

Minutes
D.C. OFFICE OF EMPLOYEE APPEALS (OEA) BOARD MEETING
Tuesday, June 6, 2017
Location: 1100 4th Street, SW, Suite 380E
Washington, DC 20024

Persons Present: Lasheka Brown (OEA General Counsel), Sheila Barfield (OEA Executive Director), Sommer Murphy (OEA Acting Deputy General Counsel), Sheree Price (OEA Board Chair), Patricia Hobson Wilson (OEA Board Member), Vera Abbott (OEA Board Member), P. Victoria Williams (OEA Board Member), Wynter Clarke (OEA Paralegal), Johnny Howard (Member of the Public), Sylvia Johnson (Member of the Public), Sholanda Miller (Member of the Public), and Loretta Singleton (Member of the Public).

- I. Call to Order** – Sheree Price called the meeting to order at 11:02 a.m.
- II. Ascertainment of Quorum** – There was a quorum of Board members present for the office to conduct business.
- III. Adoption of Agenda** – Vera Abbott moved to adopt the Agenda. Patricia Hobson Wilson seconded the motion. The Agenda was adopted by the Board.
- IV. Minutes from Previous Meeting** – The April 18, 2017, meeting minutes were reviewed. There were no corrections. The minutes were accepted.
- V. New Business**

A. Public Comments on Motion for Interlocutory Appeal

- 1. There were no public comments offered on the Motion for Interlocutory Appeal.

B. Summary of Case

- 1. **Aishah Mills-Pherigo v. D.C. Department of Human Resources, OEA Matter No. J-0018-17-** Employee worked as a Management Analyst with Agency. On November 8, 2016, Agency issued a final notice of removal. According to the notice, Employee was removed from her position for Failure to Meet the Requirements of a Performance Improvement Plan (“PIP”) and Neglect of Duty. The effective date of Employee’s removal was November 11, 2016.

On February 2, 2017, the OEA Administrative Judge (“AJ”) ordered both parties to submit briefs on OEA’s jurisdiction. Employee filed her brief on February 22, 2017. She provided that her Petition for Appeal was filed within the thirty-day deadline. Employee contended that she mailed her appeal from the United States Postal Service (“USPS”) on December 9, 2016. She submitted a receipt from the USPS that she claimed provided that the appeal was scheduled to be delivered to OEA on December 10, 2016. Employee also submitted a tracking report which, in her opinion, showed that the appeal was delivered to the mailroom on December 12, 2016. Therefore, she argued that her appeal was received within the thirty-day deadline.

The AJ found that Employee’s appeal was timely filed and subsequently denied Agency’s Motion to Dismiss and scheduled a Pre-hearing Conference. Agency disagreed with the AJ’s ruling and filed a Motion for Certification of an Interlocutory Appeal to the OEA Board. Agency argues that the AJ failed to consider OEA’s binding rule which provides that the time stamp on the document shall be the date of

filing. It claims that the AJ's order on its Motion to Dismiss focused on service instead of the appeal being untimely filed. Thus, it requests that the Board set aside the AJ's order and dismiss Employee's appeal with prejudice. On March 31, 2017, the AJ certified the matter to the Board to consider Agency's Motion on Interlocutory Appeal.

C. Public Comments on Petitions for Review

1. Johnny Howard provided a statement on behalf of Sylvia Johnson. He stated that Employee's term appointment could not exceed four years and that when Employee was reinstated to a Career Position she was not required to serve another probationary period. Therefore, he requested that the Petition for Review be granted.

D. Summary of Cases

1. **Jaqueline Graves v. Office of the State Superintendent of Education, OEA Matter No. 1601-0064-15**— Employee worked as a Bus Driver with Agency. On April 2, 2015, Agency suspended Employee for "any on-duty employment-related act or omission that interferes with the efficiency and integrity of government operations, specifically: neglect of duty." The period of Employee's suspension was Friday, April 3, 2015 to Friday, April 17, 2015.

On December 1, 2015, the AJ issued an Order Scheduling a Pre-hearing Conference for February 16, 2016. While Agency was present for the scheduled conference, Employee and her attorney failed to appear. As a result, the AJ issued an Order for Good Cause Statement requesting Employee to explain why she failed to attend the scheduled conference. Employee had until March 2, 2016, to respond.

On February 16, 2016, Employee's attorney filed a motion to withdraw his appearance. Employee did not submit her Good Cause Statement by the March 2, 2016 deadline. Therefore, the AJ issued an Initial Decision on March 7, 2016. She held that in accordance with OEA Rule 621.1, Employee failed to prosecute her appeal. Accordingly, she dismissed her case.

On March 8, 2016, Employee filed a letter providing that she was unaware of the date of her proceeding because her attorney failed to inform her. She asserts that after she relieved her prior attorney of their duties, she attempted to retain new counsel. However, she explains that she unable to secure a new attorney because she was involved in a car accident on February 9, 2016.

2. **Sylvia Johnson v. D.C. Fire and Emergency Medical Services Department, OEA Matter No. J-0145-15**— Employee worked as a Management Liaison Specialist with Agency. On August 12, 2015, Agency issued a notice terminating Employee from her position. Employee challenged her termination by filing a Petition for Appeal with OEA on September 21, 2015. On October 30, 2015, Agency filed a Motion to Dismiss. It explained that Employee was still serving in her probationary period when she was terminated.

On December 16, 2015, the AJ issued an order directing Employee to brief whether her appeal should be dismissed for lack of jurisdiction. Both parties submitted their respective briefs. On February 11, 2016, the AJ issued his Initial Decision. He found that Employee was hired under a term appointment by Agency on July 20, 2009. According to the AJ, Employee's term appointment was extended on September 22, 2011 and July 20, 2013. However, on March 30, 2014, at the expiration of her term appointment, Employee was terminated from her position. The AJ held that

Employee was subsequently rehired on September 22, 2014, as a probational Career Service employee.

Moreover, the AJ found that the record did not support Employee's contention that she previously held a Career Service position and completed a probationary period. As it related to the offer letter, the AJ determined that Agency and Employee each provided offer letters. According to the AJ, Agency's offer letter provided that Employee was required to serve a probationary period; Employee's offer letter did not. However, he found that despite the discrepancy, Employee did not offer any case law, rule, or regulation that requires Agency to include language of a probationary period in its offer letter. Finally, he provided that because there was a break in service and pursuant to DPR § 813, Employee was required to serve a one-year probationary period. Thus, the AJ ruled that OEA lacked jurisdiction and dismissed Employee's appeal.

On March 17, 2016, Employee filed a Petition for Review of the Initial Decision with the OEA Board. She argues that the AJ mischaracterized her initial appointment as a term appointment. It is Employee's position that in accordance with DPR § 823, a term appointment should be in excess of one year but not exceed four years. She reasons that because her appointment was from July of 2009 through March of 2014, it exceeded the four-year term. Employee contends that when her four-year period ended in July of 2013, she was converted to a Career Service employee. Additionally, she reiterates that there was no probationary designation on her SF-50. Finally, she provides that she was reinstated to her position under DPR § 816.5, and accordingly was converted to Career Service permanent. Therefore, she requests that OEA reinstate her to her position with back pay.

On April 19, 2016, Agency filed its response to Employee's Petition for Review. It argues that the record clearly indicates that the nature of Employee's tenure from July of 2009 through March of 2014, was a series of term appointments. As it relates to Employee's claim that she achieved Career Service permanent status, Agency contends that because she was hired six months after being terminated, there was a break in service. Therefore, Employee was required to serve a probationary period in accordance with D.C. Official Code § 1-608.01(a)(5). Accordingly, it requests that the Board deny Employee's Petition for Review.

3. **Sholanda Miller v. D.C. Metropolitan Police Department, OEA Matter No. 1601-0325-10R15**— This matter was previously before this Board. Employee worked as an Officer with Agency. On November 23, 2009, Agency issued a Notice of Proposed Adverse Action ("Proposed Notice") to Employee informing her that she would be suspended for fifteen days. Employee was charged with neglect of duty and prejudicial conduct. On February 1, 2010, Agency issued an Amendment to the Proposed Notice ("Amended Notice"), wherein it also charged Employee with Compromising a Felony. The Amended Notice proposed termination instead of the fifteen-day suspension. Employee was subsequently found guilty of all three charges and served a Final Notice informing her that she would be terminated. The effective date of termination was May 21, 2010.

The AJ issued his Initial Decision on December 30, 2013. With regard to the 90-day rule, he considered D.C. Official Code § 5-1031(b) and found that the 90-day period commenced on July 21, 2009. He reasoned that from March 5, 2009 until July 20, 2009, Agency was conducting a criminal investigation of Employee. The AJ found that the criminal investigation concluded with the issuance of the declination letter on

July 20, 2009. Accordingly, he ruled that Agency did not violate the 90-day rule because its Proposed Notice was issued eighty-six business days after July 21, 2009. With regard to the 55-day rule, the AJ found that Article 12, Section 6 of the CBA provided that an officer “. . . shall be given a written decision and the reasons therefore no later than fifty-five (55) business days after the date the employee [was] notified in writing of the charges or the date the employee elect[ed] to have a departmental hearing. . . .” He found that Employee was served with the Final Notice fifty days after the Amended Notice. Therefore, the AJ ruled that Agency did not violate the 55-day rule. Employee’s removal action was upheld.

On February 3, 2014, Employee filed a Petition for Review with the OEA Board. She argued that the Initial Decision is based on an erroneous interpretation of D.C. Official Code § 5-1031; that the AJ erroneously applied the 55-day rule; and that the AJ erroneously determined that the Proposed Notice was not an offer. In response to the Petition for Review, Agency stated that the AJ’s interpretation of D.C. Official Code § 5-1031 and application of the 55-day rule were correct. It believed that the Initial Decision also correctly determined that the Proposed Notice was not an offer. Thus, Agency contended that the AJ committed no error and that the Initial Decision should be affirmed.

The OEA Board issued its Opinion and Order on April 14, 2015. It stated that the AJ’s assessment of the 90-day rule and 15-day suspension were based on substantial evidence. However, it determined that the AJ offered no conclusions of law to support his findings regarding the 55-day rule. Thus, the Board remanded the matter to the AJ for consideration of the 55-day issue.

The AJ held a Status Conference and requested that both parties file briefs addressing the issues on remand. After reviewing the parties’ briefs, the AJ issued an Initial Decision on Remand on May 6, 2016. He explained that Agency was accurate in its assertion that there was nothing to prevent it from amending a proposed action prior to it either being decided upon or implemented. The AJ held that Agency’s action of amending the notice was permissible and concluded that Employee failed to proffer any credible evidence that would indicate that her removal was improper. He provided that Employee was notified in writing that she was being terminated. The AJ found that February 1, 2010, was the correct date for Agency to start its calculation of the 55-day period. Additionally, he held that the 90-day rule required Agency to notify Employee that she was being subjected to an adverse action of which it was aware. However, he found that the 55-day rule required Agency to provide written notice of its final decision. Accordingly, the AJ ordered that Employee’s removal be upheld.

Employee filed a Petition for Review and Motion to Expedite on June 8, 2016. She argues that the AJ was not impartial and that he did not properly address the issues identified by the OEA Board. She states that the AJ did not provide substantial evidence to show that Agency complied with the 55-day rule. Employee maintains that the language in the CBA proves that November 23, 2009 and not February 1, 2010, is the correct start date for the 55-day deadline. She explains that the proper calculation is from the date an employee is first served with the Notice of Proposed Adverse Action, not any amendments thereto. Accordingly, Employee requests that the Board reverse the Initial Decision on Remand and that she be reinstated with back pay.

On July 11, 2016, Agency filed its response to Employee's Petition for Review. It contends that the CBA does not prohibit restarting the 55-day rule when an amendment is made to the proposed notice. Agency asserts that Article 12, Section 6 allows the 55-day period to restart when the original charges are amended. Additionally, because the dispute between the parties regarding Article 12, Section 6 of the CBA is a grievance, Agency states that OEA lacks jurisdiction to adjudicate the matter. Therefore, it requests that Employee's petition be denied.

4. **Tenecia Mosley v. District of Columbia Public Schools, OEA Matter No. J-0014-16**—Employee worked as a Program Coordinator with Agency. On May 15, 2015, Agency notified Employee that she was being separated from her position pursuant to a Reduction-in-Force ("RIF"). The effective date of the RIF was August 7, 2015.

An Initial Decision was issued on February 24, 2016. The AJ held that Employee failed to meet her burden of proof in establishing jurisdiction before this Office. Specifically, he highlighted OEA Rule 604.2, which requires that a Petition for Appeal be filed within thirty days after the effective date of the appealed agency action. However, the AJ concluded that Employee's appeal was filed approximately four months after the effective date of Agency's RIF action. In addition, the AJ provided that an appeal may be dismissed in accordance with OEA Rule 621.3 when an employee fails to prosecute the appeal. According to the AJ, Employee failed to respond to his December 24, 2015 jurisdictional order. Consequently, Employee's Petition for Appeal was dismissed for lack of jurisdiction. Alternatively, the appeal was dismissed for failure to prosecute.

Employee disagreed with the Initial Decision and filed a Petition for Review with OEA's Board on March 3, 2016. She argues that the AJ erroneously concluded that she failed to respond to his December 24, 2015 order. According to Employee, a response was mailed to OEA by regular mail on January 19, 2016. Since the brief was not returned to her by the postal service, Employee asserts that it was presumed to be delivered to this Office in a timely manner. Attached to her Petition for Review is a copy of what Employee claims was her original response to the AJ's order. In the submission, Employee states that OEA has jurisdiction over her appeal pursuant to OEA Rule 604.1 because "any District of Columbia government employee may appeal a final agency decision affecting...a reduction in force." In addition, she notes that Agency's Motion to Dismiss and Answer to Employee's Petition for Appeal contains documents addressed to another employee, in addition to documents that she did not sign. As a result, Employee requests that this Board grant her Petition for Review.

5. **Francine Thomas v. Metropolitan Police Department, OEA Matter No. 2401-0025-12**—Employee worked as an Information Technology Customer Support Specialist with Agency. On September 14, 2011, Agency notified Employee that she was being separated from her position pursuant to a RIF. The effective date of the RIF was October 14, 2011.

The AJ issued his Initial Decision on December 30, 2015. He first highlighted the holdings in *Covington v. Department of Health & Human Services* and *Christie v. United States*, wherein the United States Court of Appeals, Federal Circuit, held that employees have the burden of proof in showing that their decision to retire was involuntary because a retirement request that is initiated by an employee is presumed to be voluntary. Next, the AJ highlighted *Bagenstose v. District of Columbia Office of Employee Appeals*, in which the D.C. Court of Appeals addressed whether a

retirement could be deemed involuntary if the employing agency did not make it affirmatively clear to the employee that he would lose the right to appeal the RIF action if he submitted a retirement application.

In applying the standard of review provided in *Covington, Christie, and Bagenstose*, the AJ held that Employee failed to meet her burden of proof in establishing that her retirement was involuntary. The AJ explained that there was no credible documentary or testimonial evidence in the record to prove that Agency misinformed Employee about her retirement options. In addition, he stated that Employee submitted a retirement application with an effective date of October 14, 2011, the same date as the effective date of the RIF. According to the AJ, Employee could have sought legal advice about the consequences that submitting a retirement application would have on her appeal before OEA. Lastly, he noted that Employee's Notification of Personnel Action Form 50 ("Form 50") stated in the "Nature of the Action" section that the retirement was a "Retirement—Retire w/ Pay." As a result, he held that Employee's retirement was voluntary and that OEA lacked jurisdiction over her appeal. Therefore, Employee's Petition for Appeal was dismissed for lack of jurisdiction.

Employee disagreed with the Initial Decision and filed a Petition for Review with OEA's Board on February 3, 2016. She contends that the AJ utilized the incorrect standard of review when he determined that Employee's retirement was involuntary. Employee also asserts that the case precedent relied upon by the AJ is not analogous of the facts in the instant case. In addition, she states that the AJ's findings are not based on substantial evidence. Accordingly, Employee requests that her Petition for Review be granted.

Agency filed its Opposition to Employee's Petition for Review on March 9, 2016. It provides that the case law relied upon by the AJ in his Initial Decision was correctly applied to the facts in this case. It further opines that the Initial Decision was based on substantial evidence. Therefore, Agency argues that Employee's Petition for Review should be denied and that the Initial Decision should be upheld.

6. **Jeffrey McInnis v. D.C. Department of Parks and Recreation, OEA Matter No. 1601-0138-15**— Employee worked as a Government Operations Manager for Agency. On July 24, 2015, Agency served Employee with a fifteen-day notice stating that he was being terminated from his position. Employee filed a Petition for Appeal with OEA on September 8, 2015. He argued that he was improperly terminated and that his termination was an act of retaliation that violated the Whistleblower Protection Amendment Act. Therefore, Employee requested that he be reinstated with back pay, benefits, and reimbursement for attorneys' fees. He also requested that Agency promote him to a higher position.

On October 9, 2015, Agency filed a Motion to Dismiss for Lack of Jurisdiction. It argued that Employee's position was classified as Management Supervisory Service ("MSS"); therefore, he was at-will at the time of termination. Additionally, Agency asserted that OEA lacked the authority to adjudicate Employee's claims pertinent to the Whistleblower Protection Act because he failed to meet the threshold of OEA's jurisdiction. Thus, it requested that Employee's Petition for Appeal be dismissed.

The AJ issued an Initial Decision on January 15, 2016. He first determined that Employee's position of record at the time he was terminated was a Government Operations Director in Management Supervisory Service. Next, the AJ highlighted

D.C. Official Code § 1-609.54, which provides that appointment to MSS positions shall be at-will. According to the AJ, MSS employees lack the same procedural protections as Career Service employees who are subject to adverse employment actions. Therefore, the AJ concluded that OEA lacked jurisdiction to review Employee's substantive claims because he was at-will at the time of Agency's termination action.

With respect to Employee's whistleblower argument, the AJ stated that the D.C. Superior Court has original jurisdiction over such claims. However, he noted that some causes of actions involving whistleblower violations may be adjudicated if the aggrieved employee has a matter pending before OEA that may otherwise be heard by this Office. Since Employee's at-will status precluded OEA from exercising jurisdiction over his appeal, the AJ held that his substantive argument pertinent to the Whistle Blower Protection Act could not be addressed. Therefore, his Petition for Appeal was dismissed for lack of jurisdiction.

Employee disagreed and filed a Petition for Review with OEA's Board on March 1, 2016. He argues that the Initial Decision should be overruled because the AJ failed to utilize the correct version of the D.C. Official Code in making his decision to dismiss the Petition for Appeal. According to Employee, the AJ cited to the Whistleblower Protection Act, when he should have cited to the Whistleblower Protection Amendment Act ("WPAA") of 2009, D.C. Official Code § 1-615.54. He further argues that the WPAA does not distinguish between MSS and non-MSS employees in relation to its provisions regarding retaliation. As a result, Employee requests that the Initial Decision be overruled and that he be reinstated with back pay and benefits.

Agency filed its Reply to Employee's Petition for Review on March 31, 2016. It argues that the AJ's decision that OEA lacks jurisdiction over this appeal is supported by District of Columbia law and legal precedent. Agency reiterates that Employee was appointed to an MSS position and was not entitled to the same protections as employees in the Career, Educational, Excepted, Executive, or Legal Service, as provided under D.C. Official Code § 1-609.51. Consequently, it contends that he was not entitled to appeal his termination to OEA. Regarding his Whistleblower claims, Agency provides that the WPAA does not authorize this Office to assume jurisdiction over an appeal from an MSS employee. Therefore, it requests that Employee's Petition for Review be denied and that the Initial Decision be upheld.

7. **Kenya Fulford-Cuthbertson, Tonia Adams, Matthew Coates, and Jalonda Phillips-Adams v. Department of Corrections, OEA Matter Nos. 1601-0236-12, 1601-0069-14** – Employees worked as Correctional Officers with Agency. In October of 2012, Agency issued Final Notices on Proposed Removal, charging Employees with "any act which constitutes a criminal offense whether or not the act results in a conviction." Specifically, Employees were accused of knowingly failing to disclose a material fact to obtain or increase unemployment insurance benefits as provided in D.C. Official Code § 51-119(a).

The AJ issued his Initial Decisions in November and December of 2014. He first determined that it was undisputed that Employees unlawfully collected unemployment benefits while working full-time for the District government. The AJ stated that the Deciding Official assigned to review the charges against Employees considered both the mitigating and aggravating factors in reaching his decision to recommend removal. The AJ highlighted the holding in *Stokes v. District Columbia*, wherein the D.C. Court of Appeals held that the purpose of reviewing an imposed

penalty is to assure that the agency has considered the relevant facts and acted reasonably. In applying the reasoning provided in Stokes, the AJ held that Agency did not abuse its discretion and considered each of the Douglas factors in making its final determination to terminate Employees.

Next, the AJ examined whether an arrest record was required to charge an employee with “any act which constitutes a criminal offense whether or not the act results in a conviction,” as provided under DCMR §1603.3(h). He noted that DCMR §1603.3(h) does not mention the standard that must be met when charging an employee with such an act. However, the AJ opined that the Table Appropriate Penalties, as enumerated in DCMR §1619.1, mandated that Agency produce an arrest record in order to impose discipline based on a violation of DCMR §1603.3(h). In addition, the AJ concluded that a District agency may not prescribe criminal conduct to an employee under DCMR §1603.3(h) without the minimal assessment of criminal conduct by an appropriate prosecutorial body. According to the AJ, Agency was required to at least prove that there was probable cause to lead to an arrest for each Employee’s conduct of unlawfully collecting unemployment benefits. Since Employees were never arrested for their misconduct, the AJ concluded that Agency levied an improper charge against them. Therefore, he determined that Agency failed to meet its burden of proof in establishing that it had cause to terminate Employees. Consequently, Agency’s termination actions were reversed and Employees were ordered to be reinstated to their previous position with back pay and benefits.

Agency disagreed with the Initial Decision and filed four consolidated Petitions for Review with the District of Columbia Superior Court on January 23, 2015. On November 25, 2015, the Honorable Judge Thomas Motley issued an Order of Remand for the purpose of addressing three issues. First, Judge Motley stated that the record failed to indicate any consideration of DCMR § 1603.4, which states that the definition of cause “shall include but not necessarily be limited to the infractions or offenses under each cause contained in the Table of Appropriate Penalties in Section 1619.” According to the Court, the “arrest record” requirement is a limitation on what would constitute cause under DCMR § 1603.3(h). Thus, Judge Motley opined that the AJ’s determination appeared to be “inconsistent with 6-B D.C.M.R. § 1603.4, which makes the Table of Appropriate Penalties as provided in 6-B D.C.M.R. § 1619 subordinate to the definition of cause set forth in 6-B D.C.M.R. § 1603.”

Second, Judge Motley provided that the Court could not determine whether the AJ considered DCMR § 1603.9, which places the burden of proof on the government to show that a disciplinary action was taken for cause, “as that term is defined in this section.” Finally, the Court noted that there was a split within OEA’s decisions on the “arrest record” requirement, noting the holding in *Roebuck v. D.C. Office of Aging*, wherein the employee raised the same argument at issue in the instant matter. Therefore, the consolidated appeals were remanded to the AJ for further consideration.

The AJ issued four Initial Decisions on Remand in June of 2016. The AJ held that each Employee’s actions constituted a criminal act because they made a false statement of a material fact or failed to disclose a material fact; knew the statement was false; and made the statement with the intent to obtain or increase a benefit. He concluded that the Table of Appropriate Penalties did not encompass a complete or exhaustive listing of each possible offense provided under the causes enumerated in DCMR § 1603.3. Next, the AJ held that if an arrest record were required to support a

charge of “any act which constitutes a criminal offense whether or not the act results in a conviction,” employees could possibly avoid adverse personnel actions simply because he or she was not arrested as a result of said act. Lastly, he noted that OEA has upheld adverse actions against employees who unlawfully collected unemployment insurance benefits but were never arrested. Thus, the AJ concluded that an arrest record was not required to support a charge pursuant to DCMR §1603.3(h). Consequently, he upheld Agency’s decision to terminate Employees.

Employees disagreed with the AJ’s findings and filed Consolidated Petitions for Review with OEA’s Board on August 1, 2016. They argue that a review of the Initial Decision on Remand is necessary because the AJ’s decisions were based on an erroneous interpretation of the regulations in favor of a flawed “policy” analysis. Employees further argue that the AJ failed to address all the issues of law and fact raised by Judge Motley’s Order of Remand. Therefore, they request that the Initial Decision on Remand be reversed.

In response, Agency contends that the AJ properly interpreted the pertinent regulations in finding that an arrest record is not required to establish cause under DCMR §1603.3(h). In addition, it asserts that the Initial Decision on Remand addressed each issue of law and fact raised in Judge Motley’s Order. As a result, Agency requests that the Petitions for Review be denied and that the Initial Decision on Remand be affirmed.

- E. Deliberations** - After the summaries were provided, Vera Abbott moved that the meeting be closed for deliberations. P. Victoria Williams seconded the motion. All Board members voted in favor of closing the meeting. Sheree Price stated that, in accordance with D.C. Official Code § 2-575(b)(13), the meeting was closed for deliberations.

F. Open Portion of Meeting Resumed

- G. Final Votes** –Sheree Price provided that the Board considered all of the matters. The following represents the final votes for each case:

1. Aishah Mills-Pherigo v. Department of Human Resources

MEMBER	GRANTED	DENIED	REMANDED	DISMISSED
Sheree Price		X	X	
Vera Abbott		X	X	
Patricia Hobson Wilson		X	X	
P. Victoria Williams		X	X	

Four Board Members voted in favor of denying Agency’s Motion for Interlocutory Appeal. Therefore, the motion was denied and the matter was remanded to the Administrative Judge.

2. Jaqueline Graves v. Office of State Superintendent of Education

MEMBER	GRANTED	DENIED	REMANDED	DISMISSED
Sheree Price		X		
Vera Abbott		X		
Patricia Hobson Wilson		X		
P. Victoria Williams		X		

Four Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

3. Sylvia Johnson v. D.C. Fire and Emergency Medical Services

MEMBER	GRANTED	DENIED	REMANDED	DISMISSED
Sheree Price	X		X	
Vera Abbott	X		X	
Patricia Hobson Wilson	X		X	
P. Victoria Williams	X		X	

Four Board Members voted in favor of granting Employee's Petition for Review. Therefore, the petition was granted, and the matter was remanded to the Administrative Judge.

4. Sholanda Miller v. Metropolitan Police Department

MEMBER	GRANTED	DENIED	REMANDED	DISMISSED
Sheree Price		X		
Vera Abbott		X		
Patricia Hobson Wilson		X		
P. Victoria Williams		X		

Four Board Members voted in favor of denying Employee's Petition on Remand. Therefore, the petition was denied.

5. Tenecia Mosley v. District of Columbia Public Schools

MEMBER	GRANTED	DENIED	REMANDED	DISMISSED
Sheree Price		X		
Vera Abbott		X		
Patricia Hobson Wilson		X		
P. Victoria Williams		X		

Four Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

6. Francine Thomas v. Metropolitan Police Department

MEMBER	GRANTED	DENIED	REMANDED	DISMISSED
Sheree Price		X		
Vera Abbott		X		
Patricia Hobson Wilson		X		
P. Victoria Williams	X			

Three Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

7. Jeffrey McInnis v. Department of Parks and Recreation,

MEMBER	GRANTED	DENIED	REMANDED	DISMISSED
Sheree Price		X		
Vera Abbott		X		
Patricia Hobson Wilson		X		
P. Victoria Williams		X		

Four Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

8. Kenya Fulford-Cuthbertson, Tonia Adams, Matthew Coates, and Jalonda Phillips-Adams v. Department of Corrections

MEMBER	GRANTED	DENIED	REMANDED	DISMISSED
Sheree Price		X		
Vera Abbott		X		
Patricia Hobson Wilson		X		
P. Victoria Williams		X		

Four Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

H. Public Comments – Sholanda Miller questioned why the Board denied her Petition on Remand. The Board informed her that a copy of the Opinion and Order would be mailed to her, and she may appeal this decision on Petition for Review to the Superior Court of the District of Columbia.

VI. Adjournment – Sheree Price moved that the meeting be adjourned; Vera Abbott seconded the motion. All members voted affirmatively to adjourn the meeting. Sheree Price adjourned the meeting at 12:42 p.m.

Respectfully Submitted,
Wynter Clarke
Paralegal Specialist