



**STATE OF NEW JERSEY**

In the Matter of Venair Heyward,  
Newark Public School District

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

CSC Docket No. 2021-1859

Administrative Appeal

**ISSUED: August 23, 2023 (AMR)**

Venair Heyward, an Attendance Counselor with the Newark School District, requests that the Civil Service Commission (Commission) reinstate the appeal of her 15 working day suspension, which was dismissed on the basis of her failure to appear at a scheduled status conference.

By way of background, the appellant timely appealed her suspension to this agency which transmitted the matter to the Office of Administrative Law (OAL) as a contested case. The OAL scheduled the matter for a third telephone status conference on February 22, 2023, and sent a notice via email on January 23, 2023<sup>1</sup>, to this effect to the appellant at the email address she provided. On the scheduled date, the appellant failed to call in. The OAL issued a “Failure to Appear” notice on March 8, 2023, which indicated that the appellant failed to appear at the scheduled proceedings. The matter was returned to the Commission for a final decision, with a notice giving the parties 13 days to present any excuse to this agency for failure to appear at the OAL proceedings. Thereafter, by letter dated March 19, 2023, the appellant presented that she did not receive notification of the February 22, 2023, telephone status conference and requested that her appeal be reinstated.

The parties were then provided with the opportunity to supplement the record. The appellant was also provided the opportunity to submit a sworn affidavit,

<sup>1</sup> It is noted that another email dated January 31, 2022, was sent to the parties which confirmed the date of the conference as February 22, 2023, but changed the time. A reminder email was also sent on February 21, 2023 to the parties.

attesting to the claims made on appeal, that she did not receive the notice to participate in the telephone conference. The Commission received the appellant's sworn affidavit that was postmarked on May 10, 2023, attesting that she did not receive notification of the scheduled telephone conference as the notice was sent to an invalid email address. It is noted that the appellant does not provide an alternate email address on appeal.

In response, the appointing authority, represented by Bernard Mercado, Esq., asserts that the appellant provided the OAL with her valid email address for notification purposes, and it is the same email address where she had previously received notification for a prior conference which she had attended, thereby demonstrating that the email was valid and receiving notifications. Moreover, it states that due to her lack of providing her email address initially, the notice for the first conference was physically mailed to her home address. It claims that thereafter the appellant called the OAL and provided her email address of record in order to receive court notices. All subsequent notices were sent to that email address. All parties had been notified via email only. It also notes that the appellant failed to appear at a prior proceeding which was held on January 12, 2023. The appointing authority provides proof of the emails sent to all parties, including the appellant's email address. Additionally, it argues that the appellant failed to cite any emergency or medical circumstance which would have prevented her from calling. She only claims that her email address was invalid. Finally, the appointing authority notes that even if the appellant had deactivated her email account and began using an alternate account, she was obligated and responsible for providing the updated email address to the OAL. Given all the facts presented, the appointing authority recommends that the appellant's request be denied.

## CONCLUSION

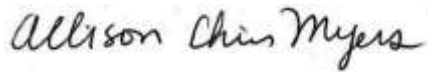
In this matter, the appellant has not sustained her burden of proof. Although she provides a sworn affidavit, claiming that the email address used to notify her of the status conference was invalid, the appointing authority refutes this claim, stating that all notifications sent to the appellant were sent to the email address she provided. Moreover, it notes that the appellant appeared at a previous proceeding in which she had been notified via the same email address. Additionally, the appellant does not present that she was in a situation that would have prevented her from attending the scheduled telephone conference of that there was some disruption or malfunction of her email. Lastly, if the appellant had changed email addresses, it was incumbent upon her to communicate to the OAL that her email had changed. She also does not present any alternate email address on appeal. Accordingly, there is not a sufficient basis to reinstate the appellant's appeal.

**ORDER**

Therefore, it is ordered that Venair Heyward's request to reinstate her appeal be denied and her appeal be dismissed.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 23<sup>RD</sup> DAY OF AUGUST, 2023



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