

Issue: Compliance – Grievance Procedure (Resolution Steps); Ruling Date: January 21, 2011; Ruling No. 2011-2869; Agency: Virginia Department of Transportation; Outcome: Agency In Compliance.



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

**COMPLIANCE RULING OF DIRECTOR**

In the matter of the Virginia Department of Transportation  
Ruling No. 2011-2869  
January 21, 2011

The grievant has requested a compliance ruling with respect to his October 22, 2010 grievance. The grievant asserts that the second step-respondent has failed to respond properly to his requests for clarification of the second step response.

FACTS

The grievant has requested clarification of the second step-respondent's written response regarding certain issues. The grievant states that 1) the statements of the second step-respondent are not clear regarding the grievant's eventual return to a previous directorate, 2) the written response does not clarify how long he will be in his current position, and 3) the second step-respondent has not provided details regarding his eventual return to a previous directorate. The second step-respondent asserts that his written response complies with the grievance procedure and has provided no clarification. The grievant has now requested a compliance ruling regarding his requests for clarification.

DISCUSSION

The grievant asserts that the second step-respondent is out of compliance with the grievance procedure because he has not responded to the requests for clarification of the second step written response. Section 3.2 of the *Grievance Procedure Manual* provides that the written response "must address the issues and the relief requested and should notify the employee of his procedural options." While the step-respondent is not required to respond to each and every point or factual assertion raised by the employee, the respondent must address each issue raised and the requested relief.

Based upon a review of the actions grieved and the second step response, the second step-respondent has fulfilled the requirements of the grievance procedure by providing a written response that addresses the issues and relief requested. While a grievant is free to request clarification of a step-respondent's written response, there is no *requirement* under the grievance procedure that the step-respondent provide such a clarification where the step-respondent has provided a written response otherwise compliant with the grievance procedure.

We note, however, that even though not required, some kind of clarification, if possible, could assist the parties in reaching an early resolution to the grievance. Indeed, it appears the grievant is trying to determine how long he will be in his new position, where he will go after his job when the new project is complete, and what his status will be at that time. Essentially, it is unclear to the grievant whether he is now in a time-limited position and, therefore, will be subject to layoff upon the completion of his role with the special project. The answers to these questions, to the extent they have not already been answered, could be highly relevant to the grievant in determining whether to proceed with or conclude his grievance.

### CONCLUSION

While we understand the grievant's concerns, the second step-respondent's written response satisfies the requirements of the grievance procedure and, therefore, a clarification is not required as a matter of compliance with the grievance procedure. Therefore, the grievant's ruling request is denied. However, for the reasons discussed above, the agency may wish to clarify the issues raised by the grievant to the extent possible.

To proceed with the grievance, within five workdays of receipt of this ruling, the grievant must forward the grievance package to the agency head, with the appropriate box checked on the Form A, to request qualification of the grievance for hearing.<sup>1</sup> If the grievant wishes to conclude his grievance, he must notify the agency's human resource office in writing within five workdays of receipt of this ruling. This Department's rulings on matters of compliance are final and nonappealable.<sup>2</sup>

---

Claudia T. Farr  
Director

---

<sup>1</sup> Although this grievance has only proceeded to the second step, because it appears that the agency head was the step-respondent at that level, the next step in the process would be qualification for a hearing as there is no other member of management to serve as the third step-respondent in this grievance.

<sup>2</sup> See Va. Code §§ 2.2-1001(5), 2.2-3003(G).