

Issue: Compliance – Grievance Procedure (Other Issue); Ruling Date: April 16, 2010; Ruling #2010-2597; Agency: Department of Corrections; Outcome: Grievant Not In Compliance.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

COMPLIANCE RULING OF THE DIRECTOR

In the matter of Department of Corrections
Ruling No. 2010-2597
April 16, 2010

The grievant has requested a ruling on whether her grievance, dated March 22, 2010, with the Department of Corrections (the agency) is in compliance with the grievance procedure. For the reasons set forth below, this Department determines that the grievance does not comply with the initiation requirements of the grievance procedure.

FACTS

On January 20, 2010 and again on February 8, 2010, the grievant was assigned to work outside in the yard at the agency's facility on a cold day. She sought to wear coveralls that were available, but she claimed they were dirty. The grievant left work that day, went home and e-mailed the Governor about the situation. The following day, February 9, 2010, the grievant was called to the warden's office for a meeting. The discussion concerned the state of the available coveralls. The grievant states that the warden called her a liar.

The grievant submitted a grievance, dated February 9, 2010, to raise issues about the cleanliness of the coveralls. Her grievance also discusses the February 9, 2010 meeting and interactions with the warden, including being called a liar. As relief in her grievance, she sought to be "treated with respect and stay warm on the yard."

On March 9, 2010,¹ the grievant alleges she attempted to submit another grievance, which discussed these same events, but claimed that the warden, in the meeting on February 9, 2010, intimidated her in his "words and actions." The agency administratively closed the new March 2010 grievance, asserting that it duplicates the February 9, 2010 grievance. The grievant now appeals that determination.

¹ There appears to have been some intervening events because the grievant had not checked an appropriate box in this new grievance. The grievance was apparently resubmitted on or about March 22, 2010, the date listed on the Form A. Because the timeliness of this grievance is not at issue in this ruling, the exact date of initiation need not be determined.

DISCUSSION

The grievance procedure provides that a grievance must not challenge the same management action challenged by another grievance.² The grievant's February 9, 2010 grievance primarily concerns the cleanliness of the coveralls. However, she also raised issues regarding the February 9, 2010 meeting with the warden. Because her March 2010 grievance challenges issues that occurred during this meeting with the warden, it appears that she is challenging the same management action(s) from her February 9, 2010 grievance. Although she has apparently not discussed "intimidation" by the warden in her February 9, 2010 grievance, that issue arose out of the February 9, 2010 meeting, which is one of the management actions challenged in the previous grievance. Therefore, the agency properly closed the March 2010 grievance as duplicative and no further action is necessary.

This Department's rulings on matters of compliance are final and nonappealable.³

Claudia T. Farr
Director

² *Grievance Procedure Manual* § 2.4.

³ *See* Va. Code § 2.2-1001(5); 2.2-3003(G).