**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.

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: 2308 123 9395

**Agenda**

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

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

Location: Virtual Meeting via Webex

1. **Call to Order**
2. **Ascertainment of Quorum**
3. **Adoption of Agenda**
4. **Minutes Reviewed from Previous Meeting**

1. **New Business**
   1. **Public Comments on Motion for Interlocutory Appeal**
   2. **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.

* 1. **Public Comments on Petitions for Review**
  2. **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 Employe 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.

* + 1. **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.

* + 1. **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 Servies 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 uncontroverted 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 interpretating the language of the policy related to paramedic credentialling. 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.

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

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

* 1. **Open Portion Resumes**
  2. **Final Votes on Motion for Interlocutory Appeal**
  3. **Final Votes on Petitions for Review**
  4. **Public Comments**

1. **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](mailto:opengovoffice@dc.gov).”