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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
EMPLOYEE ¹)	OEA Matter No. 1601-0082-24
)	
v.)	Date of Issuance: February 24, 2025
)	
DISTRICT OF COLUMBIA PUBLIC SCHOOLS,)	Monica Dohnji, Esq.
Agency)	Senior Administrative Judge
)	

Employee, *Pro Se*
Gehrie Bellamy, Esq., Agency's Representative

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On August 27, 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 him from his position as a Teacher effective August 2, 2024. Employee was terminated for receiving a final IMPACT rating of 'Minimally Effective' for the 2023-2024 school year ("SY"), following a final IMPACT rating of 'Developing' from the previous school year. OEA issued a Request for Agency's Answer to Employee's Petition for Appeal on August 27, 2024. Agency filed its Answer to Employee's Petition for Appeal on September 25, 2024.

This matter was assigned to the undersigned on September 25, 2024. Thereafter, on October 7, 2024, I issued an Order scheduling a Status/Prehearing Conference for November 19, 2024. Both parties were present at the scheduled conference. Subsequently, on November 20, 2024, I issued a Post Status/Prehearing Conference Order, requiring the parties to submit written briefs. Agency's brief was due by December 13, 2024; Employee's brief was due by January 3, 2025; and Agency had the option to submit a sur-reply by January 17, 2025. On December 2, 2024, Agency filed a Request for a New Due Date for Agency's Brief. The undersigned issued an Order on December 3, 2024, granting Agency's request and revised the briefing schedule as follows: Agency's brief was now due by December 27, 2024; Employee's brief was due January 17, 2025; and Agency's sur-reply was due

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

February 7, 2025.² Agency timely submitted its brief. However, Employee did not submit his brief by the January 17, 2025, deadline. Thereafter, on February 3, 2025, Agency filed a Request for a New Due Date for Agency Sur Reply.

On February 4, 2025, the undersigned issued an Order for Statement of Good Cause on wherein, Employee was ordered to explain his failure to respond to the December 3, 2024, Order.³ Employee had until February 19, 2025, to respond to the Statement of Good Cause Order. As of the date of this decision, Employee has not responded to this Order. The record is now closed.

JURISDICTION

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

ISSUE

Whether this appeal should be dismissed for failure to prosecute.

BURDEN OF PROOF

OEA Rule § 631.1, 6-B District of Columbia Municipal Regulations (“DCMR”) Ch. 600, et seq (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:

the degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue.⁴

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 (“AJ”) the authority to impose sanctions upon the parties as necessary to serve the ends of justice. The AJ “in the exercise of sound discretion may dismiss the action or rule for the appellant”

² Due to personal extenuating circumstances requiring the undersigned’s absence, on December 12, 2024, AJ Harris issued a Notice Regarding Temporary Abeyance of Proceedings to the parties until my return. AJ Harris further informed the parties that they should adhere to the briefing deadlines prescribed in the December 3, 2024, Order.

³ Agency was informed in this Order that its request for a new due date to submit its sur-reply will be addressed after February 19, 2025. Because Employee did not comply with the February 4, 2025, Order for Statement of Good Cause, and this matter is being dismissed for Employee’s failure to prosecute, I find that Agency’s request for additional time is moot.

⁴ OEA Rule § 699.1.

if a party fails to take reasonable steps to prosecute or defend an appeal.⁵ 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* (emphasis added); or
- (c) Inform this Office of a change of address which results in correspondence being returned.

This Office has consistently held that failure to prosecute an appeal includes a failure to submit required documents after being provided with a deadline for such submissions.⁶ Here, Employee was warned in the December 4, 2024, and February 4, 2025, Orders that failure to comply could result in sanctions, including dismissal. Employee did not provide a written response to these Orders. These responses were required for a proper resolution of this matter on its merits. Wherefore, I find that Employee's failure to prosecute his appeal is a violation of OEA Rule 624. Accordingly, I further find that Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office. Therefore, this matter should be dismissed for his failure to prosecute.

ORDER

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

FOR THE OFFICE:

/s/ Monica N. Dohnji
MONICA DOHNJI, Esq.
Senior Administrative Judge

⁵ OEA Rule 624.3.

⁶ *Williams v. D.C. Public Schools*, OEA Matter No. 2401-0244-09 (December 13, 2010); *Brady v. Office of Public Education Facilities Modernization*, OEA Matter No. 2401-0219-09 (November 1, 2010).