

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

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

In the Matter of:	)	
	)	
EMPLOYEE, <sup>1</sup>	)	OEA Matter No. 1601-0007-25
	)	
v.	)	Date of Issuance: November 3, 2025
	)	
DISTRICT OF COLUMBIA CHILD AND	)	
FAMILY SERVICES AGENCY,	)	MONICA DOHNJI, Esq.
Agency	)	Senior Administrative Judge
	)	
Andra Parker, Employee Representative		
Madeline Terlap, Esq., Agency Representative		

**INITIAL DECISION**

**INTRODUCTION AND PROCEDURAL HISTORY**

On October 23, 2024, Employee filed a Petition for Appeal with the D.C. Office of Employee Appeals (“OEA” or “Office”) contesting the District of Columbia Child and Family Services Agency’s (“CFSA” or “Agency”) decision to terminate him from his position as a Family Support Worker (“FSW”), effective October 8, 2024. Employee was terminated pursuant to 6B District of Columbia Municipal Regulation (“DCMR”) (1) §§ 1605.4(a) and 1607.2(a)(4);<sup>2</sup> (2) 6B- DCMR §§1605.4(a) and 1607.2(a)(9);<sup>3</sup> (3) 6B DCMR §§ 1605.4(a) and 1607.2(a)(13)<sup>4</sup>; and (4) 6B DCMR §§ 1605.4(b) and 1607.2(b)(2)<sup>5</sup>. OEA issued a Request for Agency Answer to Employee’s Petition for Appeal on October 23, 2024. Agency filed its Answer to Employee’s Petition for Appeal on November 22, 2024.

---

<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> Conduct prejudicial to the District of Columbia government - Conduct that an employee should reasonably know is a violation of law or regulation.

<sup>3</sup> Conduct prejudicial to the District of Columbia government - Unethical or improper use of official authority or credentials.

<sup>4</sup> Conduct prejudicial to the District of Columbia government - Use of (or authorizing the use of) District owned or leased vehicles such as cars, vans, trucks, buses, aircraft, boats or any other motor vehicle for use other than official purposes.

<sup>5</sup> False Statement/records- Misrepresentation, falsification or concealment of material facts or records in connection with an official matter, including investigations.

This matter was assigned to the undersigned Senior Administrative Judge (“SAJ”) on November 22, 2024. Thereafter, the undersigned issued an Order on November 25, 2024, convening a Status/Prehearing Conference for December 16, 2024.<sup>6</sup> On December 30, 2024, Employee filed a Motion to Extend the Time to comply with Agency’s discovery request due to medical reasons. On February 4, 2025, the undersigned issued an Order rescheduling the Status/Prehearing Conference for February 25, 2025. Both parties were present at the Status/Prehearing Conference. On the same day, the undersigned issued an Order Scheduling a Prehearing Conference for March 20, 2025. Both parties appeared for the Prehearing Conference. Subsequently, the undersigned issued an Order on March 27, 2025, scheduling an Evidentiary Hearing for May 20, 2025, and May 21, 2025. On May 7, 2025, Agency filed a Motion to Amend [the Evidentiary] Hearing Schedule citing that one of its witnesses was unavailable on the dates of the scheduled Evidentiary hearing. This Motion was denied during the Evidentiary Hearing on May 20, 2025. The Evidentiary Hearing proceeded on May 20, 2025, with both parties and their witnesses present. On June 9, 2025, the undersigned issued an Order requiring the parties to submit written closing arguments by July 7, 2025. Both parties have submitted their closing arguments as required. The record is now closed.

### **JURISDICTION**

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

### **ISSUES**

- 1) Whether Employee's actions constituted cause for adverse action.
- 2) Whether the penalty of removal was appropriate in the circumstances and within the range allowed by applicable law, rules, or regulations.

### **SUMMARY OF MATERIAL TESTIMONY**

The following represents a summary of the relevant testimony given during the Evidentiary Hearing on May 20, 2025, as provided in the transcript (hereinafter denoted as “Tr.”) which was generated following the conclusion of the proceeding.

#### **Agency’s Case in Chief**

Zakia Joyner-Kennedy (“Ms. Joyner-Kennedy”) Tr. pgs. 16- 42

Ms. Joyner-Kennedy supervises a team of social workers. She has been in this position for approximately two (2) years, and she was a supervisor in February 2024. She stated that she has been with Agency for about twenty (20) years, but a Social Worker for approximately eight (8) years. Ms. Joyner-Kennedy testified that her responsibilities as a supervisor include managing a team of social workers, providing supervision, assisting with monitoring their cases, answering questions, and providing guidance regarding their cases. Tr. pgs. 17-18, 34.

---

<sup>6</sup> Due to personal extenuating circumstances requiring the undersigned’s absence, on December 11, 2024, AJ Harris issued a Notice Regarding Temporary Abeyance of Proceedings to the parties postponing the scheduled Status/Prehearing Conference until further notice.

Ms. Joyner-Kennedy confirmed that she was familiar with Employee. She stated that Employee was assigned to her unit as a Family Support Worker and she was Employee's direct supervisor. She noted that she supervised Employee for less than one (1) year. Ms. Joyner-Kennedy explained that the duties of a Family Support Worker include, but are not limited to, assisting social workers with a variety of tasks such as school visits, home visits to conduct home assessments, and transporting families to appointments or visits. Ms. Joyner-Kennedy identified Agency's Exhibit 3 as the Family Support Workers position description. She confirmed that providing transportation assistance for clients to and from CFSA into court was part of the duties of a Family Support Worker. She explained that the Family Support Worker would request an Agency vehicle to complete this task. She noted that Agency had a fleet of cars available for its employees to use. Tr. pgs. 17-22, 34.

Ms. Joyner-Kennedy cited that in his role as a Family Support Worker, Employee conducted home and school visits, and he was assigned a government vehicle upon request, to complete this care. Ms. Joyner-Kennedy confirmed that a Family Support Worker was expected to be familiar with the school visiting procedures. She confirmed that Employee was expected to know the procedure for visiting students at a charter school in his official capacity and Employee had visited a charter school while under her supervision. Tr. pgs. 23-25.

Ms. Joyner-Kennedy recalled an incident in February 2024s where Employee visited his niece's school. She explained that she received a call from a worker at the hotline<sup>7</sup> who inquired about Agency's case assignment process and whether she has assigned a particular case to Employee. Ms. Joyner-Kennedy testified that upon learning of the incident, she called Employee to inquire about his location, and if he had been to the school and whether he knew the student. She noted that Employee informed her the student was his niece and confirmed to her that he had been to the school and saw his niece. She also stated that she asked Employee if his badge was displayed during that visit and if he went to the school as a CFSA employee, to which Employee said 'no.' Ms. Joyner-Kennedy testified that Employee said he offered the staff at the school his ID, informed them that he was the student's uncle and they allowed him to see the student at the front desk. Ms. Joyner-Kennedy affirmed that Employee was expected to know that only approved visitors could visit a student at school. Ms. Joyner-Kennedy noted that Employee did not assert during her conversation with him that he was using his position for personal gain when he visited the school. Tr. pgs. 25-27, 34-25.

Ms. Joyner-Kennedy acknowledged that she participated in an interview with Agency's Human Resources ("HR") representative about this incident. She identified Agency's Exhibit 11 as notes from the interview. Ms. Joyner-Kennedy affirmed seeing the transcription of the meeting notes prior to the date of the Evidentiary Hearing and she reviewed it for accuracy. Ms. Joyner-Kennedy testified that she was contacted by an HR representative to obtain information regarding her understanding of the February 2024 incident involving Employee, as well as, who she spoke to, what they relayed to her and what she said. She testified that she shared what Employee relayed to her with the HR representative during that meeting. Ms. Joyner-Kennedy asserted that as a supervisor, she was not involved in the investigation and she could not 'sway' it. She cited that "I can give my responses in terms of his work, ... while in the unit, but outside of their decisions to move forward with termination, I have no position in that." Tr. pgs. 27-29, 34-38. Ms. Joyner-Kennedy testified that Employee worked for Child Protective Services ("CPS") prior to joining Agency. She cited that Employee worked overtime at CPS completing home assessments and that she did not assign cases to Employee on behalf of CPS. Tr. pgs. 30-31.

---

<sup>7</sup> Ms. Joyner-Kennedy explained that this was a department that handled referrals – calls that came in from the community with concerns of abuse and neglect.

Ms. Joyner-Kennedy affirmed that she was aware of Agency employees using government vehicles to take lunch breaks. She also confirmed that she was aware that doing so was against Agency policy. She explained that the practice was that if an employee was out in the field completing a home or school visit, they would sometimes stop and grab a quick bite to eat and continue with their day. Ms. Joyner-Kennedy testified that “There are times when, like, for myself, my unit, we've had unit outings, unit meetings, that we take off site, and we will use the Agency car to carpool to the location and back. But outside of that, I can't speak to any direct knowledge of workers taking vehicles to go have lunch.” Tr. pgs. 31-32. Ms. Joyner-Kennedy stated that employee take lunch breaks while in the field. She explained that field meant “going to school visits, home visits, transporting clients to and from home to appointments. It's a variety of things that are assigned.” Tr. pgs. 40-41.

Sherika Gray (“Ms. Gray”) Tr. pgs. 43- 94

Ms. Gray is a Recovery Enrollment Specialist at D.C. Prep. In February 2024, she was the Office Manager for DC Prep at the Anacostia Elementary location.<sup>8</sup> She was in this position for approximately fifteen (15) months. Ms. Gray stated that as the office manager “I received my report -- direct report from my OSL, which is the operational site leader, and my job was to manage day-to-day operations in the school building, which includes compliance, safety, documentation, and overall operations of the elementary campus.” Tr. pgs. 43-44.

Ms. Gray asserted that she was familiar with Employee based on his visit to D.C. Prep. She averred that D.C. Prep had two (2) processes for visitors “because ... there are lots of people in and out on a day-to-day basis.” She explained that there was a ‘family and friends’ visitors policy which was to come in, ask for the child, “we pull up our internal system, which is PowerSchool. And we acknowledge if ... the person is on the visitors' list and, if not, we would contact the family to let them know that there's a visitor's here .... And then we get the permission, whether it's yes or no.” Ms. Gray testified that the second visitor policy “is for any type of provider or anyone with a ... professional identification badge. We do not pull up the PowerSchool system program because these are providers and they -- most likely the parents will not have them as a visitor on that log because they're coming to visit the child in a professional manner.” She confirmed that an employee from DC Child and Family Services Agency qualifies as a professional provider. Tr. pgs. 47-49, 67-68.

Ms. Gray confirmed that she was present when Employee arrived at the school on February 20, 2024. She explained that she and a colleague were sitting at the desk when Employee walked into the building, presented himself as a professional worker from CPS and asked to see the student in question. When asked what type of professional worker Employee presented himself as, Ms. Gray stated that “He specifically said CPS.” Ms. Gray restated that “[Employee] came in. He greeted, good morning. I am a CPS worker, his specific words, and I'm here to see the student in question.” She cited that Employee was asked to sign in and “he signed his name, his title, the date, and the time.” Ms. Gray cited asserted that “Those were his words ... that's his handwriting. We don't write on the visitor's log.” When asked if she knew if Employee was the student’s uncle when she processed him as a professional, under the professional visitor’s policy. Ms. Gray said, “No. That came afterwards.” Tr. pgs. 49-50, 65-67, 84-85.

---

<sup>8</sup> 1409 V Street Southeast, Washington, D.C. 20020. The undersigned took judicial notice of D.C. Prep’s location per Agency’s request.

Ms. Gray identified Agency's Exhibit 7 as the visitor's log. She cited that this visitor's log "shows the visitor's name, the student, the purpose, the date, and the time." She confirmed that Employee's name is listed under the first column which asks for the visitor's name and 'CPS' is written under the column for 'purpose of the visit.' She stated that Employee worked for CPS. She affirmed that CPS also implied a CFSA worker. Ms. Gray asserted that Employee signed the visitor's log on February 20, 2024, at 11:30 a.m. She stated that they ask for identification to ensure that visitors are who they say they are. Ms. Gray testified that "Before we could really ask for the identification, [Employee] presented his CFSA or CPS badge." She confirmed that Employee voluntarily presented his CFSA badge. She confirmed that she made a copy of Employee's badge as was standard practice. She noted that Employee did not offer a state ID or driver's license as his identification. Tr. pgs. 51-53, 55, 75, 85. Ms. Gray however stated on re-cross that because Employee verbally stated that he was a CPS worker when he entered the facility, she asked him for his badge. Tr. pg. 91.

When asked what reason Employee gave for visiting the school, Ms. Gray stated that "[h]e mentioned that a case came across his desk and he was coming to check in on the student that we're speaking of." She affirmed that she understood that to mean did you understand that the case involved the student. Ms. Gray asserted that they called down the student and that it was a fast process. She did not recall if Employee specifically state that he was conducting CFSA business. She reiterated that she just recalled Employee "saying that this case came across his desk." Ms. Gray stated that Employee later disclosed that he was the student's uncle and he wanted to check on her. Ms. Gray noted that they offered the conference room for Employee to meet his niece as was the usual procedure for professional visitors. She stated that "because [Employee] presented himself as a CPS worker first before disclosing that he was the uncle. So he came as a professional first, then it was noted that he was the uncle." Tr. pgs. 55-56, 68-71, 76, 85-86.

Ms. Gray affirmed that it was from the badge that she first became aware of Employee's name. She stated that "because we knew that there was an ongoing investigation and that wasn't someone that we spoke to on ... the night that we had to speak to other workers, I immediately flagged my supervisor, the OSL. The operational site leader [Monique Moore]." Ms. Gray explained that "There was a series of events that took place at a school dance where ... there was an allegation of harm directed towards the student." She affirmed that she knew that the CFSA worker assigned to the student's case was not Employee. When asked if Employee was on the approve visitor's list for his niece, Ms. Gray stated that "No, he was not." She averred that she did not pull up the family visitor's list when Employee came in because he identified himself as a CPS worker. She stated that they eventually pulled the list of approved family members after Employee left the building and he was not on it. Ms. Gray noted that the student's mother had removed all visitors from the list, except for herself, prior to February 20, 2024. Ms. Gray cited that without permission from the student's mother, Employee would not have been allowed to see the student if he did not present himself as a CPS worker. Ms. Gray asserted that she also flagged her supervisor because Employee "came in and said that this case came across my desk and he was related to the person that we're talking about. That is a red flag." Ms. Gray testified that Employee was at the school for about ten (10) minutes. Tr. pgs. 53, 57-60, 76 -79, 88.

Ms. Gray noted that she attended a telephone 'fact-finding' interview with someone at CFSA. She identified Agency's Exhibit 12 as "a document of a recorded conversation between the parties involved on the list." She confirmed that she received the document after the fact-finding meeting, which she reviewed for accuracy. She affirmed that she was the person identified on the document as

‘school official 2 office manager.’ She acknowledged that this document was an accurate transcription of the interview that she gave with CFSA representatives. Tr. pgs. 60-61.

Monique Moore (“Ms. Moore”) Tr. pgs. 96- 108

Ms. Moore is the Operation Site Leader at Anacostia Elementary and Middle School. She has been in this position for over five (5) years, and this was her job in February 2024. Ms. Moore has been at DC Prep for 15 years. She described her responsibilities as “overseeing student safety and business management for the school so everything that's non-academic in the school, all visitor contracts, vendor contracts, such as janitorial, anything that is not academic, Pepco, utilities, landscaping, everything under that bucket.” She also supervised DC Prep office managers and affirmed that Ms. Gray was the Office Manager at DC Prep in February 2024. She confirmed that she was Ms. Gray’s supervisor at DC Prep in February 2024. Tr. pgs. 96 - 97.

Ms. Moore is familiar with Employee from the February 2024 incident involving his niece. When asked if he had ever met Employee, Ms. Moore stated that, “Yes. I saw him in passing, the day of his visit. And I believe I saw him prior to this visit, which was why I prompted a call that day.” Ms. Moore confirmed that she was present at DC Prep on February 20, 2024, when Employee visited the school. She explained that Employee arrived at DC Prep between 9:00 am and 11:00 am. She stated that when Employee arrived at the desk, Ms. Gray and another employee were seated at the desk. Employee signed in, and his ID was copied. Ms. Moore asserted that we copied his ID. “Once the ID was copied and the exchange happened, Ms. Gray walked over into my space and shared that this name had come up. He had presented this ID so we wanted to confirm his purpose of visit.” Tr. pgs. 97-99, 107. Ms. Moore testified that she did not see Employee hand his badge, but she received a copy of the badge from the front desk. Tr. pg. 107.

Ms. Moore identified Agency’s Exhibit 7 as “our sign-in sheet we typically have visitor sign in on.” Upon reviewing Agency’s Exhibit 7, Ms. Moore affirmed that Employee signed in at 11:30 a.m. and that the log reflected the time that Employee visited the school. When asked if she interacted directly with Employee on that day, Ms. Moore said ‘No.’ She stated that she “glanced in the doorway, but I didn't step out of my office.” Tr. pgs. 99-100. She stated that she did not physically see Employee sign the sign in sheet. Tr. pg. 108.

Ms. Moore confirmed that the purpose of Employee’s visit was flagged to her. She testified that Ms. Gray came into her office and stated that she thought something was wrong. Ms. Said that “this person is here saying that he's following up on the case for CFSA. And it was a case that I was familiar with, but we flagged it because the last name was the same exact last name as the student. And at that time, I looked at [Ms. Gray] and I said, I believe this might be her uncle. Because this student does not have many family members that have frequented our school, and she had been with our school for a few years. So ... I think at the time we thought there was some inconsistency. Typically, when a family member comes in, they show their regular ID, or we have visually ID'd them before and we don't request an ID. So, I called in to figure out if he was in fact following up on the case and if so, did ... CFSA confirm any relation because I thought it was a conflict of interest. And if not, if this was just a regular visit and unwarranted, so we're just trying to figure out what was going on. Because at the time he was not listed on her sheet, so we had to make sure that this was an approved visitor.” Ms. Moore stated that they called the CFSA hotline because they could not get a customer service number. Tr. pgs. 100 – 101.

Ms. Moore stated that she spoke with someone from the CFSA hotline and she relayed her concerns to them. She identified Agency's Exhibit 8 as the 'call log'. Ms. Moore identified herself as Speaker 2, and she stated that she had reviewed this document prior to the Evidentiary Hearing date. Ms. Moore confirmed that Agency's Exhibit 8 was an accurate transcription of her conversation with the CFSA hotline. Ms. Moore stated that Employee left while she was on the hotline, but she got confirmation from the hotline that CFSA did not send Employee. Tr. pgs. 102 – 104. Ms. Moore identified Agency's Exhibit 12 as a summary from a 'fact-finding' meeting she had with someone from CFSA. She confirmed that she was the person identified as 'school official 1, operation site leader.' Ms. Moore affirmed that the transcription is an accurate account of the meeting she had with CFSA. Tr. pgs. 105-106.

Kerstin Magnuson-Anderson ("Ms. Anderson") Tr. pgs. 110 - 123

Ms. Anderson is an evening shift (3:00 p.m. to 1:30 a.m.) supervisor at Agency. She has been in this position since 2017. She asserted that her responsibilities vary, depending on the day. She described her responsibilities to include determining "the responses that we will make to hotline calls that come in, assign them to an investigator, and coordinate the efforts between the investigators. Sometimes the family support workers and any other multidisciplinary team members that may be attached to that referral or hotline call that has come into our 24-hour hotline." She confirmed that this was her position in February 2024. Tr. pgs. 110-111.

Ms. Anderson noted that she was familiar with Employee. She testified that Employee has worked with Agency for some time, and he was often the first person that Ms. Anderson would reach out to or who would respond when they needed overtime or assistance on their shift. She stated that Employee was the first person to make himself available for the Agency to support the administration if they needed support. Ms. Anderson testified that Employee's responsibilities varied depending on the case load. "It could be supervising children, completing a home assessment at a home, responding to a school to complete a safety assessment at a home or a school, obtaining medical documentation or educational documentation for a child, dropping off a pack and play, dropping off food cards. It could vary depending on what the need was." Tr. pgs. 111-112. Ms. Anderson confirmed that Employee did overtime for CPS. She asserted that this could be part of his normal role at CFSA if it was approved by a supervisor, program manager or "someone above in the administration..." Tr. pgs. 113-114.

When asked if she was aware of the February 2024 incident, Ms. Anderson stated that "I am aware of an assignment ... that was made and that was reassigned to a worker in my unit." She explained that "I know that there was a report that came in on January the 12th of 2024 that was assigned to ... a social worker ... in my unit that I directly supervise... on February 20th, she had requested a safety check to be completed at the child's school. The assignment had occurred prior to my tour of duty, so there was another supervisor (mid-shift supervisor, Taylor Leach) who did that assignment." She cited that the supervisor informed her that another Family support worker who is in her unit, would be her assignment for the day. Ms. Anderson identified Agency's Exhibit 14 as an email she sent to Ms. Keren Bakoua "related to the batch referral." She identified the attachment to her email as "a text message that I had sent to Taylor Leach, who was the supervisor of the mid-shift team at CFSA, Child Protective Services." Ms. Anderson noted that the text conversation was regarding the assignments for the day. She confirmed that the text message would have been between 12:00 p.m. and 3:00 p.m. on February 20, 2024. Tr. pgs. 114- 120.

Ms. Anderson cited that CFSA has a database of cases that it uses. She explained the social worker would have made her request for safety check through the CFSA request for assistance on shifts portal. Ms. Anderson noted that the request could also be made through the database. She asserted that all Family Support Workers, including Employee had access to the portal. She confirmed that Employee also had access to the CFSA database. Ms. Anderson cited that she did not assign the tasks in the portal to Employee, so she was unable to say if Employee received a referral and when. Tr. pgs. 120-123.

Keren Bakoua (“Ms. Bakoua”) Tr. pgs. 128 - 192

Ms. Bakoua is “the senior human resources specialist and team lead at CFSA for the HRA administration at CFSA.” She has been in this position since March of 2023. While in this position, she conducts investigations, drafts disciplinary actions and reviews grievances. Ms. Bakoua affirmed that she was familiar with Employee’s February 2024, matter. She also noted that Employee was a former CFSA employee. Tr. pgs. 128-129.

Ms. Bakoua identified Agency’s Exhibit 9 as an email received on February 22, 2024, from CFSA administrator, Lia Walker (“Ms. Walker”), alerting the Employee and Labor Relations team of a report that she received from the hotline regarding Employee’s visit to the school. Ms. Bakoua testified that after she received the email, she contacted Ms. Walker to get a better understanding of the incident as it was reported to her. She stated that she brought the matter to her manager’s attention so they could discuss how to approach the incident. Tr. pgs. 129-130.

Ms. Bakoua explained their procedure when matters are brought to their attention. She cited that they gather information by speaking to leadership, then draft ‘fact-finding’ questions. She further noted that they gather more information and any applicable documentation related to the incident. Thereafter, they form a series of questions and identify who they should speak with during the investigation and fact-finding process. Ms. Bakoua identified Agency’s Exhibit 8 as the transcript from the hotline which she received during her investigation. She explained that the transcript discussed the hotline call CFSA received from DC Prep School. Ms. Bakoua identified Agency’s Exhibit 10 as the “fact-finding meeting notes when we met with [Employee] and his union representative.” She affirmed that she conducted the interview. Ms. Bakoua stated that she created a document at the conclusion of the meeting which she sent to Employee and requested that he let her know if there were any modifications. Tr. pgs. 131-133.

Ms. Bakoua identified Agency’s Exhibit 11 as the document she created from the fact-finding meeting she had with Employee’s supervisor. She confirmed that Agency’s Exhibit 11 was an accurate transcription of the interview she had with Ms. Joyner-Kennedy. Ms. Bakoua identified Agency’s Exhibit 12 as the document she created from the fact-finding meeting she had with two (2) school officials from DC Prep. She affirmed that the document was an accurate transcription of her interview with the two (2) school officials and that she sent the meeting notes to the school officials for review after the meeting. Ms. Bakoua identified Agency’s Exhibit 13 as her email interaction with the DC Prep officials. She testified that she sent the email to the school officials because “I wanted a copy of the badge and sign-in sheet because we did ask the school official if they made a copy of the badge and any other proof that they had, such as a sign-in sheet, which was, you know, a document that was mentioned. So, I wanted proof from the school that they, in fact, had this documentation.” Ms. Bakoua confirmed that the school officials provided her with the requested documentation. Tr. pgs. 134-137.



Ms. Bakoua testified that after she conducted the fact-finding meetings, based on the documentation collected the responses gathered, it was determined Employee violated certain policies, so they commenced adverse action against Employee. Ms. Bakoua cited that she reviewed the proposed notice of removal for the misconduct levied against Employee, but she did not draft the document. Tr. pgs. 137-138.

Ms. Bakoua identified Agency's Exhibit 5 which she noted was "Agency's vehicle accountability policy, which kind of governs what we are supposed to do with the Government vehicle. Like, if you're required to drive, you have to abide by this policy." Ms. Bakoua confirmed that Employee was authorized to operate an Agency vehicle. Referencing Agency's Exhibit 5 at Bates number 0019, number 5<sup>9</sup>, Ms. Bakoua testified that while she did not know if Employee received a copy of this document, "when you're authorized to drive a vehicle ... there is language from the policy. And also, the Agency sends out an email to all staff, informing them of safe driving, and oftentimes with those emails, this policy's attached." Ms. Bakoua confirmed that all Agency employees are expected to know all official Agency policies. She cited that the policies are readily available on the intranet. Tr. pgs. 139-141, 183.

Ms. Bakoua identified Agency's Exhibit 4 as the driver authorization confirmation. She explained that when you submit a request to drive a government vehicle, you receive the email notification found in Agency's Exhibit 4. Ms. Bakoua confirmed that the email notification in Agency's Exhibit 4 was sent to Employee. She stated that the email notification informed Employee of "the terms and conditions of what it means to be authorized to drive, and what the responsibilities and expectations are." Ms. Bakoua affirmed that the email notified Employee that driving to or from work is neither district Government business nor within the scope of his employment. She also identified a confirmation email approving Employee's request and stated that "that lets you know that you are authorized to drive, and I believe this indicates the length of the ... authorization, because they have to renew it every year." She confirmed that Employee was authorized to drive a government vehicle in February 2024. Ms. Bakoua affirmed that she received Agency's Exhibit 4 Exhibit 4 during her investigation of Employee from Agency's facilities management team. Tr. pgs. 142-146, 183.

Ms. Bakoua testified that she was informed by Ms. Walker during the investigation that Employee was on duty and traveled to the school. She further testified that Employee also confirmed during the fact-finding meeting that he was operating an Agency vehicle when he visited the school. Ms. Bakoua identified Agency's Exhibit 6 as "the geometric trip history... which tells us... well, there's a system that's hooked up to the cars that tells us where our Agency vehicles traveled to, the duration of where they went, and sometimes it's as detailed as how fast they were driving. So, this is the trip history that will have every stop and everywhere that the vehicle ... traveled to." Ms. Bakoua cited that she was given a copy of the log by Agency's fleet administration following her request to them "to identify which vehicle [Employee] used on February 20th, and if we can get a trip history of where that vehicle was utilized to travel." She asserted that Employee had a designated government vehicle "that he often utilized, and that was the vehicle that he utilized that day. And this is the trip history that was given to us. ... we compared the time in which [Employee] traveled to the school and the addresses where the car was parked, where the school was located, and it aligned." Tr. pgs. 147-149, 166-167.

---

<sup>9</sup> Agency's vehicle Accountability Policy provides in part that "Employees who are granted approval to use CFSA vehicle may use them only for official CFSA business."

While reviewing Agency's Exhibit 6, and Agency's Exhibit 23, Ms. Bakoua explained that "our vehicles are leased, so hence the DPW. However, 200 I Street is the address to the Agency, the Agency headquarter, and 300 I is the part of the building where the garage is located, where the vehicles are stored." Ms. Bakoua also explained that "So our building also faces Virginia Avenue, and the way the garage is located is 300 I is 3rd, and then Virginia Avenue. So our Geotab will pick up the vicinity. So 241 Virginia Avenue is part of the CFSA headquarter building." Ms. Bakoua confirmed that the vehicle assigned to Employee left CFSA headquarters at 11:18 a.m. She asserted that "the trip history indicated that at 11:28, the vehicle was stopped [at 1422 V Street Southeast, Washington, DC] and it was idle at that time." Ms. Bakoua testified that the vehicle was stopped at this address for 15 minutes and 44 seconds – between 11:28 a.m. and 11:44 a.m. Employee identified Agency's Exhibit 24 as a map location of 1422 V Street Southeast. Ms. Bakoua confirmed that 1422 V Street Southeast is the address of DC Prep Anacostia Elementary campus. She confirmed that Employee's vehicle was parked across the street from DC Prep Anacostia Elementary School campus. Ms. Bakoua explained that "the vehicle left 1422 V Street Southeast and traveled to CFSA headquarters. It left at 11:44 and traveled for 14 minutes, two miles, to the CFSA headquarters." She noted that the vehicle arrived at CFSA at around 11:58 a.m. Tr. pgs. 150 – 157, 159-162.

Ms. Bakoua testified that when she first met with Employee, he indicated that he was coming from an assignment and made a stop at DC Prep. However, the trip history suggested otherwise. She stated that according to the trip history, "the vehicle was at the Agency, traveled to DC Prep and returned to the Agency." Tr. pgs. 167-168. Ms. Bakoua asserted that Government vehicles are not to be utilized for lunch breaks because that's your personal time. That's not conducting official business, as the policy indicates." Tr. pgs. 187-188.

Ms. Bakoua testified that Employee was removed for the charge of conduct prejudicial to the district Government specifically 'on duty conduct that an employee should reasonably know is a violation of law and regulation' because Employee "should have been aware that utilizing the vehicle for personal business is not allowed." She confirmed that using a government vehicle for unofficial business violates the CFSA Vehicle Accountability Policy. Ms. Bakoua asserted that Employee was also charged with conduct prejudicial to the district Government, 'using the district-owned vehicles or leased vehicles for any use other than official purposes' because Employee "informed us that he utilized the vehicle to travel to DC Prep Elementary for a personal visit of his niece ... who was a student there." She explained that Agency relied on the fact-finding meeting, "trip history, as well as the policies, looking at the policies and the language in the policy" as evidence for these two (2) charges. Tr. pgs. 168-170, 188.

According to Ms. Bakoua, Employee was charged with conduct prejudicial to the district Government – 'unethical and improper use of official authorities or credentials' because it was determined that Employee used his badge to gain access to the student at DC Prep. She cited that Agency relied on "the copy of the badge from the school... the sign-in log where CPS was written next to his name. And also the time that he signed in, which aligned with the trip history" as evidence for this cause of action. Tr. pg. 170, 176-177.

Ms. Bakoua testified that Employee was charged with 'false statements or records' because Employee informed Agency "that he was coming from another assignment and stopped and then came to the Agency ... that's not what the trip history suggested. And then also he indicated that he wasn't there for official business. However, CPS was written next to his name, and the school also had a copy of his badge." Tr. pgs. 170-174, 179-180.

Ms. Bakoua also asserted that while Employee stated that he was not aware of his niece's case pending at Agency, that was a false statement "because the administration made us aware that [Employee] was assigned the assignment at some point during his tour of duty and he recused himself from the assignment because he had recognized the name as a family member." Tr. pg. 175, 178-179. Ms. Bakoua cited that Employee made another false statement when he stated during the fact-finding meeting that he offered his driver's license to the school, but they refused it "because the school confirmed that he ... introduced himself as a representative from the Agency and offered his employee ID." Tr. pgs. 185-186.

Ms. Bakoua confirmed that CFSA employees who drive a government vehicle are required to carry their driver's license on them. She testified that "the policy indicates that they are to adhere to all applicable laws. And ... the laws are that when you're operating vehicles you should have your identification on you. So [the policy] doesn't necessarily spell out exactly what it is, but ... those of us that hold a driver's license know that you are to have your driver's license on you, which is the law." Tr. pgs. 191.

Ms. Bakoua testified that Employee should have corrected the school officials if they assumed that his visit was in his professional capacity as a CPS employee. She explained that Employee should have "Informed them that he was not, not give them [his] badge, and offer his personal identification, and disclose the proper or correct purpose of his visit. And at that time ... if their perception was still not correct, then he should have left the property." Tr. pgs. 191-192.

Stacey Flood ("Ms. Flood") Tr. pgs. 194 -209

Ms. Flood is an HR generalist on the Employee and Labor Relations team at Agency. She has been in this position since June of 2016. In this role, she handles "discipline cases, conducting internal investigations, as well as training components for the staff" and she drafts proposed actions. Ms. Flood asserted that she was familiar with Employee because she was assigned by her supervisor, Keyana McNeil ("Ms. McNeil") to investigate the current incident. Tr. pgs. 194-195, 204.

Ms. Flood testified that "we received a call that [Employee] had visited the school where his niece attends and presented his self as a CFSA worker there on CFSA business, when in actuality, when we spoke with [Employee], he shared that he was there just to lay eyes on his niece and check on her." She cited that she spoke to the school officials, the manager that reported the incident, and Employee. Ms. Flood identified Agency's Exhibit 16 as the Notice of Proposed Removal ("NOP") issued to Employee and she confirmed that she drafted the NOP. Tr. pgs. 196-197. She confirmed that it was standard practice for her to draft the NOP. Ms. Flood identified Ms. McNeil's signature at the end of the NOP. She cited that as the issuing official; Ms. McNeil reviewed the NOP draft before signing it. Tr. pg. 198-199.

Ms. Flood testified that she charged Employee with 'conduct that he should reasonably have known was in violation of the regulation' because "he was on duty and was not in an official CFSA capacity, so that conduct should not have occurred." She also stated that Employee was charged with 'improper use of his credentials because "it was reported that he used his CFSA badge at the school." Ms. Flood also testified that Employee was charged with was the use of the vehicle to conduct personal business because "he was there to see his niece on business that was not CFSA related." Additionally, Ms. Flood asserted that Employee was charged with 'false statement' because "he signed the log book stating that he was there as a CPS worker." Tr. pgs. 197-198. Ms. Flood testified that in

reaching these charges she relied on “the witness statements, the actual log that we received from the school, and then we had the hotline information that they provided from their call from the school.” Tr. pgs. 199, 208.

Ms. Flood identified Agency’s Exhibit 16, at page 0202 as the rationale worksheets in this matter. She affirmed that she filled out the rationale worksheets for each of the charges levied against Employee, which was reviewed by Ms. McNeil. Ms. Flood explained that she was guided by the DPM and the Table of Illustrative Actions in completing the *Douglas* factors rationale worksheets and determining that termination was the appropriate discipline for the selected charges. Tr. pgs. 199-203.

Ms. Flood testified that she does not select the Hearing Officer. Regarding selection of the deciding official, Ms. Flood stated that “I do reach out to a non-biased party in the Agency to serve as the deciding official.” She stated that the interim Agency director at the time of the current adverse action was Director Tanya Trice (“Ms. Trice”) and she was not involved in the instant removal process. Ms. Flood cited that Chapter 16 of the DPM “speaks to the deciding official being someone in the Agency that is determined to serve in that role. It does not, you know, say it is the Agency director.” She cited that the final decision maker in Employee’s case was an Agency administrator. Tr. pgs. 204-207.

Keyana McNeil (“Ms. McNeil”) Tr. pgs. 211-230

Ms. McNeil is the Human resource (“HR”) Manager for Employee and Labor Relations at CFSA. She has been in this position since December 2022. She is responsible “for managing several functions, such as discipline, performance management, compliance and suitability, telework, FMLA, and ADA.” She confirmed that she was familiar with Employee and the current matter. She explained that “my understanding is that [Employee] went to an elementary school to visit his niece, which was a personal visit. However, ... when he signed in at the school on the visitor log, he signed in as CPS. And the school was under the impression that ... the purpose of his visit was not a personal one, but that he was there acting in the capacity of a CPS worker under the Agency.” Tr. pgs. 211-212.

Ms. McNeil testified that after Employee left the school, the school officials called the CFSA hotline, and the hotline worker elevated the incident to her supervisor and the administrator in that department called her about the situation. She stated that Employee was placed on administrative leave while the matter was investigated. Ms. McNeil identified Agency’s Exhibit 15 as the administrative leave notice issued to Employee. Tr. pgs. 213-215.

Ms. McNeil confirmed that she was the proposing official for the current matter, and she reviewed the NOP and the accompanying documentation. She also confirmed that Jerveada Dixon-Addison (“Ms. Dixon-Addison”) was the deciding official in this matter. Ms. McNeil testified that Ms. Dixon-Addison is a program manager with Agency. She explained that “we select deciding officials that are neutral, people who reasonably would have no connection to the case.” Ms. McNeil asserted that Agency offers official training to managers to become a deciding official. She explains that this teaches “what things to look at and consider. And then after they complete the training, they are put into a pool of deciding officials that we use for our various cases.” Ms. McNeil stated that the deciding official “is responsible for reviewing the proposed action, as well as the supporting documents, the response, if the person decides to write a response, their response, the hearing officer's recommendation, any notes from an oral hearing, if the person chose to have one. They look at all the

facts of the case, all those things I just mentioned. And then they make a decision based upon all the information that they have.” Tr. pgs. 216-218, 223-225.

Ms. McNeil cited that the DPM defines a deciding official. She acknowledged that the deciding official can be Agency director, the personnel authority, or their designee. She noted that Ms. Dixon-Addison was one of the Agency’s director’s designee. Ms. McNeil averred that Ms. Dixon-Addison was a proper deciding official in this matter as she went through the deciding official training, along with a group of other managers and they received approval from Agency director to use the individuals from this group of trained deciding officials. Tr. pgs. 218-219. Ms. McNeil identified Agency’s Exhibit 19 as the final decision in this matter. She noted that she did not draft this document, but she reviewed the document. She affirmed that it was her determination upon reviewing the final decision that the deciding official properly considered the evidence and Employee’s response. Tr. pgs. 220 – 221. Ms. McNeil explained the process of designating deciding officials at Agency. Tr. pgs. 225-228.

### **Employee’s Case in Chief**

#### **Employee Tr. pgs. 233-303**

Employee was a Family Support Worker at the at 200 I Street Agency location on February 20, 2024. Employee testified that “my arrival time is in between 8:30, 8:45 when I clock in. I start official business in the office at my desk once I get all my assignments. And when ... I get all my assignments, I start conducting ... my visits. And my assignments normally consist of contacting with the social workers, where I start doing home assessments, school visits or picking up medical records.” Tr. pgs. 233-235.

Employee confirmed that he reported to Anacostia school to see his niece on February 20, 2024. He noted that the visit was not for official business. He stated that when he arrived at the school, he met school official, Ms. Gray, at the front desk. Employee testified that he introduced himself by his name and told Ms. Gray who he was visiting at the school. He noted that he told Ms. Gray he was the student’s uncle. He noted that he did not tell Ms. Gray that he was there for his job and asked her if she would like to see his ID, to which Ms. Gray said ‘no’. Employee stated that Ms. Gray asked to see his work ID, which was around his neck, which he gave her. He cited that Ms. Gray then asked him to sign-in on the visitors’ logbook that was presented to him. He stated that after he signed in, his niece was called to come meet him and he saw her in the lobby/front entrance. He stated that he spoke to his niece for about five (5) minutes and then he left the school. Employee stated that if it was a professional visit, the meeting would have to be in private. Tr. pgs. 236 -242.

Employee asserted that if he was visiting the school in his official capacity, he would have to “explain to school personnel who you are and your reason of the visit. And once you present yourself as working with Child and Family Services Agency, you are supposed to get, like, a private room to do your investigation.” Employee cited that he did not represent to any staff that he was at the school in his official capacity, and the school staff did not provide a private room as they would, when on an official visit. He restated that he was asked by the school official to sign-in to the log sheet. Employee restated that “I offered my driver’s license, but they wanted to see my ... work ID that was attached to my body.” Employee cited that he was confused when the school official asked him who called him. He highlighted that he informed the school official that he was there to see his niece. Tr. pgs. 243-244, 278, 285. Employee cited that he corrected the school official when they assumed that he was there on

official CFSA business. He restated that he did not give them his ID because they requested his badge. Tr. pgs. 279.

When asked why he used the government vehicle to visit the school on February 20, 2024, Employee testified that “when you go on field work and you're out in the community, the vehicle occasionally, you know, you use for stop and get lunch, or --that's pretty much when you are out in the field. You are going from one school or one home assessment to another. ... that's pretty much... the practice that pretty much Child and Family do.” He confirmed that the supervisors were aware of this practice. Employee affirmed that he had gotten lunch for other employees, including supervisors, while in the field and that this was a common Agency practice. Tr. pgs. 245-246.

When asked if he has ever had any official training regarding the use of government vehicles, Employee said ‘No.’ Employee was asked how he knew the policy for driving government vehicles and he responded that “Common sense and, you know, watching other employees, how they, you know, operate the vehicles.” Employee asserted that no one has ever questioned him about the use of the vehicle while on his lunch break. Tr. pgs. 246-247.

Employee acknowledged that he was authorized to drive a government vehicle as part of his job. He agreed that he must follow the law and Agency’s policies. Employee confirmed that he had access to his District government email address in June 2023, and he affirmed that the ‘ERisk Driver Authorization Request Submission Confirmation’ as found in Agency’s Exhibit 4 was sent to his government email address on June 20, 2023. Employee also agreed that the ‘CFSA Vehicle Accountability Policy’ found in Agency’s Exhibit 5 is often circulated to employees. Employee admitted that he used a fleet vehicle to go to the school on February 20th, 2024. Tr. pgs. 248-250.

Employee reiterated that he was on his lunch break when he stopped by the school. He stated that “I was in the field when I went to DC Prep. However, while I was in the field, I ... was on my lunch break.” Tr. pgs. 275-276. Employee confirmed that as a Family Support Worker, he was expected to know that he could not visit students if he was not on the approved visitor list. He affirmed that he knew that he was not on his niece's approved visitor list. He acknowledged that he was aware that he was permitted to visit students in official capacity. Tr. pgs. 283-284. Employee affirmed that he wrote CPS as the purpose of his visit on the school log. He noted that he did not correct the school officials when they processed him as a professional. Employee later cited that he was offered a private room, but he refused because he wasn’t there on official business. Tr. pgs. 289, 293-294.

#### FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS OF LAW<sup>10</sup>

Pursuant to OEA 631.2, 6-B District of Columbia Municipal Regulations (“DCMR”) Ch. 600, et seq (December 27, 2021), Agency has the burden of proving by a preponderance of the evidence that the proposed disciplinary action was taken for cause. Furthermore, the District Personnel Manual (“DPM”) regulates the manner in which agencies in the District of Columbia administer adverse and corrective actions. DPM § 1602.1 provides that disciplinary action against an employee may only be taken for cause. According to the Notice of Final Decision on Proposed Removal, Agency terminated Employee pursuant to: (1) 6B DCMR (1) § 1605.4(a) and § 1607.2(a)(4); (2) 6B DCMR §1605.4(a)

---

<sup>10</sup> 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”).

and § 1607.2(a)(9); (3) 6B DCMR § 1605.4(a) and § 1607.2(a)(13); and (4) 6B DCMR § 1605.4(b) and § 1607.2(b)(2).<sup>11</sup>

***1) Whether Employee's actions constituted cause for adverse action***

Conduct prejudicial to the District of Columbia government - Conduct that an employee should reasonably know is a violation of law or regulation and Use of (or authorizing the use of) District owned or leased vehicles such as cars, vans, trucks, buses, aircraft, boats or any other motor vehicle for use other than official purposes.

Agency argues that Employee improperly used District government vehicle for unofficial purposes. Agency explains that Employee violated the Vehicle Accountability Policy by using a government vehicle for personal use when he drove to the school to visit his niece. Employee received an email dated June 22, 2023, approving his request to drive District government vehicle “*to conduct District government business.*”<sup>12</sup> (Emphasis added). Employee confirmed that he had access to his District government email address in June 2023, and he affirmed that the June 22, 2023, email subject ‘ERisk Driver Authorization #...’ was sent to his government email address on June 20, 2023. Additionally, Employee cited that the Agency’s Vehicle Accountability Policy is often circulated to employees and that he was required to follow the law and Agency’s policies applicable to driving a District government vehicle. Agency’s Vehicle Accountability Policy provides in Section A – Standards for Granting CFSA Driving Privileges that “*Employee’s who are granted approval to use CFSA vehicles may use them only for official CFSA business.*” (Emphasis added). Employee admitted using a District government vehicle to go visit his niece at Anacostia school and that it was not for official District government business. Tr. pgs. 248-250. Based on Employee’s admission, I find that Employee violated Agency’s Vehicle Accountability Policy.

Employee contends that “I was in the field when I went to DC Prep. However, while I was in the field, I ... was on my lunch break.” Tr. pgs. 275-276. He asserts that it is Agency’s practice for employees out in the field to use District government vehicles while in the field, to get lunch. Ms. Joyner-Kennedy affirmed that she was aware of Agency employees using government vehicles to take lunch breaks. She also confirmed that she was aware that that conduct was against Agency policy. She explained that the practice was that if an employee was out in the field completing a home or school visit, they would sometimes stop and grab a quick bite to eat and continue with their day. Ms. Joyner-Kennedy testified that “... outside of that, I can’t speak to any direct knowledge of workers taking vehicles to go have lunch.” Tr. pgs. 31-32. Even assuming that Agency’s ‘unofficial policy’ allowed employees to use District government vehicles to take lunch breaks while in the field, this is not the case here. In this instance, Employee was not out in the field when he used Agency’s vehicle to go visit his niece at the Anacostia school on February 20, 2024. Pursuant to Agency’s Exhibit 6 – the ‘Trip History’ of the District vehicle Employee used to visit his niece on February 20, 2024, the District vehicle Employee used to visit his niece was parked at Agency prior to Employee’s visit to the school. Specifically, the ‘Trip History’ for the District Vehicle assigned to Employee on February 20, 2024, highlights that the vehicle left Agency’s address at 11:18 a.m., and drove nine (9) minutes 35

---

<sup>11</sup> Employee’s Petition for Appeal, October 23, 2024. See also. Agency Answer to Petition for Appeal, at Tab 17 (November 22, 2024). While Agency did not provide the specific applicable subsections for charges 1, 2, and 3, Agency provided a description to the applicable subsections, as well as their corresponding subsections as found in the Table of Illustrative Actions (“TIA”). Accordingly, I find that this constitutes harmless error, as the description and corresponding TIA sections provides Employee with specific notice of the causes of actions levied against him.

<sup>12</sup> Agency Exhibit 4.

seconds to the Anacostia school address, where Employee's niece was a student.

Ms. Bakoua confirmed that the vehicle assigned to Employee left CFSA headquarters at 11:18 a.m. She asserted that "the trip history indicated that at 11:28, the vehicle was stopped [at 1422 V Street Southeast, Washington, DC] and it was idle at that time." Ms. Bakoua confirmed that 1422 V Street Southeast is the address of DC Prep Anacostia Elementary campus. She confirmed that Employee's vehicle was parked across the street from DC Prep Anacostia Elementary School campus. Ms. Bakoua explained that "the vehicle left 1422 V Street Southeast and traveled to CFSA headquarters. It left at 11:44 and traveled for 14 minutes, two miles, to the CFSA headquarters." She noted that the vehicle arrived at CFSA at around 11:58 a.m. Tr. pgs. 150 – 157, 159-162. Based on the foregoing, I conclude that Employee was not out in the field when he visited his niece on February 20, 2024, and his assertion that Agency's practice allows employees out in the field to use District government vehicles while in the field to get lunch is inapplicable in this instance. Accordingly, I find that Agency has cause to discipline Employee for "Conduct that an employee should reasonably know is a violation of law or regulation and Use of (or authorizing the use of) District owned or leased vehicles such as cars, vans, trucks, buses, aircraft, boats or any other motor vehicle for use other than official purposes."

Conduct prejudicial to the District of Columbia government - Unethical or improper use of official authority or credentials.

Agency cited in the Advance Written Notice of Proposed Removal that Employee used his CPS badge and wrote 'CPS' on the visitor's sign-in book at his niece's school. Agency also noted that "by offering your badge to the receptionist and writing "CPS" on the visitor's log, you gave the impression that you were acting on behalf of agency. Agency stated that Employee was not on the approved list of visitors for his niece, and Employee's use of his official credential to gain access to his family member constitutes "Conduct prejudicial to the District of Columbia government, specifically, Unethical or improper use of official authority or credentials." Ms. Bakoua testified that Agency relied on the copy of the badge from the school, the sign-in log where CPS was written next to his name to charge Employee with this cause of action.

Employee affirmed that he knew that he was not on his niece's approved visitor list and he acknowledged that he was aware that he was permitted to visit students in his official capacity. Tr. pgs. 283-284. Employee also affirmed that he wrote CPS as the purpose of his visit on the school log and that he did not correct the school officials when they processed him as a professional. However, he argues that he did not represent to any staff that he was at the school in his official capacity. Employee stated that he was asked by the school official to sign-in to the log sheet and that "I offered my driver's license, but they wanted to see my ... work ID that was attached to my body." He asserted that he did not give them his ID because they requested his badge. Tr. pgs. 279.

Ms. Gray testified that Employee presented himself as, "CPS" when he visited the school on February 20, 2024. Ms. Gray explained that "[Employee] came in. He greeted, good morning. I am a CPS worker, his specific words, and I'm here to see the student in question." She cited that Employee was asked to sign in and "he signed his name, his title, the date, and the time." When asked if she knew if Employee was the student's uncle when she processed him as a professional, under the professional visitor's policy. Ms. Gray said, "No. That came afterwards." Tr. pgs. 49-50, 65-67, 84-85. Ms. Gray stated that because Employee verbally stated that he was a CPS worker when he entered the



facility, she asked him for his badge. She confirmed that she made a copy of Employee's badge as was standard practice.

Based on Agency's Exhibit 7, it is undisputed that Employee signed the school visitor's log on February 20, 2024, at 11:30 a.m., and he wrote 'CPS' as the 'purpose of the visit.' It is also undisputed that Employee presented his CPS badge to the school staff during this visit, and a copy of his badge was made by the school staff. Ms. Gray testified that without permission from the student's mother, Employee would not have been allowed to see the student if he did not present himself as a CPS worker. Based on the foregoing, I find that Agency has cause to discipline Employee for "unethical or improper use of official authority or credentials."

False Statement/records- Misrepresentation, falsification or concealment of material facts or records in connection with an official matter, including investigations.

Agency also charged Employee with "Misrepresentation, falsification or concealment of material facts or records in connection with an official matter, including investigations." Agency cited that Employee claimed during the March 7, 2024, fact-finding meeting with Agency's HR that he was not aware that there was an open case for his niece, but the record shows that the case was initially assigned to Employee by a CPS social worker at 4:15 p.m., but Employee immediately declined the case because the client was a relative. The undersigned has already determined and made findings that Agency has cause to discipline Employee for: "(1) Conduct that an employee should reasonably know is a violation of law or regulation; (2) Unethical or improper use of official authority or credentials; and (3) Use of (or authorizing the use of) District owned or leased vehicles such as cars, vans, trucks, buses, aircraft, boats or any other motor vehicle for use other than official purposes." Further, these charges all include a penalty of termination for a first offense. Therefore, the undersigned will not provide an analysis for this cause of action - False Statement/records- Misrepresentation, falsification or concealment of material facts or records in connection with an official matter, including investigations.

***Deciding official***

Employee argues that Agency failed to follow procedural guidelines regarding the deciding official. He asserts that the deciding official, Ms. Dixon-Addison, was not a proper deciding official because she was not an Agency head or a designee. Agency disagrees with Employee assertion. Agency cites that Ms. Dixon-Addison was a proper deciding official because she was a designee of CFSA's director. 6B DCMR § 1623.1 provides that "[t]he final agency decision relating to a corrective or adverse action against an employee *shall be made by the deciding official, who shall be the agency head, the personnel authority, or their designee...*" (Emphasis added).

Here, Ms. Dixon-Addison, a program manager at Agency was the deciding official. Ms. Flood cited that the final decision maker in Employee's case was an Agency administrator and not Ms. Tanya Trice ("Ms. Trice") who was the interim Agency director at the time of the current adverse action. Ms. McNeil confirmed Ms. Dixon-Addison was the deciding official in this matter. Ms. McNeil testified that "we select deciding officials that are neutral, people who reasonably would have no connection to the case." She explained that Agency offers official training to managers to become a deciding official and after completing the training, they are put into a pool of deciding officials that they use for various cases. She cited that Ms. Dixon-Addison was one of such managers who had completed the training to become a deciding official. Ms. McNeil cited that Ms. Dixon-Addison was one of the Agency's

director's designee and that she was a proper deciding official in this matter as she went through the deciding official training, along with a group of other managers and they received approval from Agency director to use the individuals from this group of trained deciding officials. Based on the foregoing, I agree with Agency's assertion that Ms. Dixon-Addison was the Agency's director's designee, and as such, was a proper deciding official for the current matter. Accordingly, I find that Agency complied with 6B DCMR § 1623.1 and its selection of Ms. Dixon-Addison to serve as deciding official was proper.

**2) *Whether the penalty of termination is appropriate under District law, regulations or the Table of Illustrative Actions***

Agency argues that the penalty of termination was appropriate under District laws, regulations, and the Table of Illustrative Actions. Agency cites that the penalty imposed on Employee is consistent with the penalties listed in the Table of Illustrative Actions ("TIA") for 6B DCMR §§ 1605.4(a) and 1607.2(a)(4); (2) 6B- DCMR §§1605.4(a) and 1607.2(a)(9); (3) 6B DCMR §§ 1605.4(a) and 1607.2(a)(13); and (4) 6B DCMR §§ 1605.4(b) and 1607.2(b)(2).

In determining the appropriateness of an agency's penalty, OEA has consistently relied on *Stokes v. District of Columbia*, 502 A.2d 1006 (D.C. 1985).<sup>13</sup> According to the Court in *Stokes*, OEA must determine whether the penalty was within the range allowed by law, regulation, and any applicable Table of Penalties; whether the penalty is based on a consideration of the relevant factors; and whether there is a clear error of judgment by agency. In the instant matter, I find that because Agency has met its burden for the 6B DCMR §§ 1605.4(a) and 1607.2(a)(4); (2) 6B- DCMR §§1605.4(a) and 1607.2(a)(9); (3) 6B DCMR §§ 1605.4(a) and 1607.2(a)(13); Agency can rely on these charges to discipline Employee.

With regard to 6B DCMR §§ 1605.4(a) and 1607.2(a)(4) - "Conduct that an employee should reasonably know is a violation of law or regulation," the record shows that this was the first time Employee violated this cause of action. Pursuant to the TIA, DCMR §1607.2(a)(4), the penalty for a first offense ranges from 'Reprimand to Removal'.

With regard to 6B DCMR §§1605.4(a) and 1607.2(a)(9) - "Unethical or improper use of official authority or credentials," the record shows that this was the first time Employee violated this cause of action. Pursuant to the TIA, DCMR §1607.2(a)(9), the penalty for a first offense ranges from 'Counseling to Removal'.

With regard to 6B DCMR §§ 1605.4(a) and 1607.2(a)(13)- "Use of (or authorizing the use of) District owned or leased vehicles such as cars, vans, trucks, buses, aircraft, boats or any other motor

---

<sup>13</sup> See also. *Anthony Payne v. D.C. Metropolitan Police Department*, OEA Matter No. 1601-0054-01, *Opinion and Order on Petition for Review* (May 23, 2008); *Dana Washington v. D.C. Department of Corrections*, OEA Matter No. 1601-0006-06, *Opinion and Order on Petition for Review* (April 3, 2009); *Ernest Taylor v. D.C. Emergency Medical Services*, OEA Matter No. 1601-0101-02, *Opinion and Order on Petition for Review* (July 21, 2007); *Larry Corbett v. D.C. Department of Corrections*, OEA Matter No. 1601-0211-98, *Opinion and Order on Petition for Review* (September 5, 2007); *Monica Fenton v. D.C. Public Schools*, OEA Matter No. 1601-0013-05, *Opinion and Order on Petition for Review* (April 3, 2009); *Robert Atcheson v. D.C. Metropolitan Police Department*, OEA Matter No. 1601-0055-06, *Opinion and Order on Petition for Review* (October 25, 2010); and *Christopher Scurlock v. Alcoholic Beverage Regulation Administration*, OEA Matter No. 1601-0055-09, *Opinion and Order on Petition for Review* (October 3, 2011).

vehicle for use other than official purposes,” the record shows that this was the first time Employee violated this cause of action. Pursuant to the TIA, DCMR §1607.2(a)(13), the penalty for a first offense ranges from ‘15-Day Suspension to Removal’.

As provided in *Love v. Department of Corrections*,<sup>14</sup> selection of a penalty is a management prerogative, not subject to the exercise of discretionary disagreement by this Office.<sup>15</sup> When an Agency's charge is upheld, this Office has held that it will leave the agency's penalty undisturbed when the penalty is within the range allowed by law, regulation or guidelines, is based on consideration of the relevant factors and is clearly not an error of judgment.

#### Penalty Based on Consideration of Relevant Factors

An Agency's decision will not be reversed unless it failed to consider relevant factors, or the imposed penalty constitutes an abuse of discretion.<sup>16</sup> Agency presented evidence that it considered relevant factors as outlined in *Douglas v. Veterans Administration*, 5 M.S.P.R. 313 (1981), in reaching the decision to terminate Employee.<sup>17</sup> The *Douglas* factor analysis included in the record demonstrates

---

<sup>14</sup> OEA Matter No. 1601-0034-08R11 (August 10, 2011).

<sup>15</sup> *Love* also provided that “[OEA's] role in this process is not to insist that the balance be struck precisely where the [OEA] would choose to strike it if the [OEA] were in the agency's shoes in the first instance; such an approach would fail to accord proper deference to the agency's primary discretion in managing its workforce. Rather, the [OEA's] review of an agency-imposed penalty is essentially to assure that the agency did conscientiously consider the relevant factors and did strike a responsible balance within tolerable limits of reasonableness. Only if the [OEA] finds that the agency failed to weigh the relevant factors, or that the agency's judgment clearly exceeded the limits of reasonableness, is it appropriate for the [OEA] then to specify how the agency's decision should be corrected to bring the penalty within the parameters of reasonableness.” Citing *Douglas v. Veterans Administration*, 5 M.S.P.R. 313 (1981).

<sup>16</sup> *Butler v. Department of Motor Vehicles*, OEA Matter No. 1601-0199-09 (February 10, 2011) citing *Employee v. Agency*, OEA Matter No. 1601-0012-82, *Opinion and Order on Petition for Review*, 30 D.C. Reg. 352 (1985).

<sup>17</sup> The *Douglas* factors provide that an agency should consider the following when determining the penalty of adverse action matters:

- 1) the nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated;
- 2) the employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;
- 3) the employee's past disciplinary record;
- 4) the employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
- 5) the effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in employee's ability to perform assigned duties;
- 6) consistency of the penalty with those imposed upon other employees for the same or similar offenses;
- 7) consistency of the penalty with any applicable agency table of penalties;
- 8) the notoriety of the offense or its impact upon the reputation of the agency;
- 9) the clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
- 10) potential for the employee's rehabilitation;
- 11) mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and
- 12) the adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

that Agency considered all factors in imposing the penalty in this matter. As noted above, the evidence does not establish that the penalty of removal constituted an abuse of discretion. Accordingly, I further conclude that Agency's action should be upheld.

ORDER

Based on the foregoing, it is hereby **ORDERED** that Agency's action of terminating Employee is **UPHELD**.

FOR THE OFFICE:

/s/ *Monica N. Dohnji*

MONICA DOHNJI, Esq.

Senior Administrative Judge

---