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COMPLIANCE RULING

In the matter of the Virginia Department of Corrections
Ruling Number 2026-5950
September 10, 2025

The Virginia Department of Corrections (the “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 July 2, 2025 grievance. The agency alleges that the grievant has failed to comply with the time limits set forth in the grievance procedure for advancing or concluding the grievance.

FACTS

On or about July 2, 2025, the grievant initiated a grievance with the agency. On July 28, the agency issued its first-step response.¹ On August 22, the agency sent the grievant a notice of noncompliance via email as the agency had received no indication on whether the grievant intended to advance or conclude the grievance. In the email, the agency notified the grievant that if they did not submit an election to advance or conclude the grievance within five workdays of receipt of the email, they were out of compliance with the time requirements of the grievance procedure and the agency would request a compliance ruling from EDR. On September 8, having received no further response from the grievant, the agency requested that EDR issue a compliance ruling allowing the agency 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 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

¹ While the first-step response is dated July 25, it appears that the agency sent the response to the grievant via email on July 28.

² *Grievance Procedure Manual* § 6.3.

³ *See id.*

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 the grievance within five workdays of receiving the agency's most recent management step response.⁵ The grievant has not indicated their intent to advance or conclude the grievance since the first-step response was issued on July 28, 2025, or since receiving the agency's notice of noncompliance. Because the grievant has apparently neither advanced nor concluded the grievance at this time, they have failed to comply with the grievance procedure. EDR therefore orders the grievant to correct the noncompliance **within 10 workdays of the date of this ruling** by notifying the agency's human resources office in writing that they wish to advance or conclude the grievance. 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).

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

Christopher M. Grab
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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* § 3.1.

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