

Issue: Compliance – Grievance Procedure (30-Day Rule); Ruling Date: June 18, 2015; Ruling No. 2015-4167; Agency: Virginia Community College 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 Virginia Community College System
Ruling Number 2015-4167
June 18, 2015

The grievant has requested a ruling from the Office of Employment Dispute Resolution (EDR) on whether her grievance with the Virginia Community College System (the “agency”) is in compliance with the grievance procedure. The agency asserts that the grievance does not comply with the grievance procedure because it was not timely initiated. For the reasons set forth below, this grievance is untimely and may be administratively closed.

FACTS

The grievant is employed as a division support specialist with the agency. On or about May 28, 2015, the grievant initiated a grievance challenging conduct occurring from October 2013 to April 23, 2015. The agency closed the grievance as untimely, and the grievant has appealed to EDR.

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.¹ 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 this grievance is conduct which the grievant alleges occurred from October 2013 through April 23, 2015. Therefore, the grievant should have initiated her grievance within 30 days of April 23, 2015, i.e., no later than May 23, 2015. As the grievance was not initiated until May 28, 2015, the grievance is untimely. Thus, the only remaining issue is whether there was just cause for the delay.

The grievant asserts that she delayed initiating a grievance because she feared retaliation while working directly with “the offender” over a several day period. Agencies are prohibited from engaging in retaliation under the grievance procedure² and, had such conduct occurred, the

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

² See, e.g., *Grievance Procedure Manual* §§ 1.4, 1.5, 1.8.

grievant would have been able to challenge the agency's actions through the grievance procedure. For these reasons, the grievant's alleged fear of retaliation does not constitute just cause for delay.³

CONCLUSION

For the reasons set forth above, EDR concludes that the grievance was not timely initiated and there is no just cause for the delay. The grievance will be marked as concluded due to noncompliance and EDR will close its file. EDR's rulings on matters of compliance are final and nonappealable.⁴



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Director
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³ Nothing in this ruling prevents the grievant from challenging any subsequent conduct through the grievance process. Thus, to the extent the grievant alleges an ongoing course of conduct which has continued past April 23, 2015, she may initiate another grievance challenging this new conduct as part of that ongoing course of conduct, so long as the grievance is initiated no more than 30 calendar days after the most recent event.

⁴ Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).