



JANET L. LAWSON
DIRECTOR

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

James Monroe Building
101 N. 14th Street, 12th Floor
Richmond, Virginia 23219

Tel: (804) 225-2131
(TTY) 711

COMPLIANCE RULING

In the matter of the Department of Social Services
Ruling Number 2025-5886
May 8, 2025

The grievant seeks a compliance ruling from the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management (DHRM) in her April 18, 2025 grievance with the Department of Social Services (the “agency”). She alleges that the agency has not complied with the grievance procedure. For the reasons set forth below, EDR determines that the agency has substantially complied with the grievance procedure.

FACTS

On or about April 18, 2025, the grievant submitted an expedited grievance to challenge as a primary issue an alleged hostile work environment. She describes having been “subjected to a persistent pattern of exclusion, marginalization, and professional undermining that has directly impacted [her] ability to contribute effectively and maintain [her] professional standing.” The grievant identifies various events such as allegedly being excluded from project communications (February 13, 2025), alleged dismissal of team concerns (February 17, 2025), alleged reassignment of core duties (February 18, 2025), alleged removal of her project director role (February 20, 2025), alleged accusatory and misleading communications (February 24, 2025), and an ongoing lack of clarity about her title and responsibilities. These events led the grievant to propose a separation agreement to her agency on April 16, 2025. After the grievant felt the agency’s response to the proposal was too minimal and dismissive, she filed the grievance at issue in this ruling.

The agency’s single management step respondent provided a response to the grievance on or about April 29, 2025. The step respondent noted that certain events identified in the grievance “fall[] outside the timeframe for presenting a grievance” because they occurred more than 30 calendar days before the initiation of the grievance. Nevertheless, the step response includes a response to each issue, though ultimately no relief was provided. The grievant now seeks a ruling on whether the single management step response complies with the grievance procedure.

DISCUSSION

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

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basis of the grievance.¹ 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. However, EDR has consistently held that a claim of workplace conduct that is ongoing is raised timely if some agency action alleged to be part of the ongoing conduct occurred within the 30 calendar days preceding the initiation of the grievance.²

The grievant disagrees with the single management step respondent's assessment of certain events described in her grievance as falling outside the timeframe for presenting a grievance. She notes that the "actions are part of an ongoing pattern." Based on our review of the relevant documents, it appears that both parties are correct. The step respondent is correct to state that if the grievant is challenging a management action that occurred on a particular day and is seeking relief for that specific management action, she should initiate the grievance within 30 calendar days of that management action. Some of the events identified in her grievance could be susceptible to such an argument. However, the grievant is also correct to state that her grievance is timely to allege an ongoing pattern of issues that is creating an alleged hostile work environment. The agency did not determine that the grievance should be closed as untimely, so the remaining question is to determine whether the single step response adequately addressed the properly grieved issues.

The *Grievance Procedure Manual* states that the step respondent "must address the issues and the relief requested and should notify the employee of their procedural options."³ While the step respondent is not required to respond to each and every point or factual assertion raised by the employee, they must generally address each issue raised and the requested relief.⁴ EDR notes that although the single step response identified the timeliness issue with regard to certain events identified in the grievance, the step respondent also addressed each of these events in the response, albeit briefly. The step respondent also addressed the grievant's claims about the alleged ongoing hostile work environment, essentially taking the position that no such hostile environment exists. Having reviewed the response in the context of the particular facts surrounding this case, EDR concludes that it is substantially compliant with the grievance procedure. While the grievant may not agree with the response or how the step respondent addressed each point, there is not a basis for EDR to find the response noncompliant with the grievance procedure.⁵

In her ruling request, the grievant asserts that there has been no resolution to her concerns and reiterates her separation proposal. To the extent these matters are not yet resolved, the grievant may continue through the grievance process to have these issues addressed, including for review

¹ Va. Code § 2.2-3003(C); *Grievance Procedure Manual* § 2.2.

² See Nat'l R.R. Pass. Corp. v. Morgan, 536 U.S. 101, 115-18 (2002) (holding the same in a Title VII hostile work environment harassment case); see also Guessous v. Fairview Prop. Invs., LLC, 828 F.3d 208, 221-24 (4th Cir. 2016).

³ *Grievance Procedure Manual* § 3.2. Section 3.4 of the *Grievance Procedure Manual* provides that the steps that normally occur at the second resolution step in the regular grievance process occur with the single management step. *Id.* § 3.4.

⁴ E.g., EDR Ruling No. 2018-4718; EDR Ruling No. 2015-4155.

⁵ Whether the agency's assessments of the grievant's claims are supported by the facts does not rise to a matter of noncompliance with the grievance procedure in this instance. The degree to which the agency's response is not supported or the grievant's claims are not properly reviewed could, however, be relevant to EDR's consideration as to whether the grievance qualifies for a hearing, if this grievance reaches that stage of the process.

by EDR as to whether the matter qualifies for a hearing. EDR would observe that the grievant appears to raise legitimate questions about her current assignments and role that, if true, we are hopeful will be clarified by the agency going forward, whether in this grievance or otherwise. We would also note that the grievant's separation proposal is not within EDR's or a hearing officer's authority to award. Such issues are matters for consideration of a potential settlement between the grievant and the agency, though the agency is under no requirement to agree to such a settlement.

When the grievant requested this ruling, the next step in the process was to seek qualification of her grievance for hearing by the agency head. The grievant has since submitted the grievance paperwork to the agency with such a request. As such, it would appear that the grievance is at the qualification stage for the agency head's (or designee's) review. With the issuance of this ruling, the grievance now proceeds and, as such, the agency head should issue a qualification determination within five workdays of this ruling.⁶

EDR's rulings on matters of compliance are final and nonappealable.⁷

Christopher M. Grab
Director
Office of Employment Dispute Resolution

⁶ *Grievance Procedure Manual* § 4.2.

⁷ See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).