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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	OEA Matter No.: J-0036-26
EMPLOYEE ¹ ,)	
Employee)	
)	Date of Issuance: April 28, 2026
v.)	
)	
DISTRICT OF COLUMBIA DEPARTMENT OF)	MICHELLE R. HARRIS, ESQ.
TRANSPORTATION,)	Senior Administrative Judge
Agency)	
)	
)	
)	
)	

Employee, *Pro Se*
Kathleen Miskovsky Black, Esq., Agency Representative

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On February 11, 2026, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the District of Columbia Department of Transportation’s (“Agency” or “DDOT”) decision to suspend him from service for two (2) days. Following a letter from OEA dated February 11, 2026, requesting an Answer in this matter, Agency filed its Answer and Motion to Dismiss on March 13, 2026. Agency cited in its Answer and Motion to Dismiss that Employee had been suspended for two (2) days, and that OEA lacked jurisdiction over this matter because an employee may only appeal a suspension of ten (10) days or more. This matter was assigned to the undersigned Senior Administrative Judge (“AJ”) on March 13, 2026.

On March 17, 2026, I issued an Order requiring the parties to submit briefs regarding the jurisdiction issue raised by Agency in its Answer and Motion to Dismiss. Employee’s brief was due by or before April 3, 2026, and Agency’s response was due by or before April 17, 2026. Employee failed to submit his brief by the required deadline. As a result of Employee’s failure to submit his brief, I issued an Order for Statement of Good Cause to Employee on April 8, 2026. Employee was ordered to submit a statement of good cause for his failure to adhere to the deadline set forth in the March 17, 2026 Order. Employee was also required to submit his brief on jurisdiction by or before April 17, 2026. As of the date of this decision, Employee has not submitted a response as required. The record is now closed.

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

JURISDICTION

The jurisdiction of this Office has not been established in this matter.

ISSUE

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 states in relevant part that “if a party fails to take reasonable steps to prosecute or defend an appeal, the Administrative Judge, in the exercise of sound discretion, may dismiss the action or rule for the appellant. 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;
- (b) Submit required documents after being provided with a deadline for such submission; or
- (c) Inform this Office of a change of address which results in correspondence being returned.”²
(Emphasis Added)

This Office has consistently held that failure to prosecute an appeal includes a failure to submit required documents after being provided with a deadline to comply with such orders.³ In the instant matter, Employee was provided notice in the March 17, 2026, and April 8, 2026 Orders that a failure to comply could result in sanctions, including dismissal. Additionally, all Orders were sent via postal mail service to the address provided by Employee in his Petition for Appeal. Employee’s response to these orders was required to ensure an appropriate review and resolution of the matter. Accordingly, I find that Employee has not exercised the diligence expected of an appellant pursuing an appeal before

² OEA Rule 624.3, 6-B DCMR Ch. 600 (December 27, 2021).

³ *Williams v. D.C. Public Schools*, OEA Matter 2401-0244-09 (December 13, 2010); *Brady v. Office of Public Education Facilities Modernization*, OEA Matter No. 2401-0219-09 (November 1, 2010).

this Office. I further find that Employee's failure to prosecute his appeal is a violation of OEA Rule 624.3. For these reasons, I have determined that this matter should be dismissed for Employee's failure to prosecute.

ORDER

It is hereby **ORDERED** that the Petition in this matter is **DISMISSED** for failure to prosecute.

FOR THE OFFICE:

/s/ Michelle R. Harris
MICHELLE R. HARRIS, ESQ.
Senior Administrative Judge