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COMPLIANCE RULING

In the matter of Virginia State University
Ruling Number 2025-5814
January 8, 2025

Virginia State University (the “university” or “agency”) has requested a compliance ruling from the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management (DHRM) in relation to the grievant’s October 31, 2024 grievance. The university alleges that the grievant has failed to comply with the time limits set forth in the grievance procedure for advancing or concluding his grievance.

FACTS

On or about October 31, 2024, the grievant initiated an expedited grievance with the university. It appears that the university’s single step response was initially sent to the grievant on or about November 15, 2024, but a revised response was later sent on or about November 26. Having received no response from the grievant, the university followed up by email on December 9, requesting that the grievant make his decision to appeal or conclude the grievance by December 11. Having still received no response, the university then sent an email on December 16 notifying the grievant of his noncompliance. In its email, the university requested a response from the grievant within five calendar days of receipt of the email.¹ That same day, the grievant responded by telling the university that they may “pull” his grievance, to which the university replied by requesting the grievant properly indicate his decision to conclude his grievance on Grievance Form A. Having apparently not received the completed Grievance Form A from the grievant, the university requested a compliance ruling from EDR on January 7, 2025, asking to administratively close the grievance.

DISCUSSION

The grievance procedure requires both parties to address procedural noncompliance through a specific process.² That process assures that the parties first communicate with each other about the noncompliance and resolve any compliance problems voluntarily, without EDR’s

¹ Due to the university being closed for the holidays during this time, the university requested a response by January 6.

² *Grievance Procedure Manual* § 6.3.

involvement. Specifically, the party claiming noncompliance must notify the other party of any noncompliance in writing and allow five workdays for the opposing party to correct it.³ If the opposing party fails to correct the noncompliance within this five-day period, the party claiming noncompliance may seek a compliance ruling from EDR, which may in turn order the party to correct the noncompliance or, in cases of substantial noncompliance, render a decision against the noncomplying party on any qualifiable issue. When EDR finds that either party to a grievance is in noncompliance, its ruling will (i) order the noncomplying party to correct its noncompliance within a specified time period, and (ii) provide that if the noncompliance is not timely corrected, a decision in favor of the other party will be rendered on any qualifiable issue, unless the noncomplying party can show just cause for the delay in conforming to EDR's order.⁴

In this case, the available facts show that, contrary to the grievance procedure's requirements, the grievant has not advanced or concluded his grievance within five workdays of receiving the university's single management step response.⁵ While the grievant has failed to comply with the grievance procedure by not returning the Grievance Form A with the appropriate box checked to advance or conclude the grievance, he has nonetheless indicated his intent to conclude the grievance via email. For that reason, EDR considers the grievance concluded and the university's grievance file should be updated accordingly.

EDR's rulings on matters of compliance are final and nonappealable.⁶

Christopher M. Grab
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³ See *id.*

⁴ While in cases of substantial noncompliance with procedural rules the grievance statutes grant EDR the authority to render a decision on a qualifiable issue against a noncompliant party, EDR favors having grievances decided on the merits rather than procedural violations. Thus, EDR will typically order noncompliance corrected before rendering a decision against a noncompliant party. However, where a party's noncompliance appears to be driven by bad faith or a gross disregard of the grievance procedure, EDR will exercise its authority to rule against the party without first ordering the noncompliance to be corrected.

⁵ See *Grievance Procedure Manual* § 3.4.

⁶ See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).