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CONSOLIDATION RULING

In the matter of the Virginia Department of Education
Ruling Number 2021-5171
October 8, 2020

This ruling addresses the consolidation of the grievant's two grievances filed with the Virginia Department of Education (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

On or about June 18, 2020, the grievant initiated two grievances with the agency.¹ The first grievance challenges the agency's issuance of a Group II Written Notice for alleged unsatisfactory performance, failure to follow instructions and/or policy, and creating a substantial financial risk for the agency.² The second grievance concerns alleged retaliation and "[t]argeting in the work environment." The agency has qualified both grievances for a hearing and 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.³ 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.⁴

¹ The grievant initiated a third grievance on the same date, challenging an additional Group II Written Notice. The agency has represented to EDR that it rescinded the Written Notice disputed in the third grievance and that the third grievance has been concluded.

² The Group II Written Notice was originally accompanied by a disciplinary demotion and salary reduction. The agency subsequently amended the Written Notice to remove these actions retroactively to the date the Written Notice was issued.

³ *Grievance Procedure Manual* § 8.5.

⁴ *See id.*

EDR finds that consolidation of the two active grievances is appropriate. These grievances involve the same grievant and could share common themes, claims, and witnesses; indeed, the second grievance alleging retaliation and targeting relates to management actions that appear to have occurred as part of the disciplinary process for the Group II Written Notice challenged in the first grievance. In addition, we find that consolidation is not impracticable in this instance and instead promotes the efficient use of state resources in responding to the grievant's substantive allegations. Therefore, the two grievances are consolidated for a single hearing.⁵ A hearing officer will be appointed in a forthcoming letter.

EDR's rulings on compliance are final and nonappealable.⁶

Christopher M. Grab
Director
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⁵ 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.

⁶ *See* Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).