

Issue: Compliance – Grievance Procedure (Second Step Meeting); Ruling
Date: March 8, 2010; Ruling #2010-2550; Agency: Virginia Commonwealth
University; Outcome: Agency In Compliance.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

COMPLIANCE RULING OF DIRECTOR

In the matter of Virginia Commonwealth University
Ruling No. 2010-2550
March 8, 2010

The grievant has asked for a compliance ruling from this Department. He alleges that Virginia Commonwealth University (the university) has failed to comply with the grievance procedure.

FACTS

The grievant is employed by the university as a police officer. On or about December 18, 2009, the grievant initiated a grievance challenging a Group I Written Notice. After the parties failed to resolve the grievance at the first resolution step, the grievant advanced the grievance to the second step on or about January 13, 2010.

The second-step respondent initially scheduled a meeting on January 22, 2010. Due to a scheduling conflict, however, the parties were unable to meet on that date. Subsequently, on Friday, January 23, 2010, the second-step respondent's assistant informed the grievant that a second-step meeting had been scheduled for 8:00 am, Monday, January 25th. The grievant asserts that after he arrived for the second-step meeting, he learned the second-step respondent would be late. At that point, the grievant states, he sent the second-step respondent written notice of non-compliance, asserting that the second-step meeting was not held in a timely manner and was not scheduled with adequate notice. The second-step respondent eventually attempted to conduct the meeting, but the grievant apparently stated that he did not want to meet if it would waive his right to challenge the university's alleged noncompliance. The grievant has since requested a compliance ruling from this Department.

DISCUSSION

The grievance procedure requires both parties to address procedural noncompliance through a specific process.¹ That process assures that the parties first

¹ *Grievance Procedure Manual* § 6.1.

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.² If the party fails to correct the alleged noncompliance, the complaining party may request a ruling from this Department.

In this case, the grievant's request for a compliance ruling is premature because the grievant has not shown that he first notified the agency head (the university president) in writing of the alleged procedural violations, as required by the grievance procedure.³ The grievant is therefore advised that if he still desires a compliance ruling from this Department, he must first give written notice of the alleged noncompliance to the agency head and allow the university five days to correct any noncompliance. Only once the grievant has satisfied this procedural prerequisite will this Department address his claim of noncompliance.

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

Claudia T. Farr
Director

² *Grievance Procedure Manual* § 6.3.

³ See EDR Ruling No. 2006-1183 ("For a letter of noncompliance to satisfy this procedural prerequisite, it must, at a minimum, provide clear notice that the party writing the letter considers the other party's conduct to constitute noncompliance, and it must advise the opposing party of the specific conduct which is alleged to be noncompliant.")

⁴ Va. Code § 2.2-3003(G).