**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)

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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, April 24, 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 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.

* + 1. **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.

* 1. **Public Comments on Motion to Expedite**
	2. **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.
	3. **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. **Final Votes on Motion to Expedite**
	4. **Public Comments**
1. **Adjournment**