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 Chief Operating Officer 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:	
EMPLOLYEE [1]	
v.	OEA Matter No.: 2401-0014-22R26
D.C. DEPARTMENT OF FORENSIC SCIENCES, Agency	Date of Issuance: November 5, 2026

OPINION AND ORDER
ON
PETITION FOR REVIEW

Employee worked as a Forensic Scientist with the District of Columbia Department of Forensic Sciences ("Agency"). On September 15, 2021, Agency provided Employee with written notice that her position was being abolished pursuant to a Reduction-in-Force ("RIF"). The effective date of her separation from service was October 22, 2021.[2]

Employee filed a Petition for Appeal with the Office of Employee Appeals ("OEA") on November 29, 2021. She argued that Agency violated D.C. Code § 1-624.02(a)(3); Chapter 24 of the District Personnel Manual ("DPM"); and E-DPM Instruction Nos. 8-69, 9-36, and 36-11. Employee also contended that Agency failed to provide her with priority consideration for any

[1] Employee's name was removed from this decision for the purposes of publication on the Office of Employee Appeals' website.
[2] *Agency's Motion to Dismiss Employee's Petition for Appeal* (December 28, 2021).

positions to which she applied after receiving the RIF notice. As a result, she requested that the RIF be reversed.[3] In response, Agency filed a Motion to Dismiss Employee's appeal pursuant to D.C. Code § 1-606.3 because her petition was filed more than thirty days after the effective date of the RIF. [4]

The OEA Administrative Judge ("AJ") held a prehearing conference on February 23, 2022. The parties were subsequently ordered to submit briefs addressing whether Agency followed all applicable regulations when conducting the RIF.[5] After reviewing the parties' submissions, the AJ determined that the contested facts warranted an evidentiary hearing. Therefore, a hearing was held on March 21, 2023. The parties were then ordered to submit closing arguments on or before June 2, 2023.[6]

The AJ issued an Initial Decision on August 24, 2023, upholding Employee's separation from service under the RIF.[7] Employee appealed the decision to the Superior Court of the District of Columbia. On December 16, 2025, the Court issued an order remanding the matter to OEA.[8] Specifically, the AJ was directed to identify 1) whether Employee was placed on the Agency Reemployment Priority Program ("ARPP") list by the RIF notice date of September 22, 2021; 2) whether Employee was given priority consideration for vacancies within the entirety of the Department of Forensic Sciences during the period between the RIF notice date and the date Employee was placed on the ARPP list; and 3) to determine if there were any vacancies for which Employee was qualified, but not given priority consideration.[9]

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[3] *Petition for Appeal* (November 29, 2021).
[4] Agency's motion was denied on January 26, 2022. *See Order Regarding Agency's Motion to Dismiss and Convening a Prehearing Conference* (January 26, 2022).
[5] *Post-Prehearing Conference Order* (February 23, 2022).
[6] *Order Granting Employee's Consent Motion to Extend Deadline for Closing Arguments* (May 2, 2023).
[7] *Initial Decision* (August 24, 2023).
[8] *[Employee] v. D.C. Department of Forensic Sciences*, Case No. 2024-CAB-000336 (Super Ct. December 16, 2025)
[9] *Id*. at pp 15-16.

The AJ issued an Initial Decision on Remand on August 31, 2026. She ruled that it was undisputed that Agency failed to place Employee on the ARPP list by September 22, 2021. Because Agency conceded that it did not place Employee on the ARPP list by that date, the AJ found that Employee was not given priority consideration for any vacancies that existed during the RIF notice period. However, she explained that Employee was nonetheless not entitled to priority reemployment because there were open vacancies during the RIF notice period, but Employee was not qualified for any of the positions.[10] Additionally, the AJ concluded that the delay in placing Employee on the ARPP list did not significantly affect Agency's decision to separate her based on a harmless error analysis. Consequently, the AJ upheld Agency's RIF action.[11]

Employee filed a Notice of Supplemental Authority with OEA on August 31, 2026. The notice highlighted the Superior Court for the District of Columbia's rulings in *Beckham v. D.C. Department of Forensic Sciences*, Case No. 2024-CAB-000397 (D.C. Super. Ct. August 26, 2026) and *Bobek v. D.C. Department of Forensic Sciences*, Case No. 2024-CAB-000335 (D.C. Super. Ct. August 26, 2026). According to Employee, the above-mentioned cases were reversed and remanded to this Office to address the same issues presented on remand in the instant matter. Therefore, she requested that OEA be alerted to the rulings in both cases.[12]

Employee subsequently filed a Motion for Limited Reconsideration with the AJ on September 1, 2026. She requests that the AJ reopen this matter for reconsideration in light of the Superior Court's holdings in *Beckham* and *Bobek*. Employee reiterates that the Court reversed and

[10] The AJ noted that there were five vacancies at Agency and each of the positions were Human Resource Specialist positions.
[11] *Initial Decision on Remand*, OEA Matter No. 2401-0014-22R26 (August 31, 2026).
[12] *Notice of Supplemental Authority* (August 31, 2026).

remanded OEA's rulings in matters that are identical to the issues presented on remand in this case. As such, she asks that the motion be granted.[13]

Agency filed a response to Employee's motion on September 11, 2026. It contends that the AJ is not permitted to consider Employee's motion because her jurisdiction over this matter terminated upon the issuance of the Initial Decision on Remand.[14] Alternatively, Agency suggests that if OEA were to treat Employee's motion as a Petition for Review, it should be denied for failure to state a cognizable basis for appeal under OEA Rule 637.4. Additionally, it reasons that the Court's rulings in *Beckham* and *Bobek* address issues that were not within the scope of remand in this matter and that those cases rely on information not litigated in this case. Therefore, Agency asks that Employee's motion be denied.[15]

Discussion

Employee requests that OEA reopen the record in light of the Superior Court's holdings in *Beckham* and *Bobek supra.*[16] As a preliminary matter, the Initial Decision on Remand in this case was issued on August 31, 2026, and Employee's Motion for Limited Reconsideration was filed with the Administrative Judge on September 1, 2026. OEA Rule 633.1 provides that an AJ may reopen the record to receive further evidence or argument at any time prior to the issuance of the Initial Decision in accordance with Section 633. Further, OEA Rule 633.2 states that the jurisdiction of an AJ "terminates upon issuance of the Initial Decision; provided, that the Administrative Judge shall retain jurisdiction over the appeal to the limited extent necessary to correct the record or transcript." Accordingly, the AJ lacks the authority to consider Employee's

[13] *Motion for Limited Reconsideration* (September 1, 2026).
[14] *See* OEA Rule 637.2.
[15] *Agency's Response to Employee's Motion for Reconsideration* (September 11, 2026).
[16] The current matter was one of ten appeals from Agency's RIF within the Firearms Examination Unit ("FEU").

motion because her jurisdiction over the matter terminated upon the issuance of the August 31, 2026, Initial Decision on Remand, subject only to the limited authority identified in OEA Rule 633. As a result, the Motion for Limited Reconsideration will be treated as a Petition for Review of the Initial Decision on Remand.[17] For the reasons discussed herein, Employee's motion must be denied.

OEA Rule 637.4 provides that the Petition for Review shall set forth objections to the Initial Decision supported by reference to the record. The rule identifies four grounds for granting a petition:

> The Board may grant a Petition for Review when the petition establishes that:
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> a. New and material evidence is available that, despite due diligence, was not available when the record closed;
>
> b. The decision of the Administrative Judge is based on an erroneous interpretation of statute, regulation, or policy;
>
> c. The findings of the Administrative Judge are not based on substantial evidence; or
>
> d. The Initial Decision did not address all material issues of law and fact properly raised in the appeal.

Employee's motion cannot be granted by this Board because the requested relief is not authorized by OEA's rules. The motion fails to cite a basis for granting a Petition for Review under OEA Rule 637.4. Further, Employee's filing does not contest the substantive grounds of the Initial Decision on Remand, nor does it identify any error relative to the AJ's findings of fact or conclusions of law.

[17] We note that Employee was authorized to seek review of the Initial Decision on Remand with D.C. Superior Court. *See* OEA Rule 637.11, which provides that "an employee or agency may appeal a final decision to the District of Columbia Superior Court in accordance with the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-601.01 et seq. (2016 Repl. & 2019 Supp.))."

Accordingly, this Board must deny Employee's motion for failure to establish a basis on which the petition can be granted.

Notwithstanding, the Superior Court's rulings in *Bobek* and *Beckham* do not alter the outcome of the Initial Decision on Remand in this case. On December 16, 2025, the Court remanded this matter to determine the following:

> "Whether Petitioner was placed on the ARPP list for priority reemployment by the RIF notice date of September 22, 2021; and 2. Whether Petitioner was given priority consideration for vacancies within the entirety of DFS during the period between the RIF notice date and the date Petitioner was placed on the ARPP list; and 3. If there were any vacancies for which Petitioner was qualified, but not given priority consideration, OEA shall determine the appropriate remedy."[18]

In contrast, while both *Bobek* and *Beckham* arose from the same underlying RIF conducted by the Department of Forensic Sciences, the matters involved separate petitions and broader remands. Specifically, the Court remanded both cases as to "(1) lateral competition under D.C. Code § 1-624.02(a)(2); (2) priority reemployment under D.C. Code § 1-624.02(a)(3); and (3) job sharing and reduced hours under D.C. Code § 1 624.02(a)(4), with instructions that OEA apply the Agency's burden of proof by a preponderance of the evidence, enter explicit findings reconciling the conflicting record evidence identified in this Order, and articulate the legal standard applied to each issue." The Court further held that OEA's Initial Decisions were affirmed as to the jurisdictional ruling on the employees' ancillary grievance claims.[19]

As it relates to job sharing under D.C. Code § 1 624.02(a)(4), the AJ in this matter previously concluded in her August 24, 2023, Initial Decision that "job sharing, or reduced hours,

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[18] *[Employee] v. D.C. Department of Forensic Sciences*, Case No. 2024-CAB-000336 at p. 16. This ruling was similar to the Court's remand instructions for both *Elizabeth Marso v. D.C. Department of Forensic Sciences*, Case No. 2024-CAB-000343 (D.C. Super. Ct. January 10, 2025) and *Cody Elder v. D.C. Department of Forensic Sciences*, Case No. 2024-CAB-000337 (D.C. Super. Ct. October 20, 2025).
[19] *Bobek and Beckham* at pp. 15.

were at the very least considered in this action."[20] Further, she found that even if job sharing and reduced hours were not considered, Employee would still have been separated under the RIF because her entire competitive level was eliminated. On appeal, Superior Court held that OEA made a finding of fact on this material issue and that its determinations were based on substantial evidence.[21] As for D.C. Code § 1-624.02(a)(2), the Court concluded that Employee "received a round of lateral competition Agency-wide" and that "any failure by OEA to make a factual finding regarding whether the [Agency] was appropriately designated as the lesser competitive area is harmless."[22] Finally, any outstanding issues regarding priority reemployment under D.C. Code § 1-624.02(a)(3) were directly addressed in the Initial Decision on Remand.

Based on the foregoing, this Board finds that Employee has provided no legal support for granting the Limited Motion for Reconsideration. The Court's holdings in *Bobek* and *Beckham* do not authorize OEA to revisit issues in this matter that Superior Court has already resolved. A remand is not an opportunity for OEA to reopen the entire RIF dispute based on subsequent decisions involving other employees. This Office is, however, required to acutely carry out the mandate entered in this employee's case.[23] The AJ's rulings on remand did precisely that by addressing the questions of priority reemployment. Accordingly, *Bobek* and *Beckham* provide no persuasive grounds for granting reconsideration or enlarging the instant remand beyond the issues the Court expressly returned to OEA for additional adjudication. Therefore, Employee's motion must be denied.

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[20] *Initial Decision* at pp. 16-17.
[21] *[Employee] v. D.C. Department of Forensic Sciences*, Case No. 2024-CAB-000336 at p. 11.
[22] *Id*. at p. 10.
[23] *See Rogers v. D.C. Public Schools*, OEA Matter No. 2401-0255-10R14, *Opinion and Order on Petition for Review* (July 21, 2015)(holding that the agency's newly presented argument exceeded the scope of the Superior Court's remand order because it was not raised until after the matter was remanded).

ORDER

Accordingly, it is hereby **ORDERED** that Employee's Motion for Limited Reconsideration is **DENIED**.

FOR THE BOARD:

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Pia Winston, Chair

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LaShon Adams

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Jeanne Moorehead

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Lafayette Barnes

Either party may appeal this decision on Petition for Review to the Superior Court of the District of Columbia. To file a Petition for Review with the Superior Court, the petitioning party should consult Superior Court Civil Procedure Rules, XV. Agency Review, Rule 1.