

Issue: Compliance – Grievance Procedure (Resolution Steps); Ruling Date:
November 4, 2009; Ruling #2010-2456; Agency: George Mason University;
Outcome: Agency In Compliance.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

COMPLIANCE RULING OF DIRECTOR

In the matter of George Mason University
Ruling Number 2010-2456
November 4, 2009

The grievant has requesting a compliance ruling in his grievance with George Mason University (the University) due to the University's alleged failure to comply with the grievance procedure in its designation of who will serve as the third step-respondent.

FACTS

As discussed in EDR Ruling No. 2008-1870, the University has identified an employee's step-respondents by division: Academic, Non-Academic or Physical Plant. If the employee works in the Academic Division, his first step-respondent is his immediate supervisor, his second step-respondent is the "Dean or Director" and the third step-respondent is the "Provost (or Designee - Associate Provost for Personnel & Budget)." If the employee works in the Non-Academic Division, his first step-respondent is his immediate supervisor, his second step-respondent is the Associate/Assistant VP and the third step-respondent is the VP or Executive VP.¹

The University claims that "[t]his is a situation in which a management member from the academic side of our institution and a management member from the non-academic side jointly oversee the broad area of Environmental Health and Safety of which [the grievant] was a member." The agency has designated the third step-respondent from the Academic Division. The grievant asserts that the proper third step-respondent should be from the Non-Academic Division because the second step-respondent was from the Non-Academic Division.

DISCUSSION

Under the grievance procedure, each agency must designate individuals to serve as respondents in the resolution steps. A list of these individuals shall be maintained by the agency's Human Resources Office and is also available on EDR's website. Each designated step respondent shall have the authority to provide the grievant with a remedy, subject to the agency

¹ This Department approved the University's designation of positions to serve as management step respondents on August 27, 2004.

head's approval.² Pursuant to its statutory responsibilities, EDR has long collected and maintained each agency's designated step respondents. This assures that each agency's management resolution step respondents are appropriate, are known to employees and to EDR, and that this phase of the grievance process is administered consistently and fairly.

An agency's careful designation of step respondents, and consistent adherence to those designations, is crucial to an effective grievance process. Step respondents have an important statutory responsibility to fulfill and should decline to serve only in extenuating circumstances, such as extended illness or serious injury. Further, if a step respondent cannot serve in that capacity pending a particular grievance, management should seek an agreement with the grievant on a substituted step respondent and should put any agreement in writing. Absent an agreement between the parties, the agency must adhere to the designated list of step-respondents.

In EDR Ruling No. 2008-1870, this Department ordered the University to "designate one individual, either the Executive VP or the Provost, to respond to the grievance at the third management resolution step in this case."³ Because it appears the University has selected one of these individuals, it has adhered to EDR's Ruling and has complied with the grievance procedure. Because the grievant could fall under either the Academic or Non-Academic Division, the selection of a third step-respondent from either of those approved lists is appropriate. There is no basis to disturb the University's designation of the step-respondent from the Academic Division in this case.

This Department's rulings on matters of compliance are final and nonappealable.⁴

Claudia T. Farr
Director

² See Va. Code § 2.2-3003(D).

³ EDR Ruling No. 2008-1870.

⁴ See Va. Code §§ 2.2-1001(5), 2.2-3003(G).