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CONSOLIDATION RULING

In the matter of the Department of Rail and Public Transportation
Ruling Number 2024-5641
November 21, 2023

This ruling addresses the consolidation of the grievant's five grievances filed with the Department of Rail and Public Transportation (the "agency"). For the reasons discussed below, the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management (DHRM) finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

The grievant submitted five grievance forms to EDR on November 14, 2023. Each grievance separately challenges one of the five following Written Notices, all of which were issued to the grievant on November 1, 2023:

- 1) a Group II Written Notice with termination citing various issues of misconduct, including failure to follow instructions, poor performance, and violation of DHRM Policy 2.35, *Civility in the Workplace*, during September 2023;
- 2) a Group II Written Notice with termination citing various issues of misconduct, including poor performance and failure to follow instructions between April and October of 2023;
- 3) a Group II Written Notice with termination citing various issues of misconduct, including failure to follow instructions and unethical conduct during September 2023;
- 4) a Group II Written Notice with termination citing various issues of misconduct, including additional allegations of failure to follow instructions and unethical conduct from August to October of 2023; and
- 5) a Group III Written Notice with termination citing various issues of misconduct, including additional violations of DHRM Policy 2.35 from September to October of 2023.

The agency has requested consolidation of these matters.

An Equal Opportunity Employer

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 for hearing without a request from either party.¹ 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.²

EDR finds that consolidation of the grievant's five November 14, 2023 grievances is appropriate. These grievances involve the same parties and appear likely to share common themes, claims, and witnesses. The grievances relate to conduct by the grievant that resulted in similar disciplinary actions issued on the same date. Further, we find that consolidation is not impracticable in this instance. Therefore, the five grievances are consolidated for a single hearing.³ A hearing officer will be appointed in a forthcoming letter.

EDR's rulings on compliance are final and nonappealable.⁴

Christopher M. Grab
Director
Office of Employment Dispute Resolution

¹ *Grievance Procedure Manual* § 8.5.

² *See id.*

³ Pursuant to the fee schedule established by EDR's Hearings Program Administration policy, consolidated grievances shall be assessed a full hearing fee (\$4,000) for the first grievance, an additional one-quarter fee for the second grievance (\$1,000), and additional \$500 for each subsequent grievance consolidated into one hearing. *See* EDR Policy 2.01, *Hearings Program Administration*, Attach. B.

⁴ *See* Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).