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**COMPLIANCE RULING**

In the matter of the Virginia Community College System  
Ruling Numbers 2020-5110, 2020-5113  
June 30, 2020

The grievant has requested reconsideration of the compliance ruling issued by the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management in relation to her April 15, 2020 grievance with a college within the Virginia Community College System (“the college”). In addition, the grievant requests a second compliance ruling in her May 11, 2020 grievance with the college.

FACTS

On or about April 15, 2020, the grievant initiated a grievance with the college alleging, in part, retaliation by her former supervisor, primarily related to her annual performance evaluation. The grievance was provided to the grievant’s supervisor’s supervisor, an Associate Vice President, who responded to the grievance as the second-step respondent. However, the grievant requested a compliance ruling because she alleged that the second step was not provided by an appropriate person because it came from the Associate Vice President instead of the “Vice President” as indicated on the list of step-respondents kept by EDR. The grievant’s request was addressed in EDR Ruling No. 2020-5105, which found the college to be in compliance with the grievance procedure. The grievant now requests reconsideration of that ruling.

On or about May 11, 2020, the grievant filed a second grievance, which also alleged retaliation, primarily related to her transfer into a new position away from her former supervisor. The college appears to have notified the grievant on May 14, 2020 that it was consolidating the live issues in her second grievance<sup>1</sup> with her first grievance at the third step. The grievant asserts that the college is not compliant with the grievance procedure and objects to this consolidation of her two grievances. She seeks this compliance ruling to address her objection.

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<sup>1</sup> The grievant also challenged a selection process in the second grievance, which the college determined had been raised untimely and, therefore, would not proceed. The grievant has not appealed that determination in her ruling request.

## DISCUSSION

### *Reconsideration of EDR Ruling No. 2020-5105*

The grievant requests that EDR reconsider the determinations made in EDR Ruling Number 2020-5105, which found the college to be in compliance with the grievance procedure. The grievant appears to agree with the outcome of that ruling, but contends that the college is not compliant because it had not updated the list of step-respondents on EDR's website. A failure to provide EDR with an update to the list of step-respondents, to the extent one was needed in this case, might be considered an issue of noncompliance, but it is not one that warrants a finding of substantial noncompliance such that relief is due. Where an agency's list of step-respondents is not accurate or clear, there could be confusion between the parties in a grievance over who should serve as the step-respondents, as appears to have occurred in this case. The remedy is for EDR to cure the confusion and direct the proper step-respondent path forward. EDR did so in the prior ruling. The grievant has not requested any other alternative to EDR's determination. The grievant raises no compelling basis to reconsider that ruling. Accordingly, the prior ruling will stand as issued.

### *Consolidation of Grievances*

"Prior to the appointment of a hearing officer, multiple grievances may be treated by the agency in a joint manner, without a ruling from [EDR]."<sup>2</sup> The grievance procedure provides an agency this discretion to treat grievances jointly and without the grievant's or EDR's agreement. The college has exercised that discretion in this case and EDR finds no abuse of that discretion. The grievant's two grievances appear to raise related issues and it is sensible to have them addressed together. As stated in the grievance procedure, EDR strongly favors consolidation.<sup>3</sup> EDR cannot find that the grievant is prejudiced in any way by this consolidation, and the grievant presents no evidence to the contrary.<sup>4</sup> Accordingly, EDR finds that the college is in compliance with the grievance procedure in addressing her two grievances together.

## CONCLUSION

For the reasons set forth above, EDR declines to reconsider EDR Ruling Number 2020-5105, and finds that the college is in compliance with the grievance procedure. The grievant's ruling requests are respectfully denied. The college is directed to schedule a meeting for the third step respondent and the grievant at the third step (for both grievances) **within five workdays of the date of this ruling**. If the meeting cannot occur within the next five workdays due to the parties' schedules and the current work environment in light of the public health emergency, a meeting date and time must at least be determined within those five workdays. To the extent that a meeting cannot occur in person due to the public health emergency and associated issues, it is acceptable to conduct the meeting by electronic means such as video teleconference.

EDR's rulings on matters of compliance are final and nonappealable.<sup>5</sup>

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<sup>2</sup> *Grievance Procedure Manual* § 8.5.

<sup>3</sup> *Id.*

<sup>4</sup> The grievant discusses the ability to present witnesses at a meeting (the second step meeting), but the meeting that the college is offering at the third step for both grievances would conform to those parameters.

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



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