

Issue: Compliance – Grievance Procedure (30-Day Rule); Ruling Date: July 8, 2014;  
Ruling No. 2014-3918; Agency: University of Virginia; 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  
Ruling Number 2014-3918  
July 8, 2014

The grievant has requested a ruling from the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management (“DHRM”) on whether his June 6, 2014 grievance with the University of Virginia (the “University”) is in compliance with the grievance procedure. For the reasons set forth below, EDR determines that the grievance may be administratively closed.

FACTS

On or about June 21, 2012, the grievant and the University entered into an Educational Studies Contractual Agreement (the “Agreement”). Under the Agreement, the grievant received payment for certain educational expenses, with the provision that the funds provided by the University were to be repaid in the event the grievant failed to comply with the terms of the Agreement or did not remain employed by the University for a period of 12 months after the completion of his academic program.

On January 16, 2014, the University sent a letter advising the grievant that the University believed he was in breach of the Agreement and provided the grievant with three options for either repaying the funds paid by the University pursuant to the Agreement or providing proof of his satisfaction of the terms of the Agreement. The letter also advised the grievant that if he failed to comply, the University would seek legal recourse. On February 4, 2014, the grievant initiated a grievance challenging the University’s attempts to enforce the Agreement, arguing that the Agreement was unenforceable.<sup>1</sup> On or about June 6, 2014, the grievant initiated a subsequent grievance challenging the Agreement as a violation of DHRM Policy 5.10, *Educational Assistance*. The University administratively closed the grievance, and the grievant has appealed to EDR.

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<sup>1</sup> After the parties failed to resolve the February 4, 2014 grievance during the management resolution steps, the grievant requested qualification of the grievance for hearing by the agency head. The agency head denied the grievant’s request and the grievant appealed to EDR. In EDR Ruling 2014-3909, EDR found that the February 4 grievance did not qualify for hearing.

### DISCUSSION

The University asserts that the June 6 grievance is duplicative of the grievant's February 4, 2014 grievance and should therefore be closed. The *Grievance Procedure Manual* states that a grievance may not "challeng[e] the same management action or omission challenged by another grievance."<sup>2</sup> EDR's review indicates that the June 6 and February 4 grievances do not challenge separate and distinct management actions. The February 4, 2014 grievance asserted, in effect, that the Agreement was unenforceable and challenged the University's attempts to enforce it.<sup>3</sup> Although couched by the grievant as a challenge to the Agreement itself (rather than the University's efforts to enforce it), the June 6, 2014 grievance is ultimately an additional attempt to raise yet another challenge to the enforceability of the Agreement. As such, it is duplicative of February 4 grievance and may be administratively closed.<sup>4</sup>

### CONCLUSION

The University also asserts that the June 6, 2014 grievance is untimely. Because the grievance has been determined to be duplicative, we need not reach this question. For the reasons set forth above, the parties are advised that the grievance should be marked as concluded due to noncompliance and no further action is required. EDR's rulings on matters of compliance are final and nonappealable.<sup>5</sup>



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Christopher M. Grab  
Director  
Office of Employment Dispute Resolution

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<sup>2</sup> *Id.*

<sup>3</sup> See EDR Ruling 2014-3909.

<sup>4</sup> As with the grievance addressed in EDR Ruling No. 2014-3909, this ruling does not address whether there may be some other legal or equitable remedy available to either the University or the grievant in relation to this claim.

<sup>5</sup> See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).