

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	OEA Matter No.: 1601-0361-10
JORGE LEON,)	
Employee)	
)	Date of Issuance: July 21, 2014
v.)	
)	
DISTRICT OF COLUMBIA)	
PUBLIC SCHOOLS,)	
Agency)	Sommer J. Murphy, Esq.
_____)	Administrative Judge
Mark Murphy, Esq., Employee Representative		
Sara White, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On August 11, 2010, Jorge Leon (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or the “Office”) contesting the District of Columbia Schools’ (“Agency” or “DCPS”) action of terminating his employment. Employee was removed based on receiving an “Ineffective” rating under Agency’s IMPACT program, an assessment system for school-based personnel.¹ Employee’s termination was effective on July 16, 2010.

I was assigned this matter in July of 2012. On July 25, 2012, I issued an Order scheduling a Status Conference for the purpose of assessing the parties’ arguments. A Status Conference was held on September 25, 2012. I subsequently ordered the parties to submit written briefs, addressing whether Employee’s termination was conducted in accordance with all applicable District of Columbia statutes, laws, and regulations. After reviewing the parties’ submissions, the Undersigned determined that an Evidentiary Hearing was warranted because there were material issues of fact to be adjudicated. Thus, on April 4, 2013, a Prehearing Conference was held. Due to scheduling conflicts, the hearing was rescheduled to be held on February 20, 2014. However, on the date of the hearing, the parties opted to engage in settlement negotiations. On May 28, 2014, the parties indicated, via email, that they had signed a settlement agreement. I emailed the parties on June 18, 2014, to request the status of Employee’s withdrawal. Because I had not received a withdrawal, I issued an Order for Statement of Good Cause to Employee on July 10, 2014. As of the date of this Initial Decision, Employee has not submitted a withdrawal of his Petition for Appeal. The record is now closed.

¹ IMPACT is the effectiveness assessment system which the D.C. Public Schools used for the 2009-2010 school year to rate the performance of school-based personnel.

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.

ANALYSIS AND CONCLUSION

On May 28, 2014, the parties stipulated that this matter has been resolved, and that a Settlement Agreement had been signed by both Agency and Employee. The parties were made aware that a withdrawal of Employee's Petition for Appeal was required to be filed with this Office in order to dismiss the appeal. In addition, OEA Rule 621.3 provides that "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 or rule for the appellant." Failure of a party to prosecute an appeal includes, but is not limited 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.

In this case, I find that the parties have fully settled the matter. Moreover, Employee failed to submit a withdrawal of his appeal on or before July 18, 2014. Based on the foregoing, Employee's Petition for Appeal is hereby dismissed.

ORDER

It is **ORDERED** that Employee's Petition for Appeal is **DISMISSED**.

FOR THE OFFICE:

SOMMER J. MURPHY, ESQ.
ADMINISTRATIVE JUDGE