

**THE DISTRICT OF COLUMBIA**

**BEFORE**

**THE OFFICE OF EMPLOYEE APPEALS**

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In the Matter of:	)	
	)	OEA Matter No.: 1601-0391-10
VALERIE HOLT,	)	
Employee	)	
	)	Date of Issuance: September 30, 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 27, 2010, Valerie Holt (“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 her employment. Employee was removed based on receiving an “Ineffective” rating under Agency’s IMPACT program, an assessment system for school-based personnel.<sup>1</sup> Employee’s termination was effective on August 13, 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 August 29, 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 in dispute. Thus, on April 23, 2013, a Prehearing Conference was held. Due to scheduling conflicts, the Evidentiary Hearing was rescheduled three times. On March 26, 2014, the date of the Evidentiary Hearing, the parties opted to engage in settlement negotiations.

In May and June of 2014, the parties indicated, via email, that they were still participating in settlement discussions. On August 11, 2014, I held a telephonic status conference with the parties. During the status conference, the parties indicated that a settlement agreement had yet to be completed and signed. However, both parties conceded that the material issues of the

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<sup>1</sup> 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.

negotiations had been agreed upon. On September 9, 2014, I again emailed the parties, requesting the status of the settlement agreement; however, neither party responded to the email. On September 12, 2014, I issued an Order for Statement of Good Cause to both parties. The Order required the parties to submit a settlement agreement and/or a withdrawal of Employee's Petition for Appeal. The Order further stated that if a withdrawal was not submitted by September 19, 2014, the matter will be dismissed on September 30, 2013. On September 16, 2014, the Undersigned agreed to extend the submission deadline by one week. As of the date of this Initial Decision, Employee has not submitted a withdrawal of his Petition for Appeal. The record is now closed.

### 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 September 25, 2014, the parties stipulated, via email, that Agency sent a draft settlement agreement to Employee for her signature. In addition, the parties were made aware that a withdrawal of Employee's Petition for Appeal was required to be filed with this Office on or before September 24, 2014, or the matter would be dismissed on September 30, 2014. 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 her appeal on or before September 24, 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:

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SOMMER J. MURPHY, ESQ.  
ADMINISTRATIVE JUDGE