

Issue: Compliance – Grievance Procedure (Representative/Person of Choice); Ruling Date: December 30, 2009; Ruling #2010-2478; Agency: Department of Behavioral Health and Developmental Services; Outcome: Agency In Compliance.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

COMPLIANCE RULING OF DIRECTOR

In the matter of Department of Behavioral Health and Developmental Services
Ruling No. 2010-2478
December 30, 2009

The grievant has requested a ruling regarding the alleged noncompliance of the Department of Behavioral Health and Developmental Services (the agency).

FACTS

In EDR Ruling No. 2010-2455, this grievance was returned to the second step-respondent for further review. Because the original second step-respondent is apparently no longer employed by the agency, the grievance was returned to the individual who would currently serve as the second step-respondent.¹ EDR Ruling No. 2010-2455 also explained that a new second step meeting could be held.² The parties chose to hold such a meeting. In scheduling the new meeting, the new second step-respondent notified the grievant that a member of the agency's human resources staff would accompany him at the meeting. The grievant has objected to the inclusion of this particular individual because she was not the human resources representative who attended the original second step meeting. The grievant now requests a ruling on this issue.

DISCUSSION

Section 3.2 of the *Grievance Procedure Manual* permits the second step-respondent to select an individual to attend the second step meeting with him or her. There is nothing in the grievance procedure that prevents the new member of the agency's human resources staff from serving in this capacity. Indeed, under the particular facts of this case, when there is a new second step meeting with a new second step-respondent, it is entirely foreseeable and understandable that such a new participant in the grievance might choose to select a different individual to attend the meeting than his predecessor. In short, this Department finds that the agency has complied with the grievance procedure in its selection of an individual to accompany the second step-respondent at the second step meeting. Just as the grievant has flexibility in selecting an individual to attend the meeting with her, so does the second step-respondent.

¹ EDR Ruling No. 2010-2455.

² *Id.*

This Department's rulings on matters of compliance are final and nonappealable.³

Claudia T. Farr
Director

³ See Va. Code §§ 2.2-1001(5), 2.2-3003(G).