JANET L. LAWSON
DIRECTOR

COMMONWEALTH OF VIRGINIA

Department Of Human Resource Management

Office of Employment Dispute Resolution

James Monroe Building
101 N. 14th Street, 12th Floor
Richmond, Virginia 23219

Tel: (804) 225-2131
(TTY) 711

QUALIFICATION AND COMPLIANCE RULING

In the matter of the Virginia Community College System
Ruling Number 2026-5955
September 25, 2025

Laurel Ridge Community College of the Virginia Community College System (the "agency") has requested to rescind qualification of the grievant's two grievances currently pending for hearing as Case Numbers 12308 and 12309. Although the agency head previously qualified the grievances for a hearing, the agency now seeks to change that determination.[1] For the reasons discussed below, the agency's request is denied.

FACTS

At issue in Case Numbers 12308 and 12309 are a grievance dated April 24, 2025, asserting retaliation and violation of the Family and Medical Leave Act, and a second grievance dated May 29, 2025, asserting retaliation by the grievant's supervisor. On June 10, 2025, the agency head qualified the grievances for a hearing. In a September 12, 2025 letter to the Office of Employment Dispute Resolution (EDR) at the Virginia Department of Human Resource Management (DHRM), the agency asks to rescind its qualification of the grievances. The agency states that the grievances were "mistakenly qualified" for hearing by the agency head, that the agency "misunderstood the grievance procedure," and was not represented by counsel. The agency argues that the grievances do not qualify for a hearing and relief is not available under the grievance procedure.

DISCUSSION

EDR has long recognized that the Grievance Form A is an official grievance document used by the parties to communicate throughout the grievance process and, as such, is of paramount importance during the grievance procedure. Because the grievant, agencies, and EDR rely on the Grievance Form A to ascertain the intent of the parties, it is incumbent on the parties to clearly and accurately express their intentions on the Grievance Form A. However, in past rulings, EDR has considered errors made on the Grievance Form A in different contexts and, in so doing, has recognized that evidence of a party's intent is relevant.[2]

[1] The grievant has also submitted an appeal to address hearing officer and party non-compliance. However, EDR perceives this appeal document as opposition to the agency's request to rescind qualification of the grievances for hearing and is considered as such for purposes of this ruling.
[2] *See* EDR Ruling No. 2011-3014; Ruling No. 2011-2970.

While EDR has permitted parties to correct unintended mistakes on the Grievance Form A, parties will not be allowed to change clearly intended choices (like a grievant's closure of a grievance or an agency's qualification of a grievance for hearing) simply because the party changes its mind later. There must be finality to determinations intentionally made and indicated by parties on the Grievance Form A.[3] Thus, the agency's request in this case must be denied.[4] EDR does consider requests to dismiss a grievance previously qualified for hearing where there have been intervening circumstances that make the subject matter of a grievance moot, for example.[5] However, no such change has occurred of which EDR is aware that alters the grieved matters such that there are no longer live issues for consideration by a hearing officer.

While the agency asserts that the grievances do not qualify for a hearing, or, perhaps, cannot qualify for a hearing under the grievance statutes, we do not agree. Both grievances include claims of retaliation and/or policy violations that could potentially qualify for a hearing.[6] Furthermore, we do not agree that the claims asserted are so clearly not adverse employment actions.[7] While the oral reprimand grieved in the May 29, 2025 grievance is a much closer call, we cannot find at this stage that this reprimand does not meet the adverse employment action standard. Given that the grievant was reprimanded in part for purportedly violating "a direct order," it is not clear the degree to which such a determination could impact the employment situation of an employee with the rank of Sergeant of a campus police department. While EDR might have examined this issue more in depth had the agency head not already qualified the grievance for a hearing, that is not the posture of this case. Lastly, the agency asserts that relief is not available to address the grieved issues. Here, again, we do not agree. The grievance procedure allows a hearing officer to make findings of discrimination, retaliation, or misapplication of policy, for example, and "order that the agency comply with applicable law and policy."[8] The *Rules for Conducting Grievance Hearings* also permit a hearing officer to "order the agency to reapply the policy from the point at which it became tainted" and "order the agency to create an environment free from discrimination and/or retaliation, and to take appropriate corrective actions necessary to cure the violation and/or minimize its reoccurrence," when the findings so warrant.[9] As such, we have no basis to find that the grievant's two grievances cannot proceed to hearing on the current procedural posture. Accordingly, the agency's request is respectfully denied.

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[3] EDR Ruling No. 2016-4239.

[4] In considering this type of situation in the past, EDR determined that the procedural approach to finality must be consistent with respect to both parties. If agencies were allowed to rescind their intentional decisions to qualify a grievance for hearing, should grievants also be allowed to rescind their intentional decisions to conclude their grievances? If so, by what deadline should the parties be allowed to change their minds? In the interests of procedural order, stability, and finality, rescission of either party's deliberate, intended decision to conclude a grievance (in the case of a grievant) or to qualify a grievance (in the case of an agency) is not generally permitted. *Id.*

[5] *See*, *e.g.*, EDR Ruling No. 2025-5866.

[6] *Grievance Procedure Manual* § 4.1(b).

[7] 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." *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").

[8] *Grievance Procedure Manual* § 5.9(a).

[9] *Rules for Conducting Grievance Hearings* § VI(C).

CONCLUSION

The grievances at issue in Case Numbers 12308 and 12309 remain qualified for hearing. The previously appointed hearing officer remains appointed to hear these matters. EDR's rulings on matters of compliance and qualification are final and nonappealable.[10]

Christopher M. Grab
Director
Office of Employment Dispute Resolution

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