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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:

EMPLOYEE¹,
Employee

v.

D.C. PUBLIC SCHOOLS,
Agency

OEA Matter No. 2401-0074-25

Date of Issuance: August 28, 2026

Michelle R. Harris, Esq.
Senior Administrative Judge

Victoria Watson, Esq. Employee Representative
Angel Cox, Esq., Agency Representative

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On August 27, 2025, 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") action of abolishing her position as a Behavior Technician through a Reduction-In-Force ("RIF"). The effective date of the RIF was August 1, 2025. On August 28, 2025, OEA sent a letter requesting Agency submit an Answer on or before September 27, 2025. Agency filed its Answer to Employee's Petition for Appeal on September 20, 2025. This matter was assigned to the undersigned Senior Administrative Judge ("AJ") on September 30, 2025. On October 2, 2025, I issued an Order Convening a Prehearing Conference in this matter for October 29, 2025. Prehearing Statements were due on or before October 22, 2025. The parties appeared for the scheduled Prehearing Conference. Agency's representative cited during the Prehearing Conference that she was currently on medical leave until November 18, 2025. As a result, the undersigned advised the parties that the Prehearing Conference would be rescheduled for a later date. As a result, on October 29, 2025, I issued a Post Prehearing Conference Order rescheduling the Prehearing Conference to December 4, 2025. Prehearing Statements were now due by or before November 24, 2025. Both parties submitted their Prehearing Statements as required.

On December 4, 2025, the parties appeared for the rescheduled Prehearing Conference. That same day, I issued a Post Prehearing Conference Order requiring the parties to submit briefs in this

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

matter. Agency's brief was due on or before January 16, 2026, Employee's brief was due on or before February 6, 2026, and Agency had the option to submit a sur-reply brief on or before February 20, 2026. Agency submitted its brief as required. On February 17, 2026, the undersigned received email correspondence from the OEA operations team citing that a representative for Employee had contacted the Office. I responded and noted to the parties that a Status Conference was warranted to ensure that the parties were on the same page. Following an exchange of emails with the parties, I issued an Order on February 24, 2026, scheduling a Status Conference for March 11, 2026. Both parties appeared for the March Status Conference as required. That same day, I issued a Post Status Conference Order which revised the briefing schedule. As a result, Employee's brief was now due by or before April 2, 2026, and Agency had the option to submit a sur-reply brief by or before April 20, 2026. Employee filed his brief as required. Agency did not file a sur-reply brief. Upon review of the parties' submission and the record, I have determined that an Evidentiary Hearing in this matter is not warranted. 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 FACT, 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 instant RIF was conducted to "eliminate positions that would be redundant or unnecessary following a reorganization of functions"², I have determined that D.C. Official 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.

² Agency's Prehearing Statement at Page 5 (November 24, 2025).

Agency's Position

Agency states that it had authority to conduct the instant RIF and in separating Employee, it complied with the required RIF procedures. Agency provides that Employee worked for Agency as a Behavior Technician and was assigned to Kelly Middle School for the 2024-2025 school year.³ Agency cites that “prior to the start of the 2025-2026 school year, the Chancellor authorized a Reduction-in-Force (RIF) of school-based staff at 115 schools due to a reorganization of functions and budgetary shifts.”⁴ Agency further cites that “DCPS made reductions on a school-by-school basis” pursuant to this RIF. Agency also notes that the Chancellor designated all 115 schools “included in the RIF process as a separate competitive area for said process.”⁵ Agency further provides that the Chancellor also “identified particular positions as separate competitive levels.”⁶ Agency cites that during the 2024-2025 school year, “Kelly was a school that was designated for a reduction of Behavior Technicians.”⁷ Agency maintains that “there was a need to reduce the number of Behavior Technician positions from seven (7) to two (2) due to budgetary concerns and the programmatic needs of the school.”⁸ Agency asserts that in “response to the RIF, the Agency completed Reduction Rubrics for the Behavior Technician competitive group.” Agency further provides that the competitive group included “the Employee and four (4) other Behavior Technicians.”⁹ All the five (5) employees in the competitive group were rated in four (4) areas: “(1) Relevant Significant contributions, accomplishments or performance as determined by their IMPACT performance; (2) Office of School Needs; (3) Relevant supplemental professional experience as demonstrated on the job, and (4) Length of service.”¹⁰

Agency cites that the Principal of Kelly, Mr. Cox was responsible for the completion of the Reduction Rubric. Agency asserts that “Employee’s Reduction Score was 41, one of the three (3) lowest scores.” Agency avers that the other employees who were reduced (AW and CS.2) received scores of 35 and 50, respectively.¹¹ Regarding Employee’s scores, Agency asserts that Rubric 1 accounted for 50% of the final score and considers the IMPACT score. Agency cites that Employee

³ Agency’s Brief at Page 1 January 20, 2026). Agency also notes that Employee’s responsibilities included “transitioning students, monitoring and documenting behavioral trends, and implementing appropriate interventions to respond to student behaviors among other things.”

⁴ *Id.*

⁵ *Id.* at Page 2.

⁶ *Id.* Agency also notes that “when deciding between employees in the same competitive area and level, each school was required to consider four factors to determine which position should be eliminated: a) significant relevant contributions, accomplishments, or performance; b) relevant supplemental professional experience as demonstrated on the job; c) office or school needs, including: curriculum specialized education, degrees, licenses or areas of expertise and; d) length of service, using a standardized rubric with the weight for each factor as indicated..” See also Agency Exhibit 3.

⁷ *Id.*

⁸ In Agency’s Answer filed on September 30, 2025, Agency provides that “Employee and four (4) other Behavior Technicians (C.S.1, C.S.2, D.C. and P.M) were considered. Agency also avers that there were five (5) Behavior Technicians impacted by the instant RIF. In its Prehearing Statement submitted on November 24, 2025, and its subsequent brief filed on January 20, 2026, Agency cites to five (5) Behavior Technicians. This noted, Agency’s Exhibit 10 attached to the November 24, 2025 Prehearing Statement reflects seven (7) Behavior Technician positions at Kelly Middle School. This stated, for the purposes of this Initial Decision, the undersigned will consider the five (5) Behavior Technicians (Employee and four (4) others) that comprise the position based competitive area.

⁹ Agency identifies the other Behavior Technicians by initials: C.S (1); C.S.(2)., P.M, and A.W.

¹⁰ *Id.*

¹¹ *Id.*

“was trending Effective and the other two (2) Behavior Technicians who were reduced CS (2) and A.W., were trending Effective and Developing, respectively.” Agency further provides that the two (2) Behavior Technicians who were retained, C.S.(1) and P.M., “were trending Effective and Developing, respectively.” For Rubric 2, the office or school needs, Agency asserts that additional contributions that employees made were considered and this score accounted for 20% of the final score. Agency asserts that for Rubric 2, Employee “received a “low” rating...[t]he employee does not have any additional contributions to the school.”¹² Agency notes that A.W. also received a low rating, but that C.S.(1) and P.M. received “high” ratings for Rubric 2.¹³ Agency avers that Rubric 3 considered the “relevant supplemental professional experience as demonstrated on the job.” This had a 20% weight for the final score and “rates unique skills and qualifications that an employee brings to his or her role beyond the minimum job qualifications.”¹⁴ Agency avers that Employee received a “low” rating for this score, as did C.S. (2) and A.W., but P.M. received a high rating. For Rubric 4, length of service, had a 10% weight for the final score. Agency asserts that “Employee had one of the shortest tenures/lengths of service, 1-9 years.” Agency cites that A.W. and C.S.(2), had 10-19 years of service, and 20+ years of service, respectively.¹⁵ It further notes that C.S. (1) and P.M., had 10-19 years of service and 1-9 years of service, respectively.¹⁶ Agency maintains that follow the completion of the Reduction Rubric, Employee was reduced. Agency avers that it provided notice to Employee in or around May 12, 2025, that “his position as a Behavior Technician was being reduced...and his separation would be effective August 1, 2025.” Agency also provides that it “outlined that to help Employee find a position for the 2025-2026 school year, the Instructional Teacher Acquisition and Retention team would be holding in-person hiring fairs on Wednesday, May 28, 2025, and Wednesday, July 9, 2025.”¹⁷

Agency avers that the RIF in the instant matter was conducted in accordance with all applicable laws, rules and regulations. Agency contends that the Chancellor has the authority to establish competitive areas pursuant to D.C. Municipal Regulations §5E-1501. Further, Agency avers that it made reductions on a school-by-school basis. Agency further asserts that it “defined competitive areas for the RIF as schools where the number of positions for non-instruction staff for the 2025-2026 school year exceeded the number of positions available for the 2025-2026 school year.”¹⁸ Agency cites that the instant RIF was approved by the DCPS Chancellor on August 30, 2025.¹⁹ Agency further notes that “the school-based staff Reduction-in-Force Authorization Memorandum (“RIF Memorandum”) was created in accordance with D.C. Code and D.C. Municipal Regulations to establish an orderly procedure for the termination of the employment of DCPS employees due to the lack of funds, lack of work, or reorganization of functions.”²⁰ Agency also notes that the RIF Memorandum “identified the competitive areas, competitive levels and competitive factors and competitive level documentation forms.”²¹ Agency contends that the RIF was conducted “pursuant to the D.C. Code §§ 1-624.02, 1-624.03 and D.C. Municipal Regulations §5E-15, and pursuant to the authority delegated to the Chancellor by Mayor’s Order 2007-186

¹² *Id.*

¹³ *Id.* at Page 3.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at Page 4.

¹⁹ *Id.* at Page 4.

²⁰ *Id.*

²¹ *Id.* at Page 5.

(August 10, 2007).”²² Agency maintains that the instant RIF “was led to eliminate positions that would be redundant or unnecessary due to budgetary reasons or following a reorganization of functions.” Agency further cites that it conducted the instant RIF pursuant to D.C. Code §1-624.02(a) which includes:

- (1) A prescribed order of separation based on tenure of appointment, length of service including creditable federal and military service, District residency, veterans’ 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.

Agency asserts that with regard to lateral competition, the April 30, 2025 RIF Memorandum, DCPS “outlined the schools and positions that would be subject to the reduction-in-force.” This included Kelly Middle School and it was subject to the RIF because of budgetary reasons and programmatic shifts. Agency maintains that it completed the reduction rubric for each of the employees in the competitive group and that they were assessed in four (4) areas. Agency again notes that Employee received the lowest score of 41 following the completion of the rubric. Agency further provides that the Behavior Technicians who were retained, C.S. (1) and P.M., received overall scores of 85 and 71, respectively. Agency also notes that in consideration of priority reemployment, in the RIF notice dated May 12, 2025, “the Agency indicated that the Employee’s position had been eliminated, but that there may be positions at other schools for which the Employee may be qualified.”²³ Agency also asserts it provided information about staffing fairs and maintains that notice indicated that “Employee would be given priority for selection into any 2025-2026 vacancies at schools throughout DCPS.”²⁴ Agency also contends that while job sharing considerations were made pursuant to D.C. Code §1-624.02(a)(4), that it was ultimately determined that job sharing and reduced hours “were not effective options for the schools operation.”²⁵ Agency also maintains that it gave Employee the notice required by the code provisions. Agency asserts that pursuant to D.C. Code 1-624.02(a)(5), employees are “entitled to written notice at least fifteen (15) days before the employee’s separation from service.” Agency cites that in the instant matter, Employee received notice on May 12, 2025, that he would be separated pursuant to RIF effective August 1, 2025. As such, Agency maintains it provided the requisite notice of the RIF.

Agency asserts that Employee contends that he was “not given consideration for priority reemployment when he was deemed ineligible for hire [as a] Special Education Teacher.” Agency further asserts that Employee’s claim that he “was selected for the Special Education Teacher position through the Principal’s Choice process only to be told by Central Office that I was barred from employment without explanation,” is a management hiring decision to which OEA has no jurisdiction.²⁶ Agency avers that Employee “cannot backdoor an appeal of this nature by labeling it an appeal of a RIF.” Further, Agency also cites that an employee “who is separated due to a RIF may receive consideration for priority reemployment for positions at his grade level at the time of

²² *Id.*

²³ *Id.* at Page 6.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* at Page 7.

separation and at any lower grade level acceptable to the employee.”²⁷ Agency reiterates that Employee was a Behavior Technician which is a grade EG-5 position and a Teacher position is a grade ET-15, “which is a higher grade level than the position Employee held at the time of the RIF.”²⁸ This noted, Agency contends that “Employee was not entitled to consideration for priority reemployment into a teacher position.”

Agency contends that pursuant to D.C. Code §1-624.04, the Office of Employee Appeals is “limited in its review of RIF appeals.” Agency asserts that an employee may file with OEA if they believe an agency “incorrectly applied the provision of this subchapter or the rules and regulations pursuant to this chapter.” As such, Agency maintains that OEA is “limited to determining whether Agency properly followed D.C. Code §1-624.04 and the D.C. Municipal Regulations §5E §§1503 and 1506.”²⁹ Agency avers that its RIF was in accordance with the applicable regulations and Employee was appropriated separated from service and that this action should be upheld.

Employee’s Position

Employee asserts that during the 2023-2024 school year, he began work as a Behavior Technician, EG-5 at Kelly Miller Middle School.³⁰ Employee avers that during his “two years at Kelly Miller, [he] significantly contributed to the school community and connected with his students.” He further cites that “outside of his assigned duties, [he] worked with the behavioral emotional support (“BES”) students and assisted with crisis intervention.”³¹ Employee also provides that he started with Kelly Miller as an “Office Clerk and continued helping with registrar and attendance duties even during this tenure as a Behavioral Technician.” Employee notes that “on December 5, 2024, Kelly Miller placed [him] on administrative leave pending an investigation after there was an altercation between [Employee] and Donnell Cox, Kelly Miller Principal.”³² Employee also cites that on February 25, 2025, he received a five (5) day suspension. Employee contends that on “May 15, 2025, approximately two months after his return from suspension, DCPS sent [him] notice that his position would be abolished through a RIF.”³³ Employee avers that from “May 2025 to July 31, 2025, [he] completed a summer assignment at Hart Middle School, as Kelly Miller did not have summer school.”

Employee avers that “DCPS rated the Behavior Technicians as a competitive level by the factors.” Employee notes that Mr. Cox, completed the Reduction Rubric and that Employee received a final score of 41. Employee also asserts that “relying on the understanding that he was on a priority reemployment list, [he] attended hiring fairs and applied to numerous vacancies, including sending resumes directly [to] principals.”³⁴ Employee avers that he “either did not receive confirmation responses or received processing errors of his applications.”³⁵ Employee also notes that during this timeframe, he passed a teacher’s exam and began applying for teaching positions. He avers that he still received error messages. Employee asserts that the principal at Phelps ACE High School selected him for a teaching position as at “9th grade SPED ELA Teacher, through the

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* at Page 8.

³⁰ Employee’s Response Brief at Page 1.

³¹ *Id.*

³² *Id.* at Page 2.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.* at Page 3.

Principal's Selection Process, a program in which a principal can directly request to hire an employee or prioritize their application."³⁶ Employee cites that "the principal received an issue processing [him], so the principal went to the DCPS central office." Employee asserts that the principal was told by the central office that "she could not hire [him]; however, the office would not give her further information as to why."³⁷ Employee contends that on August 22, 2025, "only 21 days after the effectuation of the RIF, [he] went to the DCPS central office...[t]he central office notified [him] to go to LMER because the only information they could see in the computer system was that [he] was ineligible for rehire until February 2028."³⁸

Employee contends that OEA has jurisdiction over his matter. He asserts that he "is not challenging the act of non-selection after the RIF, but rather that the Agency did not place him on the priority reemployment list as required by the RIF procedure and RIF notice."³⁹ Employee notes that "EDPM 2427.5 dictates that an "an employee covered under the provisions of this section shall be entered automatically on the reemployment priority list immediately after it has been determined that the employee is to be adversely affected by the reduction in force and not later than the issuance of the notice of the reduction in force".⁴⁰ Employee avers that "complaining about positions listed after the RIF is indeed post-RIF activity outside of OEA jurisdiction, but here [he] is objecting to the RIF procedures itself of failure to place him on the priority list."⁴¹ Employee maintains that he "was not on the priority list for one or two years if DCPS deemed him "ineligible for rehire" for almost three years until 2028."⁴² Employee maintains that "while the DCPS Notice of RIF claimed that [he] would in fact be on the priority reemployment list, the ineligible for rehire label merely 21 days after the RIF occurred contradicts that notice."⁴³

Employee also claims that additional discovery and leave to amend to address the issue of "whether Agency's action of separating Employee from service pursuant to a RIF was done in accordance with all applicable laws, rules, or regulations" is warranted. Employee cites that he only retained counsel after he filed his initial brief and "he did not intend for the language of his brief to indicated that he was only appealing the decision not to select him after the priority reemployment program, although he acknowledges that the language can be reasonably read as such."⁴⁴ Employee avers that DCPS did not conduct the RIF in accordance with the applicable regulations. He cites that Agency did not "follow the applicable rule and regulations for the round of lateral competition and priority reemployment consideration for employees separated."⁴⁵ He also asserts that while the Chancellor identified the 115 schools and individual positions to be competitive areas, that he did not receive notification of his competitive area or level.⁴⁶ This stated, Employee also asserts that the lateral competition considerations were improper. Employee avers that "Agency must still consider each statutorily mandated factor, regardless of the Agency's discretion to rate competing employees and create criteria to evaluate such employees."⁴⁷

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.* at Page 4.

⁴⁰ *Id.*

⁴¹ *Id.* at Pages 4-5.

⁴² *Id.* at Page 5.

⁴³ *Id.*

⁴⁴ *Id.* at Page 6.

⁴⁵ *Id.* at Page 7.

⁴⁶ *Id.*

⁴⁷ *Id.* at Page 8.

Employee asserts that competitive rubric considerations made by agency are “minimal at best.” Employee also avers that “the first factor accounts for any factor that may have an impact on the success of the school or the achievement of the students at school.” Employee asserts that he received an “effective” rating but cites that it appears that the “first and second” categories are essentially combined for one category, and that the category worth 20 percent also dictates the category worth 50 percent.”⁴⁸ Employee also avers that Agency “did not note [his] impact on school culture by supporting the BES students and start the cheer team for the first factor.” Employee also assert that for the second factor, he had “significant additional contributions to the school, such as (1) BES support and leaving his assigned duties to complete crisis intervention when needed, (2) registrar and attendance assistance, (3) staff wellness team member, (4) lunch duty monitoring, (5) cheer team support and (6) after school duty, so much that [he] rarely took lunch breaks so he could accomplish all of these extracurriculars.”⁴⁹ Employee asserts that these involvements also support notions for the other rubric factors. Employee also avers that regarding length of service, while it was accurate for him to receive the 1–9-year rating, that “Agency should have noted whether in this category or another that [he] served Kelly Miller for the longest tenure compared to his comparators.” Employee also avers that it is of note that the persons responsible for completing the retention scores, Principal Cox, was also the person Employee had an altercation with.⁵⁰ Employee avers that “Mr. Cox has discretion in assigning retention scores; however, RIF procedure requires Mr. Cox to properly exercise that discretion.”⁵¹ To this end, Employee asserts that “assign[ing] different scores for identical contributions amount competing employees was an improper exercise of his discretion...[c]onsequently, re-evaluation of [Employee’s] scores may result in a different outcome in his case. As a result, Employee contends that OEA has jurisdiction over his claims and that DCPS did not appropriately administer the instant RIF.

ANALYSIS⁵²

Round of Lateral Competition

In order 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 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.⁵³ 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.⁵⁴ Generally, an employee’s position of record is shown through the issuance of an SF-50 Notification of Personnel Action.⁵⁵ Pursuant to 5 DCMR §1501.1, the “Superintendent is authorized to establish competitive

⁴⁸ *Id.*

⁴⁹ *Id.* at page 9.

⁵⁰ *Id.* at Page 10.

⁵¹ *Id.*

⁵² 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”).

⁵³ 6-B DCMR §§ 2410.1, 2410.2, 2410.3.

⁵⁴ 6-B DCMR § 2410.4.

⁵⁵ *See. Armata Ross v. D.C. Office of Contracting & Procurement*, OEA Matter No. 2401-0133-09-R11 (April 8, 2013).

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.”⁵⁶

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 for 115 to include Kelly Miller Middle School; and included specific positions as competitive areas, to include Behavior Technicians.⁵⁷ Based on Employee’s SF-50 at the time the RIF was conducted, he was a Behavior Technician.⁵⁸ As a result of the RIF, Employee’s position was eliminated, and he was separated from service. Here the Agency established a Reduction Rubric for the assessment of lateral competition for the five (5) behavior technicians at Kelly Middle School. The rubric included four (4) factors, and each employee was provided a rating for each rubric and received an overall final score. Kelly could only retain two (2) behavior technicians following the RIF. The principal, Mr. Cox, was responsible for the completion of the Reduction Rubric. Following the review, Employee received a score of 41. The employees who were retained received scores of 71 and 85. While Employee avers that the rubric was not appropriately considered, there is no evidence in the record to support this contention. Here, it is clear that Employee was scored and rated, and that his score of 41 was one of the lowest, thus subjecting him to separation from service pursuant to the RIF. As a result, I find that Agency properly conducted the round of lateral competition pursuant to the aforementioned code provisions.

Consideration of Job Sharing

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.⁵⁹ 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 .”⁶⁰ As previously stated, OEA has held that job sharing

⁵⁶ See. 5-E DCMR §1501.1.

⁵⁷ Agency’s Brief at Exhibit 3.

⁵⁸ *Id.* at Exhibit 13.

⁵⁹ *Ramon Griffin v. District of Columbia Public Schools*, OEA Matter No. 2401-0085-19 (January 22, 2020).

⁶⁰ *Id.*

considerations should be made during the administration of a RIF.⁶¹ In the instant matter, Agency asserts that while job sharing considerations were made pursuant to D.C. Code §1-624.02(a)(4), that it was ultimately determined that job sharing and reduced hours “were not effective options for the schools operation.”⁶² Further, notice was provided in the May 12, 2025, letter regarding the job sharing considerations. Accordingly, I find that Agency considered job sharing and reduced hours as required.

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 15, 2023, Agency indicated that Employee’s position had been eliminated, but that there may be positions at other schools for which Employee may be qualified.⁶³ Agency included information regarding upcoming staffing fairs and information regarding assistance to help Employee find employment. Of note, the notice specifically cited that Employee would be provided priority consideration for any vacancies. Employee asserts that he was hired but later deemed “ineligible for hire” and as such, this exhibits that he was not put on the priority reemployment list. Employee cites that he passed his teacher’s exam following the RIF notice. He notes that he applied but would get error messages for positions but ultimately was hired at Phelps as a Special Education Teacher.

However, Employee contends that the central office cited that he was ineligible for rehire until 2028. Agency asserts that Employee’s ineligibility is a management hiring decision that is not a part of the jurisdiction for OEA in review of RIFs. Further, Agency asserts that the position Employee was hired for was a higher grade than that of the Behavior Technician position for which he was RIFed. The undersigned agrees with Agency that Employee’s post hire ineligibility determination is not in this Office’s jurisdiction. In review of the RIF procedures itself, Employee was provided the requisite information and notice regarding his priority reemployment considerations pursuant to the RIF. The subsequent decision regarding hiring is not a determination for this tribunal. Accordingly, I find that Agency complied with the RIF requirement to consider Employee for priority reemployment.⁶⁴

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 effective date of the employee’s separation from service.⁶⁵ Here, Employee was notified that he was subject to separation from service pursuant to a RIF in a Notice dated May 12, 2025, and the effective date of separation was August 1, 2025.⁶⁶ Therefore, the undersigned finds that this timeline provided more than the thirty (30) days’ notice required by the statute.

⁶¹ *Id.*

⁶² *Id.*

⁶³ Agency’s Brief.

⁶⁴ For these reasons, the undersigned finds that Employee’s request for additional discovery and leave to address whether Agency conducted the RIF in accordance with all applicable laws, rules and regulations to have been duly addressed via his Responsive Brief filed on April 6, 2026, as well as in his previously submitted filings before this Office.

⁶⁵ *See*. DPM § 2422.

⁶⁶ Agency’ Brief at Exhibit 10.

ORDER

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

FOR THE OFFICE:

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