

Issue: Compliance – Grievance Procedure (Documents); Ruling Date: May 26, 2010;  
Ruling #2010-2639; Agency: George Mason University; Outcome: Agency In  
Compliance in part, Agency Not In Compliance in part.



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

**RECONSIDERED COMPLIANCE RULING OF DIRECTOR**

In the matter of George Mason University  
Ruling No. 2010-2639  
May 26, 2010

The grievant has requested that this Department reconsider EDR Ruling No. 2010-2610, 2010-2613, which addressed, in part, the alleged noncompliance of George Mason University (the University) in not providing a requested document. The grievant is seeking a position description for an administrative faculty member (“faculty member”). The grievant seeks this document to determine the job duties of the faculty member, which is related to his allegation that he should have been considered for that position during a 2007 reorganization.

The University stated previously that there is no job description for the faculty member.<sup>1</sup> However, the grievant has since presented information to this Department about the University’s Administrative/Professional Faculty Handbook, which requires supervisors to develop a performance plan with a subordinate employee so that performance appraisals can be completed at the end of the performance cycle. Neither the performance plan nor the performance appraisal would appear to contain relevant information that would detail the job duties of the faculty member. As such, the University need not produce to the grievant any performance plans or performance appraisals regarding the faculty member, to the extent they exist.

However, the University’s performance plan form for administrative/professional faculty states that in completing the form, the supervisor and employee should review the employee’s position description to develop goals and objectives for the performance year. Indeed, the University has issued a standard administrative/professional faculty position description form.

The University states that even though these standard forms exist, it does not mean that they are always used. Certainly if a position description does not exist, the University cannot be required to create such a document.<sup>2</sup> However, given the University’s documented performance

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<sup>1</sup> This Department may have incorrectly assumed in the prior ruling that the reason there was no job description was the fact that the faculty member was a member of the faculty. See EDR Ruling No. 2010-2610, 2010-2613. Because that assumption may not have been accurate, the prior ruling on this matter must be revisited. Further, issues about where the University has looked for the position description not addressed in the prior ruling because of the potentially incorrect assumption must be addressed now.

<sup>2</sup> Va. Code § 2.2-3003(E); *Grievance Procedure Manual* § 8.2.

appraisal process for administrative faculty members, and the Faculty Handbook's statement regarding the role of the position description in that process, we understand the grievant's confusion as to why there is no position description readily available for the administrative faculty member.

The University also states that it has no position description on file in the human resources department and that if such a document existed, it would be there. However, it is reasonable, and certainly not impossible, that a document describing the faculty member's position and/or responsibilities could exist outside human resources, such as in the faculty member's files or her supervisor's files. As such, to the extent it has not already done so, the University is ordered to search for a position description for the faculty member not just within human resources, but within other files as well, including, but not limited to, the faculty member's files,<sup>3</sup> the faculty member's current and/or former supervisor's files, and the files of any other member of management who might have a role in the performance management of the faculty member and who would, therefore, potentially have a position description by which to judge the faculty member's performance.<sup>4</sup>

Upon conducting this search, if a position description is found, it must be provided to the grievant, redacting such non-relevant personal information as is permitted under the grievance procedure.<sup>5</sup> Additionally, if there is another document, apart from a formal job description, that would nevertheless provide a description of the faculty member's duties at the time she assumed the newly reorganized position in 2007, the University must produce that document to provide the grievant with information about the potentially relevant job duties. For instance, there may be documents that describe the duties of the reorganized position at the time approval for the changes was requested.<sup>6</sup>

The University is ordered to comply with these requirements **within five workdays of receipt of this ruling**. This Department's rulings on matters of compliance are final and nonappealable.<sup>7</sup>

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Claudia T. Farr  
Director

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<sup>3</sup> Such files could include those within the custody and/or control of the faculty member as well as the faculty member's personnel file, if such files exist.

<sup>4</sup> To the extent the University asserts that if such a document is located in an employee's personnel file or a supervisor's file it would be exempt from disclosure, that assertion is incorrect. *See, e.g.*, EDR Ruling No. 2010-2566; EDR Ruling No. 2009-2087.

<sup>5</sup> *See* Va. Code § 2.2-3003(E); *Grievance Procedure Manual* § 8.2.

<sup>6</sup> Such a form might be a Position Maintenance Form.

<sup>7</sup> *See* Va. Code §§ 2.2-1001(5), 2.2-3003(G).