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**COMPLIANCE RULING**

In the matter of James Madison University  
Ruling Number 2023-5490  
January 4, 2023

The grievant has requested a compliance ruling from the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management in relation to her December 2, 2022 grievance with James Madison University (the university or agency). The university asserts that the grievant did not initiate her grievance within the 30-calendar-day time period required by the grievance procedure.

The grievance procedure provides that an employee must initiate a written grievance within 30 calendar days of the date they knew or should have known of the event or action that is the basis of the grievance.<sup>1</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>2</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>3</sup>

In this case, the events that appear to be challenged in the grievance are the grievant’s ineligibility for a bonus and her receipt of a Group I Written Notice on or about October 3, 2022. The grievant initiated a grievance on or about December 2, 2022. The grievant appears to state that she did not receive a write-up or was not aware that the Written Notice was issued until the topic of the bonus came up. However, based on information gathered from the university, it appears that the grievant was presented with an issued Written Notice on October 3, 2022. Because the grievant received the Written Notice on October 3, 2022, she should have initiated the grievance within thirty days, i.e., no later than November 2, 2022. As such, the December 2, 2022 grievance is not timely to challenge the October 3, 2022 Written Notice.

While this grievance is not timely to challenge the Written Notice, it does appear to have been timely initiated to challenge the grievant’s ineligibility for the bonus. EDR has not reviewed

<sup>1</sup> Va. Code § 2.2-3003(C); *Grievance Procedure Manual* §§ 2.2, 2.4.

<sup>2</sup> E.g., EDR Ruling No. 2019-4845; EDR Ruling No. 2015-4181; EDR Ruling No. 2013-3582.

<sup>3</sup> *Grievance Procedure Manual* § 2.2 n.2 (emphasis added). The Written Notice form includes similar language.

any information in the grievance record to suggest that the grievant learned of her ineligibility for the bonus outside the 30 calendar days preceding the initiation of the grievance. Accordingly, EDR finds that the grievance is timely initiated, but only as to the issue of the bonus itself.

For the reasons set forth above, EDR concludes that the grievance is timely initiated and must be allowed to proceed to the extent described above. This ruling does not address the merits of the claims presented in the grievance and only decides that the grievance was timely filed with respect to the claims identified above. The university is directed to return the grievance form and any attachments to the appropriate step respondent for a substantive response. The step respondent must respond to the grievance within five workdays of receipt.

EDR's rulings on matters of compliance are final and nonappealable.<sup>4</sup>

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