

Issue: Consolidation of grievances for a single hearing; Ruling Date: May 29, 2013;
Ruling No. 2013-3624; Agency: Virginia Department of Transportation; Outcome:
Consolidation Granted.



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

CONSOLIDATION RULING

In the matter of the Virginia Department of Transportation
Ruling Number 2013-3624
May 29, 2013

This ruling addresses the consolidation of the grievant's two grievances filed with the Virginia Department of Transportation (the agency). For the reasons discussed below, the Office of Employment Dispute Resolution (EDR) finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

The two grievances at issue are 1) a March 1, 2013 grievance regarding a Group II Written Notice¹ and 2) a dismissal grievance concerning the grievant's disciplinary termination, which has already been appointed to a hearing officer and is currently stayed (Case No. 10086). Since Case No. 10086 was appointed to a hearing officer, EDR was notified of the pendency of the March 1, 2013 grievance in the management resolution steps and the agency's request to consolidate the matters. EDR has been advised that both parties have waived the remaining steps and will allow the grievance to proceed to hearing.

DISCUSSION

Approval by the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management 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

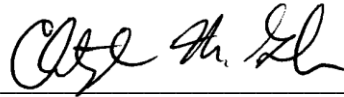
¹ The March 1, 2013 grievance also purports to challenge a Group I Written Notice, issued on or about November 20, 2012. The agency concluded that the grievance was untimely to challenge the Group I and EDR concurs. Going forward, the March 1, 2013 grievance will not be deemed to be challenging the Group I Written Notice as a claim on which relief can be granted by a hearing officer. Consequently, that portion of the March 1, 2013 grievance is not qualified for a hearing.

² *Grievance Procedure Manual* § 8.5.

³ *See id.*

EDR finds that consolidation of the grievant's March 1, 2013 grievance and dismissal grievance is appropriate. These grievances involve the same grievant and could share common themes, claims, and witnesses. The grievances all relate to disciplinary actions issued to the grievant that led to her termination. Further, we find that consolidation is not impracticable in this instance. Therefore, the grievant's March 1, 2013 grievance and dismissal grievance are consolidated for a single hearing.⁴ A hearing officer will be appointed in a forthcoming letter. The hearing officer who has been assigned the dismissal grievance will be appointed for the consolidated matter. The hearing officer may schedule the hearing once both matters are appointed in his discretion following a pre-hearing conference with the parties. The new effective date of appointment for both matters will be the forthcoming effective date of appointment in the March 1, 2013 grievance.

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



Christopher M. Grab
Director
Office of Employment Dispute Resolution

⁴ The March 1, 2013 grievance is qualified in full except for the basis discussed above (i.e., the Group I Written Notice).

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