

Compliance – Grievance Procedure (other issue); Ruling Date: May 12, 2017; Ruling No. 2017-4542; Agency: Department of Behavioral Health and Developmental Services; Outcome: Grievant Not in Compliance.



**COMMONWEALTH of VIRGINIA**  
**Department of Human Resource Management**  
**Office of Employment Dispute Resolution<sup>1</sup>**

**COMPLIANCE RULING**

In the matter of the Department of Behavioral Health and Developmental Services  
Ruling Number 2017-4542  
May 12, 2017

The Department of Behavioral Health and Developmental Services (the “agency”) seeks a ruling concerning two purportedly duplicative grievances initiated by the grievant.

FACTS

On or about February 2, 2017, the grievant initiated two grievances with the agency. Both grievances note January 5, 2017 as the “Date Grievance Occurred” and both grievances challenge a situation that ultimately led to the grievant’s receipt of disciplinary action for allegedly refusing to work overtime. It appears that the agency responded to both grievances simultaneously via the management resolution steps. On April 14, 2017, the acting agency head issued a letter to the grievant, denying qualification of one of the February 2, 2017 grievances for a hearing and advising her that the agency would close that grievance as being duplicative of the other. The agency forwarded the other February 2, 2017 grievance to EDR along with a Form B requesting appointment of a hearing officer.

DISCUSSION

The *Grievance Procedure Manual* states that a grievance may not “challeng[e] the same management action or omission challenged by another grievance.”<sup>2</sup> In this instance, it appears that the two February 2, 2017 grievances both essentially challenge the same action (the events of January 5, 2017, which gave rise to the Group II Written Notice). Thus, there exists a basis to close one of the February 2, 2017 grievances as the two grievances are duplicative of each other.

Accordingly, the grievance that the agency qualified for a hearing will proceed forward as the grievance challenging the January 5, 2017 Group II Written Notice.<sup>3</sup> The February 2,

---

<sup>1</sup> Effective January 1, 2017, the Office of Employment Dispute Resolution merged with another office area within the Department of Human Resource Management, the Office of Equal Employment Services. Because full updates have not yet been made to the *Grievance Procedure Manual*, this office will be referred to as “EDR” in this ruling to alleviate any confusion. EDR’s role with regard to the grievance procedure remains the same post-merger.

<sup>2</sup> *Grievance Procedure Manual* § 2.4.

<sup>3</sup> While these two grievances contain a great deal of identical information, the grievance that was qualified by the agency appears to be more detailed.

2017 grievance that was closed by the agency will remain administratively closed. However, this ruling does not foreclose the grievant's ability to raise any arguments regarding the disciplinary action that were set forth in the second February 2, 2017 grievance. For instance, the second February 2, 2017 grievance appears to focus more on the behavior of the grievant's supervisor, to include allegations of bullying and harassment. The grievant is free to present arguments regarding her supervisor's behavior as part of her hearing challenging the Group II Written Notice. EDR's rulings on matters of compliance are final and nonappealable.<sup>4</sup>



---

Christopher M. Grab  
Director  
Office of Employment Dispute Resolution

---

<sup>4</sup> See Va. Code §§ 2.2-1202.1(5); 2.2-3003(G).