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CONSOLIDATION RULING

In the matter of the of Virginia Department of Corrections
Ruling Number 2022-5344
January 12, 2022

This ruling addresses the consolidation of the grievant's 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 finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

The two grievances at issue in this case are:

- 1) A December 29, 2021 dismissal grievance challenging the grievant's receipt of a Group III Written Notice with termination; and
- 2) A second December 29, 2021 dismissal grievance challenging the grievant's receipt of a Group II Written Notice.¹

Neither party has objected to 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 Though the Group II Written Notice does not carry termination as a penalty, both Written Notices were issued to the grievant on December 9, 2021, and he was terminated as of that date. As a result, we have processed the grievance disputing the Group II Written Notice as a dismissal grievance in the interest of efficiently resolving the grievant's challenge to both disciplinary actions.

² *Grievance Procedure Manual* § 8.5.

³ *See id.*

EDR finds that consolidation of the two December 29, 2021 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 and/or related 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 The parties will receive further correspondence from EDR regarding the appointment of a hearing officer for these matters.

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

Christopher M. Grab
Director
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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).