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**COMPLIANCE RULING**

In the matter of the Department of Behavioral Health and Developmental Services  
Ruling Number 2023-5560  
May 16, 2023

The Department of Behavioral Health and Developmental Services (the “agency”) has requested a compliance ruling from the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management (“DHRM”) to challenge the hearing officer’s pre-hearing order regarding the production of documents in Case Number 11940. On April 28, 2023, the grievant’s attorney sent a request to the hearing officer to issue an order for the agency to produce a list of documents. This email was provided to the agency’s advocate, as well. Although the grievant’s attorney has requested a number of items, including medical information, patient records, and video recordings, EDR can find no indication that the agency submitted an objection for the hearing officer’s consideration. Consequently, on May 4, 2023, the hearing officer issued an order for the agency to produce all the requested items. The agency then requested this ruling on May 12, 2023.

The result of this sequence of events is that the hearing officer has ordered the agency to produce records that at a minimum would require a conference to discuss whether and to what extent such records could be produced, if at all. However, as no exploration of these issues has apparently occurred, EDR is unable to make determinations to issue a ruling at this time. For example, there is no factual record on which to consider issues of relevancy, and the agency’s ruling request does not describe to what documents the objections apply with specificity. Accordingly, EDR remands the question of what records should be produced for consideration by the hearing officer in consideration of input from both parties (either in writing or through a conference). EDR directs that the May 4, 2023 order for production of documents be held in abeyance until the matter is further addressed by the hearing officer.

EDR’s rulings on matters of compliance are final and nonappealable.<sup>1</sup>

*Christopher M. Grab*  
Director  
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<sup>1</sup> Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).