

Issue: Compliance-consolidation of grievances for purposes of hearing; Ruling Date: March 21, 2002; Ruling #2002-062; Agency: Department of Corrections; Outcome: grievances not consolidated.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

COMPLIANCE RULING OF DIRECTOR

In the matter of the Department of Corrections
Ruling Number 2002-62
March 21, 2002

The grievant has requested a compliance ruling regarding the grievances she initiated with the Department of Corrections (DOC or agency) on December 5, 2001, January 9, 2002, and February 21, 2002. The grievant requests that all three grievances be consolidated for a single hearing.

FACTS

The grievant is employed as an Institutional Counselor II. On November 5, 2001, she received a Group II Written Notice (dated October 31, 2001) for failure to follow her supervisor's instruction to not work unauthorized overtime. She grieved the Notice on December 5, 2001. On December 11, 2001, the grievant received another Group II, this time for failure to follow the agency's policy requiring documentation of all hours worked. She initiated a grievance challenging the December 11th Notice on January 9, 2002. On January 23, 2002, the grievant received another Group II Notice for failure to follow her supervisor's instruction not to work unauthorized overtime. She challenged the January 23rd Notice by filing a grievance on February 21, 2002. The grievant seeks consolidation of the three grievances and the agency does not object to consolidation.

The December 5, 2001, grievance has been qualified for hearing and a hearing officer appointed for a March 26, 2002 hearing. The January 9th grievance has been qualified for hearing, and this Department has recently received a request for the appointment of a hearing officer. The February 21st grievance is still in the resolution steps.

DISCUSSION

The Department of Employment Dispute Resolution (this Department or EDR) has long held that grievances may be consolidated at the resolution step phase of the grievance process by mutual agreement of the parties. Such consolidated grievances are permitted to

move through the resolution steps as a single grievance. However, written approval by the Director of this Department in the form of a compliance ruling is *required* before two or more grievances are permitted to advance together to a single hearing, regardless of whether the grievances were consolidated during the management steps. EDR strongly favors consolidation and will grant consolidation when grievances involve the same parties, legal issues, policies, and/or factual background, unless there is a persuasive reason to process the grievances individually.¹

Consolidation of all three grievances for hearing is inappropriate at this time because the Feb 21st grievance is still in the resolution steps. At this point, EDR will consolidate the December 5, 2001 and January 9, 2002 grievances for hearing. To consolidate the February 21, 2002 grievance, the proper procedural course of action is for the parties to petition the hearing officer for a reasonable stay (postponement) of the March 26 hearing to allow the February 21st grievance to move expeditiously through the resolution steps, qualification and appointment process.² Either party can then renew a request for consolidation to this Department. Because all three grievances involve the same general issues, policies, and individuals, consolidation would likely be granted assuming that (1) the parties move promptly to request the appointment of a hearing officer, (2) consolidation is practicable, and (3) neither the hearing officer nor any party has a persuasive objection to consolidation.

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¹ *Grievance Procedure Manual* § 8.5, page 22.

² The grievance will automatically be qualified as it challenges formal discipline, a Written Group Notice. *Grievance Procedure Manual* § 4.1(a), page 10.