THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:	)	
	)	
LASHELLE JONES,	)	
Employee	)	OEA Matter No. 1601-0103-13
	)	
v.	)	Date of Issuance: August 7, 2015
	)	
OFFICE OF THE STATE	)	
SUPERINTENDENT OF EDUCATION,	)	
Agency	)	MONICA DOHNJI, Esq.
	)	Administrative Judge

Nicole Jones, Employee Representative[1]
Hillary Hoffman-Peak, Esq., Agency Representative

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

On June 18, 2013, LaShelle Jones ("Employee") filed a Petition for Appeal with the D.C. Office of Employee Appeals ("OEA" or "Office") contesting the Office of the State Superintendent of Education's ("OSSE" or "Agency") decision to terminate her from her position as a Bus Attendant effective May 13, 2013. Following an administrative review, Employee was charged with violating the following: any on-duty or employment-related act or omission that interferes with the efficiency and integrity of government operation; Specifically unauthorized absence of ten (10) consecutive days or more constituting abandonment. On July 22, 2013, Agency submitted its Answer to Employee's Petition for Appeal.

This matter was assigned to the undersigned Administrative Judge ("AJ") on February 25, 2014. A Status Conference was held in this matter on May 20, 2014, wherein, the matter was referred to Mediation. A Mediation Conference was held in this matter on February 17, 2015. Following a failed attempt to mediate this matter, the undersigned AJ issued an Order Convening a Status Conference for March 31, 2015. Both parties were present for the scheduled Status Conference. On April 13, 2015, I issued a Post-Status Conference Order requiring the parties to submit written briefs addressing the issues raised at the Status Conference. On May 27, 2015, Employee filed a Motion for Sanctions against Agency for failure to timely submit its brief, and

[1] Contrary to Employee's assertion that she is Pro Se, she is represented by her sister. She submitted a signed Designation of Employee Representative on March 31, 2015.

to provide answers to Employee's discovery request. In an Order dated June 8, 2015, Employee's Motion for Sanctions was denied. Both parties have submitted their respective briefs. After considering the parties' arguments as presented in their submissions to this Office, I have decided that there are no factual issues in dispute, and as such, an Evidentiary Hearing is not required. The record is now closed.

JURISDICTION

OEA 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; and

2) If so, whether the penalty of removal is within the range allowed by law, rules, or regulations.

BURDEN OF PROOF

OEA Rule 628.1, 59 DCR 2129 (March 16, 2012) states:

> The burden of proof with regard to material issues of fact shall be by a preponderance of the evidence. "Preponderance of the evidence" shall mean:
>
> > That 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.

OEA Rule 628.2 *id.* states:

For appeals filed on or after October 21, 1998, the Agency shall have the burden of proof, except for issues of jurisdiction.

FINDINGS OF FACTS, ANALYSIS AND CONCLUSIONS OF LAW

According to the record, Employee was hired as a Bus Attendant with Agency in 2009. On November 12, 2010, Employee suffered an on-the-job injury and began receiving workers' compensation in December of 2010. Employee was released from workers' compensation program and she returned to work on May 23, 2012. She was placed on modified duty due to her physical limitations and restrictions. The modified duty required Employee to report to the Parent Call Center. On June 15, 2012, Employee reported to work for four (4) hours, and was out for the remainder of the day. On June 20, 2012, Employee provided Agency with a 'Verification of Treatment' letter stating that Employee was involved in a car accident on June 15, 2012 and she was receiving medical treatment, and would be able to return to work on June 27, 2012.[2]

[2] Agency's Brief (May 14, 2015) at Exhibit 1.

Subsequently, in July of 2012, Employee applied for leave under the District of Columbia Family and Medical Leave Act ("DCFMLA") for the period of July 25, 2012 to October 9, 2012. Employee's request was denied by Agency's Human Resources noting that she did not have the requisite amount of time to fulfill her DCFMLA request. However, she was placed on Leave Without Pay ("LWOP"). Agency contacted Employee on November 13, 2013 in order to obtain her return to work date. Employee responded to Agency's inquiry stating that she was unable to return to work because she did not have childcare for her newborn. On December 27, 2012, Agency emailed Employee requesting information on her whereabouts. Employee replied to Agency's email notifying Agency that she did not have childcare for her baby and requested LWOP. Employee also inquired about Agency's leave donation program.[3] On January 23, 2013, Agency verified that Employee was on LWOP status. On February 14, 2013, Agency sent Employee a letter requesting that Employee reach out to Agency as soon as possible in regards to her employment status.[4] This letter also informed Employee that Agency may initiate termination procedures if she failed to contact Agency within ten (10) business days. Employee responded to the February 14, 2013, letter via email, notifying Agency that she was on LWOP since she had been diagnosed with Sciatica and she did not qualify for DCFMLA.

On March 1, 2013, Agency mailed a fifteen (15) day Advance Written Notice of Proposed Removal to Employee.[5] Thereafter, Employee responded to Agency's March 1, 2013, letter.[6] On May 14, 2013, Agency issued its Notice of Final Agency Decision ("FAD") with an effective removal date of May 13, 2013.[7] Employee was terminated for any on-duty or employment related act or omission that interferes with the efficiency and integrity of government operations: Specifically – unauthorized absence of ten (10) consecutive days or more.

Employee's Position

Employee does not deny that she was absent from work for the period of June 16, 2012 through May 13, 2013. However, Employee notes that her absence was excusable since she was on LWOP and was diagnosed with Sciatica. Employee also asserts that Agency brought fraudulent charges against her to create cause for termination. Employee maintains that Agency provided no evidence to support its claim, and these fraudulent charges violate the American with Disability Act of 1990. According to Employee, she worked a half day on June 15, 2012, and was given LWOP for the other half of June 15, 2012, and all of June 18, 2012. Employee also notes that she had authorized leave and she provided a doctor's order which put her on medical leave from June 20, 2012, to June 27, 2012.

Employee further asserts that she submitted an application for Family and Medical Leave Act ("FMLA") for the period of July 25, 2012, to October 9, 2012. In response, she received an email from Agency stating that her FMLA application was denied because she did not qualify. Employee states that, in December of 2012, she sent an email to Agency requesting more leave

[3] *Id*. at Exhibits 2 and 3.
[4] Agency's Answer (July 22, 2013) at Attachment D.
[5] *Id.* at Attachment E.
[6] *Id*. at Attachment F.
[7] Id. at Attachment A.

options other than LWOP, but she was never notified that she was absent without leave ("AWOL") or that she had unauthorized absences. She notes that she contacted Ms. Langley, at the Human Resources Office every month from June 15, 2012 through February 25, 2013, and she was never told her LWOP was converted to AWOL or unauthorized absences.

Citing to District Personnel Manual ("DPM") 1608.2, Employee argues that she did not receive an advance written notice of the proposed adverse action that she had been AWOL or that she had unauthorized absences of ten (10) of more days at any time from June 15, 2012 to March 5, 2013. She notes that Agency should have given her advance notice when they began to charge her with an adverse action such as AWOL. Additionally, Employee asserts that Agency charged her retroactively with an offense from June 2012, in March 2013. Employee also states that she was entitled to administrative leave from March 8, 2013 to May 13, 2013, and back pay from May 14, 2013 to present, as well as punitive damages. Employee highlights that the February 26, 2013 email stated that she was on LWOP.

Employee also states that the AJ required her to prove by a preponderance of the evidence that she had authorized leave from June 1, 2012 to February 14, 2013. Further, Employee explains that Agency cannot allege the exact ten (10) days Agency is referencing. Additionally, Employee states that the Post Status Conference Order issued by the AJ was vague, and the AJ relied on Agency's certificate of service to determine when Agency mailed out its brief to Employee.[8]

In her Motion for Sanction, Employee alleges that she had not received Agency's brief or the response to its request for documents. She states that Agency has imposed a bias and prejudice against Employee by submitting a copy of Agency's brief to her.[9]

Agency's Position

Agency asserts that Employee has been out of work since October 9, 2012, and she has not provided Agency with approximate dates of her return. Agency explains that Employee was absent from work for more than ten (10) consecutive days without authorization, and in violation of DPM §1603.3(f)(1). Agency argues that Employee's action constitutes abandonment. Agency notes that Employee was released to full duty by her treating physician in the workers' compensation program. On May 24, 2012, Employee was placed on modified duty by workers' compensation, and as such, she was placed in the Parent call center for her tour of duty. On July 25, 2012, Employee met with Agency's Human Resources to request FMLA. She submitted the FMLA request covering the period of July 25, 2012 to October 9, 2012 due to a pregnancy. Because Employee did not qualify for FMLA under DCFMLA, she was granted LWOP from July 25, 2012, to October 9, 2012. In December 2012, Employee called Agency stating that she was unable to return to work because she had no child care. She was informed by Agency that she had to request additional leave, as well as apply to Agency's leave donation program.

Agency argues that Employee had a duty to report to work and satisfy the requirements of her position. Agency explains that it is under no legal obligation to keep a position open for an

[8] Petition for Appeal (June 18, 2013); See also Employee's Brief (June 26, 2015).
[9] Motion for Sanctions for Failure to Produce Documents (May 27, 2015).

employee indefinitely. Agency notes that Employee contacted Agency periodically, but never provided Agency with an expected date of return, and therefore, abandoned her position as a Bus Attendant. Employee did not fulfill her duties as a Bus Attendant and this omission interfered with the efficiency and integrity of government operation. Employee's absence was not authorized and exceeded ten (10) consecutive days which constitutes abandonment under 6 District of Columbia Municipal Regulations ("DCMR") § 1603.3(f)(1).

Additionally, Agency asserts that since October 9, 2012, Employee has not returned to work nor has she provided Agency with an approximate date of her return. Employee's Verification of Treatment letter stated that she received treatment on June 20, 2012, and would return to work on June 27, 2012. Agency notes that cause existed to terminate Employee under the Table of Appropriate Penalties ("TAP"). The penalty for violating 6 DCMR § 1603.3(f)(1) is removal for the first offense. Employee abandoned her position as a Bus Attendant because she failed to report to work for ten (10) or more consecutive days. Abandonment began October 9, 2012, not June 15, 2012, as noted in the March 1, 2013, notice. Despite the administrative error, Employee failed to return to work before the March 1, 2013, notice. Moreover, Agency attempted to reach Employee in November, December 2012; and February 2013, but she never confirmed her return date.

Agency also explains that failure to secure child care is not adequate reason to not report to work. Citing to DCMR § 1601.1, Agency notes that Employee's right to DCFMLA is only guaranteed for a twenty-four (24) month period. Agency explains that Employee was approved for DCFMLA on October 27, 2010, which expired in October 2012. According to Agency, she did not notify Agency at least thirty (30) days prior to the date she intended on taking the DCFMLS. After October 27, 2012, Employee had to recertify for DCFMLA. She did not recertify, and cannot simply use DCFMLA leave she was given on October 27, 2010. [10]

In its June 10, 2015, brief in response to Employee's Motion for Sanctions, Agency highlights that although it does appear that Employee purchased the pre-shipment on April 15, 2015, one day after the discovery requests were due based on the March 31, 2015, Status Conference, USPS tracking information shows that it was not mailed until May 18, 2015, and the envelope is dated May 18, 2015, as well. Agency's brief was filed on May 15, 2015, and notice was left on May 30, 2012 because an authorized recipient was not available. It was not Agency's fault that documents were not produced. It was Employee's responsibility to timely request the documents.[11]

1) Whether Employee's actions constituted cause for discipline

Pursuant to OEA Rule 628.2, 59 DCR 2129 (March 16, 2012), Agency has the burden of proving by a preponderance of the evidence that the proposed disciplinary action was taken for cause. Further, DPM § 1603.2 provides that disciplinary action against an employee may only be taken for cause. Under DPM §1603.3(f)(1), the definition of "cause" includes [a]ny on-duty or employment-related act or omission that interferes with the efficiency and integrity of government operations, to include, unauthorized absences. Here, Employee's removal from her

[10] Agency's Answer, *supra*. See also Agency's Brief (May 14, 2015).
[11] Agency's Brief in response to Motion for Sanctions (June 10, 2015).

position at Agency was based upon a determination by Agency that Employee was not fit to serve in her current position because she was absent from work for ten (10) or more consecutive days.

Any on-duty or employment-related act or omission that interferes with the efficiency and integrity of government operations: Unauthorized Absences

In the instant case, the undersigned must determine if the evidence that Employee was absent from work for ten (10) or more consecutive day is adequate to support Agency's decision to terminate Employee. In such cases, "[t]his Office has consistently held that when an employee offers a legitimate excuse, such as illness, for being absent without leave, the absence is justified and therefore excusable."[12] Additionally, if the employee's absence is excusable, it "cannot serve as a basis for adverse action."[13] Contrary to the parties' assertions, I find that Employee was covered by DCFMLA from October 27, 2010, to October 26, 2012. This means, she had up to sixteen (16) weeks of approved absence, within this twenty-four (24) month period. In December of 2012, Employee notified Agency that she was unable to return to work because she did not have child care for her son. Both parties acknowledged that while Employee did not qualify for DCFMLA, she was placed on LWOP from July 25, 2012. There is nothing in the record highlighting the specific dates that Employee was supposed to remain on LWOP. Up, until January 23, 2013, Agency still carried Employee under LWOP status.[14] Accordingly, I find that Agency cannot now decide to terminate Employee for being AWOL, when it approved and was aware that Employee was in LWOP status during the relevant period.

Employee also argues that Agency has failed to state the specific ten (10) days that she was absent from work. DPM § 1608.2 highlights in pertinent parts as follows;

1608.2: The advance written notice shall inform the employee of the following:

(a) The action that is proposed and the cause for the action;

(b) The specific reasons for the proposed action.

In the current matter, the March 1, 2013, advance written notice informs Employee that she was being terminated for [a]ny on-duty or employment related act or omission that interferes with the efficiency and integrity of government operations: Specifically Unauthorized absence of ten (10) consecutive days or more constitutes abandonment. I find that this satisfies the requirements of DPM § 1608.2(a).

The March 31, 2013, notice further states that "[s]ince June 15, 2012, you have not reported for duty or contacted your terminal in regards to your whereabouts. The OSSE Human

[12] *Murchinson v. Department of Public Works*, OEA Matter No. 1601-0257-95R03 (October 4, 2005); *citing Employee v. Agency*, OEA Matter No. 1601-0137-82, 32 D.C. Reg. 240 (1985); *Tolbert v. Department of Public Works*, OEA Matter No. 1601-0317-94 (July 13, 1995).
[13] Murchison, *supra*, *citing Richard v. Department of Corrections*, OEA Matter No. 1601-0249-95 (April 14, 1997); *Spruiel v. Department of Human Services*, OEA Matter No. 1601-0196-97 (February 1, 2001).
[14] Employee's Brief, *supra*, at Exhibit FF (1/1).

Resources office mailed you a letter dated February 14, 2013 requesting that you contact them as soon as possible in regards to the status of your employment. Since then, no further contact has been made with your terminal or Human Resources and you are considered to have abandoned your position." Employees can only be expected to defend against the charges and specifications actually levied against them. Based on the foregoing; I find that there is insufficient evidence in the record to uphold Agency's current charge as listed in the advance written notice. Agency does not expect Employee to properly defend the charge and specification as listed in the March 1, 2013, notice. Agency's description of the specification as listed in the advance written notice is inaccurate and does not satisfy the requirements of DPM § 1608.2(b). Agency notes that the reason Employee was terminated is because she did not report to work since June 15, 2012. However, Agency later acknowledges that Employee was approved for DCFMLA from October 27, 2010, to October 26, 2012. June 16, 2012, is within this time period; therefore, Agency cannot legally terminate Employee while she was on approved DCFMLA. Additionally, on January 23, 2013, Employee received a letter from a Mary Cole,[15] verifying that Employee was employed by Agency, and that she was on LWOP status.[16] Clearly, Agency continued to carry Employee on LWOP status after her 2010 DCFMLA expired on October 26, 2012. The January 23, 2013, letter does not list an end date to Employee's LWOP status.

Additionally, there are several communications (email and telephone) from Employee to Agency (Lori Gross, Management Liaison Specialist, Human Resources; and Kim Davis) from November 2012, to February 26, 2013. Contrary to Agency's assertion, Employee in fact responded to the February 14, 2013, notice in an email dated February 26, 2013. Accordingly, I find that based on the date specified in the advance written notice, Agency could not legally terminate Employee during this period because she was covered by DCFMLA.

Moreover, pursuant to DPM § 1619.1(6)(a), unauthorized absence consists of *ten (10) consecutive days or more* (emphasis added). Which means that, the minimum amount of days Agency needs to commence adverse action under this section is ten (10) days, and Agency can use any ten (10) or more consecutive days that Employee is absent from work without approve leave, as justification for this adverse action. The March 1, 2012, letter states that Employee was absent since June 15, 2012. Agency could use any ten (10) days from June 16, 2012, to bring this cause of action against Employee. However, Employee was covered under DCFMLA or on LWOP during the relevant period, and as such, Agency could not legally terminate her without violating District rules, laws and regulations.

Based on the record, I find that Agency does not have sufficient evidence to support this cause of action. Employee was covered by DCFMLA and LWOP on the date listed in the advanced written notice; therefore, I find that, this cause of action should be overturned.

Advance Written Notice

Employee asserts that Agency violated DPM § 1608.2(a)-(b), because she did not receive an advance written notice of the proposed adverse action. She explains that she was not informed that she had been absent without leave or that she had unauthorized absences of ten (10) or more

[15] Human Resources Specialist, Office of the Director of Human Resources.
[16] Employee's Brief, *supra*, at Exhibit FF (1/1).

days at any time from June of 2012, to March of 2013. Employee maintains that Agency should have given her advance notice when it began charging her with an adverse action such as AWOL. Employee's argument is flawed. DPM § 1605.1 states that *an adverse action shall be a suspension of ten (10) days or more, a reduction in grade, or a removal* (emphasis added). A change in an employee's leave status such as being placed on AWOL, unauthorized leave or LWOP is not considered an adverse action as it does not fall within the definition of adverse action as provided in DPM § 1605.1. When Agency decided to terminate Employee, it issued a fifteen (15) days advance written notice to Employee on March 1, 2013 and Employee was terminated effective May 13, 2012. This notice complied with the provisions of DMP § 1608. Consequently, I conclude that Agency did not violated DPM § 1608.

Burden of Proof

Furthermore, Employee asserts that the AJ required her to prove by a preponderance of the evidence that she had authorized leave from June 1, 2013, to February 14, 2013. This assertion is not true. The undersigned AJ clearly informed the parties that the burden of proof was on Agency. In her April 13, 2015, Post Status Conference Order, the undersigned AJ requested that both parties submit briefs and supporting documents in support of their positions. Specifically, the parties were ask to address whether Employee was absent from work for the period of June 15, 2012, to February 14, 2013.[17] Additionally, Employee notes that the AJ's Post Status Conference Order was vague. However, I find that she failed to specifically identify what part of the Order she considered vague. Therefore, I conclude that Employee's assertion is without merit.

Certificate of Service

Employee highlights that the undersigned AJ relied on Agency's certificate of service to determine when Agency mailed out its brief to Employee. OEA Rule 607.7 provides that, the parties shall serve on each other one (1) copy of each document filed with the Office other than the petition for appeal. A party may affect such service by mailing or by personally delivering to each other party a copy of the document submitted to the Office. *Each document must be accompanied by a certificate of service specifying how, when, and on whom service was made* (emphasis added). Agency's certificate of service meets the requirements of OEA 607.7, and Employee has not provided any evidence to the contrary.

July 25, 2012 FMLA AND DCFMLA

Employee argues that she applied for FMLA on July 25, 2012, before the birth of her son, but was denied. Agency on the other hand notes that Employee was not eligible for FMLA because she did not have the required hours to qualify. Thus, she was placed on LWOP. To be eligible for FMLA, an employee has to work at least twelve (12) months with a covered employer, have at least 1250 hours of service during the twelve (12) months before leave begins, and employed at a work site with fifty (50) employees within 75 miles.[18] In this matter, Employee has been employed with Agency since 2009, which is more than twelve (12) months.

[17] Post Status Conference Order (April 13, 2015).
[18] 29 Code of Federal Regulations ("C.F.R.") § 825.110.

Additionally, Agency is a qualified employer under FMLA. Employee was on workers' compensation from 2010 through February of 2012, when she was released to full duty by her treating physician in the Workers' compensation program. She was placed on modified duty on May 24, 2012. Employee stopped working on June 15, 2012, and applied for FMLA. An estimated calculation of the number of hours Employee could have worked, assuming she worked a full time, forty (40) hours per week shift from February 2012, when she was released by her workers' compensation physician, to June 2012, would be about 800 hours. This is below the required 1250 hours needed to qualify for FMLA.

With regards to DCFMLA, the eligibility requirements are similar to the FMLA requirements. To be eligible for DCFMLA, the employee has to have worked for the District of Columbia for one year without a break in service, and has been paid for at least 1000 hours during the previous twelve (12) months prior to the request for DCFMLA.[19] Here, Employee was out on workers' compensation from 2010, to 2012. Employee was cleared to return to work in February 2012, and she stopped working on June 15, 2012. As noted above, this constitutes about approximately 800 work hours, below the DCFMLA required 1000 hours in a twelve (12) months period preceding the request.

An employee has to be eligible for FMLA and/or DCFMLA before any other FMLA/DCFMLA determinations are made. Because Employee was not eligible to receive FMLA and DCFMLA in July of 2012, I conclude that Agency was justified in denying Employee's July 25, 2012, FMLA request.

October 2010 DCFMLA

In 2010, Agency approved Employee's DCFMLA request. According to 4 DCMR 1604.1, [i]In any twenty-four (24)-month employment period, an eligible employee of a covered employer may take job-protected, unpaid leave, or paid leave if the employee has earned or accrued the paid leave, for sixteen (16) workweeks for medical leave purposes and sixteen (16) workweeks for family leave purposes. Additionally, 4 DCMR 1620.2; [f]or leave which qualifies under both DCFMLA and federal FMLA, the leave shall count against an employee's entitlement for both laws and shall be counted or applied concurrently under both laws.

Thus, Employee's DCFMLA leave that was approved in October 27, 2010, ran concurrently with any FMLA leave she may have been entitled to. DCFMLA provides for sixteen (16) weeks of leave in every twenty-four (24) months period. FMLA provides for twelve (12) weeks in any twelve months period. Both the DCFMLA and the FMLA run concurrently. Because Employee was approved for DCFMLA on October 27, 2010, she was entitled to a maximum of sixteen (16) workweek of leave under DCFMLA for a twenty-four (24) months period ending October 26, 2012. Employee highlights that she never used the approved 2010 DCFMLA leave. Employee had until October 26, 2012 to use the approved leave, after which time, she had to reapply for either FMLA or DCFMLA. Therefore, I conclude that Employee was covered under DCFMLA from October 27, 2010, to October 26, 2012, and as such, Agency

[19] 4 DCMR § 1603.

could not terminate her for using up to sixteen (16) workweeks for medical reasons during this time period.

2) Whether the penalty of removal is within the range allowed by law, rules, or regulations.

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).[20] 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 ("TAP"); 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 case, I find that Agency has not met its burden of proof for the above-referenced charge. I further find that Agency's advance written notice dated March 1, 2013, is not in compliance with DPM § 1608.2(b) and as such, Agency cannot rely on this charge in disciplining Employee.

ORDER

Based on the foregoing, it is hereby **ORDERED** that:

1. Agency's action of separating Employee from service is **REVERSED**; and
2. Agency shall reinstate Employee to her last position of record; or a comparable position; and
3. Agency shall reimburse Employee all back-pay and benefits lost as a result of the separation; and
4. Agency shall file with this Office, within thirty (30) days from the date on which this decision becomes final, documents evidencing compliance with the terms of this Order.

FOR THE OFFICE:

MONICA DOHNJI, Esq.
Administrative Judge

[20] *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).