

Issue: Qualification/Recruitment/Selection; Ruling Date: November 17, 2003; Ruling #2003-142; Agency: Virginia Polytechnic Institute and State University; Outcome: not qualified



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

QUALIFICATION RULING OF DIRECTOR

In the matter of VPI&SU
Ruling Number 2003-142
November 17, 2003

The grievant has requested a ruling on whether his June 17, 2003 grievance with the Virginia Polytechnic Institute and State University (VPI&SU) qualifies for a hearing. The grievant claims that management did not fairly consider his application for the position of Electrician Supervisor due to pre-selection.

FACTS

The grievant is employed as a Senior Electrician at VPI&SU. In early 2003, the grievant applied and was later interviewed for the position of Electrician Supervisor, but was not selected. He asserts that the agency did not fairly consider his application due to the pre-selection of another applicant.

DISCUSSION

Claims relating to a selection process do not qualify for a hearing unless the grievant presents evidence raising a sufficient question as to whether discrimination, retaliation, or discipline may have improperly influenced the process, or whether policy may have been misapplied or unfairly applied.¹ In this case, the grievant claims that management misapplied or unfairly applied policy.

It is the Commonwealth's policy that hiring and promotion be competitive and based on merit -- knowledge, skills, and abilities. Thus, pre-selection (merely going through the motions of the selection process when the outcome has been predetermined), regardless of merit or suitability, violates that policy.²

In support of his claim of pre-selection, the grievant contends that the hiring authority met with the supervisor of the advertised position two weeks before the

¹ Va. Code § 2.2-3004; Grievance Procedure Manual § 4.1, pages 10-11.

² DHRM Policy No. 2.10, Hiring, pages 1, 2, Rev. date 3/01/01 (defining selection as the final act of determining the best suited applicant for a specific position and discussing knowledge, skills, and abilities as components of a position's qualification requirement).

scheduled interviews to discuss the selection action. Among the topics allegedly discussed was whether the supervisor could work effectively with the individual who was ultimately selected. The grievant asserts that this discussion showed that the successful applicant had already been pre-selected by the hiring authority for the position, resulting in the grievant's application not being fairly considered. The supervisor of the advertised position admits that during a casual conversation, the hiring official asked him if he could work effectively with the eventual successful applicant, to which he had responded no. He stated, however, that this brief inquiry was not made in a manner that led him to believe that the outcome of the selection process had been predetermined.

Although the facts reflect that there was at least some discussion of the applicants between the hiring authority and supervising official prior to the interview, the grievant has not presented facts to show a connection between this discussion and the selection decision by the hiring authority. There is nothing to show that the discussion described above improperly impacted the hiring decision.

In support of its selection decision, the agency asserts that the selected applicant had superior technical and supervisory experience. Further, a review of the interview panel notes reflects that four of six panel members recommended the selected applicant as the most qualified for the job. In summary, review of the successful applicant's application, compared with the listed knowledge, skills, and abilities for the position, could not lead a reasonable fact-finder to conclude that management's decision was made without regard to factors of merit or suitability.

CONCLUSION

For the reasons discussed above, this grievance does not qualify for a hearing. For information regarding the actions the grievant may take as a result of this ruling, please refer to the enclosed sheet. If the grievant wishes to appeal this determination to the circuit court, the grievant should notify the human resources office, in writing, within five workdays of receipt of this ruling. If the court should qualify this grievance, within five workdays of receipt of the court's decision, the agency will request the appointment of a hearing officer unless the grievant wishes to conclude the grievance and notifies the agency of that desire.

Claudia T. Farr
Director

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November 17, 2003
Ruling #2003-142
Page 4