Issues: Group III Written Notice with 30-day suspension (prolonged absence, failure to obtain authorization, failure to provide a satisfactory reason, and working in outside employment while on sick leave); allegation of harassment, hostile work environment, denial of opportunity; inappropriate work practices; termination; Hearing Date: 03/06/03; Decision Issued: 03/11/03; Agency: Norfolk State Univ.; AHO: David J. Latham, Esq.; Case Nos. 5646/5647/5648; **Administrative Review: EDR Ruling requested 03/24/03; EDR Ruling date 04/04/03; Outcome: Request untimely [Ruling No. 2003-064]. No basis to interfere with decision; Administrative Review: DHRM Ruling requested 03/24/03; DHRM Ruling date 04/22/03; Outcome: Request untimely. No basis to interfere with decision.**

COMMONWEALTH of VIRGINIA

Department of Employment Dispute Resolution

DIVISION OF HEARINGS

DECISION OF HEARING OFFICER

In re:

Case Nos: 5646/5647/5648

Hearing Date: March 6, 2003
Decision Issued: March 11, 2003

PROCEDURAL ISSUES

Grievant requested that her three grievances be consolidated into one hearing. The agency agreed with the request. The Director of the Department of Employment Dispute Resolution (EDR) reviewed the request and subsequently issued a ruling granting the consolidation request.[1]

Due to availability of the parties, the case could not be docketed for hearing until the 32nd day following appointment of the hearing officer.[2] Subsequently, the hearing officer granted a postponement until the 35th day because a key agency witness was out of the country on the originally docketed hearing date.

[1] *Compliance Ruling of Director*, Number 2003-011, issued January 23, 2003.

[2] § 5.1 EDR *Grievance Procedure Manual,* effective July 1, 2001, requires that a grievance hearing must be held and a written decision issued within 30 calendar days of the hearing officer's appointment unless just cause is shown to extend the time limit.

Grievant requested as part of the relief she seeks, a transfer to a position outside the Academic Affairs Division. Hearing officers may provide certain types of relief including rescission of discipline, and payment of back wages and benefits.[3] However, hearing officers do not have authority to transfer an employee.[4] Such a decision is an internal management decision made by each agency, pursuant to Section 2.2-3004.B of the Code of Virginia, which states in pertinent part, "Management reserves the exclusive right to manage the affairs and operations of state government."

APPEARANCES

Grievant
Attorney for Grievant
Four witnesses for Grievant
Human Resources Director
Attorney for Agency
Three witnesses for Agency

ISSUES

Did the grievant's actions warrant disciplinary action under the Standards of Performance policy? If so, what was the appropriate level of disciplinary action for the conduct at issue?

FINDINGS OF FACT

The grievant timely filed three grievances. The first grievance alleged harassment, hostile work environment, denial of opportunity and force (sic) involuntary separation as the result of a telephone conversation on September 9, 2002.[5] The second grievance alleges a variety of inappropriate work practices because grievant received notice of a disciplinary action on October 26, 2002.[6] The disciplinary action was a Group III Written Notice and 30-day suspension.[7] The third grievance alleges the same practices as the second grievance and was filed because grievant received notification on November 23, 2002 that her employment had been terminated.[8] Following a denial of relief at the third resolution step, the agency head qualified the grievances for a hearing.[9]

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[3] § 5.9(a) EDR *Grievance Procedure Manual*, Ibid.
[4] § 5.9(b)2 *Ibid.*
[5] Exhibit 1. Grievance Form A, filed September 19, 2002.
[6] Exhibit 13. Grievance Form A, filed November 21, 2002.
[7] Exhibit 11. Written Notice, issued October 24, 2002.
[8] Exhibit 15. Grievance Form A, filed November 27, 2002.
[9] Exhibit 3. Grievance Form A, filed October 17, 2002.

Norfolk State University (Hereinafter referred to as agency) has employed the grievant for less than two years as a laboratory and research practitioner.

The relationship between grievant and her supervisor gradually became strained beginning in early 2002. The supervisor had advised grievant in February 2002 that she had considered extending her probationary period by an additional three months but she did not take this action. Grievant felt that her supervisor's verbal instructions were sometimes unclear. As a result, the supervisor began following up verbal instructions with email messages confirming the content of the discussions. The supervisor became concerned that grievant would take actions without first obtaining proper authorization.[10] On two occasions, grievant refused to comply with her supervisor's instruction to set up her workstation in the front area of the suite and instead set it up in a different room.[11] Grievant had students from her evening class come to her office during the workday, notwithstanding the fact that grievant knew that her contacts with students should occur outside her regular working hours as a laboratory and research practitioner.[12] On another occasion, after grievant failed to advise her supervisor that she was not reporting to work on June 12, 2002, her supervisor reminded her in writing that:

> It is your responsibility to notify me (your supervisor) in a timely manner when you are not able to report, regardless of what you think or assume my schedule is. Informing another staff member does not substitute for advising your supervisor.[13]

On September 17, 2002, grievant did not report for work but left a voice mail message for her supervisor stating that she was ill but she did not disclose the nature of the illness. On September 20, 2002, a photocopy of a physician's excuse form was delivered to the agency stating only that grievant was advised to take at least "three weeks of leave/vacation time to recover from illness."[14] Grievant's physician is a specialist in internal medicine. Grievant avers that she has the original note but never gave it to the agency, and did not produce it at the hearing. Grievant's supervisor wrote a letter to grievant, acknowledging receipt of the physician's note, and that grievant would be taking three weeks of leave.[15] Grievant never contacted her supervisor to indicate that she planned to be absent for two additional weeks beyond the three weeks approved by the supervisor.

The Commonwealth's policy on sick leave states that sick leave is subject to verification and that "An employee who wishes to use sick leave must comply

[10] Exhibit 1. Email from supervisor to grievant, March 6, 2002.
[11] Exhibit 1. Email from supervisor to grievant, June 4, 2002.
[12] Exhibit 1. Email from supervisor to grievant, June 4, 2002.
[13] Exhibit 1. Email from supervisor to grievant, June 19, 2002.
[14] Exhibit 11. Photocopy of physician's note, September 17, 2002.
[15] Exhibit 3. Letter from supervisor to grievant, September 24, 2002.

with a management request for verification of the need to use sick leave. An employee's use of paid sick leave may be denied if the employee fails to comply with a management request for verification of the need for sick leave."[16] The Commonwealth's policy on annual leave provides that "An employee who wants to use his or her annual leave must receive approval for the desired time. The request for leave should be made as far in advance as possible."[17]

Grievant did not thereafter contact her supervisor until she returned to work on October 21, 2002 – nearly five weeks later.[18] On that day she brought another photocopy of a physician's return-to-work form stating only that "patient is to work half days until otherwise."(sic)[19] The note was not written by grievant's physician, is not signed by a physician, is not dated, and provides no diagnosis or medical information. Grievant has not produced the original of this note, either for the agency or for the hearing officer. Grievant's supervisor (an acting associate vice-president and Director of Institutional Effectiveness and Assessment), and the acting Vice President of Academic Affairs directed grievant to meet with them in the vice president's office. Grievant refused to do so, stating that she couldn't come outside in inclement weather (The vice-president's building is located in a building across the street from where grievant worked). Grievant's supervisor then directed grievant to provide documentation from her physician by October 23, 2002 to clarify grievant's ability to work, the nature of her restrictions, and the period of time involved. Grievant failed to provide the requested documentation by October 23, 2002. Although grievant claimed to be too ill to work more than half days during the week of October 21-25, 2002, she was observed teaching a class on October 23, 2002 from 6:00 – 9:00 p.m.[20]

On October 25, 2002, grievant submitted a photocopy of a note from her physician (stamped VOID) that is only partially responsive to the supervisor's request.[21] Grievant has not produced the original of this note, either for the agency or for the hearing officer. On October 25, 2002, grievant's supervisor

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[16] DHRM Policy 4.55, *Sick Leave*, September 16, 1993.
[17] DHRM Policy 4.10, *Annual Leave*, September 16, 1993.
[18] Grievant wrote a letter to the Director of Human Resources on September 20, 2002 (Exhibit 2) stating that she needed to take three weeks off and that she would return on October 21, 2002, and planned to use annual leave and sick leave to cover the time. (She did not explain why she planned to return on October 21, 2002 when the three-week period expired on October 7, 2002). Grievant did not send a copy of this letter to her supervisor.
[19] Exhibit 11. Photocopy of note on physician's form.
[20] In addition to grievant's full-time employment as a laboratory and research practitioner, she was an adjunct faculty member of the Sociology Department, teaching one three-hour class each Wednesday evening. Adjunct faculty members are employed on a periodic, contractual basis to teach one or more courses. The university considers full-time employees who teach in an adjunct capacity to be engaged in "outside employment." Subsequent to September 17, 2002, grievant taught her class on September 18, and October 23, 2002. The head of the Sociology Department eventually terminated grievant's adjunct faculty contract because she stopped showing up to teach her assigned class. Grievant contends she did not teach a full class on September 18, 2002, however she never notified the head of the Sociology Department. Policy requires adjunct faculty to notify the Department when they are unable to complete the full three hours of a class.
[21] Exhibit 21. Photocopy of physician's note, October 25, 2002.

directed grievant to meet with her at 1:00 p.m. Grievant arrived late at about 1:13 p.m. while her supervisor had walked into another office for about three minutes. Grievant told an office worker she had a doctor's appointment and couldn't stay; she left without speaking to her supervisor.[22] When the Acting Vice-President of Academic Affairs learned of grievant's behavior, she recommended to the Human Resources Director that grievant be dismissed.[23]

As a result of grievant's prolonged absence, failure to obtain authorization, failure to provide a satisfactory reason, and working in outside employment while on sick leave,[24] a Group III Written Notice with 30 days suspension was issued to grievant on October 24, 2002. During November 2002, the matter was referred to the Human Resources Department, which investigated the events surrounding the grievant's disciplinary action and suspension. The results of the Human Resources investigation were sent to the Acting Vice President of Academic Affairs on November 18, 2002, recommending that grievant's employment be terminated.[25] Repeated attempts were made during the week of November 20, 2002 to contact grievant by telephone. Three messages were left on her voice mail but grievant failed to respond.[26] The recommendation was accepted and grievant was notified by letter that she was discharged effective November 25, 2002.[27] The notice of termination applied only to grievant's full-time job as a laboratory and research practitioner. Grievant's position as an adjunct faculty member was under the administrative jurisdiction of the head of the Sociology Department.[28]

APPLICABLE LAW AND OPINION

The General Assembly enacted the Virginia Personnel Act, Va. Code § 2.2-2900 et seq., establishing the procedures and policies applicable to employment within the Commonwealth. This comprehensive legislation includes procedures for hiring, promoting, compensating, discharging and training state employees. It also provides for a grievance procedure. The Act balances the need for orderly administration of state employment and personnel practices with the preservation of the employee's ability to protect his rights and to pursue

[22] Exhibit 6. Memorandum to Director of Human Resources from grievant's supervisor, October 25, 2002.
[23] Exhibit 10. Memorandum to Director of Human Resources from Acting Vice-President of Academic Affairs, October 25, 2002.
[24] Undisputed testimony established that an adjunct faculty member must spend approximately two hours outside class for every hour spent teaching the course. Thus, for a three-hour course, the faculty member must spend six hours per week, preparing for class, grading papers, and meeting with students.
[25] Exhibit 12. Memorandum from Director of Human Resources to Acting Vice President of Academic Affairs, November 18, 2002.
[26] Exhibit 16. Memorandum from administrative assistant to associate vice-president, November 21, 2002.
[27] Exhibit 14. Letter from Acting Vice President to grievant, November 21, 2002.
[28] Adjunct faculty members are at-will employees and not covered by the grievance procedure.

legitimate grievances. These dual goals reflect a valid governmental interest in and responsibility to its employees and workplace. Murray v. Stokes, 237 Va. 653, 656 (1989).

Code § 2.2.3000 sets forth the Commonwealth's grievance procedure and provides, in pertinent part:

> It shall be the policy of the Commonwealth, as an employer, to encourage the resolution of employee problems and complaints . . . To the extent that such concerns cannot be resolved informally, the grievance procedure shall afford an immediate and fair method for the resolution of employment disputes which may arise between state agencies and those employees who have access to the procedure under § 2.2-3001.

In disciplinary actions, the agency must show by a preponderance of evidence that the disciplinary action was warranted and appropriate under the circumstances. In all other actions, the employee must present her evidence first and must prove her claim by a preponderance of the evidence.[29]

To establish procedures on Standards of Conduct and Performance for employees of the Commonwealth of Virginia and pursuant to § 2.2-1201 of the Code of Virginia, the Department of Human Resource Management (DHRM) promulgated Standards of Conduct Policy No. 1.60 effective September 16, 1993. The Standards of Conduct provide a set of rules governing the professional and personal conduct and acceptable standards for work performance of employees. The Standards serve to establish a fair and objective process for correcting or treating unacceptable conduct or work performance, to distinguish between less serious and more serious actions of misconduct and to provide appropriate corrective action. Group III offenses include acts and behavior of such a serious nature that a first occurrence normally should warrant removal from employment. An absence in excess of three days without proper authorization or a satisfactory reason is an example of a Group III offense.[30]

Written Notice and termination of employment

Grievant was absent from work for a period of five weeks. A preponderance of evidence establishes that she did not receive any prior authorization for that absence. She has failed to provide a satisfactory reason to explain her absence. She continued to work in her outside employment by teaching an evening college course on September 18 and October 23, 2002.

Viewing the evidence in the light most favorable to grievant, she did provide a physician's note that excused her for three weeks beginning on

[29] § 5.8, EDR *Grievance Procedure Manual*, effective July 1, 2001.
[30] Exhibit 19. Section V.B.3, DHRM Policy 1.60, Standards of Conduct, September 16, 1993.

September 17, 2002. However, grievant never gave the original of that note to either the agency or to the hearing officer so that its authenticity might be evaluated. Moreover, the note raises more questions than it answers because it provides no explanation of the alleged illness. It suggests that grievant utilize leave/vacation time to cover this absence. If grievant had a bona fide illness, it would have been more logical for the physician to recommend sick leave, not vacation.[31] The only other note purportedly signed by the physician (October 25, 2002) is similarly vague and totally lacking any medical explanation for grievant's absence. Moreover, the note is marked VOID to indicate that a photocopy is not considered a valid physician's note. The fact that grievant has consistently failed to produce the originals of these notes raises a reasonable suspicion about their authenticity. Grievant did not seek to have the physician testify by telephone during the hearing, did not obtain an affidavit from the physician, and did not ask the physician to write a letter explaining her five-week absence. Under direct examination at the hearing, grievant refused to divulge the diagnosis of her alleged illness.[32]

However, even assuming that grievant may have been absent for an illness for three weeks, grievant failed to seek permission to utilize annual leave for the remaining two weeks of her leave. Therefore, the agency's decision to discipline grievant with a Group III Written Notice and suspension was appropriate and commensurate with the offense.

Grievant avers that she emailed a letter to her supervisor on September 17, 2002 as notice that she would be taking three weeks off.[33] The supervisor denies receiving such a letter. Grievant has offered no proof to show that this letter was transmitted or received by the supervisor. Interestingly, grievant makes a contradictory statement within the letter. On one hand, she states that her physician told her to take "at least" three weeks off indicating that the physician was unable to determine a return-to-work date. However, in the next sentence, grievant announced that she would return to work on October 21, 2002. It therefore appears more likely than not that, on September 17, 2002, grievant made a unilateral decision to take five weeks off from work.

During the period of suspension, grievant had ample opportunity to obtain medical documentation from her physician to explain her protracted absence. The fact that she did not obtain such evidence (and has still not provided any such evidence) suggests either 1) that such evidence does not exist, or 2) that

[31] From grievant's refusal to discuss her "illness," one might be inclined to infer that her diagnosis involved an emotional or mental problem. However, grievant's physician is a specialist in internal medicine, not a psychiatrist or psychologist. Grievant has not presented evidence that she was being treated by anyone other than the internal medicine physician. Her refusal to divulge the nature of her physical illness, even in the face of termination of her employment, raises even more of a credibility issue as to whether grievant had a bona fide illness.

[32] Grievant refused to divulge her diagnosis even after the hearing officer advised her that, while she had the right to refuse, it could result in an adverse inference being drawn against her.

[33] Exhibit 20. Letter to supervisor from grievant, September 17, 2002.

grievant is continuing the pattern of insubordination that has been apparent since at least early 2002. Grievant's supervisor advised her on September 24, 2002 that Human Resources was prepared to determine whether grievant would qualify for leave pursuant to the Family and Medical Leave Act (FMLA). However, grievant never provided the medical evidence that Human Resources needs in order to make a determination of FMLA coverage. Repeated messages were left on grievant's voice mail in November 2002 to contact the agency in order to discuss her employment status. Grievant did not respond to those messages. Ultimately, the agency had no option but to terminate grievant's employment due primarily to her own recalcitrance.

Other Issues

Grievant's grievances raise several other allegations including harassment and offensive work environment, retaliation, misapplication of policy, denial of opportunity, threats, violation of due process, internet abuse and force involuntary separation. Each allegation is addressed separately below:

1. Hostile work environment harassment

To establish a claim for harassment, grievant must prove that: (i) the conduct was unwelcome; (ii) the harassment was based on some protected classification; (iii) the harassment was sufficiently severe or pervasive to create an abusive work environment; and (iv) there is some basis for imposing liability on the employer. The conduct about which grievant complains appears to have been primarily her supervisor's efforts to have grievant perform the tasks expected of her. While grievant may have found this conduct unwelcome, it was not based on any protected classification, and it was not sufficiently severe as to constitute an abusive work environment. Therefore, grievant has failed to satisfy the criteria needed to establish a claim of hostile work environment harassment.

2. Retaliation

Retaliation is defined as actions taken by management or condoned by management because an employee exercised a right protected by law or reported a violation of law to a proper authority.[34] To prove a claim of retaliation, grievant must prove that: (i) she engaged in a protected activity; (ii) she suffered an adverse employment action; and (iii) a nexus or causal link exists between the protected activity and the adverse employment action. Based on grievant's testimony and evidence, her basis to claim participation in a protected activity was the filing of two grievances (The first two of three grievances addressed herein). In order to establish retaliation, grievant must show a nexus between her filing of the grievances, and the discipline and subsequent dismissal. Grievant has not established any such connection between the two events. However, even if such a nexus could be found, the agency has established

[34] EDR *Grievance Procedure Manual*, p.24

nonretaliatory reasons for the disciplinary action and for the subsequent termination of employment. For the reasons stated previously, grievant has not shown that the agency's reasons for the disciplinary actions were pretextual in nature.

3. Misapplication of Policy

Grievant neither specifically addressed this issue during the hearing nor provided an explanation for this allegation. If she is referring to the Standards of Conduct policy, it is concluded for reasons stated elsewhere in this Decision that the agency's disciplinary actions constituted a correct application of that policy.

4. Denial of Opportunity

Grievant complains that she was not permitted to attend conferences or training sessions that she felt were relevant and might be beneficial in her position. She had made requests to her supervisor for workshops and was unhappy that her supervisor did not grant approval for her attendance. Employees do not have any statutory, regulatory or other right to attend conferences, workshops, or training. The decision to train employees or to send them to conferences and workshops is one that must necessarily be made by agency management. Typically agency management makes such decisions based on budget limitations, workloads, skill and knowledge levels, and other relevant factors. Such matters fall within the scope of § 2.2-3004.B of the Code of Virginia (supra).

5. Threats

The vice-president of Academic Affairs once mentioned that grievant's office might be moved to a different location; grievant characterized this comment as a threat. She also contends that mention was once made that her position might become part time. Grievant's supervisor did not make these statements. Grievant has not borne the burden of proof to show that such statements constituted threats rather than a discussion of possibilities.

6. Violation of due process

Grievant did not offer any evidence to support this allegation.

7. Internet Abuse

Grievant has not explained this allegation.

8. Force Involuntary Separation

Grievant objected to the fact that her supervisor had mentioned in one or two discussions that perhaps grievant would be better suited to other employment. It is apparent that grievant and her supervisor were not in agreement on a number of issues. The evidence also reflects that, over time, grievant had become insubordinate to her supervisor. Whether the problems between the two stemmed from a difference in personalities, or whether grievant was truly not suited to this job is impossible to ascertain from this hearing. However, it does appear that the supervisor had recognized that the working relationship was difficult and that grievant might be happier elsewhere. Her comments to grievant do not appear to have been an attempt to force an involuntary separation on grievant. Rather, the comments appear to have been an attempt to encourage grievant to think about the possibility of other employment.

DECISION

The disciplinary action of the agency is affirmed.

The Group III Written Notice, 30-day suspension, and termination of grievant's employment are hereby UPHELD.

Grievant has not borne the burden of proof necessary to sustain any of her allegations against the agency.

APPEAL RIGHTS

You may file an administrative review request within **10 calendar** days from the date the decision was issued, if any of the following apply:

1. If you have new evidence that could not have been discovered before the hearing, or if you believe the decision contains an incorrect legal conclusion, you may request the hearing officer either to reopen the hearing or to reconsider the decision.

2. If you believe the hearing decision is inconsistent with state policy or agency policy, you may request the Director of the Department of Human Resource Management to review the decision. You must state the specific policy and explain why you believe the decision is inconsistent with that policy.

3. If you believe that the hearing decision does not comply with the grievance procedure, you may request the Director of EDR to review the decision. You

must state the specific portion of the grievance procedure with which you believe the decision does not comply.

You may request more than one type of review. Your request must be in writing and must be **received** by the reviewer within 10 calendar days of the date the decision was issued. You must give a copy of your appeal to the other party. The hearing officer's **decision becomes final** when the 10-calendar day period has expired, or when administrative requests for review have been decided.

You may request a judicial review if you believe the decision is contradictory to law.[35] 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.[36]

[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]

_____
David J. Latham, Esq.
Hearing Officer

[35] An appeal to circuit court may be made only on the basis that the decision was *contradictory to law,* and must identify the specific constitutional provision, statute, regulation or judicial decision that the hearing decision purportedly contradicts. Virginia Department of State Police v. Barton, 2002 Va. App. Lexis 756, (December 17, 2002).

[36] Agencies must request and receive prior approval from the Director of EDR before filing a notice of appeal.

POLICY RULING OF THE DEPARTMENT OF
HUMAN RESOURCE MANAGEMENT

In the matter of Norfolk State University
Case Nos. 5646/5647/5648
April 22, 2003

The grievant has appealed the hearing officer's March 11, 2003, decision in Case Nos. 5646/5647/5648. The grievant is challenging the decision because she contends that the decision is inconsistent with the provisions of the Commonwealth of Virginia's Standards of Conduct policy, Policy Number 1.60. The agency head, Ms. Sara Redding Wilson, has requested that I respond to this appeal.

FACTS

The Norfolk State University employed the grievant in a classified position as a laboratory and research practitioner. She was also employed in the evening school as an instructor. On October 26, 2002, Norfolk State University (NSU) officials issued to the grievant a Group III Written Notice with a 30-day suspension for "Absence in excess of three days without prior authorization or a satisfactory reason. Continuing outside employment while on sick leave (reduced hours)." Following the suspension, on November 26, 2002, she was terminated from her position as laboratory and research practitioner. This disciplinary action did not affect her job as evening school instructor. The grievant filed a grievance regarding the termination and the hearing officer upheld the agency's disciplinary action. Before she was terminated, she had filed a grievance alleging harassment, hostile work environment, denial of opportunity, and forced involuntary separation. She filed a third grievance that was repetitive of the second one. The hearing officer did not grant any relief in his March 11, 2003 decision.

DISCUSSION

Hearing officers are authorized to make findings of fact as to the material issues in the case and to determine the grievance based on the evidence. In addition, in cases involving discipline, the hearing officer reviews the facts to determine whether the cited actions constitute misconduct and whether there are mitigating circumstances to justify reduction or removal of the disciplinary action. If misconduct is found but the hearing officer determines that the disciplinary action is too severe, he may reduce the discipline. By statute, this Department

has the authority to determine whether the hearing officer's decision is consistent with policy as promulgated by this Agency or the agency in which the grievance is filed. The challenges must cite a particular

mandate or provision in policy. The Department's authority, however, is limited to directing the hearing officer to revise the decision to conform to the specific provision or mandate in policy. This Department has no authority to rule on the merits of a case or to review the hearing officer's assessment of the evidence unless that assessment results in a decision that is in violation of policy and procedure.

The *Grievance Procedure Manual* provides that "all requests for review must be made in writing, and *received* by the administrative reviewer within 10 calendar days of the original hearing decision." In this case, this Department received the grievant's request for administrative review on March 24, 2003, three days beyond the 10 calendar days that followed the issuance of the original decision. The grievant provided no justifiable reason for the delay beyond the 10 calendar days. Accordingly, the grievant's request for an administrative review from DHRM is untimely and we have no basis to interfere with this decision.

If you have any questions regarding this correspondence, please contact me at 804 225-2136.

Sincerely,

Ernest G. Spratley, Manager
Employment Equity Services