



JANET L. LAWSON
DIRECTOR

COMMONWEALTH OF VIRGINIA
Department Of Human Resource Management
Office of Employment Dispute Resolution

James Monroe Building
101 N. 14th Street, 12th Floor
Richmond, Virginia 23219
Tel: (804) 225-2131
(TTY) 711

ADMINISTRATIVE REVIEW

In the matter of the Department of Juvenile Justice
Ruling Number 2026-5938
September 9, 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 12277. For the reasons set forth below, EDR will not disturb the hearing decision.

FACTS

The relevant facts in Case Number 12277, as found by the hearing officer, are incorporated here by reference.¹ In completing information in the social history for a youth, specifically with regard to whether the youth was enrolled in a particular school, the grievant accessed the school database with the parent's log-in credentials that the parent had provided to the grievant along with permission to access the information. On October 22, 2024, the agency issued to the grievant a Group II Written Notice, citing failure to follow instructions or policy and unauthorized use of state property or records.² The grievant timely grieved this disciplinary action, and a hearing was held on July 11, 2025.³ In a decision dated July 19, 2025, the hearing officer determined that the agency had met its burden to prove the grievant engaged in the behavior as charged, that the behavior constituted misconduct, that the agency's discipline was consistent with law and policy, and that there was no basis to mitigate.⁴ Accordingly, the hearing officer upheld the Group II Written Notice.⁵ The grievant now appeals the hearing decision to 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."⁶ If the hearing officer's exercise of

¹ Decision of Hearing Officer, Case No. 12277 ("Hearing Decision"), July 19, 2024, at 2-10.

² Agency Exs. at 36-38; *see* Hearing Decision at 1.

³ *See* Hearing Decision at 1.

⁴ *Id.* at 12-14.

⁵ *Id.* at 15.

⁶ Va. Code §§ 2.2-1202.1(2), (3), (5).

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.⁷ The Director of DHRM also has the sole authority to make a final determination on whether the hearing decision comports with policy.⁸ The DHRM Director has directed that EDR conduct this administrative review for appropriate application of policy.

In her request for administrative review, the grievant challenges the hearing decision on multiple grounds. First, the grievant contests the hearing officer's findings of fact, asserting that the hearing officer did not properly consider the issue of whether the grievant initially told and then recanted her statement to agency leadership that she received permission from her supervisor to use the parent's log-in credentials.⁹ Similarly, the grievant argues that the hearing officer did not accurately find that the youth in question was in fact enrolled in the school.¹⁰ The grievant also disagrees with the hearing officer's assertion that she did not focus on whether using the parent's log-in credentials was a violation of policy, arguing that she did in fact argue that it was not a violation of policy.¹¹ To this, she asserts that there are no policies or procedures that explicitly apply to the incident at hand, and that no directives or instructions were given to her regarding the behavior.¹² Finally, the grievant asserts that the hearing officer improperly considered facts that were not relevant to the issues at hand.¹³

Findings of Fact

The grievant emphasizes in her appeal a number of factual disputes that she feels were not accurately listed and evaluated in the hearing officer's findings of fact. Specifically, she first points to the issue of whether she told the Unit Director and Unit Deputy Director that she received permission from her supervisor to use the parent's log-in credentials. She asserts what she testified to in that she never asked for or received permission from her supervisor, and that she never originally told the agency that she received permission.¹⁴ She also contests the hearing officer's finding that the youth in question was not enrolled in the school, asserting that he was enrolled and his enrollment was first documented in April 2023.¹⁵ Finally, the grievant calls into question the hearing officer's consideration of the fact that the parent in question was unauthorized to access the agency's BADGE system. She argues that this fact is irrelevant to the case at hand and should not have been considered in the hearing officer's decision.¹⁶

Hearing officers are authorized to make "findings of fact as to the material issues in the case"¹⁷ and to determine the grievance based "on the material issues and the grounds in the record

⁷ See *Grievance Procedure Manual* § 6.4(3).

⁸ Va. Code § 2.2-3006(A); *Murray v. Stokes*, 237 Va. 653, 378 S.E.2d 834 (1989).

⁹ Request for Administrative Review at 4.

¹⁰ *Id.* at 7.

¹¹ *Id.*

¹² *Id.* at 7-8.

¹³ *Id.*

¹⁴ *Id.* at 4.

¹⁵ *Id.* at 7.

¹⁶ *Id.* at 7-8.

¹⁷ Va. Code § 2.2-3005.1(C).

for those findings.”¹⁸ 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.¹⁹ 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.²⁰ 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.

Supervisor’s Permission

The grievant asserts that, despite what the Unit Director and Deputy Director have claimed, she never initially told the agency that she received permission from her supervisor to use the parent’s log-in credentials. In the hearing, the Unit Director testified that the grievant originally told him that she received permission from her supervisor to use the parent’s log-in credentials.²¹ However, he and the Unit Deputy Director added that she later recanted that statement.²² The Director also noted that he interpreted this action of recanting a previously admitted statement as an aggravating factor when considering the discipline at hand.²³ Additionally, the supervisor testified that she never gave the grievant permission to use the log-in credentials and that she was not aware of this incident until after it occurred.²⁴ Finally, the grievant testified that she never requested permission from her supervisor, that she never made a statement that she requested and received permission, that she solely received permission from the parent in question, and that she only notified her supervisor after the incident occurred.²⁵

It is undisputed here that the grievant at least at some point notified the agency that she did not request and receive permission from her supervisor and that the grievant’s supervisor was entirely uninvolved with the incident in question. However, there is a dispute of fact of whether the grievant ever at any point notified the agency that she received permission from her supervisor. While the grievant contests the accuracy of the allegations regarding the statement at issue, it appears that the statement is supported by evidence and testimony proffered by the agency. The Unit Director testified that he confidently remembered the grievant originally stating that permission was given by her supervisor. The Unit Deputy Director also testified and provided evidence via her meeting notes that the grievant initially told her and the Director that she received permission from her supervisor.

¹⁸ *Grievance Procedure Manual* § 5.9.

¹⁹ *Rules for Conducting Grievance Hearings* § VI(B).

²⁰ *Grievance Procedure Manual* § 5.8.

²¹ Hearing Recording at 10:50-11:20, 1:56:20-1:57:10, 1:59:10-1:59:45.

²² *Id.* at 15:40-16:30, 1:59:10-1:59:45 (Director testimony), 33:55-34:40 (Deputy Director testimony); *see also* Agency Exs. at 103-104.

²³ *Id.* at 1:59:10-1:59:45.

²⁴ *Id.* at 56:50-58:00, 1:04:30-1:05:00.

²⁵ *Id.* at 1:33:15-1:34:25, 1:36:30-1:38:00.

The hearing officer appears to find that the grievant initially told the Director that she called her immediate supervisor and received verbal approval to use the parent's log-in credentials, specifically by referring to the Unit Director's testimony that this was the case.²⁶ Upon a thorough review of the record, EDR finds that there is evidence to support the hearing officer's findings in this regard. While the grievant proffers testimony that conflicts with this finding, conclusions as to the credibility of witnesses and the weight of their respective testimony on issues of disputed facts are precisely the kinds of 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. Further, 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.²⁷ For the foregoing reasons, EDR declines to disturb the hearing decision on this basis.

Youth Enrollment

The factual matter of whether the youth in question was enrolled in the school appears to be in dispute. The Unit Director testified that he was informed by the Assistant Superintendent of the Detention Center that the youth was in fact not enrolled in the school.²⁸ Conversely, the grievant and one of her witnesses (Coworker A) both testified that they were informed by the parent and youth in question as early as April 2023 that the youth was in fact taking classes through the school, but Coworker A added that she did not directly access the school's records to confirm the youth's enrollment.²⁹ The grievant adds that the agency's BADGE documentation also reflects the fact that the youth was enrolled in the school.³⁰ It should also be noted that the agency, in their closing argument, stated that the parent inappropriately enrolled their child in the school, to which the hearing officer interjected because she believed this was not testified to previously.³¹

The hearing officer found in her decision that, based on testimony and a lack of evidentiary documentation, the youth in question was not enrolled in the school.³² Ultimately, this determination does not appear to be a material issue for the purposes of the hearing officer's decision. The alleged misconduct by the grievant appears to solely be the act of using a parent's log-in credentials. Whether or not the youth was actually enrolled in the school does not appear to be material to this issue. Indeed, the applicable Written Notice does not appear to put any blame

²⁶ Hearing Decision at 12. The hearing officer specifically refers to the Unit Director testifying that he "did not mishear" the grievant initially stating that her supervisor gave her permission. *See* Hearing Recording at 1:59:05-1:59:30.

²⁷ *See, e.g.*, EDR Ruling No. 2020-4976.

²⁸ Hearing Recording at 7:05-8:05, 9:40-10:10.

²⁹ *Id.* at 40:45-41:55, 43:55-44:25 (Coworker A testimony), 1:29:15-1:29:50 (Grievant testimony).

³⁰ *Id.* at 1:31:05-1:31:45.

³¹ *Id.* at 2:10:30-2:13:15. After the hearing officer's interjection, the Unit Director clarified that the youth was not enrolled but was instead given access to the school log-in portal.

³² Hearing Decision at 13.

on the grievant regarding whether or not the youth was enrolled.³³ While the hearing officer does find in her decision that the youth was not enrolled, she does not appear to use this finding to support her conclusion that the grievant engaged in the alleged misconduct as charged in the Written Notice.³⁴ For these reasons, it is EDR's determination that, even if it were the case that the evidence and testimony support the notion that the youth was enrolled in the school, the outcome of this case would not be affected. For the foregoing reasons, EDR declines to disturb the hearing decision on this basis.

Parent Access to BADGE

Finally, the grievant takes issue with the hearing officer's consideration of the fact that the parent had unauthorized access to the agency's BADGE system, arguing that it is irrelevant to the case at hand. Based on the grievant's appeal, it appears that the fact that the parent had unauthorized access to the BADGE system is undisputed. Rather, the grievant takes issue with this fact seemingly being used in the hearing officer's decision as a basis to uphold the discipline.

Unlike the previous factual dispute, it does appear that there is at least some materiality of this fact to the case at hand. While the Written Notice does not mention the issue of the parent having unauthorized access to the agency system, the Unit Director testified that the "gravity of the situation" was partially aggravated by the fact that the parent had access to the agency system.³⁵ However, it does not appear that the hearing officer considered this as an aggravating factor in making her determination that the grievant engaged in the misconduct as charged in the Written Notice. While the grievant points to where in the decision the hearing officer discusses whether the parent had unauthorized access, this portion of the decision was simply reiterating the Unit Director's testimony and does not appear to make a finding of whether the parent had unauthorized access.³⁶ The hearing officer also finds in her mitigation analysis that "[i]t is clear that the issue is narrowed down to the Grievant utilizing the credentials of the parent to login into a parent's account without accurately identifying herself"³⁷ Ultimately, this disputed fact does not appear to hold any weight in the hearing officer's determinations, and it similarly was not used in the Written Notice as any form of aggravating factor or violation of policy. For these reasons, EDR declines to disturb the hearing decision on this basis.

Notice and Directives

The grievant argues on appeal that "no directives or instructions were given regarding this behavior" and that "no such information [regarding alleged instructions] has been disseminated to workers in the [agency]"³⁸ She also argues that, in reference to the trainings the agency testified to as indicative of the grievant's knowledge, "no such training exists and was not produced

³³ See Agency Exs. at 36-38.

³⁴ Hearing Decision at 13.

³⁵ Hearing Recording at 1:59:30-1:59:45.

³⁶ Hearing Decision at 3.

³⁷ *Id.* at 14.

³⁸ Request for Administrative Review at 8.

at the time of the hearing.”³⁹ On these points, the hearing officer generally found that, based primarily on testimony, the grievant should have known that her behavior was considered misconduct, specifically stating:

[The grievant’s supervisor] testified that the standard protocol is to send the release to the school and the school sends the records back.

...

Clearly, the use of the mother’s login credentials is misconduct. A reasonable person would know that using another’s credentials would be inappropriate.

...

[Coworker A] testified that to obtain the records, one should go directly to the school and [Coworker A] herself would never use another’s login credentials.⁴⁰

EDR concurs with and the record evidence supports the hearing officer’s findings that the grievant should have understood that using another’s credentials to log-in to a system that the grievant herself did not have access to is not consistent with agency protocols or expectations and, therefore, properly considered misconduct under the applicable policies.

The hearing officer further found that the grievant “had adequate notice of the existence of the rules that she is accused of violating,” citing to agency exhibits that the hearing officer felt supported this finding.⁴¹ These exhibits include the grievant’s Oath of Office, her acknowledgement of the agency’s “Guiding Values” and Code of Ethics, the grievant’s Employee Work Profile (EWP), DHRM Policy 1.60, DHRM Policy 1.75, and the agency’s Code of Conduct.⁴²

Upon review, none of the mentioned exhibits seem to explicitly consider the responsibilities surrounding the behavior at issue. The Oath of Office and the agency’s Guiding Values appear to have limited relevance to the behavior at hand. The agency’s Code of Ethics makes at least some mention to general best practices consistent with state and agency code of conduct policies but does not specify beyond this point. Finally, the grievant’s EWP makes mention of having to write social history reports “in accordance with established procedures” and to represent the agency “in a competent and professional manner” but does not explicitly mention any responsibility relevant to only using one’s own log-in credentials in furtherance of creating a social history report.⁴³

³⁹ *Id.*

⁴⁰ Hearing Decision at 12-13.

⁴¹ *Id.* at 15.

⁴² *Id.*; Agency Exs. at 18-31, 106-134, 136-151.

⁴³ Agency Exs. at 23.

While the agency's exhibits do not appear to sufficiently suggest notice by the grievant of any policy or agency practice that considers the behavior at hand as misconduct, the agency presented witness testimony that the grievant had such notice. This is primarily gathered from the Unit Director testifying that the grievant completed a required training that explicitly informs employees to not use others' log-in credentials, adding that the grievant completed the training "at least two separate occasions."⁴⁴ However, as the grievant points out during the Director's testimony and on appeal, the trainings themselves were not admitted as exhibits by the agency and she denies ever having taken the trainings.⁴⁵ The grievant's supervisor also testifies that, to her knowledge, there is no training or policy that has been referenced that speaks to the precise incident at hand.⁴⁶ However, as noted by the hearing officer, the grievant's supervisor testified that it is her understanding that the agency's standard protocol for gathering the social history report information is to send the release of information form to the school and Coworker A testified that she has never used a parent's log-in credentials to access information for a social history report.⁴⁷

Ultimately, after a thorough review of the record, testimony and evidence in the record supports the hearing officer's conclusions in this regard. While EDR understands the grievant's arguments that she was not explicitly given notice to not use a parent's log-in credentials, testimony by the Unit Director, supervisor, and Coworker A supports the notion that the grievant should have known that using a parent's log-in credentials is improper. While the exhibits cited by the hearing officer, such as the grievant's EWP, do not explicitly consider such scenarios, they do seem to cover a general guideline to conform with established procedures by the agency – and the proper agency practices were testified to by several witnesses at hearing.⁴⁸ Based on the hearing officer's findings supported by witness testimony and other evidence in the record, EDR has no basis to disturb her conclusion that the grievant should be considered to have had sufficient notice not to use another's log-in credentials.

Violation of Policy

The grievant further argues that "the scope of the policies cited does not adequately cover the situation at hand," claiming that "[t]he situation is not included in any of [the policies provided by the agency as evidence], which have been patchworked together to attempt to reflect [she] violated multiple policies"⁴⁹

The hearing officer does find that the grievant violated policy, stating that the grievant's behavior "is a clear violation of the policy and use of state equipment noted in [offense codes] #13 and #51 [(failure to follow instructions or policy and unauthorized use of state property or records, respectively)]."⁵⁰ It appears that the hearing officer is primarily citing to DHRM Policy 1.75, *Use*

⁴⁴ Hearing Recording at 14:45-15:10, 22:20-22:55.

⁴⁵ See *id.* at 22:55-24:15.

⁴⁶ *Id.* at 58:00-58:45.

⁴⁷ *Id.* at 1:02:55-1:03:50 (Supervisor testimony), 44:25-45:10 (Coworker A testimony).

⁴⁸ See *id.* at 14:45-15:10, 22:20-22:55, 17:10-18:20 (Director testimony), 44:25-45:10 (Coworker A testimony), 1:02:55-1:03:50 (Supervisor testimony).

⁴⁹ Request for Administrative Review at 7.

⁵⁰ *Id.* at 12.

of *Electronic Communications and Social Media* – one of the policies the Written Notice cites to in its justification for the discipline. The relevant portion of Policy 1.75 states:

The purpose of this policy is to ensure the appropriate, responsible, and safe use of electronic communications, Internet, and social media by employees. Agencies may supplement this policy as necessary provided such supplement is consistent with this policy.

...

Users must communicate their accurate identities and state their affiliation when using electronic communications . . . for business purposes.⁵¹

An agency witness testified to this portion of the policy, stating that the grievant in this scenario did not use her accurate identity when accessing the detention center's online system.⁵² The grievant contests this argument during her own testimony, arguing that using a parent's log-in credentials after the parent gave her permission to do so is not a violation of any policy or directive.⁵³

As stated previously, DHRM has the sole authority to make a final determination on whether the hearing decision comports with policy. Here, it is somewhat unclear, based on the testimony and evidence in the record, whether the grievant clearly violated any particular provision of DHRM policy. The most relevant policy appears to be the cited portion of Policy 1.75, in that the grievant technically may not have communicated her accurate identity when she used the parent's log-in credentials to access the detention center online system. However, it appears that the agency focuses more on the severity, or the "gravity of the situation," in issuing discipline for this incident. Agency management deserves some discretion in their judgment when considering the impact a certain incident may have on the agency.

Here, the agency extensively testified that the gravity of the situation was due to the parent having unauthorized access to the agency's BADGE system, the security implications of allowing agency employees to use "any means" to access sensitive information, and the security implications of the agency bypassing certain practices and procedures to risk misconduct such as fraud, were the parent to deny giving access to the grievant.⁵⁴ As discussed earlier, it appears that the hearing officer did not consider in her decision the fact that the parent had unauthorized access to the BADGE system. Leaving aside whether or to what extent the parent's alleged unauthorized access to BADGE would be an aggravating factor here, EDR agrees with the notion that using the parent's log-in credential opens the agency to the possibility of being accused of fraud or other misconduct that would not exist had the grievant not used the parent's log-in credentials. The agency has valid reasoning to mention the security implications of using the parent's credentials as the means to access information needed for business purposes, as they are exercising their

⁵¹ DHRM Policy 1.75, *Use of Electronic Communications and Social Media*, at 1, 3.

⁵² Hearing Recording at 26:30-27:55 (Director testimony).

⁵³ *Id.* at 1:33:35-1:34:25.

⁵⁴ *Id.* at 1:58:00-2:01:00 (Director testimony).

managerial judgment in determining the severity of the misconduct. Ultimately, the hearing officer's finding that the grievant's behavior constituted misconduct is supported by the agency's testimony. Based on EDR's review of the hearing officer's findings of fact and the record evidence, the issuance of a Group II Written Notice in this situation appears to be consistent with the parameters of DHRM Policy 1.60.

Level of Discipline

Finally, the grievant challenges the decision on grounds that the agency does not have an adequate basis "to rationalize why such a strict level of discipline was used or make the situation appear worse than it is."⁵⁵ Regarding the level of discipline imposed by the agency, the hearing officer only seemed to state that "[t]here was no evidence to challenge the decision of HR." This finding seems to conflict with the grievance procedure requirement that the agency has the burden of proof to substantiate its discipline.⁵⁶ It is the agency's burden to show sufficient evidence of why the alleged misconduct is elevated to a certain Group level. Here, regardless of this rationale given by the hearing officer, there appears to be sufficient evidence in the agency's testimony for why the offense was elevated to a Group II level. As was discussed previously, the agency testified to the "gravity of the situation," arguing that the grievant's actions caused significant security concerns such as the implications of the agency using the log-in credentials of someone outside of the agency to access sensitive information.

To this, the grievant argues that the site she accessed does not hold any sensitive information outside of the youth assigned to her case, and that no outside exposure was risked with the retrieved information.⁵⁷ Regardless of whether the agency has proven that such outside exposure was put at risk, the agency has applied its own managerial judgment in considering the security implications of the incident. While the hearing officer does not appear to expand on her determination that a Group II Written Notice was proper, for the reasons additionally described in the prior section, EDR finds no error in her ultimate determination and will not disturb the hearing decision on this basis.

CONCLUSION AND APPEAL RIGHTS

For the reasons set forth above, EDR declines to disturb the hearing officer's decision. 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.⁵⁸ 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.⁵⁹ Any such appeal must be based on the assertion that the final hearing decision is contradictory to law.⁶⁰

⁵⁵ Request for Administrative Review at 7.

⁵⁶ *Grievance Procedure Manual* § 5.8; *Rules for Conducting Grievance Hearings* § VI(B)(1).

⁵⁷ Hearing Recording at 1:35:40-1:47:40.

⁵⁸ *Grievance Procedure Manual* § 7.2(d).

⁵⁹ Va. Code § 2.2-3006(B); *Grievance Procedure Manual* § 7.3(a).

⁶⁰ *Id.*; see also *Va. Dep't of State Police v. Barton*, 39 Va. App. 439, 445, 573 S.E.2d 319, 322 (2002).

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Christopher M. Grab
Director
Office of Employment Dispute Resolution