

Issue: Compliance – Grievance Procedure (5-Day Rule); Ruling Date: September 25, 2019; Ruling No. 2019-4782; Agency: Virginia Department of Health; Outcome: Grievant in Compliance.



**COMMONWEALTH of VIRGINIA**  
**Department of Human Resource Management**  
**Office of Equal Employment and Dispute Resolution**

**COMPLIANCE RULING**

In the matter of the Virginia Department of Health  
Ruling Number 2019-4782  
September 25, 2018

The Virginia Department of Health (the “agency”) has requested a compliance ruling from the Office of Equal Employment and Dispute Resolution (“EEDR”) at the Department of Human Resource Management in relation to the grievant’s alleged failure to comply with the time limits set forth in the grievance procedure for advancing or concluding her grievance.

On or about May 30, 2018, the grievant initiated a grievance with the agency. It appears the second step response was issued to her on or about July 3. Having received no further response from the grievant indicating whether she wished to advance or conclude the grievance, the agency sent, by email, a notice of noncompliance to her on July 20. In its notice of noncompliance, the agency requested a response from the grievant within five workdays of her receipt of the notice. When the agency sent its July 20 notice of noncompliance, the grievant was on approved leave for an extended period of time. On September 6, 2018, after the grievant had returned to work, the agency sent her a second email, advising her that she was not in compliance with the grievance procedure and requesting that she either advance or conclude her grievance by the following day, September 7.


In a September 10, 2018 email, the grievant notified the agency that she had “decided to accept [the second step-respondent’s] ruling . . . .” She did not “[i]ndicate on the Grievance Form A [her] intention to conclude the grievance and submit the form to [her] Human Resources Office.”<sup>1</sup> Since more than five workdays have elapsed since the grievant received notice of her alleged noncompliance and she has not yet returned the Grievance Form A indicating that she wishes to conclude her grievance, the agency seeks a compliance ruling allowing it to administratively close the grievance.

While this ruling was pending, the grievant confirmed to EEDR that, by sending the September 10, 2018 email, she intended to notify the agency that she wished to conclude her grievance. EEDR, therefore, considers this grievance concluded.

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<sup>1</sup> *Grievance Procedure Manual* § 3.2.

EEDR's rulings on matters of compliance are final and nonappealable.<sup>2</sup>



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Director  
Office of Equal Employment and Dispute Resolution

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<sup>2</sup> See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).