



EMILY S. ELLIOTT
DIRECTOR

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

James Monroe Building
101 N. 14th Street, 12th Floor
Richmond, Virginia 23219
Tel: (804) 220-2151
(TTY) 711

CONSOLIDATION RULING

In the matter of the Virginia Department of Transportation
Ruling Number 2020-5074
March 26, 2020

This ruling addresses the consolidation of the grievant's two grievances filed with the Virginia Department of Transportation (the "agency"). For the reasons discussed below, the Office of Employment Dispute Resolution ("EDR") at the Virginia Department of Human Resource Management ("DHRM")¹ finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

The two grievances at issue are 1) an October 18, 2019 grievance challenging the agency's issuance of a Group I Written Notice for alleged unsatisfactory work performance (Case Number 11492), and 2) a March 12, 2020 dismissal grievance challenging the agency's decision to terminate his employment for unsatisfactory performance pursuant to DHRM Policy 1.40, *Performance Planning and Evaluation* (Case Number 11510).² 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.³ 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.⁴

¹ The Office of Equal Employment and Dispute Resolution has separated into two office areas: the Office of Employment Dispute Resolution and the Office of Equity, Diversity, and Inclusion. While full updates have not yet been made to the *Grievance Procedure Manual* to reflect this change, this Office will be referred to as "EDR" in this ruling. EDR's role with regard to the grievance procedure remains the same.

² The grievant has filed a third grievance with the agency challenging the issuance of a Group II Written Notice prior to his termination. That grievance is proceeding through the management steps and will not be subject to adjudication at the hearing on the two grievances addressed in this ruling.

³ *Grievance Procedure Manual* § 8.5.

⁴ See *id.*

EDR finds that consolidation of the October 18, 2019 and March 12, 2020 grievances is appropriate. These grievances involve the same grievant and could share common themes, claims, and witnesses. The grievances relate to conduct by the grievant that resulted in similar actions issued. Further, we find that consolidation is not impracticable in this instance. Therefore, the two grievances are consolidated for a single hearing.⁵ The parties will receive further correspondence from EDR regarding the appointment of a hearing officer for these matters.⁶

EDR's rulings on compliance are final and nonappealable.⁷



Christopher M. Grab
Director
Office of Employment Dispute Resolution

⁵ 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 and an additional half fee for the second grievance. See EDR Policy 2.01, *Hearings Program Administration*, Attach. B.

⁶ Case Number 11492 has already been assigned to a hearing officer. Case Number 11510 will be assigned to the same hearing officer for a single consolidated hearing.

⁷ See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).