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COMPLIANCE RULING

In the matter of the Department of General Services
Ruling Number 2024-5673
February 23, 2024

The Department of General Services (the “agency”) has requested that the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management (DHRM) issue a ruling as to whether the grievant’s February 7, 2024 dismissal grievance is in compliance with the grievance procedure. For the reasons set forth below, EDR determines that the grievance is in compliance and shall be permitted to proceed.

On or about February 7, 2024, the grievant submitted a dismissal grievance to EDR with numerous pages of attachments. Based on the submission, it appears that the grievant has been terminated on the basis of alleged unsatisfactory performance through a re-evaluation pursuant to DHRM Policy 1.40. Upon receipt of a copy of the grievance, the agency alleges that it fails to comply with the grievance procedure and seeks to have the grievance administratively closed. The agency argues that the grievance does not “raise specific issues relating to his performance plan or subsequent termination to which the agency can respond.” The agency states that “it is essential that the grievant provide detailed information about the nature of their grievances to enable the Agency and subsequently that hearing officer to address them appropriately.” The agency argues that the “lack of specificity and clarity compromises the fairness of the Grievance procedure.”

The agency basically asserts that the grievance does not “clearly specif[y] nor identif[y] the issues of focus in his Grievance.” We do not agree with the agency’s assertions that this grievance fails to comply with the grievance procedure. Section 2.4 provides that a grievance “must state the management action(s) or omission(s) being grieved, the facts in support of the grievance, and the relief requested.”¹ The detail and specificity the agency appears to seek is not required by the grievance procedure.

EDR has reviewed the grievant’s submission and finds that it meets the basic initiation requirements of the grievance procedure. The Grievance Form A was completed with reference to attachments, a choice that is specifically permitted by Section 2.4.² The grievant has included a memo that describes the management actions the grievance purports to challenge, namely the re-evaluation of his performance that led to his termination and a claim under the Americans with

¹ *Grievance Procedure Manual* § 2.4. The agency does not dispute that the grievant has articulated requested relief.

² *Id.*

Disabilities Act (ADA) involving purported requests for accommodation. The grievant has also included his memo in response to the agency's proposed termination, which provides further context to his dispute of his termination. The grievant's submission identifies the management actions he is challenging and certain facts in support of his claims. In short, the grievance complies with the initiation requirements of the grievance procedure and there is no basis to conclude that it should be administratively closed.

We do not agree with the agency's apparent argument that it is unable to adequately respond to the grievance or prepare for a hearing in this case. As already stated, the management actions at issue appear to be clear: the grievant's termination based on the re-evaluation and an ADA claim. The agency should have sufficient information to be able to anticipate the facts at issue in this case to proceed with a grievance hearing. In the unlikely event that a matter arises at hearing that could not be reasonably anticipated, the agency is not without remedy. The agency could either request that the hearing officer exclude the matter as not fairly raised in the grievance OR seek further time to present evidence in response. As such, the agency's request to administratively close this grievance is denied.

The agency is directed to submit a completed Form B within five workdays of this ruling. EDR's rulings on matters of compliance are final and nonappealable.³

Christopher M. Grab
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³ See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).