

Issue: Compliance/5 day rule/age discrimination; Ruling Date May 10, 2005; Ruling #2005-1028; Agency: Department of Social Services/Office of Comprehensive Services for At-Risk Youth and Families; Outcome: agency in compliance



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

**COMPLIANCE RULING OF DIRECTOR**

In the matter of Department of Social Services/Office of Comprehensive  
Services for At-Risk Youth and Families<sup>1</sup>  
Ruling Number 2005-1028  
May 10, 2005

The grievant requests a compliance ruling in her April 15, 2005 grievance with the Department of Social Services (DSS)/Office of Comprehensive Services for At-Risk Youth and Families (OCS).<sup>2</sup> Specifically, the grievant alleges that the first-step respondent failed to respond to the April 15, 2005 grievance within the mandated 5 workdays.<sup>3</sup> For the reasons discussed below, this Department concludes that DSS/OCS is not out of compliance with the grievance process.

FACTS

The grievant is employed as a Program Administrator Manager III. On April 15, 2005 the grievant initiated a grievance with her immediate supervisor. Unsure as to who would serve as the grievant's step-respondents in the management resolution steps of the grievance process, the grievant's immediate supervisor requested a compliance ruling from this Department on April 21, 2005. This Department is currently investigating the issues presented in the April 21, 2005 compliance ruling request. Subsequently, on April 25, 2005, the grievant's representative notified the DSS agency head that the grievant's immediate supervisor had failed to respond to the grievance within the mandated 5 workdays. When no response was received from the immediate supervisor within the additional allotted time period,<sup>4</sup> the grievant's representative requested a ruling from this Department on the alleged noncompliance.

DISCUSSION

Party noncompliance with the grievance procedure may be challenged to the Director of EDR, who is authorized to issue final, nonappealable rulings on compliance

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<sup>1</sup> In this matter, there is a dispute as to whether the Department of Social Services (DSS) or the Office of Comprehensive Services for At-Risk Youth and Families (OCS) employs the grievant for purposes of the grievance procedure. This issue will be addressed by this Department in an upcoming ruling. However, for purposes of this ruling only, both OCS and DSS will be referenced as the grievant's "agency."

<sup>2</sup> It should be noted that the grievant's representative failed to send a copy of the ruling request to the opposing party as required under § 6.3 of the *Grievance Procedure Manual*.

<sup>3</sup> See *Grievance Procedure Manual* § 3.1.

<sup>4</sup> See *Grievance Procedure Manual* § 6.3.

matters.<sup>5</sup> A compliance challenge to EDR will normally stop the grievance process, which will resume once EDR issues its ruling on the challenge.<sup>6</sup>

In this case, the April 21, 2005 compliance request by OCS stopped the grievance process temporarily. Thus, at this time there is no basis upon which to find DSS/OCS out of compliance in the grievant's April 15, 2005 grievance.

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Claudia T. Farr  
Director

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.*