

Issue: Compliance – Grievance Procedure (30 Day Rule); Ruling Date: February 12, 2014; Ruling No. 2014-3805; Agency: University of Virginia Health System; 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 University of Virginia Health System
EDR Ruling Number 2014-3805
February 12, 2014

The University of Virginia Health System (the “Health System”) has requested a ruling from the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management on whether the grievant’s dismissal grievance was timely initiated.

The grievance procedure provides that an employee must initiate a written grievance within thirty calendar days of the date she knew or should have known of the event or action that is the basis of the grievance.¹ When an employee initiates a grievance beyond the thirty 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 Health System’s issuance of a Formal Performance Improvement Counseling Form terminating the grievant’s employment. EDR has long held that in a grievance challenging a disciplinary action, the thirty calendar-day timeframe begins on the date that management presents or delivers the disciplinary action to the employee.²

In this case, the grievant received the Formal Performance Improvement Counseling Form with termination on December 16, 2013. She initiated a dismissal grievance challenging the disciplinary action on January 16, 2014.³ Because the grievant received the Written Notice on December 16, 2013, she should have initiated the grievance within thirty days, i.e., no later than January 15, 2014. She did not initiate the grievance until January 16, 2014, and has presented no evidence of just cause for her late filing.⁴

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 will be marked as concluded due to noncompliance and no further action is required. This case will not proceed to

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

² E.g., EDR Ruling No. 2005-986; EDR Ruling No. 2003-147; EDR Ruling No. 2002-118.

³ Although the grievance was dated January 15, 2014, it was not postmarked until January 16, 2014.

⁴ During EDR’s review of this case, the grievant was contacted on January 31st and asked to submit any justification explaining her late filing by February 7th. As of the date of this ruling, the grievant has submitted no such explanation.

a hearing due to the lack of timeliness and EDR will close its file. EDR's rulings on matters of compliance are final and nonappealable.⁵



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Director
Office of Employment Dispute Resolution

⁵ See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).