

THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
Dennis Hawkins)	OEA Matter No. 1601-0156-08
Employee)	
)	Date of Issuance: March 19, 2009
v.)	
)	Joseph E. Lim, Esq.
D.C. Public Schools)	Senior Administrative Judge
Agency)	
)	

Dennis Hawkins, Employee *pro se*
Sara White, Esq., Agency Representative

INITIAL DECISION

INTRODUCTION

On August 21, 2008, Employee, an Instructional Paraprofessional, filed a petition for appeal from Agency's alleged action removing him for not meeting the requirements for his position as delineated in the District of Columbia Municipal Regulation §1309.2. The regulation states that in order for one to be eligible for the position, an individual must complete 60 hours of college work or has received an Associate Degree.

This matter was assigned to me on January 26, 2009. I conducted a Prehearing Conference on February 20, 2009. Since no hearing is necessary to decide the issue, none was held. The record is closed.

JURISDICTION

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

ISSUE

Whether Agency made an error in terminating Employee.

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS

The following facts are not subject to genuine dispute:

1. By a notice dated July 10, 2008, Agency notified Employee of its proposal to remove him from his position for being unable to meet the qualification requirements. The effective date of the removal was August 1, 2008.

2. District of Columbia Municipal Regulation §1309.2 states: An instructional paraprofessional who provides direct academic support to students or teachers shall: (a) Complete at least two (2) years of study in an institution of higher education; or (b) Obtain an associate's (or higher) degree, or (c) Meet a rigorous standard of quality and be able to demonstrate through a formal academic assessment: (1) Knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or (2) Knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness as appropriate.

3. At the conference, Employee asserted that he had indeed met the requirements and submitted the necessary documents to prove his assertion. He submitted transcripts from the University of District of Columbia indicating that he had an Associate Degree and a Master of Arts Degree from the University. He also submitted a transcript from the Western Michigan University indicating his Bachelor of Science degree. He also complained that if Human Resources examined his personnel file, they would have seen that he had been employed in the system as a full time teacher from August 21, 2001, through August 04, 2004.

4. The agency representative checked with personnel and indicated in writing that Employee was indeed correct. She agreed that Agency had made an error and would correct the problem by reinstating Employee.

Here, it is undisputed that Employee's removal was in error. I conclude that Agency's action should be reversed and Employee should be reinstated.

ORDER

It is hereby ORDERED:

1. Agency's decision to remove Employee from his position is reversed.
2. Agency is directed to reinstate Employee to his last position of record, issue him the back pay to which he is entitled and restore any benefits he lost as a result of the action, no later than 30 calendar days from the date of issuance of this Decision.
3. Agency is directed to document its compliance by filing with OEA a Statement of Compliance Report no later than 45 calendar days from the date of issuance of this Decision.

FOR THE OFFICE:

Joseph E. Lim, Esq.
Senior Administrative Judge