

Issue: Compliance – Grievance Procedure (Other Issue); Ruling Date: December 4, 2013; Ruling No. 2014-3775; Agency: Department of Military Affairs; 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 Veterans Services
Ruling Number 2014-3775
December 4, 2013

The Department of Veterans Services (the agency) seeks a compliance ruling concerning the matter of the grievant's filing of an expedited grievance.

FACTS

On or about November 12, 2013, the grievant initiated a grievance directly with the Office of Employment Dispute Resolution (EDR), utilizing the Grievance Form A – Expedited Process to challenge his separation from employment. Upon EDR's notification to the agency of its receipt of this grievance, the agency and the grievant agreed to process the grievance as an expedited grievance, though it challenged a dismissal. Following his receipt of the single step response to this grievance, on or about November 25, 2013, the grievant mailed a second grievance to EDR, utilizing a Grievance Form A – Expedited Process. The agency asserts that the November 25 grievance is duplicative of the November 12 grievance and thus out of compliance with the grievance procedure. As such, it seeks a compliance ruling allowing it to administratively close the grievance.

DISCUSSION

If a Grievance Form A does not comply with the requirements for initiating a grievance, the agency may notify the employee, using the Grievance Form A, that the grievance will be administratively closed.¹ Here, because dismissal grievances are initiated directly with EDR,² an agency may be essentially unable to follow this process as outlined. In this case, the agency sent the grievant a letter dated November 29, 2013, notifying the grievant of his alleged noncompliance. The agency also now requests a ruling from this Office regarding this issue.

The *Grievance Procedure Manual* states that a grievance may not "challeng[e] the same management action or omission challenged by another grievance."³ In this instance, it appears that the November 25 grievance challenges the same action as the November 12 grievance (the grievant's termination) and may have been filed due to the fact that the grievant was denied the

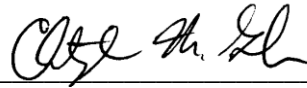
¹ *Grievance Procedure Manual* § 2.4.

² *Grievance Procedure Manual* § 2.5.

³ *Grievance Procedure Manual* § 2.4.

relief he sought through the management resolution step process.⁴ While we make no finding of noncompliance for the grievant's use of an incorrect form, there still exists a basis to close the November 25 grievance as it duplicates the November 12 grievance.

Accordingly, the grievant's November 25 grievance will be considered closed. The November 12 grievance paperwork will proceed forward as the grievant's "dismissal grievance" challenging his termination. This ruling does not foreclose the grievant's ability to raise any arguments regarding his dismissal that were set forth in the grievance of November 25. EDR's rulings on matters of compliance are final and nonappealable.⁵



Christopher M. Grab
Director
Office of Employment Dispute Resolution

⁴ Dismissal grievances filed directly with EDR that utilize a Grievance Form A or Grievance Form A – Expedited Process rather than a Dismissal Grievance Form A are nevertheless generally treated as properly filed dismissal grievances when they clearly challenge a termination that constitutes a "dismissal."

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