

Issue: Compliance – Grievance Procedure (Other Issue); Ruling Date: September 8, 2011; Ruling No. 2012-3078; Agency: Department of Social Services; Outcome: No Ruling.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

RECONSIDERED QUALIFICATION AND COMPLIANCE
RULING OF DIRECTOR

In the matter of the Department of Social Services
Ruling No. 2012-3078
September 8, 2011

The grievant has requested that this Department (EDR) reconsider Ruling Number 2011-2934, in which EDR determined that the grievant's October 8, 2009 grievance with the Department of Social Services (the agency) did not qualify for hearing.

FACTS

The grievant's October 8, 2009 grievance concerns the grievant's layoff. In EDR Ruling Number 2011-2934, this Department determined that the grievance did not qualify for hearing. The grievant now disputes EDR's conclusions in that ruling.

DISCUSSION

Though there may be instances in which EDR will reconsider its rulings at the request of a party,¹ there are no grounds to do so in this case. Reconsideration of a compliance ruling is more appropriate because such rulings are final with no opportunity for appeal.² The grievant's arguments, however, dispute EDR's analysis and consideration of the merits of the grievance in a qualification ruling. The available and proper method 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 such, this Department will not reconsider Ruling Number 2011-2934 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

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

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

² See Va. Code § 2.2-1001(5).

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

⁴ See Va. Code § 2.2-1001(5).

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