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**THE DISTRICT OF COLUMBIA**

**BEFORE**

**THE OFFICE OF EMPLOYEE APPEALS**

In the Matter of:	)	
	)	
EMPLOYEE <sup>1</sup>	)	
	)	OEA Matter No.: J-0023-25
v.	)	
	)	Date: January 29, 2026
D.C. COMMISSION ON JUDICIAL	)	
DISABILITIES AND TENURE,	)	
Agency	)	
	)	

**OPINION AND ORDER**  
**ON**  
**PETITION FOR REVIEW**

Employee worked as an Administrative Officer with the D.C. Commission on Judicial Disabilities and Tenure (“Agency” or “CJDT”). On January 15, 2024, Agency issued Employee a notice titled “Termination During Probationary Period.” The notice placed Employee on administrative leave and provided that she was being terminated based on her probationary status. Employee’s removal became effective on January 15, 2025.<sup>2</sup>

Employee filed a Petition for Review with the Office of Employee Appeals (“OEA”) on February 18, 2025. She argued that her due process rights as a Career Service employee were violated; Agency violated the D.C. Whistleblower Protection Act; and Agency’s Executive Director lacked the authority to make decisions on behalf of the CJDT without approval from the Commission. As a

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<sup>1</sup> Employee’s name was removed from this decision for the purposes of publication on the Office of Employee Appeals’ website.

<sup>2</sup> *Agency’s Answer to Petition for Appeal* (March 20, 2025).

result, Employee requested reinstatement to her previous position, recovery of lost wages, pre- and post-judgment interest on damages, injunctive relief, and compensatory damages.<sup>3</sup>

On March 20, 2025, Agency filed an Answer and Motion to Dismiss for Lack of Jurisdiction. It contended that OEA lacked jurisdiction over Employee's appeal because she was serving in a probationary status at the time of removal. According to Agency, Chapter 6-B, Section 223.2 of the D.C. Municipal Regulations ("DCMR") mandated that Employee serve a one-year probationary period, and Employee agreed to serve a probationary period when she signed its offer letter which reflected the terms and conditions of employment. Thus, it reasoned that in accordance with 6-B DCMR § 227.4, termination during Employee's probationary period was neither appealable nor grievable. Therefore, it asked that Employee's petition be dismissed for lack of jurisdiction.<sup>4</sup>

On March 24, 2025, the OEA Administrative Judge ("AJ") issued an order directing Employee to address whether her appeal should be dismissed for lack of jurisdiction.<sup>5</sup> Employee's brief reiterated her claim that Agency's termination action was taken without cause because she was in permanent, Career Service status at the time of termination. Additionally, Employee submitted that she already completed a twelve-month probationary period with the Department of Employment Services ("DOES") in 2013. As a result, she maintained that her initial appointment with Agency was a "Career Service-Promotion" that did not require an additional probationary period.<sup>6</sup>

Additionally, Employee averred that the pre-employment language in her offer letter did not supersede District regulations governing tenure status. She further asserted that a written waiver was required to be signed before Agency could impose a new probationary period, which did not occur in this case. Employee noted that the tenure code on her official personnel records reflected that she

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<sup>3</sup> Employee's Petition for Appeal (February 18, 2025).

<sup>4</sup> Agency's Answer to Petition for Appeal.

<sup>5</sup> Order for Briefs on Jurisdiction (March 25, 2025).

<sup>6</sup> Employee's Brief on Jurisdiction (April 8, 2025).

obtained permanent, Career Service status with full employment rights and protections. As such, Employee opined that her appeal was properly before OEA.<sup>7</sup>

In response, Agency reiterated that OEA has consistently held that it lacks jurisdiction to adjudicate appeals filed by probationary employees. It explained that D.C. Code §§ 11-1521 *et seq.* (the “Reorganization Act”) and 1-204.31(d)(4) established CJDT as an independent District agency with independent personnel authority, not subject the provisions in the D.C. Code or regulations governing appointment and classification of District employees. Agency contended that it was statutorily permitted to appoint and fix compensation for employees as it saw fit, which included the probationary classification that Employee sought to challenge before OEA. Next, it noted that Employee sought and voluntarily agreed to serve a one-year probationary term when she signed two written offers of employment after actively seeking and applying to the position of Administrative Officer.<sup>8</sup> Consequently, Agency opined that Employee’s arguments in support of jurisdiction were rendered inapposite because of CJDT’s independent authority.<sup>9</sup>

Alternatively, it suggested that even if CJDT were not an independent District agency, Employee’s voluntary offer agreement controlled, which included a provision that a one-year probationary period was required for the position. Because Employee agreed to serve a new probationary period and was terminated prior to the expiration of the period, Agency maintained that OEA lacked jurisdiction to adjudicate her substantive arguments. Therefore, it requested that her appeal be dismissed.<sup>10</sup>

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<sup>7</sup> *Id.*

<sup>8</sup> Agency issued Employee a second offer letter after her start date was required to be delayed.

<sup>9</sup> *Agency’s Brief* (May 9, 2025).

<sup>10</sup> *Id.* Employee filed a reply brief on May 23, 2025, wherein she argued that documentary evidence established that she was promoted into a permanent Career Service position through a competitive process governed by the Comprehensive Merit Systems Personnel Act (“CMPA”). She further contended that Agency could not retroactively invoke D.C. Code § 1-204.31(d) to establish jurisdiction; termination was procedurally invalid and retaliatory; and Agency inconsistently apply the DPM which constituted a violation of due process protections. As a result, she reasoned that OEA had jurisdiction to adjudicate her claims. *Employee’s Reply Brief* (May 23, 2025). On May 27, 2025, the AJ issued an order

The AJ issued an Initial Decision on August 25, 2025. First, she highlighted that the Reorganization Act of 1970, codified in D.C. Code § 11-1525, established CJDT as an independent agency with independent personnel authority, not subject to the administrative control of the Mayor. She explained that Agency was not bound by the provisions in the District of Columbia Code or the District Personnel Manual (“DPM”) regulations governing appointment and classification of employees. Hence, she concluded that Agency was permitted to require Employee to complete a one-year probationary period and to classify her position as “Career-Probationary” when she was hired.<sup>11</sup>

Alternatively, the AJ ruled that assuming Employee could establish that CJDT was subject to the personnel authority to the Mayor, she was nonetheless deemed probationary at the time of her removal pursuant to Chapter 2, Section 227.4 of the DPM. She clarified that the Standard Form 50 (“SF-50”) was the legally binding personnel record to determine tenure status; Employee’s offer letter explicitly stated that a one-year probationary period was required; Employee’s SF-50 provided that she was hired into a “Career Service-Probation” position; and Employee was terminated on January 29, 2025, during her probationary period. Moreover, she explained that pursuant DPM § 226.2, Employee was required to serve another probationary period with CJDT because the Administrative Officer position was acquired through open competition and because the job duties were substantially different from those at her previous position with DOES. As a result, the AJ ruled that Employee’s removal during her probationary period precluded her from appealing Agency’s termination action to OEA. Therefore, Employee’s appeal was dismissed for lack of jurisdiction.<sup>12</sup>

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directing Agency to file a supplemental brief which included the Administrative Officer job announcement; Employee’s job application package; Employee’s Standard Form 50; and whether Employee’s position required different licensure, certification, or other similar requirements from her previous position with DOES. *Order for Additional Documents* (May 27, 2025). Agency submitted its brief on July 31, 2025.

<sup>11</sup> *Initial Decision* (August 25, 2025).

<sup>12</sup> *Id.*

Employee filed a Petition for Review with the OEA Board on September 29, 2025. She argues that DPM §§ 100.3 and 100.4 requires Agency to follow the DPM regulations relative to probationary periods through both formal adoption and express agreement. She avers that classification of the Administrative Officer position as probationary was a decision entrusted to the D.C. Department of Human Resources (“DCHR”), not CJDT; Agency’s statutory authority to classify employees is limited to classification under Chapter 11 of the DPM; and DPM §§ 231.3, 237.2, and 237.4 require a written waiver from employees before a new probationary period can be imposed. Additionally, Employee claims that her hire constituted a transfer and promotion that preserved her Career Service status. She further argues that Agency’s independent hiring authority only applies to the hiring of non-District employees; the AJ erred by failing to request copies of the Memorandum of Understanding (“MOU”) between CJDT and DCHR; and the AJ misapplied DPM § 226.2(c) in finding that the Administrative Officer position was substantially different from her position with DOES. Thus, Employee asks the Board to grant her Petition for Review.<sup>13</sup>

In response, Agency’s primary argument is jurisdictional: OEA lacks the authority to adjudicate Employee’s appeal because she was probationary at the time of removal. It reiterates that CJDT is an independent administrative body with independent hiring and personnel authority. Agency also asserts that CJDT is not required to follow the DPM when hiring staff; CJDT’s classification of Employee’s position as probationary was not a decision for DCHR to make; and Employee has failed to demonstrate that the MOU between Agency and DCHR subjected it to the terms and conditions of the DPM in contravention of D.C. Code § 11-1525(b). It clarifies that Employee’s Career Service status and probationary status are not mutually exclusive, and her hire with CJDT nonetheless required a new probationary period. Agency alternatively suggests that even without independent

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<sup>13</sup> Petition for Review (September 29, 2025).

hiring authority, it was authorized to designate Employee as probationary. Finally, it avers that Employee's citations to any material on Petition for Review that were not submitted to the AJ before the record closed are improper for consideration before the OEA Board. Accordingly, Agency maintains that the AJ properly dismissed Employee's appeal for lack of jurisdiction.<sup>14</sup>

### Personnel Authority

Employee contends that her termination was effectuated without lawful personnel authority. However, it is clear from the record that Agency had independent authority over personnel matters, including Employee's hire and termination. D.C. Code § 1-603.01(13) defines the term "independent agency" as any board or commission of the District of Columbia government not subject to the administrative control of the Mayor. Chapter 1, Section 100 of the DPM provides the following as it relates to the Mayor's personnel authority:

100.3 The Mayor has "personnel authority" over District government subordinate agencies under his or her direct administrative control, and may delegate that personnel authority, in whole or in part, to the Director of the D.C. Department of Human Resources (formerly named the D.C. Office of Personnel).

100.4 Other District agencies have been established as "independent agencies" and have "independent personnel authority" separate and apart from the Mayor. As provided in their establishment act or otherwise prescribed by law, certain independent agencies are required to adhere to all or some portions of Title 6, Subtitle B, of the D.C. Municipal Regulations (DCMR).

Additionally, the Reorganization Act of 1970 authorized Congress to create CJDT as an independent body within the District of Columbia's court system, and the Act expressly granted Agency autonomous personnel authority by way of D.C. Code § 11-1525. Section 11-1525(b) of the Code authorizes Agency to appoint and fix the compensation of its staff as necessary for the performance

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<sup>14</sup> *Agency's Answer to Petition for Review* (November 3, 2025).

of its duties. Accordingly, Congress created clear preemptive language removing Agency from the administrative control of the Mayor for matters related to staffing and compensation. Accordingly, as an independent agency, CJDT retained the authority to hire and fire Employee, set her compensation, and establish the terms of employment.

Probationary Status

In accordance with the holding in *Banks v. District of Columbia Public Schools*, OEA Matter No. 1602-0030-90, *Opinion and Order Petition for Review* (Sept. 30, 1992), this Office has no authority to review issues beyond its jurisdiction. Under OEA Rule 631.2, 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. For the reasons discussed herein, this Board concludes that the AJ correctly held that OEA lacks jurisdiction over Employee's appeal because she was probationary at the time of her removal.

As it relates to her argument that Agency bound itself to requirements of the DPM by way of Sections 100.3 and 100.4, Employee has failed to highlight any applicable case law in support of her position. CJDT's establishing statute, D.C. Code § 11-1525(b), authorizes Agency to create personnel practices "without regard to the provisions governing appointment and classification of District of Columbia employees, to appoint and fix the compensation of, or to contract for, such officers, assistants, reporters, counsel, and other persons as may be necessary for the performance of its duties." This statutory language explicitly exempts Agency from the DPM requirements regarding classification of probationary employees. Therefore, Agency was within its administrative purview to classify Employee as probationary at the time she was hired as an Administrative Officer.

Because this Board finds that the DPM provisions related to appointment, classification, and compensation did not apply to Employee's probationary status, her remaining arguments based on its applicability must fail. For example, Employee asserts that Agency entered into an MOU with DCHR

which expressly delegated personnel functions to DCHR and also acknowledged that Agency would utilize the DPM regulations governing personnel matters. However, as a small District agency with no Human Resource staff, CJDT contracted with DCHR as a vendor to provide services by way of an MOU. There is no evidence in the record to demonstrate that Agency's agreement with DCHR served to supplant the exclusionary provision of D.C. Code § 11-1525(b) or otherwise required it to adhere to the DPM for its personnel practices.

Next, Employee asserts that Agency was bound to follow the entire DPM after DCHR requested that Agency justify her sizable salary increase. While Agency concedes that it used vendor DCHR to identify Employee's salary, the MOU did not act to subject CJDT to Chapter 2 of the DPM, which governs talent acquisition. For the same reason, Employee's argument that Agency was required to comply with Chapter 2, Sections 231.3, 237.2, and 237.4 of the DPM is unpersuasive.

Finally, Employee claims that her status as a Career Service employee remained intact after Agency effectuated what she describes as a "transfer and promotion" to the Administrative Officer position. Employee's arguments regarding her status are misguided. Agency, at all times, retained independent hiring authority over its employees under D.C. Code § 11-1525(b); the AJ correctly relied on DPM § 100.3 to find that Agency's classification authority included the ability to require Employee to serve a probationary period; and Employee's arguments are inconsistent with the applicable statutory and regulatory law.

Based on the foregoing, we conclude that the AJ's findings with respect to Employee's probationary status are supported by the record. Agency was authorized to require Employee to serve a one-year probationary period pursuant to D.C. Code § 11-1525. Employee began her employment with CJDT on April 7, 2024, and Employee was terminated on January 15, 2025, during her probationary period. This Office has held that it lacks jurisdiction to adjudicate appeals from

employees serving in probationary status.<sup>15</sup> Therefore, Employee failed to meet her burden of proof under OEA Rule 631.2, and the AJ properly dismissed Employee’s appeal for lack of jurisdiction.

#### District Personnel Manual

The AJ ruled that Employee was required to serve a new, one-year probationary period even if she concluded that CJDT was not an independent agency and was subject the entirety of the DPM. As for Employee’s argument that the AJ misapplied DPM § 226.2(c) when concluding that she had to serve another probationary period, this regulation provides that “an employee who once satisfactorily completed a probationary period in the Career Service shall be required to serve another probationary period when the employee is appointed through open competition to a position with different licensure, certification, or other similar requirements.” There is no definition provided for “similar requirements.” However, OEA has previously considered if the positions are in similar or different job series to determine if a second probationary period is required. In *Employee v. D.C. Commission on Judicial Disabilities and Tenure*, OEA Matter No. J-0023-25 (August 25, 2025), and *Employee v. Department of For-Hire Vehicles*, OEA Matter No. J0013-24, *Opinion and Order on Petition for Review* (November 6, 2025), this Office held that because two positions were in different series, a new probationary period was required.

Here, the AJ thoroughly outlined the substantial differences in knowledge and duties between Employee’s previous position with DOES and that of an Administrative Officer with CJDT. This Board concurs with the AJ’s analysis and concludes that assuming *arguendo* Agency was required to follow the DPM regulations governing appointment and removal, Employee was still required to serve another probationary period after she was hired. Pursuant to DPM § 227.4, “separation from

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<sup>15</sup> *Day v. Office of the People’s Counsel*, OEA Matter No. J-0009-94, *Opinion and Order on Petition for Review* (August 19, 1991); *Alexis Parker v. Department of Health*, OEA Matter No. J-0007-11 (April 28, 2011); and *Employee v. District of Columbia Public Services*, OEA Matter No. 1601-0027-21 (November 15, 2021).

government service during a probationary period is neither appealable nor grievable.” Since Employee had not completed her one-year probationary period at the time she was terminated, OEA lacks jurisdiction to adjudicate her appeal even if this Board were to apply the DPM provisions governing appointment. Therefore, Employee’s appeal may also be dismissed on this basis.

Conclusion

In light of the above, this Board finds that the AJ correctly ruled that Agency retained independent hiring authority of its employees pursuant to D.C. Code § 11-1525. Agency acted within its discretion to impose the requirement that Employee serve a one-year probationary period as an Administrative Officer. Because Employee was terminated prior to the completion of her probationary period, the AJ properly dismissed her appeal under OEA Rule 631.2. Finally, even if the entirety of the DPM was applicable to Agency’s removal action, Employee was nonetheless required to serve a new probationary period with CJDT. Consequently, Employee’s petition must be denied.

**ORDER**

Accordingly, it is hereby **ORDERED** that Employee's Petition for Review is **DENIED**.

**FOR THE BOARD:**

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Pia Winston, Chair

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Arrington L. Dixon

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LaShon Adams

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Jeanne Moorehead

Either party may appeal this decision on Petition for Review to 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.