Notice: This decision may be formally revised before it is published in the *District of Columbia Register* and the Office of Employee Appeals' website. Parties should promptly notify the Office Manager of any formal errors so that this Office can correct them before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:	
CLIFTON TAYLOR, Employee	OEA Matter No. J-0075-19
v.	Date of Issuance: February 19, 2020
DISTRICT OF COLUMBIA PUBLIC SCHOOLS, Agency	MONICA DOHNJI, ESQ. Senior Administrative Judge

Clifton Taylor, Employee, *Pro Se*
Nicole Dillard, Esq., Agency's Representative

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On August 12, 2019, Clifton Taylor ("Employee") filed a Petition for Appeal with the Office of Employee Appeals ("OEA") contesting District of Columbia Public Schools' ("Agency") decision to separate him from his position as a Behavioral Technician pursuant to a Reduction-in-force ("RIF"). Employee was RIF'd effective June 21, 2019. On September 16, 2019, Agency filed its Answer to Employee's Petition for Appeal and Motion to Dismiss.

I was assigned this matter on September 17, 2019. Subsequently, on September 24, 2019, the undersigned Senior Administrative Judge ("SAJ") issued an Order requiring Employee to address the jurisdiction issue in this matter no later than October 15, 2019. Agency was also afforded the option to submit a reply brief no later than October 29, 2019. While Employee submitted a timely brief, Agency did not file a reply brief. Consequently, on November 4, 2019, I issued an Order on Jurisdiction finding that OEA has Jurisdiction over this matter. In the same Order, I required the parties to submit written briefs on the issue of whether Agency conducted the instant RIF in accordance with applicable District laws, statues, and regulations. Both parties have submitted their respective briefs. After considering the arguments therein, I have determined that an Evidentiary Hearing is unwarranted. 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.

BURDEN OF PROOF

OEA Rule 628.1, 59 DCR 2129 (March 16, 2012) states:

> The burden of proof with regard to 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 628.2 *id.* states:

For appeals filed on or after October 21, 1998, the Agency shall have the burden of proof, except for issues of jurisdiction

FINDINGS OF FACTS, ANALYSIS, AND CONCLUSIONS OF LAW[1]

The following findings of facts, 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. On March 20, 2019, D.C. School Chancellor Lewis Ferebee authorized a Reduction-in-Force ("RIF") pursuant to D.C. Code § 1-624.02, 5 DCMR Chapter 15, and Mayor's Order 2007-186. The RIF Authorization Memo stated that the RIF was conducted to "eliminate positions that are not required due to a reorganization of functions and budgetary reasons for the 2020 fiscal year."[2]

Employee was RIF'd effective June 21, 2019. While Employee argues that he did not receive the RIF notice, Agency asserts that it properly followed District laws, rules and regulations in conducting the instant RIF. Employee also notes that he was not informed of the job fairs that were scheduled to assist RIF'd employees with locating replacement employment

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[1]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").

[2] *See* Agency's Answer, Exhibits 2 and 3 (September 16, 2019).

and opportunities with other school systems. Additionally, Employee states that he went above and beyond his job description and his IMPACT score was always three (3) or above.[3]

The RIF Authorization Memo notes that the RIF was conducted to "eliminate positions that are not required due to a reorganization of functions and budgetary reasons for the 2020 fiscal year."[4] Consequently, I am guided primarily by D.C. Official Code § 1-624.02, which states in pertinent part that:

> (a) Reduction-in-force procedures shall apply to the Career and Educational Services… and shall include:
>
> (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.

One Round of Lateral Competition

Agency submits that it conducted the RIF in accordance with the District of Columbia Municipal Regulations and the D.C. Official Code. Agency explains that each school was identified as a separate competitive area, and each position title is a separate competitive level. According to Agency, Employee was hired as a Behavior Technician at Burrville Elementary School ("Burrville"). Burrville was determined to be a competitive area, and the Behavior Technician position was the competitive level. Agency explains that at the time of the RIF, there were two (2) Behavior Technicians at Burrville. Therefore, Agency was required to have one round of lateral competition pursuant to D.C. Official Code § 1-624.02(a)(2).

Pursuant to Chapter 24 of the DPM, § 2409, each Agency shall generally constitute a single competitive area, and Agency personnel are authorized to establish lesser competitive areas when conducting RIFs.[5] In addition, Chapter 24 of the DPM, § 2410.4, 47 D.C. Reg. 2430 (2000), defines "competitive level" as:

> All positions in the competitive area … in the same grade (or occupational level), and classification series and which are sufficiently alike in

[3] Petition for Appeal (August 12, 2019). *See also* Employee's October 15, 2019 and December 11, 2019, submissions to this Office.
[4] Agency's Answer to Employee's Petition for Appeal and Motion to Dismiss, Tab 3 (September 16, 2019).
[5] *See Leon Graves v. Department of Youth Rehabilitation Services*, OEA Matter No. 2401-0018-14 (July 3, 2014).

> qualification requirements, duties, responsibilities, and working conditions so that the incumbent of one (1) position could successfully perform the duties and responsibilities of any of the other positions, without any loss of productivity beyond that normally expected in the orientation of any new but fully qualified employee.

Furthermore, pursuant to Chapter 24 of the DPM, § 2410.5, 47 D.C. Reg. 2430 (2000) "[t]he composition of a competitive level shall be determined on similarity of the qualification requirements, including selective factors, to perform the major duties of the position successfully, the title and series of the positions, and other factors prescribed in this section and section 2411 of this chapter." Generally, an employee's position of record is shown through the issuance of an SF-50 Notification of Personnel Action.[6]

Here, the instant RIF was approved on March 20, 2019.[7] The Memorandum authorizing the RIF designated Burrville Elementary School as the competitive area and Behavior Technician as the competitive level to be eliminated.[8] Employee does not argue that he was a Behavior Technician at Burville. Because Employee was not the only Behavior Technician within his competitive level, he was required to compete with other employees in one round of lateral competition. According to Title 5, DCMR § 1503.2 *et al.*:

> If a decision must be made between employees in the same competitive area and competitive level, the following factors, in support of the purposes, programs, and needs of the organizational unit comprising the competitive area, with respect to each employee, shall be considered in determining which position shall be abolished:
>
> (a) Significant relevant contributions, accomplishments, or performance;
>
> (b) Relevant supplemental professional experiences 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.

Based on § 1503.1, Agency gave the following weights to each of the aforementioned factors when implementing the RIF:

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[6] *See Armeta Ross v. D.C. Office of Contracting & Procurement*, OEA Matter No. 2401-0133-09-R11 (April 8, 2013).
[7] Agency's Answer, *supra*, at Exhibits 2 and 3.
[8] *Id*.

(a) Office or school needs, including: curriculum, specialized education, degrees, licenses or areas of expertise - (20%)

(b) Significant relevant contributions, accomplishments, or performance – (50%)

(c) Relevant supplemental professional experiences as demonstrated on the job – (20%)

(d) Length of service – (10%).[9]

Competitive Level Documentation Form

Agency employs the use of a CLDF in cases where employees subject to a RIF must compete against each other in lateral competition. In conducting the instant RIF, the principal of Burrville was given discretion to assign numerical values to the first three factors enumerated in Title 5, DCMR § 1503.2, *supra*, as deemed appropriate, while the "length of service" category was completed by the Department of Human Resources ("DHR"). Employee received a total final score of forty-one (41) points on his CLDF while the competitor received a total final score of sixty-one (61). Consequently, Employee was ranked the lowest in his competitive level.[10]

Office or school needs

This category is weighted at 20% on the CLDF and accounts for any factors that may have an impact on the success of the school or achievement of the students at the school such as; curriculum, specialized education, degrees, licenses or areas of expertise. Employee received a score of "low" or "0" points for this category. Whereas, the competitor received a score of "medium" or "10" points for this category. In the comment section, the principal noted that Employee "secured a guest speaker to talk to a selected group of students about sports. Does home visits."[11] Employee did not specifically address this section in his brief. Employee however, states in his Petition for Appeal that:

> [W]hen I was at work, they had few incidents if any. I was a team player. I had to run classes by myself. I ran in-school suspension everyday with 8-10 kids and if there was an incident, I had to take them with me. Sometimes I had to run recess by myself outside with about 50 kids, 3rd grades to 5th grade no incidents. I

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[9] It should be noted that OEA has consistently held that DCPS is allowed discretion to accord different weights to the factors enumerated in 1503.2. Thus, Agency is not required to assign equal values to each of the factors. *See White v. DCPS*, OEA Matter No. 2401-0014-10 (December 30, 2001); *Britton v. DCPS*, OEA Matter No. 2401-0179-09 (May 24, 2010).

[10] Based on the Staffing Database attached to Agency's Answer, supra, at Exhibits 10, and 12, the points allocations for the various CLDF categories (excluding length of Service) are as follows:
High Contribution: 20 points
Medium Contribution: 10 points
Low Contribution: 0 points

[11] Agency's Answer, supra, at Exhibit 9.

> always had 3.00 on my IMPACT and good reviews. So I did not understand why I was RIF when these kids really need good leaders that really care about them.[12]

Employee also noted that the Principal had no respect for the parents and staff. He explains that the principal had a problem with men who spoke up for their self. He did not want the staff to communicate with each other.[13] There is no indication that any supplemental evidence would supplant the higher score received by the other employee in Employee's competitive level who was not separated from service pursuant to the RIF. Additionally, it is within the principal of Burrville's managerial expertise to assign numeric values to this factor. As such, this Office cannot substitute its judgment for that of the principal at Burrville.

Significant relevant contributions, accomplishments, or performance

This category is weighted at 50% on the CLDF. Both Employee and the competitor received an "Effective" rating for this category. The Principal noted in the comment section that Employee worked "with students who display negative behaviors. Contact parents to discuss strategies for students."[14] Employee also stated in his Petition for Appeal that he always had 3.00 on his IMPACT and good reviews. I find that, it is within the principal's managerial discretion to award points in this area given his independent knowledge of the employees and student body.

Relevant supplemental professional experiences as demonstrated on the job

This category accounts for 20% of the CLDF. Employee received a score of "low" or "0" point for this category, whereas, the competitor received a score of "medium" or "10" points. The principal noted in Employee's comment section that Employee "conducted a few basketball tryouts with students."[15] The principal noted in the competitor's comment section that he worked "in aftercare with students daily. Created play on Bullying that incorporated students."[16] Employee did not specifically address this section. He also did not dispute the comments made by the principal with regards to this category. Moreover, there is no indication that any supplemental evidence would supplant the higher score received by the other employee in Employee's competitive level who was not separated from service pursuant to the RIF. Additionally, I find that it is within the principal of Cardozo's managerial expertise to assign numeric values to this factor.

Length of service

This category accounts for 10%. It was completed by DHR and was calculated by adding the following: 1) total tenure with Agency; 2) veteran preferences; and 3) D.C. residency points. The length of service calculation, in addition to the other factors, were weighted and added together, resulting in a ranking for each competing employee. The length of service is broken down as follows:

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[12] Petition for Appeal (August 12, 2019).
[13] *Id*.
[14] Agency Answer, *supra*, at Exhibit 9.
[15] *Id*.
[16] *Id*. at Exhibit 11.

20+ years (including bonuses): 10 points
10-19 years (including bonuses): 5 points
0-9 years (including bonuses): 1 point

Here, Employee started working at Agency on January 3, 2017, while the competitor started working at Agency on December 13, 2018. Therefore, they both fell in the 0-9 years range, and thus, both received 1 point. Employee does not contest the calculation of the points awarded. Therefore, I find that Agency properly calculated this number.

In reviewing the documents of record, Employee does not offer any statutes, case law, or other regulations to refute Agency's position regarding the principal's authority to utilize discretion in completing an employee's CLDF during the course of the instant RIF. In *Washington Teachers' Union Local No. 6, Am. Fed'n of Teachers, AFL-CIO v. Bd. of Educ. of the Dist. of Columbia*, 109 F.3d 774 (D.C. Cir. 1997), the D.C. Court of Appeals, in evaluating several union arguments concerning a RIF, stated that "school principals have total discretion to rank their teachers" and noted that performance evaluations are "subjective and individualized in nature."[17] Employee has a total score of forty-one (41) points after all of the factors outlined above were tallied and scored. The next lowest employee who was retained received a total score of sixty-one (61) points. Employee has not proffered any other evidence to suggest that a further re-evaluation of his CLDF scores would result in a different outcome in this case.[18]

Accordingly, I find that the principal of Burrville properly exercised his discretion in completing Employee's CLDF as he was in the best position to observe and evaluate the criteria enumerated in DCMR §1503.2, *supra*, when implementing the instant RIF. While it is unfortunate that Agency had to release any employee, there is nothing within the record that would lead the Undersigned to believe that the RIF was conducted unfairly. I therefore find that Agency did not abuse its discretion in completing the CLDF, and Employee was properly afforded one round of lateral competition as required by D.C. Official Code § 1-624.08.

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 20, 2019, Agency indicated that Employee's position had been eliminated, but that there may be positions at other schools for which Employee may be qualified.[19] Further, the notice indicated that Employee could apply for any vacancies at Agency or within District Government that may arise in the future.[20] Additionally, the notice indicated that Employee would receive "some priority consideration", but was not guaranteed reemployment.[21]

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[17] *See also American Fed'n of Gov't Employees, AFL-CIO v. Office of Pers. Mgmt.*, 821 F.2d 761, 765 (D.C. Cir. 1987) (noting that the federal government has long employed the use of subjective performance evaluations to help make RIF decisions).
[18] *See Anderson v. Liberty Lobby, Inc*., 477 U.S. 242, 248 (1986) (stating that a material fact is one which might affect the outcome of the case under governing law).
[19] Agency Answer, *supra*, at Tab 1.
[20] *Id.*
[21] *Id.*

Accordingly, I find that Agency complied with the RIF requirement to consider Employee for priority reemployment.

Consideration of Job Sharing

Pursuant to D.C. Code § 1-624.02(a)(4), when a RIF is conducted, an Agency *shall* consider job sharing and reduced hours for employees separated pursuant to the RIF (emphasis added). In the current matter, Agency argues that pursuant to D.C. Code § 1-624.02(a)(4) and District Personnel Manual ("DPM") 2404, job sharing was discretionary and as such, it had no obligation to consider job sharing. I find that Agency is wrong in this regard, as the plain meaning of the statutory language is not ambiguous, and the intent of the legislature is clear. Agency seems to ignore the plain language of the statutory language of D.C. Code § 1-624.02(a)(4) which states that that the RIF procedures "*shall* include…consideration of job sharing and reduced hours…" Furthermore, DPM § 2404.1 provides as follows:

> 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 a specific time limitation; and
> b. The employee has voluntarily requested such an assignment in response to the 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.

There is no evidence in the record to prove that Employee in the current matter did not meet the conditions listed under DPM 2404.1. Moreover, this section does not negate Agency's required duty under D.C. Code § 1-624.02(a)(4) to consider job sharing and reduced hours for employees separated pursuant to the RIF. It simply provides the conditions that have to be met before an employee is assigned to job sharing or reduced working hours. Consequently, I further find that Agency is incorrect in its assertion that the consideration of job sharing and reduced hours are discretionary, rather than mandatory.[22]

In *Banks v. MPD*, 2017 CA 008306 P(MPA) (D.C. Sup. Ct. July 11, 2018), Judge Epstein held that "even if the Agency had discretion about whether to consider job sharing and reduced hours as alternatives to a RIF, the Agency abused its discretion by failing either to recognize that it had discretion or to explain why it exercised its discretion not to consider these options."[23] Here, consideration for job sharing was mandatory, and there is no evidence that Employee did not meet the conditions as set forth under DPM 2404.1. Yet, Agency did not provide a reason as to why it was not a lawful or practical alternative when conducting the instant RIF. As held by the District of Columbia Court of Appeals, and quoted by Judge Epstein, Agency "may have a good explanation about why job sharing or reduced hours were not a lawful or practical

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[22] *See Abeboye v. MPD*, 2017 CA 002469 P(MPA) (D.C. Sup. Ct. Feb. 13, 2018); *Boone v. MPD*, 2017 CA 002471 P(MPA) (D.C. Sup. Ct. March 13, 2018); *Gamble v. MPD,* 2017 CA 002472 P(MPA) (D.C. Sup. Ct. April 30, 2018).
[23] *Banks v. MPD*, 2017 CA 008306 P(MPA) (D.C. Sup. Ct. July 11, 2018).

alternative to the RIF that included [Employee], but it is not too much to ask the Agency to provide that explanation."[24]

6-B DCMR § 2405.7, provides that

> The retroactive reinstatement of a person who was separated by a reduction in force under this chapter may only be made on the basis of a finding of a harmful error as determined by the personnel authority or the Office of Employee Appeals. To be harmful, an error shall be of such magnitude that in its absence the employee would not have been released from his or her competitive level.

Employee was in a multiple-person competitive level, and the competitor was retained, therefore, I find that, because the consideration of job sharing and reduced hours was mandatory, Agency was required to, at the very least, explain why job sharing and reduced hours was not a practical alternative in the instant RIF. Agency erroneously argues that it had no obligation to consider job sharing because it was discretionary. I find that, Agency's assertion that D.C. Official Code § 1-624.02(a)(4) is discretionary, is flawed. Furthermore, following Judge Epstein's reasoning in *Banks*, and the plain meaning of D.C. Official Code § 1-624.02(a)(4) and DPM 2404.1, I find that Agency abused its discretion by failing to provide good cause as to why job sharing or reduced hours were not lawful or practical alternatives to the instant RIF. Moreover, Employee was in a multiple-person competitive level, and Agency has not shown that its failure to consider job sharing or reduced hours in the instant RIF did not prejudice Employee. Consequently, I conclude that Agency's failure to consider job sharing and reduced hours in a multiple person competitive level falls within the definition of harmful error. Thus, I further conclude that Agency failed to meet its burden of proof regarding the consideration for job sharing or reduced hours.

Notice of 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 employee's separation from service.[25] Here, Employee stated in his Petition for Appeal that he did not receive the RIF Notice. He explains that the documents he used to file his Petition for Appeal were provided by his union. Agency on the other hand asserts that, the RIF notice was emailed to Employee's work email address on May 20, 2019.[26] Agency also asserts that another copy was mailed to Employee via Federal Express on the same day.

Here, the final agency action was dated May 20, 2019, with an effective date of June 21, 2019. Consequently, Employee had thirty (30) days from this date to file a timely Petition for Appeal with OEA. Employee filed his appeal on August 12, 2019, outside of the thirty (30) day

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[24] *Id*. Quoting *Johnson v. United States*, 398 A.2d 354, 363 (D.C. 1979).
[25] *See* DPM § 2422.
[26] Agency's Brief (November 20, 2019). It should be noted that Agency stated in its brief that the RIF notice was emailed and mailed to Employee on May 20, 2016, instead of 2019. I find that this is a typographic error.

statutory period. However, Employee argues in his October 15, 2019, brief that he was not provided with a formal termination package by Agency. He explained that he received the OEA appeal information from his union representative.

In *Aygen v. District of Columbia Office of Employee Appeals*,[27] the D.C. Superior Court found that where an employee is in duty status, "the notice of final decision must [be] delivered to the employee on or before the time the action is effective, *with a request for employee to acknowledge it*" (emphasis added). The Court noted that if the employee refused to acknowledge receipt, a signed written statement by a witness may be used as evidence of service.[28] Additionally, the Court found that where an employee is not in duty status, the notice "must be sent to employee's last known address by courier, or *by certified or registered mail, return receipt requested,* before the time of the action becomes effective."[29] The court further explained that "a dated cover letter, by itself, was insufficient evidence" of a mailing date or proof of receipt by an employee (emphasis added).[30]

In the current case, while Agency asserts that it mailed the RIF notice via Federal Express, Agency did not provide a tracking number to support this assertion. Also, there is nothing in the record to establish that Employee actually ***received*** the RIF notice such as a certified or registered mail with return receipt acknowledgement (emphasis added). Furthermore, the acknowledgement of receipt of the RIF Notice is not signed by Employee or any witness evidencing Employee's refusal to receive the RIF Notice. Agency has the burden of proof to show that Employee received thirty (30) days written notice prior to the effective date of the RIF. Although Employee has also failed to provide any corroborating evidence to show that he did not receive the RIF notice thirty (30) days prior to the effective date of the RIF, the fact remains that Agency has the burden of proof in this matter. Therefore, based on the above reasoning and analysis, I find that Agency has failed to meet its burden and did not give Employee thirty (30) days written notice prior to the effective date of the instant RIF.

Agency's failure to provide Employee with thirty (30) days written notice is considered procedural error, and thus calls for a reconstruction of this process, as opposed to retroactive reinstatement of Employee. A retroactive reinstatement of employee is only allowed where there is a finding of harmful error in the separation of an employee. DPM 2405.7, 47 D.C. Reg. 2430 (2000). This section defines harmful error as an error with "such a magnitude that in its absence, the employee would not have been released from his or her competitive level." This is not the case here. Here, Agency's failure to provide Employee with thirty (30) days notice before the RIF effective date was a procedural error and does not constitute harmful error. As such, I find that Agency's error will not serve to negate or overturn Employee's termination.

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[27] No. 2009 CA 006528; No. 2009 CA 008063 at p. 9 (D.C. Superior Ct. April 5, 2012).
[28] *Id*.
[29] *Id*.
[30] *Id*. at pp. 10-11.

Grievances

Employee also alleges that the Principal had no respect for the parents and staff. He explains that the principal had a problem with men who spoke up for their self. He did not want the staff to communicate with each other. Complaints of this nature are grievances, and do not fall within the purview of OEA's scope of review. Further, it is an established matter of public law that as of October 21, 1998, pursuant to the Omnibus Personnel Reform Amendment Act of 1998 (OPRAA), D.C. Law 12-124, OEA no longer has jurisdiction over grievance appeals. Employee's other ancillary arguments are best characterized as grievances and outside of OEA's jurisdiction to adjudicate. That is not to say that Employee may not press his claims elsewhere, but rather that OEA currently lacks the jurisdiction to hear Employee's other claims.

Based on Agency's failure to consider job sharing and reduced hours, I conclude that Agency's action of abolishing Employee's position was not done in strict accordance with D.C. Official Code § 1-624.02. Agency's actions constituted procedural and harmful error.

ORDER

It is hereby ORDERED that:

1. Agency's action of abolishing Employee's position through a Reduction-In-Force is **REVERSED**; and
2. Agency shall reinstate Employee to his last position of record; or a comparable position; and
3. Agency shall reimburse Employee all back-pay and benefits lost as a result of the RIF; and
4. Agency shall file with this Office, within thirty (30) days from the date on which this decision becomes final, documents evidencing compliance with the terms of this Order.

FOR THE OFFICE:

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MONICA DOHNJI, ESQ.
SENIOR ADMINISTRATIVE JUDGE