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COMPLIANCE RULING

In the matter of the Department of Juvenile Justice
Ruling Number 2025-5843
March 10, 2025

The grievant has requested a ruling from the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management (DHRM) on whether her February 12, 2025 grievance with the Department of Juvenile Justice (the “agency”) was properly initiated.

FACTS

On or about February 12, 2025, the grievant initiated a grievance with the agency alleging retaliatory treatment by her Supervisor, in connection with the grievant’s earlier complaint to agency human resources about the Supervisor.¹ In the grievance, the grievant identified the following examples of alleged retaliation by the supervisor: (1) unfounded negative feedback on her performance evaluation, (2) assignment of the grievant to a work office 109 miles from her home, (3) denial of the grievant’s request for telework, (4) assignment of the grievant to work in a cubicle without necessary work equipment, despite the availability of office space, and (5) invasion of the grievant’s personal space by “aggressively” taking a computer monitor out of the grievant’s hands while she was attempting to set it up. The grievant also objected to other alleged conduct by her supervisor – e.g., verbally reclassifying the grievant’s position as “essential,” contravening her employee work profile; reprimanding the grievant as “unprofessional” regarding communications about the grievant’s request for a compensation review; and denying the grievant’s request to use Civil and Work-Related Leave to cover a meeting at another location from where the grievant works. In summary, the grievant asserted that her supervisor “continues to violate the civility in the workplace policy by speaking down to people and failing to provide constructive feedback.”

On March 3, 2025, a member of the agency’s employee relations staff advised the grievant that the agency was administratively closing the grievance because “all items have been previously presented and either addressed or in progress for further investigation.” The grievant has requested that her grievance be re-opened.

¹ According to the grievant, on September 16, 2024, she notified the agency’s employee relations staff of concerns that her supervisor had engaged in conducted prohibited by DHRM Policy 2.35, *Civility in the Workplace*.

DISCUSSION

Section 2.4 of the *Grievance Procedure Manual* provides that a grievance must not be “used to harass or otherwise impede the efficient operations of government,” must not be “simultaneously pursued through another state process,” and must “not challeng[e] the same management action or omission challenged by another grievance.”²

In its memorandum notifying the grievant of administrative closure, a member of the agency employee relations staff noted that, on December 13, 2024, the grievant had filed a previous grievance challenging the agency’s decisions related to denial of telework and associated assignment of an in-person work location.³ Addressing other issues, the employee relations staff asserted that she had already addressed the issues on behalf of management in an email to the grievant on February 8, 2025. As to issues addressed in that email, the employee relations consultant asserted that the grievant would not be permitted to “reintroduce” those same issues via the grievance process. As to the grievant’s overall claim of ongoing retaliation by her supervisor, the consultant encouraged the grievant to report “new concerns” to the agency, but advised that the grievant “may not simultaneously utilize the complaint or grievance procedures to report issues/concerns.”

Upon a review of the previous grievance filed December 13, 2024, we agree that the previous grievance clearly challenged the agency’s decisions with respect to denying the grievant’s request for telework and also designating a particular location for onsite work. As such, to the extent the February 12 grievance challenges these actions as independent issues, it would be out of compliance with the grievance procedure and its requirement that a grievance must not challenge the same act that has already been challenged by another grievance. Accordingly, to the extent the agency alleges the grievance is not in compliance with the grievance procedure as to these issues, EDR agrees.

However, we do not read the February 12 grievance primarily to re-assert these issues. Rather, the grievant’s description of the issue(s) in the February 12 grievance makes clear that she is attempting to address what she views as a continuing pattern of retaliatory behavior by her supervisor, including an incident that allegedly occurred on January 13, 2025. We find no basis in the grievance procedure that would support administrative closure of the February 12 grievance as to such claims.

To the extent that the agency asserts that a grievance may not proceed if the agency has responded to complaints informally or that the grievant has utilized an internal complaint process, we disagree. The Code of Virginia and the grievance procedure do encourage the resolution of problems and complaints informally.⁴ To that end, the Code states that “employees shall be able

² *Grievance Procedure Manual* § 2.4.

³ This previous grievance is currently pending for an administrative ruling from EDR as to whether it qualifies for a hearing.

⁴ 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.

to discuss freely, and without retaliation, their concerns with their immediate supervisor and management.”⁵ 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.⁶ Where the “concerns cannot be resolved informally, the grievance procedure shall afford an immediate and fair method for the resolution of employment disputes”⁷ The grievant here appears to be filing a grievance to resolve alleged ongoing and continuing concerns with her supervisor, which she claims the agency has not resolved. As such, EDR cannot find that the agency has asserted a valid basis to administratively close the February 12, 2025 grievance as to the allegation that the grievant’s supervisor has engaged in a pattern of retaliation.

CONCLUSION

For the reasons discussed above, EDR concludes that the February 12, 2025 grievance does not comply with the grievance procedure to the extent it seeks to challenge the agency’s decision to deny the grievant’s telework request and assign her to a particular work location. However, the February 12, 2025 grievance is otherwise generally compliant with sections 2.2 and 2.4 of the *Grievance Procedure Manual* and must be permitted to proceed as to all other issues.⁸ Therefore, the grievance must be returned to an appropriate step-respondent, who must respond to the grievance **within five workdays of receipt of this ruling**.

EDR’s rulings on matters of compliance are final and nonappealable.⁹

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⁵ Va. Code § 2.2-3000(A).

⁶ *Id.*

⁷ *Id.*

⁸ This ruling addresses which allegations may proceed as independent issues raised by the February 12, 2025 grievance. It is not intended to limit the allegations that can be offered by the grievant to illustrate her claim of retaliatory conduct by her supervisor, as part of the grievance process.

⁹ See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).