

Issue: Compliance/consolidation of grievances for purposes of hearing; Ruling Date: June 2, 2004; Ruling #2004-730; Agency: Department of Corrections; Outcome: grievances consolidated for purposes of hearing



**COMMONWEALTH of VIRGINIA**  
**Department of Employment Dispute Resolution**  
**COMPLIANCE RULING OF DIRECTOR**  
In the matter of Department of Corrections  
Ruling Number 2004-730  
June 2, 2004

The grievant has requested a compliance ruling regarding two grievances initiated on March 18 and May 3, 2004. The issue is whether the two grievances should be consolidated for a single hearing, to which the agency objects, essentially, on the basis that the grievances challenge two separate and distinct actions. 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

The grievant was formerly employed as a Senior Probation Officer. On February 20, 2004, she was issued a Group II Written Notice with two day suspension for failure to follow supervisor's instructions.<sup>1</sup> On March 18, 2004, the grievant initiated a grievance to challenge the disciplinary action. The grievance was unresolved during the management resolution steps, and on April 28, 2004, was qualified for hearing.

The grievant's subsequent denial and explanation of events that led to the issuance of the February 20<sup>th</sup> disciplinary action reportedly cast doubt on her professionalism and credibility with the Judges of the Court. Subsequently on April 2, 2004, by joint action, the Court issued an order rescinding the grievant's authorization as an Officer of the Circuit Courts for the County of Chesterfield and City of Colonial Heights, thereby rendering her unable to meet the conditions of her employment.<sup>2</sup>

On April 5, 2004, the agency removed the grievant from employment as a result of the loss of her court certification. On May 3, 2004, she initiated a grievance challenging her removal. The grievance was unresolved during the resolution steps, and on May 19, 2004, was qualified for hearing. The grievant requests that the two grievances be consolidated for a single hearing.

DISCUSSION

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<sup>1</sup> This website-posted decision corrects a factual error in the original decision. The original decision stated that the suspension was five days instead of two.

<sup>2</sup> Under DHRM Policy 1.60, *Standards of Conduct*, an employee who becomes unable to meet the working conditions of their job due to loss of license or certification required for the job may be removed from employment. See IV.A. (3), page 4.

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.<sup>3</sup>

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, and consolidation is not impracticable in this instance. This Department's rulings on compliance are final and nonappealable.<sup>4</sup>

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Claudia T. Farr  
Director

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June M. Foy  
EDR Consultant, Sr.

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<sup>3</sup> Grievance Procedure Manual § 8.5, page 22.

<sup>4</sup> Va. Code § 2.2-1001 (5).