

Issue: Compliance; administrative closing of grievance by agency; Ruling Date: June 26, 2002; Ruling #2002-101; Agency: Virginia Charitable Gaming Commission; Outcome: agency free to close grievance



***COMMONWEALTH of VIRGINIA***  
***Department of Employment Dispute Resolution***

**COMPLIANCE RULING OF DIRECTOR**

In the matter of Charitable Gaming Commission  
Ruling Number 2002-101  
June 26, 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.

**FACTS**

The grievant initiated his grievance on November 9, 2000 challenging the abolition of his position. On January 7, 2002, the agency requested that this Department administratively close the grievance based on the grievant's alleged delay tactics. On April 4, 2002, this Department issued a ruling that outlined the appropriate action for the agency to take in order to administratively close the grievance. The agency has renewed its request to have this Department close the grievance.

**DISCUSSION**

In the April 4, 2002 ruling, this Department explained that the grievance procedure requires that the parties first communicate with each other about the noncompliance, and resolve any compliance problems voluntarily, before requesting this Department's involvement.<sup>1</sup> 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,

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<sup>1</sup> *Grievance Procedure Manual*, § 6, pages 16-18.

and (ii) that the grievant may challenge the closing of his grievance by requesting a compliance ruling from this Department.<sup>2</sup>

In the April 4, 2002 ruling, this Department held that because the agency had not yet given the required notice of noncompliance to the grievant, the agency's request for a compliance ruling was premature, and thus no final ruling would be issued at that time.

Since the issuance of the April 4, 2002 ruling, the agency attempted to notify the grievant of the alleged non-compliance. On April 10, 2002, the agency attempted to contact the grievant via certified mail. The U.S. Postal Service made three unsuccessful attempts to deliver the letter. The letter was ultimately returned, unclaimed, to the agency on April 30, 2002.

The agency is now free to close the grievance. The grievant is advised that he may challenge the closing of his grievance by requesting a compliance ruling from this Department.<sup>3</sup> However, the grievant is further advised that this Department will re-open his grievance only upon a showing of "just cause" for the delay in advancing his grievance.<sup>4</sup> Any request from the grievant to reopen his grievance must be made, in writing, to this Department within 5 workdays of receipt of this ruling.

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Claudia T. Farr  
Director

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William G. Anderson, Jr.  
Senior Employment Relations Consultant

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<sup>2</sup> *Grievance Procedure Manual*, § 6.3, page 17.

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

<sup>4</sup> "Just cause" is defined as "a reason sufficiently compelling to excuse not taking a required action in the grievance process." *Grievance Procedure Manual*, § 9, page 24.