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COMPLIANCE RULING

In the matter of the Virginia Department of Social Services
Ruling Number 2023-5574
June 22, 2023

The grievant has requested a compliance ruling from the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management in relation to his May 28, 2023 grievance with the Virginia Department of Social Services (“the agency”).

FACTS

On or about May 28, 2023, the grievant initiated a grievance with the agency to challenge alleged policy violations by the agency head. As the grievant’s supervisor is the agency head, the agency appears to have determined that the agency head would serve as a single management step respondent for the grievance. Consequently, a meeting was held between the grievant and the agency head on June 9, 2023. The agency head has yet to issue a written response to the grievance following the meeting. The grievant notified the agency of alleged noncompliance due to using the agency head as a single management step respondent on June 5, 2023. The agency maintains that it is in compliance with the grievance procedure, leading the grievant to seek this compliance ruling to resolve the matter.

DISCUSSION

Under the grievance procedure, each agency must designate individuals to serve as respondents in the resolution steps. A list of these individuals shall be maintained by the agency’s Human Resources Office and is also available on EDR’s website. Each designated step respondent shall have the authority to provide the grievant with a remedy, subject to the agency head’s approval.¹ Pursuant to its statutory responsibilities, EDR has long collected and maintained each agency’s designated step respondents. This assures that each agency’s management resolution step respondents are appropriate and known to employees and to EDR, and that this phase of the grievance process is administered consistently and fairly.

An agency’s careful designation of step respondents, and consistent adherence to those designations, is crucial to an effective grievance process. Step respondents have an important

¹ See Va. Code § 2.2-3003(D).

statutory responsibility to fulfill and should decline to serve only in extenuating circumstances, such as extended illness or serious injury. Further, if a step respondent cannot serve in that capacity pending a particular grievance, management should seek an agreement with the grievant on a substituted step respondent and should put any agreement in writing. Absent an agreement between the parties, the agency must adhere to the designated list of step respondents. However, there are times when modification from the default steps is necessary and appropriate, such as when there are fewer layers of management in a grievant's reporting line.²

As with most agencies, the agency's designated first step respondent is the employee's immediate supervisor. The grievant's supervisor is the agency head. Accordingly, the agency head serving as a step respondent in this grievance is consistent with the agency's step respondent designations. The combination of the steps into a single management step is the result of the grievant's high level within the agency and reporting directly to the agency head. In such a situation, the steps of the grievance process collapse into a single step,³ which would be handled as the second resolution step of a grievance or like a single management step in an expedited grievance.⁴ This is a simple and somewhat common result consistent with EDR's longstanding practices.⁵

CONCLUSION

For the reasons set forth above, EDR finds that the agency is in compliance with the grievance procedure with respect to the single management step. The grievant's ruling request is respectfully denied.

The grievant additionally states that the agency head has yet to issue a written response following their June 9 meeting. It appears that the grievant has notified the agency of this noncompliance, as well. Based on the meeting having occurred on June 9, it would appear that the agency has not complied with providing a written response within five workdays.⁶ The agency requested an extension, but the grievant did not agree to the request. Accordingly, the agency is ordered to provide the grievant with a written response to the grievance **within five workdays of the date of this ruling.**

EDR's rulings on matters of compliance are final and nonappealable.⁷

Christopher M. Grab
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² See EDR Ruling No. 2013-3583. In addition, Number 16 of EDR's Grievance FAQs, which are available at <http://www.dhrm.virginia.gov/employmentdisputeresolution/grievancefaqs>, discusses this type of situation.

³ See *Grievance FAQs No. 16* ("There are only two possible respondents to my grievance in my agency. How will my grievance proceed since there are three steps in the grievance procedure?").

⁴ See *Grievance Procedure Manual* §§ 3.2, 3.4.

⁵ See, e.g., EDR Ruling No. 2017-4429; EDR Ruling 2016-4196; EDR Ruling No. 2009-2321 n.1.

⁶ See *Grievance Procedure Manual* §§ 3.2, 3.4.

⁷ See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).