**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.

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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

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 Petitions for Review**
	2. **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.

* + 1. **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.

* + 1. **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.

* + 1. **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 authorized 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.

* + 1. **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.

* 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 Cases**
	3. **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.”