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**COMPLIANCE RULING**

In the matter of the Virginia Department of Transportation  
Ruling Number 2020-5098  
May 20, 2020

The Virginia Department of Transportation (the “agency”) has requested a compliance ruling from the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management<sup>1</sup> in relation to the grievant’s alleged failure to comply with the time limits set forth in the grievance procedure for advancing or concluding his grievance.

On April 9, 2020, the grievant initiated a grievance with the agency. The second step response was sent to the grievant by email on April 22. Having received no further response from the grievant, the agency sent, by email, a notice of noncompliance to him on May 5.<sup>2</sup> In its notice of noncompliance, the agency requested a response from the grievant within five workdays of his receipt of the notice. Based on the grievant’s alleged noncompliance with the grievance procedure, the agency seeks a compliance ruling allowing it to administratively close the grievance.

While this ruling was pending, the grievant confirmed to EDR that he does not wish to proceed with the grievance. EDR therefore considers this grievance concluded.

EDR’s rulings on matters of compliance are final and nonappealable.<sup>3</sup>

A handwritten signature in black ink, appearing to read "Chris M. Grab".

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Christopher M. Grab  
Director  
Office of Employment Dispute Resolution

<sup>1</sup> The Office of Equal Employment and Dispute Resolution has separated into two office areas: the Office of Employment Dispute Resolution and the Office of Equity, Diversity, and Inclusion. While full updates have not yet been made to the *Grievance Procedure Manual* to reflect this change, this Office will be referred to as “EDR” in this ruling. EDR’s role with regard to the grievance procedure remains the same.

<sup>2</sup> For purposes of this ruling, EDR will assume the grievant received the agency’s emailed second step response and notice of noncompliance because there is nothing to indicate that they may have been sent to an incorrect email address or were 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).

<sup>3</sup> See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).