



COMMONWEALTH OF VIRGINIA

Department Of Human Resource Management

Office of Employment Dispute Resolution

DECISION OF HEARING OFFICER

In re:

Case number: 12320

Hearing Date: April 2, 2026

Decision Issued: April 7, 2026

PROCEDURAL HISTORY

On June 24, 2025, Grievant was issued a Group III Written Notice of disciplinary action with termination. The Agency noted on the Written Notice that Grievant's termination was effective April 29, 2025. The Written Notice described the nature of the offense as:

On April 29, 2025, you pled guilty to a criminal charge of Forgery in the Circuit Court of [County].

Your conviction violated the following agency policy:

DJJ Staff Code of Conduct:

Unprofessional Conduct

- Being convicted of a criminal offense, pleading guilty to a criminal offense with or without conviction, conviction deferred with evidence sufficient for a finding of guilt, failure to report a guilty plea or conviction, failure to report an arrest or indictment for a criminal offense, or being placed on probation under 18.2-57.2 or 18.2-251 of the Code of Virginia.¹

On July 15, 2025, Grievant timely filed a grievance to challenge the Agency's action. The matter advanced to hearing. On August 4, 2025, the Office of Employment Dispute Resolution assigned this matter to the Hearing Officer. On August 20, 2025, a pre-hearing conference was held and the parties agreed that the hearing would be held

¹ Agency Ex. at 2-3.

on November 3, 2025. On October 8, 2025, Grievant requested a continuance of the hearing date to a date after February 9, 2026, when she anticipated a separate legal matter to conclude. Following another pre-hearing conference with the parties, this Hearing Officer continued the hearing to April 2, 2026, and extended the deadline for the parties to exchange copies of their exhibits and their witness lists to March 16, 2026.

On April 2, 2026, a hearing was held at Agency human resource facilities in the Richmond metropolitan area.

Prior to the hearing, on March 16, 2026, the parties exchanged copies of their exhibits and witness lists. During the hearing, the Agency's exhibits, marked as Agency Exhibits 1-5 (pages 1 through 38), were admitted into the record without objection. Grievant timely submitted and offered into the record, Grievant's Exhibits A through E. During the hearing, the Agency objected to Grievant's Exhibit D on relevance grounds. Exhibit D included medical bills which Grievant argued related to mitigation as she experienced an unexpected lapse in her health insurance coverage as a result of the Agency making the effective date of her termination, April 29, 2025, which was prior to the Agency's notification to Grievant that her employment was being terminated. The Hearing Officer admitted Exhibit D into the record. Without objection, the Hearing Officer also admitted Grievant's Exhibits A, B, C, and E into the record. The Grievant shared Grievant's Exhibit F and Exhibit G with the Agency and the Hearing Officer on March 20 and March 23, 2026, that is after the deadline for the submission of exhibits, but before the hearing date. During the hearing, the Agency objected to a portion of those exhibits on relevance grounds, specifically, correspondence from the Agency's third-party provider regarding approval of short-term disability benefits dated September 22, 2023, June 13, 2025, and February 2, 2025.² Grievant argued that those documents supported her arguments about her medical conditions and mitigating factors. The Hearing Officer noted the Agency's objections but admitted Grievant's Exhibits F and G into the record. During the hearing, the Grievant offered three additional exhibits that she requested the Hearing Officer include in the record. Those exhibits had not previously been shared with the Hearing Officer or the Agency and were marked during the hearing as Grievant's Hearing Exhibits 1, 2, and 3. After reviewing the exhibits offered by Grievant, the Agency objected to Grievant's Hearing Exhibits 1 and 2 as not relevant. Grievant's Hearing Exhibit 1 was a letter from Grievant's current employer regarding his observations of her character which Grievant argued spoke to her integrity. Grievant's Hearing Exhibit 2 was a letter and attachment from the Motor Vehicle Dealer Board approving Grievant's application for licensure following an informal fact-finding which Grievant argued considered the same legal proceedings underlying the discipline at issue in this case. The Hearing Officer admitted Grievant's Hearing Exhibits 1, 2, and 3 into the record.

APPEARANCES

Grievant
Agency Legal Advocate

² Although the exhibit was unmarked, based on the correspondence from Grievant with the submission of the exhibits on March 20, 2026, and March 23, 2026, it appeared that Grievant intended the exhibit to be marked at Grievant's exhibit G.

Agency Party Designee
Witnesses

ISSUES

1. Whether Grievant engaged in the behavior described in the Group III Written Notice?
2. Whether the behavior constituted misconduct?
3. Whether the Agency's discipline was consistent with law (e.g., free of unlawful discrimination) and policy (e.g. properly characterized as a Group I, II or III offense)?
4. Whether there were mitigating circumstances justifying a reduction or removal of the disciplinary action, and if so, whether aggravating circumstances existed that would overcome the mitigating circumstances?

BURDEN OF PROOF

The burden of proof is on the Agency to show by a preponderance of the evidence that its disciplinary action against the Grievant was warranted and appropriate under the circumstances. The employee has the burden of raising and establishing any affirmative defenses to discipline and any evidence of mitigating circumstances related to discipline. Grievance Procedure Manual ("GPM") § 5.8. A preponderance of the evidence is evidence which shows that what is sought to be proved is more probable than not. GPM § 9.

FINDINGS OF FACT

After reviewing the evidence presented and observing the demeanor of each witness, the Hearing Officer makes the following findings of fact:

At the time of her termination, Grievant was a Resident Specialist at a Department of Juvenile Justice Facility. Prior to her dismissal, Grievant had been employed by the Agency for almost five years. Grievant provided evidence that, aside from the matters at issue in this case, Grievant's performance of her job duties had been satisfactory to the Agency.³ No evidence of prior active disciplinary action was introduced during the hearing.

The Facility is a secure facility that serves juvenile residents who have been committed by the juvenile court for crimes ranging from misdemeanors to felonies. The Facility is responsible for preparing its juvenile residents to be successful citizens, including providing education, rehabilitation, and other services to the juvenile residents.

Grievant began working at the Facility as a Resident Specialist in November 2020. The evidence presented showed that on November 12, 2020, Grievant acknowledged her

³ See Grievant Ex. F.

receipt of the Agency's Staff Code of Conduct and other policies.⁴ The Staff Code of Conduct also was available for review by staff on the Agency's intranet.

As a Resident Specialist, Grievant's job duties included monitoring and supervising the Facility's juvenile residents. Grievant's position also required her to conduct inspections and searches and to intervene in behavioral crisis situations and emergencies to ensure the safety and security of the Facility's juvenile residents and staff. Grievant also was required to observe and document juvenile resident behavior and to complete and maintain security logs.⁵ The knowledge, skills, and abilities for Grievant's position included the "[a]bility to supervise and work with juvenile offenders while serving as a positive role model."⁶

On or about February 26, 2025, Grievant began a period of leave for a medical procedure.

On March 10, 2025, while Grievant was still on approved leave from the Agency, a Grand Jury issued an indictment charging Grievant with a Class 5 felony for forgery pursuant to § 18.2-172 of the Code of Virginia.⁷ Grievant was arrested and taken into custody on or around that same date. According to Grievant, while she was in custody, she was unable to contact the Agency to notify the Agency of her arrest, and she was unable to review Agency policies regarding reporting criminal charges and arrests.

Superintendent testified that she became aware of Grievant's arrest from a Facility staff member sometime before April 29, 2025.

While Grievant remained in custody, Grievant suffered the loss of both her parents who passed away within hours of each other.⁸

On April 29, 2025, Grievant entered into a plea agreement whereby Grievant agreed to plead guilty as charged, and to a sentence outlined in the agreement.⁹ Pursuant to the plea agreement, Grievant also agreed to a Statement of Facts which included facts related to Grievant's role in the forgery of a document purporting to be Grievant's deceased ex-husband's will. Grievant agreed that the Statement of Facts: were true and accurate, that the facts were sufficient to support her plea, and that if the case had proceeded to trial, the evidence presented by the Commonwealth would have proven, beyond reasonable doubt, the elements of the charge to which Grievant entered her plea.¹⁰

On April 29, 2025, pursuant to the plea agreement, Grievant pleaded guilty as charged to felony forgery in County Circuit Court.¹¹ Circuit Court Judge accepted

⁴ Grievant Ex. F.

⁵ See Grievant Ex. F.

⁶ Grievant Ex. F.

⁷ Agency Ex. at 12-13.

⁸ See Grievant Ex. B and C-1.

⁹ Agency Ex. at 15-18.

¹⁰ Agency Ex. at 15-23.

¹¹ Agency Ex. at 15-18.

Grievant's guilty plea on April 29, 2025. Circuit Court Judge issued the conviction and sentencing order for Grievant's case on May 7, 2025.¹² Circuit Court Judge noted in the Order that Grievant was represented by and had an opportunity to consult with legal counsel. Circuit Court Judge found that the plea was "voluntarily and intelligently" entered. Circuit Court Judge heard the evidence and argument of counsel and found Grievant guilty of forgery. Circuit Court Judge sentenced Grievant to incarceration with the Department of Corrections for a term of five years with four years and ten months suspended and Grievant was remanded into the custody of the Department of Corrections. Circuit Court Judge also placed Grievant on supervised probation for a period not exceeding five years.¹³ Grievant testified that she was not immediately released from custody following the entry of her guilty plea, but that she was released some weeks later.

On May 23, 2025, Grievant's medical provider sent a letter to County Circuit Court regarding Grievant, including the following information and recommendation:

It is my medical opinion that [Grievant], who has been under my care since 2015 for reactive depression, grief, caregiver burnout, and stress due to illness of family members related to her role as a caregiver be evaluated for her mental health follow[ing] the traumatic loss of both her parents recently which occurred successively on March 18th and 19th of 2025. [Grievant] was previously diagnosed in November 2015 and had been under ongoing care for emotional distress, exhaustion, caregiver burden, and stress. The sudden and simultaneous passing of both her parent[s] has significantly worsened her condition. She is currently prescribed medication to assist with depression and impaired concentration while continuing to receive the support of ongoing mental health under my care.

In my professional opinion, [Grievant] is experiencing clinically significant levels of emotional and cognitive distress that may interfere with her ability to make fully informed, conscious legal decisions. Her grief reaction is compounded by her history of depression and caregiver burnout, resulting in symptoms such as difficulty processing information clearly, impaired decision-making, emotional orientation, and reduced functional ability in high stress situations, such as legal proceedings.

I recommend this court consider a formal psychiatric evaluation to assess [Grievant's] current mental competency to ensure any legal decisions made are done with full comprehension and awareness.¹⁴

On June 12, 2025, the Agency issued a "Notification of Intent to Issue Disciplinary Action" letter to Grievant. The letter advised Grievant that the Agency was considering issuing discipline to Grievant, up to and including termination for her criminal conviction

¹² Agency Ex. at 22-23.

¹³ Agency Ex. at 22-23.

¹⁴ Grievant Ex. C-1.

of felony forgery which the Agency asserted violated the Agency's Staff Code of Conduct.¹⁵

On June 16, 2025, Grievant provided a letter to Superintendent. Grievant wrote:

I am writing to respectfully share information regarding a legal matter that I am actively working on to resolve and to request your consideration for continued employment during this time.

Please accept my sincerest apology for not reporting this matter promptly. The situation developed unexpectedly while I was facing overwhelming personal circumstances with the profound loss of both of my parents within hours of each other. This overwhelming grief deeply affected my emotional and psychological capacity and significantly impacted my ability to fully process events, respond appropriately to obligations, and comprehend the legal proceedings.

Due to my compromised mental and emotional state at the time, I entered into a plea agreement under conditions that I did not fully understand, informed, or voluntary. I am currently working with a new legal team and medical care providers to ensure this matter is properly addressed under Virginia law.

I take full responsibility for the delay in notifying the Department. The legal proceedings were unforeseen and emotionally taxing. The combination of legal complexity and profound personal grief caused significant emotional and psychological hardship, and I acknowledge that I should have communicated more transparently. I understand the importance of professional responsibility and my role within the Department of Juvenile Justice remains deeply important to me. I want to emphasize that this situation does not reflect my character or my unwavering commitment to the mission and values of the Department. Throughout my tenure, I have remained committed to the mission of this Department and have worked diligently to uphold the principles of integrity, safety, and professionalism and have remained devoted to the welfare of the youth and staff I serve. This situation does not reflect my true character or the quality of my service.

...¹⁶

On June 24, 2025, the Agency issued a Group III Written Notice to Grievant and terminated Grievant's employment. The Agency described the nature of the offense as follows:

On April 29, 2025, you pled guilty to a criminal charge of Forgery in the Circuit Court of [County].

¹⁵ Grievant Ex. A.

¹⁶ Agency Ex. at 5-6.

Your conviction violated the following agency policy:

DJJ Staff Code of Conduct:

Unprofessional Conduct

- Being convicted of a criminal offense, pleading guilty to a criminal offense with or without conviction, conviction deferred with evidence sufficient for a finding of guilt, failure to report a guilty plea or conviction, failure to report an arrest or indictment for a criminal offense, or being placed on probation under 18.2-57.2 or 18.2-251 of the Code of Virginia.¹⁷

The Written Notice advised Grievant that her termination was effective April 29, 2025.¹⁸

On February 27, 2026, Deputy Chief Probation and Parole Officer notified Grievant of the termination of her supervised probation.¹⁹

CONCLUSIONS OF POLICY

The Agency has adopted a Staff Code of Conduct to ensure that Agency employees conduct themselves in an appropriate and professional manner when interacting with clients and the public.²⁰ The Staff Code of Conduct sets forth the general expectation that employees “[c]omply with all applicable statutes, regulations, executive orders, administrative directives, policies, rules, and procedures” and “[c]onduct himself or herself and perform his or her duties in such a way as to set a good example for juveniles.”²¹

The following actions relating to unprofessional conduct of employees of the Department of Juvenile Justice may result in disciplinary action:

... b) Being convicted of a criminal offense, pleading guilty to a criminal offense with or without conviction, conviction deferred with evidence sufficient for a finding of guilt, failure to report a guilty plea or conviction, failure to report an arrest or indictment for a criminal offense, or being placed on probation under 18.2-57.2 or 18.2-251 of the Code of Virginia;
....²²

Whether Grievant engaged in the behavior and whether the behavior constituted misconduct

The Agency alleged that Grievant engaged in misconduct and violated the Agency’s Staff Code of Conduct when she committed a criminal offense as evidenced by her guilty plea and her conviction for forgery.

¹⁷ Agency Ex. at 2-3.

¹⁸ Agency Ex. at 2-3.

¹⁹ Grievant Hearing Ex. 3.

²⁰ See DJJ Administrative Procedure, Vol I-1.2-01, Staff Code of Conduct.

²¹ See DJJ Administrative Procedure, Vol I-1.2-01, Staff Code of Conduct, V.B.

²² DJJ Administrative Procedure, Vol I-1.2-01, Staff Code of Conduct, V.C.5.

Although Grievant testified during the hearing, Grievant did not provide any testimony or evidence regarding the conduct that led to her being charged with a criminal offense. Throughout the hearing, Grievant referred to the criminal offense and related facts as “alleged.” Grievant asserted that she intends to pursue legal avenues to withdraw or vacate her guilty plea and appeal (or overturn) her conviction. According to Grievant, she has not yet pursued those legal challenges due to financial constraints. Grievant appeared to argue that she entered the guilty plea without fully understanding the implications of entering such a plea because she was in a “compromised mental and emotional state” at the time she entered her plea.²³

The evidence showed that on April 29, 2025, Grievant pleaded guilty as charged to the criminal offense of forgery.²⁴ By pleading guilty, Grievant admitted that she engaged in behavior justifying a criminal charge of forgery. The Court accepted Grievant’s guilty plea and, after reviewing the evidence and arguments presented, found Grievant guilty of forgery.²⁵

Although Grievant asserted that she intends to try to withdraw or vacate her plea and appeal her conviction, Grievant presented no evidence to show that she did not commit the criminal offense to which she pleaded guilty and for which she was convicted. As an Agency employee, Grievant was expected to follow the law and conduct herself in a manner to serve as a good example or role model for the juvenile residents entrusted to the Facility’s care. When Grievant engaged in behavior justifying her being charged and convicted of a criminal offense, Grievant failed to meet those reasonable expectations and violated the Agency’s Staff Code of Conduct.

The Agency has met its burden of proving by a preponderance of the evidence that Grievant engaged in misconduct.

Whether the Agency’s discipline was consistent with law and policy

Group III offenses include acts and behavior of such a serious nature that a first occurrence normally should warrant termination. This level is appropriate for offenses that, include but are not limited to endangering others in the workplace, constituting illegal or unethical conduct, indicating significant neglect of duty, resulting in disruption of the workplace, or other serious violations of policies, procedures, or laws.²⁶

Grievant noted that her job duties did not require her to provide information to or testify before a court and Grievant argued that her guilty plea and conviction did not affect her ability to perform her job duties. Grievant asserted that the Agency inappropriately based its discipline on an isolated situation that did not reflect Grievant’s character or her history of good work performance. Grievant also provided a letter from her current employer regarding his observations of Grievant’s integrity and good work ethic.

²³ Grievant Ex. B and C.

²⁴ Agency Ex. at 15-18.

²⁵ Agency Ex. at 22-23.

²⁶ See DHRM Policy 1.60, Standards of Conduct.

The nature of Grievant's misconduct was serious. The preponderance of the evidence showed that Grievant engaged in conduct that was a serious violation of law as Grievant pleaded guilty to, and was convicted of, the felony criminal offense of forgery. The general nature and purpose of forgery is to deceive and defraud. Superintendent testified that the Agency is entrusted with ensuring the security and safety of its juvenile residents. According to Superintendent, the Agency, the juvenile residents and their parents, and the public must be able to trust Facility staff to perform their duties with integrity and trust, including enforcing the Commonwealth's laws. Superintendent testified to her reasonable concern regarding Grievant's ability to perform her job duties, including serving as a positive role model for the Facility's juvenile residents and being trusted to accurately log and document information on which the Agency relies to secure and safeguard the juveniles in its care. It was reasonable for the Agency to characterize Grievant's misconduct as a Group III offense.

Grievant argued that the Agency's discipline was too harsh for a first offense. Grievant asserted that she was a good employee with no active prior discipline. Although agencies are encouraged to engage in progressive disciplinary action, agencies are not required to do so. The Agency elected to issue Grievant a Group III Written Notice and has presented sufficient evidence to support its decision.

Grievant argued that the Agency did not properly investigate the allegations against her and that the Agency made up its mind without giving proper consideration to her response to the allegations. Grievant essentially argued that the Agency did not afford her with sufficient due process. The hearing process cures any such deficiency. Grievant had the opportunity to present her evidence and arguments during the hearing.

Grievant appeared to argue that at times she suffers from mental health conditions that were exacerbated by the death of both of her parents during March 2025. Grievant argued that she was in a compromised mental and emotional state when she pleaded guilty to the criminal charge. It was not clear whether Grievant also was arguing that she had a disability that affected her conduct leading to the criminal charges. Any assertion regarding a claim of disability impacting Grievant's behavior would necessarily be fact and case specific. It is important to note, however, that the Americans with Disabilities Act requires employers to provide reasonable accommodations for an employee's disability, but it does not broadly shield employees from disciplinary action for their own misconduct.

The issuance of a Group III Written Notice normally will warrant termination.

The Agency's discipline was consistent with law and policy.

Mitigation

Grievant argued that the Agency failed to appropriately consider mitigating factors, including information about the nature of her plea.

An Agency may reduce the level of a disciplinary action if there are mitigating circumstances, such as conditions that compel a reduction to promote the interests of

consistency, equity and objectivity, or based on an employee's otherwise satisfactory work performance. That the Agency could have mitigated the discipline but determined that it was inappropriate to do so is not a reason for the Hearing Officer to conclude that the Agency's action exceeds the limits of reasonableness.

Virginia Code § 2.2-3005.1 authorizes hearing officers to order appropriate remedies including "mitigation or reduction of the agency disciplinary action." Mitigation must be "in accordance with rules established by the Department of Human Resource Management...."²⁷ Under the Rules for Conducting Grievance Hearings, "[a] hearing officer must give deference to the agency's consideration and assessment of any mitigating and aggravating circumstances. Thus, a hearing officer may mitigate the agency's discipline only if, under the record evidence, the agency's discipline exceeds the limits of reasonableness. If the hearing officer mitigates the agency's discipline, the hearing officer shall state in the hearing decision the basis for mitigation." A non-exclusive list of examples includes whether (1) the employee received adequate notice of the existence of the rule that the employee is accused of violating, (2) the agency has consistently applied disciplinary action among similarly situated employees, and (3) the disciplinary action was free of improper motive. The Hearing Officer finds no mitigating circumstances exist to reduce the disciplinary action.

Other issues

The evidence showed that the Agency issued the Group III Written Notice to Grievant on June 24, 2025. In this case, Grievant's termination was based on the issuance of the Group III Written Notice. Thus, the Agency did not have a basis to terminate Grievant's employment until the disciplinary action was issued. As the Written Notice was not issued until June 24, 2025, the effective date of the termination listed on the form, April 29, 2025, was premature. The Written Notice was issued June 24, 2025, and June 24, 2025, would be the appropriate effective date of termination.

DECISION

For the reasons stated herein, the Agency's issuance to Grievant of a Group III Written Notice with termination is **upheld**. However, **the termination upheld is effective June 24, 2025**, consistent with the date that the Written Notice was issued and Grievant is awarded back pay and back benefits to which she would otherwise have been entitled if the Agency had not prematurely terminated her employment.

APPEAL RIGHTS

You may request an administrative review by EDR within **15 calendar** days from the date the decision was issued. Your request must be in writing and must be **received** by EDR within 15 calendar days of the date the decision was issued.

Please address your request to:

²⁷ Va. Code § 2.2-3005.

Office of Employment Dispute Resolution
Department of Human Resource Management
600 East Main St., 17th Floor
Richmond, VA 23219

or, send by e-mail to EDR@dhrm.virginia.gov, or by fax to (804) 786-1606.

You must also provide a copy of your appeal to the other party and the hearing officer. The hearing officer's **decision becomes final** when the 15-calendar-day period has expired, or when requests for administrative review have been decided.

A challenge that the hearing decision is inconsistent with state or agency policy must refer to a particular mandate in state or agency policy with which the hearing decision is not in compliance. A challenge that the hearing decision is not in compliance with the grievance procedure, or a request to present newly discovered evidence, must refer to a specific requirement of the grievance procedure with which the hearing decision is not in compliance.

You may request a judicial review if you believe the decision is contradictory to law. You must file a notice of appeal with the clerk of the circuit court in the jurisdiction in which the grievance arose within **30 days** of the date when the decision becomes final.²⁸

Angela Jenkins

Angela Jenkins, Esq.
Hearing Officer

²⁸ See Sections 7.1 through 7.3 of the Grievance Procedure Manual for a more detailed explanation, or call EDR's toll-free Advice Line at 888-232-3842 to learn more about appeal rights from an EDR Consultant.