

Issue: Compliance/30-day rule; Ruling Date: September 12, 2003; Ruling #2003-149;  
Agency: Department of Juvenile Justice; Outcome: grievant not in compliance.



*COMMONWEALTH of VIRGINIA*  
*Department of Employment Dispute Resolution*

COMPLIANCE RULING OF DIRECTOR

In the matter of Department of Juvenile Justice  
Ruling Number 2003-149  
September 12, 2003

The grievant has requested a compliance ruling in his July 29, 2003 grievance with the Department of Juvenile Justice (DJJ or the agency). 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 discussed below, this grievance is untimely and may be administratively closed.

FACTS

The grievant is employed as a Corrections Officer with DJJ. In February 2003, the grievant applied for a Sergeant position with DJJ. There were two such positions available. The grievant participated in a first interview conducted on March 26, 2003, and also a second interview conducted on April 15, 2003. According to the grievant, management informed him in late May 2003 that his background check revealed that he had left a misdemeanor conviction off his state application. Subsequently, on June 4, 2003, the grievant was verbally notified that two other candidates had been offered the Sergeant positions. One of the Sergeant positions was officially filled on May 25, 2003, and the second was filled on June 10, 2003.

DISCUSSION

The grievance procedure provides that an employee must initiate a written grievance within 30 calendar days of the date he knew or should have known of the event or action that is the basis of the grievance.<sup>1</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 the grievance is the grievant's non-selection for a Sergeant position. The grievant first learned that he was not selected for the position of Sergeant on June 4, 2003; therefore, he should have initiated his grievance

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

within thirty days of June 4, 2003, or by July 4, 2003. The grievant did not initiate his grievance until July 29, 2003, which was untimely. Thus, the only remaining issue is whether there was just cause for the delay.

The grievant claims that he did not initiate his grievance until July 29, 2003 because he wanted to do his “homework” and talk about the situation with management first. While the grievant may have had reservations about initiating his July 29, 2003 grievance, these reservations did not circumvent the requirement that his written grievance be initiated within 30 calendar days, an obligation that may be extended only if both parties agree, which was not the case here.<sup>2</sup>

### CONCLUSION

For the reasons discussed above, this Department has determined that this grievance was not filed within the 30-calendar day period and is therefore untimely. By copy of this ruling, the grievant and the agency are advised that the agency may administratively close this grievance. This Department’s rulings on matters of compliance are final and nonappealable.<sup>3</sup>

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Director

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<sup>2</sup> See *Grievance Procedure Manual* § 2.2, page 5.

<sup>3</sup> Va. Code § 2.2-1001 (5).