

Issue: Consolidation of grievances for purposes of hearing/ Grievance issues:
Compensation-in-band bonus, reimbursement/salary disputes; voluntary demotion;
discipline; failure to follow instruction/policy; retaliation/grievance activity participation;
Ruling Date: October 7, 2005; Ruling #2006-1148, 2006-1163, Agency: Virginia
Information Technologies Agency; Outcome: grievances consolidated for hearing.



COMMONWEALTH of VIRGINIA

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

In the matter of Virginia Information Technologies Agency
Ruling Number 2006-1148 and 2006-1163
October 7, 2005

The Virginia Information Technologies Agency (VITA) seeks a compliance ruling regarding two grievances initiated by the grievant on August 24 and September 19, 2005. 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. 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 Seat Management Operations Manager. On June 15, 2005, the grievant resigned as Desktop Support Manager to accept voluntary demotion to his current position in a lower Pay Band. Effective on August 1, 2005, his pay reflected a reduction in salary as a result of the demotion. On August 24, 2005, the grievant initiated a grievance challenging that his pay was unjustly reduced as a result of his involuntary resignation due to duress, and retaliation by his supervisor. The grievance was unresolved during the management respondent step and on September 27, 2005, was qualified for hearing by the agency head's designee.

Later on September 15, 2005, the grievant was issued a Group I Written Notice for failure to follow his supervisor's instruction. On September 19, 2005, the grievant initiated a grievance to challenge the disciplinary action as retaliatory. The grievance was unresolved during the management respondent step and on September 27, 2005, was qualified for hearing by the agency head's designee.

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

While the issues being grieved originate from separate and distinct events, this Department finds that consolidation of the two grievances is nevertheless appropriate. The grievances involve the same management officials, both parties agree to consolidation, and most importantly, consolidation is not impracticable. Additionally, consolidation will allow exploration of the grievant's claim of retaliation raised both in his grievance of August 24 and September 19, 2005. This Department's rulings on compliance are final and nonappealable.²

Claudia T. Farr
Director

June M. Foy
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¹*Grievance Procedure Manual*, §8.5.

² Va. Code § 2.2-1001 (5).