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**THE DISTRICT OF COLUMBIA**  
**BEFORE**  
**THE OFFICE OF EMPLOYEE APPEALS**

_____	)	
In the Matter of:	)	
	)	
AUBREY ROBINSON	)	OEA Matter No. 1601-0065-16
Employee	)	
	)	Date of Issuance: November 14, 2016
v.	)	
	)	Lois Hochhauser, Esq.
DISTRICT OF COLUMBIA PUBLIC SCHOOLS	)	Administrative Judge
Agency	)	
_____	)	
Nicole Dillard, Esq., Agency Representative	)	
Aubrey Robinson, Employee	)	

**INITIAL DECISION**

INTRODUCTION AND STATEMENT OF FACTS

Aubrey Robinson, Employee, filed a petition with the Office of Employee Appeals (OEA) on July 21, 2016, appealing the decision of the District of Columbia Public Schools, Agency, to terminate his employment. In its response, Agency asked that the appeal be dismissed based on the fact that Employee retired before the effective date of the removal. The matter was assigned to this Administrative Judge (AJ) on September 9, 2016.

By Order dated September 15, 2016, Agency was directed to submit certain information and documentation in support of its position by October 14, 2016. However, on October 13, 2016, Agency counsel advised the AJ by email, that she had spoken with Employee by telephone, and he told her that he intended to withdraw the appeal. Counsel asked, based on Employee's statement, that the deadline for Agency's submission be extended to allow Employee to withdraw his appeal. The AJ directed counsel to contact Employee to request his consent, advise him of the email exchange, and advise him that the AJ would issue an Order responding to the representation that he wanted to withdraw his appeal. Counsel later emailed the AJ that she had spoken with Employee again and provided him with information; and that he consented to Agency's request.<sup>1</sup>

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<sup>1</sup> Employee was not included in this email exchange because he advised Agency counsel that he does not have an email address. He was not telephoned at the time because counsel stated that Employee told her that his wife was in the hospital and that it was might be difficult to reach him.

In the Order issued on October 17, 2016, counsel's representations were summarized, Agency's request was granted, and Employee was directed to file a signed statement seeking dismissal of the appeal or stating that he wanted to pursue the appeal. The AJ included her telephone number in the Order so that Employee could contact her if he had any questions or concerns. The Order provided a filing deadline of November 9, 2016; and stated that the record would close on that date, unless the parties were notified to the contrary.

On October 27, 2016, Employee filed a signed document with OEA stating that he "was no longer interested in pursuing this case any further." The record was then closed.

### JURISDICTION

This jurisdiction of this Office was not established.

### ISSUE

Should this matter be dismissed?

### FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS

In accordance with the October 17, 2016 Order which summarized counsel's representation that Employee wanted to withdraw his appeal and directed Employee, if the representation was accurate, to file a signed statement asking that the appeal be dismissed; Employee, well in advance of the deadline, filed a signed statement with OEA confirming that he did not want to pursue the appeal. The AJ has no reason to doubt that Employee filed the statement voluntarily and with the knowledge that it would result in the dismissal of his petition for appeal. Based on these findings and this analysis, the AJ concludes that the petition for appeal should be dismissed.

### ORDER

It is hereby:

ORDERED: This petition for appeal is dismissed.

FOR THE OFFICE:

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Lois Hochhauser, Esq.  
Administrative Judge