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

In the Matter of:)	
)	
EMPLOYEE ¹ ,)	
Employee)	
)	OEA Matter No. J-0002-26
v.)	
)	Date of Issuance: January 20, 2026
D.C. HOUSING AUTHORITY,)	
Agency.)	
)	MICHELLE R. HARRIS, ESQ.
)	Senior Administrative Judge
<hr style="border-top: 1px solid black;"/>		
Employee, <i>Pro Se</i>		
Lindsay Neinast Gonzalez, Esq., Agency Representative		
Richard J. Kim, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On October 6, 2025, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the District of Columbia Housing Authority’s (“Agency” or “DCHA”) decision to terminate her from service effective October 3, 2025. Following a letter from OEA requesting an Answer, Agency filed its Motion to Dismiss on November 3, 2025. Agency asserted in its Motion to Dismiss that OEA lacked jurisdiction over this matter because DCHA “explicitly excluded from the Comprehensive Merit Personnel Act (“CMPA”) provisions that confer jurisdiction to the Office of Employee Appeals (“OEA”).” This matter was assigned to the undersigned Senior Administrative Judge on November 4, 2025.²

Because a jurisdiction issue was raised, I issued an Order on November 12, 2025, requiring the parties to submit briefs addressing the jurisdiction issue raised by Agency in its Motion to Dismiss. Employee’s brief was due by or before December 8, 2025, and Agency’s response was due by or before December 29, 2025. Further, the November 12, 2025 Order noted that as of the date of that Order, Employee had already filed the following prior to the issuance of an order from the undersigned: (1)*Historical Documentation on November 3, 2025*; (2) *Opposition to Agency’s Motion*

¹ Employee’s name was removed from this decision for the purposes of publication on the Office of Employee Appeals’ website.
² On November 3, 2025, Employee filed a Supplemental Submission and filed an Opposition to Agency’s Motion to Dismiss on November 5, 2025. Employee also filed supplemental submissions on November 7, 2025, and November 10, 2025.

to Dismiss on November 5, 2025; (3) Motion for Leave to File Supplemental Opposition to Agency's Motion to Dismiss on November 7, 2025; (4) Supplemental Brief in Opposition to Agency's Motion on November 10, 2025, and (5) Refutating [sic] of Pre-Textual Claim on November 10, 2025. As such, the November 12, 2025, Order cited that Employee could rely upon those previously filed submissions and/or could file a response by the December 8, 2025, deadline. Both parties filed their briefs in accordance with the respective deadlines. On December 29, 2025, Employee filed a Motion for Leave to File a Sur-Reply.³ After considering the parties' arguments as presented in their submissions to this Office, I have decided that an Evidentiary Hearing is not required. The record is now closed.

ISSUE

Whether Employee's Petition for 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.⁴

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. (Emphasis added).

JURISDICTION

For the reasons that will be outlined below, the jurisdiction of this Office has not been established in this matter.

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS OF LAW

Employee worked for Agency as a Chief Learning Officer/Training and Organizational Development Manager for four (4) months.⁵ In a Final Notice dated September 18, 2025, Employee was terminated during her probationary period effective October 3, 2025. Employee filed a Petition for Appeal at OEA on October 6, 2025.

³ Employee's Motion to for Leave to File Sur-Reply is Granted.

⁴ OEA Rule § 699.1.

⁵ Employee's Petition for Appeal (October 6, 2025).

Employee's Position

Employee asserts she was wrongfully terminated and was fired for “at will and/or pretextual reasons after association retaliation.”⁶ Employee avers that OEA has jurisdiction over this matter because she was a “probationary employee who was terminated without just cause, without due process and in flagrant violation of applicable personnel regulations and her statutory rights.”⁷ Employee argues that her termination was wrong and that the actions of DCHA “demonstrates that this Office has jurisdiction over her appeal based on: (1) violations of DCHA’s own Equal Employment Opportunity Police which expressly applies to probationary employees; (2) breach of mandatory procedures creating an implied contract; (3) the arbitrary and capricious nature of her termination; and (4) violations of constitutional rights and public policy.”⁸ Employee argues that DCHA cannot “exempt itself from its own anti-discrimination and anti-retaliation policies.” Employee asserts that she began her tenure in June 2025 and following a conversation in July 2025 with the SVP of Human Resources regarding a family member who work at the DC Department of Transportation, Agency began to “orchestrate” her termination. Because of this, Employee asserts that Agency’s termination was arbitrary and capricious in nature.⁹

Employee also avers that the termination violated her due process and first amendment rights. Further, Employee argues that there is evidence of Whistleblower Retaliation and that she obtained “critical witness testimony from a former DCHA HR Specialist and documentary evidence that directly supports her jurisdictional arguments.”¹⁰ Employee also asserts that during her tenure, she created training materials that the Agency continues to use which proves her work was high quality and valuable. Employee reiterates that the “Agency’s claimed probationary termination without cause” is pretext for illegal retaliation.” Employee also cites that there is “pattern evidence” showing “systematic retaliation against multiple employees within a 35-day period.”¹¹ Employee also cites that it is her theory that her termination was retaliatory due to her “personal and professional associations.”¹² She notes that there were other employees who were terminated without cause on September 26, 2025. Employee further cites that Agency “concedes that Subchapter XV-A (Whistleblower Protection) applies to DCHA employees. She avers that she and her associates “engaged in protected whistleblower activity.” Employee asserts that she reported harassment and hostile work environment, one of her family members has previously reported misconduct, a witness reported federal I-9 violations and other employees reported patterns of retaliation.¹³

Employee also asserts that OEA has jurisdiction over her matter because “fraud is a definitive basis for jurisdiction.” Employee asserts that Agency “engaged in deliberate document fraud to justify [her] termination.”¹⁴ She notes that her direct manager did not play a role in her termination and that the documents appeared to be forged. She also cites that there is a potential False Claims Violation Act and that DCHA’s status as an independent agency does not absolve it from applicable laws.¹⁵ Employee also asserts that in *Coe v DCHA*, OEA Matter No. 1601-0151-09 (2010), and

⁶ Employee’s Petition for Appeal (October 6, 2025).

⁷ Employee Submission (November 3, 2025).

⁸ Employee’s Opposition (November 5, 2025).

⁹ *Id.*

¹⁰ Employee’s Supplemental Motion (November 7, 2025).

¹¹ *Id.*

¹² Employee’s Response (November 10, 2025).

¹³ Employee’s Supplemental Brief (November 10, 2025).

¹⁴ Employee’s Brief (December 4, 2025).

¹⁵ *Id.*

Baiden v DCHA, OEA Matter no. 160100112-10 (2011), OEA found that “at least some DCHA employees fall within OEA’s jurisdiction.” Employee iterates that the “fact that DCHA operates as an independent authority does not exempt it from OEA jurisdiction when employees face retaliatory adverse actions that violate District law.”¹⁶ Employee argues that “DCHA cannot manufacture jurisdictional barriers to avoid accountability for its discriminatory conduct.”¹⁷ Employee also avers that Agency made a “fundamental mischaracterization” in that they failed to “address the patter [she] discovered related to personnel practices, discrimination and retaliation.” Employee reiterates that the jurisdictional arguments “are a smokescreen designed to avoid examination of the merits.”¹⁸

Agency’s Position

Agency asserts in its Reply Brief in Support of its Motion to Dismiss, that Employee “makes no argument as to how [the] D.C. Office of Employee Appeals could exercise jurisdiction over her appeal as a former DCHA probationary employee.” Agency argues that in its Motion to Dismiss, it cited that this Office lacks the jurisdiction to adjudicate this matter, because DCHA employees do not have appeal rights to OEA. Further, Agency asserts that Employee was also in probationary status at the time of her termination which would also preclude an appeal to this Office. Agency avers that Employee raises no genuine issues regarding jurisdiction but instead asks OEA to “hear issues and claims beyond its jurisdiction, such as her vaguely referenced discrimination and retaliation claims.”¹⁹ Agency avers that OEA’s jurisdiction is conferred by the CMPA and that it does not apply to allegations of discrimination. To this end, Agency cites that Employee indicated that “she is already [sic] pursuing her discrimination and retaliation claims before the D.C. Office of Human Rights and the U.S. Equal Employment Opportunity Commission, the tribunals with jurisdiction over those claims.” Agency further notes that Employee asserts “vague whistleblower claims before OEA, and [cites to] *Raphael v. Okyiri*, 740 A.2d. 935 (D.C. 1999) and *Patricia Johnson v. DPW*, OEA Matter No. 1601-0009-20, to indicate OEA may exercise jurisdiction over her matter as a former DCHA probationary employee...” but those cases do not indicate that OEA may exercise jurisdiction. Agency asserts that the *Okyiri* and the *Johnson* matters “addressed whether an adverse action was for cause or pretextual for employees with clear rights to appeal adverse actions to OEA.”²⁰

Agency further cites that “unlike here the agencies in [Okyiri] and [Johnson] did not dispute that OEA had original jurisdiction to hear whether the permanent employees who worked at District government agencies covered by the relevant CMPA provisions could appeal their adverse actions to OEA.”²¹ Agency also avers that Employee’s claims that “OEA reviews probationary terminations constitutional violations or whistleblower retaliation” to be incorrect. Agency asserts that the cases Employee cites “in no way suggest that OEA has jurisdiction over Employee’s matter as a former DCHA probationary Employee.”²² Agency avers that instead “OEA dismisses those appeals for lack of jurisdiction because the absence of appeal rights for adverse actions necessarily precludes

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Employee’s Motion for Leave to File Sur-Reply (December 29, 2025).

¹⁹ Agency’s Reply Brief at Page 2 (December 29, 2025).

²⁰ *Id.* at Page 3.

²¹ *Id.* at Pages 3-4.

²² *Id.* at Page 4. Citing to *Williamson v DCPS*, OEA Matter No. 2401-0050-04(2008).

jurisdiction over any whistleblower or discrimination issues.”²³ Agency reiterates that Employee was in probationary status and that OEA lacks jurisdiction over this matter.

Further, Agency asserts that DCHA employees lack the status to have appeal rights to OEA.²⁴ Agency assert that “DCHA is an independent authority of the District Government [with] a legal existence separate from District government.” Additionally, Agency cites that pursuant to D.C. Code § 6-202(a), DCHA has “independent personnel authority” and as a result “DCHA employees have no appeal rights to OEA.” Agency further asserts that “DCHA employees are explicitly excluded from the CMPA protections provided in the Merit Personnel System contained in Title 6...”²⁵ Agency argues that “Employee has offered no authority indicating otherwise to rebut this dispositive point.” As a result, Agency avers that OEA has no jurisdiction over Employee’s Petition for Appeal and that it should be dismissed.

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”) § 604.1²⁶, 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 631.1, 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 fact more probably true than untrue.” This Office has no authority to review issues beyond its jurisdiction.²⁷ Therefore, issues regarding jurisdiction may be raised at any time during the course of the proceeding.²⁸

In the instant matter, the undersigned agrees with Agency’s assertion that OEA does not have jurisdiction over this matter. It is well established before this tribunal that the District of Columbia

²³ *Id.*

²⁴ *Id.* at Page 5.

²⁵ *Id.* at Page 6.

²⁶ See also, Chapter 6, §604.1 of the District Personnel Manual (“DPM”) and OEA Rules.

²⁷ See *Banks v. District of Columbia Public Schools*, OEA Matter No. 1602-0030-90, *Opinion and Order on Petition for Review* (September 30, 1992).

²⁸ 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).

Housing Authority (DCHA) is an independent agency, created pursuant to the D.C. Housing Authority Act of 1999.²⁹ Pursuant to D.C. Official Code § 6-202 (a), DCHA was created as an “independent authority with a legal existence separate from District government.” DCHA administers federally-funded programs for District of Columbia residents with low or moderate incomes. It is guided by federal provisions related to the administration of those programs. As a result, DCHA employees are excluded from the D.C. Merit Personnel systems found in Title 6 of the D.C. Official Code, which includes appeals to this Office.

Specifically, D.C. Official Code § 6-202.1(d) cites that “employees of the District of Columbia Housing authority shall be exempt from the provisions of this chapter.” DCHA has its own personnel authority set forth in D.C. Official Code §6-203. This provision states in pertinent part that Agency is authorized to “(13) adopt and administer personnel policies and and procedures, including grievance procedures subject to collective bargaining unit employees; and (21) to develop, establish, adopt and administer a personnel system, and publish rules and regulations setting forth minimum standards for all employees including appointments, promotions, *discipline*, grievance, *separation*, compensation, employee disability and death benefits, leave, retirement, health and life insurance and preferences (Emphasis added).”³⁰

Thus, I find that the D.C. Code’s jurisdictional limitations preclude this Office from addressing Employee’s claims of discrimination, retaliation, patterns of wrongful personnel actions and the like. These issues do not overcome the explicit jurisdictional limits that preclude appeals from DCHA employees. Consequently, the undersigned finds that based on the aforementioned D.C. Code provisions, DCHA is an independent agency with regard to the administration of its personnel matters. I further find that OEA lacks jurisdictional authority over this matter, and for these reasons I am unable to address the merits, if any, of this matter. Accordingly, I find that Employee’s Petition for Appeal in this matter must be dismissed for lack of jurisdiction.

ORDER

It is hereby **ORDERED** that Agency’s Motion to Dismiss **GRANTED**, and 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

²⁹ *Darnellena Burnett v District of Columbia Housing Authority*, OEA Matter No. 2401-0049-14 (December 14, 2015) *citing* to D.C. Law 13-105, D.C. Official Code § 6-202 (2001).

³⁰ *Gerald Da’Vage v. District of Columbia Housing Authority*, OEA Matter No. 1601-0032-18 (March 19, 2019).