



EMILY S. ELLIOTT  
DIRECTOR

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

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

**COMPLIANCE RULING**

In the matter of the University of Virginia Medical Center  
Ruling Number 2022-5410  
May 20, 2022

The University of Virginia Medical Center (the “university” or “agency”) has requested a ruling from the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management on whether the grievant’s May 9, 2022 dismissal grievance was timely initiated.

Ordinarily, if a Grievance Form A does not comply with the requirements for initiating a grievance, the agency may notify the employee, using the Grievance Form A, that the grievance will be administratively closed.<sup>1</sup> Because dismissal grievances are initiated directly with EDR,<sup>2</sup> an agency is essentially unable to follow this process as outlined. The university has therefore requested a ruling regarding the grievant’s alleged initiation noncompliance.

The grievance procedure provides that an employee must initiate a written grievance within 30 calendar days of the date he knew or should have known of the event or action that is the basis of the grievance.<sup>3</sup> When an employee initiates a grievance beyond the 30-calendar-day period without just cause, the grievance is not in compliance with the grievance procedure and may be administratively closed. EDR has long held that in a grievance challenging a disciplinary action, the 30-calendar-day timeframe begins on the date that management presents or delivers the Written Notice to the employee.<sup>4</sup> Further, the *Grievance Procedure Manual* states that “[a]n employee who wishes to appeal a disciplinary action must file a grievance within 30 calendar days of receipt of the Written Notice.”<sup>5</sup>

In this case, the event that forms the basis of the grievance is the grievant’s termination via the issuance of a Step 4 – Formal Performance Improvement Counseling Form on January 12, 2022. The grievant emailed a dismissal grievance challenging the disciplinary action and his termination to EDR on May 9, 2022. The agency notified the grievant via Zoom call on January 12 of the Step 4 and his termination. However, according to the agency, the termination paperwork

---

<sup>1</sup> *Grievance Procedure Manual* § 2.4.

<sup>2</sup> *Id.* § 2.5.

<sup>3</sup> Va. Code § 2.2-3003(C); *Grievance Procedure Manual* §§ 2.2, 2.4.

<sup>4</sup> E.g., EDR Ruling No. 2019-4845; EDR Ruling No. 2015-4181; EDR Ruling No. 2013-3582.

<sup>5</sup> *Grievance Procedure Manual* § 2.2 n.2 (emphasis added).

was provided to the grievant via U.S. mail and certified mail afterwards. Tracking information from the U.S. Postal Service indicates that the grievant received this mailing on January 25, 2022. Therefore, EDR finds that the grievant should have initiated the grievance no later than 30 days of his receipt of the documentation, i.e., no later than February 24.<sup>6</sup> He did not initiate the grievance until May 9, and thus it is untimely.

EDR has long held that it is incumbent upon each employee to know his or her responsibilities under the grievance procedure.<sup>7</sup> A grievant's lack of knowledge about the grievance procedure and its requirements does not constitute just cause for failure to act in a timely manner. The grievant has presented no other basis for the late filing. For these reasons, EDR concludes that the grievant has not demonstrated just cause for the delay in initiating his grievance.

Accordingly, EDR concludes that the grievance was not timely initiated and that there was no just cause for the delay. The parties are advised that the grievance should be marked as concluded due to noncompliance and no further action is required. EDR's rulings on matters of compliance are final and nonappealable.<sup>8</sup>

*Christopher M. Grab*  
Director  
Office of Employment Dispute Resolution

---

<sup>6</sup> EDR will use this date for purposes of this ruling as it is the latest reasonable time in the grievant's favor. However, Section 2.2 of the *Grievance Procedure Manual* provides that "[i]f the management action is sent to the grievant by regular mail, evidence of proper mailing presented by the agency will create a presumption that the action was received seven calendar days from the mailed date." The application of this provision could have created a shorter deadline than that applied here. By either measure, this grievance is untimely.

<sup>7</sup> See, e.g., EDR Ruling No. 2020-4991; EDR Ruling No. 2019-4776; EDR Ruling No. 2019-4643

<sup>8</sup> See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).