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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:	)	
	)	
EMPLOYEE ¹ ,	)	OEA Matter No. 2401-0052-25
	)	
v.	)	Date of Issuance: August 6, 2026
	)	
DISTRICT OF COLUMBIA	)	
PUBLIC SCHOOLS,	)	
Agency	)	MONICA DOHNJI, ESQ.
	)	Senior Administrative Judge
Employee, <i>Pro Se</i>		
Gehrie Bellamy, Esq., Agency’s Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On June 30, 2025, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) contesting the District of Columbia Public Schools’ (“Agency” or “DCPS”) decision to separate him from his position as a Restorative Justice Coordinator (“RJC”) at Cleveland Elementary School (“Cleveland”) pursuant to a Reduction-in-force (“RIF”). Employee was RIF’d effective June 27, 2025. On June 30, 2025, OEA issued a Request for Agency Answer to Petition for Appeal. On July 23, 2025, Agency filed its Answer to Employee’s Petition for Appeal. I was assigned this matter on July 28, 2025.

On August 11, 2025, I issued an Order requiring the parties to submit written briefs on the issue of whether Agency conducted the instant RIF in accordance with applicable District laws, statutes, and regulations. After reviewing the record, on January 8, 2026, I issued an Order requiring Agency to submit the ‘Retention Register’ Agency established for Employee’s competitive level in the instant RIF. Agency filed a Request for Clarification on January 14, 2026. On January 21, 2026, the undersigned issued an Order in response to Agency’s Request for Clarification. Agency submitted its ‘Retention Register’ on January 22, 2026. Employee filed a response to Agency’s ‘Retention Register’ on February 2, 2026. Agency filed its Sur Reply Brief on February 25, 2026. On March 4, 2026, Employee filed Appellant’s Supplemental Motion to Compel and Challenge to RIF Scoring Determination.² Agency filed a Motion to Strike and Request to Close Record on March 5,

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

² I hereby find that Employee’s Motion is now **MOOT**.

2026.³ The undersigned issued an Order on March 9, 2026, scheduling a Prehearing Conference in this matter for April 21, 2026, with Prehearing Statements due April 13, 2026. While Agency timely submitted its Prehearing Statement as requested, Employee did not submit a Prehearing Statement. Both parties were present at the April 21, 2026, Prehearing Conference. During the scheduled conference, Agency requested additional time to submit the ‘Retention Register’, and Employee also requested additional time to file his Prehearing Statement. This request was granted verbally during the Prehearing Conference. Both parties have submitted the required documentation. After considering the arguments herein and the record, I have determined that an Evidentiary Hearing is unwarranted. The record is now closed.

JURISDICTION

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

ISSUE

Whether Agency’s action of separating Employee from service pursuant to a RIF was done in accordance with all applicable laws, rules, or regulations.

FINDINGS OF FACTS, ANALYSIS, AND CONCLUSIONS OF LAW

The authority for conducting a RIF is primarily set forth in two statutes, D.C. Official Code §§ 1-624.02 and 1-624.08. Because the primary reason for the instant RIF was reorganization of functions and/or budgetary shift⁴, I have determined that D.C. Code § 1-624.02 is the more applicable statute in the instant RIF. A RIF pursuant to D.C. Official Code § 1-624.02 (a) shall include:

- (1) A prescribed order of separation based on tenure of appointment, length of service including creditable federal and military service, District residency, veteran’s preference, and relative work performance;
- (2) One round of lateral competition limited to positions within the employee’s competitive level;
- (3) Priority reemployment consideration for employees separated;
- (4) Consideration of job sharing and reduced hours; and
- (5) Employee appeal rights. D.C. Official Code § 1-624.02.

The following findings of fact, analysis, and conclusions of law are based on the documentary evidence presented by the parties during the course of Employee’s appeal process with OEA. D.C. Official Code § 1-606.03 (2001) gives this Office the authority to review, *inter alia*, appeals from separations pursuant to a RIF.

Agency’s Position⁵

³ I hereby find that Agency’s Motion is now **MOOT**.

⁴ Agency’s Answer to Petition for Appeal at Exhibit 1 (July 23, 2025).

⁵ *Id.* See also. Agency’s Brief (September 2, 2025).

Agency states that pursuant to FY'2026 Reorganization, it had authority to conduct the instant RIF and in separating Employee, it complied with the procedures required. Agency avers that “[p]rior to the start of the 2025-26 school year, the Chancellor of the District of Columbia Public Schools (“DCPS”) authorized a RIF of school-based staff to “eliminate positions for the 2026 fiscal year that are not required due to programmatic (i.e., a reorganization of function) and budgetary shifts.”” Agency states that the instant RIF was conducted pursuant to D.C. Code § 1-624.02, § 1-624.03, and 5E DCMR Chapter 15.

Agency asserts that Employee was a Restorative Justice Coordinator at Cleveland Elementary School (“Cleveland”) during the 2025-2026 school year. Agency cites that Cleveland was determined to be a competitive are and Employee’s position, Restorative Justice Coordinator, was identified as a position that would be subject to the RIF. Agency asserts that at the time of the RIF, Employee was one (1) of two (2) employees in the Restorative Justice Coordinator position assigned to Cleveland, as such, this position underwent lateral competition and a rubric was generated. Agency cites that pursuant to the rubric, Employee was not retained. Agency avers the Employee was notified on May 12, 2025, that he would be separated from service with DCPS effective June 27, 2025.

Agency also asserts that the May 12, 2026, RIF separation notice informed Employee that they would be given priority for selection into any vacancies available at any school throughout DCPS. Agency cites that prior to Employee’s position being reduced, it considered job sharing and reduction of hours as an alternative. However, a determination was made that these were not options due to school’s operation. Agency maintains that it followed all appropriate law rules and regulations in the administration of the instant RIF.

Additionally, Agency contends that District employees can be RIF’d while on protected leave. Further, Agency avers that pursuant to D.C. Code §1-624.04, OEA’s jurisdiction of RIFs is narrowly prescribed and limited to a review of to determine whether Agency had incorrectly applied the provisions of this subchapter or the rules and regulations issued pursuant to this subchapter. Thus, Agency asserts that OEA’s review is based on the procedures. Agency maintains that the instant RIF was administered appropriately and should be upheld.

Employee’s Position⁶

Employee contends that the RIF was improper and retaliatory. Employee asserts that there were two (2) Restorative Justice Coordinator positions at Cleveland and his position was eliminated while the other employee was retained. Employee states that Agency did not fully consider his job performance, tenure or his overall contributions to the school community. Employee asserts that he was RIF’d while on approved FMLA leave and as such, he states that Agency’s decision was made “with poor judgement and possibly bad intent, without following the proper procedures or fully considering DCPS policies and standards.”

Employee cites that he was assigned a score of 65 and the other Restorative Justice Coordinator who was retained was assigned a score of 91. Employee notes that “the rationale,

⁶ Petition for Appeal (June 30, 2025). *See also*. Employee’s September 17, 2025, Statement; Employee’s February 2, 2026, Statement; Appellant’s Supplemental Motion to Compel and Challenge to RIF Scoring Determination (March 4, 2026); and Employee’s RIF Appeal Statement (May 4, 2026).

metrics, rubric, and weighting used derive these scores have not been disclosed, thereby denying the Appellant the opportunity to meaningfully challenge the determination.” He states that he received a ‘Highly Effective’ IMPACT rating from Cycle 1 of the school year.

Employee also avers that while the RIF notice was issued on May 2, 2025, because he was on FMLA leave, he did not receive the RIF notice until May 12, 2025. He asserts that he was not informed prior to his leave that he was under consideration for a RIF. Employee avers that the delay in receiving the RIF notice undermines the requirement for timely and fair notice and raises due process concerns.

Employee also avers that the record shows a lack of transparency in the retention standing between the two (2) Restorative Justice Coordinators at Cleveland. Specifically, Employee explains that the narrative supporting the retained employee’s performance and the narrative Agency used to support its decision to RIF Employee are very similar. He avers that there are sections where the narrative of both Restorative Justice Coordinators is nearly identical, yet the ratings vary significantly. Employee argues that this raises concerns regarding the scoring which appears to be the most critical basis supporting the RIF decision. Employee further notes that the DCPS Behavior Task Force was abolished in 2023, yet the retained employee’s evaluation included a reference to serving on this task force which was dismantled more than a year before his tenure started at Cleveland.

ANALYSIS⁷

Round of Lateral Competition

To determine if Agency conducted the instant RIF properly, the undersigned must evaluate whether Agency, pursuant to D.C. Official Code § 1-624.02(a)(1) and (2), met the requirements for lateral competition. The District Personnel Manual (“DPM”) provides that each personnel authority has the responsibility to establish the competitive levels, and that these levels shall be based upon employee’s position of record.⁸ Additionally, the DPM requires that the competitive levels be “sufficiently alike” in the qualification requirements, such that an incumbent of one position could successfully perform the duties and responsibilities of any of the other positions.⁹ Generally, an employee’s position of record is shown through the issuance of an SF-50 Notification of Personnel Action.¹⁰ Pursuant to 5 DCMR §1501.1, the “Superintendent is authorized to establish competitive areas based upon all or clearly identifiable segment of the mission, a division or a major subdivision of the Board of Education, including discrete organizational levels such as an individual school or office.”¹¹

In the instant matter, the April 30, 2025, Memorandum that authorized the instant RIF provided that the competitive areas, which were established on a school-by-school basis, would

⁷ 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”).

⁸ 6-B DCMR §§ 2410.1, 2410.2, 2410.3.

⁹ 6-B DCMR § 2410.4.

¹⁰ See *Armata Ross v. D.C. Office of Contracting & Procurement*, OEA Matter No. 2401-0133-09-R11 (April 8, 2013).

¹¹ See 5-E DCMR §1501.1

include Cleveland.¹² Additionally, the Restorative Justice Coordinator position was identified as a competitive level that would be eliminated by the RIF. This Memorandum also provided a list of factors to be considered if the decision to RIF was to be made between employees in the same competitive area and competitive level. These factors included: (1) Relevant Significant contributions, accomplishments or performance; (2) Office or school needs; (3) Relevant supplemental professional experience as demonstrated on the job; and (4) Length of Service.

According to the Retention Register provided by Agency, there were two (2) Restorative Justice Coordinators subject to the RIF. Of the two (2) Restorative Justice Coordinator positions, one (1) position was identified to be abolished. Because Employee was not the only Restorative Justice Coordinator within his competitive level, he was required to compete with other employees in one round of lateral competition. According to the April 30, 2025, Memorandum, and Title 5, DCMR § 1503.2 *et al.*:

If a decision must be made between employees in the same competitive area and competitive level, the following factors, in support of the purposes, programs, and needs of the organizational unit comprising the competitive area, with respect to each employee, shall be considered in determining which position shall be abolished:

- (a) Significant relevant contributions, accomplishments, or performance;
- (b) Office or school needs;
- (c) Relevant supplemental professional experiences as demonstrated on the job;
- (d) Length of service.

Additionally, Agency gave the following weights to each of the aforementioned factors when implementing the RIF:

- (a) Significant relevant contributions, accomplishments, or performance – Determined by the employee's IMPACT Performance (50%).
- (b) Office or school needs – selected by the principal based on additional contribution an employee has made to the school – (20%).
- (c) Relevant supplemental professional experiences as demonstrated on the job – Selected by principal based on unique skills/qualifications an employee brings to the role beyond minimum job requirements (20%).
- (d) Length of service – Determined by the employee's DCPS start date with bonuses awarded for DC residents (10%).

¹² Agency's Answer, *supra*, at Exhibit 1. The Memorandum was signed by the Chancellor on May 2, 2025.

Competitive Level Documentation Form

Agency employs the use of a Competitive Level Documentation Form (“CLDF”) in cases where employees subject to a RIF must compete against each other in lateral competition.

1. Significant relevant contributions, accomplishments, or performance

This category is weighted at 50% on the CLDF. Pursuant to the RIF authorization Memorandum, this category was determined by the employee’s IMPACT Performance. Here, Employee received a Highly effective IMPACT rating with a score of 50, which is the maximum number of points awarded in this category. The other Restorative Justice Coordinator, who was retained by Agency also received a score of 50.¹³

2. Office or school needs

This category is weighted at 20% on the CLDF and is determined by the principal based on additional contribution an employee has made to the school. Here, Employee received a rating of ‘medium’ and a score of 10. The other Restorative Justice Coordinator retained by Agency received a score of 20 for this category.

3. Relevant supplemental professional experiences as demonstrated on the job

This category accounts for 20% of the CLDF and selected by principal based on unique skills/qualifications an employee brings to the role beyond minimum job requirement. Here, Employee received a rating of ‘low’ with a score of 0. The other Restorative Justice Coordinator retained by Agency received a score of 20 for this category.

4. Length of service

This category accounts for 10%. It was completed by Human Resource. Here, Employee received a score of five (5) in this category. The other Restorative Justice Coordinator retained by Agency received a score of one (1) for this category. Employee does not contest the calculation of the points awarded. Therefore, I find that Agency properly calculated this number.

Employee received a total of sixty-five (65), while the Restorative Justice Coordinator retained by Agency received a total score of ninety-one (91). Therefore, I find that Employee ranked the lowest in his respective competitive level. In reviewing the documents of record, Employee argues that there are sections where the narrative of both Restorative Justice Coordinators is nearly identical, yet their ratings vary significantly. Employee avers that this raises concerns regarding the scoring which appears to be the most critical basis supporting the RIF decision. While I find that some of Agency’s scoring appears to contradict the description as provided by the principal in some

¹³ See. Agency’s Reduction Rubric (April 22, 2026).

sections; I also find that it is within the principal of Cleveland's managerial expertise and discretion to assign numeric values to these factors.¹⁴

Moreover, in *Washington Teachers' Union Local No. 6, Am. Fed'n of Teachers, AFL-CIO v. Bd. of Educ. of the Dist. of Columbia*, 109 F.3d 774 (D.C. Cir. 1997), the D.C. Court of Appeals, in evaluating several union arguments concerning a RIF, stated that "school principals have total discretion to rank their teachers" and noted that performance evaluations are "subjective and individualized in nature."¹⁵ According to the Retention Register, Employee received a total score of sixty-five (65) after all of the factors outlined above were tallied and scored. The next lowest colleague who was retained received a total score of ninety-one (91) points. Employee has not proffered any evidence to suggest that a re-evaluation of his CLDF scores would result in a different outcome in this case.¹⁶

Accordingly, I find that the principal of Cleveland had discretion in completing Employee's CLDF, because they were in the best position to observe and evaluate the criteria enumerated in DCMR §1503.2, *supra*, when implementing the instant RIF. Therefore, the undersigned finds that Agency did not abuse its discretion in completing the CLDF, and Employee was properly afforded one round of lateral competition as required by D.C. Official Code § 1-624.02.

Priority Reemployment

D.C. Official Code § 1-624.02(a)(3) provides that employees separated pursuant to a RIF under this section are to be afforded consideration for priority reemployment. In the RIF notice dated May 12, 2025, Agency indicated that Employee's position had been eliminated, but that there may be positions at other schools for which Employee may be qualified.¹⁷ Agency included information regarding upcoming staffing fairs and information regarding assistance to help Employee find employment. Further, the notice indicated that Employee could apply for any vacancies at Agency or within District Government that may arise in the future.¹⁸ Additionally, the notice indicated that Employee could apply for job vacancies at DCPS or within the District as they arise, and that he would receive "some priority consideration", but was not guaranteed reemployment.¹⁹ Accordingly, I find that Agency complied with the RIF requirement to consider Employee for priority reemployment.

Consideration of Job Sharing

¹⁴ For instance, Employee received a rating of 'low' and a score of '0' for 'relevant supplemental professional experiences as demonstrated on the job', yet the principal noted in support of this score that Employee "has a lot of experience as a behavior professional in DCPS. He has previously served on a task force with central office to support student behavior and well-being. In [school year] 23-24 he served as a member of the Whole Child Model Design Team." *Id.*

¹⁵ See also *American Fed'n of Gov't Employees, AFL-CIO v. Office of Pers. Mgmt.*, 821 F.2d 761, 765 (D.C. Cir. 1987) (noting that the federal government has long employed the use of subjective performance evaluations to help make RIF decisions).

¹⁶ See *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986) (stating that a material fact is one which might affect the outcome of the case under governing law).

¹⁷ Agency Answer, *supra*, at Exhibit 3.

¹⁸ *Id.*

¹⁹ *Id.*

Pursuant to D.C. Official Code § 1-624.02(a)(4) and DPM Section 2404, OEA has held that when a RIF is conducted, an Agency should consider job sharing and reduced hours for employees separated pursuant to the RIF.²⁰ The DPM addresses Agency's responsibility for considering job sharing and reduced working hours. Specifically, DPM section 2404.1 provides:

An employee may be assigned to job sharing or reduced working hours, provided the following conditions are met:

- (a) The employee is not serving under an appointment with specific time limitation; and
- (b) The employee has voluntarily requested such an assignment in response to agency's request for volunteers for the purpose of considering the provisions of subsection 2403.2(a) of this chapter in order to preclude conducting, or to minimize the adverse impact of, a reduction in force.

Furthermore, DPM section 2403.2 provides that, "[a]n Agency may, within its budget authorization, take appropriate action, prior to planning a reduction in force, to minimize the adverse impact on employees or the agency."²¹ OEA has held that job sharing considerations should be made during the administration of a RIF.²² In the instant matter, Agency asserts that it considered job sharing and reduced hours, and included notice of that in the May 12, 2025, notice to Employee. Agency maintains that prior to Employee's position being reduced, it considered job sharing and reduction of hours as an alternative. However, a determination was made that these were not options due to school's operation. Accordingly, I find that Agency considered job sharing and reduced hours as required.

Notice/Employee Appeal Rights

D.C. Official Code § 1-624.02(a)(5) states that Agency must provide employees separated pursuant to a RIF their appeal rights. Each employee separated pursuant to a RIF shall be entitled to written notice at least thirty (30) days before the employee's separation from service.²³ Here, Employee contends that while the RIF notice was issued on May 2, 2025, because he was on FMLA leave, he did not receive the RIF notice until May 12, 2025. The RIF notice is dated May 12, 2025, and Employee asserts that he received the Notice on May 12, 2025. The effective date of the RIF was June 27, 2025.²⁴ Therefore, the undersigned finds that this timeline from May 12, 2025, to June 27, 2025, provided Employee with more than the thirty (30) days' notice required by the statute.

Retaliation/Post RIF Activity-Job Postings

Employee submits that the RIF was retaliatory in nature. To establish a retaliation claim, the party alleging retaliation must demonstrate the following: (1) s/he engaged in a protected activity by opposing or complaining about employment practices that are unlawful under the District of

²⁰ *Ramon Griffin v. District of Columbia Public Schools*, OEA Matter No. 2401-0085-19 (January 22, 2020).

²¹ *Id.*

²² *Id.*

²³ *See* DPM § 2422.

²⁴ Agency's Answer, *supra*, at Exhibit 3.

Columbia Human Rights Act (“DCHRA”); (2) her/his employer took an adverse personnel action against her/him; and (3) there existed a causal connection between the protected activity and the adverse personnel action.²⁵ A prima facie showing of retaliation under DCHRA gives rise to a presumption that the employer's conduct was unlawful, which the employer may rebut by articulating a legitimate reason for the employment action at issue.²⁶ Here, Employee does not state any protected activity that he was engaged in or that Agency took an adverse personnel action against him. I find that the instant RIF was effectuated across DCPS and the competitive area where Employee was employed. There is no evidence in the record to suggest that Employee was singled out; rather his position was deemed as one of those within his competitive area that would be eliminated through the RIF. Consequently, I find that Employee’s claims are unsubstantiated.

Family Medical Act Leave (“FMLA”)

Employee asserts that he was RIF’d while on approved FMLA leave and as such, Agency’s decision was made “with poor judgement and possibly bad intent, without following the proper procedures or fully considering DCPS policies and standards.” Agency acknowledges that Employee was on FMLA but argues that District employees can be RIF’d while on protected leave. In *Phillipa Mezile v. Department of Disability Services*,²⁷ the OEA Administrative Judge (“AJ”) noted that FMLA does not delay a RIF. While citing to *Price v. Washington Hosp. Ctr.*, 321 F. Supp. 2d 38, 45 (D.D.C. 2004), the AJ in *Mezile, supra*, stated as follows:

Plaintiff argued that Defendant violated her statutorily protected rights under FMLA and DCFMLA (District of Columbia Family Medical Leave Act) when it terminated her employment pursuant to a RIF while she was on approved medical leave. In addressing this allegation, the court cited 29 C.F.R. § 825.216(a)(1)²⁸ and held that “ . . . Plaintiff cannot demonstrate that the elimination of her position pursuant to a RIF while she was on medical leave violated either medical leave statute” because “ . . . [she] ha[d] no greater right to reinstatement or to other benefits and conditions of employment than if [she] had been continuously employed during the FMLA leave period ... ”²⁹ Therefore, since Defendant eliminated her position pursuant to a RIF, the court ruled that Defendant’s responsibility to continue her FMLA ceased at the time she was laid off.

²⁵ *Vogel v. District of Columbia Office of Planning*, 944 A.2d 456 (D.C. 2008).

²⁶ *Id.*

²⁷ *Phillipa Mezile v. Department of Disability Services*, OEA Matter No. 2401-0158-09R12 (October 10, 2012).

²⁸ C.F.R. § 825.216(a)(1) provides that:

An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. An employer must be able to show that an employee would not otherwise have been employed at the time reinstatement is requested in order to deny restoration to employment. For example:

(1) If an employee is laid off during the course of taking FMLA leave and employment is terminated, the employer's responsibility to continue FMLA leave, maintain group health plan benefits and restore the employee cease at the time the employee is laid off, provided the employer has no continuing obligations under a collective bargaining agreement or otherwise... (Emphasis added).

²⁹ *Id.* at 47.

The court in *Ilhardt v. Sara Lee Corp.*, 118 F.3d 1151 (7th Cir. 1997) had the same ruling. In this case, plaintiff claimed that defendant violated her FMLA rights after refusing to return her to work after maternity leave. However, the court cited the Department of Labor Regulation, *supra*, and held that "... [defendant] had no obligation to reinstate [her] because an employer's responsibility to continue FMLA leave and restore an employee "cease at the time the employee is laid off."³⁰

Based on the reasoning above, I disagree with Employee's assertion that Agency could not abolish his position while he was on FMLA. For the reasons outlined above, I find that Agency's RIF action was conducted in accordance with all applicable laws, rules and regulations. Accordingly, I find that Agency's action of separating Employee from service pursuant to the instant RIF should be upheld.

ORDER

It is hereby **ORDERED** that Agency's action of separating Employee pursuant to a RIF is **UPHELD**.

FOR THE OFFICE:

/s/ *Monica N. Dohnji*
MONICA DOHNJI, Esq.
Senior Administrative Judge

³⁰ *Id.* at 1157.