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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	OEA Matter No.: 1601-0168-13
TIMOTHY HOWARD,)	
Employee)	
)	Date of Issuance: August 20, 2014
v.)	
)	
DISTRICT OF COLUMBIA,)	
PUBLIC SCHOOLS,)	
Agency)	Sommer J. Murphy, Esq.
_____)	Administrative Judge
Timothy Howard, Employee, <i>Pro Se</i>		
Sara White, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On September 27, 2013, Timothy Howard (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) contesting the District of Columbia Public Schools’ (“Agency” or “DCPS”) action of terminating his employment. According to Agency, Employee violated Section 2403 of the D.C. Municipal Regulations by imposing corporal punishment on students at Houston Elementary School. Employee’s termination was effective on August 31, 2013.

I was assigned this matter in June of 2014. On June 11, 2014, I issued an Order convening a Prehearing Conference to be held at this Office on August 7, 2014 at 12:00 p.m. Employee did not appear for the conference. I subsequently issued an Order for Statement of Good Cause to Employee because he failed to appear for the Prehearing Conference. Employee was required to submit a statement to establish cause for his failure to appear on or before August 14, 2014. As of the date of this Initial Decision, Employee has failed to submit a response to the Order for Statement of Good Cause. The record is now closed.

JURISDICTION

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

ISSUE

Should Employee's appeal be dismissed?

FINDINGS OF FACT, ANALYSIS, AND CONCLUSIONS OF LAW

OEA Rule 621.3 further 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, Employee was warned that the failure to appear could result in sanctions as enumerated in Rule 621.3. Employee did not appear for the August 7, 2014 Prehearing Conference. Employee also failed to provide a Statement of Good Cause on or before August 14, 2014 to explain his failure to appear. Based on the foregoing, I find that Employee's lack of diligence in pursuing an appeal before OEA constitutes a failure to prosecute and serves grounds for the dismissal of this matter.

ORDER

It is hereby **ORDERED** that Employee's Petition for Appeal is **DISMISSED** for failure to prosecute.

FOR THE OFFICE:

SOMMER J. MURPHY, ESQ.
ADMINISTRATIVE JUDGE