THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:	)	
	)	
LINDA DuBUCLET,	)	OEA Matter No. 2401-0245-10
Employee	)	
	)	Date of Issuance: December 17, 2013
	)	
D.C. PUBLIC SCHOOLS,	)	
Agency	)	
	)	

OPINION AND ORDER
ON
PETITION FOR REVIEW

Linda DuBuclet ("Employee") worked as a Special Education Teacher with the D.C. Public Schools ("Agency"). On October 2, 2009, Agency notified Employee that she was being separated from her position pursuant to a reduction-in-force ("RIF"). The effective date of the RIF was November 2, 2009.[1]

Employee challenged the RIF action by filing a Petition for Appeal with the Office of Employee Appeals ("OEA") on December 2, 2009. She contended that she was terminated for insufficient cause and that the RIF action was a pre-text to terminate her. Employee explained that when Agency conducted the RIF, it did not accurately and fairly apply its procedures and statutory policies. She further provided that the RIF was executed in a discriminatory manner and based on false, inadequate, and unreliable performance data. Therefore, she requested

[1] *Petition for Appeal,* p. 7 (December 2, 2009).

reinstatement with back-pay; monies owed to her pursuant to her employment contract with Agency; an expungement of her records with Agency; and an evidentiary hearing.[2]

Agency filed its response to the Petition for Appeal on January 7, 2010. It explained that the RIF was conducted pursuant to D.C. Official Code § 1-624.02 and Title 5, Chapter 15 of the District of Columbia Municipal Regulations ("DCMR"). Agency submitted that in accordance with 5 DCMR § 1501, Cardozo Senior High School was determined to be the competitive area, and under 5 DCMR § 1502, the ET-15 Special Education Teacher position was the competitive level subject to the RIF. Accordingly, Employee was provided one round of lateral competition where the principal utilized Competitive Level Documentation Forms ("CLDF") to rate each employee, as defined in 5 DCMR § 1503.2.[3] After discovering that Employee was ranked one of the lowest in her competitive level, Agency provided her a written, thirty-day notice that her position was being eliminated. Thus, Agency believed the RIF action was proper.[4]

After her review of the Petition for Appeal, the OEA Administrative Judge ("AJ") noted that Employee claimed to be a probationary employee at the time of her separation. As a result, she ordered her to submit a legal brief addressing whether the appeal should be dismissed for lack of jurisdiction.[5] In her brief, Employee conceded that she was a probationary employee at the time of separation. She explained that she began her employment on August 17, 2009, and her probationary status would have continued through June 18, 2010.[6]

However, the AJ later found that pursuant to D.C. Official Code § 1-628.08(c),[7] OEA had jurisdiction over Employee's matter regardless of her date of hire. As a result, the AJ ordered

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[2] *Id.*, 3-6.
[3] Agency explained that when it conducted the RIF, its Office of Human Resources computed Employee's length of service, including credit for District residency, veteran's preference, and any prior outstanding performance rating.
[4] *District of Columbia Public Schools' Answer to Employee's Petition for Appeal* (January 7, 2010).
[5] *Order to Employee Requesting Brief* (February 15, 2012).
[6] *Brief for Employee*, p. 2-3 (March 9, 2012).
[7] D.C. Official Code § 1-628.08(c) does not exist. After a review of the Code, it appears that the section the AJ intended to cite was actually D.C. Official Code § 1-624.08(c).

the parties to submit legal briefs addressing whether Agency followed the District's laws when it conducted the RIF.[8] Agency reiterated its previous arguments and submitted that OEA is limited to determining whether it followed D.C. Official Code § 1-624.02, 5 DCMR §§ 1503 and 1506.[9] Employee provided that the information in her Competitive Level Ranking Score Card was fictitious and erroneous.[10] She also stated that she was not given priority re-employment consideration. Ultimately, Employee believed that she carried out many of the instructional factors considered by Agency in conducting the RIF.

The Initial Decision was issued on July 6, 2012. The AJ found that although the RIF was authorized pursuant to D.C. Official Code § 1-624.02**,** D.C. Official Code § 1-624.08 was the applicable statute to govern the RIF.[11] As a result, she ruled that § 1-624.08 limited her review of the appeal to determining whether Employee received a written, thirty-day notice prior to the effective date of her separation and if Agency provided one round of lateral competition within her competitive level. The AJ found that Employee was properly afforded one round of lateral competition and explained that Agency properly considered all of the factors enumerated in DCMR § 1503.2 when it conducted the RIF.[12] She also found that Agency provided Employee

[8] *Order Requesting Briefs* (March 20, 2012).
[9] *District of Columbia Public Schools' Brief,* p. 8 (March 25, 2012).
[10] Employee believed that the information on her Competitive Level Ranking Score Card did not constitute a true and accurate reflection of her contributions; accomplishments; performances; relevant supplemental professional experience; curriculum specialized education; degrees and licenses; and areas of expertise. She explained that her supplemental professional experience and degrees should have been applied to her position. She further stated that during her time as a special education teacher for English classes, she contributed instructional upgrades that were not previously in place for the students. Finally, Employee provided that her students showed improvement on their assessments; she managed an additional caseload of seven students outside of her classroom; she attended all mandated professional development courses; and she served on a faculty committee. *Brief for Employee,* p. 2-6 (June 29, 2012).
[11] The AJ cited the District of Columbia Court of Appeals' position in *Washington Teachers' Union, Local #6 v. District of Columbia Public Schools*, 960 A.2d 1123 (D.C. 2009) and reasoned that D.C. Official Code § 1-624.08 or the "Abolishment Act" was the applicable statute because the RIF was conducted for budgetary reasons, and the statute's 'notwithstanding' language is used to override conflicting provisions of any other section. *Initial Decision,* p. 3-4 (July 6, 2012).
[12] In reviewing the CLDF ranking factors, the AJ held that for the Office or School Needs category, Employee did not proffer any evidence to highlight how her degrees translated into classroom expertise; for the Significant Relevant Contributions, Accomplishments, or Performance category, Employee did not provide any documentation

the required thirty-day notice. Accordingly, the AJ upheld Agency's RIF action.[13]

Employee filed a Petition for Review with the OEA Board on August 9, 2012. She argues that the Initial Decision was based on an erroneous interpretation of statute, regulation, or policy; the AJ's findings were not based on substantial evidence; and the Initial Decision did not address all issues of law and fact raised in the appeal. Specifically, Employee asserts that she should have been granted a pre-hearing conference; she should have been granted an evidentiary hearing; D.C. Official Code § 1-624.02 governed her RIF; Agency did not meet its burden of proof that it provided her with one round of lateral competition; and she was not afforded due process of law. Employee believes that she overcame Agency's presumption of good faith in evaluating her performance. Therefore, she requests that the Initial Decision be reversed. [14]

Pre-hearing Conference and Evidentiary Hearing

Employee argues that she had a reasonable expectation of a pre-hearing conference because OEA's website provides that the AJ usually provides a pre-hearing conference. Additionally, she believes that an evidentiary hearing should have been granted in her case. OEA Rule 623.1 provides the following:

> The Administrative Judge *may* convene a prehearing conference to consider (emphasis added):
> (a) Simplification, clarification, compromise, or settlement of the Issues;
> (b) Necessity and desirability of amendments to the pleadings;
> (c) Stipulations, admissions of fact, and the contents, admissibility, and authenticity of documents;
> (d) Whether the Administrative Judge will order an evidentiary hearing

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to supplement additional points being awarded to her; and for the Relevant Supplemental Professional Experience as Demonstrated on the Job category, Employee failed to demonstrate how her supplemental professional experience translated into classroom expertise. *Id.*, 7-9.

[13] The AJ also found that Employee did not provide any credible evidence to support her allegation that the RIF was a pre-text to terminate her; her discrimination claim fell outside the scope of OEA's jurisdiction; and her contention regarding priority re-employment rights was, among other things, unsubstantiated because D.C. Official Code § 1-624.08 did not require that Agency engage in priority re-employment procedures. *Id.* at 10.

[14] *Employee's Petition for Review of the Initial Decision of the Office of Employee Appeals to Uphold Agency's Action Separating Employee Pursuant to a Reduction-In-Force,* p. 5-21 (August 9, 2012).

> to expedite the presentation of evidence, including, but not limited to, restricting the number of witnesses;
> (e) A statement of the issues; and
> (f) Such other matters as may aid in the orderly disposition of the proceeding, including disclosure of the names of witnesses and furnishing, for inspection or copying, non-privileged documents, papers, books, or other physical exhibits, which constitute or contain evidence relevant to the subject matter involved and which are in the possession, custody, or control of any party to the proceeding.

The language of this rule is not mandatory in nature. The use of the word "may" indicates that it is within the AJ's discretion to determine if a pre-hearing conference is necessary. Thus, Employee's "reasonable expectation" for a pre-hearing conference is misplaced.

Similarly, the AJ was not required to conduct an evidentiary hearing in this matter. Employee concedes this point in her Petition for Review by citing to language from OEA's website. Her petition states that "if a hearing is held, each party must present his/her evidence . . . ." This language denotes that a hearing does not occur automatically. Furthermore, OEA Rule 624.2 clearly provides that an evidentiary hearing is within an Administrative Judge's discretion. The rule provides that

> *If* the Administrative Judge grants a request for an evidentiary hearing, *or makes his or her own determination that one is necessary*, the Administrative Judge will so advise the parties and, with appropriate notice, designate the time and place for such hearing and the issues to be addressed (emphasis added) . . . .

Thus, the AJ was within her authority to determine that a hearing was not required.

Moreover, the Superior Court in *Sheila Gill and Rhonda Robinson v. District of Columbia Office of Employee Appeals and District of Columbia Public Schools*, 2012 CA5844 and 5883 (MPA), p. 9 (D.C. Super. Ct. October 23, 2013)(citing *Dupree v. D.C. Office of Employee Appeals*, 36 A.3d 826, 832 (D.C. 2011), held that an AJ should hold a hearing if there are material issues in dispute. It went on to note that if an employee has been provided with one

round of lateral competition and a written thirty-day notice, then an evidentiary hearing is not necessary. As provided below, an evidentiary hearing was not warranted in this matter because Agency did provide the requisite competition and notice. Furthermore, there were no material facts in dispute.

Material Facts in Dispute

Employee believes that an evidentiary hearing should have been granted in her case because there were material facts in dispute regarding the written narrative in her CLDF; her performance as an ET-15 Special Education teacher; and her time served with Agency. Employee believes that the CLDF did not prove that she was given one round of lateral competition.[15] In accordance with OEA Rule 633.3(d) ". . . the Board may grant a petition for review when the petition establishes that the initial decision did not address all material issues of law and fact properly raised in the appeal." The D.C. Court of Appeals held in *Dupree v. D.C. Office of Employee Appeals*, 36 A.3d 826, 832 (D.C. 2011), that when the AJ is made aware of material issues in an employee's notice of appeal and there is the absence of any discussion of the employee's arguments in the OEA's initial decision, the determination cannot be made that all the issues were fully considered. Moreover, the court held in *District of Columbia Department of Mental Health v. District of Columbia Department of Employment Services*, 15 A.3d 692, 697 (D.C. 2011) (quoting *Branson v. District of Columbia Department of Employment Services*, 801 A.2d 975, 979 (D.C. 2002)), that it could not assume that "[an] issue has been considered *sub silentio* when there is no discernible evidence that it has." The *Dupree* court

[15] As provided in her brief, Employee's Petition for Review asserts that her CLDF contained fictitious and erroneous statements that did not adequately account for her significant relevant contributions, accomplishments, performances, supplemental professional experiences, curriculum specialized education, degrees, licenses, or area of expertise. She explains that during her employment, she consistently carried out many instructional factors that should have resulted in a higher CLDF score. Accordingly, she does not believe that she was afforded one round of lateral competition.

(quoting *Murchison v. District of Columbia Department of Public Works*, 813 A.2d 203, 205 (D.C. 2002)) further reasoned that "to pass muster, an administrative agency decision must state findings of fact on each material, contested factual issue; those findings must be supported by substantial evidence in the agency record; and the agency's conclusions of law must follow rationally from its findings."

Despite Employee's contentions, the AJ addressed every issue raised by her on appeal. As previously provided, the AJ found that Employee did not proffer any evidence to highlight how her degrees translated into classroom expertise for the Office or School Needs category. Addressing Employee's argument regarding her Significant Relevant Contributions, Accomplishments, or Performance category, the AJ held that Employee did not provide any documentation to supplement additional points being awarded to her. Finally, the AJ found that Employee failed to demonstrate how her supplemental professional experience translated into classroom expertise for the Relevant Supplemental Professional Experience as Demonstrated on the Job category.[16]

In *Anjuwan v. District of Columbia Department of Public Works*, 729 A.2d 883 (D.C. 1998), the D.C. Court of Appeals held that OEA's authority regarding RIF matters is narrowly prescribed, and it may not determine whether the RIF was bona fide or violated any law, other than the RIF regulations. According to D.C. Official Code § 1-624.08(d) and (e), OEA is tasked with determining if Agency afforded Employee one round of lateral competition within her competitive level and if it provided a thirty-day notice. The Superior Court of the District of Columbia held in *Evelyn Sligh, et al. v. District of Columbia Public Schools*, 2012 CA 000697 P(MPA), p. 4 (D.C. Super. Ct. March 14, 2013), that "implicit in the authority to determine whether an employee has been given one round of lateral competition is the jurisdiction to decide

[16] *Initial Decision*, p. 7-9 (July 6, 2012).

whether an employee's CLDF is supported by substantial evidence." The AJ's decision in this case was based on substantial evidence.[17] Agency provided a Retention Register which shows that Employee was one of the lowest ranked Special Education Teachers within her competitive level. Of the fifteen Special Education positions, five positions were identified for abolishment. Employee's final total score was "19;" those teachers who retained their positions had scores of "65, 60, 55.5, 63.5, 67.5, 67.5, 65, 50, 50, and 69.5." Because Employee received one of the lowest scores, she was properly removed from her position. Moreover, Agency provided Employee with the requisite thirty days' notice.[18]

The Court in *Onuche David Shaibu v. D.C. Public Schools,* 2012 CA 003606 P(MPA), p. 6 (D.C. Super. Ct. January 29, 2013), held that if an employee offers evidence that directly contradicts any of the factual basis for the CLDF, then OEA must conduct a hearing to address the material fact in question. Agency specifically claimed the following in Employee's CLDF:

> In the classroom[,] Ms. Linda DuBuclet lacks enthusiasm in her demeanor and lesson presentations, which is essential if you want your students to perform more willingly and at a higher level of capacity. During her classroom observation[,] there was very little communication between the teacher and the students and lack of proper planning was evident. Ms. DuBuclet participates in the mandated professional developments; however[,] from her classroom observations none of the training received has been put into practice in the classroom. She lacks presence in the classroom and students are not attentive to her directive.[19]

Agency essentially provided that Employee lacked enthusiasm in her demeanor and presentation; she used minimal communication with her students; and she did not apply

[17] Substantial evidence is defined as evidence that a reasonable mind could accept as adequate to support a conclusion. See *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). 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 it must be accepted even if there is substantial evidence in the record to support a contrary finding. After reviewing the record, this Board believes that the CLDF and the AJ's assessment of this matter were based on substantial evidence.

[18] *District of Columbia Public Schools' Brief* (May 25, 2012).

[19] *Id.*, Exhibit B.

development training in her classroom. However, Employee offered no evidence to the AJ to contradict the assessments made on her CLDF.[20] In her brief, she did not address her demeanor or presentation skills. As for Agency's assessment that she communicated with the students very little, Employee explained that during her observation period, the students were engaged in independent exercises which required little teacher interaction. As for the application of training to her classroom, Employee simply provided that she "attended all mandated professional development and put the training into practice in the classroom."[21]

The Superior Court in *Sligh* held that when the record contains no evidence that would raise a material issue as to the veracity of the CLDF, employee's contentions amount to mere allegations. As a result of the aforementioned, Employee failed to provide any evidence that the AJ's decision ignored material issues of fact. Moreover, she failed to show that the CLDF or the Initial Decision was not based on substantial evidence.

Employee Time Served

Employee spent a great deal of time on appeal arguing that she was a probationary employee. Before issuing her Initial Decision, the AJ correctly found that OEA had jurisdiction to consider her case despite her date of hire in accordance with D.C. Official Code § 1-624.08(c). However, in her Petition for Review, Employee appears to be confused about her service computation date on her CLDF. Agency clearly provided that all employees' length of service was calculated by the Department of Human Resources. Based on the number of years an employee was employed by the District government, they were allotted a score of zero to ten.

[20] Employee offers in her Petition for Review what appear to be lesson plans and assignments as evidence that she applied her professional training to the classroom. *Petition for Review*, Exhibits # 24-26 (August 9, 2012). However, these documents were not presented to the Administrative Judge on appeal. Thus, in accordance with OEA Rule 633.4, this Board will not consider these documents. OEA Rule 633.4 provides that "any . . . legal arguments which could have been raised before the Administrative Judge, but were not, may be considered waived by the Board."

[21] *Brief for Employee*, p. 4 and 6 (June 29, 2012).

Employees were given additional years of service if they were District residents.[22]

In the current case, Agency gave Employee credit for ten years of service in the District Government and an additional six years because she was a District resident. Therefore, her overall score for length of service was four. However, it appears that Employee is suggesting in her Petition for Review that she should have only received credit for the seven weeks that she performed her duties as a Special Education teacher and not the ten years that she was a District employee.[23] It is Employee's belief that if Agency used the seven weeks instead of the ten years in its calculation, then she would have received a higher score on her CLDF. Employee's logic is severely flawed. Contrary to her belief, she would have received an overall score of two instead of four, if seven weeks was used to compute her length of service.[24] Employee's argument does not bolster her position that she would have received a higher score. She would have received an overall score of seventeen instead of nineteen and still would have been RIFed from her position based on the higher scores of others within her competitive level.

As previously provided, the length of service is calculated by the Department of Human Resources. Thus, Agency could not add or subtract points in this category. It is the only objective standard of the CLDF. Accordingly, Agency properly computed Employee's length of service.

Good Faith and Principal Discretion

Employee contends that the AJ incorrectly ruled that the principal had the authority to exercise their discretion in scoring her CLDF. However, the court in *Washington Teachers'*

[22] *District of Columbia Public Schools' Answer to Employee's Petition for Appeal* (January 7, 2010) and *District of Columbia Public Schools' Brief* (May 25, 2012).
[23] Employee provides that "a performance evaluation based on ten years of service rather than the actual [seven] weeks is unreasonable and inequitable."
[24] According to the chart provided by Agency to calculate years of service, Employee would have received zero points for a seven-week period. She still would have received six years for her residency preference. This would have resulted in an overall score of four. Because length of service accounted for only 5% of the CLDF score, Employee would have received a two in this category.

Union Local No. 6, American Federation of Teachers, AFL-CIO v. Board of Education of the District of Columbia, 109 F.3d 774 (D.C. Cir. 1997) provided the following:

> Teachers [are] ranked by their principals, at least in part, on the basis of performance. Among other things, the CLDF required principals to consider teachers' "relevant significant contributions, accomplishments or performance," including "student outcomes, ratings, awards, special contributions, etc.," as well as "negative factors such as disciplinary, attendance and failure to meet professional responsibilities, etc." . . . . Aside from the objective question of the length of service and the statutory requirement to add five years for District residents, school principals have total discretion to rank their teachers.

Moreover, the Superior Court of the District of Columbia recently relied on this language in *Onuche David Shaibu v. D.C. Public Schools*, 2012 CA 003606 P(MPA), p. 5 (D.C. Super. Ct. January 29, 2013) and *Phillip Haughton v. D.C. Public Schools*, 2012 CA005282 P(MPA), p. 4 (D.C. Super. Ct August 14, 2013). The court provided in both cases that "principals enjoyed near-total discretion in ranking their teachers" when implementing RIFs (citing *Washington Teachers' Union Local No. 6 v. Board of Education*, 109 F.3d 774, 780 (D.C. Cir. 1997). Therefore, the AJ was correct in finding that principals have wide discretion to rank their teachers, as Agency contends.

D.C. Official Code §1-624.02 versus §1-624.08 and RIF for Budgetary Reasons

It is Employee's position that the AJ relied on the wrong statute when deciding her RIF case. She argues that D.C. Official Code §1-624.02 provides more protections for employees than its counterpart, D.C. Official Code §1-624.08.[25] Employee asserts that because

[25] D.C. Official Code §1-624.02 provides that:

> (a) Reduction-in-force procedures shall apply to the Career and Educational Services, except those persons separated pursuant to § 1-608.01a(b)(2), and to persons appointed to the Excepted and Legal Services as attorneys and shall include:
>
> (1) A prescribed order of separation based on tenure of appointment, length of service including creditable federal and military service, District residency, veterans preference, and relative work performance;
>
> (2) One round of lateral competition limited to positions within the

D.C. Official Code §1-624.08 does not include a provision that explicitly nullifies D.C. Official Code §1-624.02 provisions regarding priority re-employment, then it should be used. Further, it is Employee's position that the RIF was not conducted for budgetary reasons, and she reiterates that the RIF was a pre-text to terminate her without cause.

The Superior Court for the District of Columbia specifically addressed the conflict between the two statutes. The court in *Sheila Gill and Rhonda Robinson v. District of Columbia Office of Employee Appeals and District of Columbia Public Schools*, 2012 CA5844 and 5883 (MPA) (D.C. Super. Ct. October 23, 2013), affirmed OEA's holding and ruled that although Agency conducted the RIF actions pursuant to D.C. Official Code §1-624.02, D.C. Official Code §1-624.08 was the appropriate statute for the 2009 RIF matters. The court upheld OEA's assessment that in accordance with *Washington Teachers' Union v. District of Columbia Public*

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employee's competitive level;
(3) Priority reemployment consideration for employees separated;
(4) Consideration of job sharing and reduced hours; and
(5) Employee appeal rights.

While D.C. Official Code §1-624.08 states the following:

(a) Notwithstanding any other provision of law, regulation, or collective bargaining agreement either in effect or to be negotiated while this legislation is in effect for the fiscal year ending September 30, 2000, and each subsequent fiscal year, each agency head is authorized, within the agency head's discretion, to identify positions for abolishment.
(b) Prior to February 1 of each fiscal year, each personnel authority (other than a personnel authority of an agency which is subject to a management reform plan under subtitle B of title XI of the Balanced Budget Act of 1997) shall make a final determination that a position within the personnel authority is to be abolished.
(c) Notwithstanding any rights or procedures established by any other provision of this subchapter, any District government employee, regardless of date of hire, who encumbers a position identified for abolishment shall be separated without competition or assignment rights, except as provided in this section.
(d) An employee affected by the abolishment of a position pursuant to this section who, but for this section would be entitled to compete for retention, shall be entitled to one round of lateral competition pursuant to Chapter 24 of the District of Columbia Personnel Manual, which shall be limited to positions in the employee's competitive level.
(e) Each employee selected for separation pursuant to this section shall be given written notice of at least 30 days before the effective date of his or her separation . . . .

Schools, 960 A.2d 1123, 1132 (D.C. 2008), a RIF authorized by budgetary reasons triggers D.C. Official Code §1-624.08. Specifically, it found that Agency's budget for fiscal year 2010 was not sufficient to support the number of positions that existed in 2009. Accordingly, principals were given the authority to eliminate positions within competitive levels based on budget reductions. Thus, the Court held that D.C. Official Code §1-624.08 was triggered because the RIF was authorized for budgetary reasons.[26] In accordance with the ruling in *Gill* and *Robinson*, Employee's contention that the AJ incorrectly relied on D.C. Official Code §1-624.08 lacks merit.

Burden of Proof and Due Process

Although Employee contends that Agency did not meet its burden of proof and denied her due process of law, it is clear from the record that Agency met its burden. The record is replete with examples of substantial evidence used by Agency to RIF Employee. Likewise, the Administrative Judge in this matter adequately considered every argument raised by Employee. Therefore, she was afforded due process in this case. The Initial Decision was based on substantial evidence. Accordingly, we must DENY Employee's Petition for Review.

[26] The Court noted that a September 10, 2009 Memorandum from Chancellor Michelle Rhee cited that the reason for the 2009 RIFs were due to budget constraints, requiring the elimination of positions at schools that the 2010 budget could not support. It went on to note that D.C. Official Code §1-624.08 placed restrictions on what employees could appeal. However, D.C. Official Code §1-624.02 did not present restrictions. Thus, in accordance with D.C. Official Code §1-624.08, OEA was authorized to consider if there was one round of lateral competition and if employee was provided a thirty-day notice. *Sheila Gill and Rhonda Robinson v. District of Columbia Office of Employee Appeals and District of Columbia Public Schools*, 2012 CA5844 and 5883 (MPA), p. 2 and 5-6 (D.C. Super. Ct. October 23, 2013).

ORDER

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

FOR THE BOARD:

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William Persina, Chair

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Sheree L. Price, Vice Chair

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Vera M. Abbott

_____
A. Gilbert Douglass

The Initial Decision in this matter shall become a final decision of the Office of Employee Appeals 5 days after the issuance date of this order. An appeal from a final decision of the Office of Employee Appeals may be taken to the Superior Court of the District of Columbia within 30 days after formal notice of the decision or order sought to be reviewed.