

Notice: This decision is subject to formal revision before publication in the District of Columbia Register. Parties are requested to notify the Office Manager of any formal errors in order that corrections be made prior to publication. This is not intended to provide an opportunity of a substantive challenge to the decision.

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

In the Matter of:	)	
	)	
RALPH WARE,	)	
Employee	)	OEA Matter No.: 1601-0104-09- C12
	)	
v.	)	Date of Issuance: September 28, 2012
	)	
DISTRICT OF COLUMBIA	)	
PUBLIC SCHOOLS,	)	STEPHANIE N. HARRIS, Esq.
Agency	)	Administrative Judge
	)	
Ralph Ware, Employee <i>Pro Se</i>		
Frank McDougald, Esq., Agency Representative		

**ADDENDUM DECISION ON COMPLIANCE**

INTRODUCTION AND PROCEDURAL BACKGROUND

Ralph Ware (“Employee”) was a Bus Attendant with the District of Columbia Public Schools’ (“Agency” or “DCPS”). On March 10, 2009, Agency issued a letter notifying Employee of a proposal to remove him from his position, effective March 26, 2009, for committing an act of corporal punishment. On March 18, 2009, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting Agency’s action of removing him from his position. Administrative Judge (“AJ”) Sheryl Sears held an evidentiary hearing in this matter on March 5, 2010. On March 30, 2010, AJ Sears issued an Initial Decision (“March 30<sup>th</sup> Decision”) in Employee’s favor, finding that Employee did not commit an act of corporal punishment. Accordingly, AJ Sears ordered Agency to (1) reinstate Employee to his last position of record; and (2) reimburse Employee all back-pay and benefits lost as a result of his removal.

Subsequently, Agency filed a Petition for Review with the OEA Board (“Board”) on June 30, 2009. In the Petition for Review, Agency argued that the Initial Decision was not based upon substantial evidence and was instead based upon an erroneous interpretation of the applicable regulations. In the December 12, 2011 Opinion and Order (“December 12<sup>th</sup> Opinion and Order”), the Board found that there was substantial evidence in the record to uphold AJ Sears’ Initial

Decision and that it was not based upon an erroneous interpretation of the regulations. Accordingly, the Board upheld AJ Sears' Initial Decision and denied Agency's Petition for Review.

On March 6, 2012, Employee submitted a letter alleging that Agency had not complied with AJ Sears' Initial Decision to reinstate him with back pay and benefits. Employee further requested OEA to look into Agency's lack of compliance.

I was assigned this matter on February 3, 2012. On March 12, 2012, I ordered the parties to attend a Status Conference on April 3, 2012. The purpose of the Status Conference was to update the posture of the instant matter regarding Agency's compliance with AJ Sears' Initial Decision. Agency submitted a Motion for a continuance due to a prior commitment on the same date, which was granted on March 28, 2012. The Status Conference was rescheduled for April 5, 2012. A second continuance, where the parties agreed to reschedule the Status Conference for May 10, 2012, was granted. On May 3, 2012, Agency submitted another Motion for continuance, explaining that Employee indicated that he recently submitted required paperwork necessary to determine the calculation of back pay that he was entitled to receive. The Motion also relayed that Agency informed Employee that "payment for back-pay would likely be made in thirty (30) days." Pursuant to the conversation between the parties, Agency requested that the Status Conference be continued. The request for continuance was granted and a Status Conference was held on June 14, 2012. During the Status Conference, Agency explained that the process for awarding Employee's back pay was currently in process. Employee stated that he was retiring and was not seeking reinstatement. Employee also stated that he was in contact with Agency's Human Resources Department and that he had submitted additional documents requested by Agency necessary to calculate his back pay and benefits. With the consent of both parties, the undersigned scheduled a telephonic Status Conference on July 17, 2012 to assess the compliance status in this matter. During the telephonic Status Conference, Agency reported that the process for awarding Employee's back-pay and benefits was near completion. A follow-up telephonic Status Conference was scheduled for September 6, 2012 to assess Agency's compliance in this matter. On August 30, 2012, the parties submitted a Notification of Resolution, affirmatively stating that all outstanding issues regarding Agency's compliance were resolved.

#### JURISDICTION

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

#### ISSUE

Whether Agency was in compliance with AJ Sears' March 30, 2010 Initial Decision.

#### ANALYSIS AND CONCLUSIONS OF LAW

On August 30, 2012, the parties submitted a Notification of Resolution, affirmatively stating that all outstanding issues regarding Agency's compliance with the March 30<sup>th</sup> Initial

Decision and December 12<sup>th</sup> Opinion and Order from the OEA Board have been resolved. The Notice of Resolution was signed by both parties.

Based on the successful resolution of all issues as expressed in the Notice of Resolution, including Employee's reimbursement of all back pay and benefits lost as a result of his removal, the undersigned concludes that the Employee's Motion for Compliance should be dismissed

ORDER

Based on these findings and conclusions, and consistent with this analysis, it is hereby **ORDERED** that Employee's Motion for Compliance be **DISMISSED**.

FOR THE OFFICE:

---

STEPHANIE N. HARRIS, Esq.  
Administrative Judge