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

_____	)	
In the Matter of:	)	
JACQUELINE GRAVES,	)	
Employee	)	OEA Matter No. 1601-0064-15
	)	
v.	)	Date of Issuance: March 7, 2016
	)	
OFFICE OF THE STATE	)	Monica Dohnji, Esq.
SUPERINTENDENT OF EDUCATION,	)	Senior Administrative Judge
Agency	)	
_____	)	

Jacqueline Graves, Employee *Pro Se*  
Hillary Hoffman-Peak, Esq., Agency Representative

**INITIAL DECISION**

**INTRODUCTION AND PROCEDURAL BACKGROUND**

On April 24, 2015, Jacqueline Graves (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the Office of the State Superintendent of Education’s (“Agency”) decision to suspend her for ten (10) days from her position as a Bus Driver, effective April 3, 2015. On May 26, 2015, Agency submitted its Answer to the Petition for Appeal.

Following a failed mediation, this matter was assigned to the undersigned Administrative Judge (“AJ”) on September 16, 2015. A Status/Prehearing Conference was held in this matter on December 1, 2015. Thereafter, a Prehearing Conference was scheduled for February 16, 2016. While Agency was present for the scheduled conference, Employee and her attorney were absent.<sup>1</sup> On February 16, 2016, I issued a Statement of Good Cause, wherein, Employee was ordered to explain her failure to attend the scheduled conference. Employee’s response to the February 16, 2016, Order was due on or before March 2, 2016. As of the date of this decision, Employee has not responded to this Order. The record is now closed.

<sup>1</sup> On the same date of the scheduled Prehearing Conference, the undersigned received a Motion from Employee’s attorney requesting that he be granted leave to withdraw as counsel for Employee and that all notices be sent directly to 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 (emphasis added); 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 after receiving notice or fails to submit*

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

*required documents* (emphasis added).<sup>3</sup> Employee did not appear at the Prehearing 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.  
Senior Administrative Judge

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<sup>3</sup> *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).