

# Agenda

## D.C. OFFICE OF EMPLOYEE APPEALS (OEA) BOARD MEETING

Tuesday, April 15, 2014 at 11:00 a.m.

Location: 1100 4<sup>th</sup> Street, SW, Room 380E

Washington, DC 20024

### I. Call to Order

### II. Ascertainment of Quorum

### III. Adoption of Agenda

### IV. Minutes Reviewed from Previous Meeting

### V. New Business

#### A. Public Comments

#### B. Summary of Cases

1. **Jessica Edmond v. D.C. Department of Consumer and Regulatory Affairs** – Employee was separated from her position as a Program Support Specialist pursuant to a reduction-in-force. She filed a Petition for Appeal with OEA on July 26, 2010. The Administrative Judge ruled to uphold Agency's action but ordered it to reimburse Employee for thirty days' pay and benefits for its failure to provide her with the required written notice. Agency filed a Motion for Reconsideration on December 3, 2012. It argued that the AJ's order to reimburse Employee thirty days' pay and benefits was duplicative and erroneous because Employee was compensated during the thirty-day period.
2. **Michael Dunn v. Department of Youth Rehabilitation Services** – Employee was removed from his position as a Lead Youth Development Specialist. He was charged with on-duty acts or omissions that interfere with the efficiency and integrity of government operations: neglect of duty and incompetence. Additionally, he was charged with any knowing or negligent material misrepresentation on other document given to a government agency. Agency alleged that Employee violated its policies when he failed to file an unusual incident report and when he failed to report that handcuffs were used to restrain a resident. Additionally, it asserted that Employee falsified and back-dated a restraint form and incident report.

The Administrative Judge upheld Agency's charge of any knowing or negligent material misrepresentation on other document given to a government agency. However, the remaining charges were dismissed. Accordingly, the Administrative Judge ordered that Employee's termination be reversed, and she modified the penalty to a fifteen-day suspension. Additionally, she ordered Agency to reinstate Employee and reimburse him with back-pay and benefits lost as a result of his removal.

Agency filed a Petition for Review on November 9, 2012 and a Brief in Support of the Petition for Review on November 29, 2012. It argued that the Initial Decision was based on an erroneous interpretation of statute, regulation, or policy. It contended that the Table of Penalties relied on by the Administrative Judge was advisory in nature and not mandatory. Further, it submitted that the Administrative Judge erred in sustaining only one of the charges against Employee. In response, Employee provided that the Table of Penalties is not just a discretionary tool to be ignored by Agency. He explained that the Table of Penalties is mandatory in disciplinary actions.

3. **LaTonya Lewis v. D.C. Public Schools** – Employee was involuntary separated from her position. Agency opined that its action of separating Employee was lawful because she did not overcome her on-the-job injury within two years after the commencement of Worker’s Compensation, and it could not find an alternative position in which to place her. The Administrative Judge dismissed the matter because Employee failed to state a claim for which she was entitled relief. He explained that the compensation Employee received for her injury constituted her exclusive remedy against Agency. Employee filed a Petition for Review on December 5, 2012. She asserted that the Administrative Judge’s ruling was based on erroneous information.
4. **Theresa Aviles-Rodriguez v. D.C. Public Schools** – Employee was terminated from her position based on a “Minimally Effective” rating, for two consecutive years, under Agency’s IMPACT evaluation system. She filed a Petition for Appeal on September 17, 2012, alleging that her scores were low because her evaluation was performed by a Master Educator who spoke a different Spanish dialect; she was assigned to teach pre-k, for which she was not certified; she did not receive adequate training for the new curriculum; she had medical issues which hindered her from taking the stairs to the third floor classroom; and that she was targeted because of her age. The matter was dismissed for lack of jurisdiction because the Administrative Judge found that Employee’s Petition for Appeal was filed untimely. Employee filed a Petition for Review on January 18, 2013. She asserted that the appeal was timely filed and submitted a copy of a certified receipt as evidence that her appeal was mailed to OEA.

**C. Deliberations** – This portion of the meeting will be closed to the public for deliberations in accordance with D.C. Official Code § 2-575(b)(13).

**D. Open Portion Resumes**

**E. Final Votes on Cases**

**F. Public Comments**

**VI. Adjournment**