



JANET L. LAWSON  
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 Virginia Department of Corrections  
Ruling Number 2023-5455  
September 15, 2022

The grievant has requested reconsideration of a compliance ruling issued by the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management (“DHRM”) in his August 8, 2022 grievance with the Department of Corrections (the “agency”). For the reasons set forth below, the original ruling stands as issued.

In EDR Ruling Number 2023-5451, we agreed with the agency that the August 8, 2022 grievance was untimely to challenge the associated selection process, which had occurred in 2019. In his request for reconsideration, the grievant acknowledges that he “can’t file a grievance on the position,” but reiterates that his grievance is “based on new information received on July 12th of this year,” meaning the comments made by a Manager about the selection process. The grievant cites to the agency’s workplace civility policy, quoting the provision stating “[b]ehaviors that undermine team cohesion, employee morale, individual self-worth, productivity, and/or safety are not acceptable.”<sup>1</sup> We interpret the grievant’s argument to mean that he is suggesting the Manager’s comments fall under the prohibitions of this policy and that is the concern for which he filed his grievance.

Upon review of the Grievance Form A, we do not agree that the grievance can be interpreted as a complaint under the agency’s workplace civility policy. Other than describing the Manager’s comments as “deplorable,” there is nothing to indicate that the grievant was filing the grievance to raise his concerns and receive relief relating to the manager’s conduct. Rather, the grievant appears to be arguing that preselection occurred in the selection process in which he competed in 2019 and that needed to be addressed. The grievant states at the beginning of the grievance that he is writing “to formally complain about a job promotion being pre-selected before the interview process.” The grievant goes on to describe the Manager’s comments as indicating to him that he “was placed at an unfair disadvantage and didn’t have a chance at getting the position.” The grievant submitted his interview notes from the 2019 selection process, and sought as relief “for HR to review interview notes, possible re-interview of the finalist, possibly compensation, and/or if founded, those involved be subject to Standards of Conduct.” The grievance does not refer to the agency’s workplace civility policy. In contesting the agency’s administrative closure

---

<sup>1</sup> DOC Op. Proc. 145.3, *Equal Employment Opportunity, Anti-Harassment, and Workplace Civility*, at 5.  
*An Equal Opportunity Employer*

of the grievance, the grievant again identified that the “unethical practices” challenged were the alleged preselection from 2019.

Conduct occurring in violation of a workplace civility policy can potentially be the subject of a valid grievance. However, we cannot read the grievant’s August 8, 2022 grievance as filed to raise that issue as the grievant appears to assert on reconsideration. Further, even if EDR were to assume, for purposes of this ruling only, that the grievance was filed on that issue, it is not clear how the Manager’s comments would “[p]ertain[] directly and personally to the employee’s own employment” to meet the initiation requirements of the grievance procedure.<sup>2</sup> As we stated in the prior ruling, the grievant may have the option to request his human resources office for review, including about any current concerns under the workplace civility policy, but the grievance procedure is not an available forum for the challenge articulated on the Grievance Form A.

For the reasons set forth above, EDR respectfully declines to reconsider the prior ruling. The grievant’s August 8, 2022 grievance will remain closed.

EDR’s rulings on matters of compliance are final and nonappealable.<sup>3</sup>

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

---

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

<sup>3</sup> See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).