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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
CHRISTINE ALSTON)	OEA Matter No. J-0159-12
Employee)	
)	Date of Issuance: September 6, 2012
v.)	
)	Lois Hochhauser, Esq.
OFFICE OF THE STATE SUPERINTENDENT)	Administrative Judge
OF EDUCATION)	
Agency)	
_____)	
Virginia Crisman, Esq., Agency Representative)	
Ms. Christine Alston, Employee)	

INITIAL DECISION

INTRODUCTION AND STATEMENT OF FACTS

Ms. Christine Alston, Employee herein, filed a petition for appeal with the Office of Employee Appeals (OEA) on July 23, 2012 appealing the decision of the Office of State Superintendent of Education, Agency herein, to terminate her employment as a Bus Attendant, effective June 29, 2012.

The matter was assigned to me on August 27, 2012, I reviewed the documents and determined that this Office might lack jurisdiction to hear this appeal, since Employee had submitted a letter from Agency dated July 2, 2012, in which it notified her that based on her request for an administrative review of the proposed action, she was being placed on administrative leave “until further notice”, and that while on administrative leave, she would continue to be paid and to accrue leave. Since it did not appear that Employee was actually terminated from the position that was the subject of her appeal when she filed the petition, I issued an Order on August 27, 2012, directing Employee to submit written argument and/or documentation to support her position regarding this Office’s jurisdiction. I advised her that employees have the burden of proof on the issue of jurisdiction. In addition, I notified the parties that unless they were advised to the contrary, the record would be closed on the date that Employee’s submission was due to be filed. In her response, filed on August 29, 2012, Employee stated she was withdrawing her appeal since she had been reinstated, effective August 13, 2012. The record is hereby closed.

JURISDICTION

This jurisdiction of this Office was not established.

ISSUE

Should this matter be dismissed?

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS

The primary reason for dismissing this matter is that Employee has asked to withdraw her petition for appeal based on her reinstatement. There is an additional basis for dismissing the matter. D.C. Official Code Section 1-606.03 requires that an employee must be terminated from the position that is the subject of the appeal. Employee was never terminated from the position that was the subject of this appeal. Therefore, this Office lacks the jurisdiction to hear the matter. For these reasons, I conclude that the petition for appeal should be dismissed.

ORDER

It is hereby ORDERED that the petition for appeal is DISMISSED.

FOR THE OFFICE:

Lois Hochhauser, Esq.
Administrative Judge