

Notice: This opinion is subject to formal revision before publication in the District of Columbia Register. Parties are requested to notify the Administrative Assistant of any formal errors in order that corrections may be made prior to publication. 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:   | ) |                                     |
|                     | ) |                                     |
| CONNIE SPRIGGS      | ) | OEA Matter No. 1601-0124-03C05      |
| Employee            | ) |                                     |
|                     | ) | Date of Issuance: November 22, 2005 |
| v.                  | ) |                                     |
|                     | ) | Rohulamin Quander, Esq.             |
|                     | ) | Senior Administrative Judge         |
| D.C. PUBLIC SCHOOLS | ) |                                     |
| Agency              | ) |                                     |

Andrew Perlmutter, Esq., Employee Representative  
Harriet Segar, Esq., Agency Representative

**ADDENDUM DECISION ON COMPLIANCE**

INTRODUCTION AND PROCEDURAL HISTORY

On July 24, 2003, Employee, a Dental Technician Teacher, ET-15 in the Educational Service, filed a Petition for Appeal from Agency's final decision separating her from government service due to Agency's admitted failure to comply with Title 5, § 520 of the D.C. Municipal Regulations, by failing to place her in an ET-15 teacher position, when her temporary appointment as an assistant principal ended, effective September 30, 2002.<sup>1</sup> This matter was assigned to me on July 9, 2004. I conducted the first Status Conferences on August 12, 2004, and issued an Initial Decision (ID) on August 24, 2004, in which I found that Agency's action was not in accordance with applicable law, rule or regulation. Thus, I reversed the action and ordered Agency to return Employee to her position of record, retroactive to September 30, 2002, with all back pay and relevant benefits due her.

<sup>1</sup> Pursuant to this section of the DCMR, a person who is not retained in the position of Principal or Assistant Principal and who holds permanent status in another position in the D.C. Public Schools shall revert to the highest prior permanent level of employment upon his or her removal from the position of Principal or Assistant Principal; Provided that this right shall not include the right to any particular position or office previously held.

Agency never filed a Petition for Review of the ID with the OEA Board. Therefore, pursuant to OEA Rule 633.1, 46 D.C. Reg. 9319 (1999), the ID became the Office's final decision (FD) on September 29, 2004. No further appeals were made. Subsequently, Employee filed a Motion for Attorney Fees and Costs on October 25, 2004, and on October 28, 2004, filed a Motion for Enforcement (Reinstatement) of this AJ's FD. In an Addendum Decision on Attorney Fees, issued on December 6, 2004, this AJ awarded the Employee the sum of \$4,468.94, in attorney fees and costs.

When the Agency failed to comply with either order, on June 16, 2005, Employee filed a Motion for Compliance in which she argued that Agency had yet to comply with the terms of the FD, both as to the issue or reinstatement and attorney fees. A follow up Status Conference was requested, and convened on October 24, 2005. During the Status Conference, and further as indicated by written post-Status Conference documents, no progress had been made, either as to the issue of reinstatement or payment of reasonable attorney fees and costs.

#### JURISDICTION

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

#### ISSUE

Whether this matter should be certified to the General Counsel.

#### ANALYSIS AND CONCLUSIONS

OEA Rule 636.7, 46 D.C. Reg. at 9322, reads as follows:

The Administrative Judge shall take all necessary action to determine whether the final decision is being complied with and shall issue a written opinion on the matter.

OEA Rule 636.8, *id.*, reads as follows:

If the Administrative Judge determines that the agency has not complied with the final decision, the Administrative Judge shall certify the matter to the General Counsel. The General Counsel shall order the agency to comply with the Office's final decision in accordance with D.C. Code § 1-606.2.

OEA Rule 636.9, *id.*, reads as follows:

If the agency fails to comply with the order, the General Counsel may take such actions as are necessary to secure compliance with

the order, including forwarding the matter to the Office of the Mayor or other responsible official for direct enforcement.

Here, despite this AJ's ID of August 24, 2004, which became the FD on September 29, 2004, and award of reasonable attorney fees in the Addendum Decision of Attorney Fees, issued on December 6, 2004, Agency has yet to comply with the FD. Therefore, I conclude that the proper course of action now is to certify this matter to the General Counsel.

ORDER

It is hereby ORDERED that this matter is certified to the General Counsel.

FOR THE OFFICE:

  
ROHULAMIN QUANDER, Esq.  
Senior Administrative Judge