Issues: Group I Written Notice (failure to follow instructions, falsifying records, abuse of State time, unsatisfactory performance), and Retaliation; Hearing Date: 11/20/08; Decision Issued: 04/15/09; Agency: ABC; AHO: Carl Wilson Schmidt, Esq.; Case No. 8955; Outcome: No Relief – Agency Upheld in Full; **Administrative Review: AHO Reconsideration Request received 04/30/09; Reconsideration Decision issued 05/15/09; Outcome: Original decision affirmed; Administrative Review: EDR Ruling Request received 05/01/09 and 05/07/09; Outcome pending; Administrative Review: DHRM Ruling Request received 04/30/09; Outcome pending.**

COMMONWEALTH of VIRGINIA

Department of Employment Dispute Resolution

DIVISION OF HEARINGS

DECISION OF HEARING OFFICER

In re:

Case Number: 8955

Hearing Date: November 20, 2008
Decision Issued: April 15, 2009

PROCEDURAL HISTORY

On June 11, 2008, Grievant was issued a Group I Written Notice of disciplinary action for failure to follow supervisor's instructions, falsifying State reports, abuse of State time, and unsatisfactory performance.[1]

On July 10, 2008, 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 October 2, 2008, the Department of Employment Dispute Resolution assigned this appeal to the Hearing Officer. On November 20, 2008, a hearing was held at the Agency's regional office.

APPEARANCES

Grievant
Grievant's Counsel
Agency Party Designee
Agency Advocate
Witnesses

[1] The Written Notice given to Grievant shows it was issued on May 2, 2008. The correct date is June 11, 2008.

ISSUES

1. Whether Grievant engaged in the behavior described in the Written Notice?

2. Whether the behavior constituted misconduct?

3. Whether the Agency's discipline was consistent with law (e.g., free of unlawful discrimination) and policy (e.g., properly characterized as a Group I, II, or III offense)?

4. Whether there were mitigating circumstances justifying a reduction or removal of the disciplinary action, and if so, whether aggravating circumstances existed that would overcome the mitigating circumstances?

BURDEN OF PROOF

The burden of proof is on the Agency to show by a preponderance of the evidence that its disciplinary action against the Grievant was warranted and appropriate under the circumstances. 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:

The Department of Alcoholic Beverage Control employs Grievant as a Law Enforcement Manager I. The purpose of his position is:

> This position is assigned to the Bureau of Law Enforcement and is responsible for executing the Agency's law enforcement mission in one of eight large geographic regions of the Commonwealth. The Regional Assistant Special Agent In Charge (ASAC) supervise Special Agent, plan and manage the Agency, and Bureau of Law Enforcement programs for assigned region, or if one or more than one ASAC is assigned, specific territories within the region. The ASACs have discretionary power to ensure the efficient and effective use of assigned resources, and accomplished regional and territory goals and objectives, and prioritize work and deploy resources in order to meet established Agency and Bureau goals and objectives. ASACs serve as the Agency and Bureau liaison with Federal State, and Local Officials, and other law enforcement agencies, and collaborate with such official and other Bureau SACs and ASACs when investigations cross regional boundaries or require sharing

resources. ASACs direct regional operations in the absence of the regional SAC.[2]

Grievant has been employed by the Agency since 1979. With the exception of the facts giving rise to this grievance, Grievant's work performance was satisfactory to the Agency. No evidence of prior active disciplinary action against Grievant was introduced during the hearing.

During Grievant's career, he earned in excess of 1800 hours of sick leave as of 2004. In addition, he accumulated a sufficiently large balance of annual leave such that he exceeded the maximum amount of annual leave he could carry over from year to year. The effect was he was not paid for that annual leave.

In 1999, State employees were given the option of participating in the Virginia Sickness and Disability Program (DHRM Policy 4.57) or remaining under the Traditional Sick Leave Policy (DHRM Policy 4.55). Grievant chose to remain under the Traditional Sick Leave Policy which permitted employees to accumulate their sick leave earned but not used. Unlike annual leave, there is no limit to the amount of sick leave an employee can accrue (carry over from year to year) under the Traditional Sick Leave Policy. An employee under the Traditional Sick Leave Policy who remains healthy for the most part would accumulate large sick leave balances once the employee reaches retirement. When the employee (with five or more years of continuous State work experience) retires, the employee would receive a cash payment equaling 25% of the sick leave accrual balance. The payment is capped at $5,000.

On June 15, 2005, Grievant filed a charge of discrimination against the Agency with the Virginia Council on Human Rights and the Equal Employment Opportunity Commission. The EEOC returned a probable cause finding on September 30, 2006 regarding Grievant's claim of discrimination. On June 1, 2007, the EEOC issued a Notice of Right to Sue. Grievant filed suit against the Agency in the United States District Court on August 15, 2007. In preparation to defend against this litigation, the Assistant Attorney General asked the HR Director to review Grievant's personnel file. As the HR Director looked through Grievant's personnel file, she found a letter dated April 26, 2005 from the Deputy Director regarding Grievant's use of leave. She reviewed Grievant's leave records and observed a pattern of significant leave usage by Grievant during the time period from September 2004 through May 2006. The HR Director and the Chief Operating Officer asked the Internal Audit staff to conduct an investigation of Grievant's leave usage and to report his findings and conclusions.

From September 1, 2004 through May 31, 2006, Grievant was attending graduate classes at a University located in another state. On Tuesdays, Grievant would attend classes at a location next to the State of Virginia.[3] On Fridays, Grievant would

[2] Agency Exhibit 5.

[3] Grievant travelled for approximately three hours to reach his destination on Tuesdays.

travel from Virginia through other states and attend classes at the University's campus in that state on Saturdays.[4] Grievant did not miss any of his classes. Grievant was being reimbursed by the Agency for the cost of these classes.

There were approximately 456 workdays between September 1, 2004 and May 31, 2006. Out of the approximately 91 Tuesdays during this time frame, Grievant took sick leave on 27 days. Out of the approximately 91 Fridays during this time frame, Grievant took sick leave on 30 days. Grievant submitted leave request forms asking for sick leave. His Supervisor approved the sick leave. For many of these days, Grievant was not actually sick. He was taking sick leave to accommodate his travel to attend classes. Grievant was trying to reduce the level of his accumulated sick leave balance because he was approaching retirement and expected to have excess sick leave for which he would not be compensated. Grievant was acting in accordance with the practice of his Unit. Many employees in the Unit who were approaching retirement would begin claiming sick leave even though they were not sick. Grievant's Supervisor was also aware of the practice and as a result did not question Grievant regarding his pattern of submitting request for sick leave on Tuesdays and Fridays.

When Agency staff questioned Grievant about his sick leave usage, he indicated he was taking sick leave in contemplation of retirement.[5] He was trying to reduce his sick leave cumulative balance because he would be compensated for only a portion of his sick leave when he left the Agency. Grievant asserted that he was doing what was common practice in his Unit and the Agency.

On April 26, 2005, the Deputy Director sent a Grievant a memorandum stating:

> Please let this serve as approval for you to use 4 hours of leave as educational leave each week. After discussion with Human Resources, it appears that the leave will have to be charged to your annual leave balance. This approval expires April 30, 2006.
>
> I hope this aids in your educational pursuits and please do not hesitate to contact me if you have any questions.[6]

Grievant completed the academic requirements for the Master of Human Services degree in the spring of 2006 and was conferred the degree on May 7, 2006.

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[4] Grievant travelled for approximately six hours to reach his destination on Fridays.

[5] Grievant's definition of "approaching retirement" was different from that of his coworkers. Other employees considered approaching retirement to mean within months of retirement. Grievant constructed the practice to be within years of retirement.

[6] Agency Exhibit 3.

CONCLUSIONS OF POLICY

Unacceptable behavior is divided into three types of offenses, according to their severity. Group I offenses "include types of behavior least severe in nature but which require correction in the interest of maintaining a productive and well-managed work force."[7] Group II offenses "include acts and behavior which are more severe in nature and are such that an additional Group II offense should normally warrant removal." Group III offenses "include acts and behavior of such a serious nature that a first occurrence should normally warrant removal."

DHRM Policy 4.55, Traditional Sick Leave, states that sick leave hours are available for three major purposes – Personal, Family, and Family & Medical Leave. With respect to Personal:

> Employees shall be allowed to use their accrued sick leave to take paid time off from work for the following reasons:
>
> - medical necessity during the employee's temporary incapacity due to illness or injury, including incapacity related to pregnancy or childbirth;
> - infection with more exposure to a contagious disease such that his or her presence on the job might jeopardize the health of others; and
> - the employee's medical appointments that cannot reasonably be scheduled during non-work hours.

The Agency contends Grievant falsified his leave records. "Falsifying any records, including, but not limited to, vouchers, reports, insurance claims, time records, leave records, or other official state documents" constitutes a Group III offense. DHRM § 1.60(V)(B)(3)(b).[8]

"Falsifying" is not defined by DHRM § 1.60(V)(B)(3)(b), but the Hearing Officer interprets this provision to require proof of an intent to falsify by the employee in order for the falsification to rise to the level justifying termination. This interpretation is less rigorous but is consistent with the definition of "Falsify" found in Blacks Law Dictionary (6th Edition) as follows:

[7] The Department of Human Resource Management ("DHRM") has issued its *Policies and Procedures Manual* setting forth Standards of Conduct for State employees.

[8] The Hearing Officer construes this language to include the circumstances where an employee creates a false document and then submits it to an agency where that document becomes a record of the agency.

> Falsify. To counterfeit or forge; to make something false; to give a false appearance to anything. To make false by mutilation, alteration, or addition; to tamper with, as to falsify a record or document. ***

The Hearing Officer's interpretation is also consistent with the New Webster's Dictionary and Thesaurus which defines "falsify" as:

> to alter with intent to defraud, *to falsify accounts* || to misrepresent, *to falsify an issue* || to pervert, *to falsify the course of justice.*

Grievant falsified leave documents[9] because he submitted to the Agency requests for paid sick leave when he was not actually sick and there was no other basis to claim sick leave. Grievant did not realize that he was falsifying time records. He believed that because he was contemplating retirement, the Agency's practice was to permit him to "burn sick leave". His belief was confirmed by the inaction of his Supervisor. The pattern of sick leave claimed by Grievant was such that any reasonably attentive supervisor would have questioned Grievant's requests. The Supervisor's continuing approval of Grievant's request for sick leave shows his acquiescence to Grievant's falsification of time records. The Supervisor's failure to correct Grievant's misuse of sick leave, confirmed Grievant's mistaken perception that his actions were consistent with the Agency's practice. Although Grievant did not have an actual intent to falsify his time records, he should have known that his actions amounted to falsification. Grievant had been employed by the Agency for many years and should have been aware of DHRM policies governing the use of leave. He should have been aware that DHRM policies would not permit a healthy employee to be paid while absent from work by using sick leave. Grievant inquired regarding whether he could take "educational leave" to attend his University. In 2005, the Deputy Director told Grievant he should use annual leave. Grievant knew he should have taken annual leave yet he chose to take sick leave. The standard to establish falsification under DHRM Policy 1.60 is not merely that an employee knew his actions were a falsification of time records. The standard is "knew or should have known" that his actions amounted to a falsification of time records. In this case, the Agency has established that Grievant should have known that using sick leave when he was not sick was a falsification of time records.

The Agency contends Grievant failed to follow a supervisor's instruction. On April 26, 2005, the Deputy Director, a supervisor, instructed Grievant that **"**the leave will have to be charged to your annual leave balance." By allocating his travel time to sick leave instead of annual leave, Grievant acted contrary to a supervisor's instruction.

The Agency contends Grievant abused State time. An abuse of State time refers to circumstances in which an employee is supposed to be working on behalf of the Agency but is not doing so. It does not refer to situations where an employee is

[9] An employee's leave requests are official State documents.

authorized by his supervisor to take leave but misstates the reason for the leave. The Agency has not established that Grievant abused State time.

Although not specifically identified in the Written Notice, Grievant abused leave. DHRM Policy number 4.55, Traditional Sick Leave defines "Abuse of Leave" as:

> A misrepresentation of the reason for requesting sick leave. It is an abuse of sick leave to claim qualifying reasons for an absence when such reasons do not exist.

Grievant abused leave because he claimed to qualify for sick leave when he was not actually sick.

The Agency contends Grievant's job performance was unsatisfactory. "Inadequate or unsatisfactory work performance" is a Group I offense. In order to prove inadequate or unsatisfactory work performance, the Agency must establish that Grievant was responsible for performing certain duties and that Grievant failed to perform those duties. This is not a difficult standard to meet.

One of Grievant's job duties was to properly complete leave and attendance records. Grievant failed to do so. His actions were unsatisfactory to the Agency. Within the context of this case, Grievant's inadequate job performance has been considered as part of his falsification of documents and failure to follow a supervisor's instructions and failure to follow State policy.

The Agency has presented sufficient evidence to support the issuance of group offenses higher than a Group I offense. The Agency considered mitigating factors and reduced the disciplinary action to a Group I Written Notice. The Agency's issuance of a Group I Written Notice to Grievant must be upheld.

Va. Code § 2.2-3005.1 authorizes Hearing Officers to order appropriate remedies including "mitigation or reduction of the agency disciplinary action." Mitigation must be "in accordance with rules established by the Department of Employment Dispute Resolution…."[10] 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. In light of this standard, the Hearing

[10] *Va. Code § 2.2-3005.*

Officer finds no mitigating circumstances exist to reduce the disciplinary action below a Group I Written Notice.

An Agency may not retaliate against its employees. To establish retaliation, Grievant must show he or she (1) engaged in a protected activity;[11] (2) suffered a materially adverse action[12]; and (3) a causal link exists between the adverse action and the protected activity; in other words, management took an adverse action because the employee had engaged in the protected activity. If the agency presents a nonretaliatory business reason for the adverse action, retaliation is not established unless the Grievant's evidence shows by a preponderance of the evidence that the Agency's stated reason was a mere pretext or excuse for retaliation. Evidence establishing a causal connection and inferences drawn therefrom may be considered on the issue of whether the Agency's explanation was pretextual.[13]

Grievant engaged in a protected activity when he filed a claim of discrimination against the Agency in 2005 and filed a civil action in Federal Court. Simply because the Agency discovered Grievant's misuse of sick leave does not establish that the Agency retaliated against Grievant. It was appropriate for the Agency to investigate and discipline Grievant because it believed that Grievant had engaged in behavior contrary to the Standards of Conduct. The Agency's investigation also appears to have been motivated to determine the truth of Grievant's assertion that many Agency employees were misusing sick leave. Grievant suffered a materially adverse action because he received disciplinary action. Grievant has not established a causal link between his protected activity and the materially adverse action. Coincidence is not causation. Although the Agency discovered the basis for disciplinary action as part of its defense to Grievant's legal challenge, it did not take disciplinary action against Grievant in order to punish him for bringing action against the Agency. The Agency took the disciplinary action against Grievant because it believed Grievant had engaged in behavior contrary to the Standards of Conduct. Grievant has not established that the Agency's stated reason for taking disciplinary action was a pretext or excuse for retaliation.[14]

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[11] *See* Va. Code § 2.2-3004(A)(v) and (vi). The following activities are protected activities under the grievance procedure: participating in the grievance process, complying with any law or reporting a violation of such law to a governmental authority, seeking to change any law before the Congress or the General Assembly, reporting an incidence of fraud, abuse or gross mismanagement, or exercising any right otherwise protected by law.

[12] On July 19, 2006, in Ruling Nos., 2005-1064, 2006-1169, and 2006-1283, the EDR Director adopted the "materially adverse" standard for qualification decisions based on retaliation. A materially adverse action is, an action which well might have dissuaded a reasonable worker from engaging in a protected activity.

[13] This framework is established by the EDR Director. See, EDR Ruling No. 2007-1530, Page 5, (Feb. 2, 2007) and EDR Ruling No. 2007-1561 and 1587, Page 5, (June 25, 2007).

[14] The Agency's concern that Grievant and its employees may be violating State leave policies was demonstrated by its investigation into the perception among employees regarding when to use sick leave.

Grievant seeks an adverse inference that the Agency's refusal to produce certain documents shows that the Agency's discipline is unjustified, retaliatory, and unlawful. When a party fails to produce documents whose production was ordered by the Hearing Officer, the Hearing Officer may draw an adverse inference regarding what the documents would have revealed. Grievant is asking the Hearing Officer to grant an adverse inference regarding the outcome of the case. Such an inference is not appropriate. The appropriate inference is regarding what information would have been discovered had the documents been produced. That evidentiary inference is one of the many factors that the Hearing Officer must consider in order to determine the outcome of the case.

Grievant contends that the Agency's failure to produce documents used as comparators shows its discipline was unjustified, retaliatory, and unlawful. Grievant alleged that the Agency treated him differently from other employees by requiring Grievant to use annual leave. The Agency failed to produce documents regarding how other employees accounted for their absences from work while seeking higher education. If the Hearing Officer assumes for the sake of argument that the Agency treated Grievant differently from other employees by requiring Grievant to use annual leave to attend his University, the outcome of this case would not be affected. Grievant's opportunity to challenge the Agency's denial of his request for leave was in 2005. Falsely claiming sick leave would not be the appropriate response to a perceived misapplication of policy occurring in 2005. If the Agency had produced the leave records of other employees and Grievant had been able to show that he was treated differently from those other employees, it would not change the fact that Grievant presented documents to the Agency claiming he was sick when was not actually ill. Grievant's protected activity began on June 15, 2005 which was after the Deputy Director's April 26, 2005 letter saying that Grievant should use annual leave to travel to his classes.

DECISION

For the reasons stated herein, the Agency's issuance to the Grievant of a Group I Written Notice of disciplinary action is **upheld**.

APPEAL RIGHTS

You may file an administrative review request within **15 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. Please address your request to:

   Director
   Department of Human Resource Management
   101 North 14th St., 12th Floor
   Richmond, VA 23219

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. Please address your request to:

   Director
   Department of Employment Dispute Resolution
   600 East Main St. STE 301
   Richmond, VA 23219

You may request more than one type of review. Your request must be in writing and must be **received** by the reviewer within 15 calendar days of the date the decision was issued. You must give a copy of all of your appeals to the other party and to the EDR Director. The hearing officer's **decision becomes final** when the 15-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. 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.[15]

[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].

S/Carl Wilson Schmidt

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Carl Wilson Schmidt, Esq.
Hearing Officer

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

COMMONWEALTH of VIRGINIA

Department of Employment Dispute Resolution

DIVISION OF HEARINGS

DECISION OF HEARING OFFICER

In re:

Case No: 8955-R

Reconsideration Decision Issued: May 15, 2009

RECONSIDERATION DECISION

Grievance Procedure Manual § 7.2 authorizes the Hearing Officer to reconsider or reopen a hearing. "[G]enerally, newly discovered evidence or evidence of incorrect legal conclusions is the basis …" to grant the request.

Newly discovered evidence is evidence that was in existence at the time of the hearing, but was not known (or discovered) by the aggrieved party until after the hearing ended. However, the fact that a party discovered the evidence after the hearing does not necessarily make it "newly discovered." Rather, the party must show that:

> (1) the evidence is newly discovered since the date of the Hearing Decision; (2) due diligence on the part of the party seeking reconsideration to discover the new evidence has 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 retried, or is such that would require the Hearing Decision to be amended.

Grievant had been provided with adequate notice by the Agency that he was expected to claim sick leave only when he was actually sick. This notice was provided to him through established written DHRM policy. Notice was provided to Grievant during his orientation process. Grievant had knowledge of the policy because on many occasions throughout his career he had been sick and taken sick leave to account for his absences from work due to illness. At some point, Grievant began to believe that he could take sick leave in order to avoid not being paid for that leave when he retired. He did not learn this from DHRM. He did not learn this from his Agency's human resource staff. He leaned this from rumor and speculation among some of his co-workers.

Instead of relying on speculation of his co-workers, Grievant should have relied on DHRM written policy or his Agency's human resource staff. Grievant is at fault for assuming his peers were correctly informing him of the sick leave policy applicable to him. Because Grievant is at fault for not knowing the sick leave policy, Grievant should have known that taking sick leave to travel to his educational classes was not appropriate. The fact that Grievant should have known it was improper to take sick leave when he was not actually sick is sufficient to establish falsification of a document under DHRM Policy 1.60.

Grievant contends the Hearing Officer incorrectly concluded that Grievant abused State leave. Abuse of sick leave does not require specific intent to abuse State leave. When Grievant claimed sick leave, he represented he was sick and entitled to take sick leave. His representation was false. It does not matter whether Grievant knew his misrepresentation was false.[16] Grievant misrepresented his reason for taking sick leave, which is the definition of an abuse of leave.

Grievant contends the Hearing Officer incorrectly concluded his work performance was inadequate. Part of an employee's work duties consists of complying with State and Agency policies. When an employee disregards an established written DHRM policy, that employee's work performance is inadequate or unsatisfactory. Grievant ignored established written policy and, thus, the Agency presented sufficient evidence to support the issuance of a Group I for inadequate or unsatisfactory job performance.

Grievant objects to the Hearing Officer's conclusion that Grievant failed to comply with a supervisor's instruction. The Supervisor plainly stated to Grievant that his leave would have to be charged to annual leave. Grievant charged his absences to sick leave and thus violated the Supervisor's instruction.

Grievant disputes the credibility of the Agency's reason for reviewing his leave records. Based on the testimony presented, the Agency examined Grievant's leave records in response to a request for its attorney asking for Grievant's personnel file. The Agency's witnesses were credible regarding why and how Grievant's leave records were reviewed.

As stated in the original Hearing Decision, there exists no reason to draw an adverse inference against the Agency in this case.

The Hearing Officer's conclusions of policy were interpretation of State policies and not of statutes, regulations, or case law. The Hearing Officer did not interpret law. Grievant has not identified any incorrect legal conclusion by the Hearing Officer. Grievant has not identified any newly discovered evidence. For these reasons, the request for reconsideration is **denied.**

[16] Such knowledge may be of significance with respect to mitigation but not with respect to the Agency's case in chief.

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 DHRM, 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. The agency shall request and receive prior approval of the Director before filing a notice of appeal.

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Carl Wilson Schmidt, Esq.
Hearing Officer