 564 A.2d 1155, 1159 (D.C. 1989) (“If the

administrative findings are supported by substantial evidence, we must accept them even if there is substantial evidence in the record to support contrary findings.”)

ANALYSIS

A. One Round of Lateral Competition at Employee’s Competitive Level

Employee argues that DFS improperly deprived her of any opportunity for lateral competition by designating the FEU as a lesser competitive area. Pet. at 12. In *Johnson v. D.C. Dep’t of Health*, the Court of Appeals found that the appellant in that case, who had been separated from her position at the Department of Health due to a RIF, was entitled to a single round of lateral competition only within her designated lesser competitive area. 162 A.3d 808, 812 (D.C. 2017). Because all positions within her lesser competitive area had been abolished, the court found that the lateral competition requirement did not apply. *Id.* Similarly, in the instant case, because all the positions in Employee’s entire lesser competitive area – the FEU – were abolished by DFS, the statutory and regulatory requirement for one round of lateral competition was inapplicable. However, Employee argues that DFS improperly established FEU as a lesser competitive area, and it therefore wrongly denied her the one round of lateral competition she was entitled to. Pet. at 12. Employee argues that FEU did not meet the substantive definition of a lesser competitive area and that DFS did not follow the procedural requirements for establishing FEU as a lesser competitive area. *Id.*

B. The Establishment of FEU as a Lesser Competitive Area was Procedurally Proper

Except as provided by 6-B D.C. Mun. Regs. § 2409, each agency constitutes a single competitive area, but lesser areas may be established within the agency. OEA incorrectly stated in the Initial Decision that pursuant to DPM § 2409, the *agency* may establish a lesser competitive area. I.D. at 12. However, it is the *personnel authority* of an agency that may establish a lesser competitive area within an agency. DPM § 2409.2. An agency may make a written request to the personnel authority to establish a lesser competitive area. *Id.* Such request must include: (a) A description of the proposed competitive area or areas which includes a clearly stated mission statement, the operations, functions, and organizational segments affected (b) An organizational chart of the agency which identifies the proposed competitive areas; and (c) A justification for the need to establish a lesser competitive area. *Id.* at § 2409.3.

In the instant case, the personnel authority for DFS is D.C. Human Resources (DCHR). The FEU is established as a lesser competitive unit in DFS's Interim Director Crispino's Memorandum to the City Administrator and the attached Administrative Order. R. 1490. Crispino first sent the Memo and the attached order to Director of DCHR, Ventris Gibson, who signed both. R. 1488, 1492. This Court finds that Director Gibson's signatures show that DCHR established the FEU as a lesser competitive area, thereby meeting the procedural requirement that a lesser competitive area be established by the personnel authority of an agency.

C. FEU Meets the Substantive Definition of a Lesser Competitive Area

6-B D.C. Mun. Regs. § 2409.4 provides, “Any lesser competitive area shall be no smaller than a major subdivision of an agency or an organizational segment that is clearly identifiable and distinguished from others in the agency in terms of mission, operation, function, and staff.” The FEU was one of the three units within DFS’s Forensic Science Laboratory (“FSL”), which itself is one of three major divisions within DFS. R. 537. Within the FSL, the FEU conducted firearms examination, the Forensic Biology unit tested DNA, and the Latent Fingerprints Unit tested fingerprints. R. 1587. The operation and function of each unit is clearly identifiable and distinguishable from the others.

Despite OEA’s misstatement that Agency was authorized to establish a lesser competitive area, the Court finds that the substantial evidence in the Record supports OEA’s finding that the FEU meets the definition of a lesser competitive area, and that the FEU was legitimately established as a lesser competitive area.

D. Priority Reemployment Consideration

Under D.C. Code § 1-624.02(a)(3) employees who are separated from their positions due to a RIF are entitled to priority reemployment consideration. This is accomplished through the Agency Reemployment Priority Program (“ARPP”) and the Displaced Employee Program (“DEP”). E-DPM Instruction No. 8-69, 9-36 & 36-11 1(a). Separated employees are to be placed on the ARPP list immediately after it has

been determined that such employees are to be adversely impacted by a RIF, but not later than the issuance of the RIF notice. *Id.* 7(b); *see also* D.C. Mun. Reg. 6-B § 2427.5

Employee argues that DFS did not place her on the ARPP list until after her separation became effective. Pet. at 15-16. She contends that the evidence in the record indicates that DFS intended or expected that she would be placed on the list but there is no evidence that she was actually placed on the list no later than the issuance of the RIF Notice. *Id.* at 16. Employee also argues that DFS did not afford her priority reemployment consideration when filling DFS vacancies outside of the FEU. *Id.*

DFS argues that the evidence in the record indicates that DFS did place the separated employees on the ARPP list. Opp. at 8-9. DFS contends that even if it did not place Employee on the ARPP list on the date of the RIF Notice, the error was harmless because there were no vacancies within DFS that the employees would have had priority for. *Id.* at 9. Finally, DFS argues that it was under no obligation to match Employee to open positions and offer such positions to her prior to making an offer to another candidate because the FEU, which was Employee's lesser competitive area, and all of its positions were abolished in the RIF. *Id.* at 9-10.

E. Substantial Evidence In The Record Does Not Support OEA's Conclusion That DFS Met The Deadline For Placing Employee On The ARPP List

DFS points to the RIF notice letter sent to Employee on September 22, 2021, which identifies Employee as a Tenure I employee, as evidence that she was placed on the ARPP list. *Id.* at 10. The notice letter states that employees in Tenure group I who

have received a notice of separation by reduction-in-force, have a right to priority reemployment. This language, however, does not prove that DFS placed Employee on the ARPP list, but merely shows that she has a right to be on the list.

DFS also points to two emails as evidence that Employee was placed on the ARPP list. Opp. at 8-9. In the first, on October 4, 2021, DCHR Human Resources Manager Zondi Pendarvis states that DCHR will upload the CV/Resumes of the RIF'd FEU employees into PeopleSoft where they will be accessible for ARPP. R. 478. This email does not contain any evidence showing when or if Employee was actually placed on the ARPP list. In the second email, dated October 6, 2021, Michael Kentoff from the Office of the Mayor responds to a Request for Information from Employee's union, and states that "impacted employees have been placed in...ARPP." R. 37. Mr. Kentoff did not include any documentation to support this assertion and stated that DFS objected to the union's request for such documentation. *Id.* Both emails were sent after the RIF notice date of September 22, 2021 which is the latest that Employee should have been placed on the ARPP list, and neither email indicates that this deadline had been met. Furthermore, Employee's ARPP/DEP Registration Sheet identifies the date she was registered to ARPP and DEP as October 23, 2021, the day after her separation and a month after DFS issued the RIF notice letter. R. 957.

Based on the foregoing, this Court finds that there is no substantial evidence in the record that supports OEA's finding that DFS complied with the E-DPM instruction to provide priority reemployment to RIF'd employees by placing the on the ARPP list

prior to the effective date of separation. Accordingly, the Court remands this issue to OEA to determine the date that Employee was placed on the ARPP list.

F. DFS Has Not Shown That Any Delay In Placing Employee On The ARPP List Was Harmless

DFS argues that if it did err by failing to place Employee on the ARPP list no later than the date of the RIF notice, that error was harmless because there were no vacancies at DFS that Employee could have been given priority for. Opp. at 9. Employee disputes DFS's claim that there were no vacancies, arguing that publicly available information shows that DFS hired at least five new employees during and immediately after the RIF notice period between September 22, 2021, and October 22, 2021. Pet. Reply at 21.

E-DPM Instruction No. 8-69, 9-36, & 36-11 § 8(d) states, "Employees who are issued a RIF letter are to be given priority consideration for all agency vacancies that are open during the RIF notice period (before separation)" (emphasis in original). To show that its failure to timely place Employee on the ARPP list was a harmless error, DFS would need to show that no vacancies existed at the agency during the RIF notice period before Employee was placed on the list.

At the evidentiary hearing, DFS Interim Director Crispino testified that the DFS HR manager conducted a search for vacancies at DFS between July 2021 and August 2021, in preparation for requesting approval from the City Administrator to conduct the RIF. R. 1594. The results of this vacancy search were cited in the Memorandum

that DFS sent to the Executive Office of the Mayor requesting the RIF as well as in the accompanying Administrative Order. R. 1488-92. Because the vacancy search was conducted in July and August 2021, the evidence in the record supports the assertion that there were no vacancies at the time the RIF was approved on August 10, 2021. However, the record does not contain evidence of any subsequent efforts by DFS to determine the number of vacancies at the agency during the RIF notice period between September 22, 2021 and October 22, 2021. When asked whether the vacancy search at the time that DFS was “gearing up for the RIF” in August 2021 was a guarantee that no vacancies would exist within the agency or within other units, Crispino admitted that “any agency is going to have attrition for a myriad of reasons.” R. 1616. Based on this testimony, it is clear that DFS leadership was aware of the possibility that new vacancies were possible during the RIF notice period between September 22, 2021, and October 22, 2021. If any vacancies did arise at DFS after August 10, 2021, and were open during the RIF notice period, Employee should have received priority consideration for any such vacancies that she was qualified to fill.

Because the evidence in the record does not establish that there were no vacancies at DFS during the RIF notice period between September 22, 2021 and October 22, 2021, the Court is unable to determine whether DFS’s delay in placing Employee on the ARPP list was a harmless error. Accordingly, the Court remands this issue to OEA for determination. If OEA determines that Employee was not placed on the ARPP list by September 22, 2021, OEA must determine whether any vacancies that

Employee should have received priority consideration for existed at DFS during the RIF notice period between September 22, 2021, and October 22, 2021.

G. DFS's Obligation to Give Priority to Employee

DFS argues that because Employee's entire lesser competitive area, the FEU, was abolished in the RIF, DFS had no obligations to "match" separated employees to open positions within the agency and offer those positions to the employees prior to making an offer to another candidate. Opp. at 9-10. However, the Court concludes the priority reemployment obligations that DFS owed to Employee and other FEU employees affected by the RIF should not be limited to vacancies within the lesser competitive area but extend to the entire agency. For an agency to act otherwise would contravene the purpose of the statute. *See* D.C. Code § 1-624. Generally, Career Service employees, such as Petitioner, may only be removed for cause. D.C. Code § 1-608.01(a)(13). When a Career Service employee has been terminated due to a RIF, they have been removed from their position through no fault of their own; in essence, they have been removed without cause. The procedures contained in D.C. Code § 1-624 stand as alternative protections to minimize the negative effects of a RIF. Additional actions that agencies may take prior to planning a RIF to "minimize the adverse impact on employees" are suggested in D.C. Mun. Reg. 6-B § 2403.2, further signifying that agencies should take reasonable steps to curb the harm caused to employees by a RIF. If an agency's obligation to separated employees was limited to only affording them

priority to non-existent positions in a unit where the agency had abolished all the positions, the negative effects of a RIF would be exacerbated, rather than minimized.

D.C. Mun. Reg. 6-B § 2427.2 provides that “as appropriate, when a reduction in force is conducted in a lesser competitive area...the *personnel authority* may...limit referrals... to positions within the lesser competitive area in which the reduction in force occurs.” (Emphasis added). As this regulation indicates, it is the prerogative of the personnel authority, not the agency, to limit referrals for reemployment consideration to the lesser competitive area. Furthermore, the regulation does not require the personnel authority to impose a limitation, but instead says that it “may” do so “as appropriate.” Here, there is no evidence that DCHR exercised its discretion to limit referrals for reemployment to the FEU.

In *Johnson*, the court found that when the appellant’s lesser competitive area was abolished, all the positions within the appellant’s competitive level were abolished, and she had no one to engage in lateral competition with pursuant to D.C. Code § 1–624.02(a)(2). *Johnson v. D.C. Dep’t of Health* at 812. As a result, the appellee agency in *Johnson* was discharged from its obligation to provide appellant with one round of lateral competition. *Id.* While D.C. Code § 1–624.02(a)(2) specifies that lateral competition only takes place *within an employee’s competitive level*, D.C. Code § 1–624.02(a)(3) contains no such restrictions. Therefore, the Court concludes that D.C. code § 1-624.02(a)(3) does not limit priority considerations for employees separated in a RIF to their lesser competitive area when the agency has abolished all positions in that area.

E-DPM Instruction No. 8-69, 9-36, & 36-11 further supports an agency's ability to afford separated employees with priority consideration for vacancies agency-wide. Section 8(b) of the Instruction states that employees displaced by a RIF "are entitled to priority consideration for reemployment in the *agency* from which they were separated" (emphasis added). Section 8(d) specifies that "employees who are issued a RIF letter are to be given priority consideration for *all agency vacancies* that are open during the RIF notice period" (emphasis added). Accordingly, this Court instructs OEA to consider all DFS vacancies when addressing the issues on remand.

H. Consideration of Job Sharing and Reduced Hours

Petitioner argues that DFS failed to consider the possibility of job sharing and reduced hours when it conducted the RIF. Pet. at 14. DFS asserts that it did consider job sharing and reduced hours but determined that they could not be done because there were no vacancies. Opp. at 8. At the Evidentiary Hearing Dominique Odesola, Human Resources Manager at DCHR, testified that job sharing could only be implemented if there was a vacant full-time position in the agency at the time of the RIF for displaced employees to share. R. 1633. Odesola also testified that similarly, reduced hours could only be implemented if a part-time vacancy was available. R. 1635.

Unlike the priority reemployment consideration provision, which requires an agency conducting a RIF to meet certain timing requirements, the timing of consideration of job sharing and reduced hours—and the necessary vacancies—is not specified. *See* EDPM Instruction No. 8-69, 9-36 & 36-11. Consideration of job sharing

and reduced hours would be expected to take place prior to the RIF notice period because any vacancies during the RIF notice period should be filled through priority reemployment consideration of separated employees. In the August 10, 2021, Memorandum requesting approval of the RIF, DFS maintained that it had determined that there were no vacancies at the agency. R. 1489. In the Evidentiary Hearing, Interim Director Crispino confirmed this determination in his testimony. R. 1572. By giving consideration to whether there were vacancies at the time it was seeking approval for the RIF, DFS effectively met its obligation to consider job sharing and reduced hours. Accordingly, this Court affirms the OEA's finding that DFS considered job sharing and reduced hours.

WHEREFORE, it is this 10th day of January 2025, hereby
ORDERED that this matter be **REMANDED** to the Office of Employee Appeals to (1) determine whether Employee was placed on the ARPP list for priority reemployment consideration by September 22, 2021; (2) determine whether Employee was given priority consideration for any vacancies that existed at DFS during the RIF notice period between September 22, 2021, and the date Employee was placed on the ARPP list; and (3) if there were any vacancies at DFS for which Employee was qualified, but not given priority consideration, determine the appropriate remedy.

SO ORDERED.



Judge Jonathan H. Pittman

Copies to:

Counsel of Record via Odyssey

Fiscal Year 2025 Superior Court Reversals

D.C. Fire & Emergency Medical Services Department
v.
D.C. Office of Employee Appeals
(Anthony Thomas)

Attachment #17

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

<p>DISTRICT OF COLUMBIA FIRE AND EMER. MEDICAL SVSC. DEPT.,</p> <p style="text-align:center">Petitioner,</p> <p style="text-align:center">v.</p> <p>DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS</p> <p style="text-align:center">Respondent.</p>	<p>Case No. 2023 CAB 003933</p> <p style="text-align:center">Judge Ebony M. Scott</p>
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ORDER GRANTING PETITION

This matter is before the Court on: (1) Petitioner District of Columbia Fire and Emergency Medical Services Department’s (“Petitioner” or “FEMS”) Petition for Review of Agency Decision, filed June 29, 2023; (2) Petitioner’s Initial Brief in Support of Petition for Review, filed February 15, 2024; (3) Intervenor Thomas’ (“Employee” or “Intervenor”) Brief in Opposition of FEMS’ Petition for Review, filed on July 3, 2024; and (4) FEMS’ Reply, filed on July 29, 2024.

Petitioner seeks review of the Initial Decision (“ID”) of the District of Columbia Office of Employee Appeals (“OEA”) issued by Senior Administrative Judge Monica Dohnji (“AJ Dohnji”) on January 10, 2023, in the matter of *Employee v. D.C. Fire and Emergency Medical Services Department*, OEA Matter 1601-0025022. As more fully explained below, the Court reverses the OEA’s decision.

I. Factual and Procedural Background

On June 23, 2020, at 4:55 a.m., Anthony Thomas (“Employee”), a member of FEMS assigned as a Firefighter/EMT, and his partner, Deontre Gigger (“Gigger”), were dispatched to

respond to a call for assistance at 301 G Street, SW, Washington D.C. R. at 127, 1670. Upon arrival, Thomas and Gigger knocked on the door for at least two minutes and were eventually greeted by a young girl who stated that her mother was sick. R. at 1670, 1679-1680. Thomas and Gigger found the patient laying on her bedroom floor, naked, with a pillow under her head, seemingly unconscious. R. at 1680. After covering the patient with a blanket to preserve her modesty, Employee attempted to awaken her through various painful stimuli, which elicited “moans.” R. at 1680. Employee checked the patient’s eyes’ reactivity, finding that there was no brain trauma, and instructed Gigger to take her vitals, which Employee determined were normal. R. at 1680. Employee believed the patient purposefully fell asleep, as “you do not put a pillow under your head unless you intentionally laid somewhere.” R. at 1680.

As Gigger was taking the patient’s blood pressure, the patient yelled “get off of me,” after which Employee and Gigger took a step back and attempted to explain who they were and that they were responding to a medical call. R. at 1680-81. Employee administered several tests to the patient before determining that the patient was “alert and oriented.” R. at 1681. Employee informed the patient that she should go to the hospital and that “if she did not want to go to the hospital, [the patient] had to sign [Employee’s] book.” R. at 1681. However, after the patient became agitated and asked Employee and Gigger to leave, they did so, without obtaining written acknowledgment from the patient. R. at 1681.

Shortly thereafter, Thomas and Gigger received another call from the same address. R. at 1682. Upon arriving, Employee and Gigger found the patient unconscious with Metropolitan Police Department officers in the living room. R. at 1682. The patient was “barely breathing,” and Employee and Gigger put a pulse oximeter on the patient’s finger which indicated that it was “at 41 percent.” R. at 1682. Employee “began assisting the [patient] with her breathing” as Gigger

called for Advanced Life Support (“ALS”) assistance. Employee stated that the patient “was at a life-or-death state.” R. at 1682. While Employee assisted the patient’s breathing he “was panning around the room and he noticed an empty bottle of Benadryl and an almost empty bottle of Hennessy on the patient’s nightstand next to her bed, about four (4) feet away.” R. at 1682. After ALS arrived, Employee assisted ALS with the patient’s breathing as they took her to the hospital. R. at 1683. After returning to the station, Employee prepared an addendum to the initial report and an additional report for the second call. R. at 1683. The patient later passed away.

The matter was later referred to FEMS’ Office of Compliance. After an investigation, FEMS initiated two administrative charges against Employee. “In Charge 1, Employee was cited for neglect of duty for violating FEMS’ Patient Bill of Rights (competent and compassionate service), FEMS’ Order Book Article XXIV § 10 (position responsibilities), FEMS’ Medical Services Manual and Pre-Hospital Treatment Protocols (consent/refusal of care policy), and the Patient Transport Guidelines.” Pet’r’s Initial Br. at 12-13; *see also* R. at 580-86. Charge 2 “cited Employee for neglect of duty for violating FEMS’ Medical Services Manual and Pre-Hospital Treatment Protocols (consent/refusal of care policy), FEMS’ Special Order No. 54, Series 2012, Patient Care Reporting Directive (documentation policy), FEMS’ Patient Bill of Rights (vital signs checked and documented/medical history, etc. documented).” *Id.* at 13; *see also* R. at 586-89. However, in both Charges, FEMS referred to the 2012 version of 16 DPM § 1603.3(f)(9), i.e. “unreasonable failure to give assistance to the public,” stating that under this provision, Employee’s failure to assist the public and violations of FEMS’ policies, guidance manuals, order book provisions, and Special Orders, as noted above, constituted proper cause for discipline. R. at 584, 588.

At Employee’s request, Employee had a hearing before the Fire Trial Board (“FTB”) between June 25, 2021, and August 4, 2021. R. at 367, 724. The FTB found Employee guilty of the alleged Charges and concluded that termination was the appropriate penalty for Employee’s misconduct. Pet’r’s Initial Br. at 13. FEMS served Employee with a Final Agency Decision: Termination on November 1, 2021. R. at 51.

On December 2, 2021, Employee filed a Petition for Appeal with OEA (“OEA Petition”). R. at 1. Employee cites three grounds for the OEA Petition: (1) FEMS did not bring the charges within the proper time; (2) the investigation only considered written special reports rather than interviews; and (3) another FEMS member who engaged in similar misconduct was re-educated rather than terminated. R. at 2. In the briefing which followed, FEMS argued that the record contained substantial evidence of misconduct, that FEMS’ decision to terminate Employee was appropriate, and that there was no harmful procedural error. R. at 1366. Employee asserted that FEMS’ decision was not based on substantial evidence and that the action was time barred pursuant to the parties’ collective bargaining agreement. R. at 1397.

On October 17, 2022, AJ Dohnji contacted the parties “to schedule a status conference to discuss the AJ’s discovery that ‘[FEMS] cited to the 2012 DPM and not the current (2017) DPM in this matter.’” Pet’r’s Initial Br. at 15. The parties conferred and discussed the issue and the reasons for FEMS’ reliance on the 2012 DPM, reasons which Petitioner later filed a Proposed Stipulation. *Id.* Namely, FEMS stated that “the 2012 version of the DPM was in effect at the time when FEMS’ Order Book was published, that the Order Book relied upon the 2012 version of the DPM, and that FEMS and the Union had not engaged in impacts and effects bargaining regarding the implementation of the [more recent DPM],” meaning that reliance on the more recent DPM would be against fundamental principals of labor law. *Id.* On October 28, 2022, Employee’s

counsel submitted an Objection to FEMS’ Proposed Stipulation, arguing that “both the CBA Article 31 and the Order Book provide that all adverse actions should be taken pursuant to the applicable provision of Chapter 16 of the District Personnel Manual [“DPM”] and the current DPM is the applicable provision, not the 2012 DPM version,” since the DPM had already been amended at the time the events at issue transpired. R. at 1694.

On January 10, 2023, OEA issued the ID. R. at 1660. AJ Dohnji found no harmful procedural error regarding time limits and that FEMS’ guilty findings were supported by substantial evidence. However, AJ Dohnji reversed the guilty findings and Employee’s termination for harmful error, stating that “the applicable DPM at the time of the current disciplinary action was the 2019 DPM version,” that “the Agency used the incorrect DPM version,” and that “upon review of the record, the undersigned concluded that there were substantive changes in the 2012 DPM related to the charges and penalties as compared to the current 2019 DPM version.”

With respect to the issue of harmful procedural error, AJ Dohnji first inquired into which version of the DPM was applicable to the adverse action at issue. As stated previously, FEMS argued that FEMS was precluded from using the updated DPM because Employee’s Union had not yet engaged in impact and effects bargaining. R. at 1693. In *Fraternal Order of Police/MPD v. Metropolitan Police Department*, 47 D.C. Reg. 1449, Slip Op. No. 607, PERB Case No. 99-U-44 (2000), the Labor Committee (“FOP”) filed an Unfair Labor Practice Complaint against the Metropolitan Police Department (“MPD”) asserting that “MPD refused to bargain in good faith, upon request, over the impact of a proposed changes” affecting officers. R. at 1695. In that case, “FOP requested... that the PERB Board grant preliminary relief which would prohibit MPD from implementing the proposed... changes until it engaged in impact bargaining with FOP over the

proposed changes.” R. at 1695. Citing to *American Federation of Government Employees, Local 383 v. D.C. Dept. of Human Services*, Slip Op. No. 418, PERB Case No. 94-U-09 (1992), the PERB Board stated that:

‘[W]e have held that an employer does not violate its duty to bargain when it merely unilaterally implements a management right decision. The violation of the very duty to bargain arises from the employer’s failure to provide an opportunity to bargain over the impact and effects once a request to bargain is made, not from the unilateral exercise of its sole management right.’ The PERB Board also noted that ‘*a request to bargain need not be made and a violation of the duty to bargain will lie when an employer unilaterally implements a change in mandatorily negotiable terms and conditions of employment subject to mandatory duty to bargain (not contained in an effective collective bargaining agreement) without first providing notice and an opportunity to bargain.*’

R. at 1695 (quoting *American Federation of Government Employees, Local 383 v. D.C. Dept. of Human Services*, Slip Op. No. 418, PERB Case No. 94-U-09 (1992) (emphasis in original)).

FEMS argued that “when the 2012 DPM was amended, Employee’s Union, in a December 23, 2015 memo demanded assurance from the OLRBC that the disciplinary causes and procedures of its members would not change.” R. at 1695. The memo summed up a December 7, 2015 conversation regarding the Union’s concerns to the proposed changes to Chapter 16 of the DPM, stating:

To the extent that the proposed revisions purported to relegate to second-class status or supplant entirely any collectively bargained arrangements regarding discipline, ...eliminating provisions and purporting to employ a three prong approach to reconciling DPM provisions with CBA provisions, and requiring that there be conflict between a “specific provision” of the labor agreement and the DPM for the labor agreement to prevail, ... those revisions are without legal effect. Similarly, to the extent that the revisions purports to relieve the District of its burden of proof in disciplinary proceedings..., or permit the District to initiate disciplinary action for conduct that has no nexus whatsoever to employment..., the revisions runs afoul of basic tenet of due process. The District may not use the regulatory process to dilute collectively-bargained procedures and rights...or to opt out of the[m] entirely.

Notwithstanding our concerns, *I understand you to confirm during our conversation that no changes to the disciplinary or grievance process applicable to the Local 36 bargaining unit was intended by these proposed revisions.* It is therefore unclear to us what impact, if any, the revisions – assuming they are adopted – would have on the Union’s members. We reserve our rights under Article 9 should the District identify any such impact on the unit in the future...

R. at 1695-96 (emphasis in original).

Here, AJ Dohnji found: (1) that “the record is devoid of any indication that Employee’s Union invoked its rights to bargain or made a request to bargain the changes in Chapter 16 of the 2017 or 2019 DPM,” and (2) that notice and an opportunity to bargain were provided in 2015, “approximately one and a half (1.5) years before the proposed changes... were implemented,” concluding that “the applicable DPM at the time of the current disciplinary action was the 2019 DPM.” R. at 1696-1697.

In reaching her decision, AJ Dohnji compared the Charges brought under the 2012 DPM with the language of the 2019 DPM. First, AJ Dohnji states that Employee was charged with Neglect of duty pursuant to 16 DPM § 1603.3(f)(3). R. at 1697. However, AJ Dohnji notes that “16 DPM § 1603.3(f)(3) does not exist in the current DPM, as the 2017 version of the DPM, moved all the adverse action charges to DPM § 1605... and the charge of neglect of duty can now be found in DPM § 1605.4(e)....” R. at 1697. Second, AJ Dohnji states that there is no analogous provision to 16 DPM § 1603.3(f)(9), “unreasonable failure to give assistance to the public,” in the updated DPM. R. at 1697-1698. With respect to both Charges, AJ Dohnji concluded that she was “unable to determine which cause of action could have been levied against Employee had Agency utilized the appropriate version [of the DPM].” R. at 1698. Further, the ID states that, because FEMS did not state the specific grounds for discipline, “Employee could not adequately defend

himself against the charges levied against him.” R. at 1699. For these reasons, AJ Dohnji reversed FEMS’ decision to terminate Employee. R. at 1705.

On February 14, 2023, FEMS appealed AJ Dohnji’s ID before the OEA Board. R. at 1708. FEMS argued that AJ Dohnji erred because, *inter alia*: (1) it was inappropriate to *sua sponte* raise an issue not raised by the parties; (2) given that the Employee failed to raise the issue of the DPM versions at the Departmental level, the argument was waived; (3) the question of FEMS’ use of the 2012 DPM was a labor law issue under the purview of PERB; and (4) FEMS was precluded from using the updated DPM because it had not yet engaged in impacts and effects bargaining. Pet’r’s Initial Br. at 17; *see also* R. at 1709. On June 1, 2023, the OEA Board rejected FEMS’ arguments and upheld the ID. R. at 1958.

II. Applicable Legal Standards

The Superior Court of the District of Columbia has jurisdiction over Petitions for Review of final orders or actions of District of Columbia agencies. *See* Super. Ct. Civ. Agency Rev. R. 1(a). “Upon review of an administrative decision, deference is properly accorded an agency’s interpretation of the administrative regulation it enforces unless it is plainly erroneous or inconsistent with the regulation.” *Walsh v. D.C. Bd. of Appeals & Review*, 826 A.2d 375, 378 (D.C. 2003)(quoting *Snider v. District of Columbia Bd. of Appeals & Review*, 342 A.2d 50, 51 (D.C. 1975)). This Court’s review is generally limited to ensuring that the agency (1) made findings of fact on each material, contested factual issue, (2) based those findings on substantial evidence, and (3) drew conclusions of law which followed rationally from the findings.” *Savage-Bey v. La Petite Acad.*, 50 A.3d 1055, 1060 (D.C. 2012)(citations omitted). “Importantly, though, we must be mindful that it is the rationale of the [agency] that we review, not the *post*

hoc rationalizations of its counsel.” *Walsh*, 826 A.2d at 379 (internal quotations and citations omitted).

“Substantial evidence is defined as ‘such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.’” *Davis-Dodson v D.C. Dep’t of Emp’t Servs.*, 697 A.2d 1214, 1218 (D. C. 1997) (quoting *Ferreira v D.C. Dep’t of Emp’t Servs.*, 667 A.2d 310, 312 (D.C. 1995))(citation omitted). Substantial evidence is more than a mere scintilla. *See Reyes v. D.C. Dep’t of Empl. Servs.*, 48 A.3d 159, 165 (D.C. 2012). In this context, ‘substantial’ means “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Allen v D.C. Police & Firefighters’ Ret.& Relief Bd.*, 528 A. 2d 1225, 1229 (D.C. 1987)(quoting *Perkins v D. C. Dep’t of Emp’t Servs.*, 482 A. 2d 401, 403 (D.C. 1984). “However, evidence is not substantial if it is so highly questionable in the light of common knowledge and experience that it is not worthy of belief.” *D.C. Gen Hosp. v. D.C. Office of Emp. Appeals*, 548 A.2d 70, 77 (D.C. 1988)(citations omitted).

III. Analysis

As a threshold matter, the Court notes that OEA affirmed the FTB’s factual findings and found that the record contained substantial evidence to support Employee’s termination. R. at 1692-1693. Thus, the Court shall focus on whether FEMS’ reliance on the 2012 DPM resulted in harmful procedural error.

A. It Was Improper for AJ Dohnji to Consider Whether FEMS’ Charges Were Made Pursuant to the Correct Version of the DPM.

FEMS argues that it was procedurally improper for OEA to consider whether FEMS’ charges were made pursuant to the correct version of the DPM because: (i) the issue was *sua sponte* introduced by AJ Dohnji; and (ii) the issue was waived because Employee did not raise the issue before the FTB. Pet’r’s Initial Br. at 21, 26-27. First, FEMS states that ““it is a basic principle of

appellate jurisdiction that points not urged on appeal are deemed waived.” *Id.* at 21 (quoting *Rose v. United States*, 629 A.2d 526, 535 (D.C. 1993)). Further, FEMS argues that “while a court is not precluded from engaging in its own research ‘to supplement the contentions of counsel,’ it may not, absent narrow exceptions, decide a case relying on an issue unaddressed by the parties.” *Id.* (quoting *Carducci v. Regan*, 714 F.2d 171, 177 (D.C. Cir. 1983)). Accordingly, because the issue of the DPM version did not arise until AJ Dohnji called a status hearing on the issue and ordered further briefing, *see supra*, and because the ID turned on this issue, AJ Dohnji effectively decided the case relying on an issue unaddressed by the parties. *Id.* Further, FEMS argues that in order for OEA to consider this issue, it must have been raised before the FTB. *Id.* at 27 (quoting *Brown v. Watts*, 993 A.2d 529, 535 (D.C. 2010) (stating “in order for a factual issue to be preserved for appeal [at OEA], it must be raised [at trial] and be a part of the evidentiary record”) (quoting 6-B DCMR § 1621.6 (“the failure of the employee to raise a known defense, fact, or matter shall constitute a waiver of such defense, fact, or matter in all subsequent proceedings”)).

In Opposition, Employee argues that AJ Dohnji’s inquiry into the DPM issue was simply fulfilling OEA’s obligation under *Dist. of Columbia Metro. Police Dep’t v. Pinkard*, 801 A.2d 86, 91 (D.C. 2002), namely, to determine “whether there was harmful procedural error.” Employee states that, rather than invent arguments on behalf of any one party, AJ Dohnji made a “neutral request for briefing” to fully understand any potential procedural issues, including whether Employee was aware of the charges against him, and to give the parties an opportunity to make their own arguments, as they did. Intervenor’s Br. at 16-18; *see supra*. Further, Employee argues that, even if this matter was raised by OEA sua sponte, OEA has ruled on the same issue sua sponte in other cases. *Id.* at 19 (citing *Madeleine Francois v. Office of the State Superintendent of Education*, OEA Matter No. 1601-0007-18, Opinion and Order (July 16, 2019); *Stephanie Linnen*

v. *Office of the State Superintendent of Education*, OEA Matter No. (February 13, 2019); Employee v. D.C. FEMS, OEA Matter No.: 1601-0050-23, Opinion & Order at 28). Further, Employee argues that failure to raise the issue before the FTB panel could not constitute waiver because the issue of whether the charges were properly brought was an issue of jurisdiction which may be raised at any time. *Id.* at 26.

“The OEA may not substitute its judgment for that of an agency.” *Pinkard*, 801 A.2d at 92. Its review of an agency decision is limited to “a determination of whether it was supported by substantial evidence, whether there was harmful procedural error, or whether it was in accordance with law or applicable regulations.” *Id.* Here, the 2012 version of DPM was utilized during the Trial Board proceedings, and no party objected. It was not until AJ Dohnji noted a perceived procedural flaw and ordered discussion and further briefing that the issue arose. While Employee seeks to paint this inquiry as a neutral attempt to determine “whether there was harmful procedural error,” pursuant to D.C. Code § 1-606.02(a)(2), OEA must “hear and adjudicate appeals,” and is not empowered to independently investigate. *Pinkard*, 801 A.2d at 91; Pet’r’s Initial Br. at 21. As a result, the Court finds that AJ Dohnji’s reliance on the 2019 version of the DPM was not supported by substantial evidence in the record. *See Savage-Bey*, 50 A.3d at 1060.

B. FEMS Correctly Cited the 2012 DPM.

Pursuant to D.C. Code § 1-617.08(a)(2), FEMS has the sole management right “to suspend, demote, discharge, or take other disciplinary action against employees for cause.” Order Book Article VII represents the disciplinary system as bargained-for by FEMS and the International Association of Fire Fighters, Local 36 (“Employee’s Union” or “Local 36”). Pet’r’s Initial Br. at 3. Section 1 of Article VII states “disciplinary actions against firefighters at the rank of captain and below shall be governed by the collective bargaining agreement between the Department and

D.C. Fire Fighters' Association Local 36 and Chapter 16 of the D.C. Personnel Manual (DPM)." R. at 1694. The Order Book is expressly incorporated into the Collective Bargaining Agreement ("CBA") by Article 31, which states "disciplinary procedures are governed by applicable provisions of Chapter 16 of the District Personnel Manual, and the Department's Rules and Regulations and Order Book...." R. at 1694. The ID found that FEMS, in using the 2012 DPM, committed harmful procedural error, and that the correct DPM was the 2019 version. The first central argument between the parties, then, is which version of the DPM is applicable to Employee's actions on June 23, 2020: the 2012 DPM or the 2019 DPM.

FEMS argues that "even though discipline is a management right, FEMS may not redefine what constitutes cause for discipline of Local 36 members without providing Local 36 the opportunity to engage in impact and effects bargaining." Pet'r's Initial Br. at 29, 30 (citing *American Federation of Government Employees, Local 383 v. D.C. Dept of Human Services*, Slip Op. No. 418, PERB Case No. 94-U-09, 49 D.C. Reg 770 (1995). To do so, FEMS argues, would be a clear unfair labor practice. Rather, FEMS referenced the 2012 DPM because "when the Director of DCHR proposed amendments to the 2012 DPM, which, if implemented would have effectively modified Article VII, Local 36 demanded assurances from the Office of Labor Relations and Collective Bargaining ("OLRCB") [the party responsible for representing FEMS in bargaining]... that the disciplinary causes and procedures for members of Local 36 would not change." *Id.* at 30. FEMS then states that, after the amendments were proposed in 2015, Local 36 sent a letter citing disagreement with the proposed changes. *Id.* at 31. "Because bargaining hadn't occurred between Local 36 and FEMS with respect to the revised 2016 or 2019 DPM, FEMS [argues that it] was precluded from doing anything different." *Id.* (citing *Fraternal Order of*

Police/MPD v. Metropolitan Police Department, 47 D.C. Reg. 1449, Slip Op. No. 607, PERB Case No. 99-U-44 (2000)).

In Opposition, Employee argues that the plain language of Article VII and the CBA do not limit incorporation of the DPM to the 2012 version. Intervenor's Br. at 22. Rather, they plainly reference "Chapter 16 of the D.C. Personnel Manual (DPM)" and "applicable provisions of Chapter 16 of the District Personnel Manual," respectively, without any qualifiers. *Id.* Employee argues that AJ Dohnji was correct in concluding that the applicable provisions are those denoted in the 2019 DPM, as the incident occurred after the promulgation of the 2019 DPM. *Id.* Further, Employee states that the CBE explicitly references "applicable provisions of [the DPM]," referencing the operative, or most recently amended, version. *Id.* at 22-23. Employee then addresses Local 36's letter to OLRCB, stating that "Local 36 did not object to the changes, but did reserve the right to identify impacts and bargain for adverse effects after the fact," therefore demonstrating that it "expected the proposed changes to be implemented." *Id.* at 23. Employee states that, although Local 36 expressed concerns, there was "nothing to the degree that warrants the presumption that impacts and effects bargaining was intended, planned or requested by [] Local 36." *Id.* at 24. Specifically, Employee argues that, although *Fraternal Order of Police/MPD v. Metropolitan Police Department*, 47 D.C. Reg. 1449, Slip Op. No. 607, PERB Case No. 99-U-44 (2000), cited by FEMS, requires that "an employer may not unilaterally implement regulatory changes to procedures governed by both regulation and bargaining without engaging in impacts and effects bargaining as to the regulatory changes if [the Union] demands such bargaining," Local 36 did not demand such bargaining, rather "agree[ing] with a condition to circle back on the matter if an issue presented itself—which it did not." *Id.* at 24 (quoting Pet'r's Initial Br. at 31).

In Reply, FEMS argues that AJ Dohnji's decision that Local 36's December 25, 2015 correspondence was insufficient to establish a request for impact and effects bargaining was "contrary to the plain language of the correspondence." Pet'r's Reply at 4. FEMS argues that in stating: (1) that Local 36 was "concerned by a number of the proposed revisions to Chapter 16 of the DPM," namely that "the revisions purport to relegate to second-class status or supplant entirely any collectively bargained arrangements regarding discipline, grievance handling, or other matters;" (2) that "the District may not use the regulatory process to dilute collectively-bargained procedures and rights – or statutory or constitutional rights for that matter – or to opt out of them entirely;" and (3) that it reserves the right to bargain over impact and effects, Local 36 effectively "trigger[ed] impact and effects bargaining." *Id.* (citing *Fraternal Or. of Police/Dep't of Corr. Labor Committee v. D.C. Dep't of Corr.*, PERB Case No. 20-U-24, 2020 WL 9048220, at *4 (Apr. 24, 2020); *NAGE Local R3-06 v. D.C. Water & Sewer Auth.*, PERB Case No. 99-U-04, 2000 WL 35728585, at *4 (Aug. 8, 2000)). Further, FEMS argues that, in the face of this evidence and authority, AJ Dohnji's finding is "clearly erroneous, as has been recognized consistently by the Superior Court which has twice reversed this specific senior administrative judge's misunderstanding of the impact and effects bargaining process." *Id.* at 5 (citing *D.C. Fire & Emergency Med. Servs. Dep't v. D.C. Office of Emp. Appeals*, 2023-CAB-1076, at 9 (Jan. 26, 2024) ("FEMS and Local 36 bargained to implement a disciplinary system consistent with the 2012 version of the DPM."); *D.C. Fire & Emergency Med. Servs. Dep't v. D.C. Office of Emp. Appeals*, 2023-CAB-3610, at 12 (May 8, 2024) ("FEMS and Local 36 agreed to use the disciplinary system consistent with the 2012 version of the DPM. . . and Local 36 never asserted that the 2012 procedures were incorrect"))

The Court agrees with FEMS and finds that FEMS correctly initiated charges pursuant to the 2012 DPM. Therefore, the Court finds that AJ Dohnji erred. In consideration of the proposed amendments in 2015, Local 36 expressed its concerns with the changes to the disciplinary procedures as agreed upon in the bargained-for 2012 DPM, stating that “the District may not use the regulatory process to dilute collectively-bargained procedures and rights...or to opt out of the[m] entirely.” R. at 1695. Local 36 indicated consent in principle to the proposed amendments insofar as the concerns are not realized and “no changes to the disciplinary or grievance process applicable to the Local 36 bargaining unit was intended by the proposed revisions.” R. at 1695. Otherwise, Local 36 did not grant consent for the implementation of the changes and rather reserved their rights should there be substantive changes in rights. R. at 1695. As AJ Dohnji stated in the ID, “there were substantive changes in the 2012 DPM related to the charges and penalties as compared to the current 2019 DPM version.” R. at 1698.

AJ Dohnji recognized “the violation of the very duty to bargain arises from the employer’s failure to provide an opportunity to bargain over the impact and effects once a request to bargain is made.” R. at 1695 (quoting *American Federation of Government Employees, Local 383 v. D.C. Dept. of Human Services*, Slip Op. No. 418, PERB Case No. 94-U-09 (1992)). Given that there are differences in the 2012 and 2019 DPMs, the Court agrees with FEMS that Local 36’s statements constitute a request to bargain, and the record is void of any facts indicating such bargaining occurred or that Local 36 subsequently approved a later version of the DPM. Therefore, absent impacts and effects bargaining, FEMS was under an obligation to refer to the 2012 DPM. Accordingly, FEMS brought charges pursuant to the proper regulation and there can be no procedural error. AJ Dohnji’s ID finding to the contrary is inconsistent with the regulation and subject to reversal. *Walsh*, 826 A.2d at 378 (stating “deference is properly accorded an agency’s

interpretation of the administrative regulation it enforces unless it is plainly erroneous or inconsistent with the regulation”). This decision is supported by this Court’s findings in two similar matters which also found that, due to collective bargaining between FEMS and Local 36, the 2012 DPM was the applicable version of the DPM, even when the events for which the employees were subjected to discipline occurred after subsequent DPM amendments. *See supra*; *D.C. Fire & Emergency Med. Servs. Dep’t v. D.C. Office of Emp. Appeals*, 2023-CAB-1076, at 9 (Dec. 29, 2023) (stating, though without considering Intervenor’s Brief, that “the Court agrees with Petitioner that FEMS and Local 36 bargained to implement a disciplinary system consistent with the 2012 version of the DPM” and reversing AJ Dohnji’s ID); *D.C. Fire & Emergency Med. Servs. Dep’t v. D.C. Office of Emp. Appeals*, 2023-CAB-3610, at 12 (May 8, 2024) (stating, after consideration of Intervenor’s Brief, that “the Court agrees with Petitioner that FEMS and Local 36 bargained to implement a disciplinary system consistent with the 2012 version of the DPM and, indeed FEMS was legally prohibited from relying on a subsequent version of the DPM” and reversing AJ Dohnji’s ID).

Finally, as the Court determines that FEMS correctly cited to the 2012 DPM, the Court need not consider whether FEMS’ choice to do so constituted harmful error.

Accordingly, on this **15th day of January, 2025** it is hereby:

ORDERED that Petitioner’s Petition for Review of Agency Decision is **GRANTED**; it is further

ORDERED that the January 10, 2023, Initial Decision issued by the Office of Employee Appeals is **REVERSED**, and the Trial Board Panel’s termination decision is **AFFIRMED**; it is further

ORDERED that the Status Hearing scheduled for January 17, 2025, is **VACATED**; it is further

ORDERED that the Parties' Consent Motion to Continue, filed on January 13, 2025, is **DENIED AS MOOT**; it is further

ORDERED that this matter is **CLOSED**.

SO ORDERED.



Associate Judge Ebony M. Scott
(*Signed in Chambers*)

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Fiscal Year 2025 Court of Appeal Reversals

Samuel Murray

v.

Department of Youth Rehabilitation Services
Case No. No. 23-CV-0082

Attachment # 18

**District of Columbia
Court of Appeals**

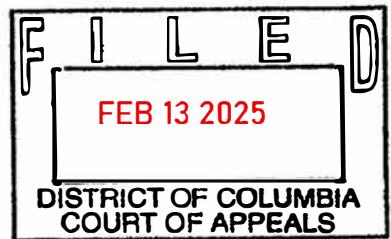
No. 23-CV-0082

SAMUEL MURRAY,

Appellant,

v.

2022-CA-001505-P(MPA)



DISTRICT OF COLUMBIA
DEPARTMENT OF YOUTH
REHABILITATION SERVICES, *et al.*,
Appellees.

Appeal from the
Superior Court of the District of Columbia
Civil Division

BEFORE: Easterly, McLeese, and Shanker, Associate Judges.

JUDGMENT

This case was submitted to the court on the transcript of record and the briefs filed, and without presentation of oral argument. On consideration whereof, and for the reasons set forth in the opinion filed this date, it is now hereby

ORDERED and ADJUDGED that the judgment of the Superior Court is affirmed.

For the Court:


JULIO A. CASTILLO
Clerk of the Court

Dated: February 13, 2025.
Opinion by Associate Judge McLeese.

Notice: This opinion is subject to formal revision before publication in the Atlantic and Maryland Reporters. Users are requested to notify the Clerk of the Court of any formal errors so that corrections may be made before the bound volumes go to press.

DISTRICT OF COLUMBIA COURT OF APPEALS

No. 23-CV-0082

SAMUEL MURRAY, APPELLANT,

V.

DISTRICT OF COLUMBIA DEPARTMENT OF YOUTH REHABILITATION, *et al.*,
APPELLEES.

Appeal from the Superior Court
of the District of Columbia
(2022-CA-001505-P(MPA))

(Hon. Shana F. Matini, Trial Judge)

FILED 02/13/2025
District of Columbia
Court of Appeals
Julio A. Castillo
Julio Castillo
Clerk of Court

(Submitted September 25, 2024)

Decided February 13, 2025)

Samuel Murray, pro se.

Brian L. Schwalb, Attorney General for the District of Columbia, with whom *Caroline S. Van Zile*, Solicitor General, *Ashwin P. Phatak*, Principal Deputy Solicitor General, *Graham E. Phillips*, Deputy Solicitor General, and *Alex Fumelli*, Assistant Attorney General, were on the brief, for appellee District of Columbia Department of Youth Rehabilitation Services.

Lasheka Brown filed a statement in lieu of brief for appellee District of Columbia Office of Employee Appeals.

Before EASTERLY, MCLEESE, and SHANKER, Associate Judges.

MCLEESE, Associate Judge: Appellant Samuel Murray was awarded back-pay after it was determined that appellee the District of Columbia Department of Youth Rehabilitation Services (“DYRS”) had wrongfully terminated Mr. Murray’s employment. In this appeal, Mr. Murray argues that he was entitled to interest on the award of back-pay. We affirm the judgment of the Superior Court denying Mr. Murray’s claim for interest.

I. Factual and Procedural Background

Except as noted, the following appears to be undisputed for present purposes. Mr. Murray was injured in the course of his employment as a motor-vehicle operator for DYRS. As a result, he left work in 2010. Mr. Murray returned to work briefly in 2012, but again took leave. DYRS informed Mr. Murray that he was required to return to work and then terminated his employment when he failed to do so.

Mr. Murray contested his termination, which was determined to have been wrongful. In September 2020, DYRS was ordered to reinstate Mr. Murray and he was awarded back-pay with benefits. Up to that point, it does not appear that Mr. Murray asked to be awarded interest on the back-pay award.

In February 2021, Mr. Murray filed a petition with the Office of Employee Appeals (“OEA”) to reopen his case, seeking enforcement of the award of back-pay and benefits, which had not yet been provided. Mr. Murray also, apparently for the

first time, sought “accrued interest on the back[-]pay.” Mr. Murray eventually received his back-pay and benefits, so the issue narrowed to whether Mr. Murray was entitled to interest on the back-pay award.

In response to Mr. Murray’s request for interest, DYRS argued (1) that the request was untimely (citing *Osterneck v. Ernst & Whinney*, 489 U.S. 169 (1989) (post-judgment motion for prejudgment interest is motion to amend or alter judgment)); and (2) in any event, OEA lacks authority to grant interest on back-pay awards.

The OEA Administrative Judge (“AJ”) who ruled on Mr. Murray’s petition did not specifically address the issue of timeliness, other than to list various distinctions between the circumstances of *Osterneck* (a civil case involving a jury trial) and the present case (an administrative matter where the facts were not contested). The AJ further concluded that OEA had authority to award interest on back-pay awards and therefore ordered DYRS to pay Mr. Murray prejudgment interest.

DYRS sought review of the AJ’s award of interest in the Superior Court, which reversed the award on the ground that the AJ did not have jurisdiction to grant interest on the back-pay award. The trial court reasoned as follows. After an award has been issued, an AJ “retain[s] 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 [OEA].” D.C. Code § 1-606.03(c). The decision granting Mr. Murray back-pay became a final order in October 2020, and although Mr. Murray properly sought enforcement of the order when he was not paid, that issue became moot upon receipt of back-pay in March 2021. Mr. Murray’s request for prejudgment interest, made over three months after the back-pay award became final, fell outside the limited authority granted to AJs under Section 1-606.03(c).

II. Analysis

Our review of administrative appeals that “come[] to us from the Superior Court . . . is precisely the same as in administrative appeals that come to us directly.” *Johnson v. D.C. Off. of Emp. Appeals*, 912 A.2d 1181, 1183 (D.C. 2006) (internal quotation marks omitted). Although we generally review questions of law de novo, *Dupree v. D.C. Off. of Emp. Appeals*, 36 A.3d 826, 831 (D.C. 2011), “[w]e ordinarily defer to OEA’s reasonable interpretation of statutes under which OEA acts,” *Butler v. Metro. Police Dep’t*, 240 A.3d 829, 835 (D.C. 2020) (brackets and internal quotation marks omitted). We hold that Section 1-606.03(c) clearly precluded Mr. Murray’s belated request for prejudgment interest.

As previously noted, Mr. Murray did not originally seek prejudgment interest, and the back-pay award did not include prejudgment interest. When Mr. Murray later sought prejudgment interest, over three months after the back-pay award was final, he was in substance asking the AJ to amend the back-pay award. *Cf. e.g.*, *Osterneck*, 489 U.S. at 174-78 (post-judgment motion for prejudgment interest is motion to amend or alter judgment, because prejudgment interest has traditionally been understood as part of compensation due to plaintiff). Moreover, the request for prejudgment interest plainly does not fall within Section § 1-606.03(c)'s list of matters as to which AJs retain jurisdiction after an award has issued: correction of the record, attorney's fees, and enforcement of an award.

We therefore agree with the Superior Court that the AJ lacked jurisdiction to award prejudgment interest. We are not persuaded by Mr. Murray's arguments to the contrary. First, Mr. Murray argues that his request for prejudgment interest can be viewed as an effort to enforce the back-pay award. We disagree. Whether to award prejudgment interest is a question about the amount of the award to which Mr. Murray was entitled, not a question about how to enforce an award that did not include prejudgment interest. *Osterneck*, 489 U.S. at 174-78.

Second, Mr. Murray argues that some procedural rules regarding timeliness are treated as discretionary rather than mandatory and jurisdictional.

Section 1-606.03(c), however, is expressly worded as a limitation of the jurisdiction of AJs. D.C. Code § 1-606.03(c) (AJ “retain[s] *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 [OEA]”) (emphasis added).

We note two remaining points. First, in light of our ruling we do not have occasion to address the broader question whether OEA has the authority to award prejudgment interest on back-pay awards when such interest is timely requested. We express no view on that question. Second, one could potentially view post-judgment interest as part of the enforcement of an award that was not timely paid. Mr. Murray has not developed an argument along those lines, and neither the AJ nor the Superior Court considered that issue. We therefore decline to address that issue. *See generally, e.g., Battle v. District of Columbia*, 80 A.3d 1036, 1040 n.5 (D.C. 2013) (“[T]his court generally does not consider questions not properly raised and briefed on appeal.”). We thus express no view about whether an OEA AJ would have jurisdiction to award post-judgment interest as part of an order enforcing an award that was not promptly paid.

For the foregoing reasons, the judgment of the Superior Court is

Affirmed.

Fiscal Year 2026 Superior Court Remands

Cody Elder

v.

Department of Forensic Sciences

Case No. 2024-CAB-000337

Attachment # 19

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

CODY ELDER,

Petitioner,

v.

**DISTRICT OF COLUMBIA
DEPARTMENT OF FORENSIC
SCIENCES, et al.,**

Respondents.

Case No. 2024-CAB-337

Judge Tanya M. Jones Bosier

CLOSED CASE

**ORDER GRANTING IN PART AND REMANDING PETITION FOR REVIEW OF
AGENCY DECISION**

This matter is before the Court upon a Petition for Review of Agency Decision (“Petition”), filed by Petitioner Cody Elder (“Mr. Elder”) on January 18, 2024. Through the Petition and accompanying Brief in Support of Petition (“Petitioner’s Brief”), Mr. Elder requests this Court reverse the August 23, 2023, Order issued by the Office of Employee Appeals (“OEA”), wherein OEA upheld the District of Columbia Department of Forensic Sciences (“DFS”) separation of Mr. Elder pursuant to a Reduction in Force (“RIF”). *See generally* Pet’r’s Br.; *see also* *Cody Elder v. D.C. Dep’t of Forensic Sciences*, OEA Matter No. 2401-0016-22 (Aug. 23, 2023). OEA filed its final order in its Statement in Lieu of Brief (“OEA Order”) on January 3, 2025, and DFS filed an Opposition to Petition for Review of Agency Decision (“Opposition Brief”) on January 10, 2025. Upon review of the briefs and the entire administrative record herein,¹ the Petition is **GRANTED IN PART and REMANDED**.

I. BACKGROUND

¹ The administrative record will be cited herein as “R. at [page number].”

a. Factual Background

Mr. Elder worked for DFS in its Firearms Examination Unit (“FEU”) for seven years before his separation in October of 2021, and was considered “dependable, efficient[,] and a model team player.” R. at 3, 382, 402. Prior to his separation, DFS received a complaint from the United States Attorney’s Office for the District of Columbia (“USAO”) that alleged misconduct in the FEU, including management failures and structural problems. R. at 78, 118, 124. Mr. Elder, along with other separated employees, were not involved in the misconduct. *See, e.g.*, R. at 1554 (“It was a decision made based upon findings that there was some misconduct, although not committed by these specific ten impacted employees here today [before OEA] making this appeal.”).

Following an investigation, the ANSI National Accreditation Board suspended DFS’s accreditation in April 2021. R. at 118. Notably, under District of Columbia Code § 5-1501.06(d)(1), DFS must be accredited by a “bona fide national accrediting organization,” and, absent that accreditation, DFS could not conduct any forensic work. *See* R. at 1564, 1567, 1573. As accreditation for DFS is an “umbrella policy,” the suspension applied to all five subunits within the Forensic Sciences Lab, including the FEU. R. at 118, 1567. Additionally, then-existing agency leadership departed, and in May of 2021, Mr. Anthony Crispino took over as Interim Director of DFS. R. at 1563.

b. Implementation of RIF and RIF Notice

Mr. Crispino initiated the RIF process on July 19, 2021, through an email to the District of Columbia Human Resources (“DCHR”). R. at 696. DCHR Director Ventris Gibson responded the same day and indicated that DCHR would begin the RIF process and ensure it had “the necessary information and documentation to proceed in conducting a RIF.” R. at 695. Director Gibson

additionally noted that DFS and DCHR “should exhaust all available management flexibilities such as reassignment to other vacant positions where the employee meets minimum qualifications” and “reach[] out to other agencies for placement.” R. at 696. Mr. Crispino designated DFS Human Resources Manager Michael Hodge as the agency lead on the RIF and noted that Hodge would “have the full support and assistance of [Director Crispino’s] Executive Team.” R. at 695. In addition to the foregoing, a consultant, SNA International, was hired in or around June of 2021 to conduct an audit of DFS. R. at 1565. SNA produced a Report in December of 2021, which concluded that DFS’s issues stemmed largely from the management failures and structural issues initially complained about. R. at 124 (SNA Report).

On August 10, 2021, prior to the conclusion of SNA’s independent audit and report, Director Crispino sent a letter to the City Administrator requesting approval for a RIF of employees in the FEU. R. at 458. The RIF Authorization Memo stated that the RIF was conducted for “a lack of work due to the loss of accreditation as required pursuant to D.C. Official Code § 5-1501(d)(1).” R. at 458; OEA Ord. at 11. A RIF must include “[a] prescribed order of separation based on tenure of appointment, length of service including creditable federal and military service, District residency, veterans preference, and relative work performance;” “[o]ne round of lateral competition limited to positions within the employee’s competitive level;” “[p]riority reemployment consideration for employees separated;” “[c]onsideration of job sharing and reduced hours;” and “[e]mployee appeal rights.” *See* OEA Ord. at 11-12 (citing D.C. Code § 1-624.02(a)(1)-(5)).

In support of his request, Director Crispino explained in pertinent part that because DFS was no longer accredited, DFS outsourced its firearms examination work to the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”), and the FEU employees had no work to do as a result.

R. at 458-59. Director Crispino additionally explained that sixteen (16) positions would be affected and that there were no potential vacancies those employees could fill either internally or in other agencies. *Id.* The proposed RIF Order asserted that the FEU had already been designated as a lesser competitive area, “[i]n accordance with [DPM] § 2409 of Chapter 24 of the regulations.” R. at 691. In response to the RIF Authorization Memo, DCHR’s Director approved the RIF on September 9, 2021, including the designation of FEU as a lesser competitive area. *See* R. at 27-29, 693; Administrative Order No. DFS-2021-01. DFS issued Mr. Elder’s RIF notice on September 15, 2021, and September 22, 2021.²

c. Mr. Elder’s Appeal to OEA

Mr. Elder appealed his separation to OEA on November 29, 2021, and proceeded to an evidentiary hearing on March 21, 2023. R. at 1, 1530. Director Crispino and Dominique Odesola, a Human Resources Manager at DCHR, testified on behalf of DFS. Latoya McDowney, a DFS employee and the president of the National Association of Government Employees, and Natasha Pettus, a former DFS Central Evidence Unit (“CEU”) supervisor, testified on behalf of Mr. Elder.

Mr. Elder argued that DFS did not abide by the RIF procedures prescribed in District of Columbia Code § 1-624.02 and E-DMP Instruction Nos. 8-69, 9-36, and 36-11. *See* R. at 1991-92. Specifically, Mr. Elder asserted that DFS did not follow the provisions concerning lateral competition, job sharing and reduced hours, and priority reemployment. R. at 1992, 1999 (“[T]here is evidence in the record to suggest that the Agency did not consider job sharing or reduced hours.”). Mr. Elder stated DFS never asked him about transferable skills, never inquired about his

² A review of the administrative record reveals the same letter was issued on both September 15, 2021, and September 22, 2021. *See* R. at 355-56 (September 15, 2021 letter); R. 358-59 (September 22, 2021 letter). Both letters are identical, except the September 15, 2021 letter contains a completed signature page. It is unclear why the subsequent letter was issued in place of the September 15, 2021, letter.

credentials, and never requested his resume. R. at 244 (Elder Aff.). Mr. Elder also highlighted that less than a week after the RIF Notice, DFS filled a vacant Forensic Scientist position in the Crime Scene Sciences Division (“CSS”), hired two more Forensic Scientists in CSS two weeks later, and two more on October 25, 2021. *See Pet’r’s Br. at 9 fn. 2, R. at 335, 1527.*

Conversely, DFS argued that it properly designed the FSU as a lesser competitive area and that Mr. Elder was not entitled to lateral competition. R. at 1990. DFS additionally asserted it properly determined job sharing and reduced hours were not feasible options as no open positions were available within the agency, and it properly afforded Mr. Elder priority reemployment consideration. R. at 1900-91.

OEA upheld Mr. Elder’s separation through its order on August 23, 2023. OEA found that the FEU was properly designated as a lesser competitive area under 6-B DCMR § 2409, that DFS complied with the RIF requirement to consider Mr. Elder for priority reemployment under D.C. Code § 1-624.02(a)(3), and that DFS met its burden regarding the consideration of job sharing and reduced hours under D.C. Code § 1-624.02(a)(4). R. at 1993-98; OEA Br. OEA additionally explained that even if DFS did not meet its burden of considering job sharing or reduced hours, the RIF would still be upheld under the harmless error standard in 6-B DCMR § 2405.7, which states that an error is only harmful if the separated employee would not have been released from his or her competitive level had the error not occurred. R. at 1998. Specifically, OEA found that Mr. Elder would still have been released because there were no open positions for job sharing or reduced hours; thus, any error was harmless. *Id.*

Mr. Elder filed the instant Petition on January 8, 2024, seeking review of OEA’s affirmation of his separation. Through his supporting brief, Mr. Elder argues substantial evidence does not support OEA’s findings and must be reversed for the following reasons: (1) DFS improperly

deprived Mr. Elder of any opportunity for lateral competition; (2) DFS failed to consider the possibility of job sharing or reduced hours to his detriment; and (3) DFS failed to provide Mr. Elder with priority reemployment consideration prior to separation. *See Pet'r's Br.* at 12-18.

OEA filed its order through its Statement in Lieu of Brief on January 3, 2025, and DFS filed its Opposition Brief on January 10, 2025. DFS argues this Court must uphold OEA's decision because substantial evidence supports OEA's findings for the following reasons: (1) DFS properly established a lesser competitive area; (2) DFS considered job sharing and reduced hours; and (3) DFS considered priority reemployment prior to Mr. Elder's separation.

II. LEGAL STANDARD

Within its jurisdiction, the Superior Court may review a final decision of an agency of the District of Columbia. *See D.C. Code § 2-510* (stating that “[u]pon the filing of a petition for review, the Court shall have jurisdiction of the proceeding, and shall have power to affirm, modify, or set aside the order or decision complained of, in whole or in part, and, if need be, to remand the case for further proceedings, as justice may require”); *see also Walsh v. D.C. Bd. of Appeals & Review*, 826 A.2d 375, 378 (D.C. 2003) (acknowledging that “[u]pon review of an administrative decision, deference is properly accorded an agency's interpretation of the administrative regulation it enforces unless it is plainly erroneous or inconsistent with the regulation”).

When reviewing a decision from an administrative agency, there is a “presumption of correctness of the agency's decision,” and the burden is placed on the petitioner to demonstrate agency error. *Cooper v. District of Columbia Dep't of Emp't Servs.*, 588 A.2d 1172, 1174 (D.C. 1991). The Court may not set aside an agency decision if it is “supported by substantial evidence in the record as a whole and not clearly erroneous as a matter of law.” *Murchison v. D.C. Dep't of Pub. Works*, 813 A.2d 203, 205 n.3 (D.C. 2002) (quoting D.C. Super. Ct. Agency Rev. R. 1(g)

(1988)) (quotations omitted). “Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Smallwood v. Metro. Police Dep’t*, 956 A.2d 705, 707 (D.C. 2008) (quotations and citations omitted). Evidence is not substantial if it is so highly questionable in the light of common experience and knowledge that it is unworthy of belief. *See Metro. Police Dep’t v. Baker*, 564 A.2d 1155 (D.C. 1989). If substantial evidence supports the agency’s findings, the Court must affirm the agency decision even though contrary evidence may also exist in the record. *See Ferreira v. District of Columbia Dep’t of Emp’t Servs.*, 667 A.2d 310, 312 (D.C. 1995). “The corollary of this proposition, however, is that we are not obliged to stand aside and affirm an administrative determination which reflects a misconception of the relevant law or a faulty application of the law.” *See Zenian v. D.C. Office of Emp. Appeals*, 598 A.2d 1161, 1166 (D.C. 1991).

In sum, this Court must base its decision exclusively upon the administrative record, defer to the agency’s factual findings where there is substantial evidence to support them, and affirm the agency’s conclusion when they rationally stem from those findings and are not clearly erroneous as a matter of law (even though contrary evidence may also exist in the record). *See Cooper*, 588 A.2d at 1174; *Ferreira*, 667 A.2d at 312; *Wash. Hosp. Ctr. v. District of Columbia Dep’t of Emp’t Servs.*, 859 A.2d 1058, 1061 (D.C. 2004); *Giles v. District of Columbia Dep’t of Emp’t Servs.*, 758 A.2d 522, 524 (D.C. 2000).

III. DISCUSSION

As mentioned *supra*, Mr. Elder’s OEA appeal and subsequent Petition before this Court advances three primary bases for consideration: (1) whether DFS improperly deprived Mr. Elder of any opportunity for lateral competition; (2) whether DFS failed to consider the possibility of job sharing or reduced hours to his detriment; and (3) whether DFS failed to provide Mr. Elder

with priority reemployment consideration prior to separation. The Court will address each point in turn, giving deference to the agency's factual findings where substantial evidence supports them.

A. One Round of Lateral Competition at Employee's Competitive Level

Mr. Elder argues DFS improperly denied him of any opportunity for lateral competition because DFS defined the competitive area as coextensive with the FEU it was abolishing. *See* Pet'r's Br. at 12.

To conduct a RIF, an agency must identify the “competitive area” that the RIF will apply to. DCPM § 2409.1. Ordinarily, a competitive area consists of the whole agency, but there are limited circumstances in which a “lesser competitive area,” or a subset of the agency, may be established. DPM §§ 2409.2, 2409.3. If an agency establishes a lesser competitive area, the criteria “shall be no smaller than a major subdivision of an agency or an organizational segment that is clearly identifiable and distinguished from others in the agency in terms of mission, operation, function, and staff.” DPM § 2409.4. The Mayor may establish a lesser competitive agency or, alternatively, an agency head may ask DCHR to do so. *See* D.C. Code § 1-604.06(b); DPM § 2409.3. Requests must be in writing and must include information necessary for DCHR to assess whether the proposed lesser competitive area satisfies the substantive criteria, such as (a) a description of the proposed competitive area or areas to include a clearly stated mission statement, the operations, functions, and organizational segments affected, (b) an organizational chart of the agency which identifies the proposed competitive areas, and (c) a justification for the need to establish a lesser competitive area. *See* DPM § 2409.3. Ultimately, the competitive area dictates the scope of an affected employee's lateral competition rights. DPM § 2410.4; D.C. Code § 1-624.02(a)(2).

In arguing the FEU failed to meet the applicable standards, Mr. Elder first asserts there is no evidence that FEU was either a “major subdivision” of DFS or at least equivalent in size to such a unit. *See Pet’r’s Br.* at 13. “To the contrary, FEU was a relatively small unit of approximately sixteen employees within the broader Forensic Sciences Lab at DFS.” *Id.* Mr. Elder points to DFS’s organizational chart to show that FEU was one of nineteen lowest level units – i.e., those without any further sub-units – within DFS at the time of the RIF. *Id.* at 14. He argues there is no evidence that FEU was “distinguish[able] from other[] [units] in the agency in terms of mission, operation, function, and staff.” *Id.* Mr. Elder highlights that “neither DFS nor OEA addresses these substantive requirements at all in proposing and approving FEU as a lesser competitive area.” *Id.* Further, Mr. Elder argues that DFS failed to provide any information to DCHR as to why it believed that FEU should be designated as a lesser competitive area, and DFS instead “simply requested approval for this designation and DCHR rubber-stamped that decision.” *Id.* (citing R. at 1999) (“[T]here is evidence in the record to suggest that the Agency did not consider job sharing or reduced hours.”). Thus, Mr. Elder contends DFS failed to adhere to proper requirements that impermissibly deprived Mr. Elder of any lateral competition opportunities that may have been available to him in other Forensic Sciences Lab units or other parts of DFS. *Id.* at 15.

In response, DFS first argues it complied with the applicable procedures because 6-B DCMR § 2409.02 explicitly states that “[l]esser competitive areas within an agency may be established by the personnel authority,” and DCHR was the personnel authority for DFS. *See Opp’n Br.* at 5 (citing D.C. Mayor’s Order 2008-92 (June 26, 2008) (“The Director, DCHR, is delegated the authority vested in the Mayor to function as personnel authority for the District of Columbia government under section 406(b) of the CMPA) (D.C. Official Code § 1-604.06(b)).”). Director Crispino’s Memorandum to the City Administrator and the Administrative Order are both

signed by DCHR’s Director and demonstrate that DFS’s personnel authority established the competitive area. *See* R. 27, 458, 1591. DFS cites *Johnson v. District of Columbia Department of Health*, 162 A.3d 808 (D.C. 2017), wherein the District of Columbia Court of Appeals (“DCCA”) held that a request from an agency head is not required. *Id.* 811-12. Thus, it was sufficient for the DCHR Director to recognize the FEU as a lesser competitive area in Director Crispino’s Memorandum and the Administrative Order and approve the abolishment of all positions in the FEU. *See* Opp’n Br. at 6. Moreover, because Mr. Elder was entitled to a single round of lateral competition only within the designated lesser competitive area, and because all the positions in that area were abolished, “the statutory and regulatory requirement of one round of lateral competition was inapplicable” and Mr. Elder was “not deprived of any lateral competition rights” as a result. *Id.*

Next, DFS argues FEU met the relevant substantive requirements for a lesser competitive area irrespective of how the regulation is interpreted. *See* Opp’n Br. at 7-8; DPM § 2409.4. DFS asserts FEU was definable as a major subdivision because it was one of only three other major divisions in the core Forensic Science Laboratory (“FSL”). Opp’n Br. at 8. In addition to the FSL and FEU, the three divisions include the Public Health Laboratory (“PHL”) and Crime Scene Sciences (“CSS”). *Id.* Director Crispino testified about the differences amongst these units during the OEA hearing. PHL was accredited under a different board than the ANSI National Accreditation Board and did work involving public health initiatives, such as syringe surveillance, not related to criminal prosecution. R. at 1571, 1573. CSS did not require accreditation and does not conduct scientific analysis and instead only records and collects evidence that is then handed over to the scientists for analysis. R. at 1600-01. Additionally, Director Crispino testified that FEU was distinct from the other units in the FSL, such as the Forensic Biology Lab and Latent

Fingerprint Unit, in terms of mission, operation, function, and staff. The Forensic Biology Lab works with DNA evidence, and the Latent Fingerprint Unit does not do any analytical work or comparative science. Rather, these units “put a sample into a machine and the machine spits out a result.” R. at 1571, 1576. FEU, on the other hand, conducted toolmark analysis, which is a comparative science that is subjective and requires “each analyst to make a decision based on looking at two different pieces of evidence and comparing and contrasting physical characteristics.” R. at 1576. FEU’s mission was also to conduct firearms examination work, which was not something the other units did. R. at 396. FEU Firearm Examiners also required specialized knowledge and training on firearms. R. at 396, 400. Thus, according to DFS “[t]hese differences in the FEU’s mission, operation, function, and staff indicate that the FEU was a distinct organizational segment and thus a proper lesser competitive area.” *Id.*

In his Reply Brief, Mr. Elder adds that DFS’s characterization of the various department’s missions is unsupported as FEU’s mission is the same as that of every other DFS subunit: to provide high-quality, timely, accurate, and reliable forensic science services. Reply Br. at 6-7. Moreover, “the record is perfectly clear that, prior to the loss of accreditation and the RIF, all three units within the Forensic Sciences Laboratory performed analytical and comparative science work.” *See id.* at 8; R. at 1601. The Forensic Biology Lab only ceased doing analytical work after the loss of accreditation, and the shift to non-analytical work in this division as well as the Latent Fingerprint Unit “undermines DFS’s decision to designate FEU as a lesser competitive area rather than supports it.” *Id.* at 9. Moreover, the CSSU is not accredited at all, so Mr. Elder argues there were no barriers or adverse effects if FEU employees were moved CSSU. *Id.* at 7. Mr. Elder also highlights that the question is “not merely whether there were any differences between FEU and non-FEU work” but rather “whether FEU employees like Mr. Elder would have needed additional

training beyond a standard new employee orientation to move into ongoing non-FEU positions.” DFS “failed to point to any evidence in the record that staff-related distinctions across sub-units represented any meaningful barriers to entry for FEU staff moving into non-FEU positions.” *Id.* at 11. Thus, “to the extent a lesser competitive area was justified at all, it should have included, at a minimum, the Forensic Biology Lab, the Latent Fingerprint Unit, and the Crime Scene Sciences Unit.” *Id.* at 9, 12.

i. The Establishment of FEU as a Lesser Competitive Area was Procedurally Proper and Meets the Substantive Definition

The Court finds that the establishment of FEU as a lesser competitive area was procedurally proper, and that FEU meets the substantive definition of a lesser competitive area. First, DPM § 2409.2 provides that the personnel authority of an agency may establish a lesser competitive area within an agency. DCHR is the personnel authority for DFS. DFS established FEU as a lesser competitive area in Director Crispino’s Memorandum to the City Administrator and the attached Administrative Order. He sent the Memo and the attached order to DCHR Director Gibson, who signed both. The Court finds that these signatures show that DCHR established the FEU as a lesser competitive area, thereby meeting the procedural requirement that the lesser competitive area be established by the personnel authority of an agency.

Next, 6-B DCMR § 2409.04 provides that “[a]ny lesser competitive area shall be no smaller than a major subdivision of an agency or an organizational segment that is clearly identifiable and distinguished from others in the agency in terms of mission, operation, function, and staff.” FEU was one of three units within DFS’s Forensic Science Laboratory, which itself is one of three major divisions within DFS. Within that division, FEU conducted firearms examination, the Forensic Biology unit tested DNA, and the Latent Fingerprint Unit tested fingerprints. The Court finds the operation and function of each unit based on the evidence presented is clearly identifiable and

distinguishable from the others. Thus, the Court ultimately concludes that FEU meets the definition of was legitimately established as a lesser competitive area.

B. Job Sharing or Reduced Hours

Next, Mr. Elder argues that DFS failed to consider the possibility of job sharing or reduced hours to his detriment.

When an agency conducts a RIF, the agency is required to consider job sharing and reduced hours as a means of avoiding separations from employment. *See* D.C. Code § 1-624.02(a)(4).

Mr. Elder asserts there is no evidence that DFS considered job sharing and reduced hours and, as a result, the question becomes whether DFS was justified in disregarding this obligation. *See* Pet'r's Br. at 15. In arguing DFS was not justified to do so, Mr. Elder first highlights the code provision's use of the word *shall* when indicating that an agency must consider job sharing and reduced hours for an employee separated pursuant to a RIF. *Id.* ("Unlike the lateral competition requirement, the scope of the statutory requirement to consider job sharing and reduced hours is not limited by the scope of the competitive area."). Even if that were not the case, Mr. Elder asserts the lesser competitive area was unduly restrictive for the reasons discussed above. *Id.* According to Mr. Elder, "[h]ad DFS considered job sharing and reduced hours possibilities beyond FEU (either because the proper competitive area designation in this case was Agency-wide or because that is the proper scope for job sharing and reduced hours considerations in any event), it might have found a way to avoid separating Mr. Elder from service." *Id.*

In response, DFS asserts it *did* consider job sharing and reduced hours. *See* Opp'n Br. at 9 (emphasis in original). DFS first notes that Mr. Elder left out OEA's holding that "job sharing, or reduced hours were at the very least considered in this action." R. at 1997. Notwithstanding, Mr. Odesola testified that in order to implement job sharing, there must be a vacant full-time position

in the agency available at the time of the RIF. R. at 1646–47. Director Crispino’s RIF request, the Administrative Order, and Director Crispino’s testimony purportedly demonstrate that there were no vacant full-time positions in DFS for the affected FEU employees to job-share. R. at 29, 459, 1586; *see also* R. at 1590, 1647. In addition, DFS advances that Michael Kentoff, an Attorney Advisor at the Executive Office of the Mayor, stated in an October 6, 2021, email sent in response to a Request for Information that job sharing was not possible. *See* R. at 30-34. DFS notes the same is true for reduced hours. *See* Opp’n Br. at 10. Indeed, Director Crispino’s RIF request stated that there were zero current positions within DFS and outside of DFS that the RIF’d employees could fill. R. at 459. The Administrative Order stated the same. R. at 29. Kentoff’s October 6, 2021 email also explained that reduced hours were not possible because of the lack of work. R. at 31. Therefore, DFS asserts it did consider job sharing and reduced hours.

In his Reply, Mr. Elder refutes DFS’s argument that it considered job sharing or reduced hours. First, Mr. Odesola’s testimony does not supply any evidence of what DFS did because, as he testified, he “was not involved with the instant RIF action,” so DFS’s reliance on his testimony is unavailing. *See* Reply Br. at 16. The same is true regarding Director Crispino, who testified that he did not personally evaluate whether any positions within DFS were available for the FEU employees subject to the RIF. *Id.*; R. at 1583 (“Q: Did you personally evaluate existing vacancies at DFS? A: No.”). Instead, Director Crispino stated he delegated the task to Mr. Hodge and did nothing to confirm that he did what was required. *Id.* Notably, Mr. Hodge had never previously conducted a RIF and, in Director Crispino’s words, he was “unfamiliar with the procedures.” R. at 1570. Mr. Elder then highlights that the DCHR email DFS relies on regarding job sharing does not say DFS considered job sharing but instead concludes such consideration was “not possible.” R. at 30. Rather, DFS and OEA concluded vacancies available at the time was a prerequisite, and

since there were none, consideration was futile. However, according to Mr. Elder, even if these vacancies were a prerequisite, “DFS never made any serious effort to identify any [vacancies] at the time of the RIF, and has since failed to provide any substantial evidence to support its claims that no vacancies existed.” *See Reply Br.* at 17. Additionally, the publicly available employee salary data did show vacancies at the time Mr. Elder was separated, and Mr. Elder did provide this to OEA “but OEA appears to not have considered it.” *Id.* at 18 (citing R. at 1527-28). In sum, Mr. Elder concludes that DFS “arbitrarily failed to consider the possibility that FEU employees were qualified to perform non-FEU work and, as a result, failed to meaningfully consider opportunities for reduced hours or job sharing as required by law.” *Id.* at 20-21.

i. DFS Met its Obligation to Consider Job Sharing and Reduced Hours

The Court finds substantial evidence in the record supports a finding that DFS met its obligation to consider job sharing and reduced hours. Unlike priority reemployment, discussed *infra*, the timing of consideration of job sharing and reduced hours, and the necessary vacancies, is not specified. Because priority reemployment seeks to fill vacancies during the RIF notice period, consideration of job sharing and reduced hours would be expected to take place prior to the notice period. In Director Crispino’s August 10, 2021 Memorandum requesting approval of the RIF, DFS expressly stated it had no vacancies available at the agency. Director Crispino confirmed this assertion through his testimony before OEA. Thus, by considering vacancies at the time of the request for approval of the RIF, DFS met its obligation to consider job sharing and reduced hours.

C. Priority Reemployment

Finally, Mr. Elder argues DFS failed to provide him with priority reemployment consideration prior to his separation.

Employees subject to a RIF enjoy the right to “priority reemployment” for other openings, both in their own agency and in other agencies. *See* D.C. Code § 1-624.02(a)(3). Employees “shall be entered automatically on the reemployment priority list immediately after it has been determined that the employee is to be adversely affected by the reduction in force and not later than issuance of the notice of reduction in force.” DPM § 2427.5. There are two priority reemployment programs: the Agency Reemployment Priority Program (“ARPP”), and the Displaced Employee Program (“DEP”). The ARPP gives employees priority placement within their original agency and applies in advance of the separation date. E-DPM Instruction No. 8-69, 9-36 & 36-11. The DEP helps employees find placement in other agencies. D.C. Code § 1-624.02(a)(3) and 6-B DCMR § 2427 instructs agencies to maintain an ARPP list of the RIF’d employees, and 6-B DCMR § 2428 requires agencies to make offers of employment to the RIF’d employees on that list before individuals not on that list. If the agency chooses not to hire a referred candidate, it must submit written justification for non-selection to DCHR for approval. E-DPM Instruction No. 8-69, 9-36 & 36-11 § 8(f) (June 25, 2009).

Mr. Elder asserts that DFS failed to comply with any of the required steps for priority reemployment, including (1) placing him on the ARPP list “not later than the issuance of the notice of reduction in force” on September 22, 2021, (2) matching him with any positions for which he qualified and to offer him employment before other candidates not on the list, and, (3) if not selected, providing him a written justification for the non-selection. *See* Pet’r’s Br. at 16. Mr. Elder highlights that he was not placed on an ARPP list prior to his separation and, in fact, the record shows that he was not even registered for the ARPP until *after* his separation based on the incomplete registration form dated October 23, 2021. *See id.* (emphasis in original); R. at 840. Mr. Elder then notes that Mr. Odesola’s testimony appeared conflicting about whether placement was

supposed to occur prior to separation or afterward. *Id.*; R. at 1654, 1670-71. Regarding the matching obligation, Mr. Elder asserts that DFS filled multiple positions during his RIF period, yet there is no evidence that DFS considered Mr. Elder for any of these vacancies. *See Pet'r's Br.* at 9 fn. 2 (identifying individuals hired during the RIF period), *id.* at 17. Mr. Elder emphasizes that DFS conceded before OEA that it was “under no obligation” to afford him priority consideration due to abolishing his entire competitive area. *Id.*; R. at 183 (“DFS was under no obligation to give priority consideration to these employees under D.C. Code § 1-624.02(a)(3).”). Thus, because this requirement was mandatory, DFS’s failure to consider Mr. Elder for priority reemployment is inexcusable and not supported by substantial evidence.

In response, DFS asserts it did follow proper procedures. Mr. Elder’s RIF letter, dated September 22, 2021, stated he was placed in Tenure Group I, and OEA found this was sufficient evidence of being placed on the ARPP list. R. at 7, 1995. Next, in an email dated October 4, 2021, DCHR Human Resources Manager Kentoff and DCHR Human Resources Manager Zondie Pendarvis explained that “DCHR will upload the updated CV/Resumes into PeopleSoft where they’ll be accessible for” ARPP. R. at 465. Kentoff also noted that “impacted employees have been placed in both the ARPP and the DEP.” R. at 33. He additionally stated in an October 6, 2021, email that “[p]articipants will automatically [be] placed on [a] list of eligibilities/selection certificate for positions that they are qualified for at their current grade level or lower . . . The Agency is in the process of compiling this list for cross-referencing whenever new position openings emerge.” R. at 31. This, according to DFS and affirmed by OEA, shows that no openings were available during the RIF period for which Mr. Elder could have been given priority or to match. Finally, DFS concludes by highlighting the evidence of individuals hired during the RIF period was not included in the OEA record and thus cannot be considered now. *See Opp'n Br.* at

12 (citing Pet'r's Br. at 9 n. 2). Notwithstanding, even if this information could be considered, DFS notes it does not aid Mr. Elder's Petition as the information, such as the Public Employee Salary Information, only indicates that individuals were *hired* during the RIF notice period, not that there were *open* positions during the notice period. *See id.* (emphasis in original). Aside from that, DFS asserts there is no evidence in the record that there were any open positions during the notice period.

In his Reply Brief, Mr. Elder contends DFS wrongly concludes that the October 4, 2021, email from DCHR supports the finding that Mr. Elder was placed on the priority reemployment list at that time. However, the email states that participants “*will* automatically [be] placed on [a] list of eligibilities” and the agency “*is in the process* of compiling this list …” Reply Br. at 22 (emphasis in original); R. at 31. Instead, Mr. Elder was not placed on the list until October 23, 2021, which was the day after his separation. In that way, the late placement on the list was to Mr. Elder’s detriment as there is no evidence in the record that the agency conducted efforts to ascertain what number of vacancies it had during the RIF notice period. *See, e.g., Elizabeth Marso v. D.C. Dep’t of Forensic Sciences*, 2024-CAB-343 (D.C. Super. Ct. Jan. 10, 2025) (ordering a remand after finding, *inter alia*, a lack of evidence of efforts DFS took to determine the number of vacancies the agency had from September 22, 2021 to October 22, 2021). Thus, Mr. Elder argues DFS failed to comply with procedures for priority reemployment.

i. Substantial Evidence Does Not Support OEA’s Conclusion that DFS Complied with Priority Reemployment Procedures

Finally, the Court concludes that substantial evidence does not support OEA’s conclusion that DFS complied with the priority reemployment procedures.

First, the Court does not find based on the record herein that Mr. Elder was timely placed on the required ARPP list. The September 22, 2021 letter Mr. Elder received states that he was

placed in Tenure Group I, and OEA found this was sufficient evidence of being placed on the ARPP list. R. at 7, 1995. However, this is not sufficient to say that Mr. Elder was *actually* placed on the list and only evidences his right to be placed on the list. Indeed, subsequent emails indicated that participants “*will* automatically [be] placed on [a] list of eligibilities” and the agency “is *in the process* of compiling this list …” R. at 31 (email dated October 4, 2021). The only confirmation in the record to show Mr. Elder’s placement on the list is through Mr. Elder’s ARPP/DEP Registration Sheet, dated October 23, 2021, which has a registration date and an expiration date of October 23, 2021. R. at 840. Importantly, his separation was October 22, 2021, the day after the date of registration to ARPP and DEP, and a month after DFS issued the RIF notice letter.

Relatedly, the Court finds that DFS’s argument that any delay in placing Mr. Elder on the ARPP list was harmless is without merit. DFS was required to give priority consideration for all agency vacancies that were open during the RIF notice period and before separation, and harmless error requires a showing that no vacancies were available during that time. The Memorandum requesting RIF approval, dated August 10, 2021, indicated there were no vacancies. However, Director Crispino testified that he did not personally evaluate whether any positions at the DFS within DFS were available, and he instead delegated the task to Mr. Hodge and did nothing to confirm that Mr. Hodge did what was required. R. 1583. There is a lack of substantial evidence for OEA to find that a vacancy search was conducted throughout the RIF period. Indeed, this Court reasoned the same in a related matter with Mr. Elder’s FEU colleague in *Elizabeth Marso v. D.C. Department of Forensic Sciences*, Case No. 2024-CAB-343 (D.C. Super. Ct. Jan. 10, 2025) (J. Pittman) (“Because the evidence in the record does not establish that there were no vacancies at DFS during the RIF notice period between September 22, 2021 and October 22, 2021, the Court is unable to determine whether DFS’s delay in placing Employee on the ARPP list was a harmless

error.”). Thus, OEA’s decision that DFS complied with the requirement to place RIF’d employees on the ARPP list prior to the effective date of separation is not supported by substantial evidence in the record, and the Court remands this issue to OEA.

Finally, the Court finds that DFS had an obligation to match Mr. Elder to open positions within the agency as a whole and give priority to him prior to another candidate not in the same circumstance. District of Columbia Code § 1-624.02(a)(2) specifies that one round of lateral competition only takes place within an employee’s competitive level, but § 1-624.02(a)(3) for priority reemployment consideration does not contain a similar restriction. As a result, this provision does not limit priority reemployment considerations for employees like Mr. Elder who were separated in a RIF to their lesser competitive area when an agency abolished all positions in that area. This finding is distinguishable from *Johnson v. D.C. Department of Health*, where the DCCA found the agency’s obligation to provide an employee with one round of lateral competition was discharged after her competitive area was abolished. *Johnson* did not discuss § 1-624.02(a)(3). Moreover, E-DPM Instruction Nos. 8-69, 9-36, and 36-11 states that RIF’d employees “are entitled to priority consideration for reemployment in the *agency* from which they were separated” and “employees who are issued a RIF letter are to be given priority consideration for *all agency vacancies* that are open during the RIF notice period.” § 8(b) (emphasis added). Thus, OEA must consider all DFS vacancies when addressing this issue on remand.

IV. CONCLUSION

Based on the foregoing, it is this 20th day of October, 2025, hereby:

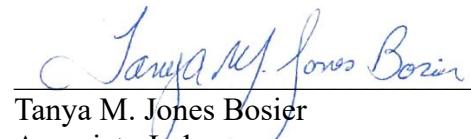
ORDERED that Mr. Elder’s Petition for Review is **GRANTED IN PART**. It is further

ORDERED that this matter be **REMANDED** to the Office of Employee Appeals to determine (1) whether Mr. Elder was placed on the ARPP list for priority reemployment

consideration by September 22, 2021; (2) whether Mr. Elder was given priority consideration for *any* vacancies that existed at DFS during the RIF notice period between September 22, 2021, and the date Mr. Elder was placed on the ARPP list, and (3) if there were any vacancies at DFS for which Mr. Elder was qualified but not given priority consideration, determine the appropriate remedy. It is further

ORDERED that this case is **CLOSED**.

IT IS SO ORDERED.



Tanya M. Jones Bosier
Associate Judge
Superior Court of the District of Columbia

Copies e-filed and e-served via Odyssey.

Laketa Bailey

v.

Department of Forensic Sciences

Case No. 2024-CAB-000393

Attachment # 20

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

LAKETA BAILEY,

Plaintiff,

v.

D.C. OFFICE OF EMPLOYEE APPEALS,

Defendant.

**2024-CAB-000393
Judge Katherine E. Oler
CASE CLOSED**

ORDER

Pending before the Court is Petitioner Laketa Bailey’s Opening Brief, filed December 12, 2024, D.C. Office of Employee Appeals’ Statement in Lieu of Brief, filed January 9, 2025, Respondent’s Opposition, filed January 16, 2025, and Petitioner’s Reply, filed February 6, 2025. For the following reasons, Petitioner’s petition is granted in part and denied in part.

FACTUAL AND PROCEDURAL BACKGROUND

In January 2020, the Department of Forensic Sciences (“DFS” or “Agency”) received a complaint from the United States Attorney’s Office for the District of Columbia that alleged misconduct in the Firearms Examination Unit (“FEU”). *See* Resp.’s Brief at 1; R. 238. Following an investigation, the accrediting body for DFS, ANSI National Accreditation Board, suspended the Agency’s accreditation in April 2021. Resp.’s Brief at 2; R. 278. Pursuant to D.C. law, DFS could not conduct forensic work, such as firearms examination, without accreditation. *Id.* at 2.

Following the loss of accreditation, Agency Director Crispino emailed the D.C. Office of Human Resources (“DCHR”) to initiate a Reduction-in-Force (“RIF”). Resp.’s Brief at 2; R. 1021. On August 10, 2021, Director Crispino sent a letter to the City Administrator requesting approval for a RIF of the FEU for lack of work. R. 739. The FEU had no work after the loss of accreditation,

and the Agency outsourced firearms examination work to the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives. R. 739-40.

DFS issued a RIF notice to FEU employees, including Petitioner, on September 22, 2021, informing them that their separation was effective on October 22, 2021. R. 408. Petitioner, along with the other separated FEU employees, filed an appeal with the Office of Employee Appeals (“OEA”). R. 1. OEA ultimately upheld Petitioner’s separation in an Initial Decision issued on August 28, 2023. R. 2255.

Petitioner brought her appeal of the RIF action to OEA arguing that her position should not have been abolished because the Agency did not follow the RIF procedures in accordance with D.C. Code § 1-624.02(a)(3), Chapter 24 of the District Personnel Manual (“DPM”), or E-DPM Instruction No. 8-69, 9-36, 36-11 subsection (3)(a) and (8)(d). R. 7. Previously, Petitioner worked as a Lead Forensic Firearms Technician in the FEU. R. 3, 413. Petitioner alleged that the District did not give priority consideration for any positions to which Petitioner applied after receiving the RIF notice, but before the effective date of the RIF. *Id.*

On January 22, 2024, Petitioner filed her Petition to review OEA’s determination issued on August 28, 2023 with this Court. *See* Pet. at 1. On January 24, 2024, Petitioner filed her Motion for Extension of Time to Petition for Review of Agency Decision. *See* Pet’s Mot. to Ext. On October 4, 2024, the Court denied Agency’s Motion to Dismiss, and accepted Petitioner’s petition as timely filed. *See* Oct. 4, 2024, Ord. at 8 (Lee, J.). On November 15, 2024, the Court entered a briefing schedule. *See* Nov. 15, 2024 Ord. (Oler, J.). Petitioner filed her Opening Brief on December 12, 2024, the Office of Employee Appeals filed its Statement in Lieu of Brief on January 9, 2025, Respondent filed its Opposition Brief on January 16, 2025, and Petitioner filed her Reply Brief on February 6, 2025.

Petitioner appeals OEA’s Initial Decision to this Court arguing that the Agency failed to comply with three procedural requirements for conducting a RIF. Pet’s Brief at 5. Petitioner argues that Agency improperly conducted the RIF by (1) improperly defining the competitive area which deprived Petitioner of her lateral competition rights, (2) failing to consider the possibility of job sharing and reduced hours before executing the RIF, and (3) failing to provide Petitioner with priority reemployment consideration prior to her separation. *Id.* at 5-6.

This case was stayed on June 3, 2025, pending the outcome of appeals in case numbers 2024-CAB-000339, 2024-CAB-000345, and 2024-CAB-000346 before the D.C. Court of Appeals. On October 1, 2025, Petitioner filed a Praeclipe informing the Court that the Court of Appeals had issued a decision concluding that the thirty-day deadline for filing an agency appeal pursuant to Super. Ct. Agency Rev. R. 1(b) can be extended for excusable neglect. *See* Oct. 1, 2025 Praeclipe. Accordingly, because this Court found that Petitioner established excusable neglect for failing to file within the thirty-day window and denied Respondent’s Motion to Dismiss, the Court will now address the petition on its merits. *See* Oct. 4, 2024 Ord. (Lee, J.) (denying Respondent’s Motion to Dismiss).

LEGAL STANDARD

In the 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 . . . [t]he court defers to the determination of the director . . . as long as the director’s decision flows rationally from the facts, and those facts are supported by substantial evidence in the record.” *Orius Telcoms Inc. v. D.C. Dep’t of Empl. Servs.*, 857 A.2d 1061, 1065 (D.C. 2004). Additionally, an agency’s interpretation of the applicable regulations “becomes of controlling weight unless it

is plainly erroneous or inconsistent with the regulation.” *Id.* At 1065 (citing *Bowles v. Seminole Rock & Sand Co.*, 325 U.S. 410, 414. (1945)).

The trial court “must review the administrative record alone . . . [;] [the] function is to determine if the requirements of procedural due process are met, and whether the decision of the [agency] is supported by substantial evidence on the whole record.” *Kegley v. District of Columbia*, 440 .2d 1013, 1018 (D.C. 1982).

The Court defers to the factual conclusions reached by administrative agencies, so long as those conclusions are supported by substantial evidence in the record. D.C. Code § 2-510(3)(E). “[R]eview generally is limited to ensuring that the agency (1) made findings of fact on each material, contested factual issue, (2) based those findings on substantial evidence, and (3) drew conclusions of law which followed rationally from the findings.” *Walsh v. District of Columbia Bd. Of Appeals & Review*, 826 A.2d 375, 379 (D.C. 2003) (quotation and citation omitted). Courts are particularly deferential when considering the factual conclusions reached by administrative agencies and the court must defer to an agency’s findings of fact where substantial evidence supports each finding. *District of Columbia Dep’t of Emp’t Servs. v. Vilche*, 934 A.2d 356, 360 (D.C. 2007). “Substantial evidence is ‘more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.’” *Giles v. District of Columbia Dep’t of Emp’t Servs.*, 758 A.2d 522, 524 (D.C. 2000) (quoting *Gardner v. District of Columbia Dep’t of Emp’t Servs.*, 736 A.2d 1012, 1015 (D.C. 1999)). Should the Court determine that “there is substantial evidence to support the [the agency’s] finding, the mere existence of substantial evidence to the contrary does not allow the reviewing court to substitute its judgment for that of the [agency].” *Scott v. Police & Fireman’s Ret. & Relief Bd.*, 447 A.2d 447, 449 (D.C. 1982); see also *Brown v. Watts*, 993 A.2d 529, 533 (D.C. 2010) (when there is substantial evidence

to support OEA’s decision, the court “must uphold OEA’s decision even though the record might support a contrary conclusion”); *Metropolitan Police Dep’t v. Baker*, 564 A.2d 1155, 1159 (D.C. 1989) (“If the administrative findings are supported by substantial evidence, we must accept them even if there is substantial evidence in the record to support contrary findings.”)

ANALYSIS

A. Lateral Competition Rights

When conducting a RIF action in the District of Columbia, D.C. Code § 1-624.02(a)(2) provides that employees are entitled to one round of lateral competition limited to positions within the employee’s competitive level. This means that within the competitive area assigned for the RIF, the personnel authority administering the RIF identifies open positions within the competitive level. E-DPM § 2410.1-.5. Employees compete against other employees in the RIF in the competitive level identified pursuant to section 2409 of the E-DPM for positions that are vacant. *Id.* at 2410.4.

Petitioner argues that the FEU was not a proper lesser competitive area because the agency failed to follow the requirements under E-DPM § 2409.3, which outlines the process an agency head may follow to request a lesser competitive area by written request, and because the lesser competitive area of the FEU was inappropriately small. R. 563-65. Plaintiff first argues that the Agency erred in conducting the RIF by failing to comply with E-DPM subsection 2409.3. *Id.* Petitioner argues that the method for establishing a lesser competitive area is by the personnel authority “*and 2*) pursuant to a written request from the agency head to the personnel authority.” *Id.* (emphasis added).

1. Procedure for Establishing a Lesser Competitive Area

When conducting a RIF, an agency must conduct “[o]ne round of lateral competition limited to positions within the employee’s competitive level.” D.C. Code § 1-624.02(a)(2). The E-DPM defines “competitive level” as the “grouping of similar positions (in a competitive area) within which employees compete for retention.” E-DPM § 2499.1. A “competitive area” is defined as “the organizational boundaries in which a reduction in force . . . is conducted.” *Id.*

D.C. Code § 1-624.01 states that each agency “shall be considered a competitive area for reduction-in-force purposes,” but that a personnel authority “may establish lesser competitive areas within an agency.” D.C. Code § 1-624.01. The Code provides that the lesser competitive areas should be established “on the basis of all or a clearly identifiable segment of an agency’s mission or a division or major subdivision of an agency.” *Id.* E-DPM subsections 2409 and 2499 offer additional guidance for establishing a competitive area in a RIF. E-DPM § 2409. Except as otherwise provided, “each agency . . . constitute[s] a single competitive area.” *Id.* § 2409.1. Lesser competitive areas “may be established by the personnel authority.” *Id.* § 2409.2. Alternatively, an agency head is permitted to request the personnel authority to establish lesser competitive areas by written request. *Id.* § 2409.3. Importantly, “[a]ny lesser competitive area shall be no smaller than a major subdivision of an agency or an organizational segment that is clearly identifiable and distinguished from others in the agency in terms of mission, operation, function, and staff.” *Id.* § 2409.4. The determination of a competitive area in turn determines the scope of a RIFed employee’s lateral competition right. *See* D.C. Code § 1-624.02(a)(2) (“One round of lateral competition limited to positions within the employee’s competition level.”).

OEA disagreed with Petitioner’s position and found that procedurally, the Agency provided sufficient evidence that it legitimately created a lesser competitive area because the RIF Authorization Memorandum “clearly provides that the FEU was a lesser competitive area” created

by the agency, and the retention register lists the FEU as a lesser competitive area. R. 2249. OEA also found the establishment of the FEU procedurally appropriate because the requirements under E-DPM subsection 2409 permit an agency to establish a lesser competitive area “without providing any specific procedure on how this should be accomplished.” R. 2249.

This Court agrees with OEA’s findings and reasoning. E-DPM subsection 2409.2 provides that a lesser competitive area may be established within an agency “by the personnel authority.” E-DPM § 2409.2. The requirements referenced by Petitioner for creating a lesser competitive area under E-DPM 2409.3 are merely another option an agency may use to establish a lesser competitive area. *Id.* at § 2409.3. Subsection 2409.3 permits an agency head to request a lesser competitive area. E-DPM § 2409.3 (“An agency head *may* request the personnel authority to establish lesser competitive area within the agency” by submitting a written request) (emphasis added). However, this provision is not mandatory, and further, is not the only method for creating a lesser competitive area, as subsection 2409.2 allows the personnel authority to create a lesser competitive area without further requirements. E-DPM § 2409.2.

In reviewing an agency appeal, this Court conducts a limited review to ensure that OEA “(1) made findings of fact on each material, contested factual issue, (2) based those findings on substantial evidence, and (3) drew conclusions of law which followed rationally from the findings.” *Walsh*, 826 A.2d at 379. Here, OEA made a factual finding on the issue of whether the Agency followed the RIF requirements when establishing a lesser competitive area, determining that the Agency was authorized to establish the lesser competitive area without going through the process outlined by E-DPM 2409.3. R. 2249. This finding was based on Agency’s retention register record, which lists the competitive area as the Firearm Examination Unit and based on Administrative Order No. DFS-2021-01 issued on August 10, 2021, which also lists the lesser

competitive area for the purposes of the RIF as the FEU. R.401, 530. The Court finds that OEA based this finding on substantial evidence because the record shows the RIF documents, authorized by the personnel authority, list the FEU as a lesser competitive area. It is within the purview of the personnel authority to create a lesser competitive area pursuant to E-DPM 2409.2, and because the primary documentation for a RIF is the administrative order signed by the Mayor's designee (the personnel authority), and because DCHR as the personnel authority identified the FEU as the proper competitive area and indicated their decision on the administrative order, the documentation serves as evidence that the personnel authority acted within its discretion when making this determination. R. 1914-15.

The Court additionally finds that OEA drew conclusions of law on this issue which follow rationally from the findings. *See Walsh*, 826 A.2d at 379. OEA's conclusion of law that E-DPM 2409.2 permits the personnel authority to establish a lesser competitive area without following the requirements under E-DPM 2409.3, and that the personnel authority properly designated the FEU as a lesser competitive area pursuant to subsection 2409.2 rationally follow the findings. OEA's finding that the retention register and the Order No. DFS-2021-01 both listed the competitive area as the FEU supports the conclusion that the lesser area was established properly under E-DPM 2409.2. E-DPM § 2409.2; R. 2249.

2. Designating the FEU as a Lesser Competitive Area & Lateral Competition

Petitioner next argues that even if the lesser competitive area was properly established, the designation of the FEU as a lesser competitive area was inappropriate and incompatible with the requirements of E-DPM § 2409.4. R. 564-65. Petitioner argues that the FEU could not be a proper lesser competitive area because the FEU has the same mission as the other units in DFS, and the

“mission, operation, function, and staff are not ‘clearly identifiable and distinguished from others in the agency’”. R. 565.

E-DPM section 2410 directs how competitive levels are established when conducting a RIF. Section 2410.4 states that a competitive level consists of “all positions in the same grade . . . and classification series” in the competitive area established by section E-DPM 2409 which are “sufficiently alike in qualification requirements, duties, responsibilities, and working conditions.” E-DPM § 2410.4. The section continues that the similarities of the positions should be such that the “incumbent of one . . . position could successfully perform the duties and responsibilities of any of the other positions” without a loss of productivity greater than that normally expected in the “orientation of any new but fully qualified employee.” *Id.* Petitioner argues that because the Agency “pigeonholed” employees into a “competitive area [that was] far too constricted” this allowed the Agency to “deny FEU employees their rights to lateral competition.” R. 565. Petitioner argues that pursuant to E-DPM section 2409.4, the lesser competitive area was impermissibly narrow which resulted in the Agency foregoing the requirement of conducting one round of lateral competition “limited to positions within the employee’s competitive level.” D.C. Code § 1-624.02(a)(2).

OEA found that “all the employees” in this competitive level “including Employee, were designated as forensic scientist (firearm & toolmark analyst).” R. 1084-85, 2249. Because of this, OEA reasoned in its initial decision that Petitioner was one of eleven employees “with the same job title, grade, classification series, and sufficiently alike in qualification” in the competitive level. *Id.* (citing to E-DPM § 2410.4). Further, OEA found that because Petitioner was not the only forensic scientist within her level, she was entitled to compete with the other ten employees in the same level. R. 2250. OEA found that because all FEU positions were eliminated, and because

Petitioner was only entitled to compete with the other ten employees affected by this RIF action, Petitioner was not entitled to one round of lateral competition because “all the positions were eliminated.” R. 2250.

Because OEA failed to determine whether the FEU was appropriately designated as the lesser competitive area pursuant to E-DPM section 2409.4, this Court is unable to determine whether OEA’s finding that Petitioner was not entitled to one round of lateral competition is a “conclusion[] of law which followed rationally from the findings.” *Walsh*, 826 A.2d at 379. If the FEU was not an appropriate lesser competitive area pursuant to E-DPM 2409.4, either because it is too limited a segment of the organization or otherwise not distinguishable from other units in the agency, it is unclear whether OEA’s rationale that Petitioner was not entitled to one round of lateral competition stands. However, the Agency looked at vacancies across the entirety of DFS and did not restrict itself to the FEU as the lesser competitive area when conducting Petitioner’s lateral competitive rights. R. 498, n.1. This means that regardless of whether Petitioner was entitled to a round of lateral consideration, Petitioner received a round of lateral competition Agency-wide. *Id.* Accordingly, any failure by OEA to make a factual finding regarding whether the FEU was appropriately designated as the lesser competitive area is harmless.

B. Job Sharing and Reduced Hours

D.C. Code § 1-624.02(a)(4) provides that agencies must consider “job sharing and reduced hours” prior to conducting a RIF to ameliorate the negative impact of the RIF. D.C. Code § 1-624.02(a)(4). The E-DPM offers more specifics. Section 2403 states that an agency, prior to planning a RIF, can take appropriate action within its authorized budget to minimize the adverse impact of the RIF on employees and the agency. E-DPM § 2403.2. The E-DPM lists examples of

such appropriate action, which include “[j]ob sharing and reduced working hours under section 2404.” E-DPM § 2403.2(a).

Section 2404 states that employees may be assigned to job sharing or reduced working hours as long as the employee is (a) not serving under a time-limited appointment, and (b) the employee voluntarily requested job sharing or reduced hours “in response to the agency’s request of volunteers” for the purpose of considering how to minimize impact of a potential RIF. E-DPM § 2404.1.

Dominique Odesola, Human Resources Manager at D.C. Department of Human Resources, testified about job sharing and reduced hours as they apply to RIFs. R. 2105. Odesola testified that to implement job sharing or reduced hours there must already be a vacancy “on the books” prior to the RIF taking effect. R. 2105.

Petitioner argues that DFS failed to consider job sharing or reduced hours, and that DFS cannot be excused from this requirement regardless of the lesser competitive area designation. R. 557. DFS asserts that because DFS lost its accreditation and could not continue the work done at the FEU, a reduction in hours was not available to Petitioner. R. 501. For the same reason, DFS found that there were no other positions that could be appropriately split with Petitioner’s job, and that the firearms positions themselves were not appropriate for job sharing. *Id.*

In its Initial Decision, OEA found that “job sharing, or reduced hours, were at the very least considered in this action.” R. 2253. Further, OEA found that even if job sharing and reduced hours were not considered, given that the Petitioner’s entire competitive level was eliminated, this was harmless error because Petitioner would have still been released from her job.” R. 2253-54.

The Court finds that OEA made a finding of fact on this material issue, and that its findings were based on substantial evidence. *Walsh*, 826 A.2d at 379. OEA concluded that the Agency

considered job-sharing and reduced hours based on the Agency’s explanation that Petitioner’s entire competitive level was abolished. R. 2252-55. Looking to the record, Administrative Order No. DFS-2021-01, the document identifying which positions would be affected by the RIF, states that DFS “completed a review of all affected positions against existing vacancies within DFS” and other agencies and found that there were “no vacancies identified for the 11 employees” who occupied the encumbered positions. R. 1086. Director of DFS Crispino also testified that job sharing and reduced hours could not be implemented because no vacancies were available. R. 1840. Because there must be a vacancy available to implement job sharing and reduced hours options and there were none available, the Court concludes that this finding was based on substantial evidence. R. 1900-01. Additionally, the Court finds that OEA drew conclusions of law which rationally follow from the findings, given the Administrative Order No. DFS-2021-01 references the lack of vacancies, and Director Crispino’s testimony that there were no available vacancies within the agency that would have permitted job sharing or reduced hours.

C. Priority Reemployment Rights

D.C. Code § 1-624.02 provides that employees undergoing a RIF are given “[p]riority reemployment consideration[.]” D.C. Code § 1-624.02(a)(3). One of the methods the District uses to ensure priority reemployment is the Agency Reemployment Priority Program. *See* E-DPM § 2427 *et seq.* First, the personnel authority is required to “establish and maintain a reemployment priority list for each agency in which it separates group I and II employees.” E-DPM § 2427.1. When a RIF is conducted across a lesser competitive area established by section 2409, the personnel may “[l]imit the agency reemployment priority list to . . . employees separated from the lesser competitive area in which the reduction in force was conducted;” and “[l]imit referrals pursuant to this section . . . to positions within the lesser competitive area in which the reduction

in force occurs.” E-DPM § 2427.2. The employee must be added to the reemployment priority list “immediately after it has been determined that the employee is to be adversely affected” by the RIF and “not later than issuance” of the RIF notice. E-DPM § 2427.5.

The E-DPM Instructions 8-69, 9-36 & 36-11 offer “general information” on the Agency Reemployment Priority Program (“ARPP”) and the Displaced Employee Program (“DEP”), which are the two priority consideration programs available for career service employees who are issued a RIF notice and later are separated by a RIF. E-DPM Inst. 8-69, 9-36 & 36-11 at 1. Section 8(d) informs on what ARPP consideration is appropriate prior to an employee’s separation. *Id.* at 6. Subsection 8(d)(1) states that employees who are issued a RIF letter “are to be given priority consideration for all agency vacancies that are open during the RIF notice period (before separation).” *Id.* at 6 (emphasis in original). Section 8(e) outlines the appropriate order for referring displaced employees to other potential job placements. *Id.* at 7. Section 7(b) requires that separated employees be placed on the ARPP list immediately after it has been determined that the employee will be adversely impacted by a RIF, but not later than the issuance of the RIF notice. E-DPM Inst. 8-69, 9-36 & 36-11 § 7(b); E-DPM § 2427.5.

Petitioner argues that DFS violated Section 8(d) and 8(e) by not referring Petitioner to available positions at the Agency in the order required by the Instruction. R. 566. Petitioner asserts that Section 8(f) requires the selection of a displaced employee unless the agency choosing not to hire the displaced employee submits justification to DCHR and that justification is approved, or if the displaced employee declines the job offer. R. 566-67. Petitioner argues that she was not given priority consideration for interviews, even when she met the required hiring qualifications, and that she has not received an interview for most of the positions to which she has applied, even

when she meets the qualifications. R. 567. Petitioner further asserts that she has applied for open positions within DFS and “other applicants were selected.” *Id.*

DFS argues that it placed Petitioner on the ARPP list, but even if it failed to place Petitioner on the ARPP list on or before the date of the RIF notice, that the error was harmless because there were no vacancies within DFS for which Petitioner would have had priority. Resp. Reply at 11.

OEA found that Petitioner was placed on the ARPP and DEP prior to the effective date of the RIF, based on the RIF separation notice issuance on September 22, 2021, and because the effective date of the RIF was October 22, 2021. R.2251. However, the record does not reflect the date that Petitioner was placed on the ARPP list. Petitioner’s RIF notice indicates that she has a “right to priority placement consideration” through the ARPP. R. 405-06. This language does not indicate *when* Petitioner was placed on the ARPP list, but rather that she has a right to be placed on the ARPP list.

Petitioner’s ARPP registration sheet indicates that her date of registration onto the ARPP list was October 23, 2021, more than one month after DFS issued the RIF notice. R. 510. This evidence undermines OEA’s finding that Petitioner was timely placed on the ARPP list. Agency points to two e-mails as proof that there was evidence Petitioner was placed on the ARPP list. Resp. Reply at 11. The first e-mail, dated October 4, 2021, stated that DCHR “will upload the updated CV/Resumes” to PeopleSoft where they would be accessible for the ARPP program. R. 746. This does not indicate the date that Petitioner was placed on the ARPP list. Further, the Kentoff e-email, dated October 6, 2021, indicated that separated employees “will be automatically placed on [ARPP] list of eligibilities . . . for positions that they qualify for.” R. 31. This email does not indicate what date Petitioner was placed on the ARPP list. Additionally, both emails were sent after the RIF was initiated on September 22, 2021, which is the latest date that Petitioner should

have been placed on the ARPP pursuant to the E-DPM Inst. 8-69, 9-36 & 36-11. Neither of these emails indicate the date Petitioner was placed on the ARPP.

The Court finds that OEA did not base its finding that Petitioner was placed on the ARPP prior to the issuance of the RIF notice on substantial evidence. Accordingly, the Court remands this issue to OEA for a determination on the date Petitioner was placed on the ARPP registry.

Agency argues that if it erred by failing to place Petitioner on the ARPP by the date of the RIF notice, that error was “not harmful” because there were no vacancies “for which Petitioner could have been given priority, or to which she could have ‘matched.’” Resp. Reply at 12. Petitioner points to Agency hiring for a vacancy in the Crime Scene Sciences Unit for a Forensic Scientist on September 27, 2021, five days after the RIF notice was issued. R. 1781. Petitioner points to four other similar instances, however this is evidence outside the record and was not considered in the analysis of this petition. *See Kegley*, 440 A.2d at 1018 (The trial court “must review the administrative record alone.”)

The August 10, 2021 Memorandum sent by Mr. Crispin, who was the Interim Director for DFS at the time the RIF was initiated and conducted, to DCHR requesting approval to conduct a RIF indicates that as of August 10, 2021 there were no vacancies within DFS. R. 1210-11. Further, the Administrative Order No. DFS-2021-01, dated August 10, 2021, indicates that there were “no vacancies identified” for the employees experiencing the RIF. R. 1214. This evidence only shows that there were no vacancies prior to requesting permission to conduct the RIF in August, not that there were no vacancies during the period between the RIF notice and date of separation. Because there is not substantial evidence in the record that indicates there were no vacancies through the RIF notice period, the Court cannot find that Agency’s delay in placing Petitioner on the ARPP was a harmless error.

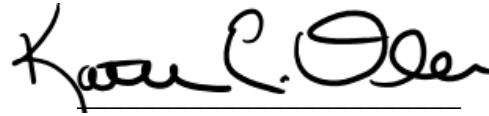
The Court remands this issue to OEA for determination. If OEA determines that Petitioner was not placed on the ARPP on or before September 22, 2021 when Petitioner received notice of the RIF, OEA must determine whether there were vacancies within DFS that Petitioner was entitled to priority consideration for the period of September 22, 2021, and October 22, 2021.¹ OEA must consider whether there were open positions within the entirety of DFS, not merely the lesser competitive area of the FEU, pursuant to E-DPM Instruction Nos. 8-69, 9-36, and 36-11. *See* ² 8(b) (“[D]isplaced employees are entitled to priority consideration for reemployment in the agency from which they were separated by RIF.”) (emphasis in original).

CONCLUSION

Accordingly, it is this 11th day of December 2025, hereby
ORDERED that Petitioner’s Petition is **GRANTED in part**; and it is further
ORDERED that this matter is **REMANDED** to the Office of Employee appeals to determine 1. Whether Petitioner was placed on the ARPP list for priority reemployment by the RIF notice date of September 22, 2021; and 2. Whether Petitioner was given priority reconsideration for vacancies within the entirety of DFS during the period between the RIF notice date and the date Petitioner was placed on the ARPP list; and 3. If there were any vacancies for which Petitioner was qualified, but not given priority consideration, OEA shall determine the appropriate remedy.

SO ORDERED.

¹ Judge Pittman reached a similar conclusion in a related matter with Ms. Bailey’s former FEU colleague in *Elizabeth Marso v. D.C. Department of Forensic Sciences*, Case No. 2024-CAB-000343, as did Judge Jones Bosier in *Cody Elder v. District of Columbia Department of Forensic Sciences, et al.*, Case No. 2024-CAB-000337.



Judge Katherine E. Oler

Copies to:

All Parties and Counsel

Kim Brittingham

v.

Department of Forensic Sciences

Case No. 2024-CAB-000336

Attachment # 21

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

KIM BRITTINGHAM,

Plaintiff,

v.

D.C. DEPARTMENT OF FORENSIC SCIENCES,

Defendant.

**2024-CAB-000336
Judge Katherine E. Oler
CASE CLOSED**

ORDER

Pending before the Court is Petitioner Kim Brittingham’s Opening Brief, filed December 19, 2025, Respondent’s Opposition, filed January 23, 2025, and Petitioner’s Reply Brief, filed February 13, 2025. For the following reasons, Petitioner’s petition is granted in part and denied in part.

FACTUAL AND PROCEDURAL BACKGROUND

In January 2020, the Department of Forensic Sciences (“DFS” or “Agency”) received a complaint from the United States Attorney’s Office for the District of Columbia that alleged misconduct in the Firearms Examination Unit (“FEU”). *See* Resp.’s Brief at 1. Following an investigation, the accrediting body for DFS, ANSI National Accreditation Board, suspended the Agency’s accreditation in April 2021. Resp.’s Brief at 2. Pursuant to D.C. law, DFS could not conduct forensic work, such as firearms examination, without accreditation. *Id.* at 2.

Following the loss of accreditation, Agency Director Crispino emailed the D.C. Office of Human Resources (“DCHR”) to initiate a Reduction-in-Force (“RIF”). Resp.’s Brief at 2. On August 10, 2021, Director Crispino sent a letter to the City Administrator requesting approval for a RIF of the FEU for lack of work. R. 417. The FEU had no work after the loss of accreditation,

and the Agency outsourced firearms examination work to the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives. R. 417-18.

DFS issued a RIF notice to FEU employees, including Petitioner, on September 22, 2021, informing them that their separation was effective on October 22, 2021. R. 7-8. Petitioner, along with the other separated FEU employees, filed an appeal with the Office of Employee Appeals (“OEA”). R. 1. OEA ultimately upheld Petitioner’s separation in an Initial Decision issued on August 28, 2023. R. 2163-80. Petitioner brought her appeal of the RIF action to OEA arguing that her position should not have been abolished because the Agency did not follow the RIF procedures in accordance with D.C. Code § 1-624.02(a)(3), Chapter 24 of the District Personnel Manual (“DPM”), or E-DPM Instruction No. 8-69, 9-36, 36-11 subsection (3)(a) and (8)(d). R. 9-10, 230-31. Previously, Petitioner worked as a Forensic Scientist Firearms Technician. R.1. Petitioner alleged that the District did not give priority consideration for any positions to which Petitioner applied after receiving the RIF notice, but before the effective date of the RIF. R. 230-31.

On January 18, 2024, Petitioner filed her Petition to review OEA’s determination issued on August 28, 2023 with this Court. *See* Pet. at 1. On January 19, 2024, Petitioner filed her Motion for Extension of Time to Petition for Review of Agency Decision. *See* Pet’s Mot. to Ext. On October 4, 2024, the Court denied Agency’s Motion to Dismiss, and accepted Petitioner’s petition as timely filed. *See* Oct. 4, 2024, Ord. at 8 (Lee, J.). On November 22, 2024, this Court entered a briefing schedule. On December 19, 2025, Petitioner filed her Opening Brief, on January 23, 2025, Respondent filed its Opposition, and on February 13, 2025, Petitioner filed her Reply.

Petitioner appeals OEA’s Initial Decision to this Court arguing that the Agency failed to comply with three procedural requirements for conducting a RIF. Pet’s Brief at 5. Petitioner argues that Agency improperly conducted the RIF by (1) improperly defining the competitive area which

deprived Petitioner of her lateral competition rights, (2) failing to consider the possibility of job sharing and reduced hours before executing the RIF, and (3) failing to provide Petitioner with priority reemployment consideration prior to her separation. *Id.* at 6-7.

This case was stayed on June 3, 2025, pending the outcome of appeals in case numbers 2024-CAB-000339, 2024-CAB-000345, and 2024-CAB-000346 before the D.C. Court of Appeals. On October 1, 2025, Petitioner filed a Praecipe informing the Court that the Court of Appeals had issued a decision concluding that the thirty-day deadline for filing an agency appeal pursuant to Super. Ct. Agency Rev. R. 1(b) can be extended for excusable neglect. *See* Oct. 1, 2025 Praecipe. Accordingly, because this Court found that Petitioner established excusable neglect for failing to file within the thirty-day window and denied Respondent's Motion to Dismiss, the Court will now address the petition on its merits. *See* Oct. 4, 2024 Ord. (Lee, J.) (denying Respondent's Motion to Dismiss).

LEGAL STANDARD

In the 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 . . . [t]he court defers to the determination of the director . . . as long as the director’s decision flows rationally from the facts, and those facts are supported by substantial evidence in the record.” *Orius Telcoms Inc. v. D.C. Dep’t of Empl. Servs.*, 857 A.2d 1061, 1065 (D.C. 2004). Additionally, an agency’s interpretation of the applicable regulations “becomes of controlling weight unless it is plainly erroneous or inconsistent with the regulation.” *Id.* At 1065 (citing *Bowles v. Seminole Rock & Sand Co.*, 325 U.S. 410, 414. (1945)).

The trial court “must review the administrative record alone . . . [;] [the] function is to determine if the requirements of procedural due process are met, and whether the decision of the [agency] is supported by substantial evidence on the whole record.” *Kegley v. District of Columbia*, 440 .2d 1013, 1018 (D.C. 1982).

The Court defers to the factual conclusions reached by administrative agencies, so long as those conclusions are supported by substantial evidence in the record. D.C. Code § 2-510(3)(E). “[R]eview generally is limited to ensuring that the agency (1) made findings of fact on each material, contested factual issue, (2) based those findings on substantial evidence, and (3) drew conclusions of law which followed rationally from the findings.” *Walsh v. District of Columbia Bd. Of Appeals & Review*, 826 A.2d 375, 379 (D.C. 2003) (quotation and citation omitted). Courts are particularly deferential when considering the factual conclusions reached by administrative agencies and the court must defer to an agency’s findings of fact where substantial evidence supports each finding. *District of Columbia Dep’t of Emp’t Servs. v. Vilche*, 934 A.2d 356, 360 (D.C. 2007). “Substantial evidence is ‘more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.’” *Giles v. District of Columbia Dep’t of Emp’t Servs.*, 758 A.2d 522, 524 (D.C. 2000) (quoting *Gardner v. District of Columbia Dep’t of Emp’t Servs.*, 736 A.2d 1012, 1015 (D.C. 1999)). Should the Court determine that “there is substantial evidence to support the [the agency’s] finding, the mere existence of substantial evidence to the contrary does not allow the reviewing court to substitute its judgment for that of the [agency].” *Scott v. Police & Fireman’s Ret. & Relief Bd.*, 447 A.2d 447, 449 (D.C. 1982); see also *Brown v. Watts*, 993 A.2d 529, 533 (D.C. 2010) (when there is substantial evidence to support OEA’s decision, the court “must uphold OEA’s decision even though the record might support a contrary conclusion”); *Metropolitan Police Dep’t v. Baker*, 564 A.2d 1155, 1159 (D.C.

1989) (“If the administrative findings are supported by substantial evidence, we must accept them even if there is substantial evidence in the record to support contrary findings.”)

ANALYSIS

A. Lateral Competition Rights

When conducting a RIF action in the District of Columbia, D.C. Code § 1-624.02(a)(2) provides that employees are entitled to one round of lateral competition limited to positions within the employee’s competitive level. This means that within the competitive area assigned for the RIF, the personnel authority administering the RIF identifies open positions within the competitive level. E-DPM § 2410.1-.5. Employees compete against other employees in the RIF in the competitive level identified pursuant to section 2409 of the E-DPM for positions that are vacant. *Id.* at 2410.4.

Petitioner argues that the FEU was not a proper lesser competitive area because the agency failed to follow the requirements under E-DPM § 2409.3, which outlines the process an agency head may follow to request a lesser competitive area by written request, and because the lesser competitive area of the FEU was inappropriately small. Pet.’s Brief at 9; R. 227-30. Petitioner first argues that the Agency erred in conducting the RIF by failing to comply with E-DPM subsection 2409.3. *Id.* Petitioner argues that the method for establishing a lesser competitive area is by the personnel authority “*and 2) pursuant to a written request from the agency head to the personnel authority.*” R. 228 (emphasis added).

1. Procedure for Establishing a Lesser Competitive Area

When conducting a RIF, an agency must conduct “[o]ne round of lateral competition limited to positions within the employee’s competitive level.” D.C. Code § 1-624.02(a)(2). The E-DPM defines “competitive level” as the “grouping of similar positions (in a competitive area)

within which employees compete for retention.” E-DPM § 2499.1. A “competitive area” is defined as “the organizational boundaries in which a reduction in force . . . is conducted.” *Id.*

D.C. Code § 1-624.01 states that each agency “shall be considered a competitive area for reduction-in-force purposes,” but that a personnel authority “may establish lesser competitive areas within an agency.” D.C. Code § 1-624.01. The Code provides that the lesser competitive areas should be established “on the basis of all or a clearly identifiable segment of an agency’s mission or a division or major subdivision of an agency.” *Id.* E-DPM subsections 2409 and 2499 offer additional guidance for establishing a competitive area in a RIF. E-DPM § 2409. Except as otherwise provided, “each agency . . . constitute[s] a single competitive area.” *Id.* § 2409.1. Lesser competitive areas “may be established by the personnel authority.” *Id.* § 2409.2. Alternatively, an agency head is permitted to request the personnel authority to establish lesser competitive areas by written request. *Id.* § 2409.3. Importantly, “[a]ny lesser competitive area shall be no smaller than a major subdivision of an agency or an organizational segment that is clearly identifiable and distinguished from others in the agency in terms of mission, operation, function, and staff.” *Id.* § 2409.4. The determination of a competitive area in turn determines the scope of a RIFed employee’s lateral competition right. *See* D.C. Code § 1-624.02(a)(2) (“One round of lateral competition limited to positions within the employee’s competition level.”).

OEA disagreed with Petitioner’s position and found that procedurally, the Agency provided sufficient evidence that it legitimately created a lesser competitive area because the RIF Authorization Memorandum “clearly provides that the FEU was a lesser competitive area” created by the agency, and the retention register lists the FEU as a lesser competitive area. R. 2175. OEA also found the establishment of the FEU procedurally appropriate because the requirements under

E-DPM subsection 2409 permit an agency to establish a lesser competitive area “without providing any specific procedure on how this should be accomplished.” R. 2175.

This Court agrees with OEA’s findings and reasoning. E-DPM subsection 2409.2 provides that a lesser competitive area may be established within an agency “by the personnel authority.” E-DPM § 2409.2. The requirements referenced by Petitioner for creating a lesser competitive area under E-DPM 2409.3 are merely another option an agency may use to establish a lesser competitive area. *Id.* at § 2409.3 Subsection 2409.3 permits an agency head to request a lesser competitive area. E-DPM § 2409.3 (“An agency head *may* request the personnel authority to establish lesser competitive area within the agency” by submitting a written request) (emphasis added). However, this provision is not mandatory, and further, is not the only method for creating a lesser competitive area, as subsection 2409.2 allows the personnel authority to create a lesser competitive area without further requirements. E-DPM § 2409.2.

In reviewing an agency appeal, this Court conducts a limited review to ensure that OEA “(1) made findings of fact on each material, contested factual issue, (2) based those findings on substantial evidence, and (3) drew conclusions of law which followed rationally from the findings.” *Walsh*, 826 A.2d at 379. Here, OEA made a factual finding on the issue of whether the Agency followed the RIF requirements when establishing a lesser competitive area, determining that the Agency was authorized to establish the lesser competitive area without going through the process outlined by E-DPM 2409.3. R. 2175. This finding was based on Agency’s retention register record, which lists the competitive area as the Firearm Examination Unit and based on Administrative Order No. DFS-2021-01 issued on August 10, 2021, which also lists the FEU as the lesser competitive area for the purposes of the RIF. R. 345-47. The Court finds that OEA based this finding on substantial evidence because the record shows the RIF documents, authorized by

the personnel authority, list the FEU as a lesser competitive area. It is within the purview of the personnel authority to create a lesser competitive area pursuant to E-DPM 2409.2; because the primary documentation for a RIF is the administrative order signed by the Mayor's designee (the personnel authority), and because DCHR as the personnel authority identified the FEU as the proper competitive area and indicated their decision on the administrative order, the documentation serves as evidence that the personnel authority acted within its discretion when making this determination. R. 1824-25.

The Court additionally finds that OEA drew conclusions of law on this issue which follow rationally from the findings. *See Walsh*, 826 A.2d at 379. OEA's conclusion of law that E-DPM 2409.2 permits the personnel authority to establish a lesser competitive area without following the requirements under E-DPM 2409.3, and that the personnel authority properly designated the FEU as a lesser competitive area pursuant to subsection 2409.2 rationally follow the findings. OEA's finding that the retention register and the Order No. DFS-2021-01 both listed the competitive area as the FEU supports the conclusion that the lesser area was properly established under E-DPM 2409.2. E-DPM § 2409.2; R. 2174-76.

2. Designating the FEU as a Lesser Competitive Area & Lateral Competition

Petitioner next argues that even if the lesser competitive area was properly established, the designation of the FEU as a lesser competitive area was inappropriate and incompatible with the requirements of E-DPM § 2409.4. R. 229-30. Petitioner argues that the FEU could not be a proper lesser competitive area because the FEU had the same mission as the other units in DFS, and the "mission, operation, function, and staff are not 'clearly identifiable and distinguished from others in the agency.'" R. 229-30.

E-DPM section 2410 directs how competitive levels are established when conducting a RIF. Section 2410.4 states that a competitive level consists of “all positions in the same grade . . . and classification series” in the competitive area established by section E-DPM 2409 which are “sufficiently alike in qualification requirements, duties, responsibilities, and working conditions.” E-DPM § 2410.4. The section continues that the similarities of the positions should be such that the “incumbent of one . . . position could successfully perform the duties and responsibilities of any of the other positions” without a loss of productivity greater than that normally expected in the “orientation of any new but fully qualified employee.” *Id.* Petitioner argues that because the Agency “pigeonholed” employees into a “competitive area [that was] far too constricted” this allowed the Agency to “deny FEU employees their rights to lateral competition.” R. 230. Petitioner argues that pursuant to E-DPM section 2409.4, the lesser competitive area was impermissibly narrow which resulted in the Agency foregoing the requirement of conducting one round of lateral competition “limited to positions within the employee’s competitive level.” D.C. Code § 1-624.02(a)(2).

OEA found that “all the employees” in this competitive level “including Employee, were designated as forensic scientist (firearm & toolmark analyst.” R. 2175, 345-47. Because of this, OEA reasoned in its initial decision that Petitioner was one of eleven employees “with the same job title, grade, classification series, and sufficiently alike in qualification” in the competitive level. *Id.* (citing to E-DPM § 2410.4). Further, OEA found that because Petitioner was not the only forensic scientist within her level, she was entitled to compete with the other ten employees in the same level. R. 2175. OEA found that because all FEU positions were eliminated, and because Petitioner was only entitled to compete with the other ten employees affected by this RIF action,

Petitioner was not entitled to one round of lateral competition because “all the positions were eliminated.” R. 2175-76.

Because OEA failed to determine whether the FEU was appropriately designated as the lesser competitive area pursuant to E-DPM section 2409.4, this Court is unable to determine whether OEA’s finding that Petitioner was not entitled to one round of lateral competition is a “conclusion[] of law which followed rationally from the findings.” *Walsh*, 826 A.2d at 379. . If the FEU was not an appropriate lesser competitive area pursuant to E-DPM 2409.4, either because it is too limited a segment of the organization or otherwise not distinguishable from other units in the agency, it is unclear whether OEA’s rationale that Petitioner was not entitled to one round of lateral competition stands. However, the Agency looked at vacancies across the entirety of DFS and did not restrict itself to the FEU as the lesser competitive area when conducting Petitioner’s lateral competitive rights. R. 1764, 1766-67. This means that regardless of whether Petitioner was entitled to a round of lateral consideration, Petitioner received a round of lateral competition Agency-wide. *Id.* Accordingly, any failure by OEA to make a factual finding regarding whether the FEU was appropriately designated as the lesser competitive area is harmless.

B. Job Sharing and Reduced Hours

D.C. Code § 1-624.02(a)(4) provides that agencies must consider “job sharing and reduced hours” prior to conducting a RIF to ameliorate the negative impact of the RIF. D.C. Code § 1-624.02(a)(4). The E-DPM offers more specifics. Section 2403 states that an agency, prior to planning a RIF, can take appropriate action within its authorized budget to minimize the adverse impact of the RIF on employees and the agency. E-DPM § 2403.2. The E-DPM lists examples of such appropriate action, which include “[j]ob sharing and reduced working hours under section 2404.” E-DPM § 2403.2(a).

Section 2404 states that employees may be assigned to job sharing or reduced working hours as long as the employee is (a) not serving under a time-limited appointment, and (b) the employee voluntarily requested job sharing or reduced hours “in response to the agency’s request of volunteers” for the purpose of considering how to minimize impact of a potential RIF. E-DPM § 2404.1.

Dominique Odesola, Human Resources Manager at D.C. Department of Human Resources, testified about job sharing and reduced hours as they apply to RIFs. R. 1822, 1827-28. Odesola testified that to implement job sharing or reduced hours there must already be a vacancy “on the books” prior to the RIF taking effect. *Id.*

Petitioner argues that DFS failed to consider job sharing or reduced hours, and that DFS cannot be excused from this requirement regardless of the lesser competitive area designation. Pet.’s Brief at 15-16; R. 221-22. DFS asserts that because DFS lost its accreditation and could not continue the work done at the FEU, a reduction in hours was not available to Petitioner. R. 183. For the same reason, DFS found that there were no other positions that could be appropriately split with Petitioner’s job, and that the firearms positions themselves were not appropriate for job sharing. *Id.*

In its Initial Decision, OEA found that “job sharing, or reduced hours, were at the very least considered in this action.” R. 2177-79. Further, OEA found that even if job sharing and reduced hours were not considered, given that the Petitioner’s entire competitive level was eliminated, this was harmless error because Petitioner would have still been released from her job.” R. 2179.

The Court finds that OEA made a finding of fact on this material issue, and that its findings were based on substantial evidence. *Walsh*, 826 A.2d at 379. OEA concluded that the Agency

considered job-sharing and reduced hours based on the Agency’s explanation that Petitioner’s entire competitive level was abolished. R. 2177-79. Looking to the record, Administrative Order No. DFS-2021-01, the document identifying which positions would be affected by the RIF, states that DFS “completed a review of all affected positions against existing vacancies within DFS” and other agencies and found that there were “no vacancies identified for the 11 employees” who occupied the encumbered positions. R. 345-47. Director of DFS Crispino also testified that job sharing and reduced hours could not be implemented because no vacancies were available. R. 1764, 1766-67. Because there must be a vacancy available to implement job sharing and reduced hours options and there were none available, the Court concludes that this finding was based on substantial evidence. R. 1900-01. Additionally, the Court finds that OEA drew conclusions of law which rationally follow from the findings, given the Administrative Order No. DFS-2021-01 references the lack of vacancies, and Director Crispino’s testimony that there were no available vacancies within the agency that would have permitted job sharing or reduced hours.

C. Priority Reemployment Rights

D.C. Code § 1-624.02 provides that employees undergoing a RIF are given “[p]riority reemployment consideration[.]” D.C. Code § 1-624.02(a)(3). One of the methods the District uses to ensure priority reemployment is the Agency Reemployment Priority Program. *See* E-DPM § 2427 *et seq.* First, the personnel authority is required to “establish and maintain a reemployment priority list for each agency in which it separates group I and II employees.” E-DPM § 2427.1. When a RIF is conducted across a lesser competitive area established by section 2409, the personnel may “[l]imit the agency reemployment priority list to . . . employees separated from the lesser competitive area in which the reduction in force was conducted;” and “[l]imit referrals pursuant to this section . . . to positions within the lesser competitive area in which the reduction

in force occurs.” E-DPM § 2427.2. The employee must be added to the reemployment priority list “immediately after it has been determined that the employee is to be adversely affected” by the RIF and “not later than issuance” of the RIF notice. E-DPM § 2427.5.

The E-DPM Instructions 8-69, 9-36 & 36-11 offer “general information” on the Agency Reemployment Priority Program (“ARPP”) and the Displaced Employee Program (“DEP”), which are the two priority consideration programs available for career service employees who are issued a RIF notice and later are separated by a RIF. E-DPM Inst. 8-69, 9-36 & 36-11 at 1. Section 8(d) informs on what ARPP consideration is appropriate prior to an employee’s separation. *Id.* at 6. Subsection 8(d)(1) states that employees who are issued a RIF letter “are to be given priority consideration for all agency vacancies that are open during the RIF notice period (before separation).” *Id.* at 6 (emphasis in original). Section 8(e) outlines the appropriate order for referring displaced employees to other potential job placements. *Id.* at 7. Section 7(b) requires that separated employees be placed on the ARPP list immediately after it has been determined that the employee will be adversely impacted by a RIF, but not later than the issuance of the RIF notice. E-DPM Inst. 8-69, 9-36 & 36-11 § 7(b); E-DPM § 2427.5.

Petitioner argues that DFS violated Sections 8(d) and 8(e) by not referring Petitioner to available positions at the Agency in the order required by the Instruction. R. 230-31. Petitioner asserts that Section 8(f) requires the selection of a displaced employee unless the agency choosing not to hire the displaced employee submits justification to DCHR and that justification is approved, or if the displaced employee declines the job offer. R. 231. Petitioner argues that she was not given priority consideration for interviews, even when she met the required hiring qualifications, and that she has not received an interview for most of the positions to which she has applied, even

when she meets the qualifications. *Id.* Petitioner further asserts that she has applied for open positions within DFS and “other applicants were selected.” *Id.*

DFS argues that it placed Petitioner on the ARPP list, but even if it failed to place Petitioner on the ARPP list on or before the date of the RIF notice, that the error was harmless because there were no vacancies within DFS for which Petitioner would have had priority. Resp.’s Reply at 11.

OEA found that Petitioner was placed on the ARPP and DEP prior to the effective date of the RIF, based on the RIF separation notice issuance on September 22, 2021, and because the effective date of the RIF was October 22, 2021. R. 2177. However, the record does not reflect the date that Petitioner was placed on the ARPP list. Petitioner’s RIF notice indicates that she has a “right to priority placement consideration” through the ARPP. R. 7-8. This language does not indicate *when* Petitioner was placed on the ARPP list, but rather that she has a right to be placed on the ARPP list.

Petitioner’s ARPP registration sheet indicates that her date of registration onto the ARPP list was October 23, 2021, more than one month after DFS issued the RIF notice. R. 2153. This evidence undermines OEA’s finding that Petitioner was timely placed on the ARPP list. Agency points to two e-mails as proof that there was evidence Petitioner was placed on the ARPP list. Resp. Reply at 11. The first e-mail, dated October 4, 2021, states that DCHR “will upload the updated CV/Resumes” to PeopleSoft where they would be accessible for the ARPP program. R. 422. This does not indicate the date that Petitioner was placed on the ARPP list. Further, the Kentoff response to request for information, dated October 6, 2021, indicates that separated employees “will be automatically placed on [ARPP] list of eligibilities . . . for positions that they qualify for.” R. 31, 33. This email does not indicate what date Petitioner was placed on the ARPP list. Additionally, both emails were sent after the RIF was initiated on September 22, 2021, which

is the latest date that Petitioner should have been placed on the ARPP pursuant to the E-DPM Inst. 8-69, 9-36 & 36-11.

The Court finds that OEA did not base its finding that Petitioner was placed on the ARPP prior to the issuance of the RIF notice on substantial evidence. Accordingly, the Court remands this issue to OEA for a determination on the date Petitioner was placed on the ARPP registry.

Agency argues that if it erred by failing to place Petitioner on the ARPP by the date of the RIF notice, that error was “not harmful” because there were no vacancies “for which Petitioner could have been given priority, or to which she could have ‘matched.’” Resp.’s Reply at 12. Petitioner points to Agency hiring for a vacancy in the Crime Scene Sciences Unit for a Forensic Scientist on September 27, 2021, five days after the RIF notice was issued. R. 1708. Petitioner points to four other similar instances, however this is evidence outside the record and was not considered in the analysis of this petition. *See Kegley*, 440 A.2d at 1018 (The trial court “must review the administrative record alone.”)

The August 10, 2021 Memorandum sent by Mr. Crispin, who was the Interim Director for DFS at the time the RIF was initiated and conducted, to DCHR requesting approval to conduct a RIF indicates that as of August 10, 2021 there were no vacancies within DFS. R. 417. Further, the Administrative Order No. DFS-2021-01, dated August 10, 2021, indicates that there were “no vacancies identified” for the employees experiencing the RIF. *Id.* This evidence only shows that there were no vacancies prior to requesting permission to conduct the RIF in August, not that there were no vacancies during the period between the RIF notice and date of separation. Because there is not substantial evidence in the record that indicates there were no vacancies through the RIF notice period, the Court cannot find that Agency’s delay in placing Petitioner on the ARPP was harmless error.

The Court remands this issue to OEA for determination. If OEA determines that Petitioner was not placed on the ARPP on or before September 22, 2021 when Petitioner received notice of the RIF, OEA must determine whether there were vacancies within DFS for which Petitioner was entitled to priority consideration during the period of September 22, 2021, and October 22, 2021.¹ OEA must consider whether there were open positions within the entirety of DFS, not merely the lesser competitive area of the FEU, pursuant to E-DPM Instruction Nos. 8-69, 9-36, and 36-11. *See* “8(b) (“[D]isplaced employees are entitled to priority consideration for reemployment in the agency from which they were separated by RIF.”) (emphasis in original).

CONCLUSION

Accordingly, it is this 16th day of December 2025, hereby
ORDERED that Petitioner’s Petition is **GRANTED in part**; and it is further
ORDERED that this matter is **REMANDED** to the Office of Employee appeals to determine 1. Whether Petitioner was placed on the ARPP list for priority reemployment by the RIF notice date of September 22, 2021; and 2. Whether Petitioner was given priority reconsideration for vacancies within the entirety of DFS during the period between the RIF notice date and the date Petitioner was placed on the ARPP list; and 3. If there were any vacancies for which Petitioner was qualified, but not given priority consideration, OEA shall determine the appropriate remedy.

SO ORDERED.

¹ Judge Pittman reached a similar conclusion in a related matter with Ms. Bailey’s former FEU colleague in *Elizabeth Marso v. D.C. Department of Forensic Sciences*, Case No. 2024-CAB-000343, as did Judge Jones Bosier in *Cody Elder v. District of Columbia Department of Forensic Sciences, et al.*, Case No. 2024-CAB-000337. This Court reached a similar conclusion in the related matter of *LaKeta Bailey v. D.C. Office of Employee Appeals*, Case No. 2024-CAB-000393.



Judge Katherine E. Oler

Copies to:

All Parties and Counsel