

Issue: Compliance – Grievance Procedure (other issue); Ruling Date: March 16, 2018; Ruling No. 2018-4689; Agency: Department of Agriculture & Consumer Services; Outcome: Grievant in Compliance.



COMMONWEALTH of VIRGINIA
Department of Human Resource Management
Office of Equal Employment and Dispute Resolution

COMPLIANCE RULING

In the matter of the Department of Agriculture and Consumer Services
Ruling Number 2018-4689
March 16, 2018

The Department of Agriculture and Consumer Services (the “agency”) seeks a ruling concerning two purportedly duplicative grievances initiated by the grievant.

FACTS

On or about February 14, 2018, the grievant initiated a grievance with the agency, noting January 30, 2018 as the “Date Grievance Occurred.” On February 21, 2018, the grievant’s supervisor determined that the grievance should be administratively closed due to alleged noncompliance with the grievance procedure. He issued a letter to the grievant indicating that the management actions at issue in the February 14 grievance had already been grieved in an earlier grievance dated January 26, 2017, which has since been concluded.

DISCUSSION

The *Grievance Procedure Manual* states that a grievance may not “challeng[e] the same management action or omission challenged by another grievance.”¹ The agency asserts that the February 14, 2018 grievance challenges the “alleged unfair treatment” from the grievant’s supervisor as well as “concerns with [his] compensation and role classification” that were raised and addressed in the January 26, 2017 grievance. In response, the grievant asserts that while his supervisor continues to treat him unfairly, new issues have arisen that form the basis for the February 14, 2018 grievance. For example, the grievant states that on January 30, 2018 he discussed with his supervisor new opportunities he would have wanted to pursue, which were instead presented to another employee. Further, the grievant points out that he discussed the issue of his workload, which may be preventing him from performing special assignments, and requested a schedule change, which was denied.

EEDR has carefully reviewed the information presented in both the February 14, 2018 grievance as well as the January 26, 2017 grievance and concludes that the grievances are not duplicative of each other. In the February 14, 2018 grievance, the grievant has specifically identified different actions that have occurred since January 26, 2017, which he may now challenge. For example, he challenges the fact that he has been scheduled to work every Friday

¹ *Grievance Procedure Manual* § 2.4.

at a particular sale. Further, it appears that the “opportunities” that the grievant challenged in the January 26, 2017 grievance consisted mainly of “promotional trips,” which are not mentioned in the February 14, 2018 grievance.

Accordingly, the February 14, 2018 grievance may proceed forward as described above. Any specific issues previously raised in the January 26, 2017 grievance may only be discussed as background information, if relevant to any other claims that proceed in this grievance. Within five workdays of receipt of this ruling, the first step-respondent shall issue his response to the grievance. EEDR’s rulings on matters of compliance are final and nonappealable.²



Christopher M. Grab
Director
Office of Equal Employment and Dispute Resolution

² See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).