

Issue: Consolidation of grievances for a single hearing; Ruling Date: November 8, 2013; Ruling No. 2014-3761, 2014-3762; Agency: Virginia Department of Health; 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 Health
Ruling Numbers 2014-3761, 2014-3762
November 8, 2013

This ruling addresses the consolidation of the grievant's two grievances filed with the Virginia Department of Health (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 September 28, 2013 grievance regarding a Group II Written Notice issued to the grievant on or about September 3, 2013,¹ and 2) a September 28, 2013 dismissal grievance challenging a second Group II Written Notice accompanying the grievant's termination from employment. Both parties agree that consolidation is appropriate in this instance.

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.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

EDR finds that consolidation of both September 28, 2013 grievances is appropriate. These grievances involve the same grievant and could share common themes, claims, and witnesses. The grievances both relate to disciplinary actions issued to the grievant, the accumulation of which ultimately ended in her termination. Further, we find that consolidation is not impracticable in this instance. Therefore, both of the grievant's September 28, 2013 grievances are consolidated for a single hearing.


¹ This grievance is currently pending in the management resolution steps. The grievant reports she has received no response yet from the agency. If the parties agree to waive the remaining resolution steps, the grievances could proceed to hearing in short order. Otherwise, this grievance must still progress through the management resolution steps.

² *Grievance Procedure Manual* § 8.5.

³ *See id.*

Appointment of a hearing officer will occur following completion of the management resolution steps, qualification of the grievance for hearing, and submission of the Form B with appropriate documentation by the agency in the September 28, 2013 grievance currently proceeding through the management resolution steps.⁴ If either party objects or seeks to proceed with a hearing on the grievances already received by EDR alone without further delay, notification in writing should be made to EDR, with a copy to the opposing party.

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



Christopher M. Grab
Director
Office of Employment Dispute Resolution

⁴ If the grievance is otherwise resolved or closed prior to hearing, a hearing officer will be appointed in the remaining grievance.

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