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CONSOLIDATION RULING

In the matter of the Department of Corrections
Ruling Number 2021-5221
March 1, 2021

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 Employment Dispute Resolution ("EDR") at the Virginia Department of Human Resource Management ("DHRM") finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

The two grievances at issue are:

1. A December 20, 2020 expedited grievance challenging the agency's issuance of a Group III Written Notice with a disciplinary demotion, pay reduction, and transfer for alleged unsatisfactory performance, failure to follow instructions and/or policy, obscene or abusive language, disruptive behavior, violation of DHRM Policy 2.35, *Civility in the Workplace*, threats or coercion, and other specified misconduct; and
2. A second December 20, 2020 expedited grievance challenging the agency's issuance of a Group II Written Notice, also with a disciplinary demotion, pay reduction, and transfer, for the same or similar types of misconduct identified on the Group III Written Notice.

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

¹ *Grievance Procedure Manual* § 8.5.

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

EDR finds that consolidation of the two December 20, 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 and/or related disciplinary actions issued. Further, we find that consolidation is not impracticable in this instance. Therefore, the two grievances are consolidated for a single hearing.³ A hearing officer will be appointed in a forthcoming letter.

EDR's rulings on compliance are final and nonappealable.⁴

Christopher M. Grab
Director
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² *See id.*

³ 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.

⁴ *See* Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).