



EMILY S. ELLIOTT
DIRECTOR

COMMONWEALTH OF VIRGINIA
Department Of Human Resource Management
Office of Employment Dispute Resolution

James Monroe Building
101 N. 14th Street, 12th Floor
Richmond, Virginia 23219
Tel: (804) 225-2131
(TTY) 711

COMPLIANCE RULING

In the matter of the Virginia Department of Transportation
Ruling Number 2019-4886
March 28, 2019

On March 14, 2019, the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management¹ received a request from the grievant to re-open his concluded/withdrawn grievance with the Virginia Department of Transportation (the “agency”). The basis of the grievant’s request is that he was experiencing medical constraints that led him to conclude his grievance previously, but he is in “good condition” now and wants to proceed with the appeal of his termination and work for the agency again.

The grievant was terminated from employment with the agency on July 16, 2018. The grievant timely submitted a dismissal grievance to EDR on or about July 18, 2018. While the grievance was pending appointment to a hearing officer, the grievant communicated to EDR his desire to conclude his grievance on August 2, 2018. He confirmed and reiterated in an e-mail on August 5, 2018 that he wanted to close his grievance “permanently.”

There is no process enumerated in the grievance procedure for revoking a decision to conclude or withdraw a grievance. While EDR cannot hold that such a revocation is never possible, the grounds for re-opening a concluded grievance would be limited. For example, EDR may potentially order a grievance re-opened if it was withdrawn without authority or if the closing occurred as a result of some other kind of noncompliance with the grievance procedure.² None of these or similar grounds exist in this case. While EDR is sympathetic to the grievant’s situation, there has been nothing presented that demonstrates the grievant’s decision to withdraw his grievance in August 2018 was not the result of his free choice. Accordingly, EDR finds no basis to re-open the grievant’s July 18, 2018 grievance. The grievant’s request is, therefore, respectfully denied.

¹ The Office of Equal Employment and Dispute Resolution has separated into two office areas: the Office of Employment Dispute Resolution and the Office of Equity, Diversity, and Inclusion. While full updates have not yet been made to the *Grievance Procedure Manual* to reflect this change, this Office will be referred to as “EDR” in this ruling. EDR’s role with regard to the grievance procedure remains the same.

² E.g., EDR Ruling No. 2007-1579.

EDR's rulings on matters of compliance are final and nonappealable.³



Christopher M. Grab
Director
Office of Employment Dispute Resolution

³ See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).