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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
EMPLOYEE ¹)	OEA Matter No. 1601-0065-23
v.)	
)	Date of Issuance: April 24, 2025
DISTRICT OF COLUMBIA PUBLIC)	
SCHOOLS,)	
Agency)	
)	

OPINION AND ORDER
ON
PETITION FOR REVIEW

Employee worked as a Health and Physical Education Teacher with the District of Columbia Public Schools (“Agency”). On July 1, 2023, Agency issued a final notice of separation informing Employee that he would be removed from his position because he received a final rating of “Ineffective” under IMPACT, Agency’s performance effectiveness assessment system, for the 2022-2023 school year. As a result, Agency terminated Employee.²

Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) on September 5, 2023. He asserted that his Teacher-Assessed Student Achievement Data (“TAS”) score was improperly calculated. Employee contended that Agency failed to discuss or evaluate

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

² *Petition for Appeal*, p. 5-6 (September 5, 2023).

his TAS score. Accordingly, he requested that Agency reconsider its removal action.³

On October 6, 2023, Agency filed its Answer to Employee's Petition for Appeal. It argued that it properly followed the IMPACT process and explained that Employee was terminated because of an "Ineffective" rating for the 2022-2023 school year after he was evaluated over two assessment cycles. Therefore, Agency opined that Employee was properly terminated under IMPACT.⁴

After conducting an evidentiary hearing on May 2, 2024, the OEA Administrative Judge ("AJ") issued an Initial Decision on August 20, 2024. In the Initial Decision, the AJ noted that Employee did not deny that he received two observations and two post-observation conferences during the school year. However, Employee argued that he was not provided with a TAS conference, and Agency did not provide a clear procedure for submitting his TAS data. To the contrary, Agency asserted that TAS conferences are not required under IMPACT and that Employee failed to submit his TAS data by the submission deadline. Accordingly, Agency gave Employee a TAS score of one (1) and noted the lack of data provided to support the score.⁵

The AJ found that Agency did not comply with the IMPACT process, specifically as it relates to the TAS data submission.⁶ She noted that although Agency contended that Principal Daniel made the entire school staff aware that the TAS score submissions were due by June 15, 2023, it failed to provide evidence of this communication and failed to provide the method by which scores were to be submitted. The AJ conceded that the IMPACT guidebook does not provide that a TAS conference is mandatory. However, she ruled that based on the testimony of Employee's witnesses, Ms. Samball and Mr. Moody, the procedure to submit TAS data occurred

³ *Id.* at 2.

⁴ *District of Columbia Public Schools' Answer to Employee's Petition for Appeal*, p. 1-3 (October 6, 2023).

⁵ *Initial Decision*, 15-16 (August 20, 2024).

⁶ *Id.*, 14-15.

during TAS conferences. The AJ found that according to Mr. Cantave, school leaders were to request TAS data from the teachers. The AJ ruled that the record was void of any attempts by Principal Daniel to request or collect data from Employee, as she did with Ms. Samball. The AJ reasoned that Agency should have clearly communicated an alternative TAS submission method, prior to the TAS submission deadline, for those employees with whom it chose not to have TAS conferences.⁷ Consequently, she held that Agency violated the IMPACT process due to its failure to collect TAS data and its failure to provide a submission method. As a result, Agency was ordered to reinstate Employee to his last position of record, or a comparable position, and reimburse Employee all back-pay and benefits lost because of the termination action.⁸

Agency disagreed with the Initial Decision and filed a Petition for Review with the OEA Board on September 25, 2024. It argues that the Initial Decision is not supported by substantial evidence. Specifically, Agency contends that a conference is not required for the TAS component and asserts that it is the responsibility of the teacher to submit their data to the school leaders. It highlights Principal Daniel's testimony that she sent out calendar reminders to the school informing them when the TAS scores were due. Agency opines that the AJ incorrectly determined that TAS conferences are a step in the IMPACT evaluation process; however, it is not. Therefore, it requests that the Board reverse the Initial Decision and dismiss Employee's appeal of his termination.⁹

⁷ The AJ noted that Employee provided an exhibit showing that eighty-six percent ("86%") was achieved for his TAS goal. The AJ found that in accordance with the IMPACT guidebook and TAS rubric, 86% equates to a TAS score of three ("3"). Therefore, she found that this scoring would have had an impact on Employee's rating and move him to the "Minimally Effective" category on the IMPACT rating system. The AJ opined that Employee's low TAS score was not due to his inability or failure to meet his TAS goals satisfactorily, but rather because no data was provided to support a higher score.

⁸ *Initial Decision*, 16-18 (August 20, 2024).

⁹ *District of Columbia Public Schools' Amended Petition for Review*, p. 2-4 (September 25, 2024).

Substantial Evidence

According to OEA Rule 633.3(c), the Board may grant a Petition for Review when the AJ's findings are not based on substantial evidence. The Court in *Baumgartner v. Police and Firemen's Retirement and Relief Board*, 527 A.2d 313 (D.C. 1987), found that if administrative findings are supported by substantial evidence, then they must be accepted even if there is substantial evidence in the record to support a contrary finding. Substantial evidence is defined as evidence that a reasonable mind could accept as adequate to support a conclusion.¹⁰

TAS Data

The AJ found that Agency violated the IMPACT process due to its failure to collect TAS data.¹¹ However, the language in the IMPACT guidebook suggests that it is an employee's responsibility to provide the required TAS data. In accordance with the IMPACT guidebook, TAS is an opportunity for teachers to identify and celebrate the learning not reflected on the state standardized test by incorporating it into teachers' own instructional goals and IMPACT evaluation. Additionally, the guidebook notes that achievement data for all assessments will be presented to administrators who, after verifying the data, will assign scores for each goal based upon the rubric.¹² Thus, according to the guidebook, TAS data is to be identified and presented by teachers to administrators. This is supported by Mr. Cantave's testimony. Cantave served as Interim Deputy Chief of IMPACT and testified that Employee was required to provide the school leader with the information necessary to score his TAS goal.¹³ Additionally, he explained that it is the teacher's responsibility to send their data to school leaders and for the school leaders to verify

¹⁰ *Black's Law Dictionary*, Eighth Edition; *Mills v. District of Columbia Department of Employment Services*, 838 A.2d 325 (D.C. 2003); and *Black v. District of Columbia Department of Employment Services*, 801 A.2d 983 (D.C. 2002).

¹¹ *Initial Decision*, p. 17-18 (August 20, 2024).

¹² *District of Columbia Public Schools' Answer to Employee's Petition for Appeal*, p. 70-73 (October 6, 2023).

¹³ *OEA Hearing Transcript*, p. 36 (May 2, 2023).

and input scores.¹⁴ Because the guidebook provides that the teacher is responsible to provide the TAS goals, there is not substantial evidence in the record to support the AJ's ruling that Agency failed to collect the data. The record lacks evidence to show that Employee submitted his TAS data, as required.

Process for TAS Data Collection

The AJ also found that that Agency violated the IMPACT process due to its failure to provide a submission method by which to collect data from those it chose not to hold TAS conferences.¹⁵ The AJ correctly noted in her Initial Decision that there is no language in the guidebook requiring Agency to establish a process for collecting TAS data. Moreover, as the AJ further provided in the Initial Decision, there is also no requirement in the guidebook which mandates that TAS conferences be held. Principal Daniel testified during the evidentiary hearing that some teachers submitted their TAS data through scanned spreadsheets, and others slid a folder under her door with their assessments.¹⁶ However, there is no evidence in the record to show, even an attempt by Employee, to submit his TAS data. The AJ appears to hold Agency to IMPACT requirements that do not exist. Accordingly, the AJ's ruling that Agency violated the IMPACT process when it failed to establish a TAS data collection procedure is not based on substantial evidence.

TAS Data Deadline

Mr. Cantave testified that school leaders must input final scores and ratings by a June deadline.¹⁷ Principal Daniel provided that June 15, 2023 was the deadline for TAS scores and that

¹⁴ *Id.* at 45.

¹⁵ *Initial Decision*, p. 17-18 (August 20, 2024).

¹⁶ *Id.* at 140.

¹⁷ *Id.*, 51-57.

she sent out calendar invitations to all of the teachers within the school.¹⁸ She explained that she did not receive any TAS goals from Employee.¹⁹ After the AJ ordered Agency to conduct a search of all email exchanges between Employee and Principal Daniel, the record reflects that there was an email sent from Employee to Principal Daniel on June 9, 2023, that included his Commitment to School Community (“CSC”) self-evaluation.²⁰ However, there is no evidence that he ever sent his TAS scores to Daniel or anyone in school leadership prior to the June 15, 2023 deadline. Because there is no evidence in the record to prove that Employee sent his TAS scores to Agency by the June 2023 deadline, or at all, there is not substantial evidence in the record to support the AJ’s holding that Employee should have received at least a score of two (2) on his TAS score to increase his overall IMPACT score to 206, or Minimally Effective. Agency’s score of one (1) noting that no data was provided to support a higher score was appropriate.

Conclusion

Because the IMPACT guidebook provides that the teacher is responsible for submitting the TAS goals, there is not substantial evidence in the record that Agency failed to collect data. Similarly, there is no evidence that Agency violated the IMPACT process by not establishing a TAS data collection procedure. Moreover, there is no evidence in the record to prove that Employee sent his TAS scores to Agency by the June 2023 deadline. Therefore, this Board grants Agency’s Petition for Review and reverses the Initial Decision.

¹⁸ Agency provided a calendar invite from Principal Daniel on April 6, 2023, which provides that TAS scores are due for teachers by June 15, 2023. *District of Columbia Public Schools’ List of Additional Exhibits for Evidentiary Hearing*, Exhibit #8 (May 17, 2024).

¹⁹ *OEA Hearing Transcript*, 144-147 (May 2, 2023).

²⁰ *District of Columbia Public Schools’ List of Additional Exhibits for Evidentiary Hearing*, Exhibit #9 (May 17, 2024).

ORDER

Accordingly, it is hereby **ORDERED** that Agency's Petition for Review is **GRANTED**, and the Initial Decision is **REVERSED**.

FOR THE BOARD:

Dionna Maria Lewis, Chair

Arrington L. Dixon

Lashon Adams

Jeanne Moorehead

Pia Winston

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.