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**THE DISTRICT OF COLUMBIA  
BEFORE  
THE OFFICE OF EMPLOYEE APPEALS**

In the Matter of:

EMPLOYEE<sup>1</sup>,  
Employee

v.

D.C. FIRE AND EMERGENCY  
MEDICAL SERVICES DEPARTMENT,  
Agency

LaMiyah Allen, Employee *Pro Se*  
Lawrence Corbeille, Esq., Agency Representative

OEA Matter No. J-0048-25

Date of Issuance: August 26, 2025

MICHELLE R. HARRIS, Esq.  
Senior Administrative Judge

**INITIAL DECISION**

**INTRODUCTION AND PROCEDURAL HISTORY**

On June 13, 2025, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the District of Columbia Department of Fire and Emergency Medical Services Department’s (“Agency” or “DCFEMS”) decision to terminate her from her position as Probationary Firefighter/EMT, effective May 31, 2025. Following a letter from OEA dated June 13, 2025, requesting an Answer in this matter, Agency filed its Motion to Dismiss on June 26, 2025. Agency cited therein that Employee was in probationary status at the time of separation, and that OEA lacked jurisdiction to adjudicate this matter. This matter was assigned to the undersigned Senior Administrative Judge (“AJ”) on July 1, 2025. On July 1, 2025, I issued an Order for the parties to submit briefs addressing the jurisdiction issued raised by Agency. Employee’s brief was due by or before July 29, 2025, and Agency’s response was due by August 12, 2025. Both parties have submitted their respective briefs as required. I have determined that an Evidentiary Hearing is not warranted in this matter. The record is now closed.

**JURISDICTION**

The jurisdiction of this Office has not been established in this matter.

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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.

### ISSUE

Whether this appeal should be dismissed for lack of jurisdiction.

### BURDEN OF PROOF

OEA Rule 631.1, 6-B DCMR Ch. 600 (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:

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 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.

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

Employee worked for Agency as a Probationary Firefighter/EMT (FS-0081, Grade 1) and was appointed to this position on August 11, 2024. In a notice dated May 21, 2025, Employee was notified that she would be separated from service effective May 31, 2025. The final notice cited that Employee was being terminated in her probationary period and that the disciplinary action was neither grievable or appealable.<sup>2</sup>

#### ***Employee’s Position***

Employee asserts that she was wrongfully terminated. Employee cites that the termination was levied due to her “discharging a handgun at a shopping complex...”<sup>3</sup> Employee avers that she was “detained on 01/15/2025 and none of [her] arresting charges were for discharging a handgun.” Employee also maintains that she did not discharge a handgun and that her “case was dropped with no charge being held.”<sup>4</sup> Employee also avers that another employee was not terminated who “was in the same position and is still employed.”<sup>5</sup> Employee also asserts that pursuant to OEA Rule 604.1, this Office has jurisdiction over a removal of an employee who was subject to “a performance rating which results in removal of the employee.” Employee maintains that because of this, OEA has jurisdiction over her matter.

#### ***Agency’s Position***

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<sup>2</sup> The Final Notice cited that Employee was being terminated due to an arrest that occurred in Anne Arundel County on January 15, 2025. Agency notes that this was in violation of Order Book Article VI §6 – Conduct Unbecoming.

<sup>3</sup> Employee’s Petition for Appeal (June 13, 2025).

<sup>4</sup> *Id.*

<sup>5</sup> Employee’s Brief (July 29, 2025).

Agency asserts in its Motion to Dismiss Employee's Petition for Appeal that this Office lacks the jurisdiction to adjudicate this matter. Agency argues that Employee was in probationary status at the time of termination and as such, this Office has no jurisdiction over this matter. Agency asserts that Employee was hired as a Firefighter/EMT on August 11, 2024, and that this appointment required a "completion of an 18-month probationary period in accordance with DPM § 810.2."<sup>6</sup> Agency further provides that this DPM section indicates the following: "A person hired to serve as a uniformed member of MPD or FEMS shall serve a probationary period of one (1) year, except that the following individuals shall serve a probationary period of eighteen (18) months: ...Individuals hired into entry-level Firefighter/Emergency Medical Technician (FF/EMT) and entry-level Firefighter/Paramedic (FF/P) positions in FEMS."<sup>7</sup>

Agency avers that "Employee's 18-month probationary period was scheduled to expire on February 11, 2026." Agency maintains that it terminated Employee's employment effective May 31, 2025, "approximately 10 months into her probationary period."<sup>8</sup> Agency further argues that employees have the burden of proving jurisdiction and Employee has not met that burden. Agency avers that OEA has long held that it lacks jurisdiction over probationary employees, and as such should dismiss Employee's instant appeal.<sup>9</sup> Agency also asserts that Employee was not terminated based on performance rating, but she was terminated for conduct unbecoming and has not demonstrated any evidence that this was not the basis of her appeal nor has Employee offered evidence of disparate treatment. Agency reiterates that Employee was in probationary status at the time of termination and this appeal should be dismissed for lack of jurisdiction.<sup>10</sup>

### ***Jurisdiction***

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>11</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.

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 this rule, 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

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<sup>6</sup> Agency's Response to Employee's Brief on Jurisdiction (August 18, 2025).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> See also, Chapter 6, §604.1 of the District Personnel Manual ("DPM") and OEA Rules.

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, the undersigned agrees with Agency’s assertion that OEA does not have jurisdiction over this matter. Chapter 2, Section 227.4 of the District Personnel Manual provides in pertinent part, “that a separation from government service during a probationary period is neither appealable or grievable.” Further, pursuant to Chapter 8, Section 810.2 of the District Personnel Manual, as a Firefighter/EMT, Employee was subject to an 18-month probationary period. Employee’s Petition for Appeal notes she was a probationary Firefighter/EMT and had served nine (9) months at the time of her termination. Further, Employee does not dispute that she was probationary at the time of termination. However, Employee asserts that OEA Rule 604, provides this Office with jurisdiction given that she was subject to termination. Employee also cites that she was wrongfully terminated as charges were dropped against her in the other matter noted in the Final Notice. This stated, the undersigned finds that the Final Notice dated May 21, 2025, made Employee’s separation final effective May 31, 2025.

This Office has consistently held that an appeal to OEA by an employee serving in probationary status must be dismissed for lack of jurisdiction.<sup>12</sup> Here, it is undisputed that Employee was in probationary status at the time of termination. Consistent with the longstanding holdings, the undersigned finds that this Office lacks jurisdiction over Employee’s Petition for Appeal because she was in probationary status at the time of termination. Consequently, I find that this matter must be dismissed for lack of jurisdiction.

#### ORDER

It is hereby **ORDERED** that the Petition for Appeal in this matter is **DISMISSED** for lack of jurisdiction.

FOR THE OFFICE:

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

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<sup>12</sup> *Day v. Office of the People’s Counsel*, OEA Matter No. J-0009-94, Opinion and Order on Petition for Review (August 19, 1991).