

THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
Melissa Cooper)	OEA Matter No. 1601-0177-12
Employee)	
)	Date of Issuance: October 16, 2014
v.)	
)	Joseph E. Lim, Esq.
D.C. Public Schools)	Senior Administrative Judge
Agency)	
C. Sukari Hardnett, Esq., Employee Representative		
Sara White, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

On August 8, 2012, Melissa Cooper (“Employee”) filed a petition for appeal with the Office of Employee Appeals (“OEA” or “the Office”) contesting the District of Columbia Public Schools’ (“Agency”) final decision to remove her from her position as a Special Education Teacher due to poor IMPACT ratings.¹ Employee’s termination was to be effective on August 10, 2012.

A mediation conference was held on March 20, 2013, but the parties failed to settle the matter. This matter was assigned to me on January 7, 2014. I held a Prehearing Conferences on February 14, March 14, June 23, and July 16, 2014. I ordered the parties to submit a post-conference report by September 19, 2014, on the parties’ attempts to assist Employee’s retirement in lieu of termination. Shortly thereafter, I spoke with Employee’s representative where she indicated that Employee had successfully and voluntarily retired in lieu of being terminated and that Employee desires her appeal to be withdrawn. The record is closed.

JURISDICTION

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

ISSUE

Whether this appeal should be dismissed.

¹ IMPACT is the effectiveness assessment system which the D.C. Public Schools used for the 2010-2012 school years to rate the performance of school-based personnel.

FINDING OF FACTS, ANALYSIS, AND CONCLUSIONS

In their settlement discussions, the parties have agreed to allow Employee to voluntarily retire in lieu of being terminated in exchange for Employee dropping her appeal. The parties have indicated that this has been accomplished.

In light of these facts, this appeal can be dismissed on two grounds, Employee's withdrawal of her appeal, and/or a dismissal of the appeal for lack of jurisdiction. Employee has verbally indicated that she wants to withdraw her appeal. Thus, this appeal may be dismissed.

Another ground for dismissal is Employee's voluntary retirement. Once that has occurred, this Office loses jurisdiction over the appeal. Where an Employee has voluntarily retired, OEA has dismissed the employee's petition for appeal based on lack of jurisdiction.²

Effective October 21, 1998, and except as otherwise provided in the District of Columbia Government Comprehensive Merit Personnel Act of 1978, DC Code 1 601.1 et seq. or Rule 604.2 below, any District of Columbia government employee may appeal a final agency decision affecting:

- a. A performance rating which results in removal of the employee;
- b. An adverse action for cause that results in removal, reduction in grade, or suspension for ten (10) days or more;
or
- c. A reduction-in-force

This Office has no authority to review issues beyond its jurisdiction.³ Thus, issues regarding jurisdiction may be raised at any time during the course of the proceeding.⁴ In the instant case, I find that Employee elected to voluntarily retire in lieu of being terminated. Because Employee voluntarily retired prior to being terminated, I am unable to address the merits of her appeal before this Office. Accordingly, Employee's petition for appeal must be dismissed.

ORDER

It is hereby ORDERED that Employee's appeal is DISMISSED.

FOR THE OFFICE:

Joseph E. Lim, Esq.
Senior Administrative Judge

² *Adele LaFranque v. DCPS*, OEA Matter No. 2401-0032-10 (February 8, 2011).

³ *See Banks v. District of Columbia Pub. Sch.*, OEA Matter No. 1602-0030-90, *Opinion and Order on Petition for Review* (Sept. 30, 1992), ___ D.C. Reg. ___ ().

⁴ *See Brown v. District of Columbia Pub. Sch.*, OEA Matter No. 1601-0027-87, *Opinion and Order on Petition for Review* (July 29, 1993), ___ D.C. Reg. ___ ();