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CONSOLIDATION RULING

In the matter of the Department of Corrections
Ruling Number 2023-5440
August 4, 2022

This ruling addresses the consolidation of two grievances filed with the Virginia Department of Corrections (the “agency”). For the reasons discussed below, the Office of Employment Dispute Resolution (EDR) at the Virginia Department of Human Resource Management (DHRM) finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

The two grievances at issue in this ruling are:

- 1) A May 9, 2022 grievance challenging the grievant’s receipt of a Group II Written Notice on April 22, 2022; and
- 2) A May 9, 2022 dismissal grievance challenging the grievant’s receipt of a Group III Written Notice with termination, also on April 22, 2022.

Because the grievant’s employment was terminated effective on the date he received both written notices, EDR accepted both grievances for the dismissal grievance process. The agency subsequently indicated that the two grievances should proceed together to a single hearing.¹

DISCUSSION

Approval by EDR in the form of a compliance ruling is required before two or more grievances may be consolidated in a single hearing. Moreover, EDR may consolidate grievances

¹ The grievant also filed a grievance on April 11, 2022, predating the May 9 grievances at issue in this ruling. The April 11 grievance, which appears to address the pre-disciplinary process leading to the written notices grieved on May 9, is not before EDR for consolidation or any other consideration. According to the agency, the grievant had indicated an intention to withdraw the April 11 grievance if the grievance documentation could be attached as supporting documentation for the May 9 grievances. As such, the April 11 grievance record will be included in EDR’s initial hearing file for the May 9 grievances. The grievant remains responsible for introducing at the hearing any documents he wishes to be considered as part of the evidentiary record.

for hearing without a request from either party.² EDR strongly favors consolidation and will consolidate grievances when they involve the same parties, legal issues, policies, and/or factual background, unless there is a persuasive reason to process the grievances individually.³

EDR finds that consolidation of the May 9, 2022 grievances is appropriate. These grievances involve the same grievant and appear likely to share common themes, claims, and witnesses. The grievances relate to conduct by the grievant that resulted in similar and/or related disciplinary actions. Further, we find that consolidation is not impracticable in this instance. Therefore, the two grievances are consolidated for a single hearing.⁴ A hearing officer will be appointed in a forthcoming letter.

EDR's rulings on compliance are final and nonappealable.⁵

Christopher M. Grab
Director
Office of Employment Dispute Resolution

² *Grievance Procedure Manual* § 8.5.

³ *See id.*

⁴ Pursuant to the fee schedule established by EDR's Hearings Program Administration policy, consolidated hearings shall be assessed a full fee for the first grievance and an additional half fee for the second grievance. *See* EDR Policy 2.01, *Hearings Program Administration*, Attach. B.

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