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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	OEA Matter No.: 1601-0191-11
CYNTHIA YOUNG,)	
Employee)	
)	Date of Issuance: November 8, 2013
v.)	
)	
DISTRICT OF COLUMBIA)	
PUBLIC SCHOOLS,)	
Agency)	Sommer J. Murphy, Esq.
_____)	Administrative Judge
Cynthia Young, Employee		
Carl Turpin, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On July 26, 2011, Cynthia Young (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) contesting the District of Columbia Public Schools’ (“Agency” or “DCPS”) action of terminating her employment based on an “Ineffective” rating under Agency’s Effectiveness Assessment System for School-Based Personnel program (“IMPACT”). The effective date of Employee’s termination was July 29, 2011.

I was assigned this matter in June of 2013. On June 21, 2013, I issued an Order convening a Prehearing Conference to be held at this Office on August 12, 2013 at 11:00 a.m. Employee did not appear for the conference. I subsequently issued an Order for Statement of Good Cause to Employee because she had failed to appear for the Prehearing Conference. Employee contacted this Office, via telephone, and requested that the conference be rescheduled for a later date. Employee’s request was granted, and a second Prehearing Conference was scheduled for October 29, 2013. Agency appeared for the conference; however, Employee did not. On October 30, 2013, I issued a second Order for Statement of Good Cause to Employee. Employee was required to submit a statement to establish cause for her failure to appear on or before November 5, 2013. Employee has failed to submit a statement of good cause as of the date of this Initial Decision. The record is now closed.

JURISDICTION

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

ISSUE

Whether Employee's appeal should be dismissed for failure to prosecute.

FINDINGS OF FACT, ANALYSIS, AND CONCLUSIONS OF LAW

OEA Rule 621.3 further provides 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 an appeal includes, but is not limited 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.

In this case, Employee was warned that the failure to appear could result in sanctions as enumerated in Rule 621.3. Employee did not appear for the August 12, 2013 Prehearing Conference. Employee also failed to appear for the October 29, 2013 conference. In addition, she failed to provide a Statement of Good Cause on or before November 5, 2013 to explain her failure to appear. Based on the foregoing, I find that Employee's lack of diligence in pursuing an appeal before OEA constitutes a failure to prosecute and serves grounds for the dismissal of this matter.

ORDER

It is hereby ORDERED that Employee's Petition for Appeal is DISMISSED for failure to prosecute.

FOR THE OFFICE:

SOMMER J. MURPHY, ESQ.
ADMINISTRATIVE JUDGE