

Notice: This decision may be formally revised before it is published in the *District of Columbia Register*. Parties should promptly notify the Office Manager of any formal errors so that this Office can correct them before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	OEA Matter No.: 1601-0124-14 ¹
SARAH FADL,)	
Employee)	
)	Date of Issuance: March 11, 2015
v.)	
)	
DISTRICT OF COLUMBIA PUBLIC SCHOOLS,)	
Agency)	
)	
)	Arien P. Cannon, Esq.
)	Administrative Judge

Stephen White, Employee Representative
Carl Turpin, Esq., Agency Representative

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

Sarah Fadl (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals on September 5, 2014, contesting the District of Columbia Public Schools’ (“Agency”) decision to terminate her from her position as an Educational Aide. Agency filed its Answer on October 9, 2014. I was assigned this matter on October 10, 2014.

A Prehearing Conference was convened on February 23, 2015. A notice of the Prehearing Conference was issued to both parties on January 27, 2015. Agency’s representative was present at the Prehearing Conference; however, Employee and her representative failed to appear. Accordingly, Employee was issued a Show Cause Order on February 23, 2015, to provide a statement of good cause for failing to appear at the Prehearing Conference. Employee was given until March 2, 2015, to respond to this order. To date, Employee has failed to respond to the Show Cause Order. The record is now closed.

¹ An Initial Decision was originally issued in this matter on March 10, 2015, which inadvertently listed OEA Matter No: 1601-0124-12. This Initial Decision is now being issued with the correct OEA Matter No. This corrected version shall constitute the final Initial Decision and the appeal rights shall start to run on the date of issuance provided in this decision. All other content of this decision is the same as the March 10, 2015 version.

JURISDICTION

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

ISSUE

Whether this matter should be dismissed for failure to prosecute.

ANALYSIS AND CONCLUSION

A Prehearing Conference was convened on February 23, 2015. A notice of the Prehearing Conference was sent to both parties on January 27, 2015. Agency's representative was present at the Prehearing Conference; however, Employee nor her representative appeared. Accordingly, Employee was issued a Show Cause Order to provide a statement of good cause for failing to appear at the Prehearing Conference. Employee was given until March 2, 2015, to respond. To date, Employee has failed to respond to the Show Cause Order.

In accordance with OEA Rule 621.3, 59 DCR 2129 (March 16, 2012), this Office has long maintained that a Petition for Appeal may be dismissed when an employee fails to prosecute his/her appeal. 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.² Failure of a party to prosecute or defend an appeal includes, but is not limited to, a failure to submit required documents after being provided with a deadline for such submission and failure to appear at a scheduled proceeding after receiving notice. Here, Employee failed to appear at the Prehearing Conference scheduled for February 23, 2015, and failed to respond to the Show Cause Order. Employee was warned in the Show Cause Order that a failure to respond may result in the imposition of sanctions, including dismissal of his appeal. Accordingly, I find that Employee has failed to exercise due diligence and take reasonable steps in prosecuting her appeal before this Office.

ORDER

Based on the aforementioned, it is hereby ORDERED that Employee's Petition for Appeal in this matter is DISMISSED for failure to prosecute.

FOR THE OFFICE:

Arien P. Cannon, Esq.
Administrative Judge

² OEA Rule 621.3, 59 DCR 2129 (March 16, 2012).