

Issue: Compliance/Consolidation for purposes of hearing; Ruling Date: February 19, 2004; Ruling #2004-598; Agency: University of Virginia; Outcome: grievances consolidated for hearing



COMMONWEALTH of VIRGINIA

Department of Employment Dispute Resolution

COMPLIANCE RULING OF DIRECTOR

In the matter of Department of University of Virginia

Ruling Number 2004-598

February 19, 2004

The agency has requested a compliance ruling regarding two grievances initiated by the grievant on January 6 and January 22, 2004. The issue is whether the two grievances should 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 hearing together, but the hearing officer's decision shall address each grievance separately.

FACTS

Until his termination, the grievant was employed as an Administrative and Office Specialist III. On December 8, 2003, the grievant was issued a Group II Written Notice with suspension for failure to perform assigned work. On January 6, 2004, he initiated a grievance to challenge the disciplinary action. The grievance was unresolved during the respondent steps and qualified for hearing.

On his annual performance evaluation for the 2002-2003 performance cycle, the grievant received a rating of **Below Contributor**. The grievant was also rated as **Below Contributor** on the mandated three (3)-month re-evaluation, resulting in his termination.¹ On January 22, 2003, the grievant initiated a grievance challenging the **Below Contributor** rating he received on the three (3)-month performance re-evaluation and his termination. This grievance was also unresolved during the resolution steps and qualified for hearing. The agency requests that the two grievances be consolidated for a single hearing.

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

¹ Under DHRM Policy 1.40, Performance Evaluation, employees who are rated as **Below Contributor** on their annual evaluation must be re-evaluated for a three (3)-month period. If their performance is again rated as **Below Contributor**, they may be terminated from employment.

² Grievance Procedure Manual § 8.5, page 22.

This Department finds that consolidation of the two grievances at hearing in this case is appropriate: the factual backgrounds of the two grievances overlap and are interrelated, the grievances involve the same management officials, the parties mutually agree on consolidation, and consolidation is not impracticable in this instance. This Department's rulings on compliance are final and nonappealable.³

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³ Va. Code § 2.2-1001 (5).