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

In the Matter of:)	
)	OEA Matter No.: 1601-0068-24
EMPLOYEE, ¹)	
Employee)	
)	Date of Issuance: October 7, 2024
v.)	
)	
D.C. PUBLIC SCHOOLS,)	NATIYA CURTIS, Esq.
Agency)	Administrative Judge
)	

Employee, *Pro se*
Gehrie D. Bellamy, Esq., Agency Representative

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On July 22, 2024, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the District of Columbia Public Schools’ (“Agency” or “DCPS”) decision to terminate her from her position as Teacher, effective June 21, 2024. The removal action was based upon the failure to meet the licensure requirements, as mandated by the Office of the State Superintendent of Education (“OSSE”).² OEA issued a letter dated July 22, 2024, requesting Agency file an Answer on or before August 21, 2024. Agency filed its Answer to Employee’s Petition for Appeal as required. This matter was assigned to the undersigned Administrative Judge on August 21, 2024. On August 23, 2024, I issued an Order Convening a Status Conference for September 10, 2024. Employee did not appear for the Status Conference as required. Accordingly, on September 11, 2024, I issued an Order for Statement of Good Cause, requiring Employee to explain why she did not appear for the Status Conference held on September 10, 2024.³ As of the date of this decision, Employee has not responded to this Order. Upon review of the record, I have determined that an Evidentiary Hearing is not warranted. The record is now closed.

JURISDICTION

The Office has jurisdiction in this matter pursuant to D.C. Official Code §1-606.03 (2001).

¹ Employee’s name was removed from this decision for the purposes of publication on the Office of Employee Appeals’ website.

² See 5-A16 DCMR §1601 *et seq.* (October 21, 2022) and 5-A16 DCMR §1603 *et seq.* (July 1, 2016).

³ Agency’s Representative appeared as required; however, the Status Conference could not proceed without Employee.

ISSUES

Whether this Appeal should be dismissed for failure to prosecute.

BURDEN OF PROOF

OEA Rule 631.1, 6-B DCMR Ch. 600 (December 27, 2021) states:

The burden of proof for material issues of fact shall be by a preponderance of the evidence.

Preponderance of the evidence shall mean: That degree of relevant evidence which a reasonable mind, considering the record as a whole, would accept as sufficient to find a contested fact more probably true than untrue.

OEA Rule 631.2 *id.* states:

For Appeals filed under § 604.1, the employee shall have the burden of proof as to issues of jurisdiction, including timeliness of filing. The agency shall have the burden of proof as to all other issues.

ANALYSIS AND CONCLUSIONS OF LAW

OEA Rule 624.3, DCMR Ch. 600, et seq (December 27, 2021) grants an Administrative Judge the authority to "...dismiss the action or rule for the appellant" if a party fails to take reasonable steps to prosecute or defend an appeal. Failure of a party to prosecute or defend an appeal includes, but is not limited to, a failure to:

- (a) *Appear at a scheduled proceeding after receiving notice* (emphasis added);
- (b) *Submit required documents after being provided with a deadline for such submission* (emphasis added); or
- (c) Inform this Office of a change of address which results in correspondence being returned.

This Office has consistently held that a matter may be dismissed for failure to prosecute when a party fails to appear for scheduled proceeds or fails to submit required documents.⁴ Here, Employee was warned in the Order for Statement of Good Cause issued on September 11, 2024, that failure to comply with the Order could result in sanctions, including dismissal. As of the date of this decision, Employee has not responded and provided a written response to the September 11, 2024 Order. Employee's response was required to make an informed decision regarding the resolution of this matter. Accordingly, I find that Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office, and Employee's inaction presents a valid basis for dismissing this matter. Consequently, I

⁴ See *David Bailey Jr. v. Metropolitan Police Department*, OEA Matter No. 1601-0007-16 (April 14, 2016).

further find that this matter should be dismissed for failure to prosecute.

ORDER

It is hereby **ORDERED** that this matter be **DISMISSED** for Employee's failure to prosecute her Appeal.

FOR THE OFFICE:

/s/ Natiya Curtis
Natiya Curtis Esq.
Administrative Judge