

Issue: Compliance/Consolidation of two grievants grievances consolidated for purposes of hearing; Ruling date: June 23, 2003; Ruling #2003-115 and 2003-116; Agency: Department of Mental Health, Mental Retardation and Substance Abuse Services; Outcome: 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 2003-115 and 2003-116
June 23, 2003

The two grievants have requested a compliance ruling in their May 16, 2003 grievances with the Department of Mental Health, Mental Retardation, and Substance Abuse Services (agency). The grievants request that their individual grievances be consolidated for a single hearing, to which the agency agrees. For the reasons discussed below, the two grievances are consolidated and will proceed to hearing together, but the hearing officer is directed to issue a separate decision for each grievant.

FACTS

Each of the grievants is employed as a Food Service Technician II. On April 25, 2003, they were both issued a Group II Written Notice for failure to follow agency policy and supervisor instructions.¹ On May 16, 2003, they each initiated a grievance to challenge the disciplinary action.

DISCUSSION

Written approval by the Director of this Department or her designee 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.²

This Department finds that consolidation of the two grievances at hearing in this case is appropriate: the material facts of the two grievances are identical, the grievances involve the same management officials, all parties agree to consolidation, and consolidation is not impracticable in this instance. This Department's rulings on compliance are final and nonappealable.³

¹ On or about April 11, 2003, the grievants refused to sign a Health Insurance Portability and Accountability Act (HIPAA) Confidential Statement.

² Grievance Procedure Manual § 8.5, page 22.

³ Va. Code § 2.2-1001 (5).

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