

Issue: Compliance/Consolidation of grievances for purposes of hearing; Ruling Date: April 7, 2003; Ruling #2003-059; Agency: Department of Mental Health, Mental Retardation and Substance Abuse Services; Outcome: grievances consolidated



## ***COMMONWEALTH of VIRGINIA***

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

In the matter of Department of Mental Health, Mental Retardation, and Substance Abuse  
Services  
Ruling Number 2003-059  
April 7, 2003

The agency has requested a compliance ruling regarding two grievances initiated by the grievant on January 10, 2003. The agency requests that the two grievances be consolidated for a single hearing, to which the grievant agrees. For the reasons discussed below, the two grievances are consolidated and will proceed to qualification and hearing as one grievance.

#### **FACTS**

Until her termination, the grievant was employed as a Human Services Care Worker. On December 12, 2002, she was issued a Group III Written Notice with termination for allegedly sleeping during work hours on November 24, 2002. On the same date, she was issued a Group II Written Notice with termination for failure to report to work as scheduled on November 25, 2002, which was the following workday. On January 10, 2003, she initiated separate grievances challenging the two disciplinary actions and her termination. The two grievances proceeded through the respondent steps together.

#### **DISCUSSION**

Written approval by the Director of this Department or her designee in the form of compliance ruling is required before two or more grievances are permitted to be consolidated for purposes of 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.<sup>1</sup>

This Department finds that consolidation of both grievances at hearing in this case is appropriate: the material facts of the two grievances overlap, the grievances involve the

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<sup>1</sup> *Grievance Procedure Manual* § 8.5, page 22.

same parties, the parties agree to consolidation, and consolidation is not impracticable in this instance. This Department's rulings on compliance are final and nonappealable.<sup>2</sup>

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William G. Anderson, Jr.  
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for Claudia T. Farr  
Director

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<sup>2</sup> Va. Code § 2.2-1001 (5).