

Issue: Consolidation of grievances for a single hearing; Ruling Date: August 4, 2014;  
Ruling No. 2015-3959, 2015-3960, 2015-3961; Agency: Department of Juvenile  
Justice; Outcome: Consolidated Granted.



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

**CONSOLIDATION RULING**

In the matter of the Department of Juvenile Justice  
Ruling Numbers 2015-3959, 2015-3960, 2015-3961  
August 4, 2014

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

FACTS

On or about July 28, 2014, the grievant initiated three dismissal grievances directly with EDR, to challenge three separate Written Notices that accompanied her separation from employment. The agency requests consolidation of the three grievances for a single hearing, asserting that the three Written Notices arose from the same set of facts and were issued to the grievant on the same day. Further, the agency requests that EDR assess only a single hearing fee 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.<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>

EDR finds that consolidation of the three dismissal grievances is appropriate. These grievances involve the same grievant and could share common themes, claims, and witnesses. The grievances 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, the three dismissal grievances are consolidated for a single hearing. A hearing officer will be appointed in a forthcoming letter.

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

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

The appropriate fee assessed in this matter presents a question of first impression for EDR. Pursuant to the fee schedule established by EDR's Hearings Program Administration policy, consolidated hearings shall be assessed a full fee for the first grievance, an additional half fee for the second grievance, and an additional \$400 for each subsequent grievance consolidated for a single hearing.<sup>3</sup> In this instance, the agency argues that because the Written Notices were issued to the grievant on the same day, and arose from the same set of facts, it should only be assessed a single fee for the hearing.

While EDR does not agree with the agency's argument as stated, because it would then likely follow that *every* consolidated hearing should be assessed a single fee, nevertheless, in this instance, we find that a single fee is appropriate. After consideration of the circumstances particular to the dismissal grievance process, we find that a single termination, regardless of the number of Written Notices issued to the grievant on the same day that resulted in the termination, should ordinarily be assessed a single hearing fee. Such a result is consistent with assessing a single fee for the matter where a grievant seeks to challenge multiple Written Notices accompanying a termination using a single Form A. Allowing the manner of the grievant's dismissal grievance submission to essentially dictate the fee assessed to the agency could create inconsistent results. Thus, in this case, the agency will be responsible for a single grievance hearing fee.

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



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Director  
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<sup>3</sup> EDR Policy 2.01, *Hearings Program Administration*, Attach. B.

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