

Issue: Consolidation of grievances for a single hearing; Ruling Date: June 10, 2013;  
Ruling No. 2013-3633, 2013-3634; Agency: Department of Rail and Public  
Transportation; Outcome: Consolidation Denied.



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

**CONSOLIDATION RULING**

In the matter of the Department of Rail and Public Transportation  
Ruling Numbers 2013-3633, 2013-3634  
June 10, 2013

This ruling addresses the request from the Department of Rail and Public Transportation (the agency) to consolidate the grievances of Grievant L and Grievant B. For the reasons discussed below, EDR finds that consolidation of these grievances into a single hearing is not appropriate and the agency's request is denied.

FACTS

The two grievances at issue, dated March 29, 2013 and April 3, 2013, primarily concern the issuance of two separate Written Notices to Grievant L and Grievant B, each for failure to properly account for leave taken. After the parties failed to resolve the grievances during the management resolution steps, the agency has asked for appointment of a hearing officer in these matters. The agency seeks to have the two grievances consolidated to be heard at a single hearing and asserts that the legal issues, policies, and factual background involved are the same in each instance.

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.<sup>1</sup> 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.<sup>2</sup> However, in this instance, there are compelling reasons not to grant the consolidation request.

First, the grievances involve different employees. While the grievances of separate employees can still be consolidated, EDR does so cautiously due to the personnel issues inherently involved in grievances and the potential for discovery of confidential matters about a co-worker. Here, as use of leave is at issue in both cases, it is very likely that the individual

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<sup>1</sup> *Grievance Procedure Manual* § 8.5.

<sup>2</sup> *See id.*

grievants will wish to reveal facts of a personal nature at the hearing in presenting his or her defense to the charge. Similarly, although the alleged misconduct cited in each Written Notice is the same for each grievant, it follows that a different course of events would form the basis for each incident of leave usage in question. Finally, the grievants received different levels of discipline, which appear to reflect differences in the role titles, responsibilities, and levels in the chain of command held by Grievant L and Grievant B.

In short, outside of their challenge to the same type of disciplinary action, the two grievances raise different questions and are not so closely linked that consolidation is procedurally obvious and/or efficient.<sup>3</sup> As such, the agency's request for consolidation of the grievances of Grievant L and Grievant B is denied. These grievances will proceed to separate hearings. A hearing officer will be appointed in each case in forthcoming letters to the applicable parties.

EDR's rulings on compliance are final and nonappealable.<sup>4</sup>



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<sup>3</sup> Furthermore, there is no indication that the grievants themselves are seeking a consolidated hearing. EDR will not consolidate the grievances of separate individuals without their consent.

<sup>4</sup> See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).