

Issue: Consolidation request for purposes of hearing; Ruling Date: August 3, 2005;
Ruling #2005-1083, 2005-1084; Agency: Department of Social Services; Outcome: two
grievances consolidated for purposes of hearing.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution
CONSOLIDATION RULING OF DIRECTOR

In the matter of Department of Social Services
Ruling Number 2006-1083 and 2006-1084
August 3, 2005

The grievant seeks a consolidation ruling regarding two grievances she initiated on May 13 and June 27, 2005. The issue is whether the two grievances should 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. The hearing officer, in his discretion, may address the two actions separately in one decision, or in two separate decisions.

FACTS

The grievant was formerly employed by the agency as an Administrative Procurement Specialist. On March 19, 2004, she was suspended pending an investigation into allegations of food stamp fraud. As of May 13, 2005, the grievant's case was unresolved and she remained in a suspended status. On that date, she initiated a grievance challenging that the agency had violated her due process rights by failing to resolve her case in a timely manner. The grievance was unresolved during the management resolution step, and on June 21, 2005 was qualified for hearing by the agency head.

In the interim, the agency completed its investigation of the grievant for alleged food stamp fraud. On June 16, 2005, she was issued a Group III Written Notice with termination for committing fraud to receive disaster food stamp benefits. On June 27, 2005, she initiated a grievance challenging the disciplinary action and her termination. The grievance was unresolved during the management resolution step and on July 15, 2005 was qualified for hearing by the agency head.

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.¹

This Department finds that consolidation of the May 13 and June 27, 2005 grievances is appropriate. The grievances involve the same parties, potential witnesses, share a common factual background, and are essentially inextricably intertwined. Furthermore, consolidation is not impracticable in this instance. This Department's rulings on compliance are final and nonappealable.²

Claudia T. Farr
Director

June M. Foy
EDR Consultant, Sr.

¹*Grievance Procedure Manual*, §8.5.

² Va. Code § 2.2-1001 (5).