## BEFORE THE MERIT SYSTEM PROTECTION BOARD FOR MONTGOMERY COUNTY, MARYLAND

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*	CASE NO. 23-06
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## **ORDER OF DISMISSAL**

On December 19, 2022, Appellant filed an online appeal with the Merit System Protection Board (MSPB or Board) and attached a Notice of Disciplinary Action (NODA) dated December 12, 2022, which had marginal comments suggesting that it may be a draft copy.<sup>1</sup> Furthermore, the NODA did not state the date on which the disciplinary action would take effect or contain information explaining Appellant's appeal rights. *See* Montgomery County Personnel Regulations (MCPR), §33-6(c)(1)(B) and (E).

On January 10, 2023, the County filed a Motion to Dismiss. In support of its motion, the County stated that on January 6, 2023, the Montgomery County Office of Public Information issued a Notice of Recission. On January 24, 2023, Appellant emailed the Board and asked that his appeal be withdrawn because the County had rescinded the discipline.

Pursuant to MCPR) §35-7(d), the Board may dismiss an appeal if the appeal becomes moot. The Board has long taken the position that the withdrawal of an appeal renders that appeal moot. MSPB Case No. 22-14 (2021); MSPB Case No. 21-02 (2020); MSPB Case No. 17-18 (2017).

Accordingly, it is hereby **ORDERED** that the appeal in Case No. 23-06 be and hereby is **DISMISSED**.

If any party disagrees with the decision of the Merit System Protection Board, pursuant to Montgomery County Code, §33-15, *Judicial review and enforcement*, and MCPR, §35-18, *Appeals to court of MSPB decisions*, within 30 days of this Order a petition for judicial review may be filed with the Circuit Court for Montgomery County, Maryland in the manner prescribed

<sup>&</sup>lt;sup>1</sup> The file name of the NODA was "memo\_\_\_\_\_noda\_3\_day\_suspension\_draft\_12.8.22\_1."

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under the Maryland Rules, Chapter 200, Rule 7-202.

For the Board February 13, 2023

> Harriet E. Davidson Chair