THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:	)	
	)	
KYLE QUAMINA,	)	
Employee	)	OEA Matter No. 1601-0055-17R19
	)	
v.	)	
	)	
D.C. DEPARTMENT OF YOUTH REHABILITATION SERVICES,	)	Date of Issuance: July 9, 2020
Agency	)	MICHELLE R. HARRIS, ESQ.
	)	Administrative Judge
	)	

David A. Branch, Esq., Employee Representative
Milena Mikailova, Esq., Agency Representative

INITIAL DECISION ON REMAND[1]

INTRODUCTION AND PROCEDURAL BACKGROUND

On June 2, 2017, Kyle Quamina ("Employee") filed a Petition for Appeal with the Office of Employee Appeals ("OEA" or "Office") contesting the District of Columbia Department of Youth Rehabilitation Services' ("Agency" or "DYRS") decision to suspend him from service for thirty (30) days from his position as a Materials Handler. Agency filed its Answer on July 19, 2017. Following an unsuccessful attempt at mediation, this matter was assigned to the undersigned Administrative Judge ("AJ") on November 3, 2017. On September 17, 2018, I issued an Initial Decision finding that Agency had failed to administer the adverse action in accordance with all applicable laws, rules and regulations, specifically as it related to its issuance of the Final Notice, and reversed Agency's action. On October 22, 2018, Agency filed a Petition for Review with the OEA Board.

On April 9, 2019, the OEA Board issued its Opinion and Order on Petition for Review ("O&O") and remanded this appeal to the undersigned for adjudication on the merits. As a result, on April 17, 2019, I issued an Order scheduling a Status/Prehearing Conference in this matter for May 1, 2019. On April 29, 2019, Employee's representative notified the undersigned of a conflict with the May 1, 2019 date. As a result, on April 30, 2019, I issued an Order rescheduling the Status/Prehearing Conference to May 15, 2019. During the Status/Prehearing Conference I determined that an Evidentiary Hearing was warranted in this matter. Accordingly, on May 15, 2019,

[1] This decision was issued during the District of Columbia's COVID-19 State of Emergency.

I issued an Order Convening an Evidentiary Hearing for September 10, 2019. Following the submission of Prehearing Statements, on August 23, 2019, I issued and Order for a Status Hearing to address outstanding issues. The Evidentiary Hearing was held on September 10, 2019. Following the receipt of the transcript of the hearing, I issued an Order on October 1, 2019 requiring the parties to submit their closing arguments on or before November 4, 2019. On November 4, 2019, Agency filed a Consent Motion for an extension of time to file closing arguments. I issued an Order granting Agency's Motion and required closing arguments be submitted by November 25, 2019. On November 25,2019, Employee, by and through his counsel, filed a consent motion for an extension of time to file. I issued an Order granting Employee's motion and required closing arguments be submitted by December 6, 2019. Both parties have now submitted their closing arguments. The record is now closed.

JURISDICTION

This Office has jurisdiction in this matter pursuant to D.C. Official Code § 1-606.03 (2001).

ISSUES

1. Whether Agency had cause to take adverse action against Employee.
2. If so, whether the penalty of a thirty (30) day suspension was appropriate under the circumstances and administered in accordance with all applicable laws, rules and regulations.

BURDEN OF PROOF

OEA Rule 628.1, 59 DCR 2129 (March 16, 2012) states:

> The burden of proof with regard to material issues of fact shall be by a preponderance of the evidence. "Preponderance of the evidence" shall mean:
>
> > That degree of relevant evidence which a reasonable mind, considering the record as a whole, would accept as sufficient to find a contested fact more probably true than untrue.

OEA Rule 628.2 *id.* states:

> The employee shall have the burden of proof as to issues of jurisdiction, including timeliness of filing. The agency shall have the burden of proof as to all other issues.

SUMMARY OF TESTIMONY

On September 10, 2019, an Evidentiary Hearing was held before this Office. The following represents a summary of the relevant testimony given during the hearing as provided in the transcript (hereinafter denoted as "Tr.") which was generated following the conclusion of the proceeding. Both Employee and Agency presented testimonial and documentary evidence during the course of this matter to support their positions.

Agency's Case in Chief

William Boberg ("Boberg") Tr. Pages 16 – 71

Boberg was employed with Agency as the Program Manager for the Real Estate and Property division. Prior to this role, Boberg worked as a logistics manager and later became a facilities manager following a promotion. As a program manager, Boberg is responsible for warehouse, fleet, and maintenance operations, as well as the risk management and capital improvement. Boberg supervises two managers and three (3) other employees within the different divisions he is responsible for. Boberg supervised Employee for approximately two and a half years when Employee served as a materials handler for Agency. Boberg indicated that some of the responsibilities for materials handler were to receive deliveries from vendors, manage and stock supplies in the warehouse, maintain the electronic inventory system and receive orders from customers.

Boberg testified that Employee was suspended for 30 days while under his supervision. Boberg asserted that Employee was cited for misconduct involving Absences without Leave (AWOL) and for inputting time of work that was not worked, and failure to hand scan. Hand scanning is the system which employees at Agency utilize when they arrive at work. Boberg explained that the machine requires employees to enter their employee identification number and that the machine will then prompt them to place their hand on a scanner. The same is done for leaving work. Boberg cited that the TimeClock Plus is the device used for scanning, and that the machine will alert an employee if the hand scan was successful. Boberg testified that there is a form that can be filled out if the hand scan did not work or if an employee forgot to scan. Boberg iterated that the scanner will tell an employee if the hand scan was successful or not. Boberg indicated that the scanner will provide several messages regarding the scan and whether the scan was successful for clocking in or clocking out.

Boberg maintained that he told Employee of the hand scanning policy in a letter of expectations that he sent to all employees. Boberg testified that he sent an employee conduct email to all employees on June 29, 2015, which included guidance about general employee conduct, safety and quality. Boberg noted that this email included a notice that every team member was required to scan upon arrival at the beginning of the day and on departure, with no exceptions. Boberg explained that if an employee encountered an issue with the hand scan, they were instructed to send him an email and tell what time they arrived and left. There were attachments included in this email which included the DYRS employee conduct policy. Boberg noted that he sent several reminders to employees about the hand scanning policy and that Employee was included on all those emails. Boberg testified that he sent an email on August 11, 2016, to all materials handlers, including Employee, Anthony Newman (Boberg's manager) and Anthony Morris. This email included a memorandum with instructions that required a signature and return by no later than August 22, 2016. Boberg noted that this memorandum was focused on attendance and other expectations of employee conduct and service, including hand scanning. Boberg sent a subsequent email on August 29, 2016 to Employee and others because he had not received communication by the date as directed in the previous email. Boberg testified that on August 29, 2016, he received a response from Employee, wherein, Employee acknowledged that he received the document, but refused to sign and indicated that he did not agree with the document. Boberg forwarded this response to the Human Resources department.

Boberg testified that he ran a weekly punch report of Employee's hand scans from a period of August 1, 2016 to November 4, 2016. Boberg explained that the report includes employee's name, their employee number, and the date of the hand scan. Additionally, it shows the time of the scan at the beginning and end of the shift. The report also shows the total number of hours worked during a shift. The report also reflects the cumulative number of hours as well. Boberg iterated that he also ran weekly reports on other employees during this time frame. Boberg explained that upon review of the reports, and in comparison to those of Employee, he noted that the scanner was working appropriately.

Boberg explained that Employee sustained AWOL charges based on two incidents, one which occurred on November 7, 2016 and the other on November 9, 2016. Regarding the November 7th incident, Boberg testified that Employee left for his lunch and never returned. Employee did not inform Boberg that he would not be returning that day and did not call after he failed to appear after lunch. Boberg stated that on November 9th, he was scheduled to have a meeting with Employee to discuss the November 7th incident. Boberg indicated that Employee told him that he would not be in on November 9th until 11:00am and as a result, he rescheduled the meeting. Boberg testified that Employee did not arrive at 11:00am nor did he show up for the entirety of the day. Boberg noted that Employee emailed him to advise that he would be in at 11:00am that day and that he would reflect that in PeopleSoft. Boberg checked PeopleSoft for the November 7th and November 9th days. Both dates reflected eight (8) hours that were worked, despite Employee not having been present for eight hours on either of those days.

Boberg identified a notification that indicated that on November 7, 2016, Employee was AWOL from 2pm to 4:30pm and that on November 9, 2016, from 11am to 4:30pm, Employee was AWOL for 4.5 hours. Boberg recalled Employee's tour of duty times to typically begin by 9:00am, so he credited Employee the hours from 9:00am to 11:00am on November 9th since Employee had emailed and said he would be in by 11:00am that day. Boberg maintained that Employee never contacted him to let him know that he would not be in at all on November 9th. Boberg testified that when hand scans were complete, he would verify times by physically checking the warehouse and/or looking at the security videos.

Boberg testified that on November 9, 2016, he and Human Resources were going to meet with Employee to advise him that he would be on administrative leave due to an investigation regarding an unsecured warehouse. Boberg stated that Employee was not put on administrative leave that day and that Human Resources sent the notification regarding administrative leave via FedEx that day. Boberg noted that the FedEx tracking indicated that the notice was delivered to Employee on November 10, 2016. Boberg testified that Employee was not placed on administrative leave on November 9, 2016, but that the PeopleSoft documentation indicated that the administrative leave began on November 14, 2016. Boberg testified that the indication for regular pay was entered on November 9, 2016 because payroll had him approve that time since the AWOL paperwork could not be submitted before closing. Once Human Resources processed the AWOL paperwork, they would go back and correct the time and recover any funds if required. Boberg believed that the notice regarding administrative leave that was dated November 9, 2016 and indicated that administrative leave was effective that day, was the letter that was sent to Employee. However, Boberg explained that Sonya Fox in their Human Resources department was the one responsible for sending the letter.

On cross examination, Boberg testified that hand scanning was the process that was followed at DYRS, but that he had not seen any official policy regarding hand scanning. Boberg explained that he supervised approximately 18 employees in 2016. Boberg explained that he only ran punch reports

for five employees during this time frame from August 1, 2016 to November 4, 2016. Boberg testified that Employee and another employee were cited for AWOL during this time frame. Boberg agreed that both Employee and Anthony Morris had filed complaints against him. Boberg explained that another materials handler was also disciplined during this time frame, Eric Wade. Boberg could not recall what discipline Eric Wade faced for issues with hand scanning. Boberg recalled that Employee told him during an investigation that on November 7, 2016 he had locked his keys in his car. Boberg maintained that Employee did not convey this information on November 7, 2016, but that it was revealed during an investigation into the matter. Boberg also noted that he signed a charge for absence without leave. On redirect, Boberg testified that he signed a charge of absence without leave on November 15, 2016.

Anthony Newman ("Newman") Tr. Pages 72 – 82

Newman was previously employed at DYRS from July 2013 until the fall of 2017 and held several positions during that time, including effective risk manager and operations manager. Newman testified that he was the proposing official for a 30-day suspension for Employee. Newman explained that he signed the document on December 15, 2016. The causes that were proposed for suspension involved AWOLs that occurred on November 7, 2016 and November 9, 2016 and a general failure to hand scan. Newman explained that Employee's failure to return to work was general reflection of neglect of duty. Newman also stated that he believed that Employee's issue with hand scanning was that he just refused to do it. Newman testified that Boberg sent a memo and there were a series of conversations had about the hand scanning policy. Newman maintained that it was made explicitly clear that hand scanning was a part of the protocol and that employees were to scan in at the beginning and end of the workday. Newman further noted that if an employee had an issue with hand scanning, all they had to do was submit a form. Newman explained that emails were also sent about hand scanning to employees as well.

Newman testified that he proposed a 30-day suspension because Employee was AWOL on November 7th and November 9th, and he failed to hand scan from August to the time of the other incidents after having been instructed to do so. Newman explained that perhaps one of those events could have resulted in less suspension, but it was the consideration of all three (3) incidents that led to the 30-day suspension that was proposed. Newman also cited that neglect of duty is serious and was treated seriously at DYRS. Newman maintained that the 30 days seemed to be appropriate under the circumstance and consistent with the guidelines and consideration of the Douglas factors. Newman explained that Employee's actions eroded his supervisor's confidence and that Employee was expected to follow instructions and that he exhibited a repeated behavior of not complying.

On cross examination, Newman explained that every manager had an opportunity to determine how to track time for their staff. Because of the warehouse and the amount of independence workers had due to travel between different locations, the hand scan was the most effective way for them to record time. Newman did not know whether there was a specific policy that says a manager can determine what the most efficient way is to record an employee's time. There was not an Agency policy, but every manager could come up with his own opportunity for their operations. Newman said that there was a hand scanning audit completed between August and November 2016 that included Employee and other staff, though he was unsure of exactly who was included because it was some time ago. Newman testified that Employee was the only person disciplined for failure to hand scan.

Newman noted that Employee has been previously disciplined with verbal warnings on at least two occasions. Newman further testified that he consulted the Table of Penalties in determining the proposal for a 30-day suspension and noted that the penalty range for neglect of duty was anywhere from a suspension to termination. Newman explained that he did not feel termination was warranted, but that there were three offenses, so the 30-day suspension seemed appropriate. Newman found that Employee had committed the offense of neglect of duty in that he failed to follow reasonable expectations and was careless and negligent at work. Newman maintained that Employee was AWOL on November 7th and November 9th, and he failed to follow instructions in the reporting of his time, and any of those things arise to neglect of duty. The hand scan was a neglect of duty because Employee was given instructions on how to report to work and those expectations were made clear through memorandums.

Dr. Khandra Tyler-Beynum ("Tyler-Beynum") Tr. Pages 93-121

Tyler-Beynum testified that she is the medical director at DYRS. In February and May of 2017, she was the assistant medical director, and, in that capacity, she was the deciding official in the 30-day suspension matter for Employee. Tyler-Beynum noted that the final decision dated February 20, 2017 was reissued in May 2017 because the initial notice failed to provide the appropriate language regarding Employee's rights to file an appeal at OEA. The substantive part of the 30-day suspension did not change. Tyler-Beynum recalled that this action was taken based on an advanced notice that was issued by the manager and a response received from Employee. Tyler-Beynum explained that Employee's response did not provide any defense to the November 7, 2016 incident. Tyler-Beynum testified that Agency had provided evidence of AWOL on November 7, 2016, where Employee did not return from lunch and there was a PeopleSoft timecard that was showed eight (8) hours worked despite Employee not having worked all eight (8) hours. Tyler-Beynum felt the evidence supported the failure to return and the fiscal irregularities from the timecard. Regarding the November 9, 2016 incident, Tyler-Beynum explained that she intentionally omitted the timesheet because in Employee's response he mentioned that he had received a letter from Adam Aljoburi indicated that he was AWOL and he didn't know if he was supposed to change his time card since he had receive that notification. Tyler-Beynum indicated that she believed she was aware that Employee had not yet received notice regarding administrative leave, but she omitted the November 9, 2016 in her statement because she found Employee's response to that he wasn't certain about whether to change his timecard to be reasonable.

Tyler-Beynum testified that she still upheld the 30-day suspension because she felt the penalty was appropriate upon consideration of the nature of the misconduct. Additionally, she thought that the Employee could be rehabilitated and that the 30day penalty was reasonable under the circumstances. Tyler-Beynum iterated that she had no direct knowledge of the offense and was not involved in Employee's managerial chain. She considered the evidence that she was presented with in making her decision. Tyler-Beynum noted that this was the first time she was a hearing officer and tried to consider the evidence that was provided including Employee's response along with Agency's policies and the District Personnel Manual. Tyler-Beynum recalled that Employee did not explain in his response why he didn't hand scan and that he attributed his failure to hand scan to his boss' responsibility to monitor his hand scanning. Tyler-Beynum reviewed the advanced notice and found that the evidence showed that there were multiple communications to remind employees to hand scan and that there was a form to submit if the hand scan was not done. Tyler-Beynum weighed this evidence in her considerations and found that Employee was provided instructions to hand scan. Tyler-Beynum considered the impact of AWOL on the Agency and when employees don't show up

for work and it impacts the customers of the Agency. Tyler-Beynum was not aware that Employee's timecards were approved despite the hand scanning deficiencies.

On cross examination, Tyler-Beynum explained that she signed the document using DocuSign and used this program to sign and authenticate the documents in the final notice. Tyler-Beynum reiterated that she did not sustain the November 9, 2016 charge of timecard irregularities related to that date. Tyler-Beynum referenced the November 9th day where there was a failure to report to work, but later did not reference it when referring to timecard irregularities. Tyler-Beynum noted that she found Employee's response that he received a letter regarding the AWOL and wasn't certain about changing the timecard. Tyler-Beynum consulted the DPM table of penalties in her review as the deciding official.[2] Tyler-Beynum said she considered all the elements of misconduct and what was sent in the original notice and sustained the penalty based on that. Tyler-Beynum could not recall whether she utilized or reviewed progressive discipline measures. Tyler-Beynum sustained all the charges. She found that Employee failed to follow instructions in that he was given specific instructions from his manager that he failed to follow. She considered incidents that occurred April through June 2016. Tyler-Beynum also explained that there were emails that were sent from Employee's manager that were considered as well.

For neglect of duty, Tyler-Beynum sustained this charge for Employee's failure to return from lunch. She sustained the charge for failure to meet performance standards based on the summary of information received regarding incidents from April through June 2016. Specifically, there was a date of April 22, 2016 where a performance incident was noted. In sustaining the charge of false statements, Tyler-Beynum indicated that she considered Employees' timecard information from PeopleSoft for the November 7, 2016 where Employee reported working eight hours but had not return to work from lunch that day. Tyler-Beynum also relied on this in sustaining the charge of fiscal irregularities. The November 7, 2017 and November 9, 2016 incidents were also considered in sustaining the charge of attendance related offenses. These incidents were also considered for sustaining the charge of violation of DYRS Policy Number 010. On redirect, Tyler-Beynum noted that she did not see any April or June 2016 specifications, but that she misspoke and summarized violations from employee's manager which included those dates.

Employee's Case in Chief

Kyle Quamina ("Employee") Tr. Pages 131 -161

Employee testified that he began his employment at DYRS in 2012 as a term materials handler. Employee became a permanent employee in 2016. Employee explained that his duties included receiving, processing and delivering supplies throughout the Agency and that he worked at the main office in Laurel. Employee said that William Boberg was his second line supervisor starting in 2015 at the Laurel New Beginnings Youth Development Center. Employee said that Eric Wade was his first level supervisor and that there were other materials handlers who worked with him, including Anthony Morris. Employee testified that he was disciplined by Boberg on a few different occasions. Employee explained that on June 9, 2016, he received two verbal counseling letters regarding work performance deficiencies. The deficiencies were hand scanning and not following directives. Employee said that the letters indicated verbal counseling and that he assumed it meant he was counseled about the letters, but that he was just provided the letters.

[2] Tyler-Beynum mistakenly referred to herself as the hearing official in previous testimony but noted during cross examination that she was in fact the deciding official.

Employee testified that his normal tour of duty was 8:00am to 4:30pm Monday through Friday and that he recorded his time through PeopleSoft, an online portal for DC Government employees. Employee maintained that he would enter his time with the appropriate code for the time worked. Employee maintained that he was not familiar with hand scanning until 2015 when Boberg became his supervisor. Employee indicated that the scanner required entry of the last four digits of your social security number and then it would prompt you to clock in or out by placing your hand inside the machine. Employee testified that before 2015, there was not any practice of hand scanning at DYRS and that he was not given a policy that said this was DYRS' policy. Employee explained that he started hand scanning based on various emails that were sent by Boberg that discussed expectations of materials handlers. The emails explained how to hand scan and that all employees should hand scan in and out each day. Additionally, if employees had issues, they were to reach out to Boberg via email and submit a missed hand scan sheet.

Employee explained that he attempted to hand scan, but there were days that he would not hand scan. Employee testified that he had been employed with the DC Government for nearly two and a half years before William Boberg came and implemented the hand scanning requirement. Employee stated that hand scanning was not something he was familiar with and that his work location was not in the main building of New Beginnings Youth Development Center. As a result, Employee indicated that there were times that he would forget to hand scan because he never had to go into the other building for his work. Employee also said that the scanner did not always function properly. Employee said he would enter his information and it would not register, and he would attempt for five to seven minutes and it would still not work. Employee said he was familiar with the hand scan failure form, but it was not in the location depicted in a photograph, but it was available. Employee said he had downloaded and printed the form from the DC Intranet forms tab. Employee noted that other employees complained about the hand scanning and it being faulty.

Employee testified that on November 7, 2016 he was working at DYRS and that everything was normal until he left for lunch around 2pm. Employee explained that he could not return to work because he locked his keys in his car. He should have returned to work by 2:30pm and his shift would have ended at 4:30pm. Employee said he waited and tried "jimmying" his own car, but ultimately waited until police arrived to open the car. Employee did not make any attempt to reach out to his first line supervisor Eric Wade. Employee stated that he was too flustered with what was going on and it slipped his mind. Employee returned to work the next day on November 8, 2016, but did not go to work on November 9, 2016. Employee sent an email to William Boberg telling him he would be late on November 9, 2016. Employee said he returned to work on November 10, 2016 and was called in for meeting with William Boberg, Anthony Newman and an HR representative Libby Moore. He was questioned about a security breach at New Beginnings youth Development Center. Employee denied any involvement with the breach. Next, he was questioned about the incident on November 7, 2016 and he explained that while at lunch, he locked his keys in his car and admitted that he did not notify anyone about it and that he did not return to work. Employee was then told that he was being placed on administrative leave pending investigation, and he thought it was about the security breach and the November 7, 2016 incident. Employee said he received two letters, one during the meeting on November 10th and later he received a FedEx package with the same letter dated November 9, 2016. Employee stated that he did not receive any communication that advised him that he was not on administrative leave on November 9, 2016. Employee completed his time in PeopleSoft for that week and indicated that it slipped his mind to record the absences on November 7, 2016 and November 9, 2016. He recorded those dates both as eight full hour workdays. Employee said it was an honest mistake and that it just slipped his mind. He did have the option in PeopleSoft to record his time as administrative leave.

Employee testified that he received a notice of proposed suspension for 30 days. He admitted to the specification about the failure to return to work on November 7, 2016 and entering his time sheet for a full eight hours that were not worked. Employee says that he was never made aware of the audit of the hand scans from August 1, 2016 through November 4, 2016 and that he had never received any verbal counseling, despite being given documents that referenced deficiencies in performance. Employee says he was only given documents, but never received actual verbal counseling. Employee said he did not have much contact with his first line supervisor Eric Wade, but that he knew Wade didn't like him. Employee said that Wade called him a "git-wit nit-wit follower" in a post on Facebook. Employee also said his interactions with Boberg were generally at a minimum and that he learned that Boberg "wasn't a fan" of him either. Employee said he received evaluations and received satisfactory and above average ratings, including four stars out of five.

Employee also testified that he was placed on administrative leave on November 9, 2016 and remained in that status until sometime in February 2017. Employee indicated he was challenging the amount of time he spent on administrative leave as a part of his appeal to OEA. Employee stated that he believed an employee could only be placed on administrative leave for ninety calendar days and that he was on leave longer than that. Employee also indicated that he submitted a rebuttal to the December 2016 proposed suspension. Employee said that he had no malicious intent in falsifying his time and that he had been completing his time in PeopleSoft since 2012 and that this was the first mistake he had made. Employee also stated in the rebuttal that he should not be charged for AWOL for November 9, 2016 because he was placed on administrative leave. Employee also said he did not fail to meet performance standards, because he was not provided any standards to meet. Employee said he was provided performance goals each year when Geoffery McGuiness (phonetic) was his supervisor, but when he left in 2014, he did not receive any performance goals. Employee said he questioned Boberg about the hand scanning policy and whether it was a D.C. Policy. He said that Boberg indicated that it was a common practice and not an agency policy. Employee explained that he has worked under three different supervisors and started as a term employee. He had never been in any trouble and was always on time for work. Employee said he had never had any previous issues with his work performance or making deliveries or otherwise.

Employee said he was suspended for 30 days beginning in March and served out his suspension after receiving the February 20, 2017 letter. Employee says he was issued a subsequent letter because the first did not have the OEA rights included. Employee maintained that he did not agree with the 30-day suspension and felt it was excessive. Employee felt that Boberg did not operate in good faith. Employee did not agree with the seven causes of action. Employee cited that there was no policy for hand scanning, but he did attempt to scan. He missed some days, but maintained he made an honest attempt to scan in and out of work. Employee also noted that he did not neglect his duty. He stated that on November 7, 2016, he did not purposely lock his keys in his car and that he did advise Boberg on November 9, 2016 that he was going to be late for work that day. Employee also disagreed with the failure to meet performance standards and maintained that no performance standards were ever established. Employee admitted that he submitted false statements but maintained that it was not intentional and was an accident regarding the time reporting for November 7 and November 9. Employee did not believe that he had engaged in fiscal irregularities. Employee said he accidentally engaged in attendance related offenses, and it was not done on purpose. Further, Employee maintained that he did not violate DYRS employee conduct policy. Employee averred that Agency failed to operate in good faith and that everyone makes mistakes, but that his punishment did not fit the crime. Employee said that his pay was normal during the time period of August 2016 through November 2016 and that he only received material handler expectation emails from Boberg that included reminders to hand scan, but that he was not notified of any shortcomings.

On cross-examination Employee testified that he attempted to do daily hand scans. Employee was unsure if all the missing scans on the punch report were due to the malfunction of the hand scanner. Employee maintained that he made honest attempts to complete the hand scans on most days. When asked to compare other employees scan report, Employee explained that the hand scan was not a common practice for him. Employee said that perhaps other employees were able to get their hand to register and he could not. Employee did not fill out missing hand scan forms because he had a lot of work to do in the warehouse, so he would just immediately start working. Employee stated that there was time limit to return the forms, so he did not see the point of even trying to send it over. Employee said he did try to email Boberg and tell him there was a malfunction with the scanning machine. Employee said that the hand scanning was something that Boberg wanted employees to do and agreed that employees should follow the directives of their manager and supervisor.

Employee stated that on November 7, 2016, he left for lunch and went to Santa Lucia's Pizza and Subs in Jessup, Maryland, which was about ten or fifteen minutes from his work site. Employee said he was meeting a friend and was certain that he had locked his keys in his car that day. Employee admitted that he did not tell Boberg he was not coming back to work on November 7, 2016. During the meeting held with HR on November 10, 2016, Employee maintained that he shared this same explanation of the events that occurred on November 7, 2016. Employee said that he sent an email indicating that he would be late on November 9, 2016 and that he had no knowledge at the time he sent that email that he would be placed on administrative leave and viewed it as a regular workday. Employee testified that he did not go to work that day because he has a medical condition and had not been feeling well. Employee says he did not call and say that he would ultimately not be in at all on November 9, 2016, but that also no one from Agency reached out to him to see where he was or that he was alive and breathing.

Employee maintained that the hand scanning was an expectation but not a requirement. Employee stated that he received multiple communications of the expectation to hand scan. Employee stated in his August 29, 2016 response that he would not sign the document about hand scanning, that he believed he was acting in good faith and that he told Boberg why he would not sign the document. Employee told Boberg that it was unfair because everyone under his supervision was not being held to the same standard. Employee explained that there were others who were not hand scanning. Employee stated that he did read the March 21, 2016 email but deleted because he just did not want to look at it. Employee testified that he made attempts to hand scan and notified Boberg to look on the camera on multiple occasions. Employee said that he did not have the ability to see if all other 18 employees hand scanned each day.

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS OF LAW

Employee was employed by Agency as Materials Handler.[3] In a Final Written Notice dated May 3, 2017, Employee was notified of Agency's decision to suspend him without pay for thirty (30) days for violation of DPM §1605.4(e),(m),(b)(3) and (4), (c), (f)(2), and (3), to include failure or refusal to follow instructions, neglect of duty, failure to meet performance standards, false statements/records, fiscal irregularities, attendance-related offenses and violation of DYRS Employee Policies."[4] The effective dates of the suspension were February 21, 2017, through April 3, 2017.

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[3] Employee's Petition for Appeal (June 2, 2017).
[4] *Id.*

Summary of Agency's Position

Agency asserts that there was just cause for the adverse action levied against Employee, and that the penalty of thirty (30) days suspension was appropriate. Agency contends that it had cause to suspend Employee for: (1) knowingly making false statements, unauthorized absences and fiscal irregularities; and (2) Employee neglected the essential duties and responsibilities of his position when he failed to hand-scan upon entering and exiting the facility.[5] To support its assertions, Agency indicated that on August 20, 2016, Employee's supervisor, William Boberg, sent a memorandum entitled "Material Handler Expectations" to all Material Handlers, which was meant to clarify performance standards and expectations.[6] In that memorandum, the hand scanning policy was included and the requirement that all material handlers hand scan in and out of the facility. Agency asserts that a hand scan audit conducted August 1, 2016, through November 4, 2016, showed that Employee had only scanned ten (10) times in that three (3) month period.[7] Further, Agency contends that following an investigation for a separate event, Employee was found to have left for lunch on November 7, 2016, and never returned, but entered in an eight (8) hour workday in his timesheet. Later, on November 9, 2016, Agency argues that Employee emailed his supervisor indicating he would be late to work, but never showed up, but entered a full eight (8) hours in his timesheet. Agency cites that Employee was charged with AWOL for the two (2) November 2016 incidents.[8] Accordingly, Agency avers that it had cause for adverse action against Employee and that the thirty (30) suspension was an appropriate penalty.

Summary of Employee's Position

Employee argues that Agency did not have cause to suspend him for thirty (30) days. Employee asserts that he did not engage in any misconduct or neglect his duties, and that Agency failed to consider all substantial evidence in this matter.[9] Employee avers that he was subject to harassment and was singled out by his supervisor. Employee asserts that he never falsified time and that he did not refuse to comply with hand scanning.[10] Further, Employee argues that Agency did not consider all the *Douglas* factors when administering the adverse action against him. Employee argues that Agency failed to comply with District of Columbia regulations in its issuance of the Final Notice. Employee argues that in accordance with 6B DCMR §1623.6 (b), "that the final decision should be issued within 45 days of the latter of (b) the agency's receipt of employee's response."[11] Employee avers that the language of 6B DCMR 1623.6 states that the final decision "shall" be completed within 45 days of the latter of the receipt of Employee's response and that this language is mandatory in nature. Employee asserts that Agency's administration of this instant adverse action was not in compliance with applicable regulations, and as a result, should be reversed.[12]

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[5] Agency's Answer at Pages 1-2 (July 19, 2017).
[6] *Id.* at Page 2.
[7] *Id.* at Page 2.
[8] *Id.* at Page 3.
[9] Employee's Prehearing Statement at Page 1 (January 8, 2018).
[10] Employee's Brief at Page 3 (April 19, 2018).
[11] *Id.* at Page 5.
[12] Employee also argued that he was on administrative leave for over 90 days before receiving the final notice.

ANALYSIS

Whether Agency had cause for Adverse Action

Failure/Refusal to Follow Instructions, Neglect of Duty and Attendance Related Offenses

District of Columbia personnel regulations provide that there is a neglect of duty in the following instances: (1) failure to follow instructions or precautions regarding safety; (2) failure to carry out assigned tasks; or (3) careless or negligent work habits.[13] Further, District personnel regulations provide that incompetence includes the following: (1) careless work performance; (2) serious or repeated mistakes after giving appropriate counseling or training; or (3) failing to complete assignments timely. In the instant matter, Employee was charged with several causes of action including the failure or refusal to follow instructions, neglect of duty, and attendance-related offenses. Employee worked as a materials handler at Agency under the supervisor of William Boberg ("Boberg"). Boberg sent notifications to all employees under his supervision that they were to use hand scanning as a means of recording their time at work. Employees were required to hand scan upon arrival and departure for each work shift/tour of duty. If employees were unable to successfully hand scan, they were required to submit a form for the date and time. Boberg testified that he sent emails and advised Employee to hand scan. Employee testified that he made attempts to hand scan but encountered issues. Employee testified that he did not submit the form when he was unable to scan, because it would require him to log into a computer and print off a sheet.

Employee also testified that the hand scanning was not something that he was used to doing. Further, Employee replied to an email indicating that he would not sign a document regarding the receipt of the notice of instructions about hand scanning. Employee argued that hand scanning was not an official Agency policy, but simply a practice of William Boberg. Employee maintained that even though he did not hand scan as required, that he felt the Agency did not act in good faith regarding the discipline in this matter. Employee argued that there was not substantial evidence to sustain these charges. The undersigned disagrees. I find that Employee was given ample notice regarding the directive to hand scan for time reporting purposes. Employee acknowledged receipt of emails, but also noted his unwillingness and challenges with the hand scanning system. Further, Employee indicated that he did not fill out the forms. Accordingly, I find that based on the evidence presented during the Evidentiary Hearing and the documents of record, that Employee failed to hand scan as required by his supervisor. The hand scanning requirement was a directive from his supervisor, and Employee failed to comply with those directives. As a result, I find Agency had cause to discipline Employee for his failure to hand scan as directed.

Employee was also charged with neglect of duty and attendance related offenses stemming from two incidents on November 7, 2016 and November 9, 2016. On November 7, 2016, Employee left for lunch, but failed to return, but logged in a full eight (8) hour work. Employee did not contact anyone regarding his absence. During the Evidentiary Hearing, Employee testified that during his lunch break, he locked his keys in his car. As a result, he became frustrated and admits that he did not contact his supervisor William Boberg or anyone else at Agency. Employee admitted that he entered in a full eight (8) hours in PeopleSoft for November 7, 2016. However, Employee explains that he made a mistake and that this entry was not intentional. Regarding the November 9, 2016 incident,

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[13] *Karen Falls v. Department of General Services*, OEA Matter No. 1601-0044-12R14 (August 12, 2014). *See also* 6-B DCMR §1619.1 (6), Table of Appropriate Penalties (2012). Agency cited in the Prehearing Conference that Employee's Union was still in I&E negotiations, and as a result this version of the DPM is what must be used in administering adverse actions.

Employee emailed Boberg earlier that day to indicate that he would be late and would not arrive at work until 11:00am. However, on that day Employee did not report for work but entered a full eight (8) hours in PeopleSoft. On this same day, a notice was prepared indicating that Employee would be placed on Administrative Leave.

Employee testified that he received a copy of this letter during an in-person meeting on November 10, 2016 and received a FedEx package that same date. Employee averred that he was confused about how to enter his time for that day. The Deciding Official in this matter, Dr. Khandra Tylery-Beynum found Employee's response regarding his confusion for the November 9, 2016 time entry to be reasonable and as a result she did not consider this incident in making her final assessment of the charges against Employee. Employee argues that there was not substantial evidence to sustain these charges against him, notably arguing that the deciding official did not consider the November 9, 2016 incident. The November 9, 2016 incident notwithstanding, the undersigned finds that there is substantial evidence to show that Employee failed to return to work on November 7, 2016 but reported his time as a full day. Employee admitted that he did not return, failed to contact his supervisor and entered his time as a full workday. Though Employee noted it was mistake that had slipped his mind for the time entry, the undersigned finds that Agency had cause to discipline Employee for this cause of action.

False Statements/Records and Fiscal Irregularities

Employee was also charged for making false statements/records and fiscal irregularities which stemmed from the same AWOL incident and accompanying time reporting issues. The DPM provides that false statements include incorrect entries in an official record that are knowingly and willfully made.[14] Further, fiscal irregularities are found when an employee knowingly submits falsely stated time logs.[15] Employee admitted that he failed to appropriately report the correct time for the days in which he was not at work. During his testimony at the evidentiary hearing, Employee admitted to making false statements, but asserted that it was unintentional, in that it had "slipped his mind" when he did his time entry in PeopleSoft for those days. However, the undersigned finds that Employee knew he had not worked a full eight (8) hours on November 7, 2016 and still entered the time as a full day. Further, Employee did not attempt to correct his incorrect time entry, nor did he notify anyone of this incorrect entry. Upon consideration of Employee's own admission and for the reasons previously outlined, I find that Agency has shown by a preponderance of evidence that Employee knowingly made false statements and fiscal irregularities. As a result, I find that Agency had sufficient cause to discipline Employee for these causes of action.

Violation of Agency Policy/Failure to Meet Performance Standards

Employee avers that he did not violate Agency policy or fail to meet performance standards because there were none established. Agency argued that Employee violated DYRS Policy-010 in his failure to return to work on November 7, 2016, and for failing to report to work at all on November 9, 2016. Agency avers that Section VI of Policy Number DYRS010 requires staff to "be on time, prepared and present throughout scheduled work hours."[16] Agency avers that Employee's failure to appear for work and his continued failure to hand scan constitute a failure to meet the performance standards of a materials handler. In the instant matter, it is undisputed that Employee failed to return

[14] DPM §1607.2 (b)(3) and (4). (February 2016).
[15] DPM §1607.2 (c). (February 2016).
[16] Agency's Closing Argument at Page 9 (December 6, 2019).

to work on November 9, 2016 and that he did not hand scan as directed. Further, I find that Employee received numerous notifications about the expectations for his job and that he failed to meet those expectations. As a result, I further find that Agency had cause to sustain the charge that Employee violated Agency police and failed to meet performance standards.

Administrative Leave

Employee avers that Agency violated 6B-DCMR §1619.2 by placing him on administrative leave for longer than ninety (90) days. Employee also maintains that Agency failed to adhere to DPM sections 1623.6(b) and 1623.7 by failing to issue a Final Decision within 45 days of Employee's response. The OEA Board in its April 8, 2019 Opinion and Order[17] in this matter, found Agency's failure to adhere to the 45-day provisions in the regulations to be directory and not mandatory in nature.[18] The Board held that "unlike a mandatory provision, a directory provision requires a balancing test to determine whether "any prejudice to a party caused by an agency delay is outweighed by the interest of another party or the public in allowing the agency to act after the statutory time period has elapsed."[19] Accordingly, the Board found that Agency's delay in issuing the final decision did not preclude it from suspending Employee from service. As a result of the Board's finding, the undersigned will not address Employee's argument regarding Agency's violation of the 45-day rule.[20]

Regarding the argument of the administrative leave, Employee argues that he was placed on administrative leave on for 104 days, which is over the ninety (90) days limit prescribed in 6B-DCMR §1619. The undersigned finds that while Employee was on administrative leave over 90 ninety days, that this error was harmless in nature. The provision in 6B-DCMR Section 1619 provides instruction but does not specify a specific consequence for a failure to comply. Specifically, 6B-DCMR 1619.2 provides that an "agency may place an employee on administrative leave for no more than ninety (90) days." Pursuant to Sections 1619.3 and 1619.4, agencies may request an extension of this time period. Section 1619.5 sites that when the time has expired that the employee shall be returned to fully duty pending a final agency decision. In the instant matter, Employee was placed on administrative leave from November 9, 2016 through February 20, 2017, for a total of 104 days.[21] While this is over the limit as prescribed by 1619.2, I find that consistent with the OEA Board's holding in this matter regarding the 45-day rule, that this provision in 1619.2 is directory in nature and not mandatory. While Agency had Employee on administrative leave for 104 days, I find that this time frame represents harmless error and did not otherwise preclude Agency from suspending Employee from service. Accordingly, I find that for the reasons outlined above, Agency had cause for adverse action against Employee.

Whether the Penalty Was Appropriate

Based on the findings, I find that Agency's action was taken for cause, and as such Agency can rely on those charges in its assessment of disciplinary actions against Employee. In determining the appropriateness of an agency's penalty, OEA has relied on *Stokes v. District of Columbia*, 502

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[17] *See. Kyle Quamina v DYRS* 1601-0055-17 *Opinion and Order on Petition for Review* at Page 11-12 (April 9, 2019).
[18] *Id.*
[19] *Id.*
[20] Employee acknowledges that this was addressed in the Board's Opinion and Order but asserts that it reserves all rights to challenge this issue on appeal.
[21] Employee's Brief at Page 5 (April 19, 2018).

A.2d. 1006 (D.C. 1985).[22] According to the Court in *Stokes*, OEA must determine whether the penalty was in the range allowed by law, regulation and any applicable Table of Penalties as prescribed in the DPM; whether the penalty is based on a consideration of relevant factors; and whether there is a clear error of judgment by agency. Further, "the primary responsibility for managing and disciplining Agency's work force is a matter entrusted to the Agency, not this Office."[23] Therefore, when assessing the appropriateness of a penalty, this Office is not to substitute its judgment for that of the Agency, but is simply to ensure that "managerial discretion has been legitimately invoked and properly exercise."[24] Employee argued that Agency failed to consider all the *Douglas* factors in its administration of this action. Specifically, Employee argues that in the Advanced Notice, William Boberg did not consider all *Douglas* Factors and that the Deciding Official was required to consider all twelve (12) *Douglas* factors in determining the final action. Further, Employee avers that Agency failed to consider alternative sanctions to deter employee conduct.[25] Regarding the review of an agency's considerations of *Douglas* Factors, the OEA Board has held that:

> "an Agency's decision will not be reversed unless it failed to consider relevant factors or the imposed penalty constitutes an abuse of discretion. OEA's review of an agency-imposed penalty is essentially to ensure that the agency conscientiously considered the relevant factors and did established a responsible balance within tolerable limits of reasonableness. Only if this Office finds that the agency failed to weigh the relevant factors, or that the agency's judgment clearly exceeded the limits of reasonableness, is it appropriate for OEA to then specify how the agency's decision should be corrected to bring the penalty within the parameters of reasonableness."[26]

In the instant matter, the undersigned finds that Agency considered the *Douglas* factors in its administration of the instant adverse action. In the Advanced Written Notice, Agency highlighted the *Douglas* factors it considered. Specifically, the notice indicated that: "[b]ased on the conduct outlined above, and in consideration of the relevant *Douglas* factors, including the nature and seriousness of this offense in light of your duties and responsibilities as a Materials Handler, the erosion of your supervisors' confidence in your ability to perform your duties, and the impact your conduct could have on DYRS' reputation, DYRS is proposing that you he suspended from

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[22] *Shairrmaine Chittams v. D.C. Department of Motor Vehicles*, OEA Matter No. 1601-0385-10 (March 22, 2013). *See also Anthony Payne v. D.C. Metropolitan Police Department,* OEA Matter No. 1601-0054-01, *Opinion and Order on Petition for Review* (May 23, 2008); *Dana Washington v. D.C. Department of Corrections,* OEA Matter No. 1601-0006-06, *Opinion and Order on Petition for Review* (April 3, 2009); *Ernest Taylor v. D.C. Emergency Medical Services,* OEA Matter No. 1601-0101-02, *Opinion and Order on Petition for Review* (July 21, 2007); *Larry Corbett v. D.C. Department of Corrections,* OEA Matter No. 1601-0211-98, *Opinion and Order on Petition for Review* (September 5, 2007); *Monica Fenton v. D.C. Public Schools,* OEA Matter No. 1601-0013-05, *Opinion and Order on Petition for Review* (April 3, 2009); *Robert Atcheson v. D.C. Metropolitan Police Department,* OEA Matter No. 1601-0055-06, *Opinion and Order on Petition for Review* (October 25, 2010); and *Christopher Scurlock v. Alcoholic Beverage Regulation Administration*, OEA Matter No. 1601-0055-09, *Opinion and Order on Petition for Review* (October 3, 2011).

[23] *See Huntley v. Metropolitan Police Department*, OEA Matter No. 1601-0111-91, *Opinion and Order on Petition for Review* (March 18, 1994); *Hutchinson v. District of Columbia Fire Department*, OEA Matter no. 1601-0119-90, *Opinion and Order on Petition for Review* (July 2, 1994).

[24] *Stokes v. District of Columbia*, 502 A.2d 1006 (D.C. 1985).

[25] Employee's Closing Argument at Pages 8-9 (December 11, 2019).

[26] *James Wilson v Department of Recreation*, OEA Matter Number 1601-0062-17 *Opinion and Order on Petition for Review* (May 19, 2019*). Citing* to *Holland v. Department of Corrections*, OEA Matter No. 1601- 0062-08, *Opinion and Order on Petition for Review* (September 17, 2012).

your position as a Materials Handler."[27] Further, during her testimony at the Evidentiary Hearing, the deciding official, Dr. Khandra Tyler-Beynum testified that she relied on the evidence provided in the record, including the Advanced Written notice. In *Douglas v Veterans Administration*, the Merit Systems Protection Board, noted that in consideration of these factors that:

> "[t]he Board's role in this process is not to insist that the balance be struck precisely where the Board would choose to strike it if the Board were in the agency's shoes in the first instance; such an approach would fail to accord proper deference to the agency's primary discretion in managing its workforce. Rather, the Board's review of an agency-imposed penalty is essentially to assure that the agency did conscientiously consider the relevant factors and did strike a responsible balance within tolerable limits of reasonableness. Only if the Board finds that the agency failed to weigh the relevant factors, or that the agency's judgment clearly exceeded the limits of reasonableness, is it appropriate for the Board then to specify how the agency's decision should be corrected to bring the penalty within the parameters of reasonableness."[28]

Based on the foregoing, I find that Agency relied on what it considered relevant factors outlined in *Douglas v. Veterans Administration*, 5 M.S.P.R. 313 (1981), in reaching its decision to suspend Employee from service.[29] Regarding the penalty of the 30 day suspension, the DPM Table of Illustrative Actions in DPM §1607.2 (b)(3)[30] indicated that the penalty range for first occurrence of false statements is counseling to removal. Likewise, under §1607.2(c)(1) the penalty range for a first occurrence of fiscal irregularities is suspension to removal. Additionally, 1607.2(d)(1) specifies that the penalty range for a first occurrence of failure to follow instructions ranges from counseling to removal and the same range is found for a first occurrence of neglect of duty in §1607.2(e). For

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[27] Agency's Answer at Tab 12 (July 19, 2017).

[28] *Kimberli Motley v D.C. Metropolitan Police Department*, OEA Matter No. 1601-0120-13 *Opinion and Order on Petition for Review* (April 18, 2017) citing to *Douglas v. Veterans Administration,* 5 M.S.P.R. 313 (1981).

[29] *Douglas v. Veterans Administration,* 5 M.S.P.R. 313 (1981). The *Douglas* factors provide that an agency should consider the following when determining the penalty of adverse action matters:

1) the nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated;
2) the employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;
3) the employee's past disciplinary record;
4) the employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
5) the effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in employee's ability to perform assigned duties;
6) consistency of the penalty with those imposed upon other employees for the same or similar offenses;
7) consistency of the penalty with any applicable agency table of penalties;
8) the notoriety of the offense or its impact upon the reputation of the agency;
9) the clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
10) potential for the employee's rehabilitation;
11) mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and
12) the adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

[30] DPM §1607.2 - Table of Illustrative Actions (February 2016).

attendance related offenses where there is one (1) workday missed but less than five (5), the penalty ranges from suspension to removal. Further, under §1607.2(m) the penalty range for first occurrence of performance deficits includes reassignment, reduced grade and removal. Accordingly, I find that Agency properly exercised its discretion, and its chosen penalty of a thirty (30) day suspension was reasonable under the circumstances, and not a clear error of judgment. Moreover, I find that Agency had appropriate and sufficient cause to take adverse action against Employee. As a result, I conclude that Agency's action should be upheld.

ORDER

Based on the foregoing, it is hereby **ORDERED** that Agency's action of suspending Employee from service for thirty (30) days is hereby **UPHELD**.

FOR THE OFFICE:

/s/ Michelle R. Harris
Michelle R. Harris, Esq.
Administrative Judge

NOTICE OF APPEALS RIGHTS

This is an Initial Decision that will become a final decision of the Office of Employee Appeals unless either party to this proceeding files a Petition for Review with the office. A Petition for Review must be filed within thirty-five (35) calendar days, including holidays and weekends, of the issuance date of the Initial Decision in the case.

All Petitions for Review must set forth objections to the Initial Decision and establish that:

1. New and material evidence is available that, despite due diligence, was not available when the record was closed;

2. The decision of the presiding official is based on an erroneous interpretation of statute, regulation, or policy;

3. The finding of the presiding official are not based on substantial evidence; or

4. The Initial Decision did not address all the issues of law and fact properly raised in the appeal.

All Petitions for Review should be supported by references to applicable laws or regulations and make specific reference to the record. The Petition for Review, containing a certificate of service, must be filed with Administrative Assistant, D.C. Office of Employee Appeals, 955 L'Enfant Plaza Suite 2500, Washington, D.C. 20024. Four (4) copies of the Petition for Review must be filed. Parties wishing to respond to a Petition for Review may file their response within thirty-five (35) calendar days, including holidays and weekends, after the filing of the Petition for Review.

Instead of filing a Petition for Review with the Office, either party may file a Petition for Review in the Superior Court of the District of Columbia. To file a Petition for Review with the Superior Court, the petitioning party should consult Superior Court Civil Procedure Rules, XV. Agency Review, Rule 1.

CERTIFICATE OF SERVICE

I certify that the attached **INITIAL DECISION** was sent by regular mail on this day to:

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Katrina Hill
Clerk

July 9, 2020
Date