

Issue: Compliance – Grievance Procedure (Other Issue); Ruling Date: May 18, 2010; Ruling #2010-2648; Agency: Department of Conservation and Recreation; Outcome: Grievant In Compliance.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

COMPLIANCE RULING OF DIRECTOR

In the matter of Department of Conservation and Recreation
Ruling Number 2010-2648
May 18, 2010

The grievant has requested a compliance ruling to stay the grievance ruling process as related to his three pending grievances with the Department of Conservation and Recreation (“agency”). The grievant will be leaving the country for a period of approximately 17 days. For the reasons below, the grievant’s request is granted.

FACTS

The grievant has three pending grievances. The first two (dated May 27, 2009 and October 5, 2009) have been through both the management steps and through the grievance hearing process. In an April 8, 2010 hearing decision, a hearing officer ruled against the grievant on both grievances. On April 22, 2010, the grievant timely requested an administrative review by the EDR Director. That ruling request is pending.

The remaining grievance was initiated April 1, 2010. The agency denied the grievant access to pursue the grievance and he subsequently requested an access ruling from this Department on May 3, 2010. That request is also currently pending.

DISCUSSION

The grievance procedure states that parties may mutually agree to extend all pre-qualification time limits.¹ Two of the grievances at issue here, however, are well beyond the pre-qualification stage. The remaining grievance is at a pre-qualification stage but it, like the other two, is currently with this office pending a ruling. Once a ruling has been requested, if a party seeks to stay the process, that party must request a stay from the EDR Director. If the party has just cause for requesting the stay, the delay will not prejudice the other party, and the duration of the requested stay is not excessive, the request will generally be granted.

¹ *Grievance Procedure Manual*, § 8.4.

Here, the grievant appears to have just cause for requesting the delay. Any ruling issued by this Department pertaining to the grievances currently pending would begin a new set of appellate filing deadlines. Complying with such deadlines could be difficult for any party out of the country. Moreover, the agency has stated that it has no objection to staying the process, and the delay is not excessive under the circumstances of this case. Therefore, this Department will stay the ruling process until the grievant has returned to this country. This Department's rulings on matters of compliance are final and nonappealable.²

Claudia T. Farr
Director

² See Va. Code §§ 2.2-1001(5), 2.2-3003(G).