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**ADMINISTRATIVE REVIEW**

In the matter of the Department of Corrections  
Ruling Number 2025-5825  
January 31, 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 12188. For the reasons set forth below, EDR will not disturb the hearing decision.

**FACTS**

The relevant facts in Case Number 12188, as found by the hearing officer, are set forth in a decision on January 14, 2025, and incorporated herein by reference.<sup>1</sup> The grievance challenged a Group III Written Notice with termination.<sup>2</sup> In his decision, the hearing officer upheld the Group III Written Notice and the associated termination.<sup>3</sup> EDR received the grievant's appeal of the decision on January 30, 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."<sup>4</sup> 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.<sup>5</sup> The Director of DHRM also has the sole authority to make a final determination on whether the hearing decision comports with policy.<sup>6</sup> The DHRM Director has directed that EDR conduct this administrative review for appropriate application of policy.

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<sup>1</sup> Decision of Hearing Officer, Case No. 12188 ("Hearing Decision"), Jan. 14, 2025, at 4-5.

<sup>2</sup> *Id.* at 1.

<sup>3</sup> *Id.* at 7.

<sup>4</sup> Va. Code §§ 2.2-1202.1(2), (3), (5).

<sup>5</sup> *See Grievance Procedure Manual* § 6.4(3).

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

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.”<sup>7</sup> 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.”<sup>8</sup> Here, the original hearing decision was issued on January 14, 2025. Thus, to be timely, a request for administrative review must have been filed on or before January 29, 2025. EDR did not receive the grievant’s ruling request until January 30. The grievant’s advocate has not proffered any explanation for the late submission that would constitute just cause for delay.<sup>9</sup> Accordingly, EDR declines to consider the arguments presented in the grievant’s request for administrative review received on January 30, 2025, as the ruling 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.<sup>10</sup> Any such appeal must be based on the assertion that the final hearing decision is contradictory to law.<sup>11</sup>

*Christopher M. Grab*  
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<sup>7</sup> *Grievance Procedure Manual* § 7.2(a). The hearing officer’s decision also includes an appeal rights provision describing this deadline. Hearing Decision at 8.

<sup>8</sup> *Grievance Procedure Manual* § 7.2(d).

<sup>9</sup> See *Grievance Procedure Manual* § 9 (defining “just cause” as “[a] reason sufficiently compelling to excuse not taking a required action in the grievance process”).

<sup>10</sup> Va. Code § 2.2-3006(B); *Grievance Procedure Manual* § 7.3(a).

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