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ADMINISTRATIVE REVIEW

In the matter of the Department of Transportation
Ruling Number 2025-5905
July 11, 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 12229. For the reasons set forth below, EDR will not disturb the hearing decision.

FACTS

The relevant facts in Case Number 12229, as found by the hearing officer, are as follows:[1]

> Grievant is a Section Manager in a Division of the Department of Transportation. Grievant has been employed by the Agency for approximately 28 years. As the Section Manager, Grievant supervised two full-time employees and had, in the past, supervised a wage employee. At the time of the events relevant to this case, Grievant reported to Supervisor and Supervisor reported to Director. Director reported to Chief.
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> Grievant's regular, scheduled work hours were 8:30 am to 5:00 pm Monday through Friday each week.
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> On Friday, October 11, 2024, Grievant met with Supervisor for their weekly "catch-up" meeting. The meeting started at approximately 11:00 am. Grievant and Supervisor discussed Grievant's tasks and projects. Eventually, the discussion turned to Employee-1's upcoming parental leave. Employee-1 was expected to begin parental leave the following week. Grievant advised Supervisor that Employee-1 had recently learned that the parental leave policy may allow him to take some of his parental leave on an intermittent basis rather than in one continuous leave period. Grievant wanted to know whether Division management would approve intermittent leave as an option for Employee-1. Grievant expressed

[1] Decision of Hearing Officer, Case No. 12229 ("Hearing Decision"), June 5, 2025, at 2-4 (citations omitted).

his belief that it may be beneficial to the Agency and Employee-1 if Employee-1 used some of his parental leave intermittently rather than being out of the office continuously for the entire leave period. Supervisor asked Grievant what Employee-1's plan for intermittent leave would be. Based on the testimony of Grievant and Supervisor, there was a back and forth between Grievant and Supervisor with Grievant asking Supervisor whether Division management would be amenable to approving intermittent leave for Employee-1 and Supervisor requesting a plan for what was being proposed for intermittent leave before approving its use. Grievant described Supervisor as talking over him and questioning the information he was relaying to her from Human Resources staff. Grievant felt "disappointed" and frustrated during the discussion. The meeting ended when Grievant told Supervisor that he was "done" with her and that he was going to "HR." Grievant left Supervisor's office.

At 11:28 am, after Grievant had exited her office, Supervisor sent an email to Director to make him aware of Grievant's departure from their meeting. Supervisor wrote:

> Just an FYI . . . [Grievant] said that he was requesting to be removed from his current job. He was headed to HR and said that he was done with me. I can fill you in later.

Grievant testified that at the time he left Supervisor's office, he only intended to leave Supervisor's office and go to the Human Resources Department. Grievant testified that he had no intention at that time to leave work early.

Grievant left Supervisor's office and walked by Director's office on his way to the Agency's Human Resources office. Grievant decided to "circle back" to speak with Director about Grievant's meeting with Supervisor. Director's office door was open, but Director was participating in a virtual meeting. Grievant stood in Director's doorway and motioned to get Director's attention. Grievant pointed at Director and said, "I'm done with her." Grievant then left Director's office. Grievant testified that at the time he left Director's office, he had no intention to leave work early.

Grievant then walked to the Agency's Human Resources Department and requested to speak with a human resources staff person. HR-supervisor met with Grievant. HR-supervisor and Grievant had not met before October 11, 2024. HR-supervisor met with Grievant for approximately 10 minutes. Grievant told HR-supervisor about his conversation with Supervisor regarding parental leave. HR-supervisor recalled that Grievant seemed upset and frustrated by the conversation with Supervisor. While he was meeting with HR-supervisor, Grievant decided that he was going to leave work and go home. Grievant stated his intention to leave work to HR-supervisor. Grievant did not ask HR-supervisor to advise Supervisor of his intention to leave work and HR-supervisor did not tell Grievant that he would

notify Supervisor of Grievant's intentions. HR-supervisor did not authorize or give permission to Grievant to leave work early.

Grievant testified that after he left the Human Resources Department to return to his office he felt "funny" in a way that he had never felt before and that he did not like. Grievant described himself as being on "autopilot" and feeling like he needed to "get out of here and out of her presence" and that he was trying to "prevent stuff" and "diffuse stuff." Grievant packed up his things and left work. Grievant did not notify Supervisor that he was leaving work or obtain her permission to do so. Grievant did not notify Director or anyone else in his chain of command that he was leaving work. Grievant did not obtain permission from Supervisor or anyone in his chain of command to leave work early or otherwise change his work schedule that day. Grievant testified that after he left work, he went home and went to bed.

Supervisor recalled that approximately 15 or 20 minutes after Grievant had ended their meeting and left her office, she observed Grievant walk by her office door as though he was returning to his office which was located a couple of offices down the hallway from Supervisor's office. Grievant did not stop by Supervisor's office to inform her that he would be leaving work for the day or that he was feeling "funny" or ill.

By noon on October 11, 2024, Supervisor realized that Grievant may have left work for the day because she observed that his laptop was gone, and his office lights were turned off.

Grievant did not return to work on October 11, 2024. Grievant did not notify and obtain permission from Supervisor or anyone else in his chain of command to change his work schedule or leave work early. After Grievant left work on October 11, 2024, he did not notify Supervisor or anyone else in his chain of command that he had been feeling "funny" or ill which had caused him to leave work early on that day.

Due to the weekend and a state holiday, the next workday for Grievant was Tuesday, October 15, 2024. At some point on that day Grievant reported his use of sick leave for the time he had missed from work into the Agency's time and leave tracking system. Grievant did not otherwise notify Supervisor or anyone else in his chain of command that he had departed work early on Friday, October 11, 2024, to provide a reason for his early departure or to seek approval for that change to his work schedule.

On November 14, 2024, the agency issued to the grievant a Group II Written Notice for leaving work without permission.[2] The grievant timely grieved the agency's disciplinary action,

[2] *Id*. at 1; Agency Exs. at 3.

and a hearing occurred on May 12, 2025.[3] In a decision dated June 5, 2025, the hearing officer upheld the agency's disciplinary action as warranted and appropriate under the circumstances.[4] The grievant now seeks administrative review of the hearing decision by EDR.

DISCUSSION

By statute, EDR has 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."[5] 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.[6] The Director of DHRM also has the sole authority to make a final determination on whether the hearing decision comports with policy.[7] The DHRM Director has directed that EDR conduct this administrative review for appropriate application of policy.

Hearing officers are authorized to make "findings of fact as to the material issues in the case"[8] and to determine the grievance based "on the material issues and the grounds in the record for those findings."[9] Further, in cases involving discipline, the hearing officer reviews the facts *de novo* to determine whether the cited actions constituted misconduct and whether there were mitigating circumstances to justify a reduction or removal of the disciplinary action, or aggravating circumstances to justify the disciplinary action.[10] Thus, in disciplinary actions, the hearing officer has the authority to determine whether the agency has established by a preponderance of the evidence that the action taken was both warranted and appropriate under all the facts and circumstances.[11] Where the evidence conflicts or is subject to varying interpretations, hearing officers have the sole authority to weigh that evidence, determine the witnesses' credibility, and make findings of fact. As long as the hearing officer's findings are based on evidence in the record and the material issues of the case, EDR cannot substitute its judgment for that of the hearing officer with respect to those findings.

The grievant's request for administrative review generally presents arguments that (1) the hearing officer did not adequately consider his evidence, (2) the hearing officer misapplied law or policy, and (3) there were procedural errors and a lack of fairness during the hearing.

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[3] *See* Hearing Decision at 1.
[4] *Id.* at 4-8.
[5] Va. Code §§ 2.2-1202.1(2), (3), (5).
[6] *See Grievance Procedure Manual* § 6.4(3).
[7] Va. Code § 2.2-3006(A); Murray v. Stokes, 237 Va. 653, 378 S.E.2d 834 (1989).
[8] Va. Code § 2.2-3005.1(C).
[9] *Grievance Procedure Manual* § 5.9.
[10] *Rules for Conducting Grievance Hearings* § VI(B).
[11] *Grievance Procedure Manual* § 5.8.

Inadequate Consideration of Evidence

In her decision, the hearing officer found that the agency's decision to issue a Group II Written Notice was consistent with applicable law and policy. Her analysis primarily referenced DHRM Policy 1.60, *Standards of Conduct*, which states that state employees are expected to report to work as scheduled and seek approval from their supervisors prior to initiating any changes to their established work schedule, including the use of leave and late or early arrivals and departures.[12] Specifically, the hearing officer found that "[t]he preponderance of the evidence showed that Grievant engaged in misconduct when he left work early without permission on October 11, 2024."[13] The hearing officer found that there was no evidence that the grievant made any effort to request permission to leave work early or use sick leave either before he left work or as soon as possible after he left work on October 11, 2024.[14] She also found no evidence that the grievant's illness prevented him from requesting permission to leave before he left work.[15] Accordingly, the hearing officer concluded that the agency had "met its burden of proving by a preponderance of the evidence that Grievant engaged in misconduct when he left work early without permission on October 11, 2024."[16] Upon a thorough review of the record, the hearing officer's findings are supported by evidence in the record.[17]

The grievant contends that the hearing officer should have considered testimony from the agency's witnesses that corroborates his claim that he was experiencing a personal emergency. The grievant further contends that the hearing officer omitted the grievant's testimony regarding his meeting with the human resources (HR) supervisor. The grievant claims that, during that meeting, the HR supervisor said "that's what I would do" when the grievant expressed his need to leave early due to an emergency.[18] The grievant also contends that the hearing officer did not consider the grievant's claims that his supervisor had been "uncivil" both before and after the incident.[19] Hearing officers may reasonably limit their discussion to the evidence they found to be most probative of the material issues. Here, we note that the grievant's appeal does not point to a particular document or portion of testimony that materially contradicts the hearing officer's findings or otherwise calls into question any material facts in this case. None of the above-mentioned evidence has any bearing on whether the grievant left work early without notifying his supervisor, or whether leaving work early without notifying his supervisor constituted misconduct. We find no error with the hearing officer exercising her discretion in excluding a discussion of this evidence from her decision.

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[12] Hearing Decision at 5 (citing DHRM Policy 1.60, *Standards of Conduct*, at 4).
[13] Hearing Decision at 4.
[14] *Id*. at 5-6.
[15] *Id*.
[16] *Id*. at 6.
[17] *See, e.g.*, Agency Exs. at 8-10, 21; Hearing Recording at 43:17-44:10 (Supervisor testimony), 2:43:56-3:20:58 (Policy expert testimony), 6:04:40-6:06:30 (Grievant testimony).
[18] The HR supervisor testified that he did not use the exact phrase "that's what I would do," but may have said something to the effect of "you have to do what's best for you." Hearing Recording at 4:18:30-4:18:54.
[19] Request for Administrative Review at 3.

The grievant asserts that the "decision ignores that the [s]upervisor was verbally abusive and taunted the Grievant during the meeting."[20] The supervisor testified that the meeting prior to issuing discipline "escalated" and that the grievant became "more and more upset," and that at some point during the meeting the supervisor told the grievant "don't tell me how babies are born, or something to that effect," in response to the grievant stating "babies come when they come." The grievant testified that during the meeting, the supervisor stated he was "lying" about HR's instructions regarding intermittent leave, however the supervisor testified she never told the grievant he was lying.[21]

Although the grievant contends that his emotional state was not considered, the hearing officer notes in her decision the HR supervisor's testimony that the grievant seemed "upset and frustrated" during their meeting.[22] However, EDR cannot find that the grievant's arguments about his emotional state on appeal demonstrate any basis to find that the hearing officer's factual findings were not supported by the record or otherwise improper. Generally, there is no requirement under the grievance procedure that the hearing decision specifically address each aspect of the parties' evidence presented at a hearing. Ultimately, weighing the evidence and rendering factual findings is squarely within the hearing officer's authority, and EDR has repeatedly held that it will not substitute its judgment for that of the hearing officer where the facts are in dispute and the record contains evidence that supports the version of facts adopted by the hearing officer, as is the case here.[23]

Alleged Procedural Errors

The grievant argues that the hearing officer should not have allowed the agency representative "to serve in such a capacity then also allow her participation as a witness after listening to all other testimony."[24] Similarly, he argues that he was forced to follow an order of questioning witnesses set by the agency, which "impacted his ability to fully explore crucial evidence."[25] Regarding these claims, the *Rules for Conducting Grievance Hearings* does not require a certain order for witnesses to testify and the order chosen by the hearing officer here for purposes of efficiency is consistent with most grievance hearings. The hearing officer did give the grievant an opportunity to explain why he should be allowed to call the witness back after initial questioning for purposes other than rebuttal testimony. The grievant did not explain why he should be allowed to call the witness back.[26] The *Rules* also allow for a party (whether the agency representative or the grievant) to serve as both parties and as witnesses, and for such parties to remain present for the entirety of the hearing.[27] On appeal, the grievant has not presented any indication about what evidence he was prevented from presenting due to the order or presence of

[20] *Id.* at 2.
[21] Hearing Recording 39:00-39:20, 1:15:35-1:15:47, 1:19:50-1:19:56 (Supervisor testimony); 1:17:30-1:17:42, 5:31:00-5:36:30 (Grievant testimony).
[22] Hearing Decision at 3.
[23] *See, e.g.*, EDR Ruling No. 2020-4976.
[24] Request for Administrative Review at 3-4.
[25] *Id.*
[26] Hearing Recording at 1:46:20-1:48:15.
[27] *Rules for Conducting Grievance Hearings* § IV(A).

the witnesses or that such evidence would have had an impact on the outcome of this case. As such, EDR will not disturb the hearing decision on these grounds.

Error in Application of Law or Policy

The grievant argues that the hearing decision contradicts established Virginia state employment policies regarding sick leave – specifically Virginia Code § 40.1-33.5 and DHRM's Policy Guide: Leave Policies. He argues that he was entitled to sick leave and his absence was due to an emergency. He also asserts that the hearing officer dismissed his actions as emotional rather than considering the facts that led to the unplanned absence. He asserts that the agency did not dispute his medical evidence, nor did they present their own medical testimony. Finally, he asserts that the agency failed to demonstrate that its operations were disrupted due to his unplanned emergency sick leave.[28]

To the extent the grievant is arguing that he presented evidence demonstrating a need to utilize sick leave on October 11, 2024 (or that the agency failed to demonstrate contradictory evidence about his need for sick leave), even if we assume that to be the case, the outcome of this case is not changed. As stated by the hearing officer and discussed previously, DHRM policy "set[s] forth the expectation that employees will report to work as scheduled and will seek approval from their supervisor in advance of schedule changes, including the use of leave and late or early arrivals and departures."[29] Additionally, if an employee is unable to receive approval before taking sick leave, they must request approval as soon as possible after their leave begins.[30] No portion of DHRM's Policy Guide: Leave Policies cited by the grievant contradicts these requirements.[31] The hearing officer found that the grievant's behavior "did not satisfy the requirement that he notify and obtain permission from Supervisor prior to using leave, or as soon as possible after the leave use began."[32] EDR finds that the hearing officer's conclusion is based upon proper application of policy, evidence in the record, and the material issues of the case, and that there was no abuse of discretion by the hearing officer in this finding. As to the grievant's argument relating to Va. Code § 40.1-33.5, this provision of Code does not apply to the Commonwealth or its agencies, including the agency in this matter.[33] For these reasons, EDR is unable to find that the hearing officer abused her discretion or otherwise contradicted any state or agency policy regarding the use of sick leave.

In sum, the hearing officer concluded that the agency presented sufficient evidence to prove that the grievant failed to meet the requirements of policy, that the agency followed its applicable policies in issuing the grievant a Group II Written Notice as a result, and the hearing officer has not misapplied or violated any state or agency policy in making these findings. Although the grievant disagreed with the agency's evidence,[34] conclusions as to the credibility of witnesses and the weight of their respective testimony on issues of disputed facts are precisely the kinds of

[28] Request for Administrative Review at 3.
[29] Hearing Decision at 5; *see* DHRM Policy 1.60, *Standards of Conduct*, at 5.
[30] Hearing Decision at 5.
[31] *See* DHRM Policy Guide, Leave Policies, at 1.
[32] Hearing Decision at 6.
[33] Va. Code § 40.1-2.1; *see also* EDR Ruling No. 2025-5858.
[34] *See, e.g.*, Hearing Recording at 2:51:30-3:00:27 (Supervisor testimony), 6:04:40-6:07:12 (Grievant testimony).

determinations reserved solely to the hearing officer, who may observe the demeanor of the witnesses, take into account motive and potential bias, and consider potentially corroborating or contradictory evidence. Accordingly, EDR declines to disturb the decision in this regard.

Mitigation

The grievant also contends that the hearing officer did not permit him to explore mitigating evidence, particularly regarding his supervisor's behavior leading up to the incident and the validity of previously-issued verbal counseling.[35] The grievant also adds that he was not allowed to explore "the fact that the [s]upervisor lacked the experience and qualifications to adequately serve in this role, a point which should have been considered in the fairness of the disciplinary process."[36]

By statute, hearing officers have the power and duty to "[r]eceive and consider evidence in mitigation or aggravation of any offense charged by an agency in accordance with rules established by [EDR]."[37] The *Rules for Conducting Grievance Hearings* ("*Rules*") provide that "a hearing officer is not a 'super-personnel officer'"; therefore, "in providing any remedy, the hearing officer should give the appropriate level of deference to actions by agency management that are found to be consistent with law and policy."[38] More specifically, in disciplinary grievances, if the hearing officer finds that (1) the employee engaged in the behavior described in the Written Notice, (2) the behavior constituted misconduct, and (3) the agency's discipline was consistent with law and policy, then the agency's discipline must be upheld and may not be mitigated, unless, under the record evidence, the discipline exceeds the limits of reasonableness.[39]

Because reasonable persons may disagree over whether and to what extent discipline should be mitigated, a hearing officer may not simply substitute his or her judgment on that issue for that of agency management. Indeed, the "exceeds the limits of reasonableness" standard is high.[40] Where the hearing officer does not sustain all of the agency's charges and finds that mitigation is warranted, they "may reduce the penalty to the maximum reasonable level sustainable under law and policy so long as the agency head or designee has not indicated at any time during the grievance process . . . that it desires a lesser penalty [to] be imposed on fewer charges."[41] EDR,

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[35] Request for Administrative Review at 4.
[36] *Id.*
[37] Va. Code § 2.2-3005(C)(6).
[38] *Rules for Conducting Grievance Hearings* § VI(A).
[39] *Id.* at § VI(B)(1).
[40] The federal Merit Systems Protection Board's approach to mitigation, while not binding on EDR, can serve as a useful model for EDR hearing officers. *E.g.*, EDR Ruling No. 2012-3102; EDR Ruling No. 2012-3040; EDR Ruling No. 2011-2992 (and authorities cited therein). The Board's similar standard prohibits interference with management's judgment unless, under the particular facts, the discipline imposed is "so harsh and unconscionably disproportionate to the offense that it amounts to an abuse of discretion." Parker v. U.S. Postal Serv., 819 F.2d 1113, 1116 (Fed. Cir. 1987) (citations and internal quotation marks omitted). On the other hand, the Board may mitigate discipline where "the agency failed to weigh the relevant factors, or the agency's judgment clearly exceeded the limits of reasonableness." Batten v. U.S. Postal Serv., 101 M.S.P.R. 222, 227 (M.S.P.B. 2006), *aff'd*, 208 Fed. App'x 868 (Fed. Cir. 2006).
[41] *Rules for Conducting Grievance Hearings* § VI(B)(1).

in turn, will review a hearing officer's mitigation determination for abuse of discretion[42] and will reverse the determination only for clear error.

After a thorough review, EDR has not found evidence in the record or arguments presented by the grievant on appeal that would be sufficient to support mitigation in this case. The grievant was prevented from pursuing a line of questioning regarding the exact events that led up to receiving a previously-issued verbal counselling, the details of which the hearing officer stated during the hearing were not at issue.[43] The hearing officer instructed the grievant to connect his questions with the issue at hand.[44] We concur with the hearing officer's relevancy determination. The grievant's arguments about the previously-issued verbal counseling do not present a basis for mitigation.

The grievant also argues he was not permitted to "explore mitigating and supporting evidence of the Agency's treatment of the Grievant after the October 11, 2024 incident regarding the Supervisor's leave practices that would support the arbitrariness of the Supervisor and departure from established practices between the Supervisor and the Grievant."[45] Based on EDR's review of the record, we are unable to identify relevant evidence that the grievant intended to present that was either relevant to the material issues of this case or that would have resulted in a different outcome. On appeal, the grievant has also not identified such evidence. Accordingly, even if the grievant was not permitted to ask questions about such a matter, EDR has been presented with no information on which to find that the hearing officer abused her discretion in handling this issue.

The grievant also asserts that the hearing officer should have considered his supervisor's "inexperience" as a mitigating factor.[46] EDR has found nothing in the record or hearing recording to indicate that the supervisor was inexperienced. In fact, the supervisor testified to 20 years of experience in a managerial role.[47] Even if it were the case that the grievant's supervisor was inexperienced, the hearing officer determined that the discipline did not exceed the limits of reasonableness such that mitigation would be appropriate,[48] and EDR concurs in this

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[42] "An abuse of discretion can occur in three principal ways: 'when a relevant factor that should have been given significant weight is not considered; when an irrelevant or improper factor is considered and given significant weight; and when all proper factors, and no improper ones, are considered, but the court, in weighing those factors, commits a clear error of judgment.'" Graves v. Shoemaker, 299 Va. 357, 361, 851 S.E.2d 65, 66-67 (2020) (quoting Landrum v. Chippenham & Johnston-Willis Hosps., Inc., 282 Va. 346, 352, 717 S.E.2d 134, 137 (2011). The "abuse-of-discretion standard includes review to determine that the [exercise of] discretion was not guided by erroneous legal conclusions, because a court also abuses its discretion if it inaccurately ascertains [the] outermost limits of the range of choice available to it." Lambert v. Sea Oats Condo. Ass'n, 293 Va. 245, 253, 798 S.E.2d 177, 182 (2017) (internal quotation omitted) (alterations in original); *see also* United States v. Jenkins, 22 F.4th 162, 167 (4th Cir. 2021) (A tribunal abuses its discretion "when it acts arbitrarily or irrationally, fails to consider . . . recognized factors constraining its exercise of discretion, relies on erroneous factual or legal premises, or commits an error of law.").
[43] Hearing Recording at 2:02:00-2:02:30.
[44] *Id.*
[45] Request for Administrative Review at 4.
[46] *Id.*
[47] Hearing Recording at 24:28-24:40.
[48] Hearing Decision at 7-8.

determination. The grievant's arguments about the supervisor's alleged inexperience present no basis to contradict this result.

Retaliation

Finally, in his request for administrative review, the grievant contends that the agency's decision to issue the Group II Written Notice was motivated by retaliation.[49] The grievant's appeal appears to present a theory that, but for his openness about the alleged dysfunction of his division, he would not have received discipline.[50] Generally, a grievant claiming retaliation must prove that an agency's nonretaliatory business justification for the acts or omissions grieved was a pretext for an improper motive.[51] Further, a grievant must show that, but for the retaliatory motive, the adverse action would not have occurred.[52]

The hearing decision does generally note the grievant's retaliation argument, but dismisses it due to finding that the agency "showed that it had business reasons for its discipline of Grievant based on Grievant's misconduct and Grievant offered no evidence that would suggest that those reasons were mere pretext for retaliation or discrimination."[53] EDR concurs with this assessment. As was discussed earlier, the agency has provided sufficient evidence, both in their exhibits and in testimony, of the legitimate business reason – being that the grievant violated state and agency policy by leaving work without permission. In sum, EDR cannot find that the hearing officer failed to properly consider evidence of pretext in the agency's decision to issue a Group II Written Notice for this behavior. The grievant did not present sufficient evidence to support a motive to retaliate on the basis of a protected activity, and we find no error in the hearing officer's conclusion that discipline was due to violating policy and not retaliation. We accordingly decline to disturb the decision on these grounds.

CONCLUSION AND APPEAL RIGHTS

For the reasons set forth above, EDR declines to disturb the hearing officer's decision.[54] Pursuant to Section 7.2(d) of the *Grievance Procedure Manual*, a hearing decision becomes a final hearing decision once all timely requests for administrative review have been decided.[55] Within 30 calendar days of a final hearing decision, either party may appeal the final decision to the circuit

[49] Request for Administrative Review at 5.
[50] *Id.*
[51] *See* Strothers v. City of Laurel, 895 F.3d 317, 327-28 (4th Cir. 2018); Netter v. Barnes, 908 F.3d 932, 938 (4th Cir. 2018) (citing Univ. of Tex. S.W. Med. Ctr. v. Nassar, 570 U.S. 338, 360 (2013)); Villa v. CavaMezze Grill, LLC, 858 F.3d 896, 900-901 (4th Cir. 2017); *see, e.g.,* Felt v. MEI Techs., Inc., 584 Fed. App'x 139, 140 (4th Cir. 2014).
[52] *Netter*, 908 F.3d at 938.
[53] Hearing Decision at 7.
[54] To the extent the grievant's request for administrative review raises any arguments not explicitly addressed in this ruling, EDR has thoroughly reviewed the hearing record and concludes that no basis for remand is apparent.
[55] *Grievance Procedure Manual* § 7.2(d).

court in the jurisdiction in which the grievance arose.[56] Any such appeal must be based on the assertion that the final hearing decision is contradictory to law.[57]

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[56] Va. Code § 2.2-3006(B); *Grievance Procedure Manual* § 7.3(a).
[57] *Id.*; *see also* Va. Dep't of State Police v. Barton, 39 Va. App. 439, 445, 573 S.E.2d 319, 322 (2002).