

Issue: Group III Written Notice with Termination (falsifying records); Hearing Date: 08/31/12; Decision Issued: 09/07/12; Agency: DJJ; AHO: Frank G. Aschmann, Esq.; Case No. 9888; Outcome: No Relief – Agency Upheld; **Administrative Review:** EDR Ruling Request received 09/21/12; EDR Ruling No. 2013-3443 issued 10/22/12; Outcome: Remanded to AHO; Remand Decision issued 10/23/12; Outcome: Original decision affirmed; **Administrative Review:** EDR Ruling Request on 10/23/12 Remand Decision received 11/07/12; EDR Ruling No. 2013-3475 issued 11/29/12; Outcome: Remanded to AHO again; 2<sup>nd</sup> Remand Decision issued 01/31/13; Outcome: Original decision affirmed; **Administrative Review:** EDR Ruling Request on 01/31/13 Remand Decision received 02/14/13; EDR Ruling No. 2013-3540 issued 03/12/13; Outcome: AHO's decision affirmed; **Administrative Review:** DHRM Ruling Request on Original Hearing Decision received 09/21/12; DHRM Ruling Request on 10/23/12 Remand Decision received 11/07/12; DHRM Ruling issued on 02/15/13; Outcome: AHO's decision affirmed.

**COMMONWEALTH OF VIRGINIA**  
**OFFICE OF EMPLOYMENT DISPUTE RESOLUTION**  
**DEPARTMENT OF HUMAN RESOURCE MANAGEMENT**  
**DIVISION OF HEARINGS**

**DECISION OF HEARING OFFICER**

In the matter of: Case No. 9888

Hearing Date: August 31, 2012  
Decision Issued: September 7, 2012

**PROCEDURAL ISSUE**

No procedural issues raised.

**APPEARANCES**

Grievant  
Agency Presenter  
Agency Representative  
Two Witnesses

**ISSUE**

Did the Grievant violate agency policy by falsifying a state document such as to warrant the issuance of a Group III Written Notice with employment termination?

**FINDINGS OF FACT**

The Grievant was employed by the Agency as a probation officer. The Grievant transferred from [location A] to [location B]. The Grievant was assigned a case and appeared in court for a hearing. The Judge in the case issued an order from the bench which was then memorialized in a written order. The written order from the court was received by the Grievant. The Grievant wrote additional language on the Agency's copy of the order. This language imposed a condition of probation that if the defendant did not test negative for marijuana within seven days the defendant was to be brought back before the court. This is what the Grievant recalled the judge ordering even though it was not on the written order.

The modified order was placed in the Agency file for the case. The defendant did not test negative within seven days and the Grievant went to her supervisor and requested a detention order for the defendant. The Grievant requested the detention order be issued immediately because the defendant was present in the courthouse having just taken a drug screen. This was not the usual procedure for issuing a detention request. However, the supervisor authorized the detention request because the Grievant said it was the court's order and there was a pending larceny charge also.

The Grievant took the detention request to the clerk of the court and requested the case be placed on the docket for that day. The clerk was reluctant to add the case to the docket as it was against policy to add cases at the last minute to the court's docket. The matter was raised with the judge who declined to make any changes to the written order and directed that the matter be brought in the regular course. The defendant was subsequently detained in a hearing the next day. The case was then later dismissed and the defendant released at the request of the Commonwealth Attorney when it was found the detention request was authorized by the Grievant's supervisor based, in part, upon the language the grievant added to the order. The pending larceny charge was not in the [location B] jurisdiction and appeared to be a "diversion" case in the charging jurisdiction; a basis, which the supervisor would not have used to authorize a detention request. The defendant's underlying charge alone did not warrant detention and thus the Agency faced the possibility of an illegal detention and the according liability to the family and loss of integrity with the public.

The Grievant's supervisor reviewed the matter and pulled the Agency file copy of the order and compared it to the original order in the court's file. The addition was noticed and the supervisor questioned the Grievant about the difference in the order. The Grievant was specifically asked if the court clerk added the language to the order to which the Grievant gave an affirmative response. The Grievant subsequently stated that she had not been paying attention when first questioned about the order and had, in fact, made the changes to reflect what she thought the judge had said. The Grievant said it was standard procedure to add the oral orders of the court to written orders in [location A]. The Grievant's supervisor reported the matter to her supervisor for review. The Grievant's second line supervisor approved the Agency's action in this matter.

The Agency personnel did not believe the Grievant had been honest with them during this incident and felt her work could no longer be trusted. The Grievant's second line supervisor offered the grievant the opportunity to try and transfer back to [location A]. A transfer never materialized. The Group III Written notice was issued for falsifying state documents and the employment of the Grievant terminated.

#### APPLICABLE LAW AND OPINION

The General assembly enacted the Virginia Personnel Act, Code of Virginia §2.2-2900 et seq., establishing the procedures and policies applicable to employment with 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 (1989).

Code of Virginia §2.2-3000 et seq. sets forth the Commonwealth's grievance procedure.

State employees are covered by this procedure unless otherwise exempt. Code of Virginia §2.2-3001A. In disciplinary actions, the Agency must show by a preponderance of the evidence that the disciplinary action was warranted and appropriate under the circumstances. Department of Employment Dispute Resolution Grievance Procedure Manual, §5.8 (2).

To establish procedures on Standards of Conduct and Performance for employees of the Commonwealth of Virginia and pursuant to Code of Virginia §2.2-1201, the Department of Human Resource Management promulgated Standards of Conduct Policy number 1.60. 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 of Conduct 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. The Agency uses these policies for its Standards of Conduct.

The Standards of Conduct define a Group I violation as offenses which have a relatively minor impact on agency business operations but still require management intervention and includes unsatisfactory performance as an example. The Standards of Conduct define a Group II violation as acts of misconduct of a more serious nature that significantly impact agency operations. An employee failing to follow a supervisor's instructions or comply with written policy are examples of Group II offenses. The Standards of Conduct define a Group III violation as acts of misconduct of a most serious nature that severely impact agency operations. Falsification of records is an example of a Group III offense.

The Grievant modified the Agency's copy of the court order. The Grievant never got approval for the alteration she made to the order and ultimately the change was not endorsed by the court overseeing the matter. The Grievant's action created a record within the Agency which was not accurate and may have been relied upon by Agency personnel. The Grievant's action had a material effect on the Agency as a probation violation case was processed and dismissed as a result of the Grievant's action, and further, the integrity of the Agency may have been put in question as these actions directly impacted the public.

The Grievant argues that her actions were not so egregious as to warrant termination because she was allowed to continue performing her duties and offered the opportunity to try and transfer back to [location A]. The Grievant's argument is not persuasive. It is clear the Agency supervisors held no malice towards the Grievant and were not opposed to her leaving the [location B] office to return to [location A] if the Grievant could arrange it. It is equally clear the Agency had already decided it could not trust the Grievant and she would be separated from the [location B] office. When the transfer could not be arranged the Grievant was terminated from employment. Any delay in taking the disciplinary action by the Agency was intended for the benefit of the Grievant and was not unreasonable under the circumstances. Giving the Grievant an opportunity to try to transfer does not demonstrate that the Agency imposed a harsher sanction than was warranted.

The Grievant created a false record in the Agency and was not completely honest about what had occurred. This was a serious breach of the Grievant's duty which severely impacted the

operations of the Agency and warranted termination under the Standards of Conduct.

### DECISION AND ORDER

The disciplinary action of the Agency is affirmed.

### 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 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 14<sup>th</sup> St., 12<sup>th</sup> Floor  
Richmond, VA 23219

or, send by fax to (804) 371-7401, or email.

2. If you believe that the hearing decision does not comply with the grievance procedure or if you have new evidence that could not have been discovered before the hearing, you may request that EDR 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:

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Department of Human Resource Management  
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Richmond, VA 23219

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

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 provide a copy of all of your appeals to the other party, EDR, and the hearing officer. The hearing officer's decision becomes final when the 15 calendar day period has expired, or when

requests for administrative review have been decided.

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. Agencies must request and receive prior approval from EDR before filing a notice of appeal.

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.

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Frank G. Aschmann  
Hearing Officer

**COMMONWEALTH OF VIRGINIA**  
**OFFICE OF EMPLOYMENT DISPUTE RESOLUTION**  
**DEPARTMENT OF HUMAN RESOURCE MANAGEMENT**  
**DIVISION OF HEARINGS**

**DECISION OF HEARING OFFICER AFTER REMAND**

In the matter of: Case No. 9888

Hearing Date: August 31, 2012  
Original Decision Issued: September 7, 2012  
Remand Decision Issued: October 23, 2012

**REMAND**

Grievant appealed the Hearing Officer's Decision on the basis that a letter written by the Commonwealth Attorney and entered in to evidence was not considered by the Hearing Officer. The Office of Employment Dispute Resolution (EDR) remanded the matter for further explanation of this issue and the findings of the Hearing Officer.

Additionally, EDR has raised a separate issue, noting that the Agency did not enter a copy of the Group III Written Notice at issue into evidence and whether this has a material impact on the case.

**ORIGINAL ISSUE**

Did the Grievant violate Agency policy by falsifying a state document such as to warrant the issuance of a Group III Written Notice with employment termination?

**FINDINGS OF FACT**

All findings of fact made in the original decision issued on September 7, 2012, are hereby incorporated by reference. In addition, this Hearing Officer makes the following findings of fact in this matter:

The Commonwealth Attorney submitted a letter, which was received by the Agency, stating that her recollection was the judge had orally ordered the defendant be returned to court if she did not test negative for illegal substances.

The Grievant's second line supervisor evaluated the matter during the Agency review of the case. Ultimately, the supervisor approved a Group III Written Notice with employment termination. The basis for this personnel action was the falsification of a state document, specifically, the Agency's copy of the court order in question. The Agency introduced evidence of the Group III Written Notice through the testimony of the Grievant's second line supervisor.

At no time has the Grievant asserted that a Group III Written Notice with employment termination on the basis of falsifying state documents was not issued. The issue argued by the Grievant was that she had not falsified the state document.

### APPLICABLE LAW AND OPINION

All findings of law and opinion made in the original decision issued on September 7, 2012, are hereby incorporated by reference. In addition, this Hearing Officer makes the following findings of law and opinion in this matter:

The letter from the Commonwealth Attorney was reviewed and considered when making the original decision in this matter. The recollection of the Commonwealth Attorney that the judge had ordered a conditional return of the defendant to court orally from the bench was determined to be irrelevant to the specific issue of the case which is the falsification of a state document. Thus, no specific discussion of the exhibit was made in the original decision since it presents collateral facts which are irrelevant to the decision.

The facts presented in the exhibit are not relevant because the Court issued a written order subsequent to the in-court proceedings. The Agency's copy of the order, in the form issued by the Court, is the document in question. The Grievant acknowledges altering the Agency's copy of the order on her own initiative. The Grievant failed to follow the proper procedure for having an inaccurate order corrected. Further, when the matter was brought before the Judge he declined to make any changes to the order and directed that the matter be brought forward according to standard procedures.

Thus, regardless of any proclamation by the Judge in court prior to the issue of the order, the Grievant exceeded her authority when she altered a state document without approval. The Grievant's action resulted in the Agency maintaining a false document in its files which could be relied upon in error by Agency personnel. No statement of the Judge, in court, created authority for the Grievant to alter the document and therefore it is irrelevant that the Commonwealth Attorney recalled the Judge ordering the conditional return of the defendant to court.

While it may be customary to introduce into evidence the specific written notice being grieved, there is no requirement that it must be. In this matter the Agency presented evidence of the Group III Written Notice, at issue, through testimony rather than presenting the actual document. The testimony specifically stated that the notice was issued for falsifying a state document and resulted in employment termination. This is the issue that was presented and agreed to by the parties. The Grievant acknowledged she received the notice and was terminated from employment on the basis that she had falsified a state document. The Grievant presented no rebuttal to the Agency testimony and did not contest that the written notice with employment termination was issued. Thus, it is an uncontested fact that the Grievant was issued the written notice and terminated from her position on the basis that she falsified a state document. The

issue which was decided at the hearing was whether this action was justified. The failure of the Agency to introduce the written notice document itself has no material impact on the issue presented, the facts or decision in this matter.

## DECISION AND ORDER

The disciplinary action of the Agency is affirmed.

## 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 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:

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or, send by fax to (804) 371-7401, or email.

2. If you believe that the hearing decision does not comply with the grievance procedure or if you have new evidence that could not have been discovered before the hearing, you may request that EDR 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:

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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 provide a copy of all of your appeals to the other party, EDR, and the hearing officer. The hearing officer's decision becomes final when the 15 calendar day period has expired, or when requests for administrative review have been decided.

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. Agencies must request and receive prior approval from EDR before filing a notice of appeal.

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.

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Frank G. Aschmann  
Hearing Officer

**COMMONWEALTH OF VIRGINIA**  
**OFFICE OF EMPLOYMENT DISPUTE RESOLUTION**  
**DEPARTMENT OF HUMAN RESOURCE MANAGEMENT**  
**DIVISION OF HEARINGS**

**DECISION OF HEARING OFFICER AFTER REMAND**

In the matter of: Case No. 9888

Hearing Date: August 31, 2012

Original Decision Issued: September 7, 2012

Remand Decision Issued: October 23, 2012

Second Remand Decision Issued January 31, 2013

**SECOND REMAND**

Grievant appealed the Hearing Officer's Decision on the basis that the Hearing Officer did not comply with the directives of the first remand by EDR. EDR directs the Hearing Officer in its remand to consider two issues, first, to consider if the Grievant falsified a state document with the requisite intent and second, to explain any findings of disputed fact, including consideration of the Assistant Commonwealth's Attorney's letter.

**ORIGINAL ISSUE**

Did the Grievant violate Agency policy by falsifying a state document such as to warrant the issuance of a Group III Written Notice with employment termination?

**FINDINGS OF FACT**

All findings of fact made in the original decision issued on September 7, 2012 and the remand decision issued on October 23, 2012, are hereby incorporated by reference. In addition, this Hearing Officer makes the following findings of fact in this matter:

The Commonwealth Attorney's letter was received by the Agency subsequent to the Grievant falsifying a state document and lying to her supervisor about the alterations she made to the document. Thus the Agency's action in this matter was unaffected by the letter of the Commonwealth Attorney. The Grievant knowingly and willfully changed the Agency's copy of a court order. The Grievant was aware there was a procedure to correct a court order that was inaccurate. The Grievant did not use this procedure prior to falsifying the document. Subsequent to falsifying the document, the Grievant lied to her supervisor about the contents of the court order and requested her supervisor take action based upon the changes she had made to the document.

## APPLICABLE LAW AND OPINION

All findings of law and opinion made in the original decision issued on September 7, 2012 and October 23, 2012, are hereby incorporated by reference. In addition, this Hearing Officer makes the following findings of law and opinion in this matter:

The letter from the Commonwealth Attorney was reviewed and considered when making the original decision in this matter and during each remand. The letter from the Commonwealth Attorney does not affect the testimony of the Grievant herself that she received the Agency's copy of the court order and knowingly and willfully added language to the order which was not included by the judge thereby falsifying the document. The Grievant's action of falsifying the document was not done by any accident or mistake but rather was done with the specific intent to create a document which was false and not accurate to the original document as created by the Court. Thus, regardless of any proclamation by the Judge in court or recollection by the Commonwealth Attorney the Grievant knowingly and willfully with specific intent created a false document which could be relied upon in error by Agency personnel.

The intent of the Grievant is further corroborated by the fact that she lied to her supervisor about what the document said. The lie shows that the Grievant knew she had created a falsified document when she stated the additions she had placed in the document were part of the document. This shows the actions of the Grievant were not accidental but rather were willful thus demonstrating specific intent to falsify the document.

The Grievant's act of falsifying a state document justified the Agency's personnel action in this matter.

## DECISION AND ORDER

The disciplinary action of the Agency is affirmed.

## 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:

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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. Agencies must request and receive prior approval from EDR before filing a notice of appeal.

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.

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Frank G. Aschmann  
Hearing Officer

POLICY RULING OF THE DEPARTMENT OF  
HUMAN RESOURCE MANAGEMENT

In the Matter of  
The Department of Juvenile Justice

February 15, 2013

The grievant has requested an administrative review of the hearing officer's decision in Case No. 9888. For the reasons stated below, the Department of Human Resource Management (DHRM) will not interfere with the application of this decision. The agency head of DHRM, Ms. Sara R. Wilson, has directed that I conduct this administrative review.

The relevant facts in this case are as follows:

The Grievant was employed by the Agency as a probation officer. The Grievant transferred from [location A] to [location B]. The Grievant was assigned a case and appeared in court for a hearing. The Judge in the case issued an order from the bench which was then memorialized in a written order. The written order from the court was received by the Grievant. The Grievant wrote additional language on the Agency's copy of the order. This language imposed a condition of probation that if the defendant did not test negative for marijuana within seven days the defendant was to be brought back before the court. This is what the Grievant recalled the judge ordering even though it was not on the written order.

The modified order was placed in the Agency file for the case. The defendant did not test negative within seven days and the Grievant went to her supervisor and requested a detention order for the defendant. The Grievant requested the detention order be issued immediately because the defendant was present in the courthouse having just taken a drug screen. This was not the usual procedure for issuing a detention request. However, the supervisor authorized the detention request because the Grievant said it was the court's order and there was a pending larceny charge also.

The Grievant took the detention request to the clerk of the court and requested the case be placed on the docket for that day. The clerk was reluctant to add the case to the docket as it was against policy to add cases at the last minute to the court's docket. The matter was raised with the judge who declined to make any changes to the written order and directed that the matter be brought in the regular course. The defendant was subsequently detained in a hearing the next day. The case was then later dismissed and the defendant released at the request of the Commonwealth Attorney when it was found the detention request was authorized by the Grievant's supervisor based, in part, upon the language the grievant added to the order. The pending larceny charge was not in the [location B] jurisdiction and appeared to be a "diversion" case in the charging

jurisdiction: a basis, which the supervisor would not have used to authorize a detention request. The defendant's underlying charge alone did not warrant detention and thus the Agency faced the possibility of an illegal detention and the according liability to the family and loss of integrity with the public.

The Grievant's supervisor reviewed the matter and pulled the Agency file copy of the order and compared it to the original order in the court's file. The addition was noticed and the supervisor questioned the Grievant about the difference in the order. The Grievant was specifically asked if the court clerk added the language to the order to which the Grievant gave an affirmative response. The Grievant subsequently stated that she had not been paying attention when first questioned about the order and had, in fact, made the changes to reflect what she thought the judge had said. The Grievant said it was standard procedure to add the oral orders of the court to written orders in [location A]. The Grievant's supervisor reported the matter to her supervisor for review. The Grievant's second line supervisor approved the Agency's action in this matter.

The Agency personnel did not believe the Grievant had been honest with them during this incident and felt her work could no longer be trusted. The Grievant's second line supervisor offered the grievant the opportunity to try and transfer back to [location A]. A transfer never materialized. The Group III Written notice was issued for falsifying state documents and the employment of the Grievant terminated.

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The Grievant modified the Agency's copy of the court order. The Grievant never got approval for the alteration she made to the order and ultimately the change was not endorsed by the court overseeing the matter. The Grievant's action created a record within the Agency which was not accurate and may have been relied upon by Agency personnel. The Grievant's action had a material effect on the Agency as a probation violation case was processed and dismissed as a result of the Grievant's action, and further, the integrity of the Agency may have been put in question as these actions directly impacted the public.

The Grievant argues that her actions were not so egregious as to warrant termination because she was allowed to continue performing her duties and offered the opportunity to try and transfer back to [location A]. The Grievant's argument is not persuasive. It is clear the Agency supervisors held no malice towards the Grievant and were not opposed to her leaving the [location B] office to return to [location A] if the Grievant could arrange it. It is equally clear the Agency had already decided it could not trust the Grievant and she would be separated from the [location B] office. When the transfer could not be arranged the Grievant was terminated from employment. Any delay in taking the disciplinary action by the Agency was intended for the benefit of the Grievant and was not unreasonable under the circumstances. Giving the Grievant an opportunity to try to transfer does not demonstrate that the Agency imposed a harsher sanction than was warranted.

The Grievant created a false record in the Agency and was not completely honest about what had occurred. This was a serious breach of the Grievant's duty which severely impacted the operations of the Agency and warranted termination under the Standards of Conduct.

The grievant challenged the hearing decision and the decision was remanded by EDR to the hearing officer for further review "...because there is no identification or explanation of the issues of disputed facts (if they exist) and/or a lack of clarity as to the basis for the finding of falsification with requisite intent..."

The hearing officer reissued his decision with an unchanged position. The grievant in turn appealed the remand decision to EDR and the decision was remanded to him a second time for further consideration and clarification. The hearing officer issued a second remand decision after considering the points raised by the EDR Director. The hearing officer did not change his 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. By statute, as related to policy, the DHRM has the authority to determine whether the hearing officer's decision is consistent with policy as promulgated by DHRM or the agency in which the grievance is filed. The challenge must cite a particular mandate or provision in policy. This Department's authority regarding policy issues, 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.

To establish procedures on Standards of Conduct and Performances for employees of the Commonwealth of Virginia and pursuant to § 2.2-1201 of the *Code of Virginia*, the Department of Human Resource Management promulgated Standards of Conduct Policy No. 1.60. 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. The agency has adopted the provisions of the Standards as a guide to its disciplinary actions.

In her request for review, the grievant stated the following:

The 15<sup>th</sup> District Court Service Unit did not follow the Standards of Conduct Policy when issuing the written notice because no formal or informal counseling was provided in an effort to correct the incident and educate on the 15<sup>th</sup> District Court Service Unit prior to the issuance of the written notice.

The grievant also stated:

The Standards of Conduct policy subsection 1.70 relating to termination from State

Service, states under General Principles; Corrective actions, whether informal or formal, must depend upon the nature, consequence(s) and mitigating factors, if any. Management should apply corrective actions consistently, while taking into consideration the specific circumstances of each individual case.

While the grievant raised the issue of a violation of the Standards of Conduct Policy, the hearing officer determined that the grievant had falsified documents, a Group III level offense, rather than a violation by the agency in taking disciplinary action. Normally, agencies should follow the steps of informal and formal counseling and then taking disciplinary action. However, agencies have the discretion to issue disciplinary actions based on their determination as to the severity of the violations and the impact those violations have on the operations of the agencies. It appears that the grievant is contesting the evidence the hearing officer considered, how he assessed that evidence and the resulting conclusions he drew based on his assessment of that evidence. All other issues raised by the grievant are not policy-related and are not addressed in this ruling. Thus, this Agency has no authority to interfere with the application of this decision.

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Ernest G. Spratley