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COMPLIANCE RULING

In the matter of the University of Virginia Medical Center
Ruling Number 2026-5932
August 13, 2025

The University of Virginia Medical Center (the “agency”) seeks a compliance ruling from the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management (DHRM) to determine whether two grievances, initiated on or about April 14, 2025, may continue through the process as, the agency argues, there is no longer effective relief available given the grievant’s departure from the agency. For the reasons described below, EDR determines that both grievances will be considered administratively closed.

FACTS

On or about April 14, 2025, the grievant submitted two separate grievances to the agency: 1) a grievance about her receipt of a Step 1 Informal Counseling Memorandum, and 2) a grievance about alleged charge nurse scheduling inequities and inconsistencies. On July 24, 2025, the grievant resigned from employment with the agency. The agency requested this compliance ruling on July 25, 2025 to seek closure of the grievant’s two grievances.

DISCUSSION

In general, “*any* management actions or omissions may be grieved” by an employee, so long as the grievance complies with the initiation requirements of the grievance procedure.¹ However, an employee’s separation from employment after initiating a grievance may render challenges to certain management actions or omissions moot.² In such a situation, EDR will consider administrative closure of a former employee’s grievance, in part, on the theory that a grievance may not be “used to . . . impede the efficient operations of government.”³ For example, further relief may not be available through the grievance procedure after an employee has separated, even though the challenged management actions may have been appropriately the subject of a grievance.⁴

¹ *Grievance Procedure Manual* § 2.4.

² *See, e.g.*, EDR Ruling No. 2022-5402; EDR Ruling No. 2020-5063.

³ Va. Code § 2.2-3003(C); *Grievance Procedure Manual* § 2.4(4); *see* EDR Ruling No. 2020-4973.

⁴ *See, e.g.*, EDR Ruling No. 2018-4722; EDR Ruling No. 2018-4724; EDR Ruling No. 2018-4586.

With regard to the grievance about alleged nurse scheduling inequities, there is no effectively meaningful relief available to address the grievant's contentions. The grievant no longer works with the agency and will not be involved in nurse scheduling. As such, given that there is no effective relief available, EDR finds that this grievance will be considered administratively closed.

The grievance about the Step 1 Informal Counseling Memorandum presents a different question. Relief is technically still available in the form of rescission of the Step 1. While the agency's policy is different from DHRM Policy 1.60, *Standards of Conduct*, a Step 1 is very similar to a written counseling memorandum under the state policy.⁵ EDR has never addressed whether a grievance challenging a counseling memorandum may continue after the grievant leaves employment. EDR has generally provided that grievances challenging formal discipline can continue after a grievant's resignation. However, that determination is generally premised on the fact that formal disciplinary actions are placed in an employee's personnel file. If an individual returns to employment with a state agency, that personnel file generally follows them. Though the impact of an inactive formal disciplinary action on an individual's future employment is questionable, it is still a document that remains in their personnel file and, if there was a grievance timely filed to challenge that item, it has been EDR's determination that the individual should have the opportunity to contest that document and seek to have it removed from their personnel file. In addition, grievances that challenge formal discipline qualify for a hearing; grievances about written counseling generally do not.⁶

A written counseling memo is an example of an informal supervisory/corrective action that is not equivalent to a written notice of formal discipline.⁷ Like written counseling, a Step 1 under the agency's policy is not placed in an employee's personnel file.⁸ As such, the factors that have led EDR to allow grievances about formal discipline to continue after an employee's resignation do not exist as to the Step 1. Further, the agency has provided information that even if the grievant were to be re-employed with the agency, the Step 1 would not be transferred to the new supervisor's files. As such, EDR cannot find that the Step 1 has any further impact on the grievant or her potential future employment with the state. Even if rescission of the Step 1 is available as relief, that relief has no effective meaningful impact on any current or future grievable employment matters of the grievant. Consequently, EDR finds that continuing with this grievance would be inconsistent with the provisions of the Virginia Code and grievance procedure that a grievance should not "impede the efficient operations of government."⁹ As such, the grievance about the Step 1 will also be considered administratively closed.

While this ruling was pending, the grievant also submitted a request to EDR that we reconsider previously issued EDR Ruling Number 2025-5903, which addressed questions about the agency's compliance with the document production provisions of the grievance procedure in

⁵ See DHRM Policy 1.60, *Standards of Conduct*, at 7-8.

⁶ Written counseling does not generally rise to the level of an adverse employment action because such an action, in and of itself, does not negatively affect the terms, conditions, or benefits of employment and, therefore, does not qualify for hearing under the grievance statutes. *E.g.*, EDR Ruling No. 2025-5868.

⁷ See DHRM Policy 1.60, *Standards of Conduct*, at 7-8.

⁸ *Id.* at 7. In some limited circumstances, a written counseling memo (or a Step 1) can be placed in an employee's personnel file, such as when the agency uses it to support subsequent formal disciplinary action. *Id.* However, such a circumstance does not exist with the case at hand.

⁹ Va. Code § 2.2-3003(C); *Grievance Procedure Manual* § 2.4(4).

relation to the grievance about the Step 1.¹⁰ Because that grievance is administratively closed with the issuance of this ruling, EDR respectfully declines to reconsider EDR Ruling Number 2025-5903. There is no basis to reconsider issues of compliance with the document production provisions of the grievance procedure in a grievance that is closed.

EDR's rulings on matters of compliance are final and nonappealable.¹¹

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¹⁰ See EDR Ruling No. 2025-5903 at 2-3.

¹¹ See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).