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

_____	)	
In the Matter of:	)	
	)	
ONI JONES,	)	
Employee	)	OEA Matter No. 1601-0087-12
	)	
v.	)	Date of Issuance: October 29, 2013
	)	
D.C. PUBLIC SCHOOLS,	)	MONICA DOHNJI, Esq.
Agency	)	Administrative Judge
_____	)	
Oni Jones, Employee <i>Pro Se</i>		
Carl Turpin, Esq., Agency Representative		

**INITIAL DECISION**

**INTRODUCTION AND PROCEDURAL BACKGROUND**

On April 4, 2012, Oni Jones (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the D.C. Public Schools’ (“Agency”) decision to terminate her from her position as an Educational Aide effective April 12, 2012. On May 18, 2012, Agency submitted its Answer to Employee’s Petition for Appeal, along with documents to substantiate its decision to terminate Employee.

Following a failed mediation attempt, I was assigned this matter in September of 2013. On September 30, 2013, I issued an Order directing the parties to attend a Status Conference on October 15, 2013. Neither party was present for the scheduled Status Conference. Subsequently, I issued an Order for Statement of Good Cause to both parties. The parties had until October 25, 2013, to respond. Agency submitted a timely response to the Statement of Good Cause Order. Thereafter, on October 23, 2013, Employee’s copy of the October 15, 2013, Order which was mailed to her address of record was returned to this Office marked “RETURN TO SENDER; UNCLAIMED; UNABLE TO FORWARD.” As of the date of this decision, Employee has not responded to either Order. The record is now closed.

**JURISDICTION**

As will be explained below, the jurisdiction of this Office has not been established.

ISSUE

Whether this appeal should be dismissed for failure to prosecute.

BURDEN OF PROOF

OEA Rule 628.1, 59 DCR 2129 (March 16, 2012) states:

The burden of proof with regard to material issues of fact shall be by a preponderance of the evidence. “Preponderance of the evidence” shall mean:

That degree of relevant evidence which a reasonable mind, considering the record as a whole, would accept as sufficient to find a contested fact more probably true than untrue.

OEA Rule 628.2 *id.* states:

The employee shall have the burden of proof as to issues of jurisdiction, including timeliness of filing. The agency shall have the burden of proof as to all other issues.

ANALYSIS AND CONCLUSIONS OF LAW

OEA Rule 621.1 grants an Administrative Judge (“AJ”) the authority to impose sanctions upon the parties as necessary to serve the ends of justice. The AJ “in the exercise of sound discretion may dismiss the action or rule for the appellant” if a party fails to take reasonable steps to prosecute or defend an appeal.<sup>1</sup> 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.

This Office has consistently held that a matter may be dismissed for failure to prosecute when a party fails to appear at a scheduled proceeding or fails to submit required documents.<sup>2</sup> Employee did not appear at the October 15, 2013, Status Conference, and she did not provide a written response to my Order for Statement of Good Cause. Additionally, Employee failed to inform this Office of a change in her address, and as such, the October 15, 2013, Order from this Office to Employee was returned. These actions were required for a proper resolution of this matter on its merits. I find that Employee’s failure to prosecute her appeal is consistent with the

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<sup>1</sup> *Id.* at 621.3.

<sup>2</sup> *Employee v. Agency*, OEA Matter No. 1602-0078-83, 32 D.C. Reg. 1244 (1985); *Williams v. D.C. Public Schools*, OEA Matter No. 2401-0244-09 (December 13, 2010); *Brady v. Office of Public Education Facilities Modernization*, OEA Matter No. 2401-0219-09 (November 1, 2010).

language of OEA Rule 621. Employee was notified of the specific repercussions of failing to appear at a scheduled proceeding after receiving notice. Accordingly, I further find that Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office, and that therefore; this matter should be dismissed for her failure to prosecute.

ORDER

It is hereby **ORDERED** that this matter be dismissed for Employee's failure to prosecute her Appeal.

FOR THE OFFICE:

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MONICA DOHNJI, Esq.  
Administrative Judge