

Issue: Compliance – Miscellaneous (Reconsideration Request of Qualification Ruling);
Ruling Date: September 15, 2009; Ruling #2010-2417; Agency: Department of State
Police: Outcome: No Ruling.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

**COMPLIANCE RULING OF DIRECTOR
IN RESPONSE TO RECONSIDERATION REQUEST**

In the matter of Department of State Police
Ruling No. 2010-2417
September 15, 2009

The grievant has requested that this Department (EDR) reconsider Ruling Number 2010-2403, in which EDR determined that the grievant's July 21, 2009 grievance with the Department of State Police (the agency) did not qualify for hearing.

FACTS

The grievant's July 21, 2009 grievance concerns the agency's request for repayment of the approximately four years of overpayments in which the grievant received a pay differential in error. In EDR Ruling Number 2010-2403, this Department determined that the grievance did not qualify for hearing. The grievant now disputes EDR's conclusion in that ruling.

DISCUSSION

Though there are instances in which EDR will reconsider its qualification rulings at the request of a party,¹ there are no grounds to do so in this case.² The grievant's arguments dispute EDR's analysis and consideration of the merits of the grievance in determining whether it qualifies for a hearing. The appropriate way to raise such a challenge is to appeal this Department's determination to the circuit court in the jurisdiction in which the grievance arose.³ As a matter of procedural compliance, this Department will not reconsider Ruling Number 2010-2403 because the arguments asserted by the grievant are those that should be raised to the circuit court. This Department's rulings on matters of compliance are final and nonappealable.⁴

APPEAL RIGHTS AND OTHER INFORMATION

¹ One such example might be a mistake of fact. See, e.g., EDR Ruling No. 2008-1884.

² Indeed, this Department already considered the provisions of Va. Code § 2.2-804, referenced in the grievant's reconsideration request, in its ruling on the original qualification request.

³ Va. Code § 2.2-3004(E); *Grievance Procedure Manual* § 4.4.

⁴ See Va. Code §§ 2.2-1001(5), 2.2-3003(G).

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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 the original qualification determination, the grievant should pursue such an appeal to the circuit court in the jurisdiction in which the grievance arose pursuant to Virginia Code § 2.2-3004(E). If the court should qualify the grievance, within five workdays of receipt of the court's decision, the agency will request the appointment of a hearing officer using the Form B unless the grievant notifies the agency that he does not wish to proceed.

Claudia Farr
Director