

Issue: Compliance – Grievance Procedure (30 Day Rule); Ruling Date: April 25, 2013; Ruling No. 2013-3582; Agency: Department of Minority Business Enterprise; Outcome: Grievant Not in Compliance.



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

**COMPLIANCE RULING**

In the matter of the Department of Minority Business Enterprise  
EDR Ruling No. 2013-3582  
April 25, 2013

The grievant has requested a ruling on whether his April 8, 2013 grievance with the Department of Minority Business Enterprise (the “agency”) was timely initiated. For the reasons discussed below, this grievance is untimely and may be administratively closed.

FACTS

On March 8, 2013, the grievant received a Group I Written Notice. The grievant initiated a grievance challenging the disciplinary action on April 8, 2013. On April 10, 2013 the agency informed the grievant that it would administratively close the grievance because it was untimely. The grievant now seeks a ruling from the Office of Employment Dispute Resolution (“EDR”) to determine whether he was compliant with the grievance procedure.

DISCUSSION

The grievance procedure provides that an employee must initiate a written grievance within 30 calendar days of the date he or she 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. In this case, the event that forms the basis of the grievance is the agency’s issuance of the Written Notice. 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> The grievant received the Written Notice on March 8, 2013 and should have initiated this grievance within 30 days, i.e., no

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

<sup>2</sup> *E.g.*, EDR Ruling No. 2005-986; EDR Ruling No. 2003-147; EDR Ruling No. 2002-118.

later than April 7, 2013. He did not initiate the grievance until April 8, 2013, and thus it was untimely.

The grievant also claims that he did not initiate the grievance sooner because the agency intended to issue at least one further Written Notice in addition to the Group I Written Notice of March 8, 2013. On March 14, 2013 the agency issued a written counseling, but no further Group Notices. As discussed above, the 30-calendar day timeframe for cases involving disciplinary action begins on the date that the agency delivers the Written Notice to the employee. Although a grievant may challenge multiple disciplinary actions in a single grievance, delaying initiation of a grievance beyond the 30 calendar-day limit to do so does not constitute just cause.<sup>3</sup> The grievant has presented no other justification for his late filing. Therefore, this grievance is untimely.

### CONCLUSION

For the reasons set forth above, EDR concludes that the grievant has not established that his grievance was timely initiated or that there was just cause for the delay. Accordingly, 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>4</sup>



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<sup>3</sup> Had the agency issued another Written Notice, the grievant could have filed an additional grievance to challenge that management action.

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