

Issue: Compliance/consolidation of two grievances for purposes of hearing; Ruling Date: December 7, 2004; Ruling #2004-911; Agency: Department of Corrections; Outcome: grievances are 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 2004-911
December 7, 2004

The grievant through his representative has requested a compliance ruling regarding one grievance initiated on August 11, 2004 and another grievance he initiated on October 13, 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 there were two separate and distinct actions. For the reasons discussed below, the two grievances are consolidated and will proceed to hearing together. The hearing officer, in his discretion, may address the two actions separately in one decision, or in two separate decisions.

FACTS

The grievant is employed by the agency as a Corrections Officer. On August 2, 2004, the grievant was issued a Group II Written Notice for failure to follow supervisory instructions.¹ On August 11, 2004, he initiated a grievance to challenge the Written Notice. On September 22, 2004, the grievant was issued a Group III Written Notice with demotion for actions unbecoming of a Corrections Supervisor.² The grievant initiated a grievance challenging these actions on October 13, 2004.

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.³

While the Group Notices being grieved are distinct disciplinary actions issued for separate alleged offenses, this Department finds that consolidation of the two grievances is nevertheless appropriate. The grievances involve the same management officials,

¹ The date of the alleged offense was July 6, 2004.

² The date of the alleged offense was September 17, 2004.

³ *Grievance Procedure Manual*, § 8.5.

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witnesses, and consolidation is not impracticable in this instance. Additionally, consolidation will allow exploration of the grievant's claim of disciplinary harassment raised in his grievance of August 11, 2004. This Department's rulings on compliance are final and nonappealable.⁴

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Director

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⁴ Va. Code § 2.2-1001 (5).