

Issue: Compliance – Grievance Procedure (30-Day Rule); Ruling Date: July 31, 2012; Ruling No. 2013-3392; Agency: Department of Juvenile Justice; Outcome: Agency in Compliance (in part), Agency Not in Compliance (in part).



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

COMPLIANCE RULING

In the matter of the Department of Juvenile Justice
Ruling Number 2013-3392
July 31, 2012

The grievant has requested a ruling related to her June 28, 2012 grievance with the Department of Juvenile Justice (the agency). The agency closed the grievance for non-compliance with the deadline for the initiation of grievances. For the reasons set forth below, this grievance will be reopened in part.

FACTS

In her June 28, 2012 grievance, the grievant challenges the fact that she, in her opinion, was not paid the proper starting salary. The grievant challenged this same issue in a previous grievance.¹ However, the grievant has also alleged that a staff member engaged in actions, beginning on May 31, 2012, that are contrary to policy and/or regulations. In short, the grievant states that this staff member denied her access to certain documents or portions thereof in her personnel file and has allegedly modified a document or documents in her personnel file.

DISCUSSION

Challenge to Starting Pay

The grievant challenged her starting pay in a prior grievance.² Although the grievant has asserted additional facts, her June 28, 2012 grievance at least in part challenges the same action challenged by another grievance. Although such a matter could be foreclosed under Section 2.4 of the *Grievance Procedure Manual*,³ the agency instead determined that the grievance was untimely. This point is also correct. Indeed, this Department determined as much in EDR Ruling Number 2012-3341. For the same reasons addressed in that ruling, which are incorporated here by reference, the grievant's challenge to her starting pay in her June 28, 2012 is untimely and may not proceed.

¹ See EDR Ruling No. 2012-3341.

² See *id.*

³ *Grievance Procedure Manual* § 2.4 ("An employee's grievance must ... [n]ot challenge the same management action challenged by another grievance.").

Other Acts - Timeliness

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.⁴ 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 grievant challenges certain actions by a staff member in relation to documents kept in the grievant's personnel file. These acts are alleged to have begun on May 31, 2012 and continued into June 2012. As such, the grievant had 30 calendar days from May 31, 2012 to file a grievance to challenge that series of acts. The grievant initiated the grievance no later than June 28, 2012, which is less than 30 calendar days from May 31, 2012. Consequently, the grievant's challenge to these acts by the staff member is timely and may proceed.

CONCLUSION

For the reasons set forth above, this Department determines that the grievance is untimely in part and timely in part. As such, only the grievant's challenge to the acts that occurred on May 31, 2012 and after are permitted to proceed as timely. The grievant is directed to provide the grievance paperwork to the appropriate first step-respondent **within five workdays of receipt of this ruling**, to be addressed again at that level and proceed through the grievance process. This Department's rulings on matters of compliance are final and nonappealable.⁵



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⁴ Va. Code § 2.2-3003(C); *Grievance Procedure Manual* § 2.4.

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