

Issue: Compliance – Grievance Procedure (Other Issue); Ruling Date: July 18, 2014;
Ruling No. 2015-3944; Agency: University of Virginia; Outcome: Grievant 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 2015-3944
July 18, 2014

The University of Virginia (the agency or the University) has requested a ruling on whether the grievant's July 5, 2014 grievance is in compliance with the grievance procedure. For the reasons discussed below, EDR determines that the grievance is in compliance and may proceed to a hearing.

FACTS

On July 8, 2014, the Office of Employment Dispute Resolution (EDR) received a Grievance Form A from the grievant wherein he sought to challenge two Group II Written Notices and the accompanying termination. The agency argues that the grievance as filed does not comply with the grievance procedure as only one form was utilized to challenge two disciplinary actions and a regular Grievance Form A was improperly submitted instead of a Form A - Dismissal Grievance. Ordinarily, 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 Because dismissal grievances are initiated directly with EDR,² an agency is essentially unable to follow this process as outlined. Accordingly, it has requested a ruling from EDR regarding the issue of alleged noncompliance.

DISCUSSION

In this case, the alleged acts of noncompliance are 1) challenging two separate disciplinary actions on one grievance, and 2) using an incorrect grievance form to do so. First, there is no requirement in the grievance procedure that each grieved management action must be addressed via a separate Grievance Form A. Indeed, such an outcome would prove to be unnecessarily burdensome and more costly for the agency.

¹ *Grievance Procedure Manual* § 2.4.

² *Grievance Procedure Manual* § 2.5.

Further, the grievant's use of the wrong grievance form will not bar his grievance for noncompliance.³ For example, EDR has consistently held that a grievance initiated in a timely manner but with the wrong management representative will not bar a grievance for noncompliance.⁴ Rather, the remedy in such a situation is either for management to provide the grievance paperwork to the appropriate step-respondent or return the grievance to the grievant for submission to that step-respondent. EDR views using the wrong grievance form as noncompliance of a similar nature that should be remedied in the same manner.⁵ Thus, for a dismissal grievance such as that in this case, EDR will simply process the grievance as though it had been submitted on the correct form.

CONCLUSION

For the reasons set forth above, the grievant's July 5, 2014 grievance will not be closed as non-compliant with the grievance procedure and is qualified for hearing in full. Within five workdays of receipt of this ruling, the agency shall request the appointment of a hearing officer using the Grievance Form B. EDR's rulings on matters of compliance are final and nonappealable.⁶



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³ See EDR Ruling 2013-3400.

⁴ E.g., EDR Ruling No. 2006-1114; EDR Ruling No. 2001-195; EDR Ruling No. 99-007.

⁵ EDR Ruling No. 2013-3400.

⁶ See Va. Code §§ 2.2-1202.1(5); 2.2-3003(G).