

Issue: Compliance – Grievance Procedure (30 Day Rule); Ruling Date: November 13, 2014; Ruling No. 2015-4040; Agency: Department of Behavioral Health and Developmental Services; 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 Behavioral Health and Developmental Services
Ruling Number 2015-4040
November 13, 2014

The Department of Behavioral Health and Developmental Services (the “agency”) has requested a ruling from the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management on whether the grievant’s November 7, 2014 dismissal grievance was timely initiated.

The grievance procedure provides that an employee must initiate a written grievance within thirty calendar days of the date he knew or should have known of the event or action that is the basis of the grievance.¹ When an employee initiates a grievance beyond the thirty calendar-day period without just cause, the grievance is not in compliance with the grievance procedure and may be administratively closed. In this case, the event that forms the basis of the grievance is the agency’s issuance of the Written Notice. EDR has long held that in a grievance challenging a disciplinary action, the thirty calendar day timeframe begins on the date that management presents or delivers the Written Notice to the employee.²

In this case, the grievant received a Group III Written Notice with termination on October 7, 2014. Because the grievant received the Written Notice on October 7, 2014, he should have initiated the grievance within thirty days, i.e., no later than November 6, 2014. However, the grievant did not initiate his grievance until November 7, 2014, and he has not presented any evidence of just cause for his untimeliness.³

Accordingly, EDR concludes that the grievance was not timely initiated and that there was no just cause for the delay. 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.⁴

A handwritten signature in black ink, appearing to read "Chris M. Grab", written over a horizontal line.

Christopher M. Grab
Director
Office of Employment Dispute Resolution

¹ Va. Code § 2.2-3003(C); *Grievance Procedure Manual* §§ 2.2, 2.4.

² E.g., EDR Ruling No. 2005-986; EDR Ruling No. 2003-147; EDR Ruling No. 2002-118.

³ See *Grievance Procedure Manual* § 9 (defining “just cause” as “[a] reason sufficiently compelling to excuse not taking a required action in the grievance process.”)

⁴ See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).