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

In the Matter of:	)	
	)	
JEANNIE WALTZ,	)	
Employee	)	OEA Matter No. 1601-0132-15
	)	
v.	)	Date of Issuance: January 22, 2016
	)	
DISTRICT OF COLUMBIA PUBLIC SCHOOLS,	)	MONICA DOHNJI, Esq.
Agency	)	Senior Administrative Judge
	)	
Jeannie Waltz, Employee <i>Pro Se</i>		
Nicole Dillard, Esq., Agency Representative		

**INITIAL DECISION**

**INTRODUCTION AND PROCEDURAL BACKGROUND**

On August 25, 2015, Jeannie Waltz (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the District of Columbia Public Schools’ (“Agency”) decision to terminate her from her position as a General Education Teacher, effective August 7, 2015. On September 30, 2015, Agency filed its Answer to the Petition for Appeal, noting that Employee was in probationary status at the time of her termination and as such, OEA lacked jurisdiction over this matter.

I was assigned this matter on November 18, 2105. Thereafter, I issued an Order on November 23, 2015, requiring Employee to address the jurisdictional issue raised by Agency in its Answer. Employee’s brief on jurisdiction was due on or before December 8, 2015, and Agency had the option to submit a reply brief on or before December 22, 2015. While Employee failed to submit a response to the November 23, 2015, Order on jurisdiction, by the December 8, 2015, deadline, on December 17, 2015, Agency submitted a response to the November 23, 2015, Order. Subsequently, on January 6, 2016, I issued a Statement of Good Cause, wherein, Employee was ordered to explain her failure to submit a response to the November 23, 2015, Order, on or before January 20, 2016. As of the date of this decision, Employee has not responded to either Order. The record is now closed.

## JURISDICTION

The jurisdiction of this Office, pursuant to *D.C. Official Code, § 1-606.03 (2001)*, has not been established.

## ISSUE

Whether this appeal should be dismissed for failure to prosecute.

## BURDEN OF PROOF

OEA Rule 628.1, 59 DCR 2129 (March 16, 2012) states:

The burden of proof with regard to 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 628.2 *id.* states:

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 621.1 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” if a party fails to take reasonable steps to prosecute or defend an appeal.<sup>1</sup> 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.

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 submission.<sup>2</sup> Here, Employee was warned in the November 23, 2015, and January 6, 2016, Orders that failure to

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<sup>1</sup> OEA Rule 621.3.

<sup>2</sup> *Employee v. Agency*, OEA Matter No. 1602-0078-83, 32 D.C. Reg. 1244 (1985); *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).

comply could result in sanctions, including dismissal. Employee did not provide a written response to these Orders. These were required for a proper resolution of this matter on its merits. I find that Employee's failure to prosecute her appeal is a violation of OEA Rule 621. 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 her failure to prosecute.

ORDER

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

FOR THE OFFICE:

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MONICA DOHNJI, Esq.  
Senior Administrative Judge