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ADMINISTRATIVE REVIEW

In the matter of the Department of State Police
Ruling Number 2025-5900
June 12, 2025

The grievant has requested that the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management (DHRM) administratively review the hearing officer's decision in Case Number 12219. For the reasons set forth below, EDR will not disturb the hearing decision.

FACTS

The relevant facts in Case Number 12219, as found by the hearing officer, are set forth in a decision on May 22, 2025 and incorporated herein by reference.¹ The grievance challenged a Group II Written Notice, which the agency mitigated to a Group I during the grievance process.² In her decision, the hearing officer upheld the Group I Written Notice.³ EDR received the grievant's appeal of the decision on June 9, 2025.

DISCUSSION

By statute, EDR has been given the power to establish the grievance procedure, promulgate rules for conducting grievance hearings, and "[r]ender final decisions . . . on all matters related to . . . procedural compliance with the grievance procedure."⁴ If the hearing officer's exercise of authority is not in compliance with the grievance procedure, EDR does not award a decision in favor of a party; the sole remedy is that the hearing officer correct the noncompliance.⁵ The Director of DHRM also has the sole authority to make a final determination on whether the hearing decision comports with policy.⁶ The DHRM Director has directed that EDR conduct this administrative review for appropriate application of policy.

¹ Decision of Hearing Officer, Case No. 12219 ("Hearing Decision"), May 22, 2025, at 2-6.

² *Id.* at 1.

³ *Id.* at 10.

⁴ Va. Code §§ 2.2-1202.1(2), (3), (5).

⁵ See *Grievance Procedure Manual* § 6.4(3).

⁶ Va. Code § 2.2-3006(A); *Murray v. Stokes*, 237 Va. 653, 378 S.E.2d 834 (1989).

Shortly after submitting her request for administrative review, the grievant explained to EDR her misunderstanding with the proper deadline to file an appeal, stating that she believed the proper deadline was 15 workdays after the decision date, not 15 calendar days. Specifically, she expressed confusion given how the grievance process often utilizes deadlines measured by business days. In the days following the grievant's request, the grievant also provided additional arguments to EDR regarding the merits of her request. These arguments include (1) that the agency failed to provide a recording of the grievant's interview with the Professional Standards Division in time for review before the hearing, (2) that the grievant was subjected to a "bait" tactic, (3) that relevant agency policies were not considered during the hearing, and (4) that relevant evidence was not admitted into the record.

The *Grievance Procedure Manual* provides that "[r]equests for administrative review must be in writing and **received by** EDR within 15 calendar days of the date of the original hearing decision."⁷ Accordingly, only issues raised within the 15-calendar-day period can be considered by EDR on administrative review. A hearing decision becomes final after the 15-calendar-day period "for filing requests for administrative review has expired and neither party has filed such a request."⁸ Here, the original hearing decision was issued on May 22, 2025. Thus, to be timely, a request for administrative review must have been filed on or before June 6, 2025. EDR did not receive the grievant's ruling request until June 9, 2025. The grievant has not proffered any explanation for the late submission that would constitute just cause for delay.⁹ Accordingly, EDR declines to consider the arguments presented in the grievant's request for administrative review received on June 9, as well as the arguments presented following the June 9 request, as the request was not received within the 15-calendar-day period following the issuance of the hearing decision.

CONCLUSION AND APPEAL RIGHTS

Within 30 calendar days of a final hearing decision, either party may appeal the final decision to the circuit court in the jurisdiction in which the grievance arose.¹⁰ Any such appeal must be based on the assertion that the final hearing decision is contradictory to law.¹¹

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⁷ *Grievance Procedure Manual* § 7.2(a). The hearing officer's decision also includes an appeal rights provision describing this deadline. Hearing Decision at 10.

⁸ *Grievance Procedure Manual* § 7.2(d).

⁹ EDR has considered the grievant's explanation surrounding her confusion with the proper deadline together with the totality of the circumstances and EDR's past practices with respect to untimely appeals. We cannot find that the grievant has provided just cause in this instance for EDR to consider the late submission. See *Grievance Procedure Manual* § 9 (defining "just cause" as "[a] reason sufficiently compelling to excuse not taking a required action in the grievance process").

¹⁰ Va. Code § 2.2-3006(B); *Grievance Procedure Manual* § 7.3(a). Because the hearing decision became final on June 6, the grievant would have 30 calendar days following that date to appeal the decision to the circuit court in the applicable jurisdiction.

¹¹ *Id.*; see also *Va. Dep't of State Police v. Barton*, 39 Va. App. 439, 445, 573 S.E.2d 319, 322 (2002).