THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:	)	
	)	
EMPLOYEE[1],	)	
Employee	)	OEA Matter No. 1601-0058-25
	)	
v.	)	Date of Issuance: February 24, 2026
	)	
D.C. PUBLIC SCHOOLS,	)	Michelle R. Harris, Esq.
Agency	)	Senior Administrative Judge
	)	

Employee, *Pro Se*
Lynette Collins, Esq., Agency Representative

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On July 30, 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") decision to terminate her from her position as a Teacher, effective June 20, 2025. On July 30, 2025, OEA issued a Request for Agency Answer to Petition. On August 12, 2025, Agency filed its Motion to Dismiss stating that OEA lacked jurisdiction over this matter because Employee's Petition for Appeal with OEA was untimely filed and that Employee was an at-will employee at the time of her termination due to a failure to sustain her required licensure. This matter was assigned to the undersigned on August 13, 2025. On August 20, 2025, I issued an Order Convening a Prehearing Conference for September 24, 2025. Prehearing Statements were due by or before September 17, 2025. Agency filed its Prehearing Statement as required. Both parties appeared for the Prehearing Conference as required. Because Agency raised a jurisdiction issue, the parties were required to submit briefs addressing whether OEA has jurisdiction over this matter. I issued a Post Prehearing Conference Order on September 25, 2025, requiring Employee to submit her brief by or before October 20, 2025, and Agency's reply was due by or before November 7, 2025.

Employee submitted her brief by the required deadline. Agency's response was not received by the required deadline. However, the undersigned determined that Agency's copy of the September 25, 2025, Order was returned as undeliverable to OEA. Accordingly, on November 13, 2025, I issued an Order requiring Agency to submit its response by or before November 24, 2024. Agency complied with this Order. Upon review of the record and the submissions from the parties, the undersigned determined that

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

Agency had not provided copies of the SF-50s as required by the September 25, 2025 Order. Accordingly, on December 11, 2025, I issued an Order requiring Agency to supplement the record and provided all the applicable SF-50s. Agency's response to this Order was due by or before December 29, 2025. Agency complied with this Order. Upon consideration of the record, I determined that an Evidentiary Hearing in this matter was not warranted. The record is now closed.

JURISDICTION

The jurisdiction of this Office, pursuant to D.C. 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:
>
> > that 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.[2]

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 Petition for Appeal that she was appealing her termination due to the recent change in her license being "inactive."[3] Employee avers that in March 2025, she received an email indicating that she needed to renew her "DC license by June 23, 2025." She asserts that she met several of the requirements for testing within a very tight timeline and also successfully renewed her Principal's License. Employee cited that she understands the importance of maintaining a license, but notes that she was currently licensed in New Jersey and that "DC recognizes reciprocity for valid out-of-states licenses."[4] Employee argued that given her seven (7) years of service to DCPS and her additional 15 years of experience, she believed that her situation merited reconsideration.

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[2] OEA Rule § 699.1.
[3] Employee's Petition for Appeal at Attachment "Information for Appeal." (July 30, 2025).
[4] *Id.*

Employee also avers that OEA should retain jurisdiction over this matter because her continuing work as a substitute teacher "falls within the Educational Service of the District government and demonstrates a relationship sufficient to invoke OEA jurisdiction."[5] Employee asserts that as of June 24 2025, at the request of the Principal of Payne Elementary, she reported for work and provided instruction under the supervision of the school's administrative team. As a result, Employee contends that because "her appointment and ongoing substitute service reflect an active employment relationship with DCPS, the OEA has subject matter jurisdiction to adjudicate this appeal." Employee further asserts that "[d]ismissal for lack of jurisdiction would be inconsistent with OEA precedent and with the statutory purpose of ensuring fair review of District government employment disputes."[6] As such, Employee avers that OEA should retain jurisdiction and deny Agency's Motion to Dismiss and address the merits of her appeal.

Agency's Position

Agency states in its Motion to Dismiss that Employee was terminated for failing to obtain an active Office of the State Superintendent of Education ("OSSE") issued license by March 1, 2025.[7] Agency also asserts that Employee's Petition for Appeal is untimely and must be dismissed. Agency explains that Employee was terminated effective June 20, 2025, and she filed her appeal with OEA on July 30, 2025, "beyond the thirty-day period established for appealing the Agency's decision."[8]

Additionally, Agency asserts that OEA does not have jurisdiction over Employee because Employee is an "at-will" employee given the failure to maintain her license and as such, has no job tenure or protection. Agency contends that Employee failed to obtain her license by March 1, 2025, as required for her position. Agency further avers that this Office "has long maintained that in addition to lacking jurisdiction to hear appeals of a terminated employee who failed to meet mandatory licensing or certification requirements, reasoning that the employe was at-will because he or she lacked mandatory qualifications."[9] Agency further explains that this Office "has determined it lacks jurisdiction to hear challenges of teachers… and other District of Columbia employees who held positions that required licenses or certifications, and who lacked the licenses or certifications at the time of termination, concluding that these individuals, because they did not meet the requirements, had no vested rights in the position." As such, Agency argues that Employee's appeal should be dismissed.[10]

Agency asserts that on April 4, 2025, Employee was duly notified that she was being terminated from service due to the failure to obtain an active OSSE-issued license by March 1, 2025.[11] Agency avers that Employee's termination was effective June 20, 2025. Agency cites that on or around September 7, 2025, Employee "was hired as substitute teacher."[12] Agency also notes that on or around October 1, 2025, Employee obtained the requisite OSSE certification and "in response was rehired on or about October 24, 2025." Agency avers that "at the time Employee was terminated she was not licensed to teach."[13]

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[5] Employee's Brief on Jurisdiction (October 20, 2025).
[6] *Id.*
[7] Agency's Motion to Dismiss (August 12, 2025). *See also*. Agency's Prehearing Statement (September 15, 2025).
[8] Agency's Motion to Dismiss (August 12, 2025).
[9] *Id.*
[10] *Id*.
[11] Agency's Sur-Reply (November 24, 2025).
[12] *Id*.
[13] *Id.*

ANALYSIS[14]

The threshold issue in this matter is one of 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[15], this Office has jurisdiction in matters involving District government employees appealing 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 (Emphasis added);
(e) A reduction-in-force; or
(f) A placement on enforced leave for ten (10) days or more.

This Office has no authority to review issues beyond its jurisdiction.[16] Therefore, issues regarding jurisdiction may be raised at any time during the proceeding.[17]

Untimely Filing of Petition for Appeal

Agency asserts that Employee's Petition for Appeal should be dismissed as untimely because she filed her appeal with OEA more than thirty (30) days from the effective date of her termination. A "[d]istrict government employee shall initiate an appeal by filing a petition for appeal with the OEA. The petition for appeal must be filed within *thirty (30) calendar days of the effective date of the action being appealed*."[18] (Emphasis added). Here, Employee was terminated effective June 20, 2025, and she filed her Petition for Appeal with OEA on July 30, 2025. In review, the undersigned finds that the timeframe between June 20, 2025, to July 30, 2025, is more than thirty (30) days. However, the D.C. Court of Appeals in *Yordanos Sium v. Office of State Superintendent of Education*, 218 A.3d 228 (D.C. 2019), held that the presumption regarding filing deadlines is that they are not jurisdictional but waivable claims-processing rules. In support of this position, the Court relied heavily on the ruling in *Mathis v. D.C. Housing Authority* 124 A.3d 1089 (D.C. 2015) that filing deadlines in particular are quintessential claim-processing rules, which seek only to promote the orderly progress of litigation, and generally do not have jurisdictional force. (citing *Wong,* 135 S.Ct. at 1632 (quoting *Henderson, 562 U.S.* at 435, 131 S.Ct. 1197). In *Sium*, the Court reasoned that even procedural rules codified in statutes are non-jurisdictional in character. It found that if a deadline is contained

[14] 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").
[15] *See also*, Chapter 6, §604.1 of the District Personnel Manual ("DPM") and OEA Rules.
[16] *See. Banks v. District of Columbia Public Schools*, OEA Matter No. 1602-0030-90, *Opinion and Order on Petition for Review* (September 30, 1992).
[17] *See. Brown v. District of Columbia Public Schools*, 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).
[18] D.C. Code §1-606.03.

in a statute **and** its language is mandatory, it *may* be jurisdictional (emphasis added). The Court held that D.C. Code § 1-606.03(a), which provides that any appeal shall be filed within 30 days of the effective date of the appealed action, meets both requirements. However, it opined that more is required.

Relying on *Mathis*, the D.C. Court of Appeals held that for a filing deadline to be deemed a jurisdictional bar, the traditional tools of statutory construction must also make clear that the legislature intended it to serve this purpose. The D.C. Court of Appeals saw no indication that the D.C. City Council affirmatively sought to curtail OEA's jurisdiction; therefore, it ruled that the 30-day deadline to file appeals at OEA is not jurisdictional. As a result, OEA cannot dismiss a late-filed appeal outright. However, OEA can dismiss the appeal if the Agency seasonably objects to the untimeliness of Employee's filing as a defense, as held in *Brewer v. D.C. Office of Employee Appeals*, 163 A.3d 799 (D.C. 2017).

In *Brewer*, the D.C. Court of Appeals held that as a claims-processing rule, a 30-day deadline is subject to equitable tolling. However, in accordance with the *Mathis* holding, claims-processing rules may be tolled (or relaxed or waived) if equity compels such a result (*See Neill v. District of Columbia Public Employee Relations Bd.,* 93 A.3d 229, 238 (D.C.2014), (explaining that claim-processing rules "may be relaxed or waived"). The Court in *Brewer* reasoned that equitable tolling turns on balancing the fairness to both parties and that equity aids the vigilant. Therefore, where a timing rule should be tolled turns on (1) whether there was unexplained or undue delay and (2) whether tolling would work an injustice to the other party (*See Simpson v. District of Columbia Office of Human Rights,* 597 A.2d 392 (D.C.1991) and *Mathis v. D.C. Housing Authority* 124 A.3d 1089 (D.C. 2015)). Furthermore, the Court held that consideration of the importance of ultimate finality in legal proceedings can also be considered when making a determination on tolling a deadline.

In the instant matter, Employee filed the instant Petition for Appeal forty (40) days from the effective date of the adverse action, which is ten (10) days past due. In consideration of the aforementioned D.C. Court of Appeals determinations regarding processing deadlines both in *Sium and Baldwin*, and recent OEA rulings in this regard, I find that this ten (10) delay was not significant or egregious to amount to any prejudice or injustice upon the other party. As a result, I conclude that Agency's request to dismiss Employee's Petition for Appeal for being untimely is DENIED.

Lack of Licensure/At-Will Status

Agency asserts that OEA does not have jurisdiction over Employee because Employee is an 'at-will' employee and has no job tenure or protection. Agency avers that Employee did not possess the required OSSE-issued license by the March 1, 2025, deadline and at the time of her termination. Employee does not deny that she lacked the required licensures. Instead, Employee avers that DC recognizes reciprocity between her active New Jersey license and also that she was taking steps to acquire the required certification. Further, Employee asserts that because she was a substitute teacher following her separation, this is representative of an employment relationship for which OEA should exercise jurisdiction.

This Office, pursuant to the rulings of the District of Columbia Superior Court, has consistently held that an employee who fails to meet the agency's licensing or certification requirement becomes an 'at-will' employee and therefore has no right to an OEA appeal.[19] *In Gizachew Wubishet v. District of Columbia*

[19] *See. Gizachew Wubishet v. District of Columbia Public Schools,* OEA Matter No. 1601-0106-06, (March 23, 2007; *Robin Suber v. D.C. Public Schools,* OEA Matter No. 1601-0107-07R10 (January 22, 2010); *Tricia Bowling-Bryant v. D.C. Public Schools*, OEA Matter No. 1601-0090-16 (May 30, 2017); *Michael E. Brown et al v. D.C. Department of Consumer and Regulatory Affairs*, OEA Matter Nos. 1601-0012-09, 1601-0027-09, 1601-0052-09, 1601-0054-09 (June 26, 2009); *Michael E. Brown et al. v. D.C. Department of Consumer and*

Public Schools, the employee's provisional teachers license had expired, and he was unable to obtain a permanent teachers license prior to his removal from service. The OEA AJ in this matter found that because "the Employee did not fully complete the certification requirements [of his position] and [failed to] obtain his license by June 30, 2006 … once his provisional license expired, he served solely in an "at will" capacity, subject to Agency's determinations with regard to whether he qualified for continued employment." *Wubishet* was upheld by the Board of the OEA in an Opinion and Order on Petition for Review[20] wherein the OEA Board held that because of his lack of proper licensure, *Wubishet* was in an "at-will" employment status with no attendant appeal rights to the OEA.

In the instant matter, I find that similar to *Wubishet*, Employee was terminated for her failure to obtain the required OSSE-issued license for her position as a teacher by the March 1, 2025 deadline. Further, Employee has not denied that she failed to obtain the OSSE-issued license by the effective date of her termination from service. As a result, I find that Employee served solely in an "at-will" capacity, subject to Agency's discretion with regard to whether she qualified for continued employment. Moreover, I also find that Employee's substitute teaching status after the termination is irrelevant to OEA's jurisdiction over this appeal. D.C. Code § 1-606.03 states that an "at-will" employee of the District of Columbia Government, serves "at the pleasure of the appointment authority and can be terminated by the employee at any time, with or without cause." It is well established that in the District of Columbia, an employer may discharge an "at-will" employee "at any time and for any reason, or for no reason at all".[21] As an "at will" employee, Employee did not have any job tenure or protection.[22] OEA has consistently held that "at will" employees have no appeal rights to this Office.[23]

As previously noted, this Office has consistently held that it lacks jurisdiction to hear appeals of a terminated employee who failed to meet mandatory licensing or certification requirements, reasoning that the employee was "at-will" because he or she lacked mandatory qualifications. Although an employee's position description may not designate them as holding "at will" status, since permanent status can only be achieved if requirements are met, an employee who lacks the requirements but is given a stated period of time to complete them, becomes "at-will", if the employee fails to complete the requirements by the deadline. This Office has ruled that by failing to meet the licensure requirements, such employees have no vested right in the positions. Therefore, I find that because Employee failed to meet the licensure requirement by the March 1, 2025, deadline, she was an "at-will" employee at the time of her termination, as such, OEA does not have jurisdiction over this matter.

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 aforementioned, I find that

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Regulatory Affairs, OEA Matter Nos. 1601-0012-09-1601-0027-09 & 1601-0052-09-1601-0054-09, *Opinion and Order on Petition for Review* (January 26, 2011); *Jennifer Broadwater v. D.C. Public Schools*, OEA Matter Nos. 1601-0099-15 (December 21, 2016); *Linda Ellis, et al. v. D.C. Department of Consumer and Regulatory Affairs,* 2011 CA 001529 P(MPA), 2011 CA 001533 P(MPA), 2011 CA 001534 P(MPA), 2011 CA 001557 P(MPA), 2011 CA 001560 P(MPA), 2011 CA 001561 P(MPA), 2011 CA 001562 P(MPA), and 2011 CA 001567 P(MPA) (November 28 2011).

[20] *Gizachew Wubishet v. District of Columbia Public Schools*, OEA Matter No. 1601-0106-06, *Opinion and Order on Petition for Review* (June 23, 2009).

[21] *Adams v. George W. Cochran & Co.,* 597 A.2d 28, 30 (D.C. 1991). *See also Bowie v. Gonzalez*, 433 F.Supp.2d 24 (DCDC 2006).

[22] *See.* D.C. Code § 1-609.05 (2001).

[23] *Employee v DCPS,* OEA Matter No. 1601-0057-25 (February 2, 2026).

Employee did not meet the required burden of proof, and that this matter must be dismissed for lack of jurisdiction. Consequently, I am unable to address the factual merits, if any, of this matter.

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