

Issue: Compliance-administrative closing of grievance; Ruling Date: April 4, 2002,
Ruling #2002-010; Agency: Department of Charitable Gaming Commission; Outcome:
no ruling issued- request premature.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

COMPLIANCE RULING OF DIRECTOR

In the matter of Charitable Gaming Commission
Ruling Number 2002-010
April 4, 2002

The agency has requested a compliance ruling regarding the grievant's November 9, 2000 grievance. The agency seeks to have this Department administratively close the grievance based on the agency's claim that the grievant has engaged in delay tactics.

FACTS

The grievant initiated his grievance on November 9, 2000 challenging the abolition of his position. As of the date of this ruling, the grievance still has not advanced to the second-step.

DISCUSSION

The grievance procedure requires both parties to address procedural noncompliance through a specific process.¹ That process assures that the parties first communicate with each other about the noncompliance, and resolve any compliance problems voluntarily, without this Department's involvement. Specifically, the party claiming noncompliance must notify the other party in writing and allow five workdays for the opposing party to correct any noncompliance. If the grievant is the noncompliant party and fails to correct the alleged noncompliance, this Department has long held that the agency may administratively close the grievance by notifying the grievant in writing (i) that the grievance has been administratively closed, and (ii) that the grievant may challenge the closing of his grievance by requesting a compliance ruling from this Department.²

¹ *Grievance Procedure Manual*, § 6, pages 16-18.

² *Grievance Procedure Manual*, § 6.3, page 17.

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Because the agency has not yet given the required notice of noncompliance to the grievant, the agency's request for a compliance ruling is premature, and no ruling will be issued at this time. If the agency provides the grievant with notice of noncompliance and the grievant does not correct the noncompliance within 5-workdays of receipt of the notice, the agency may renew its ruling request.

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