

Issue: Qualification – Discipline (Counseling Memo); Ruling Date: August 1, 2014;  
Ruling No. 2015-3954; Agency: University of Virginia; Outcome: Not qualified.



*COMMONWEALTH of VIRGINIA*  
*Department of Human Resource Management*  
*Office of Employment Dispute Resolution*

**RECONSIDERED QUALIFICATION RULING**

In the matter of the University of Virginia  
Ruling Number 2015-3954  
August 1, 2014

The grievant has requested that the Office of Employment Dispute Resolution (EDR) reconsider its qualification determination in Ruling Numbers 2014-3920, 2014-3921 (the initial qualification ruling), which held that the grievant's February 12, 2014 grievance does not qualify for a hearing. For the reasons discussed below, we find no error with the initial determination.

The facts underlying the grievance are set forth in the initial qualification ruling and will not be repeated here. In his request for reconsideration, the grievant argues that EDR erred in applying the "adverse employment action" standard in determining whether his February 12, 2014 grievance qualified for hearing. In his request for reconsideration, the grievant argues that EDR should only have required the grievant to show a "materially adverse" action instead. However, as explained in EDR Ruling Numbers 2013-3446, 2012-3447, EDR applies the "adverse employment action" standard to retaliation claims, rather than the "materially adverse" standard urged by the grievant. Accordingly, EDR declines to reconsider its previous ruling in this case.<sup>1</sup>

EDR's rulings on matters of qualification and compliance are final and nonappealable.<sup>2</sup>

A handwritten signature in black ink, appearing to read "Chris M. Grab".

Christopher M. Grab  
Director  
Office of Employment Dispute Resolution

<sup>1</sup> Furthermore, written counseling does not generally amount to "materially adverse" action either, as EDR has previously ruled. *E.g.*, EDR Ruling No. 2012-3074.

<sup>2</sup> Va. Code §§ 2.2-1202.1(5); 2.2-3003(G).