

Issue: Compliance – Grievance Procedure (Other Issue); Ruling Date: July 25, 2008; Ruling #2009-2078; Agency: Department of Education; Outcome: Grievant Not In Compliance.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

COMPLIANCE RULING OF DIRECTOR

In the matter of the Department of Education
Ruling Number 2009-2078
July 25, 2008

The Department of Education (DOE or the agency) has requested a compliance ruling seeking clarification as to whether the grievant's June 30, 2008 grievance was properly initiated with DOE.

FACTS

The grievant was employed by the agency as the Director of Operations at a state school for the deaf, blind, and multi-disabled. He was involuntarily laid off from his position on July 1, 2008.

Prior to the effective date of his layoff, the grievant applied for a position at Virginia Commonwealth University (VCU). He asserts that on or about June 27, 2008, he learned that he was no longer being considered for that position. The grievant subsequently initiated a grievance, dated June 30, 2008, with DOE, challenging VCU's failure to award him the applied-for position. The grievant states that he had submitted his "yellow card" to VCU and that he met the minimum qualifications for the position.

DISCUSSION

The grievance procedure provides that an employee's grievance must arise in the agency in which the employee works.¹ This Department has long held that this provision requires that an employee must initiate his grievance with his employing agency.²

Here, the grievant's employing agency cannot grant any meaningful relief with regard to his June 30th grievance, as it was VCU, not DOE, that took the action being challenged by the grievance. Because DOE cannot grant any meaningful relief, this

¹ *Grievance Procedure Manual*, § 2.4(2).

² See EDR Ruling #2003-530.

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Department holds that, under the facts of this case, DOE may close the grievant's June 30, 2008 grievance administratively.³

This Department's rulings on matters of compliance are final and nonappealable.⁴

Claudia T. Farr
Director

³ As the grievant asserts claims of racial discrimination, he may also initiate a complaint with the Department of Human Resource Management's Office of Equal Employment Services.

⁴ Va. Code § 2.2-1001 (5).