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

In the Matter of:	)	
	)	
EMPLOYEE,	)	
Employee	)	OEA Matter No. J-0019-26
	)	
v.	)	Date of Issuance: March 31, 2026
	)	
D.C. DEPARTMENT OF YOUTH	)	
REHABILITATION SERVICES,	)	
Agency	)	ERIC T. ROBINSON, ESQ.
	)	SENIOR ADMINISTRATIVE JUDGE
	)	
_____)		
Employee <i>Pro-Se</i>		
Timothy McGarry, Esq., Agency Representative		

**INITIAL DECISION**

**INTRODUCTION AND PROCEDURAL HISTORY**

On December 26, 2025, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or the “Office”) contesting the District of Columbia Department of Youth Rehabilitation Services (“DYRS” or the “Agency”) action of removing him from service. Employee’s last position of record with the Agency was a Youth Development Representative (“YDR”). On December 29, 2025, the OEA’s Executive Director sent a notice to DYRS requiring it to submit an Answer to Employee’s Petition for Appeal no later than January 28, 2026. On January 23, 2026, DYRS timely submitted its Answer. This matter was assigned to the Undersigned on January 23, 2026. On February 2, 2026, the Undersigned issued an Order Convening a Prehearing Conference which was set for March 4, 2026. During the Prehearing Conference (“PC”) Agency noted that it had provided a Motion to Dismiss this matter due to Employee being removed from service during his probationary period. After considering the discussion during the PC and the documents of record, Employee was Ordered to submit a written response to Agency’s Motion to Dismiss. On March 25, 2026, Employee submitted his response. After reviewing the documents of record, I have determined that no further proceedings are warranted. The record is now closed.

## JURISDICTION

As will be explained below, the OEA lacks the authority to adjudicate this matter.

## ISSUE

Whether this matter should be dismissed.

## 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

### *Probationary Employee*

Title 1, Chapter 6, Subchapter VI of the D.C. Official Code (2001), a portion of the Comprehensive Merit Protections Act (hereinafter "CMPA"), sets forth the law governing this Office. D.C. Official Code § 1-606.03 ("Appeal procedures") states in pertinent part that:

(a) An employee may appeal a final agency decision affecting a performance rating which results in removal of the employee (pursuant to subchapter XIII-A of this chapter), an adverse action for cause that results in removal, reduction in force (pursuant to subchapter XXIV of this chapter), reduction in grade, placement on enforced leave, or suspension for 10 days or more (pursuant to subchapter XVI-A of this chapter) to the Office upon the record and pursuant to other rules and regulations which the Office may issue. Any appeal shall be filed within 30 days of the effective date of the appealed agency action.

The above-mentioned career service rights conferred by the CMPA may be exercised by aggrieved employees. The District Personnel Manual ("DPM") § 227.4, provides in relevant part

that “separation from government service during a probationary period is neither appealable nor grievable.” Thus, according to the preceding sections of the DPM and the CMPA, Career Service employees who are serving in their probationary period are precluded from appealing a removal action to this Office until their probationary period is finished. As was noted previously, Employee has the burden of proof regarding the jurisdiction of this Office. In his Petition for Appeal, Employee admits that he had worked for Agency for less than one (1) year prior to his termination.<sup>1</sup> The OEA Board has previously held that an employee’s admission is sufficient to meet Agency’s burden of proof.<sup>2</sup> Accordingly, I find that Employee was removed from service while he was still within his one-year probationary period. Because Employee was in a probationary status when he was removed from service, I find that he is not allowed to appeal his removal to this Office.

Employee argues that despite his status as a probationary employee, OEA should review his removal due to allegations that he was improperly terminated stemming from a workplace injury and being placed on light duty as a result. Regardless of Employee’s argument to the contrary, I find that the OEA has no authority to review removal actions of probationary employees. That is not to assert that Employee has no avenue for seeking legal redress, only that the OEA is not statutorily empowered to review Employee’s cause of action due to constraints, as noted above, on our authority.

### ***Conclusion***

Taking into account the discussion above, I find that Employee has failed to meet his burden of proof regarding the OEA’s ability to exercise jurisdiction over the instant matter.<sup>3</sup> Accordingly, I conclude that I must dismiss this matter for lack of jurisdiction.<sup>4</sup>

### **ORDER**

Based on the foregoing, it is hereby ORDERED that the above-captioned Petition for Appeal be dismissed.

FOR THE OFFICE:

/s/ *Eric T. Robinson*

Eric T. Robinson, Esq.  
Senior Administrative Judge

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<sup>1</sup> See Petition for Appeal, Section B, p. 3 (December 26, 2025).

<sup>2</sup> See *Employee v. Agency*, OEA Matter No 1601-0047-84, 34 D.C. Reg. 804, 806 (1987).

<sup>3</sup> Since I have found that the OEA lacks jurisdiction over this matter, I am unable to address the factual merits, if any, contained within Employee’s Petition for Appeal.

<sup>4</sup> 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”).