

Issue: Consolidation of five separate grievances for a single hearing; Ruling Date: October 13, 2017; Ruling No. 2017-4426; Agency: Department of Social Services; Outcome: Consolidated of all five denied; Consolidation granted for two of the five, and consolidated granted for the remaining three.



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

CONSOLIDATION RULING

In the matter of the Virginia Department of Social Services
Ruling Number 2017-4426
October 13, 2016

This ruling addresses the consolidation of five separate grievances initiated with the Virginia Department of Social Services (the agency) on the following dates: October 11, 2015, February 29, 2016, March 1, 2016, March 29, 2016, and April 22, 2016. For the reasons discussed below, the Office of Employment Dispute Resolution (EDR) finds that consolidation of these grievances into two separate hearings is appropriate and practicable.

FACTS

The five grievances at issue are 1) an October 11, 2015 grievance regarding a Group I Written Notice issued to the grievant on September 11, 2015, 2) a February 29, 2016 grievance challenging the grievant's rating of "Below Contributor" on his 2014 - 2015 performance evaluation, 3) a March 1, 2016 grievance challenging a Group II Written Notice issued to the grievant on February 1, 2016, 4) a March 29, 2016 grievance challenging a second Group II Written Notice, with a two-workday suspension, issued to the grievant on February 29, 2016, and 5) an April 22, 2016 grievance challenging a third Group II Written Notice, with termination, issued to the grievant on March 21, 2016. The agency has requested consolidation of these matters.

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

While EDR finds that consolidation of the grievance in this matter is appropriate, we deem it impracticable to consolidate all five grievances for a single hearing. While all five matters may encompass an interrelated sequence of events, EDR has determined that a single hearing addressing all five matters would be unduly burdensome.

¹ *Grievance Procedure Manual* § 8.5.

² *See id.*

Consolidation of the October 11, 2015 grievance and the February 29, 2016 grievance is appropriate. In Ruling Number 2017-4413, EDR determined that “whether the overall rating of ‘Below Contributor’ [on the grievant’s performance evaluation] is supported by the facts is dependent, to some degree, on the outcome of the hearing on the Group I Written Notice.”³ These two grievances, both regarding the allegedly unsatisfactory performance of the grievant, likely share common themes, claims, and witnesses. The hearing officer should determine whether the grievant’s performance evaluation is supported by the facts overall, but specifically, those facts related to the issuance of the Group I Written Notice.⁴

The other three grievances addressed herein relate to subsequent disciplinary actions issued to the grievant. These grievances may also share common themes, claims, and witnesses. Further, consolidation is not impracticable in this instance. Therefore, the grievant’s March 1, 2016, March 29, 2016, and April 22, 2016 grievances are consolidated for a single hearing. A single hearing officer will be appointed for all of the consolidated matters in a forthcoming letter.

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



Christopher M. Grab
Director
Office of Employment Dispute Resolution

³ EDR Ruling No. 2017-4413.

⁴ *See id.*

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