

Issue: Compliance – Grievance Procedure (Documents/Other Issue); Ruling
Date: July 31, 2008; Ruling #2009-2085; Agency: Department of State Police;
Outcome: Grievant Not In Compliance.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

COMPLIANCE RULING OF DIRECTOR

In the matter of Virginia State Police
Ruling Number 2009-2085
July 31, 2008

The grievant has requested an extension of the 15-calendar-day period after which his hearing decision will become final. For the reasons set forth below, this Department must deny the grievant's request.

FACTS

The grievant is employed by the Virginia State Police (VSP or the agency). On November 16, 2007, the grievant received a Group III Written Notice with a demotion, disciplinary transfer, and a 10% disciplinary pay reduction for falsifying official State documents. In addition, because the grievant no longer performed the duties of a Task Force Coordinator after his transfer, his Special Rate of pay for that assignment ended.

The grievant initiated two grievances challenging these management actions. The grievances were qualified and consolidated into a single hearing. On July 21, 2008, the hearing officer issued a written decision upholding the agency's actions.¹

By letter dated July 30, 2008, the grievant asked this Department to extend the 15-calendar-day period before which the hearing officer's decision becomes final under the § 7.2 of the *Grievance Procedure Manual*. In his July 30th letter, the grievant states that he seeks this extension because he has requested additional documentation from the agency.

DISCUSSION

The grievance procedure provides that any party may seek administrative review of a hearing decision within 15 calendar days of the date of the decision.² If no request for administrative review is received by the reviewer within the 15-calendar-day period, the hearing decision becomes a final hearing decision, with no further possibility of administrative review.³

¹ Decision of Hearing Officer, Case Nos. 8777/8860, issued on July 21, 2008.

² *Grievance Procedure Manual* § 7.2(a).

³ *Grievance Procedure Manual* § 7.2(d).

In this case, the grievant apparently seeks an extension of the 15-day period so that he may obtain and submit additional evidence. While newly-discovered evidence is a basis on which to seek administrative review, this Department has previously held that the 15-day period may not be extended for the purpose of presenting or considering such evidence because administrative reviewers (*i.e.*, the hearing officer, the Director of this Department, and the Director of the Department of Human Resource Management) do not have the authority or jurisdiction to consider evidence discovered or submitted outside the 15-day review period.⁴ Further, as this Department explained in Ruling No. 2008-1824, if administrative reviewers were allowed to address newly-discovered evidence submitted beyond the expiration of the 15-day period, the judicial appeals and implementation processes would be hindered or thwarted entirely. Accordingly, this Department must deny the grievant's request for an extension of time in which to submit his request (if any) for administrative review.⁵

This Department's rulings on matters of compliance are final and nonappealable.⁶

Claudia T. Farr
Director

⁴ See EDR Ruling No. 2008-1824.

⁵ We note, however, that a request for administrative review need not be elaborate. Rather, it simply needs to cite the grounds for the request. While the grievant may not subsequently supplement any review request with evidence discovered outside the 15-day period, he may supplement his review request with further explanation or support of his arguments, so long as that information is provided before the administrative review decision is issued. See EDR Ruling Nos. 2008-1910, 2008-1915, 2008-1916.

⁶ Va. Co de § 2.2-3003(G).