

Notice: This decision may be formally revised before it is published in the *District of Columbia Register*. Parties should promptly notify the Office Manager of any formal errors so that this Office can correct them before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**THE DISTRICT OF COLUMBIA**  
**BEFORE**  
**THE OFFICE OF EMPLOYEE APPEALS**

In the Matter of:	)	
	)	OEA Matter No.: J-0101-15
NICKARO YOUNG,	)	
Employee	)	
	)	Date of Issuance: September 14, 2015
v.	)	
	)	
DISTRICT OF COLUMBIA FIRE &	)	
EMERGENCY MEDICAL SERVICE,	)	
Agency	)	
	)	
	)	Arien P. Cannon, Esq.
	)	Administrative Judge

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Nickaro Young, Employee, *Pro se*  
Andrea Comentale, Esq., Agency's Representative

**INITIAL DECISION**

**INTRODUCTION AND PROCEDURAL BACKGROUND**

Nickaro Young ("Employee") filed a Petition for Appeal with the Office of Employee Appeals ("OEA") on July 13, 2015, challenging the District of Columbia Fire & Emergency Medical Service's ("Agency") decision to remove him from his position as a Firefighter/EMT. Agency's Final Termination letter, dated April 9, 2015, indicated that the effective date of Employee's termination was April 17, 2015.

I was assigned this matter on August 12, 2015. Agency filed a Motion to Dismiss on July 17, 2015. Based on an initial review of the file, an Order on Jurisdiction was issued on August 14, 2015. This order required Employee to set forth his argument as to why this Office may exercise jurisdiction over his appeal. Employee failed to submit a response by the August 28, 2015, deadline. Subsequently a Show Cause Order was issued on September 2, 2015, for Employee to provide a statement of good cause for failing to respond to the Order on Jurisdiction. To date, Employee has not responded to the Order on Jurisdiction or the Show Cause Order. The record is now closed.

JURISDICTION

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

ANALYSIS AND CONCLUSION

In accordance with OEA Rule 621.3, 59 DCR 2129 (March 16, 2012), this Office has long maintained that a Petition for Appeal may be dismissed when an employee fails to prosecute his/her appeal. 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.<sup>1</sup> Failure of a party to prosecute or defend an appeal includes, but is not limited to, failing to submit required documents after being provided a deadline to file such submission. To date, Employee has failed to respond to the Order on Jurisdiction issued on August 14, 2015. Employee has also failed to respond to the Show Cause Order issued on September 2, 2015. Employee was warned in the Show Cause Order that a failure to respond may result in the imposition of sanctions, including dismissal of his appeal.

Furthermore, OEA Rule 628<sup>2</sup> provides that an employee bears the burden of proof on issues of jurisdiction. Because Employee failed to respond to the Order on Jurisdiction, I must find that Employee failed to meet his burden of proof to establish the jurisdiction of this Office. Additionally, I find that Employee has failed to exercise due diligence and take reasonable steps in prosecuting his appeal before this Office.

ORDER

Based on the aforementioned, it is hereby **ORDERED** that Employee's Petition for Appeal in this matter is **DISMISSED** for failure to prosecute, and in the alternative, for failure to establish the jurisdiction of this Office.

FOR THE OFFICE:

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Arien P. Cannon, Esq.  
Administrative Judge

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<sup>1</sup> OEA Rule 621.3, 59 DCR 2129 (March 16, 2012).

<sup>2</sup> 59 DCR 2129 (March 16, 2012).