BEVERLY ANN CHAFIN,

Grievant,

v.

DOCKET NO. 02-HEPC-086

WEST VIRGINIA HIGHER EDUCATION POLICY

COMMISSION/SOUTHERN WEST VIRGINIA

COMMUNITY AND TECHNICAL COLLEGE,

Respondent.

D E C I S I O N

Grievant, Beverly Ann Chafin, filed four grievances against her employer, the West Virginia Higher Education Policy Commission/Southern West Virginia Community and Technical College ("Southern"), the first on November 17, 2000, and the last on March 19, 2001, which were consolidated at level two. The four statements of grievances and relief sought are listed below.

Grievance 1 (11/17/2000).

> I believe that I have been false[ly] accused and written up for activities that I had no control over.
>
> Relief sought: Letter written October 27, 2000-Destroyed Email given by Supervision-written apologizes Information requested by complete center. The ability to perform my job without being under such distress.

Grievance 2 (2/7/01).

> In the letter dated January 23, 2001 addressed to me by my supervisor, Oretha Baker, is clearly a misrepresentation of the events and facts that took place the evening of January 22, 2001.
>
> My behavior was neither insubordinate to the President nor my Supervisor. The actions of my behavior in no way constitute "dishonesty". A clear audit trail was left for all to see.

However, I am repeatedly informed about my behavior problems but have yet to receive supportive documentation from my Supervisor.

Relief sought: The ability to return to my job and be able to perform without harassment, unfair treatment, and the threat of constant retaliation.

Grievance 3 (3/19/01).

Wrongfully terminated without timely due process, without proper procedures for disciplinary actions by Supervisor. Due process was not conducted by the Classified Staff Handbook. I believe the last two write ups are clearly retaliation of grievance filed Oct. 27, 2000. Southern WV Community & Technical College did not negotiate in good faith.

Relief sought: Foremost to be reinstated to my former position as Business Manager, Logan Campus. Southern WV Community & Technical College. To be compensated for loss wages and annual leave that I was forced to take. The opportunity to finally get due process. I also would like the opportunity to retrieve my belongings. Last, but not least, to be whole.

Grievance 4 (3/19/01).

Falsely accused, I was not aware of any 2 checks on my desk. I checked the top of my desk on Jan. 23 thoroughly in the presence of Ms. Hank. I gave her & Oretha (Supervisor) all items that need pertinent attention.

Relief sought: The ability to return to my former job, be reinstated with full compensation and to made whole.

As noted above, the four grievances were consolidated for the level two hearing, which was conducted on August 22 and 23, 2001, and January 23, 2002. Grievance Evaluator Michael J. McGraw issued a recommended decision denying the grievance on March 20, 2002, and Southern President Joanne Tomblin adopted the decision on March 22, 2002. Grievant appealed to level four on April 1, 2002, and a level four hearing washeld to supplement the existing record on June 24, 2002. This grievance became mature for decision on August 16, 2002, the deadline for the parties'

proposed findings of fact and conclusions of law. Grievant was represented by Kevin Church, AFSCME, and Southern was represented by Patricia Clay of Southern, and Gregory W. Bailey, Esq., of Bowles, Rice, McDavid, Graff & Love.

SUMMARY OF EVIDENCE

A summary of evidence is attached as Addendum A.

After a careful review of the record in its entirety, I find the following material facts have been proven by a preponderance of the evidence.

FINDINGS OF FACT

1. Grievant was employed as a Business Manager I by Southern from 1998 until her termination by letter dated March 9, 2001.

2. Grievant's primary responsibility during this period was the management of the Logan Campus bookstore. In addition to the expectation that Grievant be knowledgeable and observe accounting and business practices relevant to this position, responsibility also existed for the supervision of significant cash transactions that were associated with the operation of the bookstore.

3. The reasons set forth for Grievant's termination in the March 9, 2001, letter, include:

> *Improper handling of money received in violation of WV State Code 12-2-2* which requires deposit of all moneys within twenty-four hours of receipt. Checks totaling $2,438 that were postmarked in early December were found on your desk at the end of January.
>
> *Deliberate violation of purchasing regulations* as determined by you taking cash from the register to purchase supplies in violation of state and institutional purchasing regulations that require completion of purchase orders for ALL purchases made by this institution. You not only violated the requirement for having a signed purchase order, but neglected to use your institutional purchasing card because you claimed it was too much trouble to reconcile.
>
> *Gross insubordination* as demonstrated by your willful failure and refusal to comply with the directive of the President requiring all non-academic purchases be approved by the Vice President of Finance.
>
> *Failure to maintain performance standards* as demonstrated by your inability to meet deadlines established by your supervisor, slow and inaccurate completion of assignments, inaccurate accounting records, and inability to process invoices in a

timely manner.

Negligence as demonstrated by your inability to maintain proper accounting records with the accounts receivable, purchasing card processing, and reconciliation.

Dishonesty as demonstrated on several occasions prior to and during the pre-termination meetings.

LIII Southern Ex. 41.

4. In January 1999, Grievant was verbally counseled by her supervisor, Oretha Baker, about proper billing and payment procedures, and the importance of paying bills on time. LIII Southern Ex. 7.

5. On March 19, 1999, Grievant was verbally counseled by Ms. Baker for failure to send regional invoices and purchase orders to the District Office for proper processing. Grievant was directed to correct the purchasing and billing problems by developing procedures to ensure proper processing. LIII Southern Ex. 7.

6. On March 23, 1999, Grievant and other bookstore employees attended a training session with Ms. Baker. Ms. Baker had the Williamson campus bookstoreemployees explain their procedures, and told Grievant to model her procedures after the Williamson campus. She instructed Grievant to set up a database to track purchase orders, invoices and payments.

6. On March 13, 2000, Grievant received a written warning for poor treatment of employees, unprofessional behavior, poor organization and management skills, and unsafe operation of college vehicles. LIII Southern Ex. 9. Ms. Baker counseled Grievant about her treatment of employees, and sent her to two workshops on supervisory skills, and warned her that any further problems could result in her termination.

7. On October 27, 2000, Grievant received a written warning for missing the deadline for the second year in a row for the annual accounts receivable report. The deadline was July 31, 2000, and she did not submit the report until August 23, 2000. Grievant revised the report numerous times, each time certifying the accuracy of the report, and each time it was replete with errors. The report was ultimately submitted to the auditors on September 29, 2000, and it was still not accurate. LIII

Southern Ex. 10. (See footnote 1)

8. Grievant stopped working on Southern's financial computer program, the Banner system, after receiving the October 27, 2000 letter. She maintained that Ms. Baker ordered her to stop using the system. Ms. Baker never told Grievant to stop using the computer system, but merely to stop entering and deleting data into the system, as that was not her job. She instructed Grievant to let her employees, especially Henrietta McClellan, do their jobs. 9. On January 22, 2001, Ms. Baker received a telephone call from Henrietta McClellan around 5:30 in the evening. Grievant was scheduled to have evening supervision duties, but had left to do some shopping for the bookstore. Grievant had taken cash out of the bookstore cash register for this purpose.

10. Ms. Baker and Patsy Cutlip went to the bookstore, and when Grievant returned with her purchases, they went into Grievant's office to discuss the matter. Grievant told Ms. Baker she took the cash out of the register to make the purchases. When asked by Ms. Baker why she did not use a purchase order or a purchasing card, Grievant replied it was too time consuming to do the reconciliation.

11. Ms. Cutlip asked Grievant if she had taken cash out of the register before, and Grievant said she had only done it one other time. A further review of records demonstrated Grievant had been taking money out of the cash register since at least February of 1998.

12. No one authorized Grievant to take cash out of the bookstore cash register to make purchases for the bookstore.

13. Grievant had noticed a small can of cash in the Williamson bookstore and asked about it. When the Williamson bookstore employees sold off “dead stock,” or textbooks that were out of date and could not be returned to the publisher, they put that money in a petty cash fund in the can, and used that money to make small purchases. The Williamson bookstore employees did not put that money into the cash register. Based upon this practice, Grievant concluded that it was permissible to take money out of the cash register to make purchases. 14. Immediately after meeting with Grievant, Ms. Baker returned to the District Office to report the incident to President Tomblin and Human Resources Director, Patricia Clay. Within fifteen minutes, Ms. Baker and Ms. Clay returned to the bookstore to secure the cash reports.

15. During that time, Grievant put $250.00 back into the cash drawer with the receipt for the merchandise she had bought. The cash drawers had been emptied, and the cash bags had been

secured in the business office safe.

16. Ms. Baker called in the Legislature Auditor's office to look into the bookstore and business office accounting procedures. The audit confirmed that cash had been routinely taken out of the cash drawer since February of 1998, some with backup documentation, but some with no documentation or any way to track the money withdrawn. As a result, the auditor's concluded there could be a shortfall of approximately $17,000.00 in the Logan campus bookstore accounts.

17. Based upon the January 22, 2001 incident, Grievant was terminated from her employment with Southern by letter dated January 23, 2001.

18. Ms. Baker and Ms. Clay hand-delivered the termination letter to Grievant, and asked her to go through the materials in her office with them before she left. Grievant's desk was covered with stacks of paper, and she had tubs and file cabinets full of documents and papers, in no apparent system of organization.

19. While going through the items on her desk, Ms. Clay and Ms. Baker found two checks to Southern that had been there since December 2000, one in the amount of $1,440, and one for $980. LIII Southern Ex. 23. 20. Ms. Clay and Ms. Baker also found original unpaid invoices on Grievant's desk, one from Chapman Printing which had been received on August 11, 2000, and two which had been faxed to Southern from the National Rifle Association, one dated August 31, 1999, and the other dated December 29, 1999.

21. Ms. Clay and Ms. Baker found original P-Card receipts on Grievant's desk. Ms. Baker had repeatedly instructed Grievant to forward her P-Card receipts to the District Office, and Grievant always told Ms. Baker she had, but that the District Office must be losing them. LIII Southern Exs. 25, 27.

22. Based on the items discovered on January 23, 2001, and later, Grievant was sent a revised termination letter dated February 8, 2001, from President Tomblin.

23. Following both termination letters, Grievant was given the opportunity to, and did, meet with President Tomblin.

24. Grievant filed several grievances following her termination, one dated February 7, and two dated March 19, 2001, which were all consolidated into the instant grievance.

DISCUSSION

In a disciplinary proceeding, the burden of proof lies with the employer to prove the charges against the employee by a preponderance of the evidence. W. Va. Code 18-29-1, *et seq*; Hoover v. Lewis County Bd. of Educ., Docket No. 93-21-427 (Feb. 24, 1994); Landy v. Raleigh County Bd. of Educ., Docket No. 89-41-232 (Dec. 14, 1989). A preponderance of the evidence is defined as "evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole showsthat the fact sought to be proved is more probable than not." Black's Law Dictionary (6th ed. 1991), Leichliter v. W. Va. Dept. of Health and Human Res., Docket No. 92-HHR-486 (May 17, 1993). Where the evidence equally supports both sides, a party has not met its burden of proof. *Id*.

The four grievances consolidated herein all revolve around whether Southern was justified in disciplining, and ultimately terminating, Grievant as a result of behaviors and actions as Business Manager of the Logan Campus. Grievant denies all wrongdoing, and to the extent she acknowledges she committed any of the acts complained of, she attributes her conduct to misleading information, lack of training, and/or the fault of other employees.

The West Virginia Board of Regents' Classified Employees Handbook sets forth the applicable policies for disciplining employees utilized by Southern. Specifically, the Handbook provides that:

> The employee's immediate supervisor will outline standards of performance and conduct for each employee. If an employee does not observe these standards, his/her supervisor will counsel him/her to try to resolve the problem. If counseling is not effective, the employee may receive a series of warning letters, then a period of suspension and, finally, if the conduct does not improve, dismissal.
>
> . . .
>
> Disciplinary action, including suspension or dismissal, may be taken whenever an employee's conduct interferes with the operation of his/her unit or brings discredit to the work unit.
>
> . . .
>
> Immediate dismissal may be appropriate in cases of flagrant or willful violations of rules, regulations, standards of accepted behavior orperformance, or for actions where an investigation proves the employee was in clear violation of policy.

LIII Southern Ex. 3.

The facts set forth above demonstrate that Grievant received verbal counseling and written warnings prior to her termination, for failure to follow rules and regulations with respect to acceptable accounting procedures, for poor performance, and for poor treatment of her employees. While Grievant clearly does not believe she was at fault for many of these warnings, she did not grieve them at the time of their occurrence, and they remain a part of her personnel history.

Grievant did not file a grievance until the October 27, 2000 warning letter from Ms. Baker, and she wrote a lengthy response attempting to explain the incidents outlined in the letter. The undersigned concludes it is not necessary to delve into the details of the October 27, 2000 warning letter, because the incidents which occurred in January 2001, were of such magnitude that Grievant would no doubt have been fired whether or not she had previously received a warning letter. When one particular infraction is sufficient to warrant termination, it is not necessary to address every other stated charge. [CITE]

In this instance, Grievant's conduct of taking cash out of the bookstore cash register to make purchases for the bookstore was of such an egregious nature, that there simply would be no way for Southern to ever be confident in her abilities again, whether it be an Accounting Assistant or a Business Manager, and it simply had no recourse but to terminate her employment. Grievant does not deny what she did, although she was dishonest about how often she did it. It was Grievant's practice to take money out of thebookstore cash register to make purchases for the bookstore. It has never been suggested that Grievant was stealing money or using it for her own purposes. Nonetheless, Grievant was completely aware that the only acceptable procedure for making purchases at Southern was through the use of purchase orders or a P-Card. Grievant was even issued a P-Card, but did not like to use it, because it took too much time to reconcile the receipts.

Grievant claimed she would leave a post-it note in the register indicating the amount of money she had taken out, and when she returned with the merchandise, she would place the receipt and any change back into the register, and remove the post-it note and throw it away. The bookstore cashier, Rolenia Thomas, testified that Grievant would bring her the cash she had taken out of the register, and have her count it. After she counted the money, Ms. Thomas would make a notation on her own calendar of the amount. When Grievant returned with the merchandise, Ms. Thomas would

note on her calendar the amount of the receipt and change. Ms. Thomas testified she never saw a post-in note in the cash drawer.

Ms. Thomas testified she told Grievant in the beginning that she did not think they were allowed to take money out of the cash register, but Grievant told her she knew what she was doing. Grievant claims she believed it was an acceptable practice because of what she had seen at the Williamson bookstore. At Williamson, the employees collected petty cash in a can from the sale of “dead stock.” This money was never put into the cash drawer and subsequently withdrawn. It was left in the petty cash can. Grievant testifiedshe assumed they put the money in the cash register, and then would use it later to make purchases. She only found out later, after January 22, 2001, that this was not the case.

Grievant testified she had asked Patty Skaggs, the former Business Manager at the Williamson bookstore, if it was an acceptable practice to take money out of the cash register to make purchases for the bookstore, and that Ms. Skaggs said she did it. On January 22, 2001, when Grievant told Ms. Baker this, Ms. Baker immediately telephoned Ms. Skaggs to ask her if she had ever taken money out of the cash drawer to make purchases, and Ms. Skaggs replied, “Lord, No!” Other than this claim that she asked Ms. Skaggs if it was acceptable, Grievant never asked anyone else, nor did she look up the policy on the matter, or she would have certainly found that it was not an acceptable accounting practice.

As Business Manager, it was Grievant's duty to know the law, rules, regulations, and practices used at Southern in managing the bookstore, accounts receivables, billing, and other financial matters. Grievant failed miserably, and despite Ms. Baker's efforts to counsel her, send her to training sessions, and providing assistance from the Williamson bookstore employees, Grievant simply chose to disregard those laws, rules, regulations, and practices which were too time consuming, or simply too difficult for her to comprehend. Were Grievant merely a clerk in the office, perhaps her confusion and alleged reliance on others' advice could be accepted, thus warranting another chance to improve her performance. As Business Manager, however, there is simply no excuse for Grievant's ignorance of, or disregard for, the acceptable accounting practices for which she was ultimately responsible at the Logan bookstore.

CONCLUSIONS OF LAW

1. In a disciplinary proceeding, the burden of proof lies with the employer to prove the charges against the employee by a preponderance of the evidence. W. Va. Code 18-29-1, *et seq*; Hoover v. Lewis County Bd. of Educ., Docket No. 93-21-427 (Feb. 24, 1994); Landy v. Raleigh County Bd. of Educ., Docket No. 89-41-232 (Dec. 14, 1989). A preponderance of the evidence is defined as "evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not." Black's Law Dictionary (6th ed. 1991), Leichliter v. W. Va. Dept. of Health and Human Res., Docket No. 92-HHR-486 (May 17, 1993). Where the evidence equally supports both sides, a party has not met its burden of proof. *Id*.

2. Southern proved by a preponderance of the evidence that Grievant completely disregarded, ignored, or was simply ignorant of, the applicable laws, rules, regulations, and practices for which she was responsible as Business Manager of the Logan Campus.

3. Southern proved by a preponderance of the evidence that it utilized progressive discipline as set forth in the West Virginia Board of Regents Classified Employees' Handbook, culminating in Grievant's termination in February 2001.

Accordingly, this grievance is **DENIED**.

Any party or the West Virginia Division of Personnel may appeal this decision to the Circuit Court of Kanawha County or to the circuit court of the county in which the grievance occurred. Any such appeal must be filed within thirty (30) days of receipt of this decision. W. Va. Code §29-6A-7 (1998). Neither the West Virginia Education and State Employees Grievance Board nor any of its Administrative Law Judges is a party to such appeal, and should not be so named. However, the appealing party is required by W. Va. Code § 29A- 5-4(b) to serve a copy of the appeal petition upon the Grievance Board. The appealing party must also provide the Board with the civil action number so that the record can be prepared and properly transmitted to the appropriate circuit court.

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MARY JO SWARTZ

Administrative Law Judge

Dated: September 12, 2002

ADDENDUM A

SUMMARY OF EVIDENCE

Level Two Southern Exhibits

Ex. 1 -

March 20, 2001 emails between Patricia Clay and Steve Rutledge.

Ex. 2 -

March 19, 2001 Grievance filing and acknowledgment.

Ex. 3 -

West Virginia Board of Regents Classified Employees' Handbook.

Ex. 4 -

Acknowledgment form, April 27, 1992.

Ex. 5 -

Schedule of Training.

Ex. 6 -

April 12, 1994 letter from Oretha Baker to Beverly Chafin.

Ex. 7 -

January-August 1999 notes to file from Oretha Baker.

Ex. 8 -

Series of emails from Randy Skeens regarding building security.

Ex. 9 -

March 13, 2000 letter from Oretha Baker to Beverly Chafin.

Ex. 10 -

October 27, 2000 letter from Oretha Baker to Beverly Chafin.

Ex. 11 -

Telephone calls.

Ex. 12 -

September 18, 1997 memorandum from Jim Teets to all staff re: telephone use, with attached telephone bills.

Ex. 13 -

November 16, 2000 letter from Beverly Chafin to Oretha Baker.

Ex. 14 -

November 20, 2000 memorandum from J. P. Owens to Beverly Chafin.

Ex. 15 -

December 5, 2000 letter from Oretha Baker to Beverly Chafin re: Level I Grievance Answer.

Ex. 16 -

December 13, 2000 letter from Beverly Chafin to Joanne Jaeger Tomblin re: request for grievance level 2.

Ex. 17 -

January 17, 2001 email from Joanne Tomblin to employees.

Ex. 18 -

January 18, 2001 email from Joanne Tomblin to employees re: purchase orders.

Ex. 19 -

January 19, 2001 Purchase Orders (2).

Ex. 20 -

January 22, 2001 memorandum to file from Oretha Baker and Patricia Cutlip.

Ex. 21 -

W. Va. Code § 12-2-2. Itemized record of moneys received for deposit; regulations governing deposits; credit to state fund; exceptions.

Ex. 22 -

January 23, 2001 letter from Oretha Baker to Beverly Chafin.

Ex. 23 -

January 23, 2001 post-it note; billing invoice and check dated December 7, 2000, from Boone Memorial Hospital; billing invoice and check dated December 5, 2000, from Logan General Hospital.

Ex. 24 -

Various invoices.

Ex. 25 -

November 15, 2000 Purchase Card statement with backup documentation.

Ex. 26 -

July 19, 1999 email from Ron Thompson to Beverly Chafin re: P-Card.

Ex. 27 -

April 8, 1998 email from Bob Driscoll to employees re: building security; April 16, 1998 email from Randy Skeens to employees; June 17, 1998 email from Bob Driscoll to Randy Skeens.

Ex. 28 -

Purchasing Handbook.

Ex. 29 -

Purchasing Procedures Manual.Ex. 30 -
All College Day, August 14, 2000: Purchasing Card.

Ex. 31 -

Purchasing Procedures Fiscal Year 1995.

Ex. 32 -

Position Description for Business Manager I.

Ex. 33 -

February 8, 2001 letter from Joanne Jaeger Tomblin to Beverly Chafin.

Ex. 34 -

February 27, 2001 handwritten note.

Ex. 35 -

February 21, 2001 email from Patricia Clay to Steve Rutledge.

Ex. 36 -

February 28, 2001 letter from Steve Rutledge to Patricia Clay.

Ex. 37 -

March 2, 2001 letter from Patricia Clay to Beverly Chafin.

Ex. 38 -

March 6, 2001 letter from Patricia Clay to Beverly Chafin.

Ex. 39 -

March 9, 2001 memorandum from Steve Rutledge to Patricia Clay, with attached March 9, 2001 letter from Steve Rutledge to Patricia Clay.

Ex. 40 -

March 9, 2001 letter from Patricia Clay to Steve Rutledge.

Ex. 41 -

March 9, 2001 letter from Joanne Jaeger Tomblin to Beverly Chafin.

Ex. 42 -

April 9, 2001 memorandum from Mike Sizemore, Rhonda L. Combs to Thedford L. Shanklin.

Ex. 43 -

Post-it note to Rolenia Thomas from Beverly Chafin.

Ex. 44 -

January 22, 2001 Staples receipt.

Ex. 45 -

Photographs.

Level Two Grievant's Exhibits

Ex. 1 -

Position Information Questionnaire for Accounting Clerk II, November 18, 1991.

Ex. 2 -

Position Information Questionnaire for Bookstore Assistant, October 14, 1991.

Ex. 3 -

Position Information Questionnaire for PBX Operator, November 7, 1991.

Ex. 4 -

October 22, 1998 letter from Deloitte & Touche to Board of Directors of the State College System of West Virginia re: Southern audit.

Ex. 5 -

October 14, 1999 letter from Deloitte & Touche to Board of Directors of the State College System of West Virginia re: Southern audit.

Ex. 6 -

October 12, 2000 letter from Deloitte & Touche to West Virginia Higher Education Interim Governing Board re: Southern audit.

Ex. 7 -

April 22, 1998 email from Beverly Chafin to Rolenia Thomas and Henrietta McClellan.

Ex. 8 -

Series 31 Procedural Rule re: Classified Employees.

Ex. 9 -

Classified Employees Handbook, p. 4.

Ex. 10 -

College-wide Employee/Personnel Policy.

Ex. 11 -

June 30, 2000 Annual Evaluation of Beverly Chafin.

Ex. 12 -

April 22, 1998 email from Beverly Chafin to Employees of Logan Business Office.

Ex. 13 -

January 8, 2001 email from Beverly Chafin to Henriette McClellan.

Ex. 14 -

January 5, 2001 email from Beverly Chafin to Chapman Press.

Level Four Southern Exhibits

Ex. 1 -

September 1, 2000 Staples receipt.

Ex. 2 -

September 6, 2000 Staples receipt.

Ex. 3 -

September 6, 2000 Office Max receipt.

Ex. 4 -

September 14, 2000 cash register receipt.

Ex. 5 -

April 9, 2001 memorandum from Mike Sizemore and Rhonda L. Combs to Thedford L. Shanklin.

Level Four Grievant's Exhibits

Ex. 1 -

May 4, 2001 Statement of Rolenia Thomas to Oretha Baker.

Ex. 2 -

December 2000 schedule of Beverly Chafin.

Ex. 3 -

Position Information Questionnaire for Business Manager.

Ex. 4 -

May 15-16, 2000 emails to and from Jeanne Chafin, Beverly Chafin, and Rolenia Thomas.

Ex. 5 -

January 29, 1998 Purchase Order.

Ex. 6 -

November 2, 1999 Purchase Order.

Testimony

Southern presented the testimony of Oretha Baker, John Gray, Patricia Clay, Rolenia Thomas, and Michael Sizemore. Grievant testified in her own behalf, and presented the testimony of Henriette McClellan.

Footnote: 1

Grievant filed a grievance over the October 27, 2000 letter on November 17, 2000, which was ultimately consolidated with the instant grievance.