

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 ¹)	OEA Matter No. J-0013-25
Employee)	
)	Date of Issuance: May 19, 2025
v.)	
)	LOIS HOCHHAUSER, Esq.
DISTRICT OF COLUMBIA DEPARTMENT)	Administrative Judge
OF BUILDINGS)	
Agency)	
<hr/>		
Employee, <i>Pro Se</i>		
Alicia Shames, Esq., Agency Representative		

INITIAL DECISION

PROCEDURAL HISTORY AND BACKGROUND

Employee filed a Petition for Appeal (“PFA”) with the Office of Employee Appeals (“OEA”) on December 3, 2024. On December 4, 2024, Sheila Barfield, Esq., OEA Executive Director notified Agency Director Brian Hanlon of the appeal, and informed him that OEA Rule 612.1 required Agency to file its response by January 3, 2025. Agency filed its “Answer and Motion to Dismiss for Lack of Jurisdiction” (“Answer and Motion”) on January 3, 2025. The matter was assigned to this Administrative Judge (“AJ”) on or about January 7, 2025.

Upon review of the PFA, the AJ determined that Employee had not responded to the portion of the PFA regarding jurisdiction, including information about the Agency action that he was appealing. In addition, he did not submit the final notice issued by Agency. Therefore, on January 10, 2025, the AJ issued an Order notifying Employee that he failed to provide information necessary to determine this Office’s jurisdiction. The Order also informed Employee that employees carry the burden of proof on all issues of jurisdiction, and must meet that burden by a preponderance of evidence. Employee was directed to submit “information, argument and/or documentation regarding the final Agency action that he was appealing, the effective date of that action, the final Agency notice, and the reasons he contends that this Office has jurisdiction of the grievance(s)” submitted with the PFA by January 28, 2025. Employee filed a timely response. The record is now closed.

¹ This Office does not identify employees in the Initial Decisions published on its website .

JURISDICTION

The jurisdiction of this Office was at issue in this matter.

ISSUE

Did Employee meet the burden of establishing the jurisdiction of this Office to hear this appeal?

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS OF LAW

The threshold issue in this matter is one of jurisdiction. This Office has no authority to hear matters beyond its jurisdiction. *See, e.g., Banks v. District of Columbia Public Schools*, OEA Matter 1602-0030-90, *Opinion and Order* (September 30, 1992). The jurisdiction of this Office was initially established by the District of Columbia Comprehensive Merit Personnel Act of 1978 and then amended by the Omnibus Personnel Reform Amendment Act of 1998, D.C. Law 12-124.

D.C. Official Code §1-606.01 *et seq.* (2016 Repl. and 2019 Supp.) identifies those matters over which this Office has jurisdiction. OEA Rule 604.1 states that this Office has jurisdiction to hear an appeal of a final agency decision regarding:

- (a) A performance rating which results in removal
- (b) An adverse action for cause which results in removal
- (c) A reduction in grade
- (d) A suspension for ten (10) days or more
- (e) A reduction in force;
- (f) A placement [of] enforced leave for ten (10) days or more.

Employee did not identify any of these categories in his PFA or his subsequent submission. Instead, in his January 28, 2025 submission, he contended the October 17, 2025 grievance that he filed with the D.C. Department of Human Resources (“DCHR”) was not untimely and that this Office should therefore grant him an evidentiary hearing.² Employee submitted several documents, including an AFSMCE Official Grievance Form signed by Employee and dated June 3, 2021; a letter from Agency dated October 25, 2024 entitled “Grievance-Initial Review-Denied; and a DCHR Grievance Form signed by Employee dated October 17, 2024. None of the documents support his position regarding this Office’s jurisdiction since they relate to a grievance, which is not a category over which this Office has jurisdiction. This was the position argued by Agency in its Answer and Motion. The AJ finds that Employee neither alleged nor established that his PFA relates to a final agency decision issued to him that includes a category identified in OEA Rule 604.1, cited above.

² Employee’s January 28, 2025 submission states:

In response to [the AJ’s Order], I reiterate that my October 17, 2025 grievance that I submitted to [DCHR] was not untimely...I request that...OEA grant me an evidentiary hearing, as requested in my...[PFA]. Because DCHR was the agency that wrote the November 1, 2025 final agency decision...I request DCHR receive an Order, requesting the same information and response from them, that was requested from the [DOB] because the violations of Chapter 18 of the District Personnel Manual...that I referenced in my grievance fall under the authority of DCHR, not the DOB.

In addition, Employee did not submit a final Agency decision with his PFA or his subsequent filing as required, pursuant to OEA Rule 609.1(b)(7). That Rule states that a “copy of the agency’s notice of final decision” must be submitted with the PFA. This is required, pursuant to OEA Rules 604.1, since this Office’s jurisdiction is established only when an employee appeals a final agency decision regarding one of the six stated categories.³

Pursuant to OEA Rule 631.2, Employee has the burden of proof on the issue of jurisdiction. He must meet that burden by a preponderance of evidence, which is defined as “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.” *See*, OEA Rule, 631.1 and OEA Rules, p. 31. For the reasons discussed above, the AJ concludes that Employee failed to meet his burden of proof on the issue of jurisdiction; and that this appeal, therefore, must be dismissed.

ORDER

The petition for appeal is dismissed.⁴

FOR THE OFFICE:



Lois Hochhauser, Esq.
Administrative Judge

³ The AJ recognizes that perhaps Employee did not submit a final Agency decision because there was no action that required the issuance of such a document.

⁴ Since the appeal is dismissed, Agency’s motion to dismiss is denied as moot.