

**DISTRICT OF COLUMBIA  
OFFICE OF EMPLOYEE APPEALS  
NOTICE OF PUBLIC MEETING**

The District of Columbia Office of Employee Appeals will hold a meeting on March 12, 2026, at 9:30 a.m. The Board will meet remotely. Below is the agenda for the meeting.

Members of the public are welcome to observe the meeting. In order to attend the meeting, please visit:

Password: Board (26274 from phones and video systems)

<https://dcnet.webex.com/dcnet/j.php?MTID=m9fa7517e5e6b15bfed161232ffddc1c0>

We recommend logging in ten (10) minutes before the meeting starts. In order to access Webex, laptop or desktop computer users must use Google Chrome, Firefox, or Microsoft Edge Browsers.

Smartphone/Tablets or iPad user must first go to the App Store, download the Webex App (Cisco Webex Meetings), enter the Access Code, and enter your name, email address, and click Join. It is recommended that a laptop or desktop computer be utilized for this platform.

Your computer, tablet, or smartphone's built-in speaker and microphone will be used in the virtual meeting unless you use a headset. Headsets provide better sound quality and privacy.

If you do not have access to the internet, please call-in toll number (US/Canada) 1-650-479-3208, Access Code: 2302 274 8291

Questions about the meeting may be directed to [wynter.clarke@dc.gov](mailto:wynter.clarke@dc.gov).

**Agenda**

D.C. OFFICE OF EMPLOYEE APPEALS (“OEA”) BOARD MEETING  
Thursday, March 12, 2026, at 9:30 a.m.  
Location: Virtual Meeting via Webex

**I. Call to Order**

**II. Ascertainment of Quorum**

**III. Adoption of Agenda**

**IV. Minutes Reviewed from Previous Meeting**

**V. New Business**

**A. Public Comments on Petitions for Review**

**B. Summary of Cases**

- 1. Employee v. D.C. Public Schools, OEA Matter No. J-0054-25** — Employee worked as a Library Media Specialist with D.C. Public Schools (“Agency”). Agency issued a notice of termination to Employee on February 14, 2022. It provided that Employee was removed from her position pursuant to 5-E District of Columbia Municipal Regulations (“DCMR”) § 1401.2(b) for grave misconduct and § 1401.2(v) for other conduct during and outside of duty hours that would affect adversely the Employee’s or the Agency’s ability to perform effectively. Specifically, Agency alleged that Employee had her students conduct a reenactment of the Holocaust during class. The notice of termination explained that Employee could elect to file a grievance in accordance with Article VI, Grievance and Arbitration, of the Washington Teacher’s Union (“WTU”) collective

bargaining agreement (“CBA”). The notice also informed Employee that she could elect to file an appeal with the Office of Employee Appeals (“OEA”). However, she could not do both. The notice specifically provided that if Employee appealed with OEA, she had thirty calendar days from the effective date in which to file her appeal.

On July 2, 2025, Employee filed a Petition for Appeal with OEA. She argued *inter alia* that Agency’s investigation was unfair; her due process rights were violated; and the Douglas factors penalty was unreasonable. Consequently, she requested that the Douglas factors be reconsidered and that she be made whole.

On July 14, 2025, Agency filed an Answer to Employee’s Petition for Appeal and Motion to Dismiss. It asserted that on May 27, 2022, the WTU filed a grievance on behalf of Employee to address her termination. According to Agency, on March 18, 2024, the arbitrator denied Employee’s grievance. Agency noted that Employee filed an appeal with OEA on July 2, 2025. It reasoned that Employee’s appeal with OEA was three years beyond the thirty-day deadline to file an appeal. Moreover, Agency contended that Employee chose to file a grievance via the CBA before filing with OEA. As a result, it requested that Employee’s appeal be dismissed.

The OEA Administrative Judge (“AJ”) issued an order on jurisdiction. She requested that Employee address whether her Petition for Appeal should be dismissed because it was untimely filed. The AJ also requested that Employee address Agency’s position that she filed her grievance before filing an appeal with OEA.

According to Employee, Agency misled her and provided incorrect information which led to “missed opportunities to file with the better choice of agency like OEA. . . .” Employee alleged that this is what caused her delay of three years in filing an appeal with OEA. She cited to the D.C. Court of Appeals’ decision in *Maya Gilliam, et al., v. Department of Forensic Sciences, et al.*, Nos. 24-CV-0460, 24-CV-0404, and 24-CV-0462 (D.C. September 25, 2025) by arguing that the filing deadline should be tolled because of excusable neglect. Employee asserted that Agency was unreasonable, unfair, and inconsistent. Moreover, she alleged that Agency failed to advise her about District and agency rules.

The AJ issued her Initial Decision on September 9, 2025. She held that although OEA’s filing deadline is contained in a statute – D.C. Code § 1-606.03(a) – and the language is mandatory of when the appeal shall be filed, pursuant to the D.C. Court of Appeals’ holding in *Yolanda Sium v. Office of the State Superintendent of Education*, 218 A.3d 228 (D.C. 2019), more is required. The AJ provided that the D.C. Court of Appeals in *Brewer v. D.C. Office of Employee Appeals*, 163 A.3d 799 (D.C. 2017) held that OEA’s thirty-day filing deadline was subject to equitable tolling, which must determine if there was an unexplained or undue delay and if tolling would be an injustice to the other party. According to the AJ, Employee argued that the three-year delay was due to misleading information by Agency and the WTU. However, she noted that Employee never specified the misleading information. The AJ found that Employee’s termination letter included OEA appeals forms, the OEA rules, and OEA’s contact information. Consequently, she did not find Employee’s argument for the delay convincing. Additionally, the AJ reasoned that tolling the deadline would be an injustice to Agency because during the delay, Employee filed claims in several forums. She found that if Employee was successful in any of the other forums, she would not have filed her current appeal at OEA. Accordingly, the AJ dismissed Employee’s petition as untimely.

As for Employee’s selection of forum, the AJ determined that the WTU filed a Step 2

grievance on behalf of Employee on May 27, 2022, and more than three years later, Employee filed an appeal with OEA. She reasoned that because Employee elected to file a grievance under the CBA before filing an OEA appeal, she waived her rights to be heard at OEA. Consequently, she held that OEA lacked jurisdiction over Employee's appeal.

Employee disagreed and filed a Petition for Review on October 9, 2025. She argues that the AJ failed to consider all evidence; failed to consider testimony; and ignored contradictory evidence. According to Employee, OEA could not dismiss a late-filed appeal and could only dismiss an appeal if Agency seasonably objected to the untimeliness of the filing as a defense. She asserts that a timing rule should be tolled if there was an unexplained or undue delay and if there would be an injustice to the other party. Employee contends that a late filing is allowed when a plaintiff has diligently pursued their rights but was prevented from filing on time due to extraordinary circumstances beyond their control.

On October 17, 2025, Agency filed its Response to Employee's Petition for Review. It argues that Employee was separated on March 8, 2022, and shortly thereafter, her union filed a grievance on her behalf. Agency contends that the grievance was denied at both Step 2 and at arbitration. Thus, it reasons that the AJ correctly denied Employee's OEA appeal because she could not file a grievance and an appeal.

2. **Employee v. D.C. Department of Employment Services, OEA Matter No. 1601-0053-22C23** – Employee worked as a Tax Examiner with the Department of Employment Services ("Agency"). On April 14, 2022, he received a Final Agency Decision removing him from his position pursuant to District Personnel Manual ("DPM"), 6-B § 1605.4(f)(2): Unauthorized absences of five (5) workdays or more. The effective date of his termination was April 14, 2022.

On May 13, 2022, Employee filed a Petition for Appeal with the Office of Employee Appeals ("OEA"). On June 22, 2022, Agency filed its Answer to Employee's Petition for Appeal. The OEA Administrative Judge ("AJ") issued an Initial Decision on May 2, 2023, reversing Agency's action. On June 15, 2023, Employee filed a Motion for Attorney's Fees. On August 18, 2023, the AJ issued a Post-Status Conference Order Requesting Briefs Regarding Compliance, which required the parties to address the calculation of backpay.

On September 1, 2023, Employee filed his brief. He asserted that he ceased working on July 12, 2021, because his request for a reasonable accommodation was never granted. As a result of his inability to work, Employee explained that he used various types of leave to cover his absences. He argued that Agency only compensated him for forty (40) hours of annual leave; however, he contended that he was still owed seventy-six (76) hours of additional leave, including medical and retirement benefits. Over the course of several filings, Agency asserted that back pay calculations are conducted by D.C. Human Resources ("DCHR") and the Office of Pay and Retirement Services ("OPRS") and that once finalized, Employee's benefits would be restored to the appropriate balance prior to separation. It also contended that because Employee was non-competitively appointed to a Not to Exceed ("NTE") term position, it could not return Employee to his position of record. Additionally, it explained that Employee would receive backpay through the end of his NTE term, which ended on July 21, 2023.

The AJ issued an Addendum Decision on Compliance on October 30, 2024. She determined that Employee's appointment was a NTE term position. The AJ found that

Employee was not hired through open competition but through a non-competitive process, as evidenced in the record. Moreover, she noted that Employee's offer letter indicated that he was in a Career Service, Term Position. Accordingly, the AJ concluded that Agency provided Employee with a backpay payment of \$58,114.60 plus \$1,765.36 for a bonus, which Employee received through direct deposit. As a result, she determined that Agency met the requirements for compliance. Consequently, the AJ dismissed Employee's Motion for Compliance.

On October 29, 2025, Employee filed a Petition for Review. He asserts that new and material evidence is available that was not available when the record was closed. However, Employee makes many of the same assertions presented throughout his appeal. He maintains that he was hired through open competition and that his other co-workers are still employed.

Agency filed its Answer to Employee's Petition for Review on December 3, 2025. It opines Employee failed to state a claim upon which relief could be granted. Specifically, Agency explains that the relief Employee requested is beyond OEA's jurisdiction because his term limit ended on July 21, 2023. It provides that OEA cannot convert employees from term to permanent appointments. Additionally, Agency asserts that Employee's appeal is untimely. It contends that pursuant to OEA Rule 637.2, a party may file a Petition for Review of the Initial Decision with the OEA Board within thirty-five (35) calendar days. Agency argues that Employee's appeal was filed eleven months and twenty-nine days after the prescribed 35-calendar day deadline. As a result, it requests that Employee's petition be denied.

- 3. Employee v. D.C. Public Schools, OEA Matter No. J-0050-25** – Employee worked as the Director of Compliance Investigations for the D.C. Public Schools ("Agency"). On May 5, 2025, Agency issued Employee a Fifteen-Day Notice of Termination. The notice provided that Employee's removal was based on violations of D.C. Municipal Regulations ("DCMR") § 2-1402.61 (Coercion or Retaliation) and 5-E DCMR § 1401 (Employee Rights and Responsibilities). Employee was subsequently placed on administrative leave until the effective date of his termination, May 23, 2025.

Employee filed a Petition for Appeal with the Office of Employee Appeals ("OEA") on June 20, 2025. He argued that his termination lacked cause; Agency never provided him with notice of an investigation regarding his violation of DCMR § 2-1402.61; and he was prevented from submitting a response to the allegations of misconduct. As a result, Employee requested that his termination be reclassified as a resignation and that he receive six months' severance pay.

On June 27, 2025, Agency filed a Motion to Dismiss. In its filing, Agency explained that Employee's termination stemmed from his act of engaging in prohibited personnel actions which violated D.C. Code § 1-615.51, otherwise referred to as the Whistleblower Protection Act ("WPA"). It contended that OEA lacked jurisdiction over the instant appeal because Employee was at-will at the time of the termination action. Thus, Agency reasoned that Employee's substantive claims fell outside of the purview of matters that could be adjudicated before this Office. Lastly, Agency conceded that the municipal regulations cited in its removal notice were erroneously included because Employee was terminated pursuant to the Public Education Reform Amendment Act of 2008 (D.C. Code § 1-608.01). Notwithstanding, Agency maintained that Employee's position was without tenure and at-will. Accordingly, it requested that his appeal be dismissed.

On July 23, 2025, the OEA Administrative Judge ("AJ") directed the parties to submit

written briefs addressing whether Employee's appeal should be dismissed for lack of jurisdiction. In his brief, Employee asserted that both Agency's offer letter and his official personnel documents reflected that his position was designated as Career Service. Therefore, he opined that Agency failed to provide him with the appeal avenues typically afforded to Career Service employees. Employee denied any conduct forming the basis of the termination action and suggested that Agency improperly relied on an alleged violation of the WPA to justify his removal. Finally, he averred that while Agency claimed that his position was without tenure, the terminology was not tantamount to him being at-will because tenure was a factor utilized solely to determine retention standing during a Reduction-in-Force ("RIF"). As such, he posited that OEA retained jurisdiction over his appeal pursuant to D.C. Code § 1-606.03(a) and 6-B DCMR § 604.18(b).

In its reply, Agency provided that on October 14, 2021, Employee accepted a job as the Director of Compliance Investigations in the Educational Services. It clarified that his offer letter stated that the position was "non-union" and "non-tenured," meaning that the position was at-will. Agency disagreed with Employee's claim that his Standard Form 50 ("SF-50") supported his Career Service status because he was hired and terminated pursuant to D.C. Code § 1-608.01(a) as a non-excluded, Educational Service employee. In support thereof, Agency highlighted OEA case law to bolster its position that at-will employees can be discharged at any time, for any reason, or for no reason at all. Consequently, it maintained that Employee's appeal was improperly before this Office.

The AJ issued an Initial Decision on September 17, 2025. She found that the record supported that Employee held a position in the Educational Service; he did not meet the definition of an "excluded employee," as defined under D.C. Code § 1-608.01; and Agency's offer letter explicitly stated that Employee's appointment to the position of Director of Compliance Investigations was without tenure to the D.C. Public Schools. Additionally, the AJ disagreed with Employee's argument that Agency's citation to DCMR § 2-1402.61 in its termination notice was sufficient to establish jurisdiction before this Office. Because Employee was at-will at the time of Agency's removal action, the AJ ruled that OEA lacked jurisdiction over his petition. As a result, Employee's appeal was dismissed.

Employee filed a Petition for Review with the OEA Board on October 21, 2025. He maintains that Agency's offer letter never indicated that his position was at-will. Employee also asserts that the AJ failed to consider his argument that the D.C. Department of Human Resources ("DCHR") classified his position as Career Service in a public document. Additionally, he believes that Agency's citation to DCMR § 2-1402.61 in its termination notice places this matter squarely within OEA's jurisdiction pursuant to 6-B DCMR § 604.1(b). Employee argues that additional fact finding is necessary to determine whether he was classified as Career Service; whether his SF-50 was manipulated to support Agency's removal action; and whether his termination was taken for cause. Finally, he contends that Agency's failure to provide an avenue to appeal his termination violates the DCMR. Therefore, he requests that the Board to grant his Petition for Review.

In response, Agency reiterates its argument that OEA lacks jurisdiction over Employee's appeal because his offer letter and accompanying SF-50 both classified his position as non-tenured. Moreover, it reasons that the Board should be precluded from considering Employee's suggestion that his personnel documents were doctored because it was not an argument presented to the AJ for consideration. Agency is unclear as to why DCHR would have identified Employee's position as Career Service, but it clarifies that D.C. Public Schools and DCHR are independent agencies from each another, and Agency's

documents thoroughly outline that Employee held a non-excluded position within the Educational Service. It also echoes its previous argument that his termination was taken in accordance with the Public Education Reform Amendment Act of 2008. Because Employee was classified as at-will at the time of the removal action, Agency again submits that the AJ correctly dismissed this appeal for lack of jurisdiction. Thus, it requests that the Board deny Employee's petition to the Board.

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

**D. Open Portion Resumes**

**E. Final Votes on Cases**

**F. Public Comments**

## **VI. Adjournment**

“This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).”