

issued on October 22, 2025. Agency's brief was due by or before December 12, 2025, Employee's brief was due by or before January 26, 2026, and Agency had the option to submit a sur-reply brief by or before February 13, 2026. All briefs and submissions have been received as required. Upon review of the submissions and record, I determined that an evidentiary hearing was not warranted. The record is now closed.

JURISDICTION

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

ISSUE(S)

Whether Agency's action of terminating Employee from service through IMPACT was done in accordance with all applicable laws, rules or regulations. If so, whether the penalty of termination was appropriate.

BURDEN OF PROOF

OEA Rule § 631.1, 6-B District of Columbia Municipal Regulations ("DCMR") Ch. 600, et seq (December 27, 2021) states:

The burden of proof for material issues of fact shall be by a preponderance of the evidence. "Preponderance of the evidence" shall mean: the degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue.²

OEA Rule § 631.2 *id.* states:

For appeals filed under § 604.1, 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.

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS OF LAW

Summary of the Parties' Positions

Agency's Position

Agency asserts that its action of separating Employee from service was for cause and done in accordance with all applicable laws, rules and regulations. Agency asserts that Employee was employed as an Educational Aide at Turner Elementary School during the 2022-2023, school year.³ Agency further notes that Employee was later employed as a Math Teacher at Walker Jones Education Campus during the 2023-2024 and 2024-2025 school years. Agency contends that for the 2022-2023 school year, Employee was subject to the IMPACT standards applicable to Group 17 since she was an Educational Aide. Agency further cites that Group 17 employees were evaluated on

² OEA Rule "Definitions § 699.1."

³ Agency's Brief (December 15, 2025).

three (3) components which included: Educational Aide Standards, Commitment to the School Community and Core Professionalism.⁴ Agency avers that Employee was evaluated for all three (3) components and received a ‘Developing’ rating for the 2022-2023 school year.

Agency further notes that for the school years of 2023-2024, and 2024-2025, Employee was subject to the IMPACT standards applicable to Group 1 employees. Agency asserts that “DCPS followed the same standards and procedures for evaluating each Group 1 worker, including [Employee].” Agency provides that employees in Group 1 were evaluated on five (5) components in both applicable school years.⁵ Agency also cites that “School-based personnel assessed through IMPACT ultimately receive a final IMPACT score at the end of the year based on the following scores:

Highly Effective: 350-400 points
Effective: 301-349 points
Developing: 250-300 points
Minimally Effective: 200-249 points
Ineffective: 100-199 points

Agency contends that Employee was observed and evaluated on all the required components. Agency asserts that Employee received a “Developing” rating during the 2023-2024, and the 2024-2025 school years. As a result, Agency cites that Employee’s scores reflected three (3) years of Developing ratings. Further, Agency notes that it notified Employee at the end of the 2023-2024 school year, that if she received another Developing rating or if her IMPACT rating declined, that

⁴ *Id.* Agency also notes the following: 1

1. Educational Aide Standards: These standards define excellence for educational aides in DCPS. They make up 90% of the IMPACT score.
2. Commitment to the School Community: This is a measure of the extend to which the Educational Aide supports and collaborates with the school community. This component makes up 10% of the IMPACT score.
3. Core Professionalism: This is a measure of four basic professional requirements for all school-based personnel. This component is scored different from the other components.

⁵ Agency cites that the Group 1 components were as follows:

1. Essential Practices (EP): This is a measure of a teacher’s instructional practices. This component makes up 40% of a Group 1 employee’s IMPACT score.
2. Student Achievement Data – Two student achievement measures: Individual Value-Added Student Data (IVA) and Teacher-Assessed Student Achievement Data (TAS) make up 40% of Group 1 employee’s IMPACT scores.
 - a. Individual Value-Added Student Data (IVA): This is a measure of the impact a teacher has on student learning over the course of the school year, as evidenced by the DC CAPE assessment. This component makes up 25% of a Group 1 employee’s IMPACT score.
 - b. Teacher-Assessed Student Achievement Data (TAS): This is a measure of students’ learning over the course of the year as evidenced by various assessments. This component makes up 15% of a Group 1 employee’s IMPACT score.
3. Student Surveys of Practice (SSP) – This is a measure of instruction culture, as assessed by an employee’s students. This component makes up 10% of a Group 1 employee’s IMPACT score.
4. Commitment to School Community (CSC): This is a measure of the extent to which school-based personnel support and collaborate with their colleagues and their school’s community. This component makes up 10% of a Group Employee’s IMPACT score.
5. Core Professionalism: This is a measure of four basic professional requirements for all school-based personnel. This component is scored differently from others, which is why it is not represented in the pie chart.

she would be subject to separation from DCPS. Agency cites that there are twenty (20) IMPACT groupings of DCPS employees. It reiterates that as an Educational Aide, Employee was classified in Group 17 for 2022-2023 school year.⁶ Agency also asserts that the Group 17 employees are subject to two (2) assessment cycles. Here, Agency provides that for the 2022-2023 school year, the first cycle ended in January and the second ended in June. Employee received a final IMPACT score of 265, which was classified as ‘Developing.’ Employee’s final score for the 2023-2024 school year, following her assessments in Group 1 was rated as ‘Developing’ and for the 2024-2025 school year Employee’s score was also rated as ‘Developing.’ Agency avers that “per IMPACT policy and standards, a Developing rating “signifies performance that is below expectations.” Further, Agency contends that “IMPACT policy and standard stipulate that an employee is subject to separation if their final IMPACT rating remains at the Developing level for three (3) consecutive school years.”⁷ As a result, Agency avers that it operated within the authority of its process and had cause to terminate Employee from service due to her three (3) consecutive Developing ratings.

Agency argues that Employee’s claims that she was evaluated in Cycle 1 of February 2024 “only after a short period of instructional time” are not supported by the record. Further Agency contends that Employee’s claims that she was “not provided with a coaching or placed with a support or improvement plan to guide her” are also not supported. Agency asserts that prior to becoming a teacher, “[Employee] was employed with DCPS as an Educational Aide...[g]iven her late start date of December 2023 [Employee] was considered a late hire in the school year.” Agency avers that Employee’s observation window was extended, such that instead of being observed in January 2024, she was observed in February 2024.⁸ Agency also argues that Employee was assigned to Kathryn Kranz, Math Instructional Coach, who met with [Employee] through the school year “to provide her with targeted and individual support strategies to support her in improving her instruction and developing her professional practice.” Agency contends that there are “approximately thirty (30) pages of emails between Ms. Kranz and [Employee], memorializing the various meetings and methods of support provided to [Employee].”⁹

Agency asserts that Ms. Kranz affirmed that she was familiar with Employee and that at the request of the Walker Jones administration, she provided support to Employee.¹⁰ Ms. Kranz also provided specific dates, during the 2024-2025 school year she and Employee met regularly. Agency avers that Ms. Kranz assisted Employee with “lesson planning and aligning her lessons to a provided objective calendar to ensure that she was providing the support and instruction her students needed.”¹¹ Agency also asserts that during the 2024-2025 school year, Employee received a ten (10) point deduction due to unexcused late arrivals. Agency avers that “these deductions were justly assessed with school policy and Guidebook guidelines.”¹² Agency iterates that at the conclusion of the 2024-2025 school year, “Employee received a rating of ‘Developing’, which subjected her to termination.”

Agency also avers that because DCPS has the authority to establish IMPACT, pursuant to OEA rulings, this Office’s role is to “interpret and enforce” the Collective Bargaining Agreement

⁶ *Id.*

⁷ Agency’s Brief (December 15, 2025).

⁸ Agency Brief at Page 6.

⁹ *Id.*

¹⁰ Affidavit of Kathryn Kranz (December 22, 2025).

¹¹ *Id.*

¹² Agency’s Brief at Page 6 (December 15, 2025).

(CBA). To this end, Agency maintains that Employee failed to meet “certain DCPS work performance standards.” Agency also contends that “merely disagreeing with a principal is not enough to overturn an evaluation...[t]here must be evidence that directly controverts the principal’s evaluation.”¹³ Agency maintains that Employee was provided “consistent information and assessments about how DCPS viewed her performance.” Agency asserts that the “IMPACT Guidebook clearly informed Employee that the consequences for low IMPACT ratings would lead to termination of her employment with DCPS.”¹⁴ As such, Agency avers that its action of terminating Employee from service should be upheld.

Employee’s Position

Employee asserts that she should be reinstated with DCPS. She provides that she was “initially employed by DCPS as a Paraprofessional, a position [she] held for approximately nine (9) years.”¹⁵ Employee cites that during her time as a Paraprofessional, she “gained extensive experience supporting instruction and students.” She stated that her responsibilities and duties in this role were “supportive in nature and performed under the direction of a certified classroom teacher.” Employee avers that “it was only toward the end of my paraprofessional services that [she] received her first “Developing” rating.”¹⁶ Employee further notes that she later “transitioned into a Teacher position with DCPS after becoming a certified teacher.” She cites that she served as a certified teacher for approximately one and a half years. Employee states that her responsibilities as a teacher included “independent instructional planning, classroom management, responsibility for student outcomes, and professional practice.”¹⁷ Employee also avers that she was not provided with coaching or placed on a support or improvement plan which may have helped her professional development.¹⁸

Employee avers that “as a teacher [she] was evaluated under the DCPS IMPACT system...[i]t was only after assuming the Teacher role that [she]received IMPACT “Developing” ratings under teacher-specific standards.”¹⁹ Employee argues that while she did receive three (3) “Developing” ratings, “these ratings did not occur with the same role or classification.” She asserts that one (1) rating was while she was employed as a paraprofessional and that two (2) other Developing ratings occurred while she was a Teacher. Employee argues that “because the paraprofessional and teacher positions involve distinct job duties, responsibilities and evaluation criteria, these ratings should not be combined or treated as consecutive within a single classification...[e]ach rating must be evaluated within the context of the role in which it was received.”²⁰

Employee also contends that she informed school administrators that her late arrivals during the 2022-2023 school year were “the result of transportation issues through the Office of the State Superintendent of Education (“OSSE”) for my son...” Employee avers that even with these challenges, she “generally arrived at work before students entered the building and fulfilled [her] instructional responsibilities for the school day.” Employee provides that “similar circumstances applied during the 2023-2024 school year at Walker Jones Education Campus, when [she] became a

¹³ *Id.* at Page 7.

¹⁴ *Id.*

¹⁵ Employee’s Affidavit (February 6, 2026).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Employee’s Petition for Appeal at #14. (August 1, 2025).

¹⁹ *Id.*

²⁰ *Id.* at Pages 1-2.

Teacher.” Employee asserts that she began her work at Walker Jones on December 10, 2023, and shortly thereafter there was winter break, and as a result, she “did not have a meaningful opportunity to begin teaching, implement instruction, or establish student relationships until January 2024, which limited the timeframe available for evaluation.”²¹ Employee also contends that during the 2024-2025 school year at Walker Jones, she continued to face challenges with OSSE transportation for her son. She avers that she “proactively communicated with school administration regarding these issues and requested reasonable flexibility so that [she] could report to work on time.” Employee cites that she was “permitted to return home to transport her son to school if the bus did not arrive and she also arranged for a neighbor to watch her son so she could meet her professional obligations. Employee avers that she always acted in good faith and requests reinstatement to a “different DCPS placement, consistent with [her] qualifications and experience.

Governing Authority

District of Columbia Municipal Regulation (“DCMR”) 5-E DCMR §§1306.1, and 1306.4-5 gives the Superintendent authority to set procedures for evaluating Agency’s employees. The above-referenced DCMR sections provide that each employee shall be evaluated each semester by an appropriate supervisor and rated annually prior to the end of the year, based on procedures established by the Superintendent. 5-E DCMR 1401 provides in pertinent part as follows:

1401.1: Adverse action shall be taken for grounds that will promote the efficiency and discipline of the service and shall not be arbitrary or capricious.

1401.2: For purposes of this section, “just cause for adverse action” may include, but is not necessarily limited to, one (1) or more of the following grounds:

(c) Incompetence, including either inability or failure to perform satisfactorily the duties of the position of employment.

Furthermore, the D.C. Code § 1-616.52(d) states, in pertinent part:

Any system of grievance resolution or review of adverse actions negotiated between the District and a labor organization shall take precedence over the procedures of this subchapter for employees in a bargaining unit represented by a labor organization.

The 109th Congress of the United States enacted the 2005 District of Columbia Omnibus Authorization Act, PL 109-356, which states in part:

Notwithstanding any other provision of law, rule, or regulation, during fiscal year 2006 and each succeeding fiscal year, the evaluation process and instruments for evaluation of District of

²¹ *Id.* at Page 2.

Columbia Public School employees shall be a non-negotiable item for collective bargaining purposes. D.C. Code § 1-617.18.

Accordingly, Agency was granted the authority to develop its own evaluation process and tool for evaluating Agency employees and exercised this management prerogative when it created the IMPACT evaluation system. As a result, in consideration and review of this matter, I will address whether Agency followed the procedures it developed in evaluating its employee; and whether Agency's termination of Employee pursuant to her IMPACT rating was supported by just cause.

The IMPACT Process

IMPACT was the performance evaluation system utilized by DCPS to evaluate its employees during 2022-2023, 2023-2024, and 2024-2025 school years. According to the record, Agency conducts annual performance evaluations for all its employees. Agency utilized IMPACT as its evaluation system for all school-based employees.²²

Employee's position for the 2022- 2023 school year was as an Educational Aide at Turner Elementary School, and she was within Group 17. According to the IMPACT process, Group 17 employees had two (2) assessment cycles typically in January and June. Here, Employee was assessed during Cycle 1 and Cycle 3 for the 2022-2023 school year.²³ For the 2023-2024 and 2024-2025 school years, Employee was employed as a Teacher and she was in Group 1. Group 1 employees were also subject to two (2) assessment cycles. In the 2023-2024 year, the two cycles were conducted in February and May. For the 2024-2025 school year, Group 1 employees were assessed in January and May.

For Group 17 (Educational Aide) Employee was assessed on a total of three (3) IMPACT components, namely:

1. Educational Aide Standards: These standards define excellence for educational aides in DCPS. They make up 90% of the IMPACT score.
2. Commitment to the School Community: This is a measure of the extend to which the Educational Aide supports and collaborates with the school community. This component makes up 10% of the IMPACT score.
3. Core Professionalism: This is a measure of four basic professional requirements for all school-based personnel. This component is scored different from the other components.

For Group 1 (Teachers) Employee was assessed on a total of five (5) IMPACT components, namely:

1. Essential Practices (EP): This is a measure of a teacher's instructional practices. This component makes up 40% of a Group 1 employee's IMPACT score.
2. Student Achievement Data – Two student achievement measures: Individual Value-Added Student Data (IVA) and Teacher-Assessed Student Achievement Data (TAS) make up 40% of Group 1 employee's IMPACT scores.
 - a. Individual Value-Added Student Data (IVA): This is a measure of the impact a teacher has on student learning over the course of the school year, as evidenced

²² Agency's Brief, *supra*.

²³ Agency's Answer.

- by the DC CAPE assessment. This component makes up 25% of a Group 1 employee's IMPACT score.
- b. Teacher-Assessed Student Achievement Data (TAS): This is a measure of students' learning over the course of the year as evidenced by various assessments. This component makes up 15% of a Group 1 employee's IMPACT score.
 3. Student Surveys of Practice (SSP) – This is a measure of instruction culture, as assessed by an employee's students. This component makes up 10% of a Group 1 employee's IMPACT score.
 4. Commitment to School Community (CSC): This is a measure of the extent to which school-based personnel support and collaborate with their colleagues and their school's community. This component makes up 10% of a Group Employee's IMPACT score.
 5. Core Professionalism: This is a measure of four basic professional requirements for all school-based personnel. This component is scored differently from others, which is why it is not represented in the pie chart.

School-based personnel assessed through IMPACT ultimately received a final IMPACT score at the end of the school year of either:²⁴

- 1) Ineffective = 100-199 points (immediate separation from school);
- 2) Minimally Effective = 200-249 points (given access to additional professional development - Individuals who receive a rating of 'Minimally Effective' for two (2) consecutive years are subject to separation from the school system);
- 3) Developing = 250-299 points (Individuals who receive a rating of 'Developing' for three (3) consecutive years are subject to separation from the school system);
- 4) Effective = 300-349 points; and
- 5) Highly Effective = 350-400 points.

The IMPACT process also provides that employees are entitled to a conference with the administrator as part of each assessment cycle. It further notes that if the administrator makes at least two attempts to schedule a conference with the employee prior to the Cycle deadline and the employee is unable to meet or is unresponsive, the assessment will be valid without the conference. Valid attempt methods include, but are not limited to, phone calls, text messages, emails, notes in your school inbox, and/or in-person conversations.

ANALYSIS²⁵

In the instant matter, Employee was evaluated under the aforementioned IMPACT provisions for her roles as an Educational Aide and as a Teacher. Employee does not dispute that she received

²⁴ See. Employee's Petition for Appeal and Agency Answer. Employee's final ratings were: SY'2022-2023: 265; SY'2023-2024: 276; SY' 2024-2025: 277. Based on the IMPACT scoring rubric, all these scores fall within the 'Developing' rating.

²⁵ Although I may not discuss every aspect of the evidence in the analysis of this case, I have carefully considered the entire record. See. *Antelope Coal Co./Rio Tino Energy America v. Goodin*, 743 F.3d 1331, 1350 (10th Cir. 2014) (citing *Clifton v. Chater*, 79 F.3d 1007, 1009-10 (10th Cir. 1996)) ("The record must demonstrate that the ALJ considered all of the evidence, but an ALJ is not required to discuss every piece of evidence").

three (3) Developing ratings but contends that because the positions were differently classified, they should not have been treated consecutively in terms of review. Employee asserts that regarding her first term as a Teacher, that she began her tenure on December 10, 2023, but was evaluated shortly thereafter in February 2024. She also cites that she was not provided with coaching or placed on an improvement plan which might have supported her professional development. Agency asserts that it followed all appropriate guidelines as noted in the IMPACT guidelines. Agency further avers that Employee had notice of the ratings and that those ratings made her subject to termination. In review of the record, the undersigned finds that for school year 2022-2023, Employee was evaluated with Group 17, as she was classified as an Educational Aide. Pursuant to the IMPACT evaluation criteria for Group 17 and following the two (2) required cycle evaluations and conferences, Employee received a “Developing” rating for the 2022-2023 school year.²⁶ Employee received a notice dated July 1, 2023, regarding her Developing rating. Employee was then assigned as a Teacher at Walker Jones and was assessed in Group 1 for the 2023-2024, school year. Following the requisite cycle evaluations and conferences pursuant to the IMPACT process, Employee received a notice on July 1, 2024, that she had been rated as “Developing” for that school year.²⁷ Employee was again assessed and evaluated in Group 1 for the 2024-2025 school year, as she remained a Teacher at Walker Jones. Following the required cycle evaluations and conferences, Employee was provided a final notice that she had been rated as “Developing” for the 2024-2025 school year. Further, that notice provided that because Employee had been rated as “Developing” for three (3) consecutive school years, she was subject to termination.²⁸

Employee asserts that because she was in a different classification for one (1) of the three (3) school years, that she should not be considered as having had “consecutive developing ratings”. Further, Employee asserts that the school administrators knew that her unexcused tardies were due to transportation issues. She also notes that she was not provided with coaching to assist her and improve her professional capacities. Agency asserts that pursuant to the IMPACT guidelines, an employee that receives a Developing rating for three (3) consecutive school years is subject to separation from DCPS. Agency avers that Employee was given notice by and through the IMPACT guidebook and the notices regarding her developing ratings. Further, Agency provides that Employee was provided with coaching and instructional support throughout her tenure with DCPS. The IMPACT guidebooks clearly provide that three (3) consecutive developing ratings subject an employee to separation.²⁹ Further, Employee does not dispute that she received the Developing ratings but rather, she cites that it should not have been considered consecutively and that she also did not receive instructional coaching to help her improve. In review of the record, the undersigned finds that there are several emails and correspondence to support that Employee was provided with instructional support. Further, it was noted in Employee’s evaluation reviews of ways she might improve. Additionally, the IMPACT Guidebook does not specify or require that an employee be employed in the same classification for three (3) years. Instead, it cites that any employee who receives three (3) consecutive “Developing” ratings is subject to separation.

This Office has consistently held that the primary responsibility for managing and disciplining Agency's work force is a matter entrusted to the Agency, not to OEA.³⁰ As performance

²⁶ Agency Answer at Tab 9 and Tab 10.

²⁷ Agency Answer at Tab 5 and Tab 6.

²⁸ Employee’s Petition for Appeal at Final Notice.

²⁹ Agency Answer at Tab 12, Tab 8 and Tab 4 – IMPACT Guidebook.

³⁰ See. *Mavins v. District Department of Transportation*, OEA Matter No. 1601-0202-09, *Opinion and Order on Petition for Review* (March 19, 2013); *Mills v. District Department of Public Works*, OEA Matter No. 1601-0009-

evaluations are “subjective and individualized in nature,”³¹ this Office will not substitute its judgment for that of an agency; rather, this Office limits its review to determining if “managerial discretion has been legitimately invoked and properly exercised.”³² I find that the record reflects that Agency properly utilized its IMPACT process to evaluate Employee’s performance. There is nothing in the record to reflect any contradictions or other issues. Further, the record does not reflect that Employee failed to receive coaching. As a result, I find that Agency has met its burden and that Agency’s action was done for cause and in accordance with the guidelines of its IMPACT process. Consequently, I further find that Agency’s action of terminating Employee from service following her receipt of three (3) consecutive “Developing” ratings should be upheld.

ORDER

Based on the foregoing, it is **ORDERED** that the Agency’s action of terminating Employee from service through IMPACT is hereby **UPHELD**.

FOR THE OFFICE:

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

09, *Opinion and Order on Petition for Review* (December 12, 2011); *Washington Teachers' 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); see also *Huntley v. Metropolitan Police Department*, OEA Matter No. 1601-0111-91, *Opinion and Order on Petition for Review* (March 18, 1994); and *Hutchinson v. District of Columbia Fire Department*, OEA Matter No. 1601-0119-90, *Opinion and Order on Petition for Review* (July 2, 1994).

³¹See also *American Federation of Government Employees, AFL-CIO v. Office of Personnel Management*, 821 F.2d 761, 765 (D.C. Cir. 1987) (noting that the federal government has long employed the use of subjective performance evaluations to help make RIF decisions).

³²See *Stokes v. District of Columbia*, 502 A.2d 1006, 1009 (D.C. 1985).