

Issue: Compliance – Grievance Procedure (5-Day Rule); Ruling Date: February 14, 2012; Ruling No. 2012-3267; Agency: Department of General Services; Outcome: Grievant Not in Compliance.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

COMPLIANCE RULING OF DIRECTOR

In the matter of Department of Juvenile Justice
Ruling No. 2012-3267
February 14, 2012

The grievant has requested a compliance ruling from this Department. He alleges that the Department of Juvenile Justice (the “agency”) failed to comply with the time limits set forth in the grievance procedure for issuing its third step response.

FACTS

The grievant was employed by the agency as a Security Officer II. On November 22, 2011, the grievant was terminated. On November 28, 2011, the grievant initiated a grievance challenging his termination. The agency held the second resolution step meeting with the grievant on November 30, 2011. On December 12, 2011, the agency issued its second resolution step response to the grievant. On December 13, 2011, the grievant advanced his grievance to the third resolution step. The grievant alleges the agency has failed to respond to the third resolution step. Now, the grievant seeks a compliance ruling from this Department, specifically requesting this matter proceed to a hearing.

DISCUSSION

The grievance procedure requires both parties to address procedural noncompliance through a specific process.¹ That process assures that the parties first communicate with each other about the noncompliance, and resolve any compliance problems voluntarily without this Department’s involvement. Specifically, if an agency fails to correct an alleged noncompliance, then the grievant must first notify the agency head in writing of the alleged noncompliance and give the agency 5 workdays to correct any noncompliance.² If the grievant still feels that the agency is noncompliant, then he may request a ruling from this Department.

In this case, the grievant’s request for a compliance ruling appears to be premature because the grievant has not shown that he first notified the agency head in writing of the alleged procedural violations, as required by the grievance procedure. The grievant is therefore advised that if he still desires a compliance ruling from this Department, he must first give written notice

¹ *Grievance Procedure Manual* § 6.3.

² *Id.*

of the alleged noncompliance to the agency head and allow the agency five days to correct any noncompliance. Only after the grievant has satisfied this procedural prerequisite will this Department address any claim of noncompliance.

This Department's rulings on matters of compliance are final and nonappealable.³

Claudia T. Farr
Director

³ Va. Code §§ 2.2-1001(5), 2.2-3003(G).