

Issue: Compliance – Grievance Procedure (Other Issue); Ruling Date: April 5, 2011; Ruling No. 2011-2931; Agency: Department of Social Services; Outcome: Grievant Not In Compliance.



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

**COMPLIANCE RULING OF DIRECTOR**

In the matter of the Department of Social Services  
Ruling No. 2011-2931  
April 5, 2011

The Department of Social Services (the agency) seeks a compliance ruling regarding the grievant's November 15, 2010 grievance. In response to a December 20, 2010 query by the agency, the grievant faxed to the agency a copy of her grievance documents; however, she did not indicate on the Form A whether she wished to advance or conclude her grievance. Consequently, in EDR Ruling No. 2011-2880, this Department ordered her to fax a copy of her November 15, 2010 grievance to the agency with her intention to either advance or conclude her grievance indicated on the Form A within ten work days of the date of the ruling, i.e., January 31, 2011.<sup>1</sup> According to the agency, the grievant has failed to take any action and as such, has failed to comply with this Department's order in EDR Ruling No. 2011-2880. The agency now seeks permission to administratively close the grievance due to the grievant's alleged noncompliance.

As the grievant has apparently failed to advance her grievance in compliance with EDR Ruling No. 2011-2880, this Department orders the grievant to correct this noncompliance **within ten workdays of the date of this ruling** by forwarding a copy of her Form A and indicating on the form whether she wishes to either advance or conclude the grievance.<sup>2</sup> If the grievant does not do so, the agency may administratively close the grievance without any further action on its part. The grievance may be reopened only upon a timely showing by the grievant of just cause for the delay (for example, a serious illness, or other circumstances beyond the grievant's control).

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<sup>1</sup> This Department noted that it is incumbent on parties to a grievance to clearly express their intentions on the form A and that an inquiry into the intent of a party beyond that which is expressed on the Form A would be impracticable. EDR Ruling No. 2011-2880.

<sup>2</sup> The grievant had not previously been found to be substantially noncompliant with the grievance process in this case. As such, providing an opportunity to cure the noncompliance here is consistent with EDR's preference for having grievances decided on the merits rather than procedural violations. The EDR Director will *typically* order noncompliance corrected before rendering a decision against a noncompliant party. However, where a party's noncompliance appears driven by bad faith or a gross disregard of the grievance procedure, this Department will exercise its authority to rule against the party without first ordering the noncompliance to be corrected.

This Department's rulings on matters of compliance are final and nonappealable.<sup>3</sup>

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Claudia T. Farr  
Director

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<sup>3</sup> See Va. Code § 2.2-1001(5), 2.2-3003(G).