

Issue: Compliance – Grievance Procedure (30-Day Rule); Ruling Date: July 30, 2015;
Ruling No. 2016-4198; Agency: Department of Corrections; 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 Corrections
Ruling Number 2016-4198
July 30, 2015

The grievant has requested a ruling on whether her July 10, 2015 grievance with the Department of Corrections (the “agency”) is in compliance with the grievance procedure. The agency asserts that the grievance is untimely. For the reasons set forth below, this grievance is untimely and may be administratively closed.

FACTS

In the grievant’s July 10, 2015 grievance, she appears to challenge her 2013-2014 performance review, which the grievant signed on October 16, 2014.¹ On July 13, 2015, the agency administratively closed the grievance as being untimely. The grievant now appeals that determination.

DISCUSSION

The grievance procedure provides that an employee must initiate a written grievance within 30 calendar days of the date he or she knew or should have known of the event or action that is the basis of the grievance.² When an employee initiates a grievance beyond the 30 calendar-day period without just cause, the grievance is not in compliance with the grievance procedure and may be administratively closed.

The agency asserts that the grievance is untimely because it challenges a performance evaluation the grievant received in October 2014, well outside the 30 calendar period for grievance initiation. Because the grievant initiated the July 10, 2015 grievance more than thirty calendar days beyond the date on which she received the performance evaluation, the grievance

¹ The grievant also makes allegations of retaliation and hostile work environment, although it is unclear whether these issues are raised as background support for her claim regarding the performance evaluation or as independent claims. [EDR at 1] To the extent the grievant has raised independent claims of retaliation and/or harassment, it is not clear that any conduct relating to these claims occurred within the thirty calendar days prior to July 10, 2015. Further, the grievant apparently resigned her employment with the agency effective July 10, 2015; and as a consequence, there would appear to be no available relief regarding these claims.

² Va. Code § 2.2-3003(C); *Grievance Procedure Manual* § 2.2.

is untimely. Further, the grievant has not shown just cause for the delay. Accordingly, the grievance may be administratively closed on this basis.

EDR's rulings on matters of compliance are final and nonappealable.³



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³ Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).