

Issue: Consolidation of grievances for a single hearing; Ruling Date: March 31, 2014; Ruling No. 2014-3852, 2014-3853; Agency: Virginia Polytechnic Institute and State University; Outcome: Consolidation granted in part; Consolidation not granted in part.



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

CONSOLIDATION RULING

In the matter of Virginia Polytechnic Institute & State University
Ruling Numbers 2014-3852, 2014-3853
March 31, 2014

This ruling addresses the agency's request to consolidate three grievances filed with Virginia Polytechnic Institute & State University (the agency or the University). For the reasons discussed below, the Office of Employment Dispute Resolution (EDR) finds that consolidation of two grievances into a single hearing is appropriate and practicable; however, consolidation as to the third grievance is denied.

FACTS

The grievances at issue are 1) a November 15, 2013 grievance challenging a Group II Written Notice issued to the grievant on or about October 17, 2013, 2) a December 11, 2013 grievance challenging the grievant's performance plan and rating, and 3) a March 7, 2014 grievance challenging the grievant's dismissal. The agency has requested consolidation of these three matters. The grievant objects to consolidation of all three grievances.

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.¹ 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.²

EDR finds that consolidation of the December 11, 2013 and the March 7, 2014 grievances is appropriate. These grievances appear to share common themes, claims, and witnesses, and both relate to the grievant's allegedly unsatisfactory performance, which ultimately culminated in his termination. We find that consolidation of these two grievances is not impracticable and therefore, the grievant's December 11, 2013 and March 7, 2014 grievances are consolidated for a single hearing. A hearing officer will be appointed in a forthcoming letter.

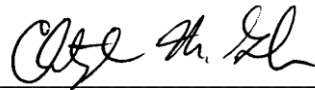
¹ *Grievance Procedure Manual* § 8.5.

² *See id.*

However, there are compelling reasons not to grant the consolidation request with respect to the November 15, 2013 grievance. First, this grievance has already been appointed to a hearing officer and dates have been set for the hearing and exchange of exhibits and witness lists. Pursuant to the *Grievance Procedure Manual*, after the appointment of a hearing officer, EDR will accept requests for consolidation for hearing only in limited circumstances.³ At this point, EDR believes it is impractical in this instance to consolidate a grievance with a pending hearing along with two others, which have yet to be appointed to a hearing officer. Furthermore, the subject matter of the November 15 grievance does not appear to be so inextricably linked with the December 11 and March 7 grievances as to render two separate hearings overly burdensome. Finally, the grievant objects to the consolidation of all three grievances for a single hearing.⁴

As such, the agency's request for consolidation of the November 15, 2013 grievance along with the December 11, 2013 and March 7, 2014 grievance is denied. The November 15 grievance will proceed to a separate hearing.

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



Christopher M. Grab
Director
Office of Employment Dispute Resolution

³ *Id.*

⁴ If all parties were in agreement with the consolidation of all matters, EDR might have reached a different conclusion.

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