

Issue: Compliance – Grievance Procedure (30-Day Rule); Ruling Date: September 23, 2015; Ruling No. 2016-4236; 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 2016-4236  
September 23, 2015

The University of Virginia (the University) seeks a compliance ruling concerning the grievant's filing of a dismissal grievance. The agency asserts that the grievant did not initiate his grievance within the 30 calendar day time period required by the grievance procedure. For the reasons set forth below, this grievance is untimely and will be administratively closed.

FACTS

The grievant initiated a dismissal grievance directly with the Office of Employment Dispute Resolution (EDR) on September 21, 2015, the date the package was sent to EDR via facsimile. According to the Grievance Form A, the grievant's dismissal date was June 20, 2015. The agency indicates that July 1, 2015 was the date that the grievant received notice of the termination, and accordingly, asserts that the grievance was untimely initiated.

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.<sup>1</sup> Because dismissal grievances are initiated directly with EDR,<sup>2</sup> an agency is essentially unable to follow this process as outlined. Accordingly, it has requested a ruling from this Office regarding the issue of alleged noncompliance.

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.<sup>3</sup> 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.

In this case, the event that forms the basis of this grievance is the grievant's termination on or about July 1, 2015. Therefore, the grievant should have initiated his grievance within 30 days, i.e., no later than July 31, 2015. The date upon which EDR received the faxed grievance

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<sup>1</sup> *Grievance Procedure Manual* § 2.4.

<sup>2</sup> *Grievance Procedure Manual* § 2.5.

<sup>3</sup> Va. Code § 2.2-3003(C); *Grievance Procedure Manual* § 2.2.

indicates that it was not initiated until September 21, 2015. Because the grievant initiated his grievance more than 30 calendar days beyond the date on which he learned he was terminated, the grievance is untimely. Thus, the only remaining issue is whether there was just cause for the delay.

The grievant presents no facts that would constitute evidence of just cause for a delay in initiating his grievance.<sup>4</sup> EDR has long held that it is incumbent upon each employee to know his or her responsibilities under the grievance procedure.<sup>5</sup> A grievant's lack of knowledge about the grievance procedure and its requirements does not constitute just cause for failure to act in a timely manner. Thus, we conclude that the grievant has failed to demonstrate just cause for his delay.

### CONCLUSION

For the reasons set forth above, EDR concludes that the grievance was not timely initiated and there is no just cause for the delay. The grievance will be marked as concluded due to noncompliance and EDR will close its file. EDR's rulings on matters of compliance are final and nonappealable.<sup>6</sup>



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Christopher M. Grab  
Director  
Office of Employment Dispute Resolution

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<sup>4</sup> The agency states the grievant was notified by phone of his termination on July 1, 2015. Although the agency states the Written Notice was mailed to the grievant on the same day, it is not clear when the grievant received the actual paperwork. Nevertheless, even allowing some degree of flexibility due to the time it took for the mailing to reach the grievant, the initiation of this grievance months later does not demonstrate just cause for a delay.

<sup>5</sup> See, e.g., EDR Ruling Nos. 2006-1349, 2006-1350; EDR Ruling No. 2002-159; EDR Ruling No. 2002-057.

<sup>6</sup> Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).