

Issue: Consolidation of grievances for a single hearing; Ruling Date: August 22, 2016; Ruling No. 2017-4411; Agency: Virginia Commonwealth University; Outcome: Consolidation Denied.



**COMMONWEALTH of VIRGINIA**  
**Department of Human Resource Management**  
**Office of Employment Dispute Resolution**

**CONSOLIDATION RULING**

In the matter of Virginia Commonwealth University  
Ruling Number 2017-4411  
August 22, 2016

This ruling addresses the request by Virginia Commonwealth University (the University) and the grievant to consolidate a pending grievance with a dismissal grievance that has not yet been initiated. For the reasons discussed below, EDR finds that consolidation of these matters into a single hearing is not appropriate and the consolidation request is denied.

FACTS

On or about May 11, 2016, the grievant initiated a grievance challenging a Group II Written Notice issued to her on April 11, 2016. A hearing officer was appointed to this matter on July 26, 2016, and a hearing was subsequently scheduled for August 26, 2016. On August 16, 2016, the grievant was issued two additional Written Notices and terminated from employment. The University's advocate, as well as the grievant, contacted EDR to request that the pending hearing be cancelled until the grievant had the opportunity to initiate a grievance challenging her dismissal. The parties requested that the pending grievance regarding the April 11, 2016 Group II Written Notice be heard in a single grievance along with the presumed future dismissal grievance challenging the two additional Written Notices and the grievant's termination.

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.<sup>1</sup> 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.<sup>2</sup> However, the *Rules for Conducting Grievance Hearings* provide that "[a]fter a hearing officer has been appointed, EDR will accept requests for consolidation for hearing only in limited circumstances."<sup>3</sup> In this instance, there are compelling reasons not to grant the consolidation request.

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<sup>1</sup> *Grievance Procedure Manual* § 8.5.

<sup>2</sup> *See id.*

<sup>3</sup> *Rules for Conducting Grievance Hearings* § III(C).

First, the hearing for the grievant's May 11, 2016 grievance is scheduled for August 26, 2016, four days from today. Canceling the pending hearing at a point so close in time to the hearing date is likely to be unduly burdensome to all parties, including the hearing officer. In addition, EDR has not yet received the dismissal grievance challenging the grievant's termination from employment. While it appears that the grievances could both relate to disciplinary actions issued to the grievant for similar occurrences, without the second grievance in hand, EDR is unable to fully assess whether the grievances will raise similar questions or are so closely linked that consolidation is procedurally efficient and/or necessary. Indeed, it may be impracticable to consolidate a total of three disciplinary actions for a single hearing, even if all three matters encompass an interrelated sequence of events. The burden to the parties and their witnesses to address all of the issues in a single hearing may simply be too great. Finally, the grievant has several weeks left in which she could choose to initiate a grievance challenging her termination, and it may be that the grievant ultimately chooses not to do so.

Based on the foregoing, the request for consolidation is denied. The May 11, 2016 grievance will proceed to a separate hearing on August 26, 2016, as scheduled. Should a dismissal grievance be initiated, a hearing officer will be appointed in that matter case via a separate letter to the applicable parties.

EDR's rulings on compliance are final and nonappealable.<sup>4</sup>



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<sup>4</sup> See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).