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COMPLIANCE RULING

In the matter of Christopher Newport University
Ruling Number 2025-5820
February 13, 2025

Christopher Newport University (the “university” or “agency”) has requested a compliance ruling from the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management (DHRM) in relation to the grievant’s dismissal grievance. For the reasons set forth below, EDR finds that the grievance was not timely initiated.

FACTS

On December 16, 2024, the agency issued to the grievant a Group III Written Notice with termination of employment effective on the same date. Documentation submitted by the agency appears to indicate that these documents were provided to the grievant on December 16, 2024. The grievant submitted a dismissal grievance by fax on January 16, 2025. In response to EDR’s notification of receipt of the grievance, the agency asserts that the grievance was initiated in an untimely manner.

DISCUSSION

Ordinarily, if a Grievance Form A does not comply with the requirements for initiating a grievance, the agency may notify the employee, using the Grievance Form A, that the grievance will be administratively closed.¹ Because dismissal grievances are initiated directly with EDR,² an agency is essentially unable to follow this process as outlined. Accordingly, the agency in this case has requested a ruling from this Office regarding the issue of alleged noncompliance.

The grievance procedure provides that an employee must initiate a written grievance within 30 calendar days of the date they knew or should have known of the event or action that is the basis of the grievance.³ 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. EDR has long held that in a grievance challenging a disciplinary action, the 30-calendar-day timeframe begins on the date that management presents or delivers the Written

¹ *Grievance Procedure Manual* § 2.4.

² *Id.* § 2.5.

³ Va. Code § 2.2-3003(C); *Grievance Procedure Manual* §§ 2.2, 2.4.

Notice to the employee.⁴ Further, the *Grievance Procedure Manual* states that “[a]n employee who wishes to appeal a disciplinary action must file a grievance within 30 calendar days of receipt of the Written Notice.”⁵

In this case, the grievant received the Written Notice form at issue on December 16, 2024. Thus, a grievance should have been submitted by January 15, 2025. Here, the grievant submitted his dismissal grievance on January 16, 2025, just after the 30-calendar-day period elapsed. Consequently, the university is correct to point out that the dismissal grievance was not submitted within 30 calendar days of the grievant’s receipt of the Written Notice.

Further, there is no evidence of just cause to excuse the late submission.⁶ The grievant has asserted that he requested the appropriate grievance form from this Office and submitted it by fax as soon as he received it via U.S. mail. In addition to sending the form to the grievant by U.S. mail, our records reflect that EDR staff sent the form to email addresses the grievant provided on December 20, 2024, and again on January 10, 2025. Also on January 10, staff also texted to the grievant’s phone number a link to access the appropriate form online. The grievant appeared to confirm receipt of the text on the same date. Although EDR endeavors to make every reasonable effort to assist employees in accessing grievance forms and other information as requested, to include physical mailing, typically U.S. mail delays or complications do not, by themselves, constitute just cause for untimely filing. Moreover, EDR has made the form available to the grievant online, via email, and via text within the 30-calendar-day window for timely filing. The grievant has not provided an explanation as to why he may have nevertheless been unable to access the form in any way other than receiving it by U.S. mail.

Accordingly, EDR concludes that the grievant has not demonstrated just cause for the delay in initiating his grievance.

CONCLUSION

For the reasons set forth above, EDR concludes that the dismissal grievance was not timely initiated and that there was no just cause for delay. The parties are advised that the grievance should be marked as concluded due to noncompliance and no further action is required. EDR’s rulings on matters of compliance are final and nonappealable.⁷

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⁴ E.g., EDR Ruling No. 2019-4845; EDR Ruling No. 2015-4181; EDR Ruling No. 2013-3582.

⁵ *Grievance Procedure Manual* § 2.2 n.2. The Written Notice form includes similar language.

⁶ *Id.* § 2.2 (providing that failure to timely initiate a grievance “will be excused only in extraordinary cases where just cause is found.”). Under the grievance procedure, “just cause” is defined as a “reason sufficiently compelling to excuse not taking a required action in the grievance process.” *Id.* § 9.

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