

Issue: Compliance – Management Actions (Recruitment/Selection); Ruling Date: February 24, 2012; Ruling No. 2012-3282; Agency: Department of Alcoholic Beverage Control; Outcome: No Ruling.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

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

In the matter of Department of Alcoholic Beverage Control
Ruling Number 2012-3282
February 24, 2012

The grievant has requested that this Department (EDR) reconsider Ruling Number 2012-3224, in which EDR determined that the grievant's September 8, 2011 grievance with the Department of Alcoholic Beverage Control (the agency) did not qualify for hearing. 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 2012-3224 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 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

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

² This Department has already considered the grounds cited in the grievant's request. For example, the request for modification of the agency's online application is not something a hearing officer could order. *See Grievance Procedure Manual* § 5.9. Additionally, the grievant states that he has not been offered a second level interview. However, the grievant's contention is not correct as the third step response directed that the grievant be given such a second level interview. Consequently, the agency and the grievant simply need to communicate to facilitate this interview. To the extent that the interview is denied, EDR will entertain the grievant's request to reinstate his grievance.

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

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