Issues: Group III Written Notice (client neglect) and Termination; Hearing Date: 08/01/08; Decision Issued: 08/05/08; Agency: DMHMRSAS; AHO: Cecil H. Creasey, Jr.; Case No. 8886; Outcome: No Relief – Agency Upheld in Full; **Administrative Review: AHO Reconsideration Request received 08/20/08; Reconsideration Decision Issued 09/09/08; Outcome: Original decision affirmed; Administrative Review: EDR Admin Review request received 08/20/08; Ruling #2009-2110 issued 10/09/08; Outcome: Hearing Decision affirmed; Administrative Review: DHRM Admin Review request received 08/20/08; DHRM Ruling issued 10/24/08; Outcome: Hearing Decision affirmed.**

COMMONWEALTH of VIRGINIA

Department of Employment Dispute Resolution

DIVISION OF HEARINGS

DECISION OF HEARING OFFICER

In the matter of: Case No. 8886

Hearing Date: August 1, 2008
Decision Issued: August 5, 2008

PROCEDURAL HISTORY

On March 24, 2008, Grievant was issued a Group III Written Notice of disciplinary action with termination for neglect of an individual. Grievant timely filed a grievance to challenge the Agency's action. The outcome of the Third Resolution Step was not satisfactory to the Grievant and he requested a hearing. On June 12, 2008, the Hearing Officer received the appointment from the Department of Employment Dispute Resolution ("EDR"). The hearing was originally scheduled for July 11, 2008, but the Grievant moved to continue the hearing to a later date because of hardship related to required training and obligations related to a newly acquired job. For good cause shown, and without objection by the agency, the continuance was granted and the hearing scheduled for August 1, 2008. On August 1, 2008, the grievance hearing was held at the Agency's regional office.

Both sides submitted exhibit notebooks with numbered exhibits that were, without objection from either side, admitted into the grievance record, and will be referred to as Agency's or Grievant's Exhibits, numbered respectively. All evidence presented has been carefully considered by the hearing officer.

APPEARANCES

Grievant
Advocate for Grievant
Six witness for Grievant (including Grievant)
Advocate for Agency
Representative for Agency
Five witnesses for Agency (including Representative)

ISSUES

Did Grievant's conduct warrant disciplinary action under the Standards of Conduct and Agency policy? If so, what was the appropriate level of disciplinary action for the conduct at issue?

The Grievant requests rescission of the Group III Written Notice, reinstatement and back pay. Alternatively, the Grievant seeks a lesser level of discipline.

BURDEN OF PROOF

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, such as claims of retaliation and discrimination, the employee must present his evidence first and must prove his claim by a preponderance of the evidence. In this disciplinary action, the burden of proof is on the Agency. 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.

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 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.

Department of Human Resource Management ("DHRM") Policy 1.60, Standards of Conduct, defines Group III offenses to include acts and behavior of such a serious nature that a first occurrence normally should warrant removal. Group III offenses specifically include, "violating safety rules where there is a threat of physical harm." Agency Exhibit 7.

The Agency's Departmental Instruction 201(RTS)03, § 201-1 provides that the department

> has a ***zero tolerance*** for acts of abuse or neglect. Therefore, whenever an allegation of abuse or neglect is made, the Department shall take immediate steps to protect the safety and welfare of individuals who are the victims of the alleged abuse or neglect, conduct a thorough investigation pursuant to Central Office direction, and take any action necessary to prevent future occurrences of abuse or neglect.

(Emphasis in original.) The same policy, § 201-9, provides:

> In consultation with the Office of Human Resources Development and Management in the Central Office, the facility director shall issue a Group III Written Notice and terminate any employee found to have abused or neglected an individual in a state facility unless, based on established mitigating factors, the facility director determines that disciplinary action warrants a penalty less than termination.

Agency Exhibit 4.

The Residential Services Manual establishes the client accountability for one to one and close observation. Among other requirements, the staff cannot be assigned responsibilities of other clients or tasks during the time they are assigned 1:1 with a client. When assigned to 1:1, the employee is solely responsible to take care of that particular client's needs during the time frame assigned. During breaks, the assigned 1:1 must always be relieved by another staff. For close observation assignments, the staff must have the client within eyesight at all times, unless indicated otherwise by the interdisciplinary team ("ID team"). An employee assigned for close observation must obtain a reliever when going on a break. Agency Exhibit 3.

The Offense

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

The Department of Mental Health, Mental Retardation and Substance Abuse Services ("DMHMRSAS") employed Grievant as a direct support associate ("DSA") at one of its Facilities for at least 9 years prior to the date of the offense, February 15, 2008. The Grievant has one active Group I Written Notice.

On February 15, 2008, the Grievant was assigned as a one to one ("1:1") DSA for client RM, serving him in his residential cottage. The Grievant was rather familiar with client RM from working with him over the years, and the Grievant had actually assisted in saving RM from a choking tragedy in 2000. In the same cottage on February 15, 2008, there was another 1:1

assignment involving another agency client and one other DSA. At midday, the Grievant offered to obtain lunch for himself and the other DSA. The Grievant called in the lunch order and left the agency's campus to obtain the food order from the restaurant. The Grievant estimates he was gone approximately ten to twelve minutes, as the restaurant was relatively close to campus. The Grievant drove his car to obtain the lunch.

The Grievant did not call for relief to care for RM while gone. Instead, the Grievant arranged for the other DSA, who had a 1:1 assignment, to watch over RM. RM had already had lunch and was napping in his room. The other DSA was in the common room with her 1:1 client. As reflected in the policy described above, another DSA with a 1:1 assignment is incapable of accepting another assignment. While the Grievant was gone, the direct support supervisor ("DSS") telephoned the cottage and inquired about the state of affairs there. The DSS understood from the other DSA that the Grievant was gone, but that the qualified mental retardation professional ("QMRP"), who had an office in the cottage, was on site. As it turned out, the QMRP was not present in the cottage. The DSS took immediate steps to have staff cover the Grievant's absence.

The agency witnesses established that RM had an unsteady gait and was a fall risk. Also, his eyesight was very bad, and he can become feisty at times.

The Grievant contends that he was unaware that his assignment was a 1:1 assignment. RM had a ground pass, and that, according to the Grievant, was inconsistent with the need for a 1:1 assignment. The Grievant states that he understood his assignment to be one of "close observation" of client RM. The Grievant understood that the other DSA in the cottage did have a 1:1 assignment, but that the other client was scheduled to move off of a 1:1 assignment in the near future. The Grievant contends that staff shortages created a work environment that has made it difficult for all staff members to cover their assignments adequately, and that he and others often miss meal breaks because no coverage is available. In this instance, however, the Grievant did not call for relief to leave the facility to obtain lunch, and agency witnesses testified that the facility was not short staffed on the date in question.

The agency's investigator testified that the Grievant admitted he knew his assignment with RM was 1:1. However, even in a close observation assignment, the client must be within eyesight at all times. Under no circumstances is a DSA assigned for 1:1 or close observation following policy mandates by leaving campus without securing appropriate relief. Someone already assigned as a 1:1 may not cover any other assignments. Residential Services Manual; Agency Exhibit 3.

The Grievant has presented training to staff at the agency over the years, has demonstrated a sincere fondness and capability for his job, and enjoys the support of co-workers who signed petitions seeking leniency toward the Grievant in this situation. The Grievant also participated as a staff representative in the agency's forum with administration.

As previously stated, the agency's burden is to show upon a preponderance of evidence that the termination of the Grievant's employment was warranted and appropriate under the circumstances.

The task of managing the affairs and operations of state government, including supervising and managing the Commonwealth's employees, belongs to agency management which has been charged by the legislature with that critical task. *See, e.g., Rules for Conducting Grievance Hearings,* § VI; *DeJarnette* v. *Corning,* 133 F.3d 293,299 (4th Cir. 1988).

Pursuant to DHRM Policy 1.60, Standards of Conduct, management is given the specific power to take corrective action ranging from informal action such as counseling to formal disciplinary action to address employment problems such as unacceptable behavior. Accordingly, as long as representatives of agency management act in accordance with law and policy, they deserve latitude in managing the affairs and operations of state government and have a right to apply their professional judgment without being easily second-guessed by a hearing officer. In short, a hearing officer is not a "super-personnel officer" and must be careful not to succumb to the temptation to substitute his judgment for that of an agency's management concerning personnel matters absent some statutory, policy or other infraction by management. *Id*.

In this proceeding, the Department's actions were clearly consistent with law and policy and, accordingly, the exercise of such professional judgment and expertise warrants appropriate deference from the hearing officer. *Id*

As the agency argued in this proceeding, the policy directs dismissal. At the hearing, the Grievant stated that he should not even have to call for relief to take a break. To the contrary, the obligation on the Grievant specifically includes calling for relief when needed or desired. Neither the Grievant nor any DSA may substitute his judgment for that of the agency's policies of 1:1 or close observation assignments. Nothing justifies the Grievant's action of neglecting his client and leaving the facility's campus to obtain lunch, without obtaining appropriate relief. Fortunately, no actual harm befell RM. However, the act of neglect does not require actual harm to occur, and the policy clearly dictates a Group III offense and termination at a stated "zero tolerance" intensity. The Grievant argued at the hearing that discipline short of termination may be appropriate for this infraction but also argued at the hearing that this policy is not consistently followed or enforced by the Agency. However, no specific evidence of the agency knowingly failing to enforce the policy in this context was presented. The agency stated that it found this violation to be severe, and that no mitigating circumstances override the specific dictates of policy when this neglect is found.

Mitigation

The agency has proved (i) the employee engaged in the behavior described in the Written Notice, (ii) the behavior constituted misconduct, and (iii) the discipline was consistent with law and policy. Thus, the discipline must be upheld absent evidence that the discipline exceeded the limits of reasonableness. *Rules for Conducting Grievance Hearings* ("Hearing Rules") § VI.B.1.

Termination is the normal disciplinary action for Group III Written Notices unless mitigation weighs in favor of a reduction of discipline. Under Virginia Code § 2.2-3005, the hearing officer has the duty to "receive and consider evidence in mitigation or aggravation of any

offense charged by an agency in accordance with rules established by the Department of Employment Dispute Resolution." Va. Code § 2.2-3005(C)(6). Under the *Rules for Conducting Grievance Hearings,* "[a] hearing officer must give deference to the agency's consideration and assessment of any mitigating and aggravating circumstances. Thus, a hearing officer may mitigate the agency's discipline only if, under the record evidence, the agency's discipline exceeds the limits of reasonableness. If the hearing officer mitigates the agency's discipline, the hearing officer shall state in the hearing decision the basis for mitigation." A non-exclusive list of examples includes whether (1) the employee received adequate notice of the existence of the rule that the employee is accused of violating, (2) the agency has consistently applied disciplinary action among similarly situated employees, and (3) the disciplinary action was free of improper motive.

With the zero tolerance policy, it would take extenuating circumstances to show mitigation sufficient to reduce the level of discipline. Under the *Rules for Conducting Grievance Hearings*, an employee's length of service and satisfactory work performance, standing alone, are not sufficient to mitigate disciplinary action. However, the applicable policy specifically states a zero tolerance and preferred termination in abuse and neglect violations. Notice to the Grievant of the agency's policy is not an issue for this Grievant with several years of experience.

Under the EDR's Hearing Rules, the hearing officer is not a "super-personnel officer." Therefore, the hearing officer should give the appropriate level of deference to actions by Agency management that are found to be consistent with law and policy, even if he disagrees with the action. In this case, the Agency's action of finding no mitigation sufficient to override the zero tolerance policy is within the limits of reasonableness. While the hearing officer finds that this Grievant has a good record overall of being a sincere contributor to the agency, in light of the applicable standards, the Hearing Officer finds no evidence that warrants any further mitigation to reduce or rescind the disciplinary action.

DECISION

For the reasons stated herein, I uphold the Agency's Group III Written Notice with termination.

APPEAL RIGHTS

As the Grievance Procedure Manual sets forth in more detail, this hearing decision is subject to administrative and judicial review. Once the administrative review phase has concluded, the hearing decision becomes final and is subject to judicial review.

Administrative Review: This decision is subject to three types of administrative review, depending upon the nature of the alleged defect of the decision:

1. **A request to reconsider a decision or reopen a hearing** is made to the hearing officer. This request must state the basis for such request; generally, newly discovered evidence or evidence of incorrect legal conclusions is the basis for such a request.

2. **A challenge that the hearing decision is inconsistent with state or agency policy** is made to the Director of the Department of Human Resources Management. This request must cite to a particular mandate in state or agency policy. The Director's authority is limited to ordering the hearing officer to revise the decision to conform it to written policy. Requests should be sent to the Director of the Department of Human Resources Management, 101 N. 14th Street, 12th Floor, Richmond, Virginia 23219 or faxed to (804)371-7401.

3. **A challenge that the hearing decision does not comply with grievance procedure** is made to the Director of EDR. This request must state the specific requirement of the grievance procedure with which the decision is not in compliance. The Director's authority is limited to ordering the hearing officer to revise the decision so that it complies with the grievance procedure. Requests should be sent to the EDR Director, One Capitol Square, 830 East Main Street, Suite 400, Richmond, VA 23219 or faxed to (804)786-0111.

A party may make more than one type of request for review. All requests for review must be made in writing, and received by the administrative reviewer, within **15 calendar** days of the **date of the original hearing decision.** (Note: the 15-day period, in which the appeal must occur, begins with the date of **issuance** of the decision, **not receipt** of the decision. However, the date the decision is rendered does not count as one of the 15 days; the day following the issuance of the decision is the first of the 15 days). A copy of each appeal must be provided to the other party.

A hearing officer's original decision becomes a **final hearing decision**, with no further possibility of an administrative review, when:

1. The 15 calendar day period for filing requests for administrative review has expired and neither party has filed such a request; or,
2. All timely requests for administrative review have been decided and, if ordered by EDR or DHRM, the hearing officer has issued a revised decision.

<u>Judicial Review of Final Hearing Decision</u>: Within thirty days of a final decision, a party may appeal on the grounds that the determination is contradictory to law by filing a notice of appeal with the clerk of the circuit court in the jurisdiction in which the grievance arose. The agency shall request and receive prior approval of the Director before filing a notice of appeal.

I hereby certify that a copy of this decision was sent to the parties and their advocates by certified mail, return receipt requested.

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Cecil H. Creasey, Jr.
Hearing Officer

COMMONWEALTH of VIRGINIA

Department of Employment Dispute Resolution

DIVISION OF HEARINGS

RECONSIDERATION
DECISION OF HEARING OFFICER

In the matter of: Case No. 8886

Decision Issued: September 9, 2008

APPLICABLE LAW

A hearing officer's original decision is subject to administrative review. A request for review must be made in writing, and received by the administrative reviewer, within 15 calendar days of the date of the original hearing decision. A request to reconsider a decision is made to the hearing officer. A copy of all requests must be provided to the other party and to the EDR Director. This request must state the basis for such request; generally, newly discovered evidence or evidence of incorrect legal conclusions is the basis for such a request.[1]

OPINION

The grievant requested reconsideration of the August 5, 2008, decision. The grievant asserts receipt of new evidence that contradicts agency witnesses that the facility was not short staffed on the date in question.

In addition, the grievant contends that the hearing officer's decision of August 5, 2008 reflected incorrect legal conclusions, and the grievant requests reopening the hearing. The grievant also raises an allegation that the hearing officer considers one of racial discrimination. As part of that argument, the grievant contends that his race and gender was noted on the investigator's summary, but that nowhere else in the investigation summary is there any reference to the race/ethnicity or gender of anyone else involved in the investigation of the incident on February 15, 2008. The grievant also notes that his supervisor is white as well as the client in question, RM.

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[1] § 7.2 Department of Employment Dispute Resolution (EDR) Grievance Procedure Manual, effective August 30, 2004.

The grievant notes that his witness, a registered nurse, referred to the system as fractured, and that the agency is operating short staffed. The grievant asserts that this situation needs serious investigation to determine whether the facility is circumventing its responsibility to stay in compliance with state guidelines regarding prohibition against mandatory overtime.

The grievant seeks reconsideration of the evidentiary ruling sustaining the agency's objection to questioning of other clients who had refrigerators in their rooms. This evidentiary ruling, according to the grievant, prevented him from showing a relevant factor of favoritism toward the affected client, on the part of the grievant's supervisor. The grievant asserts that there is new, additional information regarding the character of how his supervisor has engaged the client and whether her behavior and actions are consistent with agency and state policy and in the overall best interest of the facility carrying out its mission.

The grievant asserts that the hearing officer did not give due consideration to his exhibits or his witnesses. Additionally, the grievant points out that the Standards of Conduct and Client Abuse, beginning on page 45, presented alternative disciplinary options, which were available to the agency, given the at the time applicable version of standards of conduct. Specifically, the grievant points out the offense of leaving the worksite without permission and, in addition, referenced in the same document on page 22, Discipline without Punishment, which is characterized "Where performance is noted to be deteriorating, supervisors may call upon employees to develop an action plan to correct the behaviors or performance. This activity is called discipline without punishment, or progressive discipline as outlined in the Standards of Conduct section of this handbook…"

The grievant contends the agency did not meet the burden of proof that he, by a preponderance of the (totality) of evidence presented at the hearing, was guilty of conduct warranting as stated on the written notice a "Group III-Neglect of an Individual.-Staff person left an individual living in C33 unattended, who was assigned with a one individual to one staff ratio (1:1)." The grievant asserts that he has been consistent from the day of the incident (2/15/08) to the hearing August 1, 2008 in all written and verbal response that he was assigned on close observation with client, RM, that day, and not 1:1. The distinction, as asserted by the grievant, is crucial, particularly with regard to this particular client.

The grievant has recently submitted additional documentation, received September 2, 2008, in furtherance of his request to submit additional information and/or to reopen the hearing.

To establish that evidence is "newly discovered," the moving party must show (1) the evidence was first discovered after the hearing; (2) due diligence on the moving party's part to discover the new evidence had been exercised; (3) the evidence is not merely cumulative or impeaching; (4) the evidence is material; and (5) the evidence is such that is likely to produce a new outcome if the case were reheard, or is such that would require the hearing decision to be amended. *See Boryan v. United States*, 884 F.2d 767, 771 (4th Cir. 1989) (citing *Taylor v. Texgas Corp.*, 831 F. 2d 255, 259 (11th Cir. 1987)). *See also* EDR Ruling No. 2007-1490 which adopted the *Texgas* standard.

The grievant has not borne his burden to show "newly discovered" evidence; thus, I am without the discretion to consider new information or to reopen the hearing.

The grievant points to the distinctions between care for close observation and 1:1. The grievant asserts that the testimony of his co-worker corroborated that RM was a "close observation" assignment and not 1:1. However, the grievant concedes that his co-worker, to whom he assigned his responsibilities for RM, was assigned a 1:1, making her ineligible to take on the grievant's assignment, even if only for a few moments.

The grievant also argues that he was "pulling a double shift that day," and that it was impermissible to force him to work without a lunch break. However, there is no evidence that the grievant was forced to work without a break—the evidence is that he did not even ask for an eligible staff member to cover for his break.

The hearing officer recognized the potential discrepancy of the nature of the assignment (whether it was close observation or 1:1), and concluded that the grievant violated the zero tolerance policy even under a close observation assignment.

The grievant offered no extenuating circumstances that would mitigate his leaving the campus for even 10-12 minutes while not obtaining an eligible staff member to cover his duties for RM. While short staffing and unavailability of coverage might proved to be a mitigating factor for such an offense, here, the grievant did not even try to obtain or confirm the availability of eligible coverage staff for his lunch trip. Assuming the grievant could show a history of severe staff shortages at the agency, that scenario would not excuse the grievant unless work conditions at the time of the offense presented extenuating circumstances that caused the neglect in question. Further, the grievant assuming that the QMRP for the cottage was present and available to provide coverage for the grievant is not an adequate excuse.

Upon consideration of the merits of the grievance, and the points raised by the grievant's reconsideration request, I reiterate my initial decision on this matter. My initial decision considered the scenario of the grievant's assignment being "close observation" rather than 1:1, and the finding of neglect is the same for the grievant leaving the premises and obtaining staff coverage from an ineligible co-worker (one who indisputably was assigned a 1:1 client and not available to cover any other assignments). An employee assigned for close observation must obtain a reliever when going on a break. The points raised by the grievant do not affect the conclusion that he willingly left his assignment and left the campus, leaving his client under the care of a co-worker who was, under applicable policy, ineligible to cover for the grievant's client. The grievant did not make any other attempt for relief to leave his assignment, however briefly. The claimant was not presented with an emergency or extenuating circumstances that caused him to so act. The grievant even admits his error of judgment.

I find that the evidence presented by the grievant did not rebut or negate the agency's discipline. The evidence presented by the grievant did not show that the agency's actions were discriminatory or retaliatory. Could the agency, in light of the zero tolerance policy, have rendered less severe discipline? Yes. Must the agency do so? No. Would the hearing officer have reached a different result? Perhaps, but, as the grievant has accepted, the hearing is not to

act as a "super-personnel officer" who can substitute his judgment when the agency has acted within the bounds of reasonableness. The zero tolerance policy gives the agency the basis for termination, and such discipline does not exceed the limits of reasonableness.

DECISION

The grievant has not established an incorrect legal conclusion. The hearing officer has carefully considered the grievant's arguments and concludes that there is no basis to change the Decision issued on August 5, 2008.

APPEAL RIGHTS

A hearing officer's original decision becomes a final hearing decision, with no further possibility of an administrative review, when:

1. The 15 calendar day period for filing requests for administrative review has expired and neither party has filed such a request; or,

2. All timely requests for administrative review have been decided and, if ordered by EDR or HRM, the hearing officer has issued a revised decision.

JUDICIAL REVIEW OF FINAL HEARING DECISION

Within thirty days of a final decision, a party may appeal on the grounds that the determination is contradictory to law by filing a notice of appeal with the clerk of the circuit court in the jurisdiction in which the grievance arose.[2]

I hereby certify that a copy of this decision was sent to the parties and their advocates by certified mail, return receipt requested.

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Cecil H. Creasey, Jr.
Hearing Officer

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[2] 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*, 39 Va. App. 439, 573 S.E.2d 319 (2002).

October 24, 2008

RE: **Case No. 8540**

Dear

The Agency head, Ms. Sara Wilson, has asked that I respond to your request for an administrative review of the hearing officer's decision in the above referenced case. Please note that, pursuant to Section 7.2(a) of the Grievance Procedure Manual, a hearing officer's decision is subject to three types of review:

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 (DHRM) to review the decision. You must refer to 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.

In your request for an administrative review, you indicated that you were appealing the hearing decision on the basis that it is inconsistent with state or agency policy. However, in your appeal you did not identify any human resource management policy, either state or agency, with which the hearing officer's decision is inconsistent or violates. Rather, it appears that the issues you raised are related to how the hearing officer assessed the evidence and how much weight he placed on that evidence. The authority of

DHRM is restricted to reviewing issues related to the application and interpretation of policy. Absent any identified, specific policy violation committed by the hearing officer in making his decision, this Agency has no basis to interfere with the application of this decision.

If you have any questions regarding this correspondence, please contact me at (804) 225-2136 or 1 (800) 533-1414.

Sincerely,

Ernest G. Spratley,
Assistant Director,
Office of Equal Employment Services