

Issue: Compliance – Grievance Procedure (Documents); Ruling Date: July 10, 2012;
Ruling No. 2012-3378; Agency: Old Dominion University; Outcome: Agency in
Compliance.



COMMONWEALTH of VIRGINIA
Department of Human Resource Management
Office of Employment Dispute Resolution

RECONSIDERED COMPLIANCE RULING

In the matter of Old Dominion University
Ruling Number 2012-3378
July 10, 2012

The grievant has requested a reconsideration of EDR Ruling Number 2012-3337, which addressed Old Dominion University's ("ODU's" or "the University's") purported failure to provide certain requested documents.

FACTS

In EDR Ruling Number 2012-3337, the grievant's request for "all records of Old Dominion University employees who have ever been involved in any Criminal Offenses" within the past 10 years was determined to be overly broad. EDR limited the document request to all documents that reflect the conviction of any employee for assault and battery (within a five year timeframe) and all documents relating to how the individual was treated as a result of the conviction. The grievant has asked that documents regarding lesser included offenses of assault and battery also be produced. The grievant has additionally asked for documents involving crimes that by their nature involve assault and battery. The University represents that it has no records reflecting any of the above.

DISCUSSION

In EDR Ruling Number 2012-3337, the University was ordered to produce the responsive documents within ten workdays of its receipt of the ruling. In response, the University stated it has no such documents, including those that the grievant has requested additionally in response to EDR Ruling Number 2012-3337. Consequently, there is no basis to reconsider or add to the original ruling. The University has complied with the grievance procedure by providing notice that it has no documents responsive to the request. The grievant has presented no information that would reasonably call into question the University's representation. Simply because the University *may* have records indicating convictions for other misdemeanors that could have involved jail sentences does not indicate that the University has any records involving incidents related to assault and battery or the like. If these records are unrelated to convictions for assault and battery, EDR Ruling No. 2012-3337 has already determined that they need not be produced. Further, there is no basis to require the University to identify the steps taken by its personnel to represent that it has no responsive documents.

EDR's rulings on matters of compliance are final and nonappealable.¹



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¹ Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).