

Issue: Compliance/Consolidation; Ruling Date: October 18, 2002; Ruling #2002-179;
Agency: Virginia Department of Transportation; Outcome: Consolidated.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

COMPLIANCE RULING OF DIRECTOR

In the matter of Department of Transportation
Ruling Number 2002-179
October 18, 2002

The grievant has requested a compliance ruling regarding two grievances initiated against the agency on June 24, 2002 and September 4, 2002. The grievant and the Department of Transportation (VDOT) request that both grievances be consolidated for a single hearing.

FACTS

The grievant is employed as an Information Technology Specialist II. On May 24, 2002, she was issued a Group I Written Notice for failure to follow supervisor's instructions. On June 24, 2002, the grievant initiated a grievance to challenge the disciplinary action citing discrimination and harassment. The grievance was unresolved during the respondent steps and was qualified for hearing.

On August 7, 2002, the grievant was issued a Group II Written Notice for failure to follow her supervisor's instructions. On September 4, 2002, she initiated a grievance to challenge the disciplinary action citing discrimination and/or retaliation. This grievance was also unresolved during the respondent steps and qualified for hearing.

DISCUSSION

The grievance procedure provides that if more than one grievance is pending involving the same parties, legal issue, policies, and/or factual background, either party may request consolidation unless there is a persuasive reason to process the grievances individually.¹ This Department has long held that grievances may be consolidated for

¹ *Grievance Procedure Manual* § 8.5, page 22. While the parties to a grievance may elect to treat multiple grievances as one through the management steps, only the Director of this Department has the authority to consolidate multiple grievances for hearing.

hearing by this Department whenever the grievances challenge the same action or series of actions or arise out of the same material facts. EDR strongly favors consolidation and will grant consolidation unless there is a persuasive reason to process the grievances individually.²

Where alleged discrimination is grieved, and each grievance challenges a discrete action by management to support this characterization, as in this case, it is appropriate to consolidate the grievances for a single hearing. Further, the parties agree to consolidation and it appears that consolidation would not lead to impracticable results. Accordingly, the grievances are consolidated for hearing. This Department's rulings on matters of compliance are final and nonappealable.³

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Director

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² *Grievance Procedure Manual* § 8.5, page 22.

³ Va. Code § 2.2-1001(5).