

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 1034

September Term, 2014

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OCTAVIA HICKS-BRAYE

v.

MARYLAND DEPARTMENT OF HUMAN  
RESOURCES

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Krauser, C.J.,  
Graeff,  
Friedman,

JJ.

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Opinion by Graeff, J.

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Filed: June 8, 2016

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

The Maryland Department of Human Resources (“DHR”), appellee, filed a Notice of Termination against Octavia Hicks-Braye, appellant, charging her with several violations of the Code of Maryland Regulations (“COMAR”), and terminating her position as Staff Assistant to the State’s Citizen’s Review Board for Children (“CRBC”). Ms. Hicks-Braye appealed her termination to the Secretary of the Department of Budget and Management (“DBM”), and DBM forwarded the appeal to the Office of Administrative Hearings (“OAH”) for a hearing. After an administrative law judge (“ALJ”) at the OAH affirmed Ms. Hicks-Braye’s termination, she petitioned for judicial review in the Circuit Court for Prince George’s County. The circuit court affirmed the ALJ’s decision.

On appeal, Ms. Hicks-Braye raises several questions for our review, which we have rephrased, as follows:

1. Was there substantial evidence to support the ALJ’s finding that termination of Ms. Hicks-Braye was permissible given her failure to obey a lawful order from her superiors?
2. Did the ALJ permissibly admit and rely on an undated memorandum authored by a witness available for cross-examination?

For the reasons that follow, we shall affirm the judgment of the circuit court.

### **FACTUAL AND PROCEDURAL BACKGROUND**

From September 2010 until her termination in April 2013, Ms. Hicks-Braye was a Staff Assistant to the CRBC, a volunteer board that oversees and coordinates the activities of local boards operating in each Maryland county and Baltimore City to assure that children in foster care receive needed services. Local boards review the cases of children

in out-of-home care and submit a written report to the juvenile court. Md. Code (2012 Repl. Vol.) § 5-545 of the Family Law Article (“FL”). Ms. Hicks-Braye served as Staff Assistant to approximately 15 local boards, including Local Board 7 in Prince George’s County.

As Staff Assistant, Ms. Hicks-Braye prepared cases for CRBC review, arranged for caseworkers to present cases to the CRBC, wrote down the CRBC’s recommendations about each case, and prepared reports for DHR staff, courts, and any other stakeholder. She also provided assistance and encouragement to the local boards to promote the retention of the volunteer board members.

At the hearing before the ALJ, testimony was adduced regarding conflict involving Ms. Hicks-Braye. James Trent, a local board member, testified that, on February 26, 2013, Ms. Hicks-Braye notified board members by email of an upcoming case review meeting scheduled for March 4, 2013. In the email, Ms. Hicks-Braye sent several suggestions, such as moving discussions to the end of the meeting to allow the board members “more time to review” their notes. She also suggested that the board members use “the gap in time” in the meetings to review and discuss cases, although she stated that she would “like to avoid moving quickly through the scheduled cases and skipping around the agenda” because it “creates problems when we have interested parties scheduled at a certain time and it is also disruptive to workers, who have a specific time to attend.” Additionally, she provided the board members with resources that they could access on “how to manage and instruct boards.” Mr. Trent thought that the email was “unprofessional.”

At the March 4 meeting, Mr. Trent had a discussion with Ms. Hicks-Braye and told her that he did not think she had the authority “to do the things that she was doing.” Mildred Stewart, a volunteer on the CRBC who attended the March 4 meeting, testified that she witnessed a verbal exchange between Mr. Trent and Ms. Hicks-Braye. She explained that Ms. Hicks-Braye had told volunteers that they would have to stay at meetings for the full time, even if they had finished their case reviews. Mr. Trent told Ms. Hicks-Braye that she was not a supervisor of the volunteers, and that her job was only to guide the volunteers if they had any questions about policy and procedure. Ms. Hicks-Braye responded that Mr. Trent had not attended a circuit meeting, and he should have been there to answer questions. Ms. Stewart thought that Ms. Hicks-Braye was “attacking” Mr. Trent, and she did not think that it was appropriate for Ms. Hicks-Braye to “approach him in that manner with all of the rest of volunteers that were there to hear.” She considered Ms. Hicks-Braye’s behavior “unprofessional.”

Ms. Stewart also described an incident between Ms. Hicks-Braye and Sheila Whiteman. Ms. Whiteman wanted to leave the meeting after reviewing her cases, in order to get back to her place of employment as soon as possible, but Ms. Hicks-Braye told her that she had to stay to follow the agenda. Ms. Stewart protested having to stay because she had to get her children from school. She asked Ms. Hicks-Braye what would happen if all of the volunteers quit, to which Ms. Hicks-Braye responded: “[W]e’ll get other volunteers.” Ms. Stewart was upset by Ms. Hicks-Braye’s statement because she was volunteering her time. Ms. Stewart considered resigning from the board as a result of Ms. Hicks-Braye’s actions, noting that a couple of board members had resigned “because

of these things that she said to us.” Ms. Stewart did not think that she could work with Ms. Hicks-Braye because of “the aggressive way that she has approached board members” and because Ms. Hicks-Braye acted like her supervisor, when she was not.

Rebecca Hartman, a volunteer chairperson of the CRBC, had been on the board since 1983 and had worked with Ms. Hicks-Braye for close to two years. She stated that her experience working with Ms. Hicks-Braye was “very rocky” and “quite unpleasant.” Ms. Hicks-Braye disrespected her and her position as chairperson, and she discussed inappropriate topics with new board members. Because of Ms. Hicks-Braye’s disrespectfulness, Ms. Hartman considered resigning.

Denise Wheeler, supervisor of CRBC staff assistants, including Ms. Hicks-Braye, explained that the role of a staff assistant is to support local review boards, to provide some direction and guidance in child welfare and policy, and to support the board by helping to facilitate interviews for cases. On the morning of March 5, Ms. Wheeler learned of an incident between Ms. Hicks-Braye and Ms. Whiteman. She and her supervisor, Ms. McAllister, subsequently had a meeting with Ms. Hicks-Braye to discuss the incident and to hear her side of the story. Ms. Hicks-Braye initially denied that there was an incident with Ms. Whiteman, but she mentioned an incident with Mr. Trent. Ms. Wheeler instructed Ms. Hicks-Braye not to contact board members “because it appeared that things were getting out of hand,” and instead, let Ms. Wheeler address the situation. Ms. Wheeler already had a meeting scheduled with Mr. Trent, at which time she would address the situation with him.

Despite the admonition not to contact board members, at 12:31 p.m., approximately 15 minutes after the meeting between Ms. Wheeler, Ms. McAllister, and Ms. Hicks-Braye, Ms. Hicks-Braye sent an email to all members of the 7th Judicial Circuit, with a copy to Mr. Trent, in which she stated, in part:

As you are aware, last year I informed all boards of the need to have **circuit meetings** and **Director meetings** at least 1 time annually . . . .

Per Mr. Trent’s decision, there will not be any further meetings at this time. During the meetings, Mr. Trent was unavailable and many of you had questions for Mr. Trent during Q and A. **Mr. Trent has made the suggestion instead of having a circuit meeting at this time, he will allow you to contact him with your questions. If you have any questions or concerns, please direct them to Mr. Trent.** To the new members, Mr. Trent is the elected State Board Chair for your region, voted in by your peers in your region and circuit.

Ms. Wheeler “felt that the purpose and the e-mail were inappropriate” and “appeared to paint Mr. Trent in a negative light and to try to stir up some confusion and a negative impact towards Mr. Trent and the state board agency.” Ms. Wheeler opined that Ms. Hicks-Braye’s actions were a contradiction of her duties as Staff Assistant, as she should have been supporting board members in their activity and advocacy. Ms. Wheeler considered Ms. Hicks-Braye’s actions in sending the email to be egregious.

Mr. Trent believed that the email was sent to undermine his authority. He forwarded the email to Sabrena McAllister, Administrator of the CRBC, with a copy to Nettie Burrs, Chair of the CRBC, stating that the “tone of the letter and . . . statements of allegations lead the readers to believe that [he] is the cause of all that’s wrong in Circuit #7, and by vote, [h]e can be removed.” He further stated that “we should not let this unauthorized action go along without taking corrective measures,” such as counseling

Ms. Hicks-Braye on “proper CRBC protocol,” including “where her authority starts and stops as staff assistant,” and giving a reprimand for issuing the email.

In addition to the inappropriate email, Ms. Wheeler described other incidents of misconduct, and counseling memoranda detailing the incidents were admitted into evidence. On one occasion, Ms. Hicks-Braye had used an agency vehicle for personal use to cross state lines without permission. In another instance, Ms. Hicks-Braye failed to submit a timesheet after more than one request, and when Ms. Wheeler tried to address the issue, Ms. Hicks-Braye responded with inappropriate behavior. Ms. Hicks-Braye previously had been disciplined for failure to follow a directive to attend a mandatory meeting. On two other occasions, Ms. Hicks-Braye received corrective action memorandums for failure to follow directives and inappropriately planning a meeting agenda after being given instructions on how to proceed. In another instance, Ms. Hicks-Braye received a corrective action memorandum for failure to submit a timesheet, and she refused to sign it. Ms. Wheeler stated that Ms. Hicks-Braye’s insubordinate behavior did not improve during her term of employment, and her behaviors were unsatisfactory. Ms. Wheeler thought that Ms. Hicks-Braye’s termination was appropriate because she “had been given many opportunities to improve and to do things differently,” but she did not do so.

Ms. McAllister supervised Ms. Wheeler and, in turn, Ms. Hicks-Braye. She explained that Ms. Hicks-Braye’s role was to provide support for volunteer board members. On March 5, 2013, Ms. McAllister learned of an incident between Ms. Hicks-Braye and Ms. Whiteman. She received a copy of an email in which Ms. Whiteman stated

that she could no longer work with Ms. Hicks-Braye, and she was going to resign as a result of her experience of working with Ms. Hicks-Braye. Ms. McAllister found the email concerning because CRBC is a volunteer-run agency.

After learning of the incident, Ms. McAllister and Ms. Wheeler had a meeting with Ms. Hicks-Braye. They explained to Ms. Hicks-Braye that she could not make volunteers do something they did not want to do, and if Mr. Trent did not want to have a meeting, she should report that to her supervisor. Ms. Wheeler told Ms. Hicks-Braye that she would handle the matter at an upcoming meeting with Mr. Trent and not to discuss the matter with Mr. Trent or with any volunteers. When Ms. Hicks-Braye left the meeting, Ms. McAllister thought “we were all on the same page that . . . she was not to contact the membership about anything in regards to the circuit meeting,” and Ms. McAllister and Ms. Wheeler would handle it. A few minutes later, however, Ms. Hicks-Braye sent the email regarding Mr. Trent to all board members. Ms. McAllister thought Ms. Hicks-Braye’s actions were “very undermining” to Mr. Trent. Ms. McAllister considered Ms. Hicks-Braye’s actions to be unprofessional. Ms. McAllister stated that one board member had resigned because of her frustration with Ms. Hicks-Braye’s behaviors.

Ms. Hicks-Braye testified that she had been typing the email to the board members before her meeting with Ms. McAllister and Ms. Wheeler, and when she went back to her desk after the meeting, she “just went back to typing up what I was typing up and then I sent the e-mail.” She denied that she was told not to contact the board members.

Prior to terminating Ms. Hicks-Braye, Ms. McAllister had a mitigation meeting with her. After the meeting, Ms. McAllister determined that termination was appropriate

because of Ms. Hicks-Braye's continued pattern of insubordination. She stated that Ms. Hicks-Braye was insubordinate by "not following the directive given by her supervisor[s] . . . [not] to contact board members in regards to this incident." She also found that Ms. Hicks-Braye neglected her duties and responsibilities as Staff Assistant and treated members disrespectfully.

In the subsequent Notice of Termination, Ms. McAllister stated the basis for declaring Ms. Hicks-Braye insubordinate:

Management met with Ms. Hicks-Braye at 11:35 am on March 5, 2013. During that meeting management learned of another incident and verbal altercation that took place with [Mr. Trent]. At the conclusion[] of the meeting, Ms. Hicks-Braye was given a specific directive by her management team not to discuss any of the issues of concern with any of the volunteer Board members or any other Board personnel.

On March 8, 2013 Ms. Hicks-Braye's management team met with [Mr. Trent] to discuss concerns regarding Ms. Hicks-Braye. During the meeting management learned that Ms. Hicks-Braye disregarded management's prior directive and at 12:31 pm on March 5<sup>th</sup> she wrote and distributed an email to all of the volunteer membership in Prince George's, Calvert, and St. Mary's Counties. In the email Ms. Hicks-Braye raised the exact issues that she had been told not to address until after her management team had an opportunity to de-escalate the rising tension between Ms. Hicks-Braye and the volunteer Board members. This email evidences a continued pattern of Ms. Hicks-Braye's willful disregard of instructions from her management team. It is especially disturbing in light of the fact that the email was sent less than an hour after Ms. Hicks-Braye was specifically told by her management team that she was not to contact Board members.

The Notice of Termination stated that Ms. Hicks-Braye had been "verbally aggressive, offensive and belittling to the Board membership," which "has resulted in the resignation of volunteers." It explained that Ms. Hicks-Braye's behavior was "contrary to [her] job duties which include[d] building positive relationships and having positive

interactions with stakeholders and customers, and retention efforts with the volunteer membership assigned to her jurisdictions.” Moreover, her “continued refusal to follow instruction from her management team” had “adversely affected CRBC’s credibility within the community that it serves.”

At the conclusion of the hearing, the ALJ concluded, among other things, that CRBC management proved, by a preponderance of the evidence, that Ms. Hicks-Braye “violated a lawful order or failed to obey a lawful order given by a superior, or engaged in conduct, violating a lawful order, or failing to obey a lawful order which amounts to insubordination, in violation of COMAR 17.04.05.04B(12).”<sup>1</sup> The ALJ’s conclusion that Ms. Hicks-Braye’s conduct was insubordinate was based on the following findings:

The question to determine is whether it is more likely than not that the Employee was told not to communicate with board members, including Mr. Trent, about disputed matters such as the scheduling of a circuit meeting. The Employee claims that the topic never came up, and that she was not given any such directives. Management contends that it expected only one complaint by Ms. Whiteman, a board member who did not intend to seek reappointment; however, during their March 5 discussion with the Employee, she admitted to a disagreement with another board member, Mr. Trent . . . . I find that Management was genuinely concerned about further resignations from the boards and the expressed unhappiness of the board members, and sought to contain the issue by keeping the Employee – who had some friction from the board members – from causing any further deterioration. Management told the Employee not to have any further contact with the board members, as Management already had a meeting planned by week’s end. The time that the Employee had to honor this order was limited. Therefore, I find the Employee’s contention to the contrary is illogical, and

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<sup>1</sup> That section provides: “An employee may be disciplined for[:] (12) Violating a lawful order or failing to obey a lawful order given by a superior, or engaging in conduct, violating a lawful order, or failing to obey a lawful order which amounts to insubordination.” Code of Maryland Regulations 17.04.05.04B(12) (“COMAR”). The ALJ found that CRBC management did not prove several other COMAR violations that had been alleged.

that she agreed not to have further contact with the board members until after the scheduled Friday meeting. If she had not so agreed, Management would have commented on the lapse. There was no legal impediment to Management’s directive.

Accordingly, the ALJ concluded that terminating Ms. Hicks-Braye’s employment was not an abuse of discretion and was reasonable under the circumstances.

Ms. Hicks-Braye petitioned for judicial review. After a hearing, the circuit court affirmed the ALJ, finding that there was substantial evidence in the record to support the ALJ’s decision, and that the ALJ’s decision was not arbitrary and capricious.

### **STANDARD OF REVIEW**

Judicial review of an administrative decision “generally is a ‘narrow and highly deferential inquiry.’” *Seminary Galleria, LLC v. Dulaney Valley Improvement Ass’n*, 192 Md. App. 719, 733 (2010) (quoting *Maryland-Nat’l Park & Planning Comm’n v. Greater Baden-Aquasco Citizens Ass’n*, 412 Md. 73, 83 (2009)). This Court looks “through the circuit court’s decision” and reviews the administrative decision, *Chesapeake Bay Found., Inc. v. Clickner*, 192 Md. App. 172, 181 (2010), determining “if there is substantial evidence in the record as a whole to support the agency’s findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law.” *Cosby v. Dep’t of Human Res.*, 425 Md. 629, 638 (2012) (quoting *Bd. of Phys. Quality Assurance v. Banks*, 354 Md. 59, 67-68 (1999)). *Accord Bragunier Masonry Contractors, Inc. v. Comm’r of Labor and Indus.*, 111 Md. App. 698, 716 (1996), *cert. denied*, 344 Md. 566 (1997).

With respect to the agency’s factual findings, we apply the substantial evidence test, which “requires us to affirm an agency decision, if, after reviewing the evidence in a light most favorable to the agency, we find a reasoning mind reasonably could have reached the factual conclusion the agency reached.” *Miller v. City of Annapolis Historic Pres. Comm’n*, 200 Md. App. 612, 633 (2011) (quoting *Montgomery County v. Longo*, 187 Md. App. 25, 49 (2009)). *Accord Comm’r of Labor and Indus. v. Bethlehem Steel Corp.*, 344 Md. 17, 24 (1996). “With respect to the agency’s conclusions of law, a certain amount of deference may be afforded when the agency is interpreting or applying the statute the agency itself administers,” *Employees’ Ret. Sys. of Balt. v. Dorsey*, 430 Md. 100, 111 (2013), but we are under no constraint “to affirm an agency decision premised solely upon an erroneous conclusion of law,” *Id.* at 110 (quoting *Thomas v. State Ret. & Pension Sys. of Maryland*, 420 Md. 45, 54-55 (2011)). Instead, we review legal conclusions *de novo* for correctness. *Colburn v. Dep’t of Pub. Safety & Corr. Servs.*, 403 Md. 115, 128 (2007) (“[I]t is always within our prerogative to determine whether an agency’s conclusions of law are correct, and to remedy them if wrong.”) (quoting *Schwartz v. Dep’t of Natural Res.*, 385 Md. 534, 554 (2005)).

As long as an administrative decision does not exceed the agency’s authority, is not unlawful, and is supported by competent, material and substantial evidence, a reviewing court may not reverse or modify the decision unless the action was “so extreme and egregious” as to render it arbitrary and capricious. *Harvey v. Marshall*, 389 Md. 243, 300 (2005) (quoting *Md. Transp. Auth. v. King*, 369 Md. 274, 291 (2002)). This Court will not

reverse the decision as “arbitrary or capricious” if the agency’s actions are reasonably or rationally motivated. *Id.* at 298-99.

## DISCUSSION

### I.

Ms. Hicks-Braye contends that the ALJ “committed reversible error when he found the penalty to be proper.” In support, she argues that the penalty gives her “a lifetime bar[]” and “permanently tarnishes her good work record.” She further argues that the ALJ erred “in using 4 counseling memos to support the penalty assessment.”

DHR contends that “substantial evidence supports the ALJ’s finding that Ms. Hicks-Braye had violated an order from her superiors,” and the ALJ’s conclusion that termination was permissible was legally correct. It cites the evidence supporting the ALJ’s factual finding that Ms. Hicks-Braye sent an email to board members “in violation of explicit instructions from her supervisors,” and it asserts that the ALJ committed no legal error when it found the penalty of termination to be proper. Moreover, it asserts that Ms. Hicks-Braye cites no authority that provides that counseling memoranda, which showed her history of insubordination, are barred from use in disciplinary proceedings.

The ALJ concluded that Ms. Hicks-Braye “violated a lawful order or failed to obey a lawful order given by a superior, or engaged in conduct, violating a lawful order, or failing to obey a lawful order which amounts to insubordination, in violation of COMAR 17.04.05.04B(12),” which violation was grounds to support her termination. Substantial evidence in the record supports the ALJ’s conclusion.

At the hearing, both Ms. McAllister and Ms. Wheeler testified that they met with Ms. Hicks-Braye on the morning of March 5 and specifically instructed her not to contact any of the 7th Circuit board members until they had an opportunity to talk to them. Despite those specific instructions, Ms. Hicks-Braye sent the email shortly after the meeting.<sup>2</sup>

Although Ms. Hicks-Braye denied that her supervisors instructed her not to contact the board members, it was the province of the ALJ, as fact-finder, to determine what weight to give to conflicting testimony, and to draw inferences from the evidence presented. *See, e.g., Maryland Aviation Admin. v. Noland*, 386 Md. 556, 571 (2005). Where, as here, credibility determinations are critical to the case and are demeanor-based, a reviewing court gives substantial deference to the ALJ's credibility determinations. *State Comm'n on Hum. Relations v. Kaydon Ring & Seal, Inc.*, 149 Md. App. 666, 693 (2003).

Here, in addition to finding Ms. McAllister and Ms. Wheeler credible with regard to their version of events, i.e., that they had communicated a direct order to Ms. Hicks-Braye, the ALJ also relied on evidence that Ms. Hicks-Braye had prior disagreements with the local board members, and she had a history of conflict that gave Ms. McAllister and Ms. Wheeler concern about further deterioration in DHR's relationships with volunteer board members if Ms. Hicks-Braye contacted them. To the extent that Ms. Hicks-Braye challenges the ALJ's factual finding that the order was communicated to her, there was substantial evidence in the record to support the ALJ's finding in this regard.

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<sup>2</sup> Ms. Hicks-Braye admitted that she sent the email, and Mr. Trent confirmed that he received the email.

With respect to Ms. Hicks-Braye’s argument that the ALJ made a legal error in finding the penalty of termination appropriate, we disagree. Pursuant to COMAR 17.04.05.02(C), the OAH “may not change the discipline imposed by the appointing authority, as modified by the head of the principal unit or Secretary, unless the discipline imposed was clearly an abuse of discretion and clearly unreasonable under the circumstances.” Here, the discipline imposed, termination, was neither an abuse of discretion nor unreasonable because Ms. Hicks-Braye could be disciplined for insubordination, COMAR 17.04.05.04B(12), and termination is one of the express disciplinary actions permitted by statute. *See* Md. Code (2009 Repl. Vol.) § 11-104(6)(ii) of the State Personnel & Pensions Article (“SPP”) (“[I]f the appointing authority finds that the employee’s actions are egregious to the extent that the employee does not merit employment in any capacity with the State, [the appointing authority may] terminate the employee’s employment, with prejudice.”).

To the extent Ms. Hicks-Braye contends that the sanction was disproportionate to the misconduct, there is no requirement that the chosen sanction, where lawful, be proportional. Indeed, a reviewing court is not authorized to overturn a lawful sanction absent egregious circumstances. *See Maryland Transp. Authority v. King*, 369 Md. 274 (2002) (“As long as an administrative sanction or decision does not exceed the agency’s authority, is not unlawful, and is supported by competent, material and substantial evidence, there can be no judicial reversal or modification of the decision based on disproportionality . . . unless . . . [it] was so extreme and egregious that the reviewing court can properly deem the decision to be ‘arbitrary or capricious.’”).

We turn next to Ms. Hicks-Braye’s argument that the ALJ erred in relying on previous counseling memoranda regarding other acts of insubordination. Initially, we note that Ms. Hicks-Braye did not object below when the counseling memoranda were admitted into evidence. In *Colao v. Maryland-Nat’l Capital Park & Planning Comm’n*, 167 Md. App. 194, 201 (2005), *cert. denied*, 393 Md. 243 (2006), this Court stated that, when a party fails to object to alleged error during the course of an administrative proceeding, he or she “*may not raise an objection for the first time in a judicial review proceeding.*” *Accord Halici v. City of Gaithersburg*, 180 Md. App. 238, 249 (ordinarily, a court reviewing the decision of an administrative agency may not pass upon issues presented to it for the first time on judicial review), *cert. denied*, 406 Md. 113 (2008); *Rosov v. Maryland State Bd. of Dental Exam’rs*, 163 Md. App. 98, 112 (2005) (“If a party fails to object, ‘he will not later be heard to complain that the evidence should not have been admitted.’”) (quoting *Ginn v. Farley*, 43 Md. App. 229, 236 (1979)). Accordingly, because Ms. Hicks-Braye did not object below to the admission of the memoranda, the issue is not preserved for this Court’s review.

Moreover, we note that Ms. Hicks-Braye fails to cite any law prohibiting use of such memoranda in disciplinary proceedings. Under these circumstances, we will not consider this issue. *See Sutton v. FedFirst Fin. Corp.*, 226 Md. App. 46, 80 n.18 (2015) (when party fails to adequately brief an argument, court may decline to address it on appeal) (citing *Honeycutt v. Honeycutt*, 150 Md. App. 604, 618 (2003)), *cert. denied*, 446 Md. 293 (2016); *Albertson v. State*, 212 Md. App. 531, 571 (2013) (“[I]f a point germane to the appeal is

not adequately raised in a party’s brief, the [appellate] court may, and ordinarily should, decline to address it.”) (quoting *Moosavi v. State*, 355 Md. 651, 660 (1999)).

In sum, we are not persuaded that the ALJ erred or abused his discretion in finding that the penalty of termination was proper.

## II.

Although Ms. Hicks-Braye’s primary argument involves the propriety of her termination, which we have addressed, she also appears to argue that the ALJ erred in admitting an “updated ‘CRBC Policy Manual’” dated as adopted in 2013. She asserts that this manual, which she has included in the record extract, was revised after she was terminated and was not shared with her in violation of the Maryland Rules.

DHR responds in a footnote. It asserts that there is no evidence that the ALJ admitted or considered the manual, or that it is relevant to any issue decided by the ALJ. Our review of the record confirms this assertion. This claim is devoid of merit.

**JUDGMENT AFFIRMED. COSTS  
TO BE PAID BY APPELLANT.**