

Issue: Compliance/Consolidation of grievances for purposes of hearing; Ruling Date: January 20, 2005; Ruling #2005-940; Agency: Virginia Department of Health; Outcome: consolidated; hearing officer may issue one or two separate decisions.



**COMMONWEALTH of VIRGINIA**  
**Department of Employment Dispute Resolution**  
**COMPLIANCE RULING OF DIRECTOR**

In the matter of Department of Health  
Ruling Number 2004-940  
January 20, 2005

The Department of Health (DOH or the agency) seeks a compliance ruling regarding two grievances initiated by the grievant on September 24, 2004. 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 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 Field Services Engineer. On August 26, 2004, the grievant was issued a Group II Written Notice for failure to report to work as scheduled without proper notification to his supervisor.<sup>1</sup> On the same date, he was also issued a Group III Written Notice with suspension for sleeping during work hours.<sup>2</sup> On September 24, 2004, the grievant initiated separate grievances challenging each of the disciplinary actions.<sup>3</sup>

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.<sup>4</sup>

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,

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<sup>1</sup> The date of the alleged offense was June 28-July 9, 2004.

<sup>2</sup> The date of the alleged offense was July 29, 2004.

<sup>3</sup> The two grievances advanced through the management respondent steps together, and by mutual agreement of the parties, were consolidated for purposes of the face-to-face fact finding meeting.

<sup>4</sup> *Grievance Procedure Manual*, § 8.5.

witnesses, both parties agree to consolidation, and most importantly, consolidation is not impracticable. This Department's rulings on compliance are final and nonappealable.<sup>5</sup>

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Claudia T. Farr  
Director

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June M. Foy  
EDR Consultant, Sr.

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<sup>5</sup> Va. Code § 2.2-1001 (5).