

Issue: Consolidation of grievances for a single hearing; Ruling Date: February 11, 2019; Ruling No. 2019-4858; Agency: Department of Corrections; Outcome: Consolidation granted.



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

CONSOLIDATION RULING

In the matter of the Department of Corrections
Ruling Number 2019-4858
February 11, 2019

This ruling addresses the consolidation of the grievant's two grievances filed with the Department of Corrections (the "agency"). 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 December 26, 2018 expedited grievance challenging the agency's issuance of a Group II Written Notice, with suspension, for alleged failure to follow instructions and/or policy, and 2) a January 15, 2019 dismissal grievance challenging the agency's issuance of a second Group II Written Notice, with termination, for alleged use of obscene or abusive language and disruptive behavior. The agency has requested consolidation of these matters.

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.¹ 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.²

EEDR finds that consolidation of December 26, 2018 and January 15, 2019 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 two grievances are consolidated for a single

¹ *Grievance Procedure Manual* § 8.5.

² *See id.*

hearing.³ Appointment of a hearing officer will occur following completion of the management resolution steps, qualification of the grievance for hearing, and submission of a Form B with appropriate documentation by the agency in the December 26, 2018 grievance.⁴

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



Christopher M. Grab
Director
Office of Equal Employment and Dispute Resolution

³ 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.

⁴ If the December 26, 2018 grievance is otherwise resolved or closed prior to hearing, a hearing officer will be appointed in the remaining grievance for a hearing on that issue.

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