

Issue: Compliance – Grievance Procedure (30-Day Rule); Ruling Date: December 15, 2009; Ruling #2010-2470; Agency: Department of Veterans Services; Outcome: Grievant Not In Compliance.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

COMPLIANCE RULING OF DIRECTOR

In the matter of Department of Veterans Services
Ruling Number 2010-2470
December 15, 2009

The grievant has requested a ruling on whether her November 9, 2009 grievance with the Department of Veterans Affairs (the agency) is in compliance with the grievance procedure. The agency asserts that the grievance does not comply with the grievance procedure because it was not initiated timely. For the reasons set forth below, this Department determines that the grievance is untimely and may be administratively closed.

FACTS

The grievant was apparently terminated from her employment with the agency on October 9, 2009. On November 9, 2009, the grievant initiated a grievance challenging her termination. The agency administratively closed the grievance due to noncompliance for failing to initiate the grievance in a timely manner. The grievant now appeals that determination.

DISCUSSION

The grievance procedure provides that an employee must initiate a written grievance within 30 calendar days of the date he or she knew or should have known of the event or action that is the basis of the grievance.¹ 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 this grievance is a termination. The effective date of the grievant's termination was October 9, 2009. Therefore, she should have initiated her grievance within 30 days, i.e., no later than November 8, 2009. Because the

¹ Va. Code § 2.2-3003(C); *Grievance Procedure Manual* § 2.4.

grievant did not initiate her grievance until November 9, 2009,² the challenge to her termination is untimely. Further, the grievant has not presented any “just cause” reason for her delay.³

As the grievance is untimely, the parties are advised that the grievance should be marked as concluded due to noncompliance and no further action is required. This Department’s rulings on matters of compliance are final and nonappealable.⁴

Claudia T. Farr
Director

² Under the *Grievance Procedure Manual*, the date on which the grievance is postmarked is considered the initiation date, not the date on which the grievance is received by the agency. *Grievance Procedure Manual* § 2.4.

³ It appears that the grievant simply miscalculated the 30-calendar-day period and apparently believed the period to end on November 9, 2009 (the date on which the grievant mailed her grievance).

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