

**HEARING OFFICER, CAREER SERVICE BOARD
CITY AND COUNTY OF DENVER, COLORADO**
Appeal No. 53-08

ORDER

IN THE MATTER OF THE APPEAL OF:

KARENEE WILLIAMS, Appellant,

vs.

DENVER DEPARTMENT OF AVIATION, MAINTENANCE AND ENGINEERING
and the City and County of Denver, a municipal corporation, Agency.

The Agency has moved for dismissal of this appeal, and Appellant has filed a response in opposition to the motion. After fully reviewing the pleadings and submissions of the parties, the following order is entered herein:

This is a direct appeal under CSR § 19-10 A.1.b. of Appellant's suspension dated July 18, 2008. Appellant has also alleged that the suspension constituted sex discrimination, harassment based on sex, and retaliation for reporting unlawful discrimination.

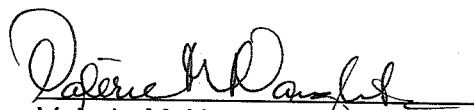
The Agency argues that Appellant filed this appeal to challenge her supervisor's past denial of pay and transfer rather than the suspension itself. Appellant responded that the suspension is the subject matter of the appeal, and moved to amend the appeal form to include a request that the suspension be overturned. A hearing officer is not bound by an appellant's statement of remedies on the appeal form, but must determine by an examination of the appeal documents whether there is a remedy within the jurisdiction provided by the rules that would be appropriate if the agency action is overturned. *In re Muller*, CSA 48-08 (7/24/08). The suspension is directly appealable, and Appellant has clarified in her response that she seeks to overturn the suspension.

The Agency also argues that the appeal failed to exhaust her administrative remedies by filing a complaint of harassment, and that the discrimination appeal failed to allege any facts giving rise to an inference of discrimination or retaliation. Appellant did not respond to this argument. The hearing office has jurisdiction of "the disposition of . . . a formal complaint or grievance" alleging discrimination, harassment or retaliation under § 19-10 A.2. It does not appear that Appellant filed such a complaint or grievance, and therefore an appeal based on those grounds is premature.

Order

1. The Agency's motion to dismiss the appeal of the suspension is denied.
2. Appellant's claims of discrimination, harassment and retaliation are dismissed without prejudice as premature.

Dated this 18th day of August, 2008.


Valerie McNaughton
Career Service Hearing Officer