

Issue: Consolidation of grievances for a single hearing; Ruling Date: September 29, 2017; Ruling No. 2018-4621; Agency: Virginia Commonwealth University; Outcome: Consolidation Granted.



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

CONSOLIDATION RULING

In the matter of Virginia Commonwealth University
Ruling Number 2018-4621
September 29, 2017

This ruling addresses the consolidation of the grievant's two grievances filed with Virginia Commonwealth University (the University). 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 June 9, 2017 grievance challenging the issuance of a Group II Written Notice¹, for alleged unsatisfactory performance and failure to follow instructions, and 2) a July 20, 2017 grievance challenging the agency's issuance of a second Group II Written Notice², with termination, for alleged "repeated" unsatisfactory performance and failure to follow instructions.³ The agency has requested consolidation of these matters, and the grievant does not object.

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.⁴ 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.⁵

¹ Both boxes for "Group I" and "Group II" are checked on the face of the Written Notice, apparently due to the multiple alleged infractions. However, accompanying documentation indicates the disciplinary action to be considered a Group II Written Notice, and EEDR will consider it as such for purposes of hearing.

² As with the first Written Notice, both boxes for "Group I" and "Group II" are checked, but accompanying documentation indicates the disciplinary action to be considered a Group II Written Notice.

³ Though initially the parties mutually agreed to undergo a series of three management resolution steps for this dismissal grievance, they have now agreed to forego the second and third management resolution steps and advance this matter directly to EEDR for a hearing.

⁴ *Grievance Procedure Manual* § 8.5.

⁵ *See id.*

EEDR finds that consolidation of the June 9 and July 20 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 this instance. Therefore, the July 20 grievance is qualified in full, and the two grievances are now consolidated for a single hearing.⁶ A hearing officer will be appointed in a forthcoming letter.

EEDR's rulings on compliance are final and nonappealable.⁷



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Director
Office of Equal Employment and Dispute Resolution

⁶ 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.

⁷ *See* Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).