

Issue: Compliance/consolidation of grievances for purposes of hearing; Ruling Date:
November 14, 2002; Ruling #2002-206; Outcome: not consolidated



COMMONWEALTH of VIRGINIA

Department of Employment Dispute Resolution **COMPLIANCE RULING OF DIRECTOR**

In the matter of Department of Transportation
Ruling Number 2002-206
November 14, 2002

The agency has requested a compliance ruling regarding two grievances initiated by the grievant on August 27, 2002 and September 3, 2002. The agency requests that both grievances be consolidated for a single hearing, to which the grievant agrees. For the reasons discussed below, these two grievances are not consolidated and will proceed to separate hearings and decisions.

FACTS

Until his termination, the grievant was employed as a Senior Patroller. On August 23, 2002, he received a Group II Written Notice for failure to follow established policies by allegedly accepting a \$20 gratuity from a motorist in May, 2002. He grieved the disciplinary action on August 27, 2002.

On August 30, 2002, the grievant received a Group III Written Notice with termination for falsification of his employment application in 1999 and 2002. He grieved this disciplinary action on September 3, 2002.

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 For example, if consolidation for hearing would be impracticable, the EDR Director may direct that the grievance be heard by the same hearing officer, but with separate hearings and decisions.²

This Department finds that consolidation of both grievances at hearing in this case is inappropriate: the two Group Notices are distinct disciplinary actions issued for

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

² Rules for Conducting Grievance Hearings, § III (C), page 3.

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factually unrelated, separate offenses occurring over a span of three years. For that reason, the two grievances will be heard by the same hearing officer, but with separate hearings and decisions. In the interest of efficiency and economy, either party may request that the hearing officer conduct the hearings consecutively, on the same date, if practicable. This Department's rulings on compliance are final and nonappealable.³

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Director

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³ Va. Code § 2.2-1001 (5).