



**COMMONWEALTH OF VIRGINIA**  
*Department Of Human Resource Management*  
*Office of Employment Dispute Resolution*

**DECISION OF HEARING OFFICER**

In re:

**Case Number: 11994**

**Hearing Date: September 19, 2023**  
**Decision Issued: November 2, 2023**

**PROCEDURAL HISTORY**

On or about September 15, 2022, Grievant initiated a grievance asserting that the Agency failed to grant her a reasonable disability accommodation. Grievant also began a period of short-term disability around that time. Although the management resolution steps appear to have been paused during Grievant's short-term disability leave, the steps resumed in April 2023. The outcome of the Third Resolution Step was not satisfactory to the Grievant and she requested a hearing. On July 6, 2023, the Office of Employment Dispute Resolution issued Ruling 2023-5562 qualifying this grievance for hearing. On July 31, 2023, the Office of Employment Dispute Resolution assigned this appeal to the Hearing Officer. On September 19, 2023, a hearing was held by remote conference.

**APPEARANCES**

Grievant  
Agency Representative  
Agency Party Designee  
Witnesses

**ISSUES**

Whether the Agency's failure to accommodate Grievant's disability was a misapplication or unfair application of policy?

*An Equal Opportunity Employer*

## **BURDEN OF PROOF**

The burden of proof is on the Grievant to show by a preponderance of the evidence that the relief the Grievant seeks should be granted. Grievance Procedure Manual (GPM) § 5.8. A preponderance of the evidence is evidence which shows that what is sought to be proved is more probable than not. GPM § 9.

## **FINDINGS OF FACT**

After reviewing the evidence presented and observing the demeanor of each witness, the Hearing Officer makes the following findings of fact:

Grievant is a Financial Services Specialist I with the Department of Social Services (Agency).

The Agency has provided Grievant with an Employee Work Profile<sup>1</sup> setting forth the core responsibilities and measures for Grievant's position.

Approximately 50 percent of Grievant's core responsibilities are described as researching and processing unidentified requests, requesting and documenting new orders for courts and preparing statistical reports.<sup>2</sup>

As described in Grievant's Employee Work Profile, approximately 30 percent of Grievant's core responsibilities are to "[p]repare[] Revenue Refund vouchers."<sup>3</sup>

Ten percent of Grievant's core responsibilities are to communicate orally and in writing to ensure payments are issued to families timely and accurately.<sup>4</sup>

The remaining ten percent of Grievant's core responsibilities are "other duties as assigned."<sup>5</sup>

Revenue Refund vouchers are processed for payments that were sent to the Agency in error. Grievant's responsibilities with respect to preparing Revenue Refund vouchers include, contacting the entity that made the erroneous payment, including asking for and receiving required documentation from the entity, performing an adjustment to move the erroneously paid funds to a different account, completing a Revenue Refund voucher cover sheet, a distribution sheet and attaching supporting documentation. Grievant then provides the package of information for each Revenue Refund voucher to her supervisor, Manager, for review and signature. Manager then submits the voucher to the next

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<sup>1</sup> Both the Agency and Grievant included in their exhibits an Employee Work Profile for Grievant dated October 25, 2021. There was no indication from either party during the hearing that Grievant's current Employee Work Profile differs substantially from the one provided. Both parties did mention new duties or an expansion of Grievant's "other duties as assigned" that the Agency may be pursuing and which the Agency may anticipate incorporating into a future Employee Work Profile for Grievant.

<sup>2</sup> See Agency Ex. at 25.

<sup>3</sup> See Agency Ex. at 26.

<sup>4</sup> See Agency Ex. at 26.

<sup>5</sup> See Agency Ex. at 27.

employee in the process. Once Grievant submits the Revenue Refund voucher documentation to Manager, Grievant has no further responsibilities with respect to the processing of each Revenue Refund voucher.

When Grievant is in the office and is ready to submit a Revenue Refund voucher to Manager, Grievant will print out hard copies of all of the documents for the Revenue Refund voucher in the preferred order for Manager's review and place the "package" of documents in the Manager's inbox. Grievant testified that she sends the documents to the printer in the order in which she intends to submit them so that she does not have to spend any significant additional time collating the documents before placing them in Manager's inbox.

During the COVID-19 pandemic, Grievant and other employees in her unit were teleworking full-time. During that period, Grievant would email each "package" of documents for each Revenue Refund voucher to Manager. Grievant would attach documents to the email in the order that the documents would be stacked in hard copy, so that if printed in order, work required to then collate (or re-order) the documents could be minimized. Manager testified that printing and collating Revenue Refund vouchers could take more than minimal time, especially if there were a lot of vouchers to be printed and/or if those vouchers had a lot of supporting documents. Manager also testified that she cannot simply send the documents to the printer in order and expect that the printer will successfully print the jobs in order. Her experience has been that the printer often will print jobs out of order depending on the document type.

Because of legal restrictions, there are limitations as to the extent to which employees in Grievant's unit may perform each other's duties or serve as back up for each other.<sup>6</sup>

Prior to the COVID-19 pandemic, Grievant worked in the office and did not have any approved reasonable accommodations.

During the COVID-19 pandemic, the Agency's offices closed and employees, including Grievant, were directed to telework. Throughout the pandemic, Grievant teleworked five days each work week.

Grievant has a condition that affects multiple systems throughout her body, including her neurological, respiratory and immune systems. Her condition causes her to experience chronic dizziness, headaches, unsteadiness and shortness of breath, among other symptoms. During the COVID-19 pandemic, Grievant's disease progressed and treatments required to manage her condition became more aggressive.

In April 2022, as state offices began to open full-time for employees to return to working in the office, Grievant requested an accommodation to telework full-time. In April 2022, the Agency approved full-time telework as a disability accommodation for Grievant. The Agency asserts that there was internal confusion regarding whether Grievant already had an approved accommodation, such that Grievant's manager was not consulted about the reasonable accommodation until after it had been approved through the Agency's Human Resources office.

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<sup>6</sup> Agency Ex. at 16.

Subsequent to the approval, the Agency requested additional information to support a continuance of the accommodation.

On August 2, 2022, Grievant's provider submitted additional information to the Agency in the form of a one-page letter stating "[i]t is my medical opinion that [Grievant] should continue to telework at the current time due to her ... state in light of the COVID pandemic. Infection rates are again very high and she is at high risk for poor outcomes of infection."<sup>7</sup>

On August 3, 2022, the Agency denied Grievant's accommodation request, on grounds that "your disability does not affect your ability to perform the essential functions of your job."<sup>8</sup>

Grievant again requested that the Agency provide her with an accommodation.

On August 17, 2022, Grievant submitted the agency's "Request for Reasonable Accommodation Medical Certification" form, as completed by her health-care provider. The form identified medical impairments that substantially limited several of Grievant's major life activities, including sitting up, concentrating and walking. As it related to Grievant's job, the provider wrote that the grievant had trouble "coming to the office, sitting up & walking," and that Grievant "needs to be able to recline as changing head positions is difficult for her, and increases dizziness leading to high risk of falls."<sup>9</sup>

On or about August 23, 2022, the Agency met with Grievant to discuss Grievant's accommodation request. The meeting was attended by Grievant, Manager, Director and a human resources representative (Agency's Representative at the hearing).

The following day, August 24, 2022, the Agency responded to Grievant's accommodation request noting that "your disability does not affect your ability to perform the essential functions of your job."<sup>10</sup> The Agency also advised Grievant that

Also, during the meeting you stated that telework will help you manage your medical condition. At that time several options were presented to you that you may want to look into. The options are below.

Contact Benefits in regards to Family Medical Leave Act (FMLA).  
Contact [BB] in General Services regarding parking closer to the building.  
Select an ergonomic office chair. The link to the website is <https://govce.net/>

At this time, you should meet with your supervisor to discuss your work hours and schedule.

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<sup>7</sup> Grievant's Ex. at ACC-4-1.

<sup>8</sup> Agency Ex. at 14. Although the Agency's correspondence indicates a meeting was held with Grievant prior to this denial, testimony at the hearing suggests that the Agency may have tried to coordinate a meeting that included Grievant, but was unable to schedule a meeting that included Grievant and to the extent such meeting occurred it may have occurred with Grievant participating via telephone with difficulty hearing.

<sup>9</sup> Grievant's Ex. at ACC 6-1 – ACC-6-3.

<sup>10</sup> Agency Ex. 15.

On or about September 15, 2022, Grievant initiated a grievance to challenge the Agency's determination. Grievant also began a period of short-term disability leave around the same time.

As Grievant's short-term disability benefits were expiring, Grievant's provider completed a return-to-work form noting full-time telework as an accommodation, due to Grievant's difficulty with driving as well as other impairments.<sup>11</sup> Grievant shared information about the requested accommodation with the Agency's short-term disability coordinator, an Agency employee. The Agency's short-term disability coordinator spoke with Grievant's supervisor and then called Grievant to advise that the restriction would not be accommodated.<sup>12</sup>

Grievant was concerned that because she was nearing the end of her short-term disability benefit, if her provider indicated a return to work with restrictions that the Agency was unwilling to accommodate, then the Commonwealth's third-party administrator would place Grievant into long-term disability.<sup>13</sup>

Grievant then obtained an updated return-to-work form from her provider indicating a return with no restrictions. On the updated form, the provider noted that Grievant was expected to work a "regular schedule of 2 days at home & 3 in office," but the employer "do[es] not approve accommodation."

Grievant returned to work as of March 3, 2023 consistent with the Agency's requirement that she work in the office three days each week and limit telework to two days each week.

Grievant's medical provider continued to be concerned about the affects of Grievant's medical condition on Grievant's ability to safely drive to work in March 2023.<sup>14</sup>

By May 2023, Grievant's medical providers continued to be concerned about the impact of Grievant's medical condition on her ability to drive, a therapist wrote:

Strongly recommend that when patient is given an option to return to work at home – regular driving is an issue at present which requires depth perception, and targeted gaze both of which are impaired at this time due to her oculomotor deficits – smooth pursuits, saccades and vergence. She has fluctuating degrees of symptoms and visual control related to her neurosarcooidosis that waxes and wanes in degree of involvement as the very nature of the disease process and the medication effect on the disease. She does not have a means of transport at this time other than to rely upon herself to get to work and the cost of transportation is prohibitive. She can work from home on her monitors.

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<sup>11</sup> See Hearing Recording at 19:56-22:11.

<sup>12</sup> See Hearing Recording at 20:50-22:11 and Grievant's Ex. ACC8-2.

<sup>13</sup> See Hearing Recording at 22:11-22:34.

<sup>14</sup> Grievant's Ex. ACC 10-1.

Grievant's medical providers continued to have concerns about the impacts of Grievant's medical condition on her ability to drive safely and wrote on August 14, 2023:

It is my medical opinion that [Grievant] will need to be allowed to work from home as an accommodation. I have filled out paperwork about how unsafe she is driving in to work and it is also an issue for the safety of other drivers but this was not fully understood apparently with my original paperwork and I ONCE AGAIN advocate for her to work from home totally.

Effective September 4, 2023, Manager has extended the opportunity for all members of Grievant's work team to telework an additional one day each week, such that team members are now regularly working in the office two days each week and teleworking three days each week.

Grievant describes her medical condition as affecting different parts of her body and systems such that she can experience different challenges at different times depending on the progression of her condition at a particular time, but that she consistently experiences some level of dizziness and unsteadiness.

### **CONCLUSIONS OF POLICY**

The Americans with Disabilities Act (ADA) prohibits discrimination against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.<sup>15</sup>

To that end, the ADA requires that employers make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an employee, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business.<sup>16</sup> Reasonable accommodation includes "[m]odifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable an individual with a disability who is qualified to perform the essential functions of that position" or that enable the employee "to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities."<sup>17</sup>

In order to identify an appropriate reasonable accommodation, it may be necessary for the employer "to initiate an informal, interactive process with the individual with a disability in need of the accommodation. This process should identify the precise limitations

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<sup>15</sup> 42 USC § 12112(a); and see DHRM ADA Policy Guide Series #1, Responsibilities Associated with the Americans With Disabilities Act.

<sup>16</sup> 42 U.S.C. § 12112(b)(5)(A); and see DHRM ADA Policy Guide Series # 5, Undue Hardship and Direct Threats.

<sup>17</sup> 29 C.F.R. § 1630.2(o)(1)(ii) and (iii).

resulting from the disability and potential reasonable accommodations that could overcome those limitations.”<sup>18</sup>

In this case, there does not appear to be any dispute as to the nature of Grievant’s disability. Rather, the parties appear to disagree as to whether Grievant may be entitled to an accommodation in order to perform the essential functions of her job. Grievant argues that the Agency’s denial of her request to telework full-time was a misapplication or unfair application of policy. The Agency argues that it did not deny Grievant’s request for reasonable accommodation but that it instead offered alternative accommodations because, the Agency argues, accommodating Grievant’s request to telework full-time would impose an undue hardship on the Agency.

Grievant initially requested an accommodation for her disability in April 2022. The Agency initially granted the accommodation. The Agency asserts that there was internal confusion regarding whether Grievant already had an approved accommodation, such that Grievant’s manager was not consulted about the reasonable accommodation until after it had been approved through the Agency’s Human Resources office which led to the Agency then re-evaluating its determination to provide Grievant with an accommodation. The Agency asked Grievant to provide information about the need for her accommodation. Grievant’s medical provider provided the information to the Agency on August 2, 2022. The Agency denied Grievant’s request for accommodation on August 3, 2022 indicating in the denial correspondence that the Agency had met with Grievant. During the hearing, it was clear that the Agency and Grievant had not met to discuss reasonable accommodations for Grievant prior to the Agency’s denial of her request on August 3, 2022.

Based on the record it appears that the first time the Agency met with Grievant as part of an interactive process was on August 23, 2022, following Grievant’s second request that the Agency provide her with reasonable accommodations.<sup>19</sup> Unfortunately, Grievant does not appear to have fully understood the process by that date and admits that her concerns about discussing personal medical issues in front of Agency managers present in the meeting may have hindered her full participation and responsiveness in the meeting. The unrefuted testimony from Grievant was that during that meeting the Agency asked Grievant the same questions set forth in the “Request for Reasonable Accommodation Medical Certification” which Grievant believed to already have been answered by her medical providers on that form. Within a day of that meeting, the Agency again denied Grievant’s request for accommodation. The Agency argued at hearing that the August 24, 2022 letter was not a denial of Grievant’s request for reasonable accommodation, but rather was the Agency offering accommodations that would not impose an undue hardship on the Agency. If that were the Agency’s intent, that intent is not clear, as the letter states “[b]ased on the information provided by your doctor, as well as the discussion,

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<sup>18</sup> 29 C.F.R. § 1630.2(o)(3); and see DHRM ADA Policy Guide Series #3, Interactive Process for Reasonable Accommodation.

<sup>19</sup> Although Grievant requested an accommodation in April 2022, her request was initially approved and then, following receipt of additional information from Grievant’s medical provider on August 2, 2022, the Agency re-evaluated and denied Grievant’s request within one day, on August 3, 2022. Although the Agency’s email to Grievant denying her request for accommodation on August 3, 2022 suggests that a meeting took place on that same date, the unrefuted testimony at the hearing suggests that no meeting to discuss potential accommodations took place prior to August 24, 2022.

your disability does not affect your ability to perform the essential functions of your job” after describing that “in order to qualify for a reasonable accommodation” “you must need the accommodation to complete the essential functions of your job.” As indicated by the Agency, the letter also lists “options,” that the Grievant “may want to look into.” The letter does not indicate, as the Agency suggests, that the listing of options was reflective of the Agency’s intent to continue the interactive process to identify an accommodation for Grievant.

It is not clear from the record when Grievant first may have advised the Agency about her medical providers’ concerns specifically with Grievant’s ability to safely drive and whether such information had been provided to the Agency by August 24, 2022. However, the Agency was aware by August 24, 2022, that Grievant’s medical providers described that her condition “causes chronic dizziness, headaches, unsteadiness ....” And that the job functions that the providers noted Grievant would have trouble performing including “coming to the office, sitting up and walking.” Grievant’s providers further noted in August 2022 that “immunosuppression and dizziness limits her from coming to the office and limits her mobility and ability to sit up for periods of time.”

The Agency’s denials of Grievant’s request for reasonable accommodation in August were a misapplication of policy. It is not clear that the Agency engaged with Grievant in an interactive process aside from a single, unproductive meeting with Grievant on August 23, 2023 followed by the Agency’s denial of Grievant’s request by the following day. Although the Agency met with Grievant once, it does not appear that they engaged Grievant in a meaningful dialogue regarding her needs prior to denying her requests. Further, when denying Grievant’s requests, the Agency provided little explanation to Grievant as to the bases for its denial of her requests.

Whether the Agency knew of Grievant’s medical providers’ concerns with Grievant’s ability to safely drive by the August 24, 2022 denial letter, Grievant’s medical providers appear to have clearly and consistently been expressing concern with her ability to safely drive since March 2023 and as recently as August 2023. Based on the record, it appears that Grievant was making the Agency aware of these concerns by as early as March 2023 as Grievant returned from short-term disability leave.

It is not clear why the Agency did not take the opportunity to resume the interactive process in the Spring of 2023 when Grievant returned from short-term disability leave and when the Agency provided the management response to the grievance that is the basis for this case.

Nevertheless, the Agency appears to have engaged Grievant in an interactive process after this case was qualified for hearing and there was a significant amount of testimony and reference to discussions that have occurred in recent months.

There does not appear to be a dispute between the parties that at least 60 percent of Grievant’s job can be, and has been, performed by Grievant working remotely from home without undue hardship to the Agency.

It is the remaining 40 percent of Grievant’s job that raises dispute among the parties as to which functions are essential to Grievant’s job and whether remote work (or telework) as an accommodation would allow Grievant to perform those functions without imposing



an undue hardship on the Agency. That 40 percent of Grievant's job is identified in Grievant's Employee Work Profile as core responsibilities and described as "prepares revenue refund vouchers" and "other duties as assigned."

Based on Grievant's Employee Work Profile and the hearing testimony, it appears that an essential function of Grievant's job is to "prepare[] Revenue Refund vouchers." It is not clear, however, that printing, including collating, is an essential function of Grievant's job. Preparing the Revenue Refund vouchers in hard copy appears to be the manner by which these documents historically have been prepared. Based on the testimony provided during the hearing, however, there is no clear requirement that the Revenue Refund vouchers be prepared and maintained in hard copy.<sup>20</sup> According to the testimony provided, there are requirements as to the length of time that such records must be stored and available for auditing, but there are no requirements that the records be maintained in hard copy format.

The Manager testified that she asked the Agency's information technology unit (IT unit) whether the Agency had sufficient electronic storage capabilities to store these records electronically consistent with legal requirements for storing and auditing the documents.<sup>21</sup> The response from the IT unit appears to have been that there currently is insufficient space on the shared drive. The Agency's assessment as to the potential options available for electronic storage of these documents appears to have ended with that response from the IT unit. Based on the information provided at the hearing, the Agency does not appear to have fully explored whether the Agency could obtain additional capacity for electronic storage of these records without undue hardship.<sup>22</sup> Without a full evaluation of

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<sup>20</sup> See A Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities Act, Ch. II, § 2.3(a) & 2.3(b) (EEOC Jan. 1992). The U.S. Equal Employment Opportunity Commission (EEOC) has advised that in identifying an essential function to determine whether an individual with a disability is qualified,

the employer should *focus on the purpose of the function and the result to be accomplished, rather than the manner in which the function presently is performed.* An individual with a disability may be qualified to perform the function if an accommodation would enable this person to perform the job in a different way, and the accommodation does not impose an undue hardship. Although it may be essential that a function be performed, frequently it is not essential that it be performed in a particular way.

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To identify essential job functions under the ADA, a job analysis should focus on the purpose of the job and the importance of actual job functions in achieving this purpose. ... *The job analysis may contain information on the manner in which a job currently is performed, but should not conclude that ability to perform the job in that manner is an essential function, unless there is no other way to perform the function without causing undue hardship.* A job analysis will be most helpful for purposes of the ADA if it focuses on the results or outcome of a function, not solely on the way it customarily is performed. (emphasis added)

<sup>21</sup> Hearing recording at 1:37:43-1:40:01 and 2:07:00-2:09:15.

<sup>22</sup> Undue hardship means, with respect to the provision of an accommodation, significant difficulty or expense incurred by a covered entity, when considered in light of the factors set forth in ... this section.

... . In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include: (i) The nature and net cost of the accommodation needed under this part, taking into consideration the availability of tax credits and deductions, and/or outside funding; (ii) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, and the effect on expenses and resources; (iii) The overall financial resources of the covered entity, the overall size of the business of the covered entity with respect to the number of its employees, and the number, type and location of its facilities;

accommodations that would allow Grievant to perform the essential function of “prepare Revenue Refund vouchers” without having to drive into the office when her disability prevents her from doing so safely, the Agency cannot demonstrate that Grievant’s request to telework as an accommodation to “prepare Revenue Refund vouchers” would present an undue hardship to the Agency.

There was limited testimony during the hearing about the remaining ten percent of Grievant’s job responsibilities. Those job duties currently are described in Grievant’s Employee Work Profile as “other duties as assigned.” Grievant described the backup responsibilities in her “other duties as assigned” as infrequent until recently and the focus of Grievant’s presentation with respect to these duties was that they are newer to her. Based on testimony from Grievant and from the Agency witnesses at the hearing, the Agency appears to be in the process of changing Grievant’s job duties to require more frequent backup responsibilities for one of Grievant’s co-workers. Manager testified that she is making these changes to further facilitate teleworking three days each week by the rest of the team members. Manager described this work as “prepar[ing] returned checks” and “in-office work.” Testimony during the hearing indicated that the returned checks (or at least a portion of the returned checks) come into the Agency by mail. Manager anticipated that performance of these duties would require three to four hours of in-office work by Grievant each week. Although Manager credibly testified regarding the limits of backup and support options for each of the positions in her unit, it is not clear that those limitations would not allow flexibility as to when Grievant is able to complete the “returned checks” responsibilities even assuming those responsibilities require Grievant to work in the office on one day each week. This is particularly true given the limited amount of time Manager anticipates would need to be devoted to this work (three or four hours one day each week) and that Manager has indicated there are other employees also performing this work at least one day each week.

Grievant has demonstrated that she is entitled to a reasonable accommodation to allow her to perform her essential job duties consistent with the advice from her medical providers. Based on the hearing record and testimony, the Agency misapplied policy when it denied Grievant’s requests for reasonable accommodation on August 3, 2022 and on August 24, 2022 without first fully engaging in an interactive process with Grievant and when it failed to fully explore accommodations that would allow Grievant to perform her job duties consistent with the advice from her medical providers.

Based on the findings and conclusions described above, a reasonable accommodation would allow Grievant to telework four days each work week and work in the office one day each work week with the flexibility to change her in-office day on an as-needed basis depending on her medical condition. The agency did not present evidence to prove that this accommodation would impose an undue hardship on its operations. To the extent Grievant would be reporting to the office, such accommodation also would include opportunities for parking closer to her workplace and an ergonomic chair to the extent

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(iv) The type of operation or operations of the covered entity, including the composition, structure and functions of the workforce of such entity, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the covered entity; and (v) The impact of the accommodation upon the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility’s ability to conduct business. See 29 C.F.R. § 1630.2(p).

those accommodations also may help accommodate Grievant's disability on the days she is required to report to the office.

## DECISION

For the reasons stated herein, Grievant's request to be provided reasonable accommodations is **granted**. The Agency is directed to provide reasonable accommodations for Grievant's disability consistent with the findings herein and to continue to engage in the interactive process as appropriate and required by law and policy.

Both parties are reminded that, in order to be successful, reasonable accommodation is necessarily an ongoing process requiring periodic evaluation and continuing dialogue between the parties to address changing and evolving conditions and circumstances.

## APPEAL RIGHTS

You may request an administrative review by EDR within **15 calendar** days from the date the decision was issued. Your request must be in writing and must be **received** by EDR within 15 calendar days of the date the decision was issued.

Please address your request to:

Office of Employment Dispute Resolution  
Department of Human Resource Management  
101 North 14<sup>th</sup> St., 12<sup>th</sup> Floor  
Richmond, VA 23219

or, send by e-mail to [EDR@dhrm.virginia.gov](mailto:EDR@dhrm.virginia.gov), or by fax to (804) 786-1606.

You must also provide a copy of your appeal to the other party and the hearing officer. The hearing officer's **decision becomes final** when the 15-calendar day period has expired, or when requests for administrative review have been decided.

A challenge that the hearing decision is inconsistent with state or agency policy must refer to a particular mandate in state or agency policy with which the hearing decision is not in compliance. A challenge that the hearing decision is not in compliance with the grievance procedure, or a request to present newly discovered evidence, must refer to a specific requirement of the grievance procedure with which the hearing decision is not in compliance.

You may request a judicial review if you believe the decision is contradictory to law. You must file a notice of appeal with the clerk of the circuit court in the jurisdiction in which the grievance arose within **30 days** of the date when the decision becomes final.<sup>23</sup>

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<sup>23</sup> See Sections 7.1 through 7.3 of the Grievance Procedure Manual for a more detailed explanation, or call EDR's toll-free Advice Line at 888-232-3842 to learn more about appeal rights from an EDR Consultant.

*Angela Jenkins*

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Angela Jenkins, Esq.  
Hearing Officer