

Issue: Compliance-consolidation of grievances for purposes of hearing; Ruling Date: March 22, 2002; Ruling #2002-063; 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 2002-063
March 22, 2002

The grievant has requested a compliance ruling regarding the grievances she initiated with the Department of Corrections (DOC or agency) on January 11, 2002, and February 13, 2002. The grievant requests that both grievances be consolidated for a single hearing.

FACTS

The grievant is employed as a Senior Corrections Officer. On January 11, 2002, she received a Group II Written Notice and five-day suspension for her alleged failure to bring in a doctor's note, following her supervisor's repeated verbal and written instructions. She grieved the discipline that same day, January 11, 2002. That grievance has been assigned to a hearing officer and a hearing has been scheduled.

On January 28, 2002, the grievant received a Group III Written Notice with a ten-day "suspension pending approval of termination by Regional Director", for alleged fraternization with inmates. According to her Form A, she grieved this discipline on February 13, 2002. This grievance is still at the third resolution step, and has not yet been qualified for hearing.

DISCUSSION

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 be consolidated in a single hearing. 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

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

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This Department finds that consolidation of both grievances at hearing in this case is inappropriate. First, the second grievance is still in the resolution steps and has not been qualified and assigned for hearing. Moreover, even if the second grievance were ready to be assigned to a hearing officer, the two grievances do not involve the same general issues, policies, witnesses, or evidence; indeed, the grievances involve separate issues with little commonality. This Department therefore concludes that separate hearings will be required. This ruling leaves open the possibility that the second grievance could be heard just after the hearing on the first grievance, if the hearing officer deems it practicable and appropriate.

Neil A. G. McPhie, Esquire
Director