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

_____	)	
In the Matter of:	)	
	)	
DELORES FIELDS,	)	
Employee	)	OEA Matter No.: 1601-0023-15
	)	
v.	)	Date of Issuance: February 4, 2015
	)	
D.C. OFFICE OF THE ATTORNEY GENERAL,	)	MONICA DOHNJI, Esq.
Agency	)	Administrative Judge
_____	)	
Delores Fields, Employee <i>Pro Se</i>	)	
Rahsaan Dickerson, Esq., Agency Representative	)	

**INITIAL DECISION**

**INTRODUCTION AND PROCEDURAL BACKGROUND**

On December 7, 2014, Delores Fields (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the Office of the Attorney General’s (“Agency”) decision to terminate her position, effective October 31, 2014. Employee’s position of record at the time of her removal was a Staff Assistant. On December 12, 2014, Agency submitted a Motion to Dismiss Employee’s Petition for Appeal.

This matter was assigned to the undersigned Administrative Judge (“AJ”) on December 19, 2014. On December 30, 2014, I issued an Order requiring Employee to address the jurisdiction issue raised by Agency in its Motion to Dismiss. Employee’s brief on Jurisdiction was due on or before January 20, 2015. Additionally, Agency had the option to submit a response to Employee’s brief. Because Employee did not submit her brief by the required deadline, on January 23, 2015, I issued an Order for Statement of Good Cause to Employee. Employee was ordered to submit a statement of good cause based on her failure to provide a response to my December 30, 2014, Order. Employee had until February 2, 2015, to respond. As of the date of this decision, Employee has not responded to this Order. The record is now closed.

## JURISDICTION

The jurisdiction of this Office, pursuant to *D.C. Official Code, § 1-606.03 (2001)*, 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, failure to prosecute an appeal includes a failure to submit required documents after being provided with a deadline for such submission.<sup>2</sup> Here, Employee was warned in the December 30, 2014, and January 23, 2015, Orders that failure to

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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).

comply could result in sanctions, including dismissal. Employee did not provide a written response to either Order. Both were required for a proper resolution of this matter on its merits. I find that Employee's failure to prosecute her appeal is a violation of OEA Rule 621. Accordingly, I further find that Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office. 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