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COMPLIANCE RULING

In the matter of the Department of Juvenile Justice
Ruling Number 2025-5839
February 28, 2025

The Department of Juvenile Justice (the “agency”) has requested a ruling from the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management concerning a grievance filed by one of its employees (the “grievant”) on or about February 7, 2025. The agency asserts that the grievant has not complied with the grievance procedure and seeks to close the grievance. For the reasons described below, EDR determines that the grievance is in compliance with the grievance procedure and the agency’s request is respectfully denied.

FACTS

On or about February 7, 2025, the grievant initiated a grievance with the agency addressing alleged bullying and harassing behavior by a colleague, referencing incidents on January 31, 2025 and February 4, 2025. The agency has requested this ruling to administratively close the grievance due to alleged noncompliance with Section 2.4 of the *Grievance Procedure Manual* that states a grievance must not be used “to harass or otherwise impede the efficient operations of government.” The agency makes reference to two earlier grievances the grievant has filed: 1) a grievance dated August 8, 2024, which raises a number of workplace issues involving the grievant’s job and a manager, but also alleging bullying and harassing behavior by the same colleague; and 2) a grievance dated September 17, 2024, addressing alleged ongoing bullying and harassing behavior by the same colleague. The agency states that the allegations raised in these two grievances are being investigated by the agency’s employee relations unit. It is not clear when the investigation began, but the agency notes that the investigation is still ongoing.

DISCUSSION

Section 2.4 of the *Grievance Procedure Manual* provides that a grievance cannot be “used to harass or otherwise impede the efficient operations of government.”¹ This prohibition is primarily intended to allow an agency to challenge issues such as the number, timing, or frivolous

¹ *Grievance Procedure Manual* § 2.4.

nature of grievances, and the related burden on the agency.² While neither the number, timing, or frivolous nature of the grievances, nor the related burden on an agency, are controlling factors in themselves, those factors could, in some cases, support an inference of harassment cumulatively or in combination with other factors. Such determinations are made on a case-by-case basis, and because closing a grievance on these grounds is an extreme sanction, the analysis of such a claim carries a commensurately high burden.³

The agency states that the grievant is “misusing the grievance process by continuing to file similarly-natured complaints against [the colleague]” and that he “has not appropriately afforded his employing agency a reasonable opportunity to complete its investigation, nor has he extended grace to his leadership to allow them to address/correct any prohibited conduct occurring in the workplace.” We cannot agree with these assertions under the facts available. EDR cannot find that the grievant has misused the grievance process to address alleged continuing behavior of a colleague in the workplace when new incidents have occurred. If the agency has addressed the grievant’s allegations about the colleague, it has not described that in its request. Indeed, nothing in the number, timing, or nature of the February 7, 2025 grievance would support an inference that the grievance process is being used to harass or impede agency operations. Additionally, we are unclear as to the agency’s assertions that they have not had an appropriate time to investigate or address claims about incidents they were made aware of in grievances filed five to six months ago.

The agency also asserts that the “grievance is redundant, deviates leadership[] and Human Resources focus from the existing investigation and other mission critical work” and that the grievance “is impeding both organizational unit(s) and agency operations.” While the February 7, 2025 grievance does appear to assert claims about ongoing and related behaviors, we cannot agree that they are redundant in that newly occurring incidents are addressed. Additionally, the agency has not identified any way in which this new grievance is impacting or impeding agency operations or “other mission critical work.” The grievant appears to be raising concerns with the behavior of a colleague that arose in two identified recent incidents. Nothing about the grievant’s claims appear improper or onerous to address based on what has been presented to EDR.

Lastly, the agency appears to assert as a reason for its request that the grievant did not report his concerns about the new incidents to anyone in his chain of command or employee relations before submitting the February 7, 2025 grievance. Nothing in the grievance procedure requires such a report to the employee’s chain of command or human resources before filing a grievance. As such, this would not be a basis to close a grievance.⁴ It is also worth noting here that the Code of Virginia and the grievance procedure do encourage the resolution of problems and complaints informally.⁵ To that end, the Code states that “employees shall be able to discuss freely,

² See EDR Ruling No. 2015-4126; EDR Ruling No. 2010-2374.

³ See, e.g., EDR Ruling No. 99-138.

⁴ Furthermore, the filing of a grievance is effectively notifying an employee’s chain of command and human resources about the concerns addressed in a grievance.

⁵ See Va. Code § 2.2-3000(A); see also, e.g., *Grievance Procedure Manual* § 1.2 (“Prior to initiating a grievance, employees are encouraged to raise work-related concerns with their immediate supervisor.”). While employees are encouraged to raise such issues, it is not a requirement.

and without retaliation, their concerns with their immediate supervisor and management.”⁶ Accordingly, employees are permitted to raise concerns about their employment with their immediate supervisor and/or other members of management without being subject to retaliation.⁷ Where the “concerns cannot be resolved informally, the grievance procedure shall afford an immediate and fair method for the resolution of employment disputes”⁸ The grievant here appears to be filing a grievance to resolve the alleged ongoing and continuing concerns he raised previously. As such, EDR cannot find that the agency has asserted a valid basis to administratively close the February 7, 2025 grievance.

CONCLUSION

For the reasons explained herein, the agency’s request to close the grievant’s February 7, 2025 grievance is respectfully denied. The grievance should be returned to the appropriate first-step respondent immediately for response. Within five workdays of this ruling, the first-step respondent must issue a response to the grievance in accordance with the requirements of the grievance procedure.⁹ EDR’s rulings on matters of compliance are final and nonappealable.¹⁰

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⁶ Va. Code § 2.2-3000(A).

⁷ *Id.*

⁸ *Id.*

⁹ *Grievance Procedure Manual* § 3.1.

¹⁰ *See* Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).