

**OFFICE OF EMPLOYEE APPEALS**  
**FY2020-2021 Performance Oversight Questions**  
**Committee on Labor and Workforce Development**  
**Councilmember Elissa Silverman (At-Large), Chair**

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**I. Agency Priorities, Performance**

1. Please discuss OEA’s **top five priorities**.
  - a. How did the agency address its top five priorities in FY2020, including the impact of and any adjustments or modifications due to COVID-19?
  - b. What are the agency’s top five priorities in FY2021? Please explain how the agency expects to address each priority in FY2021.

**ANSWER:**

OEA’s top five priorities in FY2020 were to issue 120 Initial Decisions; publish the Office’s amended Rules of Procedure; identify local training opportunities for the Office’s Administrative Judges section and General Counsel’s section; track the number of motions to enforce a final decision issued by the Office; and continue to issue decisions within the statutory timeframe. At the beginning of FY2020, the agency identified a week long, local training opportunity that was designed to discuss the latest trends in employment law and was to have been conducted in July 2020. Additionally, at the beginning of FY2020, the Executive Director appointed the Deputy General Counsel and a Senior Administrative Judge to oversee the process for amending the Office’s Rules of Procedure. They had begun having bi-weekly meetings and circulating drafts of some of the proposed amendments. Moreover, the Office was issuing decisions in a timely manner. It was not yet known at the beginning of FY2020 whether the Office would actually issue 120 Initial Decisions nor whether any motions to enforce a final decision would be filed with the Office.

On March 13, 2020, OEA was declared a full telework agency due to COVID-19. Since that time, the agency has focused its efforts on carrying out its statutory mandates and maintaining its same level of service as much as possible while also ensuring the safety of its staff and any visitors to the agency. The agency has placed a secure drop box at the entrance to its suite so that documents may be left therein. It has allowed for the electronic

filing of pleadings and petitions. Its Administrative Judges and General Counsel's sections are conducting conferences, evidentiary hearings and Board meetings virtually via WebEx. The administrative support staff is going into the office on a rotating schedule to, *inter alia*, process petitions for appeal and petitions for review; to issue decisions on a weekly basis; to gather and distribute the mail; to update the agency's website; and to prepare court filings.

For FY2021, the agency's top priorities are to ensure that it issues Initial Decisions within the statutory timeframe; develop procedures for processing safety sensitive position appeals (which it anticipates will begin to be filed at the start of FY2022); ensure that the parties redact any personal identifying information from documents before filing the documents with OEA; track the number of court records prepared and filed by the agency; and ensure that all decisions are uploaded to the agency's website in a timely manner. The agency expects to address the first priority by monitoring the judge's dockets. With respect to the second priority, the Petition for Appeal form will be updated to include a section to gather specific information relevant to safety sensitive position appeals. The agency will address the third priority by instructing the Administrative Judges to include within their orders a directive to the parties to redact all personal identifying information. As for the last two priorities, the administrative support staff will report on the number of court records prepared and filed and will ensure that the website is updated in a timely manner.

2. Please list each **program** or body of work operated or administered by the OEA during FY2020 and FY2021, as of Jan. 1, 2020. Highlight any programs new in FY2020 or FY2021. For each program, please provide a description of the program, the office that carries out the program, activities in FY2020 and FY2021, and any documented results of the program.

**ANSWER:**

The programs administered by OEA during FY2020 and FY2021, as of January 1, 2021, are its Adjudication program, Appeals program, Mediation program and Information Technology program. The Adjudication program pertains to Petitions for Appeal which are filed by District government employees. The appeals are adjudicated by an Administrative Judge and the process culminates with the issuance of an Initial Decision. The Appeals program pertains to Petitions for Review which are filed with the Board after the Initial Decision has been issued. The General Counsel's section drafts an Opinion and Order for issuance by the Board. The Mediation program encourages the parties, through the negotiation process, to reach a settlement that is agreeable to both. The Information Technology program pertains to the agency's website and case tracking system.

3. Please describe any **initiatives** that the OEA implemented in FY2020 or FY2021, as of Jan. 1, 2021, to improve the internal operations of the agency or the interaction of the agency with external parties. Please describe the results, or expected results, of each initiative.

**ANSWER:**

Due to the COVID-19 State of Emergency, which the agency has been operating under since March 13, 2020, the agency has implemented several initiatives so that it can continue to carry out its statutory mandates and maintain its same level of service as much as possible. The agency has placed a secure drop box at the entrance to its suite so that documents may be left therein. It has allowed for the electronic filing of pleadings and petitions. Its Administrative Judges and General Counsel's sections are conducting conferences, evidentiary hearings and Board meetings virtually via WebEx. The administrative support staff is going into the office on a rotating schedule to, *inter alia*, process petitions for appeal and petitions for review; issue decisions on a weekly basis; gather and distribute the mail; update the agency's website; and to prepare court filings.

4. Please provide a copy of the OEA's FY2020 **performance accountability report**.
  - a. Please explain which performance plan strategic objectives and key performance indicators (KPIs) were met or completed in FY2020 and which were not.
  - b. For any met or completed objective, also note whether they were completed by the project completion date of the objective and/or KPI and within budget. If they were not on time or within budget, please provide an explanation.
  - c. For any objective not met or completed, please provide an explanation.

**ANSWER:**

Please see Attachment #1.

In FY2020, OEA was not able to complete adjudications within the required timeframe nor was it able to resolve Petitions for Review within the required timeframe. When the public emergency was declared in the second quarter of the fiscal year, all OEA employees began teleworking. It wasn't until the end of the third quarter that OEA was able to implement procedures for processing appeals and issuing decisions that ensured the safety of its employees and visitors to the office. OEA was not able to issue the targeted number of Initial Decisions or Opinions and Orders. There was a decline in the number of Petitions for Appeal and Petitions for Review that were filed with the agency in FY2020. Moreover, because of the public health emergency, some parties were unwilling or unable to participate in virtual hearings opting instead to hold the appeal in abeyance until they feel comfortable with an in-person evidentiary hearing. OEA was able to upload to its website all of the Initial Decisions and Opinions and Orders issued by the agency thereby meeting its goal set for this KPI. With respect to the percent of OEA decisions upheld by D.C. Superior Court and the Court of Appeals, 97.3% of the agency's decisions were upheld. The agency cannot predict how the courts will rule on its decisions that are appealed to the courts. Rather, the agency seeks to issue decisions which can withstand judicial scrutiny.

5. Regarding the OEA's FY2020 **performance plan**:
  - a. Please provide a copy of the OEA's FY2021 performance plan as submitted to the Office of the City Administrator.
  - b. Discuss any changes to any outcomes measurements in FY2020 or FY2021, including the outcomes to be measured or changes to the targets or goals of outcomes; list each specifically and explain why it was dropped, added, or changed.

**ANSWER:**

Please see Attachment #2.

The number of Initial Decisions to be issued has changed for FY2021. The agency projects that it will issue 100 Initial Decisions in FY2021. This measure was changed to more closely align with the number of appeals being filed in FY2021 and the anticipated delay in processing any appeals due to the ongoing public health emergency.

6. Please discuss how OEA **plans to maintain program activity levels** and statutory deadlines during the Coronavirus public health emergency. Please include:
  - a. The impact of the public health emergency on the regular operation of each program listed in the answer to question #2, and the agency's response to those challenges, if any.
  - b. For each statutory deadline, please describe any challenges, if any, specific to the public emergency, which reduce the ability of the agency to meet the deadline, if any. Please list any resolution implemented or recommended by the agency.

**ANSWER:**

To maintain program activity levels and meet statutory deadlines during the COVID-19 public health emergency, OEA is accepting the electronic filing of petitions and other pleadings. For those litigants who are unable to file their documents electronically, OEA has placed a secure drop box at the entrance to its suite. In those cases where filings are made by mail or hand delivery, OEA may consider them to be timely filed during this public health emergency. OEA's Administrative Judges and General Counsel's sections are conducting virtual conferences, evidentiary hearings, and Board meetings. For those parties who are not equipped to participate in a virtual hearing or who prefer an in-person hearing, OEA has reconfigured its hearing rooms to ensure social distancing. If a litigant, however, does not want to participate in a virtual hearing and does not feel comfortable coming into the office at this time, they have been informed that their appeal will be held in abeyance. Holding appeals in abeyance will delay the issuance of the decision thereby causing the agency to not meet its statutory deadline for those appeals. The agency has asked its administrative support staff to go into the office on a rotating basis so that all decisions ready for issuance during the week can be issued at the same time.

**II. Budget and Expenditures**

**Budget**

- 7. **Budget.** Please *complete the attached table* in Excel showing your agency’s budget, including Council-approved original budget, revised budget (after reprogrammings, etc.), and actual expenditures, by program and activity, for fiscal year 2020, and the first quarter of 2021. For each activity, please include total amount budgeted and break down the budget by funding source (federal, local, special purpose revenue, or intra-district funds). Include any over- or under-spending. Explain any variances between the revised budget and actual expenditures for fiscal year 2020 for each program and activity code.

**ANSWER:**

Please see Attachment #3.

- 8. Please provide the following information for all **intra-District memoranda of understanding (MOUs)** for FY2020 and FY2021 as of Jan. 1, 2021, *including anticipated MOUs* for the remainder of FY2021.
  - a. *Attach copies* of all intra-district MOUs.
  - b. For each MOU, including anticipated MOUs, *complete the attached table* in Excel.

**ANSWER:**

Please see Attachment #4.

- 9. Please provide the following information for all **intra-District memoranda of agreement (MOAs)** for FY2020 and FY2021 as of Jan. 1, 2021, including anticipated MOAs for the remainder of FY2020.
  - a. *Attach copies* of all intra-district MOAs.
  - b. For each MOA, including anticipated MOAs, complete the table below; add rows as necessary.

**Memoranda of Agreement, FY2020 and FY2021, including anticipated MOAs**

<i>Description of MOA services or purpose, including name of project or initiative</i>	<i>Names of all agencies party to the agreement</i>	<i>Service period (dates)</i>

**ANSWER:**

OEA had no intra-District memoranda of agreement (MOAs) for FY2020 or FY2021 as of January 1, 2021.

10. Please provide the following information for each **interagency reprogramming** of funds into and out of the agency for FY2020 and FY2021, as of Jan. 1, 2021, including anticipated inter-agency reprogrammings for the remainder of FY2021.
  - a. Please *attach copies* of the reprogramming documents, including the Agency Fiscal Officer’s request memo and the attached reprogramming chart.
  - b. For each reprogramming, including anticipated reprogrammings, complete the attached chart in Excel

**ANSWER:**

Please see Attachment #5.

11. Please provide the following for each **intra-agency reprogramming** *within* your agency during FY2020 and FY2021, as of Jan. 1, 2021, as well as any anticipated intra-agency reprogrammings for the remainder of FY2021.
  - a. Please *attach copies* of any reprogramming documents.
  - b. For each reprogramming, including anticipated reprogrammings, *complete the attached chart* in Excel

**ANSWER:**

Please see Attachment #6.

12. Please attach all **budget enhancement requests** submitted by your agency to the Mayor or Chief Financial Officer as part of the budget process for FY2022.

**ANSWER:**

Please see Attachment #7.

## **Expenditures**

13. Please *complete the attached table* in Excel with the following information on each **contract, procurement, and lease** leveraged in FY2020 and FY2021 as of Jan. 1, 2021, with a value amount of \$10,000 or more. “Leveraged” includes any contract, procurement, or lease used by the agency as a new procurement, contract extension, or contract option year execution. This also includes direct payments, if applicable. Treat Human Care Agreements as a contract—aggregating information by vendor for all task orders under the HCA, where relevant.

**ANSWER:**

Please see Attachment #8.

14. Please complete the following table with information on all **credit card, p-card, or purchase card purchases and expenditures** for FY2020 and 2021, as of Jan. 1, 2021; add rows as necessary. Alternatively, you may attach monthly statements with this same information; however, please name the ultimate vendor and specific purpose of the purchase for any Pay Pal or other transaction with an indirect payment service like Pay Pal.

**Credit and purchase card expenditures, FY2020 and FY2021**

<i>Employee name</i>	<i>Date of purchase</i>	<i>Vendor name (do not list "Pay Pal;" name the ultimate vendor)</i>	<i>Dollar amount</i>	<i>Purpose of expenditure</i>

**ANSWER:**

Please see Attachment #9.

15. Were any protests or complaints filed with the **Contract Appeals Board** in FY2020 or 2021 as of Jan. 1, 2020, against or involving your agency or any employee of the agency? If so, please complete the following table with information on each complaint; add rows as necessary.

**Contract Appeals Board cases filed FY2020 or FY2021, as of Jan. 1, 2021**

<i>Case number</i>	<i>Name of complainant</i>	<i>Date of complaint</i>	<i>Description of complaint</i>	<i>Status of complaint</i>

**ANSWER:**

No protests or complaints were filed with the Contract Appeals Boards in FY2020 or in FY2021 as of January 1, 2021.

**III. Agency Organization and Personnel**

16. Please provide an **organizational chart** for the agency, arranged by division and subdivision, as of Jan. 1, 2021.
- a. Show for each division and subdivision:
    1. The names and titles of all personnel;
    2. Include on the chart, and denote as vacant or frozen, any such positions;
  - b. Note on the chart the date of the information if not Jan. 1, 2021.

**ANSWER:**

Please see Attachment #10.

17. Please *complete the attached table* in Excel with a **chart of all positions (i.e., Schedule A)** at the agency, as of January 1, 2021.

**ANSWER:**

Please see Attachment #11.

18. Please list each **vacant position's** position number and provide: (1) the date on which it became vacant and (2) the step or status of the hiring process for the position as of Jan. 1, 2021.

**ANSWER:**

The vacant position position's number is 00088930. The position became vacant on November 18, 2020. As of January 1, 2021, the hiring process had not begun.

19. What was the **caseload** for each hearing examiner in FY2020 and FY2021 as of Jan. 1, 2021?

**ANSWER:**

Fiscal Year 2020

<b>Administrative Judge</b>	<b>Caseload</b>
Administrative Judge Cannon	12
Sr. Administrative Judge Dohnji	12
Administrative Judge Harris	13
Administrative Judge Hochhauser (PT)	8
Sr. Administrative Judge Lim	13
Sr. Administrative Judge Robinson	12

Fiscal Year 2021-to-date

<b>Administrative Judge</b>	<b>Caseload</b>
Administrative Judge Cannon	10
Sr. Administrative Judge Dohnji	9
Administrative Judge Harris	9
Administrative Judge Hochhauser (PT)	8
Sr. Administrative Judge Lim	7
Sr. Administrative Judge Robinson	11



20. Regarding **term and temp employees**:

- a. For each term or temp employee (by position number) included in the schedule A, indicate the start date of the position and the expected end date; and
- b. For each term or temp employee (by position number) included in the schedule A who started in the position in FY2020 or FY2021, please provide a brief narrative to specify why the hire was done on a term or temp basis and not on a continuing basis.
- c. For each term employee (by position number) employed during FY2020 or FY2021 whose hire date is before FY2017, please explain why the employee is term and has not been converted to a permanent employee.

**ANSWER:**

The vacant position included in the schedule A was occupied by a temporary employee who started on June 23, 2019. The position became vacant on November 18, 2020.

21. How many and what percentage of employees at the agency as of Jan. 1, 2021, were **District residents**?

**ANSWER:**

As of January 1, 2021, three employees were District residents. This represents 20% of OEA's FTE positions.

22. Please complete the following charts about the **residency of new hires, including term and temp employees**, in FY2020 and FY2021, as of Jan. 1, 2021:

**DC Residency of Employees Hired in FY 2020**

<i>Position Type</i>	<i>Total Number</i>	<i>Number who are District Residents</i>	<i>Percent of total who are District residents</i>
Continuing	1	1	
Term	0	0	0
Temporary	0	0	0
WAE	0	0	0

**DC Residency of Employees Hired in FY 2021, as of January 1, 2021**

<i>Position Type</i>	<i>Total Number</i>	<i>Number who are District Residents</i>	<i>Percent of total who are District residents</i>
Continuing			
Term			
Temporary			
WAE			

23. Please complete the following table regarding employees placed on **administrative leave** in FY2020 or FY2021. Specify (column 3) why the employee was placed on leave and note if the leave is a result of discipline or due to an investigation.

**Employees on Administrative Leave During FY2020 and FY2021**

<i>Employee's job title</i>	<i>Position number</i>	<i>Reason placed on leave; specify if disciplinary or due to investigation</i>	<i>Length of leave</i>	<i>Whether employee was separated</i>	<i>Whether the leave was/is paid or unpaid</i>	<i>Their current status (as of Jan. 1, 2020).</i>

**ANSWER:**

No employees were placed on administrative leave in FY2020 or FY2021 to date.

24. For FY2020 and FY2021, as of Jan. 1, 2021, please complete the following table on each **employee separated** from the agency.

**Employees Separated from Agency, FY2020 and FY2021**

<i>Employee name</i>	<i>Job title</i>	<i>Amount of separation pay, if relevant</i>	<i>Number of weeks of separation pay, if relevant</i>	<i>The reason for the separation; specify if it was due to probation, performance, or discipline</i>

**ANSWER:**

No employees were separated in FY2020 or FY2021 as of January 1, 2021.

25. Has any OEA employee contracted COVID-19 during FY20 or FY21? If so, please describe:

- a. The number of employees;
- b. If known, for each employee, whether they contracted COVID-19 at work.
- c. Whether OEA or the employee reported the infection to the Office of Risk Management or filed a workers' compensation claim.

**ANSWER:**

Only one employee has contracted COVID-19. It is not known where the employee contracted COVID-19. Neither OEA nor the employee reported the infection to the Office of Risk Management. The employee did not file a worker's compensation claim.

**IV. Office of Employee Appeals**

26. Please complete the following chart with information about **OEA cases by case type** in FY2019, FY2020, and FY2021 as of Jan. 1, 2021

**ANSWER:**

**OEA Cases by Type**

Case Type	Number of cases filed			Number of initial decisions issued			Number of cases for which initial decisions were issued 120 days or more after being filed with the OEA office		
	FY2019	FY2020	FY2021	FY2019	FY2020	FY2021	FY2019	FY2020	FY2021
Jurisdiction	24	17	1	18	18	6	2	7	4
Performance Rating	0	0	0	0	0	0	0	0	0
Adverse Action	62	45	6	92	71	17	50	50	11
Enforced Leave	1	0	0	0	0	0	0	0	0
Reduction-in force	4	0	0	8	9	1	4	5	0

27. Please fill in the following chart regarding **jurisdiction final decisions**:

**ANSWER:**

**Jurisdiction Final Decisions, FY2019-FY2021**

Number of final decisions			Number of decisions issued 45 days or more after being filed with the OEA office		
FY2019	FY2020	FY2021	FY2019	FY2020	FY2021
18	18	4	13	15	6 <sup>1</sup>

<sup>1</sup> Two of the six jurisdictional decisions were matters on remand and compliance. Therefore, the statutory 45-day deadline is not applicable under the circumstance.

28. Please complete the following chart with **data on OEA cases** for FY2019, FY2020 and FY2021:

**ANSWER:**

**OEA Case Information, FY2019-FY2021**

<b>Item</b>	<b>FY2019</b>	<b>FY2020</b>	<b>FY2021, as of Jan. 1, 2021</b>
<b>ADMINISTRATIVE JUDGES</b>			
Number of petitions for appeals filed	91	62	7
Number of cases entering mediation	46	47	7
Number of cases settled by mediation	10	4	1
Number of initial decisions issued	118	98	24
Average time to issue initial decisions (days)	176	182	187
Number of pending petitions for appeal	13 <sup>2</sup>	44	12 <sup>3</sup>
<b>OEA BOARD</b>			
Number of petitions for review filed	24	7	6
Number of opinions and orders issued	19	18	4
Average time to issue opinions and orders (days)	123	175	108
Number of pending petitions for review	0	0	6
<b>SUPERIOR COURT</b>			
Number of decisions appealed to Superior Court	23	16	2
Number of pending appeals in Superior Court	5	10	2
Number of decisions issued in Superior Court	20	30	3
Number of appeals upheld in Superior Court	18	27	3
Number of appeals reversed or remanded in Superior Court	2	3	0
<b>DC COURT OF APPEALS</b>			
Number of decisions appealed to Court of Appeals	7	12	2
Number of pending appeals in Court of Appeals	7	11	2
Number of decisions issued in Court of Appeals	5	14	5
Number of appeals upheld in Court of Appeals	3	11	2
Number of appeals reversed or remanded in Court of Appeals	2	3	3

29. Please provide a narrative **description explaining each decision that was reversed or remanded** by Superior Court or the Court of Appeals in FY 2020 or FY2021. Please attach

<sup>2</sup> Included in this number are three cases from prior fiscal years. There is one matter pending from FY16, one from FY17, and one from FY18.

<sup>3</sup> This number includes three remands from the Court of Appeals and two compliance matters that were recently filed.

a copy of any opinion issued with the remand or reversal (please provide each as a separate attachment).

**ANSWER:**

Summaries of the cases are provided below. Copies of the remand and reversal decisions are provided in Attachment #12.

**2020 Superior Court Remands**

1. ***Linda Sun v. D.C. Office of the Tenant Advocate, Case No. 2017 CA 007451 P(MPA)(October 9, 2019)*** – Superior Court found that any claims that Employee could have brought in District Court could not be brought before OEA. The Court held that the District Court had jurisdiction over Employee’s retaliation claim; therefore, she was barred from pursuing this claim before OEA. However, Employee’s claims alleging a violation of the CMPA could not have been pursued in District Court. Thus, the Court ruled that, that argument was not precluded by res judicata. Accordingly, it remanded the matter to the AJ to determine if Agency’s 2012 Summary Removal Notice complied with the requirements of Section 1616.3(a) of the DCMR.
2. ***D.C. Fire & EMS v. Office of Employee Appeals (Sylvia Johnson), Case No. 2018 CA 000821 P(MPA) (D.C. Super Ct. April 2, 2020)*** – As it related to the issue regarding open competition, the Court found that OEA’s ruling was based on substantial evidence. The Court further ruled that OEA could rely on Employee’s Personnel Action Form (“SF-50”) because it was an official document created by Human Resources. However, the Court held that OEA relied on the wrong version of the District Personnel Manual (“DPM”) when making its determination about Employee’s Career Service conversion. It opined that the 2014 version was not in effect when Employee was terminated, and OEA should have relied on the 2000 version of the regulation. As a result, the matter was remanded to consider the 2000 DPM version.

**2020 Superior Court Reversal**

1. ***Department on Disability Services v. D.C. Office of Employee Appeals (Charis Toney) Case No. 2018 CA 002192 P(MPA) (D.C. Super Ct. November 1, 2019)*** – The Court found that the Administrative Judge only considered the return to work notice when analyzing Charge No. 1 in Employee’s case, and it found that Agency had not met its burden of proof for that cause of action because Employee’s treating physician gave Employee permission to alter the form. However, the Court reasoned that Agency’s Advance Notice clearly indicated that Charge No. 1 was brought pursuant to Employee’s alteration of two forms, and the record established that Employee did not have permission to alter the second form. As a result, the Court ruled that OEA should have considered Employee’s alteration of both forms when ruling on Charge No. 1, and therefore, should have found that Agency met its burden of proof by a preponderance of the evidence on that cause of action. Consequently, because OEA’s finding on Charge

No. 1 was unsupported by substantial evidence, the Court vacated and reversed in part OEA's ruling as it related this charge.

### **2020 D.C. Court of Appeals Remands**

1. ***Harold Dargan v. D.C. Office of Employee Appeals, Case No. 17-CV-253 (D.C. 2019)***  
– In this case, the Court opined that there was insufficient evidence in the record to support the certification testing. The Court also determined that the Administrative Judge focused on the incorrect certification and remanded the case to determine: (1) what procedures should have been followed to deny Employee's Department of Health recertification before terminating him for not having a current certification and (2) whether Agency followed the proper procedures.
2. ***Belynda Roebuck v. DC Office of Aging, Case No. 17-CV-246 (D.C. 2019)*** – Before the Court of Appeals, Employee argued that absent proof of an arrest record, she should not have been disciplined pursuant to D.C. Municipal Regulation § 1603.3(h) for having committed a criminal act. The Court upheld OEA on this issue and ruled that there was no need for an arrest record for Employee to have been disciplined under this regulation. It held that the OEA Board understood that an agency is not precluded from disciplining employees for violating D.C. Code § 51-119(a) merely because he or she was not arrested or charged.

Secondly, Employee argued that OEA erred in failing to accord evidentiary significance to the findings of Office of Administrative Hearings ("OAH") in Employee's unemployment benefits cases. The Court held that it would have been an error for OEA to treat the OAH's finding in the unemployment case as admissible evidence of facts in OEA's case. It went on to note that unemployment benefits hearings have no binding effect on decisions made by subsequent adjudicatory proceedings between an employee and employer.

Finally, Employee argued that OEA erred in finding that Agency appropriately considered mitigating *Douglas* factors in deciding to terminate her. The Court agreed and ruled that there was no evidence in the record to show that OEA and Agency conscientiously considered the mitigating factors in Employee's case. It provided that the record was vacant of evidence that the *Douglas* factors were considered. Therefore, it remanded the case to OEA for further findings.

3. ***Yordanos Sium v. Office of the State Superintendent of Education, Case No. 17-CV-872 (D.C. 2019)*** – First, the Court concluded that Employee's failure to file an appeal with OEA within thirty days, as specified in D.C. Code § 1-606.03(a), did not deprive OEA of jurisdiction to consider Employee's appeal. The Court held that because the D.C. Council did not seek to curtail OEA's jurisdiction through § 1-606.03, then OEA's 30-day deadline is not jurisdictional. It also reasoned that although Agency objected to the untimely filing, it abandoned its objection because the Administrative Judge never ruled on its motion to dismiss on this basis and Agency never raised it again. Additionally, the Court found that the OEA Board abused its discretion by denying Employee's Petition for Review because the AJ decided not to conduct an evidentiary

hearing, even though the Court believed that the parties' briefings raised disputed material facts. As a result, the matter was remanded for further consideration.

### **2021 D.C. Court of Appeals Remands**

1. ***Devlin Hillman v. Office of Employee Appeals, Case No. 19-CV-1099 (D.C. 2020)*** – Before the Court of Appeals, the Department of Parks and Recreation came to the realization that their position before OEA was flawed. The OAG's office no longer thought that *Wubishet* was applicable case law in this matter, as they initially argued. The employee in *Wubishet* was removed during their probationary period. However, the employee in *Hillman* was past his probationary period and was a Career Service employee. As a result, the OAG argued that because Employee was not a probationary employee at the time of termination, he should not have lost his Career Service rights solely for failing to obtain the new lifeguard license. Thus, it believed that if the matter moved forward in the Court of Appeals, it would have resulted in bad case law. Therefore, the OAG asked that the Court remand the matter to OEA for it to render a decision on the merits, instead of a potential dismissal at the Court of Appeals based on its wrongfully allegation that Employee was in an at-will status at the time of termination.
2. ***Widmon Butler v. Metropolitan Police Department, No. 18-CV-1238 (D.C. 2020)*** – In its decision, the Court of Appeals held that it could not rely on Agency's argument in *District of Columbia v. District of Columbia Off. of Emp. Appeals*, which interpreted the phrase "conclusion of the criminal investigation" for purposes of a prior version of the time limit now found in D.C. Code § 5-1031. As for the two other arguments raised on appeal, the Court found that there was substantial evidence to support the Administrative Judge's finding that Employee did access another person's medical records in an unauthorized manner. Additionally, it found that it was not improper for OEA to consider evidence provided by Agency after the Administrative Judge remanded the matter to Agency. It agreed with the OEA Board's analysis on this issue and found that the remand order was not designated as an initial decision, and the OEA Administrative Judge could have reasonably been deemed as having implicitly reopened the record before issuing the order that was designated as the Initial Decision.

However, it ruled that it could not sustain the Administrative Judge's ruling regarding the ninety-day deadline because the AJ treated the ninety-day period as tolled until the Internal Affairs Division issued its investigative report in September 2014. Under D.C. Code § 5-1031(b), however, tolling continues only as long as the matter is the subject of a criminal investigation, and it appears to be undisputed that any potential criminal investigation ended when the U.S. Attorney's Office declined prosecution on June 2, 2014.

Additionally, the Court could not sustain the OEA Board's holding on the ninety-day issue because it assumed the matter was under criminal investigation from September 12, 2013 through June 2, 2014, but the matter was not referred for prosecution until October 1, 2013. The Court ruled that it was undisputed that 88 business days passed between June 2, 2014 and October 6, 2014, when the notice of termination was

issued. However, it held that unless much of the time between September 12, 2013 through October 1, 2013 was tolled, then Agency’s notice of termination was untimely. Although Agency argued that all of the time during this period was tolled (because Employee’s conduct was under criminal investigation with IAD), the Court held that neither the Administrative Judge nor the Board relied on this rationale. Therefore, the matter was remanded to OEA for further consideration.

3. ***Anitha Davis v. D.C. Office of Employee Appeals, Case No. 17-CV-704 (D.C. 2020)***
  - The Court of Appeals held that OEA did not decide whether Employee had a claim under the statute governing appellate procedures for RIF-related challenges, D.C. Code § 1-606.03(a), which authorizes the OEA to consider appeals of “final agency decision[s] affecting a . . . reduction in force.” It ruled that the OEA Board incorrectly interpreted Employee’s claim as a challenge to Agency’s decision to terminate Employee’s position through a RIF, and thus, deemed it outside the jurisdiction of the OEA, precluding the need for an evidentiary hearing. It held that OEA, therefore, did not address whether Agency’s failure to offer Employee priority reemployment at another school was a “decision affecting a . . . reduction in force” within the meaning of D.C. Code § 1-606.03(a), or whether it was a “final agency decision” within the meaning of this statute. The Court opined that there was not enough evidence in the record for it to make a ruling. Therefore, it ordered that the matter be remanded to OEA.



30. Please fill in the chart below with **cases by agency** in each year FY2019, FY2020, and FY2021. Add rows as necessary. Please alphabetize agencies; if there are multiple cases per agency, group them by case type.

**OEA cases or complaints by agency, FY2019-FY2021, as of Jan. 1, 2021**

Agency name	Case Type	Number of cases filed against agency		
		FY2019	FY2020	FY2021
Alcoholic Beverage Regulation Administration	Adverse Action	0	1	0
Criminal Justice Coordinating Council	Adverse Action	0	1	0
D.C. Board of Ethics and Government Accountability	Jurisdiction	1	0	0
D.C. Fire and Emergency Medical Services	Adverse Action	2	1	0
D.C. Fire and Emergency Medical Services	Jurisdiction	0	1	0
D.C. Housing Authority	Adverse Action	4	0	0
D.C. Office of Police Complaints	Adverse Action	1	0	0
D.C. Public Library	Adverse Action	0	1	0
D.C. Public Schools	Adverse Action	8	1	0
D.C. Public Schools	Reduction-in-Force	4	0	0
D.C. Public Schools	Jurisdiction	2	3	0
D.C. Rental Commission	Adverse Action	0	2	0
D.C. Retirement Board	Adverse Action	1	0	0
Department of Behavioral Health	Adverse Action	0	2	0
Department of Child and Family Services	Adverse Action	0	1	0
Department of Consumer and Regulatory Affairs	Adverse Action	0	1	0
Department of Corrections	Jurisdiction	5	0	0
Department of Corrections	Adverse Action	2	3	0
Department of Employment Services	Adverse Action	1	2	0
Department of Employment Services	Jurisdiction	1	1	0
Department of Energy and the Environment	Adverse Action	1	0	0
Department of For-Hire Vehicles	Adverse Action	1	1	0
Department of General Services	Adverse Action	3	1	1
Department of General Services	Jurisdiction	2	1	0
Department of Human Resources	Adverse Action	1	0	0

Department of Insurance and Securities Banking	Adverse Action	0	1	0
Department of Motor Vehicles	Adverse Action	0	4	0
Department of Parks and Recreation	Adverse Action	2	1	0
Department of Public Works	Adverse Action	5	7	1
Department of Public Works	Jurisdiction	2	5	0
Department of Transportation	Adverse Action	1	2	0
Department of Transportation	Jurisdiction	1	0	0
Department of Youth Rehabilitation Services	Adverse Action	1	1	0
Department of Youth Rehabilitation Services	Jurisdiction	2	2	0
Events D.C.	Jurisdiction	0	1	0
Metropolitan Police Department	Adverse Action	14	8	0
Metropolitan Police Department	Jurisdiction	1	0	1
Office of Campaign Finance	Adverse Action	1	0	0
Office of the Attorney General	Adverse Action	0	0	1
Office of the Chief Financial Officer	Jurisdiction	1	1	0
Office of the Inspector General	Adverse Action	2	0	0
Office of the Inspector General	Jurisdiction	1	0	0
Office of the State Superintendent of Education	Adverse Action	11	2	2
Office of the State Superintendent of Education	Jurisdiction	3	1	0
Office of Unified Communications	Adverse Action	1	1	0
Office of Unified Communications	Jurisdiction	0	1	0
University of the District of Columbia	Adverse Action	1	0	1
University of the District of Columbia	Jurisdiction	1	0	0

31. In each year of FY2020 and FY2021, as of Jan. 1, 2021, how many complainants returned to OEA to **request enforcement** of an OEA order? Please provide a list of the cases, and for each case, provide the case name, agency involved, and brief description of the matter.

## ANSWER:

### **FY2020 Motions for Enforcement**

1. ***Gennifer Cunningham v. D.C. Public Schools, OEA Matter No. 241-0058-17C19*** – Employee was separated from service pursuant to a Reduction-in-Force (“RIF”). On June 5, 2018, the OEA Administrative Judge (“AJ”) reversed Agency’s RIF action and ordered Employee to be reinstated with back pay and benefits. On June 14, 2019, Employee filed a Petition for Enforcement, arguing that Agency failed to issue payment for back pay and benefits. In response, Agency asserted that Employee failed to submit the proper documentation to accurately calculate the amount due. On July 15, 2019, the AJ held a status conference to assess the compliance issues. On September 30, 2019, Employee filed a Praeceptum of Compliance, wherein she provided that Agency complied with the June 5, 2018 Initial Decision. On October 8, 2019, the AJ issued an Addendum Decision on Compliance dismissing Employee’s Petition for Enforcement.
2. ***Veronica Butler v. Department on Aging, OEA Matter No. 1601-0132-14C19*** – Employee was removed from her position as a Special Assistant based on charges of Absence Without Official Leave and Unauthorized Absence. On October 27, 2015, the AJ reversed Agency’s termination action and ordered that Employee be reinstated to her previous position, or a comparable position, with back pay and benefits. The matter was subsequently appealed to the OEA Board, and it remanded the case to the AJ for the purpose of conducting an evidentiary hearing. On July 3, 2018, the AJ issued an Initial Decision on Remand, again reversing Agency’s termination action. Employee filed a Motion for Enforcement with OEA on June 17, 2019. She argued that Agency offered her a position that was not comparable to her previous position of record. On August 9, 2019, the AJ ordered the parties to submit briefs addressing the outstanding compliance issues. On November 25, 2019, the AJ issued an Addendum Decision on Compliance. She held that Agency offered Employee a position that was substantially similar to her former position. As a result, the AJ concluded that Agency fully complied with the July 3, 2018 Initial Decision on Remand.
3. ***Deborah Gudger v. D.C. Public Schools, OEA Matter No. 1601-0087-16C19*** – Employee was removed from her position as a Family Care Coordinator under the IMPACT performance evaluation system. On December 28, 2018, the AJ reversed Agency’s termination action and ordered that Employee be reinstated with back pay and benefits lost as a result of her removal. On June 26, 2019, Employee filed a Motion to Enforce Judgment with OEA asserting that Agency’s back pay amount failed to include certain out-of-pocket, health-related expenses that she incurred as a result of being terminated. The AJ subsequently ordered the parties to submit briefs addressing the outstanding compliance issues. On December 17, 2019, the AJ issued an Addendum Decision on Compliance. She concluded that Employee was not entitled to the expenses that she requested. As a result, the AJ held that Agency was in full compliance with the December 28, 2018 Initial Decision.

4. ***Laura Jackson v. Department of Health, OEA Matter No. 2401-0020-10-R17C19*** – Employee was separated from service as a Compliance Specialist pursuant to a RIF. On April 19, 2013, the AJ upheld Agency’s RIF action. The matter was appealed to the Superior Court for the District of Columbia and subsequently to the District of Columbia Court of Appeals. On May 12, 2017, the Court of Appeals remanded the matter to OEA for the purpose of addressing the errors in Employee’s Service Computation Date.

On May 1, 2018, the AJ issued an Initial Decision on Remand reversing Agency’s RIF action and ordered that Employee be reinstated with back pay and benefits. On August 26, 2019, Agency filed a brief which provided that it could only reinstate a maximum of two hundred and forty (240) hours of annual leave. It also argued that Employee was not entitled to interest on her back-pay award. The AJ issued an order requesting briefs to address the annual leave owed to Employee; the restoration of Employee’s 457(b) contributions; and any entitlement of interest on Employee’s back-pay award.

On September 23, 2019, the AJ issued an Addendum Decision on Compliance, concluding that Agency failed to fully comply with the order on remand. She certified the matter to the OEA’s General Counsel because Agency failed to restore Employee’s annual leave and failed to deduct her missed pre-tax contributions to her 457(b) Retirement Plan. However, Employee filed a Petition for Review with the OEA Board on October 24, 2019, challenging the AJ’s Addendum Decision on Compliance. Agency filed a request to hold the Addendum Decision on Compliance in abeyance until it was able to consult with a 457(b) Plan Administrator regarding Employee’s missed contributions.

On January 13, 2020, Employee filed a Request for Clarification and/or Correction of Statement and Status of Appeal. On February 11, 2020, OEA’s General Counsel issued her Order on Compliance. The order directed Agency to submit documents verifying that it complied with the September 23, 2019 Addendum Decision on Compliance. Subsequently, the OEA Board issued its Opinion and Order on June 30, 2020. It determined that it lacked authority to issue a decision on the issue of interest, as it had been properly decided by the AJ. Additionally, the Board found that Agency complied with issuing Employee’s check for back pay. Agency also restored Employee’s annual leave, as ordered. Finally, Agency reported that it issued Employee’s 457(b) retirement account contributions to ICMA-RC on June 23, 2020; the contribution was posted to Employee’s account on June 30, 2020. Therefore, the Board denied Employee’s Petition for Review. On July 2, 2020, the General Counsel’s Office was notified by the Office of Attorney General and Employee’s counsel that Employee’s retirement back-pay issue was resolved.

5. ***Eric Levenberry v. Metropolitan Police Department, OEA Matter No. 1601-0031-19C20*** – Employee filed a Petition for Appeal with OEA challenging Agency’s decision to impose a \$5,000.00 fine pursuant to D.C. Municipal Regulation § 877.8. On September 30, 2019, the AJ issued an Initial Decision and ordered Agency to reverse Employee’s fine assessment. On December 11, 2019, Employee filed a Motion for Compliance and Enforcement of the Initial Decision. The AJ issued an Addendum

Decision on Compliance on January 10, 2020. He provided that Agency elected to file a Petition for Review of OEA's decision with the Superior Court for the District of Columbia. Because Employee's appeal is still pending, the AJ dismissed Employee's motion as premature. The AJ noted that Employee was permitted to re-file the Motion for Enforcement pending the disposition of the matter in Superior Court.

6. ***Estelle Bowers v. D.C. Public Schools, OEA Matter No. 1601-0084-18C20*** – Employee filed a Petition for Appeal with OEA contesting Agency's decision to terminate her from her position as a Teacher. Employee was terminated for having an "Ineffective" rating under IMPACT. On November 18, 2019, the AJ issued an Initial Decision and reversed Agency's decision to terminate Employee pursuant to IMPACT. On February 10, 2020, Employee filed a Petition for Enforcement of the Initial Decision. The AJ issued an Addendum Decision on Compliance on July 2, 2020. She ordered Agency to pay Employee back pay covering the period of July 27, 2019 through December 22, 2019. On April 20, 2020, Agency provided an official authorization to process the settlement agreement for payment from July 29, 2019 through January 3, 2020. However, it was subsequently discovered that Employee was entitled to back pay from July 2018 (not July 2019) through January 3, 2020. As a result, Agency is currently working to secure Employee's outstanding back pay.
  
7. ***Davette Butler v. D.C. Public Schools, OEA No. 2401-0090-17C19*** — Employee was separated from service pursuant to a RIF. On August 27, 2018, the AJ issued an Initial Decision ordering Agency to reinstate Employee and reimburse her all back-pay and benefits lost as a result of her removal. On July 12, 2019, Employee filed a Motion for Enforcement and Compliance with Initial Decision. Employee asserted that she was reinstated as a Registrar on January 7, 2019, but on May 2, 2019, she received a RIF letter and was terminated effective June 21, 2019. Employee argued that Agency's failure to place her in a full-time position was in violation of the Initial Decision. Employee noted further delays in the receipt of back pay and attorney's fees. She also asserted that the position in which she was placed was an unfunded temporary position and not permanent. The AJ issued an Addendum Decision on Compliance on January 10, 2020. She found that Agency provided a compelling reason for its inability to place Employee in a Registrar position. The AJ explained that Agency has one hundred and sixteen (116) schools in its District; however, there are only thirty-four (34) Registrar positions available. Given the limited number of positions that exist, the AJ determined that the positions of Assistant, Strategy, and Logistics, Administrative Aide/Administrative Assistant/Secretary, and Attendance Counselor were comparable and substantially similar in nature to the Registrar position. Therefore, the AJ dismissed Employee's Motion for Enforcement.
  
8. ***James Wilson v. D.C. Department of Parks and Recreation, OEA No. 1601-0062-17C19*** — Employee was removed from his position as a Motor Vehicle Operator. An Initial Decision was issued in this matter on September 26, 2018. The Initial Decision reversed Agency's action of terminating Employee from service and required that Employee be reinstated and provided all back pay and benefits lost as a result of his removal. Agency filed a Petition for Review of the Initial Decision to the OEA Board

on October 31, 2018. The Board issued its Opinion and Order in this matter on May 28, 2019, upholding the AJ's Initial Decision. On September 17, 2019, Employee filed a Motion for Compliance. He asserted that Agency was not in compliance with the Board's May 28, 2019 order. On February 14, 2020, Agency indicated that Employee was reinstated effective October 28, 2019, and that an estimated gross computation of his back pay was forwarded to the District of Columbia Department of Human Resources on December 23, 2019. The AJ issued an Addendum Decision on Compliance on April 30, 2020. She provided that on March 23, 2020, she received notice from Agency that Employee had received all back pay and benefits. Additionally, on March 24, 2020, Employee confirmed that he had received all back pay and benefits. Accordingly, she dismissed Employee's September 17, 2019 request for compliance.

9. ***Willie Porter v. D.C. Department of Behavioral Health, OEA Matter No. 1601-0046-12C16*** — Employee filed a Petition for Appeal with OEA challenging his separation with Agency as a Psychiatric Nurse. An Initial Decision was issued on December 24, 2013, upholding Agency's removal action. Employee filed a Petition for Review on February 4, 2014, with the OEA Board, asserting that new and material evidence became available. On April 14, 2015, the Board issued its Opinion and Order, which remanded this matter to the AJ to consider the case based on the merits of the new evidence presented by Employee. On September 8, 2015, based on the new evidence presented, the AJ issued an Initial Decision on Remand ("IDR") reversing Agency's decision to terminate Employee from his position.

On October 20, 2015, Agency filed a Petition for Review in Superior Court. The Superior Court judge issued an order on February 14, 2017, affirming the IDR. In July of 2017, Employee filed a Motion for Compliance. On February 15, 2019, the AJ issued his Addendum Decision on Compliance ordering Agency to recalculate the amount of outside earnings that was deducted from the total back pay due to Employee. Specifically, the AJ determined that the \$40,449.35 earned by Employee from Medical Staffing Network and attributed to Employee's outside earnings on the Reinstatement with Back Pay Worksheet should not be reflected as outside earning for purposes of awarding the back pay owed to Employee.

Employee filed a Petition for Review with the OEA Board on March 22, 2019. He asserted that he should have been awarded interest and reimbursed for medical expenses. On November 1, 2019, Agency notified the AJ that it fully complied with the order. It provided that a check was issued to Employee on August 23, 2019, for the gross amount of \$40,499.35. Additionally, a second check was issued to Employee on October 25, 2019, that included additional retroactive pay in the gross amount of \$6,972.65. On December 3, 2019, the OEA Board issued its Opinion and Order on Compliance. The Board explained that *inter alia*, it lacked jurisdiction to consider matters over which Agency properly complied.

### **FY2021 Motion for Enforcement**

1. ***Clifton Taylor v. D.C. Public Schools, OEA Matter No. J-0075-19C20*** — Employee was separated from his position as a Behavioral Health Technician pursuant to a RIF.

An Initial Decision was issued in the matter on February 19, 2020, reversing Agency’s action. Agency did not appeal the February 19, 2020 Initial Decision. On May 4, 2020, Employee informed the AJ that he had not received his back pay and his leave had not been restored. Following several email communications between the AJ and the parties, the AJ was notified by Employee in an email dated September 15, 2020, that he had received his back pay. However, Employee noted that his sick and annual leave had not been restored. On September 29, 2020, Agency notified Employee and the AJ via email that the restored leave would be reflected on Employee’s October 9, 2020, paystub. On November 22, 2020, Employee notified the AJ that as of October 9, 2020, his sick and annual leave were restored. On October 29, 2020, the AJ issued an Addendum Decision on Compliance. She provided that Employee was employed with Agency; he received his back pay; and his leave was restored. The AJ found that Agency fully complied with the February 19, 2020 Initial Decision. Accordingly, the AJ dismissed Employee’s May 4, 2020, request for compliance.

2. *Ahmad Harvey v. Department of General Services, OEA Matter No. 1601-0029-19C20* – Employee was removed from his position as a Special Police Officer. On January 31, 2020, the AJ issued an Initial Decision ordering Agency to reinstate Employee; place Employee on unpaid administrative leave from the effective date of his termination—January 19, 2019—through the time he is able to have his SPO commission reinstated; and reimburse him all back-pay and benefits lost as a result of his removal. On September 10, 2020, Employee filed a Motion for Compliance/Enforcement of the January 31, 2020 Initial Decision. A Status Conference was convened on September 17, 2020, to address the outstanding compliance issues raised by Employee. On January 14, 2021, the AJ issued an Addendum Decision on Compliance. He provided that on January 8, 2021, Employee submitted an email confirming that Agency fully complied with the Initial Decision. Accordingly, he dismissed Employee’s Motion to Enforce.

32. For the OEA board members, please complete the chart below with **member information** as of Jan. 1, 2021. Please note any vacancies.

**ANSWER:**

**OEA Board Members**

<b>Member’s Name</b>	<b>Confirmation Date</b>	<b>Term Expiration Date</b>	<b>District Resident? (y/n)</b>
Patricia Hobson Wilson	02/11/2014	04/06/2022	Yes
Jelani Freeman	05/01/2017	04/06/2023	Yes
Clarence Labor, Jr.	04/02/2018	04/06/2024	Yes
Peter Rosenstein	08/07/2018	04/06/2024	Yes
Dionna Maria Lewis	02/11/2019	04/06/2025	Yes



## **V. Agency Operations, Disputes, and Evaluation**

33. Please list in chronological order any other (non-union) **grievances or complaints against or regarding the agency or any of its personnel, filed by any District government employee or former employee**, that were filed against the agency or OEA employee that are pending in FY2020 or FY2021 (do not include cases that are part of OEA's routine work, covered in Questions 28-29). Only include cases in which OEA or an OEA employee is a named party in the complaint. Include complaints filed in any forum, including with other District agencies; complaints on any matter, including human resources, personnel, sexual harassment, financial, or other matters; and complaints filed against a current agency employee related to their employment at the agency, or related to any previous employment at another District agency. Include on the list any earlier grievance that is still pending in any forum, including review by another District agency. For each grievance or complaint:
- Provide the agency name and office of the complainant at the time the matter occurred.
  - Provide the name of the forum or agency to which the complaint was filed.
  - Specify if the complaint concerns a colleague or supervisor.
  - Provide a brief description of the matter and the current status.
  - Describe the response to the complaint or grievance, including any disciplinary action taken and any changes to agency policies or procedures
  - For any complaint or grievance that was resolved in FY2020 or FY2021, as of Jan. 1, 2021, describe the resolution or outcome.

### **ANSWER:**

There were no grievances or complaints filed against or regarding OEA or any of its personnel filed by any District government employee or former employee in FY20 or FY21-to-date.

34. Please list all **lawsuits** that name or are concerned with the agency, division, or employee of the agency (related to the employee's work) as a party, which are pending or which concluded in FY2020 or FY2021, as of Jan. 1, 2021. Do not include cases covered in Questions 28-29 or lawsuits naming OEA solely for the purpose of filing the full record in court.
- Provide the case name, court, where claim was filed, case docket number, current status of case, and a description of all causes of action, counts, and/or allegations in the filed complaint.
  - Attach a copy of each complaint and any response filed by the agency or its legal representative.

### **ANSWER:**

Other than matters where OEA is named as a technical party of interest, to file the record in court, there are no lawsuits that name or concern OEA or any employees of the agency.

35. Please list all **settlements** entered into by the agency or by the District on behalf of the agency in FY2020 or FY2021, as of Jan. 1, 2021, including any covered by D.C. Code § 2-402(a)(3), which requires the Mayor to pay certain settlements from agency operating budgets if the settlement is less than \$10,000 or results from an incident within the last two years. For each, provide
- a. The parties' names,
  - b. The date the settlement was entered into;
  - c. The amount of the settlement, and
  - d. If related to litigation, the case name, court where claim was filed, case docket number, and a description of the case, or
  - e. If unrelated to litigation, please describe the underlying issue or reason for the settlement (e.g. Administrative complaint related to sexual harassment, etc.).

**ANSWER:**

There were no settlements entered into by OEA or by the District on OEA's behalf in FY20 or FY21-to-date.

36. Please provide a list of all **studies, research papers, reports, evaluations, and analyses**, including those provided by contractors or consultants, that the OEA prepared or contracted for during FY2020 and FY2021, as of Jan. 1, 2021.
- a. For each study, paper, report, or analysis, please include:
    1. Report name;
    2. Author name, whether the agency or an outside party;
    3. Status, including actual or expected completion date;
    4. Purpose and description of contents; and
    5. Contract number or grant name if the report was produced by a contractor or grantee.
  - b. Please attach a copy if the study, research paper, report, or analysis is complete.

**ANSWER:**

OEA has not prepared or been contracted to prepare any studies, research papers, reports, evaluations, or analyses during FY20 or FY21-to-date.

37. Please list and describe any **investigations, audits, or reports by outside entities** that involve the OEA or any employee that were conducted during FY2020 and FY2021, as of Jan. 1, 2021, or that are ongoing. *Attach copies* of any such document. Include any routine or ad hoc monitoring, site reviews, desk audits, or other reviews or audits by federal agencies, the District Inspector General, the DC Auditor, or *any other* local or federal governmental entity.

**ANSWER:**

There have been no investigations, audits, or reports by outside entities involving OEA or any employees conducted during FY20 or FY21-to-date.

38. Please list all **recommendations identified by the Office of the Inspector General, D.C. Auditor, or other federal or local oversight entities** during FY2019, FY2020, or FY2021, as of Jan. 1, 2021 about the OEA or its board members or employees. Please provide an update on what actions have been taken to address each recommendation. If the recommendation has not been implemented, please explain why.

**ANSWER:**

There have been no recommendations by the Office of the Inspector General, D.C. Auditor, or other federal or local oversight entities during FY19, FY20, or FY21-to-date involving OEA, its board members, or employees.

39. Please attach a copy of the agency's **FOIA disclosure report** for FY2020.

**ANSWER:**

Please see Attachment #13.

40. Please attach a **log of all FOIA requests** received in FY2020 and FY2021, as of Jan. 1, 2021, with the request number, the name of the requestor, the request date, and a brief description of the information requested.

**ANSWER:**

No FOIA requests were received in FY2020 nor have any been received in FY2021, as of January 1, 2021.