

Issue: Compliance/30 day rule; Ruling Date: February 5, 2003; Ruling #2002-223;  
Agency: Department of Corrections; Outcome: Grievant in compliance.



*COMMONWEALTH of VIRGINIA*  
*Department of Employment Dispute Resolution*  
**COMPLIANCE RULING OF THE DIRECTOR**

In the matter of Department of Corrections  
No. 2002-223  
February 5, 2003

The grievant has requested a compliance ruling in her grievance initiated with the Department of Corrections (the agency) on October 30, 2002, challenging the agency's application of the layoff policy. The agency contends that the grievant did not initiate her grievance within the 30 calendar day time period required by the grievance procedure.<sup>1</sup>

FACTS

The grievant was employed in a non-security position at Staunton Correctional Center. In April 2002, a budget reduction plan proposed the closure of Staunton Correctional Center in June 2003. On August 13 and 14, 2002, employees were notified that Staunton Correctional Center was being placed in layoff status in anticipation of a revised December 2002 closure date.

On September 27, 2002, employees at Staunton Correctional Center were informed by an employee bulletin that the placement process would begin on September 30, 2002. This bulletin also stated that security and medical personnel would be placed prior to non-security personnel. According to the agency, placement of non-security personnel was delayed temporarily because additional pending budget cuts would potentially impact placement options for non-security employees.

The agency contends that because the grievant knew on September 27, 2002 that security and medical personnel would be placed prior to non-security personnel, her grievance challenging the placement of employees at Staunton is untimely. The grievant asserts, however, that her late placement allowed less senior employees to be placed before her in violation of the layoff policy.

DISCUSSION

The grievance procedure provides that an employee must initiate a written grievance within 30 calendar days of the date she knew or should have known of the

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<sup>1</sup> Va. Code § 2.2-3003(C); *Grievance Procedure Manual* § 2.4(1), page 6.

event or action that is the basis of the grievance.<sup>2</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 addition, an employee's grievance must pertain "directly and personally to the employee's own employment."<sup>3</sup>

In her grievance, the grievant maintains that her placement constituted a misapplication of the layoff policy. Therefore, the management action at issue is the *grievant's* placement, not the placement (or projected placement) of less senior security and medical personnel at Staunton. As such, the grievant knew or should have known of the event that forms the basis of her grievance on October 28, 2002, the day she was offered a placement. Accordingly, the grievant had thirty calendar days, or until November 27, 2002 to file a grievance. Thus her October 30, 2002 grievance is timely.

### CONCLUSION

For the reasons discussed above, this Department has determined that this grievance was filed within the 30 calendar day period and is therefore timely. By copy of this ruling, the grievant and the agency are advised that the grievant has 5 workdays from receipt of this ruling to either conclude the grievance or request to advance to the next resolution step. This Department's rulings on matters of compliance are final and nonappealable and have no bearing on the substantive merits of a grievance.<sup>4</sup>

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Claudia T. Farr  
Director

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Jennifer S.C. Alger  
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<sup>2</sup> Va. Code § 2.2-3003(C); *Grievance Procedure Manual* § 2.4(1), page 6.

<sup>3</sup> *Grievance Procedure Manual* § 2.4, page 6.

<sup>4</sup> Va. Code § 2.2-1001(5).