

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> ,	)	
Employee	)	OEA Matter No. J-0018-26
	)	
v.	)	Date of Issuance: February 24, 2026
	)	
OFFICE OF THE STATE SUPERINTENDENT	)	
OF EDUCATION,	)	Michelle R. Harris, Esq.
Agency	)	Senior Administrative Judge
	)	
Employee, <i>Pro Se</i>	)	
Danielle Ragofsky, Esq., Agency Representative	)	

**INITIAL DECISION**

**INTRODUCTION AND PROCEDURAL HISTORY**

On December 11, 2025, Employee filed a Petition for Appeal with the D.C. Office of Employee Appeals (“Office” or “OEA”) contesting the Office of the State Superintendent of Education’s (“Agency” or “OSSE”) decision to suspend him from service for five (5) days. On December 12, 2025, OEA sent a letter requesting Agency submit its Answer to Employee’s Petition for Appeal. Agency filed its Answer on January 13, 2026.<sup>2</sup> Agency cited therein that OEA lacked jurisdiction over this matter since Employee’s suspension was less than 10 (ten) days. This matter was assigned to the undersigned Senior Administrative Judge on January 13, 2026. On January 15, 2026, I issued an Order requiring the parties to address the jurisdiction issue raised by Agency in its Answer. Employee’s brief was due by or before February 2, 2026, and Agency’s response was due by or before February 17, 2026.

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

<sup>2</sup> On December 16, 2025, Agency filed a redacted version of the Petition for Appeal. Agency asserted therein that Employee had included students’ Personal Identifying Information (“PII”) and that it had redacted it from the previously submitted documents. Employee did not make any arguments against Agency’s actions in this regard. Upon review, the undersigned determined that Employee’s Petition had indeed included students’ PII and that Agency’s submission did not change the substantive matter of the Petition but only redacted the necessary information to ensure the students’ information was appropriately protected. Accordingly, it is hereby **ORDERED** that the attachments to Employee’s Petition for Appeal which included the students’ PII shall be stricken from the record.

On February 2, 2026, Employee emailed the undersigned citing that he had learned from Agency's representative that he had a brief due by February 2, 2026. He noted that he had not received the January 15, 2026 Order regarding the submission of his brief. I responded via email and provided a courtesy copy of the January 15, 2026 Order that same day. Employee responded via email and confirmed his receipt of the courtesy copy. Further, Employee asserted that in review, he did "not have a rebuttal argument for jurisdiction and now see[s] that OEA would not have jurisdiction over the matter based on the circumstances." Employee also inquired as to how to withdraw his appeal. The undersigned advised that he should submit a written statement indicating his wish to withdraw his Petition for Appeal. On February 9, 2026, Agency filed its Brief regarding jurisdiction. Agency reiterated that this Office lacks jurisdiction over Employee's five-day (5) suspension and also referenced Employee's email regarding his lack of a rebuttal argument. As of the date of this initial decision, Employee has not submitted any additional filings. I have decided that an Evidentiary Hearing is not required. The record is now closed.

### ISSUE

Whether Employee's Petition for Appeal should be dismissed for lack of jurisdiction.

### 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.<sup>3</sup>

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. (Emphasis added).

### JURISDICTION

For the reasons that will be outlined below, the jurisdiction of this Office has not been established in this matter.

### FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS OF LAW

Employee works at Agency as a Management Analyst and EEO Counselor. On December 11, 2025, Employee filed a Petition for Appeal contesting Agency's action for suspending him from service for five (5) days.<sup>4</sup>

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<sup>3</sup> OEA Rule § 699.1.

This Office's jurisdiction is conferred upon it by law, and was initially established by the District of Columbia Comprehensive Merit Personnel Act of 1978 ("CMPA"), D.C. Official Code §1-601-01, *et seq.* (2001). It was amended by the Omnibus Personnel Reform Amendment Act of 1998 ("OPRAA"), D.C. Law 12-124, which took effect on October 21, 1998. Both the CMPA and OPRAA confer jurisdiction on this Office to hear appeals, with some exceptions. According to 6-B of the District of Columbia Municipal Regulation ("DCMR") § 604.1<sup>5</sup>, this Office has jurisdiction in matters involving District government employees appealing a final agency decision affecting:

- (a) A performance rating resulting in removal;
- (b) An adverse action for cause that results in removal, reduction in grade, or *suspension for 10 days or more*; or
- (c) A reduction-in-force; or
- (d) A placement on enforced leave for ten (10) days or more. (Emphasis Added)

OEA Rule § 631.2., 6-B DCMR Ch. 600 (December 27, 2021), states that "[t]he employee shall have the burden of proof as to issues of jurisdiction..." Pursuant to 631.1, the burden of proof is by a preponderance of the evidence which is defined as "[t]hat degree of relevant evidence which a reasonable mind, considering the record as a whole, would accept as sufficient to find a contested fact more probably true than untrue." This Office has no authority to review issues beyond its jurisdiction. Therefore, issues regarding jurisdiction may be raised at any time during the course of the proceeding.

In the instant matter, Agency asserts that OEA lacks jurisdiction over this matter because the suspension levied against Employee did not result in a suspension of ten (10) days or more since Employee was only suspended for five (5) days.<sup>6</sup> Employee does not dispute this Office's jurisdiction in this matter nor deny that he was suspended for five (5) days. In an email dated February 2, 2026, Employee noted therein that he did "not have a rebuttal argument for jurisdiction and now see[s] that OEA would not have jurisdiction over the matter based on the circumstances."<sup>7</sup>

The jurisdiction of this Office is promulgated by the D.C. Code §1-606.03(a), which explicitly sets the limits of the jurisdiction of this Office to adverse actions that result in a suspension of ten (10) days or more. This Office has consistently held that it lacks jurisdiction over suspensions that result in less than ten (10) days.<sup>8</sup> In *Jordan v. D.C. Metropolitan Police Department*<sup>9</sup>, the OEA Board concluded that suspensions which fall short of the ten (10) day requirement found in the D.C. Official Code and OEA Rules are not appealable to this Office for adjudication. In the instant matter, Employee was suspended for only five (5) days. Consequently, I find that Employee has not been subject to a suspension that resulted in ten (10) days or more. Accordingly, I further find that OEA lacks the jurisdictional authority to adjudicate this appeal.

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<sup>4</sup> The suspension was sustained in an email dated December 11, 2025. See. Employee's Petition for Appeal.

<sup>5</sup> See also. Chapter 6, §604.1 of the District Personnel Manual ("DPM").

<sup>6</sup> Agency's Answer (January 13, 2026). See also. Agency's Brief Regarding Jurisdiction (February 9, 2026).

<sup>7</sup> Employee's Email to the Undersigned (February 2, 2026).

<sup>8</sup> *Keith Slaughter v. D.C. Metropolitan Police Department*, OEA Matter No. 1601-0001-14 (September 11, 2015). See also. *Calligaro v. Metropolitan Police Department*, OEA Matter No. 1601-0019-14 (May 8, 2015); *Brian Jordan v. D.C. Metropolitan Police Department*, OEA Matter No. 1601-0003-06 *Opinion and Order on Petition for Review* (July 23, 2008).

<sup>9</sup> *Brian Jordan v. D.C. Metropolitan Police Department*, OEA Matter No. 1601-0003-06 *Opinion and Order on Petition for Review* (July 23, 2008).

ORDER

It is hereby **ORDERED** that Employee's Petition for Appeal is **DISMISSED** for lack of jurisdiction.

FOR THE OFFICE:

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