

**THE DISTRICT OF COLUMBIA**

**BEFORE**

**THE OFFICE OF EMPLOYEE APPEALS**

In the Matter of:	)	
	)	
Patricia Antoine	)	OEA Matter No. 1601-0357-10
Employee	)	
	)	Date of Issuance: March 15, 2012
v.	)	
	)	Senior Administrative Judge
D.C. Public Schools	)	Joseph E. Lim, Esq.
Agency	)	
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Bobbie Hoye, Esq., Agency Representative		
Patricia Antoine, Employee <i>pro se</i>		

**INITIAL DECISION**

PROCEDURAL BACKGROUND AND FINDINGS OF FACT

On August 10, 2010, Employee filed a petition for appeal with this Office from Agency's final decision terminating her due to an "Ineffective" rating in IMPACT. IMPACT is the effectiveness assessment system which Agency used for the 2009-2010 school year to rate the performance of school-based personnel. The matter was assigned to the undersigned judge on September 21, 2011. I ordered Employee to submit a legal brief by September 31, 2011, establishing this Office's jurisdiction after ascertaining that Employee may be a probationary employee. When Employee failed to comply, I issued a Show Cause Order to Employee to respond by February 2, 2012.

Despite prior warnings that failure to comply could result in sanctions, including dismissal; Employee has failed to respond to any of my Orders. The record is closed.

JURISDICTION

Jurisdiction in this matter has not been established.

ISSUE

Whether this appeal should be dismissed for failure to prosecute.

ANALYSIS AND CONCLUSION

OEA Rule § 622.3, 46 D.C. Reg. 9313 (1999) provides as follows:

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.

The employee was warned in each order that failure to comply could result in sanctions including dismissal. The employee never complied. Employee’s behavior constitutes a failure to prosecute his appeal and that is sound cause for dismissal.

ORDER

It is hereby ORDERED that the petition in this matter is dismissed for failure to prosecute.

FOR THE OFFICE:

JOSEPH E. LIM, Esq.  
Senior Administrative Judge