

Issue: Compliance – Grievance Procedure (resolution steps); Ruling Date: April 15, 2013; Ruling No. 2013-3583; Agency: Department of Motor Vehicles; Outcome: Agency in Compliance.



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

**COMPLIANCE RULING**

In the matter of the Department of Motor Vehicles  
Ruling Number 2013-3583  
April 15, 2013

The grievant has requested a compliance ruling in his grievance with the Department of Motor Vehicles (the “agency”) due to the agency’s alleged failure to comply with the grievance procedure in its designation of step-respondents.

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 the Office of Employment Dispute Resolution’s (“EDR”) website. Each designated step-respondent shall have the authority to provide the grievant with a remedy, subject to the agency head’s approval.<sup>1</sup> 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, 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 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. When higher level employees file grievances, however, modifications to the standard process are necessary.<sup>2</sup>

In this case, the grievant’s immediate supervisor is the Director, who is also normally the second step-respondent for the agency. In such a situation, the first and second steps of the grievance process collapse into a single step,<sup>3</sup> which shall be handled as the second resolution

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<sup>1</sup> See Va. Code § 2.2-3003(D).

<sup>2</sup> See, e.g., Frequently Asked Grievance Questions No. 12, available at <http://www.dhrm.virginia.gov/EDR/faqs.htm>.

<sup>3</sup> See *id.*

step of a grievance.<sup>4</sup> As such, there will be no independent first step in this grievance and only two management resolution steps. This is a simple and somewhat common result and is consistent with EDR's longstanding practices.<sup>5</sup> Further, the next step following this combined single step with the Director will be a normal third resolution step. The agency's step-respondent designations indicate that the third step-respondent is either the Assistant Commissioner or the Deputy Commissioner. The agency has indicated that the Assistant Commissioner will serve in that role in this grievance. Because this individual is one of the designated third step-respondents, the agency is in compliance.<sup>6</sup>

EDR's rulings on matters of compliance are final and nonappealable.<sup>7</sup>



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<sup>4</sup> See *Grievance Procedure Manual* § 3.2.

<sup>5</sup> E.g., EDR Ruling No. 2009-2321 at n.1.

<sup>6</sup> Indeed, it would appear the grievant would agree to this exact progression of this grievance if there were only two steps, which there will be.

<sup>7</sup> See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).