

**THE DISTRICT OF COLUMBIA**

**BEFORE**

**THE OFFICE OF EMPLOYEE APPEALS**

_____	)	
In the Matter of:	)	
	)	
Eric Roberts	)	OEA Matter No. 1601-0076-17
Employee	)	
	)	Date of Issuance: November 29, 2017
v.	)	
	)	Joseph E. Lim, Esq.
D.C. Public Schools	)	Senior Administrative Judge
Agency	)	
_____	)	
Eric Roberts, Employee <i>pro se</i>		
Nicole Dillard, Esq., Agency Representative		

**INITIAL DECISION**

INTRODUCTION AND STATEMENT OF FACTS

Eric Roberts, Employee herein, filed a petition with the Office of Employee Appeals (OEA) on July 26, 2017, appealing the decision of the D.C. Public Schools, Agency herein, to terminate his employment as a Special Education Teacher.

The matter was assigned to me on October 3, 2017. I issued an Order scheduling the prehearing conference for November 15, 2017, and ordering the submission of a prehearing statement by close of business November 8, 2017. Agency complied, but Employee did neither.

I issued an Order for Good Cause Statement to Employee on November 15, 2017. The Order stated, in pertinent part, that failure to appear in a timely manner could result in the imposition of sanctions, including the dismissal of the petition. The Order was mailed to Employee by first class mail, postage prepaid to the address listed on his petition for appeal. To date, Employee has not responded. The record closed on November 23, 2017.

JURISDICTION

This Office has jurisdiction pursuant to D.C. Office Code Section 1-606.03 (2001).

ISSUE

Should this petition be dismissed?

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS

OEA Rule 621.3<sup>1</sup> states:

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 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; or
- (c) Inform this Office of a change of address which results in correspondence being returned.

Employee failed to attend a scheduled proceeding or to submit documents that were ordered. In this matter, Employee failed to respond to two Orders that I issued. Both had specific time frames and both contained warnings that failures to comply could result in penalties, including the dismissal of the petition. The Orders were sent to Employee at the address he listed as his home address in his petition and in his subsequent submissions. They were sent by first class mail, postage prepaid and were not returned. They are presumed to have been delivered in a timely manner. *See, e.g., Prater v. MPD*, OEA Matter No. 1601-0135-03, *Opinion and Order on Petition for Review* (November 28, 2006), and *Employee v. Agency*, OEA Matter No.1602-0078-83, 32 D.C. Reg. 1244 (1985).

For these reasons, in an exercise of “sound discretion,” I conclude that this matter should be dismissed.

### ORDER

It is hereby ORDERED that the petition for appeal is DISMISSED.

FOR THE OFFICE:

Joseph E. Lim, Esq.  
Senior Administrative Judge

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<sup>1</sup> 59 DCR 2129 (March 16, 2012).