



EMILY S. ELLIOTT
DIRECTOR

COMMONWEALTH OF VIRGINIA
Department Of Human Resource Management
Office of Employment Dispute Resolution

James Monroe Building
101 N. 14th Street, 12th Floor
Richmond, Virginia 23219
Tel: (804) 225-2131
(TTY) 711

CONSOLIDATION RULING

In the matter of the Department of Behavioral Health and Developmental Services
Ruling Number 2019-4922
May 3, 2019

This ruling addresses the consolidation of the grievant's two grievances filed with the Department of Behavioral Health and Developmental Services (the "agency"). For the reasons discussed below, the Office of Employment Dispute Resolution ("EDR") at the Virginia Department of Human Resource Management ("DHRM")¹ finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

The two grievances at issue are 1) a March 12, 2019 grievance challenging the agency's issuance of a Group II Written Notice for alleged failure to follow instructions and/or policy, disruptive behavior, and violation of DHRM Policy 2.35, *Civility in the Workplace*, arising out of an incident that occurred on February 4, 2019, and 2) a March 15, 2019 grievance challenging the agency's issuance of a Group I Written Notice for an alleged second failure to follow instructions and/or policy and violation of DHRM Policy 2.35, *Civility in the Workplace*, in relation to an incident that occurred on February 7, 2019. The agency has requested consolidation of these matters.

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.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

¹ The Office of Equal Employment and Dispute Resolution has separated into two office areas: the Office of Employment Dispute Resolution and the Office of Equity, Diversity, and Inclusion. While full updates have not yet been made to the *Grievance Procedure Manual* to reflect this change, this Office will be referred to as "EDR" in this ruling. EDR's role with regard to the grievance procedure remains the same.

² *Grievance Procedure Manual* § 8.5.

³ *See id.*

EDR finds that consolidation of March 12, 2019 and March 15, 2019 grievances is appropriate. These grievances involve the same grievant and could share common themes, claims, and witnesses. The grievances relate to conduct by the grievant that resulted in similar disciplinary actions issued. 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

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).