

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

**Government of the District of Columbia  
Public Employee Relations Board**

In the Matter of:	)	
	)	
Dr. Emanuel Chatman,	)	
	)	
Complainant,	)	PERB Case No. 03-S-02
	)	
v.	)	Slip Opinion No. 769
	)	
	)	<b>CORRECTED COPY</b>
University of the District of Columbia Faculty Association/National Education Association,	)	
	)	
Respondent.	)	
	)	

**DECISION AND ORDER**

**I. Statement of the Case**

Dr. Emanuel Chatman ("Complainant"), filed a standards of conduct complaint against the University of the District of Columbia Faculty Association/National Education Association. The case was assigned to a Hearing Examiner and a hearing was scheduled for September 1, 2004. However, the Complainant failed to appear. As a result, the Hearing Examiner issued an "Order to Show Cause." In his "Order to Show Cause," the Hearing Examiner directed that the Complainant respond within fourteen (14) days with good cause why this matter should not be dismissed with prejudice. The Complainant failed to respond to the Order to Show Cause. In view of the above, the Hearing Examiner is recommending that the Complaint be dismissed in its entirety for want of prosecution. The Complainant did not file any exceptions to the Hearing Examiner's Report and Recommendation (R&R).

The Hearing Examiner's R&R is before the Board for disposition.

**II. Discussion**

The Complainant filed a standards of conduct complaint, in the above-referenced case. The Complainant alleges that the University of the District of Columbia Faculty Association/National Education Association, violated D.C. Code § 1-617.03 (a) (2001 ed.) by failing to hold a fair election. (Compl. at p. 2). In a notice dated July 29, 2004, the parties were informed that a hearing was

scheduled for September 1, 2004. The hearing was to begin at 10:00 a.m. The Respondent's representative and a court reporter were present at the hearing. However, the Complainant failed to appear. Therefore, at 10:30 a.m. the Hearing Examiner decided to open the record. (See Order to Show Cause at p. 2). Despite the Complainant's failure to appear at the scheduled hearing, the Hearing Examiner did not dismiss the case. Instead, on September 3, 2004, the Hearing Examiner issued an "Order to Show Cause." In his "Order to Show Cause," the Hearing Examiner directed that the Complainant respond within fourteen 14 days with good cause why the Hearing Examiner should not recommend "the dismissal of this matter with prejudice for failure of Complainant to prosecute this case." (Order to show Cause at p. 2). As a result, the Complainant's response to the "Order to Show Cause" was due no later than the close of business (4:45 p.m.) on September 17, 2004. However, as of September 23, 2004, the Complainant had not filed a response to the "Order to Show Cause." In view of the above, the Hearing Examiner recommended that the Complaint be dismissed in its entirety for want of prosecution.

Pursuant to D.C. Code § 1-605.02 (3) (2001 ed.) and Board Rule 520.4, the Board has reviewed the findings, conclusions and recommendations of the Hearing Examiner and find them to be reasonable, persuasive and supported by the record. Specifically, we find that the Hearing Examiner's recommendation that the Complaint be dismissed is supported by the record. For example, we note that the Hearing Examiner made his recommendation to dismiss, approximately twenty-two days after the Complainant failed to appear at a hearing and approximately five days after the Complainant failed to respond to the "Order to Show Cause." In addition, on September 24, 2004 the Complainant was provided with a copy of the Hearing Examiner's report and informed that he could file exceptions to the Hearing Examiner's report. The Complainant's exceptions were due on October 14, 2004. However, to date, the Complainant has neither filed a response to the "Order to Show Cause" or submitted any exceptions to the Hearing Examiner's report. In view of the above, we adopt the hearing Examiner's recommendation and dismiss the Complaint with prejudice.

### **ORDER**

#### **IT IS HEREBY ORDERED THAT:**

1. The Hearing Examiner's recommendation is adopted in its entirety and the complaint is dismissed with prejudice.
2. Pursuant to Board Rule 559.2, this Decision and Order is final upon issuance.

**BY ORDER OF THE PUBLIC RELATIONS BOARD  
Washington, D.C.**

October 27, 2004

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 03-S-02 was served via Fax and U.S. Mail to the following parties on this the 27<sup>th</sup> day of October 2004:

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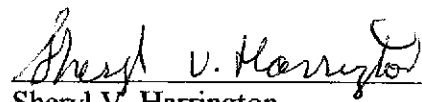
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