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

In the Matter of:	)	
	)	OEA Matter No.: 1601-0025-15
SAMANTHA BROWN,	)	
Employee	)	
	)	Date of Issuance: July 31, 2015
v.	)	
	)	
UNIVERSITY OF THE	)	
DISTRICT OF COLUMBIA,	)	Monica Dohnji, Esq.
Agency	)	Administrative Judge
	)	
Samantha Brown, Employee <i>Pro Se</i>		
Jacquelyn Thompson, Esq., Agency Representative		

**INITIAL DECISION**

**INTRODUCTION AND PROCEDURAL BACKGROUND**

On December 12, 2014, Samantha Brown (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the University of the District of Columbia’s (“Agency”) decision to terminate her from her position of Student Health Services Coordinator, effective November 15, 2014. On February 13, 2015, Agency submitted its Answer to Employee’s Petition for Appeal.

Following a failed mediation attempt, this matter was assigned to the undersigned Administrative Judge (“AJ”) on April 2, 2015. Thereafter, a Status Conference was scheduled for June 17, 2015. On June 2, 2015, the undersigned AJ issued an Order rescheduling the June 17, 2015, Status Conference for July 15, 2015.<sup>1</sup> While Agency was present for the scheduled Status Conference, Employee was absent. Subsequently, on July 15, 2015, I issued an Order for Statement of Good Cause, wherein, Employee was ordered to explain her failure to attend the July 15, 2015 Status Conference, on or before July 24, 2015. As of the date of this decision, Employee has not responded to either Order. The record is now closed.

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<sup>1</sup> This Order erroneously listed Attorney Johnson III, as Employee’s representative. Attorney Johnson III was present for the scheduled conference on July 15, 2015, and notified the undersigned that he did not represent Employee.

### JURISDICTION

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

### 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>2</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>3</sup>

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<sup>2</sup> OEA Rule 621.3.

<sup>3</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).

Employee did not appear at the Status Conference, and did not provide a written response to my Order for Statement of Good Cause. Both were required for a proper resolution of this matter on its merits. I conclude that Employee's failure to prosecute her appeal is consistent with the language of OEA Rule 621. Employee was notified of the specific repercussions of failing to establish good cause for her failure to attend a scheduled proceeding. Accordingly, I find that Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office, and therefore, the matter should be dismissed for 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