

Issue: Compliance/Consolidation of grievances for purposes of hearing; Ruling Date: February 18, 2003; Ruling #2003-036; Agency: Department of Accounts; Outcome; Not consolidated



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution
COMPLIANCE RULING OF DIRECTOR

In the matter of Department of Accounts
Ruling Number 2003-036
February 18, 2003

The grievant has requested a compliance ruling regarding two grievances that she initiated on January 16, 2003. The grievant requests that both grievances be consolidated for a single hearing, to which the agency agrees. For the reasons discussed below, these two grievances may not be consolidated for hearing and will proceed to separate hearings and decisions.

FACTS

The grievant is employed as a Payroll Benefits Analyst. On December 20, 2002, she was issued a Group II Written Notice for failure to follow supervisory instructions.¹ On the same date, she was issued another Group II Written Notice, also for failure to follow supervisory instructions.² On January 16, 2002, she initiated separate grievances challenging each disciplinary action, but requesting that they be consolidated at the agency review level. The agency agreed and the two grievances proceeded to the second-step meeting and agency head qualification together.³

DISCUSSION

Written approval by the Director of this Department in the form of 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.⁴ 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.⁵

In this case, consolidation of both grievances at hearing is inappropriate: although both group notices were issued for alleged failure to follow supervisory

¹ The grievant was instructed to submit Healthcare Reconciliations to management for approval prior to submitting them to her agencies, which she allegedly failed to do in October and November 2002.

² On December 10, 2002, the grievant allegedly failed to prepare correcting entry on payroll as instructed by her supervisor.

³ The grievant alleged discrimination or retaliation on each of her grievances and initiated them with her next level of management. Since her supervisor reported to the agency head, the three respondent steps were combined into a single step.

⁴ *Grievance Procedure Manual* § 8.5, page 22.

⁵ *Rules for Conducting Grievance Hearings*, III. (C), page 3.

instructions, the two Group Notices are distinct disciplinary actions issued for unrelated, separate offenses that allegedly occurred on different dates, and thus would appear to involve different facts. For that reason, the two grievances are to 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.⁶

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⁶ Va. Code § 2.2-1001 (5).