

Notice: This decision may be formally revised before it is published in the *District of Columbia Register* and the Office of Employee Appeals’ website. Parties should promptly notify the Office Manager of any formal errors so that this Office can correct them before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS**

In the Matter of:)	
)	
CHRISTINA GRANVILLE,)	
Employee)	
)	OEA Matter No.: J-0041-20
v.)	
)	Date of Issuance: November 18, 2020
D.C. DEPARTMENT OF YOUTH AND)	
REHABILITATION SERVICES,)	
Agency.)	
)	MICHELLE R. HARRIS, ESQ.
)	Administrative Judge
Christina Granville, Employee, <i>Pro Se</i>)	
Chanel G. Hall, Esq., Agency Representative)	

INITIAL DECISION¹

INTRODUCTION AND PROCEDURAL HISTORY

On March 25, 2020, Christina Granville (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the District of Columbia Department of Youth and Rehabilitation Services’ (“Agency” or “DYRS”) decision to terminate her from service, effective March 2, 2020. Agency filed its Answer to Employee’s Petition for Appeal on August 5, 2020. This matter was assigned to the undersigned Administrative Judge on September 30, 2020.

On October 6, 2020, I issued an Order requiring Employee to address the jurisdiction issue raised by Agency in its Answer. Agency had the option to submit a sur-reply brief on or before November 2, 2020. Employee submitted her response in accordance with the prescribed deadline. On November 2, 2020, I issued an Order requiring Agency to submit Employee’s SF-50s. Agency complied with this request. After considering the parties’ arguments as presented in their submissions to this Office, I have decided that an Evidentiary Hearing is not required. The record is now closed.

JURISDICTION

The jurisdiction of this Office has not been established in this matter.

¹ This decision was issued during the District of Columbia’s Covid-19 State of Emergency.

ISSUE

Whether this appeal should be dismissed for lack of jurisdiction.

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS OF LAW

Employee worked for Agency as a Training Specialist, beginning September 16, 2019. In a final notice dated March 2, 2020, Employee was terminated from service, effective the same day.

Employee's Position

Employee avers that she was subject to mistreatment during her tenure at Agency. Specifically, Employee asserts that she “experienced extenuating circumstances of sexual harassment, discrimination and a hostile work environment while being employed with the Department of Youth Rehabilitation Services (DYRS) under the direct supervision of Rosa Smith during her probationary status as Training Specialist.”² Employee also noted that she filed complaints with the Equal Employment Opportunity Commission (EEOC) and the District of Columbia Office of Human Rights (OHR).³

Agency's Position

Agency asserts in its Answer that this Office lacks the jurisdiction to adjudicate this matter. Agency argues that Employee was in probationary status at the time of her termination, and therefore, OEA has no jurisdiction over this appeal.⁴ Agency avers that Employee was offered a position of “Training Specialist” commencing on September 16, 2019, and was subject to a twelve-month probationary period.⁵ Agency notes that Employee filed complaints regarding sexual harassment with DYRS and the D.C. Office of Human Rights (OHR). Agency avers that the DYRS Office of Internal Integrity investigated the matter but found no evidence to substantiate Employee’s claims.⁶ Agency also states that Employee filed a complaint on May 5, 2020 at OHR and that matter was still pending (as of the date of Agency’s Answer). Agency argues that in a letter dated March 2, 2020, Employee was notified that her appointment would be terminated effective, March 2, 2020, and that the termination was not appealable because Employee was still in probationary status. Further, Agency contends that pursuant to DPM Chapter 8, Section 814, a termination during a probationary period is not appealable or grievable and that OEA lacks jurisdiction over this appeal.⁷ As a result, Agency contends that Employee’s appeal must be dismissed for lack of jurisdiction.

Jurisdiction

This Office’s jurisdiction is conferred upon it by law, and was initially established by the District of Columbia Comprehensive Merit Personnel Act of 1978 (“CMPA”), D.C. Official Code §1-601-01, *et seq.* (2001). It was amended by the Omnibus Personnel Reform Amendment Act of 1998 (“OPRAA”), D.C. Law 12-124, which took effect on October 21, 1998. Both the CMPA and

² Employee’s Response (October 20, 2020).

³ Employee’s Petition for Appeal at Page 6 (March 25, 2020).

⁴ Agency’s Answer to Employee’s Petition for Appeal (August 5, 2020).

⁵ Agency Answer at Page 2 (August 5, 2020).

⁶ *Id.* at Page 3.

⁷ *Id.*

OPRAA confer jurisdiction on this Office to hear appeals, with some exceptions. According to 6-B of the District of Columbia Municipal Regulation (“DCMR”) § 604.1⁸, this Office has jurisdiction in matters involving District government employees appealing a final agency decision affecting:

- (a) A performance rating resulting in removal;
- (b) An adverse action for cause that results in removal, reduction in grade, or suspension for 10 days or more; or
- (c) A reduction-in-force; or
- (d) A placement on enforced leave for ten (10) days or more.

OEA Rule 628.1, 59 DCR 2129 (March 16, 2012), states that “[t]he employee shall have the burden of proof as to issues of jurisdiction...” Pursuant to this rule, the burden of proof is by a preponderance of the evidence which is defined as “[t]hat 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.” This Office has no authority to review issues beyond its jurisdiction.⁹ Therefore, issues regarding jurisdiction may be raised at any time during the course of the proceeding.¹⁰

In the instant matter, the undersigned agrees with Agency’s assertion that OEA does not have jurisdiction over this matter. Chapter 8, Section 814.3 of the District Personnel Manual provides in pertinent part, “that a termination during a probationary period is not appealable or grievable.” Thus, an appeal to this Office by an employee who is classified in probationary status at the time of termination must be dismissed for lack of jurisdiction.¹¹ Based on the record, I find that Employee was hired on September 19, 2019, and was terminated effective March 2, 2020.¹² Further, Employee’s SF-50 that was issued when she was hired and her termination SF-50, both provide that her employment commenced on September 16, 2019, and was subject to a one-year (1) probationary period.¹³ Based on this timeline, I find that Employee was still in probationary status at the time of her termination. Further, Employee does not dispute that she started work with Agency on September 16, 2019. Additionally, in her Petition for Appeal, Employee indicated that she was in probationary status.¹⁴ This Office has consistently held that an appeal to OEA by an employee serving in probationary status must be dismissed for lack of jurisdiction.¹⁵ Accordingly, I find that Employee’s probationary status at the time of her termination preemptively precludes this Office from any further review of the merits of this case, as this Office lacks the jurisdictional authority to do so. For these reasons, I find that Employee’s Petition for Appeal must be dismissed for lack of jurisdiction.

⁸ See also, Chapter 6, §604.1 of the District Personnel Manual (“DPM”) and OEA Rules.

⁹ See *Banks v. District of Columbia Public Schools*, OEA Matter No. 1602-0030-90, *Opinion and Order on Petition for Review* (September 30, 1992).

¹⁰ See *Brown v. District of Columbia Public Schools*, OEA Matter No. 1601-0027-87, *Opinion and Order on Petition for Review* (July 29, 1993); *Jordan v. Department of Human Services*, OEA Matter No. 1601-0110-90, *Opinion and Order on Petition for Review* (January 22, 1993); *Maradi v. District of Columbia Gen. Hosp.*, OEA Matter No. J-0371-94, *Opinion and Order on Petition for Review* (July 7, 1995).

¹¹ *Day v. Office of the People’s Counsel*, OEA Matter No. J-0009-94, *Opinion and Order on Petition for Review* (August 19, 1991).

¹² Agency’s Answer (August 5, 2020).

¹³ Agency Response -SF-50s (November 2, 2020).

¹⁴ Employee’s Petition for Appeal at Page 4, Part 13 (March 25, 2020).

¹⁵ *Day v. Office of the People’s Counsel*, OEA Matter No. J-0009-94, *Opinion and Order on Petition for Review* (August 19, 1991).

ORDER

It is hereby **ORDERED** that the Petition in this matter is **DISMISSED** for lack of jurisdiction.

FOR THE OFFICE:

/s/ Michelle R. Harris
MICHELLE R. HARRIS, ESQ.
Administrative Judge