

Issue: Compliance – Grievance Procedure (documents); Ruling Date: October 9, 2013; Ruling No. 2014-3727; Agency: Department of Motor Vehicles; Outcome: Agency in Compliance.



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

RECONSIDERED COMPLIANCE RULING

In the matter of the Department of Motor Vehicles
Ruling Number 2014-3727
October 9, 2013

The grievant has asked the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management to reconsider certain compliance determinations in EDR Ruling Number 2014-3698.

DISCUSSION¹

EDR Ruling No. 2014-3698 addressed the grievant’s requests for documents from the Department of Motor Vehicles (the “agency”). In that ruling, EDR ordered the agency to produce certain documents responsive to the grievant’s requests. The grievant has submitted a request for reconsideration of that ruling, claiming that Requests 12 and 13 were not addressed and that EDR’s analysis of Request 21 was flawed.

Requests 12 and 13

Requests 12 and 13 relate to documents that reference the agency’s alleged access of the grievant’s state email account. The agency has not objected to producing these documents, but it does intend to redact the documents as necessary before producing them. The grievance procedure provides that “[d]ocuments pertaining to non-parties that are relevant to the grievance shall be produced in such a manner as to preserve the privacy of the individuals not personally involved in the grievance.”² The grievant claims that the agency “improperly seeks to redact” these documents because “these documents are not documents relating to nonparties and the production of these documents should not violate the privacy of any other agency employee.”

We have reviewed no information to suggest that the agency has improperly redacted documents that are responsive to Requests 12 and 13, and the grievant has presented none. Indeed, the grievant has not yet received any documents in response to this request, so the basis of the grievant’s claim that redaction of these documents is unnecessary is not clear. It is entirely possible that the documents the agency intends to produce in response to Requests 12 and 13 could contain information relating to non-parties. It would be proper for the agency to redact any such information prior to producing the documents. If the grievant receives the requested

¹ See EDR Ruling Number 2014-3698 for the factual background of this case. The underlying facts are set forth in that ruling and will not be repeated here.

² *Grievance Procedure Manual* § 8.2.

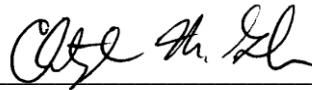
documents and believes that the redactions, if any, are excessive, he may request a compliance ruling to address that issue.

Request 21

The grievant further claims that EDR's determination that the agency was not required to produce "copies of . . . recordings made by [Employee D]" was made in error. Specifically, the grievant argues that a transcript of a meeting between the grievant and another agency employee shows that the recordings he seeks "served as the basis of an allegation letter given to [him in March 2012]." While EDR Ruling Number 2014-3698 was under consideration, the agency informed EDR that it possesses a recording made by Employee D involving a confidential personnel matter unrelated to the grievant. The agency cannot identify the recordings referred to in the transcript cited by the grievant and does not possess any recordings matching their description. We have not reviewed any information that would call these statements into question, and the grievant has presented none. The grievant's request for reconsideration of our decision regarding Request 21 is denied.

CONCLUSION

Based on the foregoing, EDR will not alter its decision on the grounds presented by the grievant. To the extent any of the grievant's remaining arguments have not been specifically addressed in this reconsidered ruling, EDR also finds no basis to modify its previous ruling. EDR's compliance rulings are final and nonappealable.³



Christopher M. Grab
Director
Office of Employment Dispute Resolution

³ Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).