

Issue: Compliance/Actions occurring to others; Ruling Date: March 24, 2003; Ruling #2003-043; Agency: Department of Corrections; Outcome: grievant out of compliance



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

COMPLIANCE RULING OF DIRECTOR

In the matter of Department of Corrections
Ruling Number 2003 -043
March 24, 2003

The grievant has requested a compliance ruling in her January 24, 2003 grievance with the Department of Corrections. The agency asserts that the grievant did not initiate her grievance within the 30-calendar day time period required by the grievance procedure and that the issues of the grievance do not pertain directly and personally to the grievant's own employment.

FACTS

The grievant is employed as a Personnel Assistant. In this capacity, she performs the duties of timekeeper for her assigned correctional unit. In reviewing timesheets submitted on September 11, 2002, she identified what she believed to be a falsified timesheet submitted by an employee for September 4, 2002.¹ She notified the Warden who investigated and determined that the allegation was founded. The Warden sought approval from the Regional Administrator to take disciplinary action; however, on October 15, 2002, the Warden was reassigned before the matter could be resolved.

After the Warden's departure, no follow-up to the Warden's request for discipline was received by the facility, therefore the grievant requested a meeting with the Regional Administrator to discuss the matter. The grievant met with the Regional Administrator on January 8, 2003 to express her concern about the lack of disciplinary action in the case, and was allegedly told that the matter would be reviewed. However, as of the date of her grievance, no disciplinary action had been taken against the employee for allegedly falsifying her timesheet. Subsequently on January 24, 2003, the grievant initiated her grievance alleging that management had failed to enforce disciplinary standards.

DISCUSSION

Pertain Directly and Personally to Grievant's Employment

¹ Correctional unit policy requires that employees indicate on the timesheet the time of arrival and departure for days on which they work less than a full 8- hour shift. In this case, the employee's timesheet reflected that she had worked a full 8-hour shift on September 4, 2002 although she had departed work at 11:30 a.m. that day.

Under the grievance procedure, an employee's grievance must "[p]ertain directly and personally to the employee's employment."² The agency contends that the discipline of another employee does not pertain directly and personally to the grievant's employment and she is therefore out of compliance with the grievance procedure. In her grievance, however, the grievant asserts that the grievance does pertain directly and personally to her as the timekeeper because employees trust her to enforce policy and procedure in maintaining the time records of all employees. Additionally, she asserts that she could not perform her job and hold other employees accountable if all employees were not held to the same standard.

While the grievant may be responsible for the accuracy of timekeeping records, management's decision not to take disciplinary action against another employee for the alleged falsification of records does not involve the grievant's *own* employment "directly and personally." Despite the grievant's claim to the contrary, her ability to effectively perform her job as timekeeper was not directly impacted by management's apparent decision to refrain from disciplining the employee who allegedly falsified her time record. The grievant correctly asserts that all employees should be held to the same standard. However, assuming without deciding that management's actions regarding timekeeping were not uniform, such an inconsistency, while potentially a poor management practice, would not undermine the grievant's ability to maintain accurate time records. It is the function of *management* to implement discipline for violations of policy, not the grievant as timekeeper.

CONCLUSION

For the reasons discussed above, this Department has determined that this grievance does not pertain directly and personally to the grievant's employment.³ The parties are advised that the agency may mark the grievance as concluded due to noncompliance, and no further action is required. This Department's rulings on matters of compliance are final and nonappealable.⁴

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Director

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² Va. Code § 2.2-3004 (A); *Grievance Procedure Manual* § 2.4, page 6.

³ Because the grievance does not relate directly and personally to the grievant, the issue of whether the grievance was timely initiated is moot and thus will not be addressed.

⁴ Va. Code § 2.2-1001 (5).