

Issue: Consolidation of grievances for a single hearing; Ruling Date: November 9, 2017; Ruling No. 2018-4641; Agency: Department of Corrections; Outcome: Consolidation Granted.



COMMONWEALTH of VIRGINIA
Department of Human Resource Management
Office of Equal Employment and Dispute Resolution

CONSOLIDATION RULING

In the matter of the Department of Corrections
Ruling Number 2018-4641
November 9, 2017

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

FACTS

The two grievances at issue are 1) a May 26, 2017 grievance challenging the agency's issuance of a Group II Written Notice, with suspension, for alleged failure to report to work without notice, and 2) an August 14, 2017 grievance challenging the agency's issuance of a second Group II Written Notice, with suspension, for alleged failure to report to work without notice. The agency has requested consolidation of these matters.

DISCUSSION

Approval by EEDR in the form of a compliance ruling is required before two or more grievances may be consolidated in a single hearing. Moreover, EEDR may consolidate grievances for hearing without a request from either party.¹ EEDR 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

EEDR finds that consolidation of May 26 and August 14 grievances is appropriate. These grievances involve the same grievant and could share common themes, claims, and witnesses. The grievances relate to an alleged pattern of behavior by the grievant that resulted in similar disciplinary actions issued. Further, we find that consolidation is not impracticable in

¹ *Grievance Procedure Manual* § 8.5.

² *See id.*

this instance. Therefore, the two grievances are consolidated for a single hearing.³ A hearing officer will be appointed in a forthcoming letter.⁴

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



Christopher M. Grab
Director
Office of Equal Employment and Dispute Resolution

³ Pursuant to the fee schedule established by EEDR'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* EEDR Policy 2.01, *Hearings Program Administration*, Attach. B.

⁴ Based on information provided by the agency, the grievant was subsequently terminated from employment on October 4, 2017. Neither the agency nor EEDR has received a dismissal grievance from the grievant challenging the termination. Accordingly, this consolidated matter will address the grievant's May 26 and August 14 grievances, but not his termination.

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