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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
LUCRECIA ALMAZAN-JOHNSON)	OEA Matter No. J-0021-06
Employee)	
)	Date of Issuance: January 31, 2006
v.)	
)	Rohulamin Quander, Esq.
)	Senior Administrative Judge
D.C. PUBLIC SCHOOLS)	
Agency)	

Lucrecia Almazan-Johnson, *Pro se*
Harriet Segar, Esq., Agency Representative

INITIAL DECISION

INTRODUCTION AND STATEMENT OF FACTS

On January 20, 2006, Employee, an ET-15 English as a Second Language (“ESL”) Teacher, filed a Petition for Appeal challenging her mid year transfer, effective January 23, 2006, between the John Eaton and Ludlow-Taylor elementary schools, which are schools operated by the D.C. Public Schools (the “Agency”). As basis for her challenge, she maintains that the transfer would reduce the mandated teacher-student ratio at Eaton school, and that the Ludlow-Taylor principal had advised her that he did not need her services, and was unaware that she was reassigned to that school.

This matter was assigned to me on January 27, 2006. Since a decision could be rendered based on the documents contained in the case file, no proceedings were held. The record is closed.

JURISDICTION

The Office lacks jurisdiction over this appeal.

ISSUE

Whether this appeal should be dismissed for lack of jurisdiction.

ANALYSIS AND CONCLUSIONS

This Office was established by the D.C. Comprehensive Merit Personnel Act (CMPA), D.C. Official Code § 1-601.01 *et seq.* (2001) and has only that jurisdiction conferred upon it by law. The types of actions that employees of the District of Columbia government may appeal to this Office are stated in D.C. Official Code § 1-606.03. Here, Employee is attempting to appeal Agency's mid year reassignment and transfer. Employee's appeal is the proper subject of a grievance. As will now be discussed, this Office lacks jurisdiction over grievance appeals, including this appeal.

Effective October 21, 1998, the Omnibus Personnel Reform Amendment Act of 1998 (OPRAA), D.C. Law 12-124, amended certain sections of the CMPA. Of specific relevance to this Office, § 101(d) of OPRAA amended § 1-606 of the Code in pertinent part as follows:

(1) D.C. Code § 1-606.3(a) is amended as follows:

(a) An employee may appeal a final agency decision affecting a performance rating which results in removal of the employee . . . an adverse action for cause that results in removal, reduction in grade, or suspension for 10 days or more . . . or a reduction in force. . . .

Thus, § 101(d) restricted this Office's jurisdiction to appeals from the following personnel actions only:

- a performance rating that results in removal;
- a final agency decision effecting an adverse action for cause that results in removal, reduction in grade, or suspension of 10 days or more; or
- a reduction in force.

Therefore, as of October 21, 1998, this Office no longer has jurisdiction over appeals from grievances.

The plain language of OPRAA compels the dismissal of this appeal for lack of jurisdiction. "The starting point in every case involving construction of a statute is the language itself." *Blue Chip Stamps v. Manor Drug Stores*, 421 U.S. 753, 756 (1975). "A statute that is

clear and unambiguous on its face is not open to construction or interpretation other than through its express language.” *Banks v. D.C. Public Schools*; OEA Matter No. 1602-0030-90, *Opinion and Order on Petition for Review* (September 30, 1992), __ D.C. Reg. __ (); *Caminetti v. United States*, 242 U.S. 470 (1916); *McLord v. Bailey*, 636 F.2d 606 (D.C. Cir. 1980).

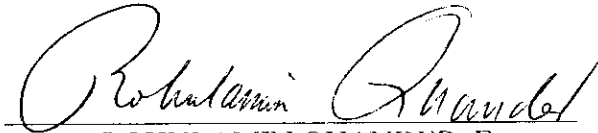
Here, as of October 21, 1998, § 101(d) of OPRAA “clearly and unambiguously” removed grievance appeals from the jurisdiction of this Office. Further, since the passage of OPRAA, this Office has consistently held that appeals involving grievances are not within our jurisdiction. *See, e.g., Brown, et al. v. Metropolitan Police Department*, OEA Matter Nos. J-0030-99 *et seq.* (February 12, 1999), __ D.C. Reg. __ (); *Phillips-Gilbert v. Department of Human Services*, OEA Matter No. J-0074-99 (May 24, 1999), __ D.C. Reg. __ (); *Farrall v. Department of Health*, OEA Matter No. J-0077-99 (June 1, 1999), __ D.C. Reg. __ (); *Anthony v. Department of Corrections*, OEA Matter No. J-0093-99 (June 1, 1999), __ D.C. Reg. __ (); *Lucas v. Department of Corrections*, OEA Matter No. J-0024-02 (February 20, 2002), __ D.C. Reg. __ (); *Wells v. Department of Human Services*, OEA Matter No. J-0001-04 (October 23, 2003), D.C. Reg. __ (); *Nadybal v. Office of the Chief Financial Officer*, OEA Matter No. J-0029-04 (February 2, 2004), __ D.C. Reg. ____ ().

Employee’s appeal of a grievable matter was filed on January 20, 2006, over seven years after the right to appeal such matters to this Office ended. Thus, her petition for appeal must be dismissed.

ORDER

It is hereby ORDERED that this appeal is DISMISSED.

FOR THE OFFICE:



ROHULAMIN QUANDER, Esq.
Senior Administrative Judge