

Issue: Compliance – Grievance Procedure (5-Day Rule); Ruling Date: October 23, 2017; Ruling No. 2018-4634; Agency: Department of Corrections; Outcome: Agency in Compliance.



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

COMPLIANCE RULING

In the matter of the Department of Corrections
EDR Ruling Number 2018-4634
October 23, 2017

The grievant has requested a compliance ruling from the Office of Equal Employment and Dispute Resolution (“EEDR”) at the Department of Human Resource Management regarding the alleged failure of the Department of Corrections (the “agency”) to comply with the time limits set forth in the grievance procedure for scheduling the second step meeting.

In this case, the grievant initiated a grievance with the agency on September 7, 2017. The grievant advanced her grievance to the second step on September 21. Having received no further response from the agency, the grievant sent, by email, a notice of noncompliance to the agency head on October 3.¹ As more than five workdays have elapsed since the grievant notified the agency of its alleged noncompliance and the agency has not yet contacted her to schedule the second step meeting, the grievant seeks a compliance ruling from EEDR.

While this ruling was pending, EEDR contacted the parties and confirmed that the second step meeting has been held and the grievant has received the second step response. This issue is, therefore, moot and EEDR will take no further action at this time. The parties are directed to proceed in a manner consistent with the requirements of the grievance procedure.

EEDR’s rulings on matters of compliance are final and nonappealable.²

A handwritten signature in black ink, appearing to read "Chris M. Grab", written over a horizontal line.

Christopher M. Grab
Director
Office of Equal Employment and Dispute Resolution

¹ For purposes of this ruling, EEDR will assume the agency received the grievant’s emailed notice of noncompliance because there is nothing to indicate that it may have been sent to an incorrect email address or was otherwise improperly addressed. *Cf., e.g.,* Washington v. Anderson, 236 Va. 316, 322, 373 S.E.2d 712, 715 (1988) (holding that the mailing of correspondence, properly addressed and stamped, raises a presumption of receipt of the correspondence by the addressee).

² Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).