

Issue: Compliance/30-day rule; Ruling Date: September 8, 2003; Ruling #2003-139;
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 -139
September 8, 2003

The grievant has requested a compliance ruling in her July 13, 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.

FACTS

The grievant is employed as a Corrections Officer. On June 10, 2003, she was issued a Group I Written Notice with a 40 hour suspension without pay. On July 13, 2003, she initiated the present grievance challenging the suspension.

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 event or action that is the basis of the grievance.¹ 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 the present case, it is undisputed that the grievant knew about the disciplinary action on June 10, 2003. Thus, the grievant had thirty calendar days from that date to challenge the disciplinary action through the grievance process. It is undisputed that the grievant did not initiate her grievance until July 13, 2003, more than 30 calendar days from when she became aware that she had been issued the Written Notice with suspension. Consequently, the sole question remaining is whether there was just cause for the grievant's delay.

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

To support her claim of just cause, the grievant contends that she delayed initiation of the grievance in order to receive assistance in preparing her grievance. While the grievant may not have known the exact process to initiate the grievance, it is undisputed that she was provided with a copy of the Written Notice on June 10, 2003.² The Written Notice expressly states that “[i]f you wish to appeal this corrective action, you may do so under the provisions of the Employee Grievance Procedure *within 30 calendar days of your receipt of this Written Notice.*”³ Thus, despite any uncertainties that the grievant may have harbored about the grievance process, she had clear notice that she was required to initiate her grievance within 30 calendar days of receipt of the Written Notice. Accordingly, this Department cannot conclude that the grievant has provided just cause for the delay in initiating her grievance.

CONCLUSION

For the reasons discussed above, the grievant is out of compliance with the grievance procedure. 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

Claudia T. Farr
Director

William G. Anderson, Jr.
EDR Consultant, Sr.

² The grievant signed and dated the Written Notice on June 10, 2003.

³ Written Notice Form, §V, (emphasis added).

⁴ Va. Code § 2.2-1001 (5).