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**QUALIFICATION RULING**

In the matter of Virginia State University  
Ruling Number 2025-5763  
December 4, 2024

The grievant has requested a ruling from the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management on whether his June 26, 2024 grievance with Virginia State University (the “university” or “agency”) qualifies for a hearing. For the reasons discussed below, the grievance does not qualify for a hearing.

**FACTS**

The grievant works as a laboratory and research specialist for the university. He filed a grievance on or about June 26, 2024, contesting certain changes made to his management structure and day-to-day duties. Since May 2024 when he returned to work after taking time off for a work-related injury, the grievant alleges that the university has improperly altered the duties he had since his hiring. In particular, he alleges that the university removed him from the team he helped create, led and managed, the equipment he operated and maintained, and his leadership role. He adds that he no longer has control of the day-to-day tasks for which he was hired. In addition to changes in duties, the grievant’s workstation has also been relocated from his previous laboratory/office to an office trailer, where he allegedly has poor or no access to amenities such as phone, internet, air conditioning (A/C), and a bathroom. Finally, the grievant alleges that the university’s Greenhouse Manager position was improperly dissolved and reassigned to one of his coworkers, and as relief, he requests that he instead be given that position. The grievant also requests that he be allowed to fulfill the Unit Manager position.

The university has communicated throughout its step responses that the reason for the changes to the grievant’s working environment is major restructuring within the university. The grievant includes in his original grievance packet certain emails that allude to the restructuring, including one that refers to changes as being a part of their “ongoing efforts to streamline operations and enhance efficiency at Randolph Farm” and that they are “implementing changes regarding the acquisition, management and usage of equipment.” The first step respondent stated that “the College of Agriculture [is] transition[ing] to better integration of Extension, Research and Academics,” that “former support staff from Extension, Research, Small Farm Outreach Program and Academic department are now managed by Randolph Farm leadership,” and that the university staff is now “divided by broad subject areas rather than departments.” The step

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respondent further clarified that “the three Laboratory & Research Specialist[s] including [the grievant] now work with the technicians from Extension and the Small Farm Outreach Program, as a team, to support all needs from faculty in Plant Systems.” Essentially, the grievant’s supervisor has changed from the Research Director to the Director of Randolph Farm, and he is assigned day-to-day tasks as needed for the Plant Systems unit as a whole. Finally, the university has also contested the grievant’s assertion that his leadership role was stripped from him, arguing that he has always had the same Employee Work Profile (EWP) as his coworkers and that he never held a supervisory role. Regarding the grievant’s requested relief, the university has stated that he could not return to his former role or be given the Greenhouse Manager position, as his role has not significantly changed, and the latter role has since been dissolved.

Following the management resolution steps, the agency head declined to qualify the grievance for a hearing. The university did, however, grant relief as to the grievant’s request to be given the Unit Manager position, affirming that they were opening the hiring process for both the Plant and Animal Systems Unit Manager positions and that the grievant could apply.<sup>1</sup> The grievant now appeals the qualification determination to EDR.

### DISCUSSION

Although state employees with access to the grievance procedure may generally grieve anything related to their employment, only certain grievances qualify for a hearing.<sup>2</sup> Additionally, the grievance statutes and procedure reserve to management the exclusive right to manage the affairs and operations of state government.<sup>3</sup> Claims relating to issues such as the methods, means, and personnel by which work activities are to be carried out generally do not qualify for a hearing, unless the grievant presents evidence raising a sufficient question as to whether discrimination, retaliation, or discipline may have improperly influenced management’s decision, or whether state or agency policy may have been misapplied or unfairly applied.<sup>4</sup>

Further, the grievance procedure generally limits grievances that qualify for a hearing to those that involve “adverse employment actions.”<sup>5</sup> Thus, typically, a threshold question is whether the grievant has suffered an adverse employment action. An adverse employment action involves an act or omission by the employer that results in “harm” or “injury” to an “identifiable term or condition of employment.”<sup>6</sup>

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<sup>1</sup> EDR has corresponded with the grievant to ensure he knew that open recruitment for these positions has begun, and the grievant affirmed that he had applied for one of them, though he noted that no one at the university informed him that open recruitment had begun.

<sup>2</sup> See *Grievance Procedure Manual* §§ 4.1 (a), (b).

<sup>3</sup> See Va. Code § 2.2-3004(B).

<sup>4</sup> *Id.* § 2.2-3004(A); *Grievance Procedure Manual* §§ 4.1(b), (c).

<sup>5</sup> See *Grievance Procedure Manual* § 4.1(b).

<sup>6</sup> See *Muldrow v. City of St. Louis*, 144 S. Ct. 967, 974 (2024) (addressing a required element of a Title VII discrimination claim); see, e.g., *Burlington Indus. v. Ellerth*, 524 U.S. 742, 761 (1998) (defining adverse employment actions under Title VII to include “tangible” acts “such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits”).

*Changes in Duties*

The central issue in this grievance concerns whether the university has improperly and significantly altered the grievant's core job duties. The grievant alleges that these changes have constituted a demotion because his job duties now consist at least mostly, he states, of more hands-on, laborious work, while several of his core duties have been removed. Specifically, the grievant has asserted that his previous duties included a broad spectrum of research oversight, such as the handling of the "entire workload of research," acting as the team leader for his coworkers, being in charge of trailers, combines, and any other equipment attached to the Research division, and overseeing "any kind of agriculture work at the farm." Conversely, he states that now, he is no longer responsible for any equipment or his team, is being asked to do assignments within Agriculture Extension as opposed to the Research Department, and does more "hand-harvesting" and generalized tasks as opposed to the specialized, technical duties he used to carry out. He adds that on or about July 2, shortly after the filing of his grievance, he was apparently given a new EWP that has changed his work title from "Laboratory and Research Specialist II" to "Plant Science Technician." However, the core duties on both "versions" of the grievant's EWP remain the same. For example, these core duties include:

*Agricultural Field Preparation/Maintenance*

Prepares research plots for planting, assist in field layout and pest control;  
Operate planters, tractors, threshers and small plot harvesters; ...  
Control crop pests, keep field plots clean and harvest crops according to established timelines;  
Maintain plant science facilities and equipment;  
Maintains equipment in all working conditions at all time and facilities are clean and operational;

*[College of Agriculture] Collaboration and Supervision*

Participate in the implementation and ensure accurate coordination of field days/plant science events and demonstrations;  
Train and supervise hourly and student workers;  
Ensure hourly and student workers are trained and are present at their job sites; and  
Provide oversight of safety and equipment procedures and protocols are followed by supervised individuals[.]

The university maintains that the grievant's duties have not significantly changed, noting that the only change was transitioning the managing of farm equipment from the grievant to other university staff. Indeed, on April 5, 2024, the grievant's new supervisor sent out a mass email regarding the changes of farm equipment management, stating that "[a]ll farm equipment . . . will now fall under the direct supervision of [Farm] management," "all preventative/scheduled maintenance . . . will be overseen by . . . the Farm Manager," and "any requests for equipment usage must be approved by the Farm Manager." However, it appears that the grievant still handles the servicing, repairs, and transport of said equipment.

The university has further explained that the changes to the grievant's duties it does acknowledge, such as the handling of equipment, is due to the university's major restructuring – specifically the merging of two of the College of Agriculture Departments – the Research Department and the Agriculture Extension Department. The university has explained that “the two College of Agriculture departments (extension and research) are working closer together so that technicians from both groups are working together to support the same number of faculty members as before.” The decision to rework the grievant's management chain and some of his duties to fall within the restructured entities appears to be consistent with the university's discretion granted under policy and its business needs pursuant to the ever-changing needs of the university, and that personnel resources must be strategically used in the most efficient and productive manner to keep in line with these changes.

As to the discrepancy between the two versions of the grievant's EWP, the university states that a new EWP was never given to the grievant, and that this “new” EWP was the one the grievant's new supervisor was given by the grievant's former division when he took over. The university asserts that the most recent EWP is the one the grievant signed in November 2023.<sup>7</sup> Outside of some minor differences in the organizational and position objectives, it appears that the only difference between this “new” EWP and the EWP signed by the grievant in November 2023 is that the work title has changed from “Laboratory and Research Specialist II” to “Plant Science Technician.” The pay band, for instance, remains in Pay Band 4, and the role title remains as “Laboratory and Research Specialist II.”<sup>8</sup>

For the grievant's claim to qualify for a hearing, there must be evidence raising a sufficient question as to whether management violated a mandatory policy or whether the challenged action, in its totality, is so unfair as to amount to a disregard of the intent of the applicable policy. The General Assembly has recognized that the Commonwealth's system of personnel administration should be “based on merit principles and objective methods” of decision-making.<sup>9</sup> In addition, the Commonwealth's classification plan “shall provide for the grouping of all positions in classes based upon the respective duties, authority, and responsibilities,” with each position “allocated to the appropriate class title.”<sup>10</sup> These statutes evince a policy that would require state agencies and institutions to allocate positions having substantially the same duties and responsibilities to the same role. Importantly, the grievance procedure accords much deference to management's exercise of judgment, including management's assessment of the degree of change, if any, in the job duties of a position. While agencies are afforded great flexibility in making decisions such as those at issue here, agency discretion is not without limitation. Rather, EDR has repeatedly held that even where an agency has significant discretion to make decisions (for example, classifying a

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<sup>7</sup> Based on the university's statement, it would appear that the grievant has not received an updated EWP following the changes to his work that are the subject of this grievance. When the grievant does receive an updated EWP, nothing in this ruling prevents the grievant from filing a new grievance to contest any changes reflected in the new EWP.

<sup>8</sup> The university has since expressed to EDR that they are not aware of why the work title is different, but nonetheless assert that the grievant's duties have not significantly changed since the restructuring of the grievant's management chain. To add to this assertion, one of the grievant's coworkers, whom the university considers to be within equal classification as the grievant, also holds the “Plant Science Technician” work title per her EWP, along with the same role title and pay band as the grievant.

<sup>9</sup> Va. Code § 2.2-2900.

<sup>10</sup> *Id.* § 2.2-103(B)(1).

position in a particular Role), qualification is warranted where evidence presented by the grievant raises a sufficient question as to whether the agency's determination was plainly inconsistent with other similar decisions within the agency or otherwise arbitrary or capricious.<sup>11</sup>

The university has asserted that the grievant's EWP has remained the same with no significant changes to his core duties. When comparing the grievant's EWP with the duties he says he now carries out under the new management structure, it appears that these responsibilities still generally fall under the duties of the grievant's EWP/role title classification. Of note, much of the more hands-on, generalized work the grievant refers to is mentioned in the EWP, including the preparation, assistance, and overall management of plots and pesticides. While it appears the grievant is no longer "responsible" for certain equipment, this would likely not be considered so significant of a change that would constitute a misapplication of policy. As was stated earlier, the university has provided a sufficient rationale for this change, stating that restructuring the management chains within the College of Agriculture was necessary to ensure that all Departments within the College have the necessary number of personnel. Similarly, while the grievant asserts that he is no longer responsible for the more technical aspects of his job for which he was hired, the university holds the discretion to rework the day-to-day tasks of the grievant given the restructuring of the College.

The grievant has also asserted that the university has taken away the supervisory aspect of his position. While the grievant admits that his EWP does not indicate a supervisory role with respect to full-time workers, such as the coworkers on his team, he does assert that in practice, he has acted as the team leader and would oversee and handle concerns brought forth by his team members. After a thorough review of the record, EDR cannot find that any changes here rise to the level of a misapplication of policy. Even if the grievant was essentially acting as a team leader with respect to his coworkers, his EWP does not indicate that he holds a supervisory role with respect to those coworkers. If the grievant no longer carries the same level of discretion and oversight with respect to those coworkers, that change similarly falls within the university's discretion to adjust management personnel needs as needed, which they have done here following the restructuring and merging of the College of Agriculture departments.

Finally, much of the work the grievant is allegedly now carrying out also falls under the listed duties within the Laboratory and Research Specialist II position. The DHRM Job Organization Structure describes the complexities of the Laboratory and Research Specialist II classification to include "participating in or leading work in the design, modification, evaluation and performance of laboratory, field surveys or research procedures; . . . [and] troubleshooting instrument problems and performing preventive maintenance on equipment."<sup>12</sup> Such descriptions can reasonably be interpreted to include the overall management of the farm plots, pesticides, and other agricultural duties given to the grievant by his new supervisor on a day-to-day basis.

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<sup>11</sup> See *Grievance Procedure Manual* § 9 (defining arbitrary or capricious as "[i]n disregard of the facts or without a reasoned basis"); see also, e.g., EDR Ruling 2010-2365; EDR Ruling No. 2008-1879 (and rulings cited therein).

<sup>12</sup> "Laboratory and Research Services, #59070, Occupational Family: Natural Resources and Applied Science," <https://web1.dhrm.virginia.gov/itech/DHRMWebAssets/careergroups/natresouc/nat59070LabResearch.htm>.

The evidence before EDR suggests that while the grievant is certainly spending more time now with labor-driven, generalized, hands-on tasks, as opposed to more technical, discretionary work before the university's restructuring, they are still tasks that are expected of an employee with the Laboratory and Research Specialist II role title, and tasks that fall within the grievant's core duties per his EWP. There is also no evidence to suggest that such duties are misclassified in Pay Band 4.<sup>13</sup> Likewise, under DHRM Policy 3.05, agencies may generally reassign employees to different duties without a mandated salary adjustment (otherwise known as a Reassignment within the Pay Band), and they may do so without advertising for the new role or otherwise carrying out the standard hiring process.<sup>14</sup> While the grievant is understandably frustrated with his core duties being altered, EDR cannot find based on the available evidence that the reworking of duties is not a valid exercise of the university's discretion. The grievant's EWP confirms that the grievant is still responsible for all of his previous duties that he has always had – he is just expected, based on the ever-adapting business needs of the university, to spend more of his time on certain duties listed in his EWP and descriptions of the Laboratory and Research Specialist II role.

In summary, while the grievant contends that he is no longer responsible for any duties outside of day-to-day, hands-on tasks, such duties still generally fall within the grievant's core duties listed on his EWP. While the university has certainly revised the grievant's duties to some extent, especially with respect to equipment responsibility, the university also reserves the ability to evolve the proportion of duties required from the grievant as needed, so long as such changes to his duties do not suggest a different pay band, which is not the case here. For these reasons, EDR cannot find there to be a sufficient question raised to qualify the grievance for a hearing on the basis of any misapplication or unfair application of policy.

### *Greenhouse Manager Position*

The grievant also asserts in his grievance that the university did not properly advertise his department's Greenhouse Manager position after they dissolved the position and began assigning some of its former duties to one of the grievant's coworkers (Coworker A). The university has stated that they had given some of the former position's duties to Coworker A while the university took time to determine what would be done about the dissolved position. In particular, Coworker A has been managing the work schedule for the greenhouse staff and "handl[ing] all matters pertaining to the greenhouse."<sup>15</sup> These efforts have included correspondence with other employees,

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<sup>13</sup> While the grievant points to the fact that his work title allegedly changed from "Laboratory and Research Specialist II" to "Plant Science Technician," the official *role* title and corresponding pay band have not changed. It is notable that the Job Organization Structure suggests that a "technician" title may fall within Pay Band 3. *Id.* However, nothing EDR has reviewed in this case suggests that the grievant is improperly classified in a Pay Band 4 position or that the work he is performing is properly categorized at that level. Because the grievant's role title of Laboratory and Research Specialist II has remained constant, the discrepancy in the grievant's work title has no adverse effect on his job classification.

<sup>14</sup> See, e.g., EDR Ruling No. 2024-5585; DHRM Policy 3.05, *Compensation*, at 14.

<sup>15</sup> The university has also provided more details to EDR regarding Coworker A's duties, such as being responsible for the greenhouse's heating and cooling systems, coordination of an "integrated pest management plan" and all pesticide applications, monitoring the environmental cooling system and other environmental parameters, and organizing the greenhouse zones and maintaining a clean environment.

such as the grievant, about prioritizing certain tasks related to the greenhouse and ensuring that no one is “duplicating” anyone’s efforts.

While agencies have the general discretion to reallocate the duties of dissolved positions, there are limitations. For example, an agency might misapply policy by reassigning the bulk of the duties of a potential promotional opportunity to a lower-level team member and avoid an open, competitive hiring process. Here, it appears that the university has reassigned at least a substantial amount of the Greenhouse Manager duties to Coworker A. Of note, the former Greenhouse Manager EWP includes the overall maintenance and upkeep of the greenhouse and all related systems, overseeing trainings and managing the personnel that work on the greenhouse, and essentially acting as the representative for the greenhouse, i.e., providing updates with university deans and acting as the liaison for Agricultural Research. Conversely, the duties assigned to Coworker A appear to include coordinating assignments for personnel involved in greenhouse-related tasks, being responsible for the greenhouse’s heating and cooling systems, and handling environmental, safety, or sanitation concerns related to the greenhouse. Comparing the Greenhouse Manager EWP’s duties with the duties given to Coworker A, it appears that most of the technical duties were given to her, while the more administrative, governmental duties were not.

While it is likely accurate to say that much of the duties of the former Greenhouse Manager position have been temporarily assigned to Coworker A, this seems to also coincide with the university’s overall restructuring of the College of Agriculture’s departments. Certain key administrative duties outlined in the Greenhouse Manager EWP, such as “Capital Outlay” (acting as liaison) and “Lab & Safety” (the managing of trainings), were apparently not assigned to Coworker A. If the university wanted to permanently assign all Greenhouse Manager duties to Coworker A or were to permanently assign to her the duties she temporarily holds, it is not clear whether such a reassignment would be consistent with policy based on information available at this time.<sup>16</sup> It is possible, though still unclear, that the university would have to open the competitive hiring process and allow for all employees, such as the grievant, to apply. However, at this point, given that the duties are temporary and only concern the more technical aspects of the Greenhouse Manager position, EDR cannot find a sufficient question that the university misapplied or unfairly applied policy in this regard under the available facts.

### *New Office Location*

Finally, the grievant has asserted complaints regarding his recent move from his laboratory office to an office trailer. It appears that the grievant’s supervisor first notified him of the move in an email on May 20, 2024, asking that he “move [his] office from the [greenhouse] headhouse to the plant systems trailer near aquaculture” and that the “headhouse space is going to be turned into lab space again as it was intended.” On June 10, responding to the grievant’s concerns about

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<sup>16</sup> The former Greenhouse Manager EWP reflects that the position was in Pay Band 4 and, thus, would not have been a promotional opportunity. As such, reassignment of Coworker A to the position, even in full, may not be a misapplication of policy. However, the available information about the former position is unclear and potentially inaccurate. Consequently, EDR is not sure whether the Greenhouse Manager position would be properly considered a Pay Band 4 position (at least as to how it was formerly structured).

amenities, the supervisor affirmed that the trailers have “good WIFI” and he ordered work cell phones for all staff. However, the grievant notified his supervisor on June 25 that the trailer still had “no internet, phone and bathroom,” and for these reasons he had not yet moved into it. His supervisor responded that “[t]here is WIFI and a restroom close by in the aquaculture facilities” and that he is “working on getting university phones for everyone.”

As of the most recent correspondence with EDR, the grievant has asserted that the situation with his office trailer is “deplorable,” stating that he has to use his work phone as a hotspot in order to access internet, that the A/C unit does not work well on hot days, and that one of the two A/C units does not have electricity. He also confirmed the university’s assertion that while there are no immediate bathrooms in the trailer, there are bathrooms located in close proximity.

Ultimately, while the university has the discretion to relocate the grievant for a legitimate need, the new office must still be an acceptable work location. Here, the university has stated that the grievant was one of three other agricultural technicians (including the grievant’s coworkers) who were moved out of their laboratory office to a trailer because the lab space “was needed to allow for a new water quality lab,” which appears to be a legitimate basis for the relocation given the restructuring of university departments. The university has also noted that the trailers were renovated to ensure that they were acceptable work locations, and that while the non-working A/C unit is pending an electrical work order, only one unit is necessary to adequately cool or heat the trailer.

It appears that, while not ideal, the office location the grievant was relocated to is sufficiently acceptable, and EDR finds no basis of a misapplication of policy in the handling of this relocation. Nonetheless, EDR encourages the university to continue to ensure that the grievant’s working space is in as optimal shape as possible, including but not limited to ensuring adequate internet access and properly working A/C and heating units. If the condition of the grievant’s working condition worsens at any point, he is free to file an additional grievance on that basis.

### CONCLUSION

For the reasons discussed above, EDR finds that the facts presented by the grievant do not constitute a claim that qualifies for a hearing under the grievance procedure.<sup>17</sup>

EDR’s qualification rulings are final and nonappealable.<sup>18</sup>

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<sup>17</sup> See *Grievance Procedure Manual* § 4.1.

<sup>18</sup> See Va. Code § 2.2-1202.1(5).