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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:

EMPLOYEE¹,

V.

D.C. PUBLIC SCHOOLS,
Agency

Employee, *Pro Se*

Lynette Collins, Esq., Agency Representative

OEA Matter No. 1601-0024-26

Date of Issuance: April 14, 2026

MONICA DOHNJI, Esq.
Senior Administrative Judge

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On January 5, 2026, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the District of Columbia Public Schools’ (“Agency” or “DCPS”) decision to remove her from her position as a Data Entry Clerk effective December 12, 2025. Employee was charged with Absent without Leave (“AWOL”) for the period of November 28, 2025, to December 9, 2025. OEA issued a Request for Agency Answer to Petition for Appeal on January 6, 2026. Thereafter, on January 26, 2026, Agency filed its Motion to Dismiss stating that the December 12, 2025, Notice of Voluntary Resignation was not an adverse action and that Employee was in her probationary period at the time of her termination and as such, OEA lacked jurisdiction over this matter.

I was assigned this matter on January 16, 2026. Thereafter, I issued an Order on January 21, 2026, requiring Employee to address the jurisdictional issue raised by Agency in its Motion to Dismiss. Employee's brief on jurisdiction was due on or before February 4, 2026, and Agency had the option to file a reply brief on or before February 18, 2026. Following Employee's failure to submit her brief by the February 4, 2026, deadline, the undersigned issued an Order for Statement of Good Cause to Employee on February 11, 2026. The undersigned required Employee to submit her brief and a Statement of Good Cause by February 26, 2026. Employee timely filed her brief and response to the Statement of Good Cause. Subsequently, on March 2, 2026, the undersigned issued an Order setting a deadline for Agency to file its response by March 16, 2026. Agency submitted its

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

response on March 10, 2026.² Because I determined that this matter could be decided on the basis of the documents of record, no proceedings were conducted. The record is now closed.

JURISDICTION

The jurisdiction of this Office, pursuant to *D.C. Official Code, § 1-606.03 (2001)*, has not been established.

ISSUE

Whether this appeal should be dismissed for lack of jurisdiction.

BURDEN OF PROOF

OEA Rule § 631.1, 6-B District of Columbia Municipal Regulations (“DCMR”) Ch. 600, et seq (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:

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.³

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’s Position

Employee asserts in her submission to this Office that she was informed by her supervisor that she had to resign due to her medical absence. Employee cited that “a coerced resignation under threats of termination is legally a removal, which is an appealable final agency action.”⁴ Additionally, Employee argues that Agency violated the Protecting Pregnant Workers Fairness Act (“PPWFA”). Employee explains that Agency failed to provide her with reasonable accommodation but rather placed her on leave restriction AWOL status.⁵ Employee also asserts that Agency violated

² On March 10, 2026, Employee filed a Response to Agency’s Legal Brief and Statement of Facts through the OEA official filing email and copied the undersigned to the email. In an email dated March 12, 2026, the undersigned notified Employee that her email submission would not become part of the record as it was not in compliance with OEA Rule 608.8. As of the date of this decision, Employee has not complied with this directive. However, the undersigned has made an exception and accepted Employee’s electronic filing, and it will become part of the official record.

³ OEA Rule § 699.1.

⁴ Employee’s February 26, 2026, submission.

⁵ *Id.*

the D.C. Family and Medical Leave Act (“DC FMLA”). She also states that Agency misclassified her position. Employee explains that she “was hired [as] an Attendance Counselor but paid at a lower scale for different duties.”⁶

Furthermore, Employee contends that the Standard Personnel Action (“SF-50”) at “Box 24 (Tenure) is explicitly marked with code “1” which is defined as “1- Permanent.”” Employee avers that “as a permanent employee [she is] entitled to the full protections of the Office of Employee Appeals.”⁷ Employee also asserts that “the Agency claims my start date was January 8, 2025. This is factually incorrect, I was not even cleared for hire until March 11, 2025...and my official Offer Letter explicitly states my start date was April 7, 2025...”⁸ Employee additionally argues that November 28, 2025, was “the Friday following Thanksgiving. Per the DCPS Academic Calendar, schools and offices were closed. It is legally and logically impossible to be marked “AWOL” for a day when the Agency was not open for business.”⁹

Agency’s Position

Agency states in its Motion to Dismiss that the December 12, 2025, Notice of Voluntary Resignation is not an adverse action. Agency explains that this Notice of Voluntary Resignation was issued because Employee failed to report for duty after being notified to do so. Agency asserts that the “Notice of Voluntary Resignation outlined that the Employee’s failure to report to work was deemed job abandonment... Therefore, since Employee neither reported when instructed to do so, nor file for FMLA with DCPS’s Leave of Absence team within the timeframe given, this appeal is improper as it is a voluntary resignation and not an adverse action. Therefore, the appeal must be dismissed.”¹⁰

Agency further cites that Employee was a probationary Employee, and as such, the current appeal must be dismissed for lack of jurisdiction. It explains that pursuant to the Omnibus Personnel Reform Amendment Act of 1998 (“OPRAA”), this Office can only hear appeals of permanent employees in career and education services who have successfully completed their probationary period. Agency notes that employees removed during their probationary period cannot appeal their removal at OEA. Agency asserts that Employee was hired on January 8, 2025, and she was separated for job abandonment on December 12, 2025, while she was still within her probationary period. Therefore, the instant appeal must be dismissed.¹¹

Analysis¹²

The threshold issue in this matter is one of jurisdiction. This Office has no authority to

⁶ *Id.*

⁷ *See* Employee’s Response to Agency’s Legal Brief and Statement of Facts (March 10, 2026).

⁸ *Id.*

⁹ *Id.*

¹⁰ Agency’s Motion to Dismiss (January 16, 2026).

¹¹ *Id.* *See also*. Agency’s Legal Brief (March 10, 2026).

¹² 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”).

review issues beyond its jurisdiction.¹³ Therefore, issues regarding jurisdiction may be raised at any time during the course of the proceeding.¹⁴ D.C. Code § 1-606.03 (a) and DPM § 604.1 provide the parameters of OEA's jurisdiction. The statute and regulation outline that a District of Columbia government employee may appeal a final agency decision affecting:

- a. A performance rating which results in removal of the employee;
- 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; or
- f. A placement on enforced leave for ten (10) days or more.

Moreover, DPM § 631.2 provides that “. . . for appeals filed under § 604.1, the employee shall have the burden of proof as to issues of jurisdiction.”

Employee argues that her SF-50 at “Box 24 (Tenure) is explicitly marked with code “1” which is defined as “1- Permanent.” She asserts that as a permanent employee she is entitled to the full protections of the Office of Employee Appeals. As it specifically relates to D.C. Public Schools Educational Service employees, 5-E DCMR § 1307.1 provides that “an employee initially entering . . . into the Educational Service shall . . . serve a probationary period.” 5-E DCMR § 1307.6 goes on to outline that “failure to satisfactorily complete the requirements of the probationary period shall result in termination from the position.” Here, Employee's SF-50 provides that the legal authority for Employee's appointment is “DC Code 1-608.01a Educ. Service Employees.” Therefore, I find that as an education service employee, Employee was required to serve a probationary period.

I also find that although Employee's SF-50 outlines that her position with Agency is a permanent position, for OEA to exercise jurisdiction over this appeal, Employee must have successfully completed her probationary period at the time of her separation from Agency. 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 not relevant to this case, of permanent employees in Career and Education Service who are not serving in a probationary period, or who have successfully completed their probationary period (emphasis added).

Pursuant to 5-E DCMR § 1307.2 “an initial appointee to the EG salary class, except those appointed to classroom teaching positions, shall serve a one (1) year probationary period.” (Emphasis added). Here, Employee's Offer Letter dated March 31, 2025, highlights in pertinent part

¹³ See *Banks v. District of Columbia Public School*, OEA Matter No. 1602-0030-90, *Opinion and Order on Petition for Review* (September 30, 1992).

¹⁴ See *Brown v. District of Columbia Public. School*, OEA Matter No. 1601-0027-87, *Opinion and Order on Petition for Review* (July 29, 1993); *Jordan v. Department of Human Services*, OEA Matter No. 1601-0110-90, *Opinion and Order on Petition for Review* (January 22, 1993); *Maradi v. District of Columbia Gen. Hosp.*, OEA Matter No. J-0371-94, *Opinion and Order on Petition for Review* (July 7, 1995).

that “Your pay rate is *Grade EG-4 ...*”¹⁵ (Emphasis added). Therefore, I find that pursuant to 5-E DCMR § 1307.2, Employee was required to serve a one (1) year probationary period.¹⁶

While Agency cites in its submissions to this Office that Employee was hired effective January 8, 2025, pursuant to Employee’s Offer Letter, the effective date of Employee’s employment was April 7, 2025. Pursuant to the record, Employee was terminated effective December 12, 2025. Given the approximately 8-month timeframe of her employment, Employee was still within her one-year probationary period at the time she was separated from service.

Chapter 2, § 227.4 of the DPM states that a termination during an employee’s probationary period cannot be appealed to this Office. Additionally, this Office has consistently held that an appeal by an employee serving in a probationary status must be dismissed for lack of jurisdiction.¹⁷ Consequently, I conclude that because Employee was removed from service when she was still within her probationary period, Employee is precluded from appealing her removal to this Office, as OEA lacks jurisdiction in this matter.¹⁸

Employee has the burden of proof on issues of jurisdiction, pursuant to OEA Rule 631.2. Employee must meet this burden by a “preponderance of the evidence” which is defined in OEA Rule 631.1, *id*, as 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.” Based on the foregoing, I conclude that Employee did not meet the required burden of proof. Moreover, because OEA’s jurisdiction is conferred on it by D.C. Code § 1-606.03(a), the undersigned is unable to consider the merits of this appeal because it lacks jurisdiction. Accordingly, this matter must be dismissed for lack of jurisdiction.

ORDER

It is hereby **ORDERED** that the Petition for Appeal is **DISMISSED** for lack of jurisdiction and Agency’s Motion to Dismiss is **GRANTED**.

FOR THE OFFICE:

/s/ Monica N. Dohnji

MONICA DOHNJI, Esq.
Senior Administrative Judge

¹⁵ See. Employee’s Response to Agency’s Legal Brief and Statement of Facts, *supra*.

¹⁶ Relying on the United States Court of Appeals decisions in *Weidel v. Department of Justice*, 230 F.3d 1380 (9th Cir. 2000); *Bofill v. Merit Systems Protection Board*, 26 Fed.Appx. 916 (Fed.Cir.2001); *Anderson v. Merit System Protection Agency*, 12 F.3d 1069 (9th Cir.1993); *Dooley v. Department of Veterans Affairs*, 306 Fed.Appx. 594 (Fed.Cir.2009) and *Schmittling v. Department of Army*, 219 F.3d 1332 (Fed. Cir. 2000), this Office in *Iris Stanton v. Department of Human Services*, OEA Matter No. J-0008-04 (November 21, 2003), held that the terms of employment are established by the relevant law and that the failure of an Agency to inform an employee that the position they occupy is probationary, does not change the nature of the position.

¹⁷ See, e.g., *Day v. Office of the People’s Counsel*, OEA Matter No. J-0009-94, *Opinion and Order on Petition for Review* (August 19, 1991); *Alexis Parker v. Department of Health*, OEA Matter No. J-0007-11 (April 28, 2011).

¹⁸ Because I find that Employee was separated from service during her probationary period, I will not address the issues of job abandonment and/or resignation.