

Issue: Consolidation of grievances for purposes of hearing; grievance issue; discipline/failure to follow instructions/policy; Ruling Date: October 7, 2005; Ruling #2006-1156, 2006-1158, Agency: Department of Fire Programs; Outcome: consolidated for hearing



COMMONWEALTH of VIRGINIA

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

In the matter of Department of Fire Programs
Ruling Number 2006-1156 and 2006-1158
October 7, 2005

The Department of Fire Programs (DFP) seeks a compliance ruling regarding two grievances initiated by the grievant on August 11 and September 6, 2005. The issue is whether the two grievances should be consolidated for a single hearing, to which the grievant agrees.¹ 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 Branch Chief. On July 13, 2005, he was issued a Group II Written Notice for failure to perform assigned work. On August 11, 2005, the grievant initiated a grievance to challenge the disciplinary action. By mutual agreement, the parties elected to by-pass the respondent steps and proceed directly to qualification and the hearing. On September 7, 2005, the grievance was qualified for hearing by the agency head.

Later on August 18, 2005, the grievant was issued a Group II Written Notice with suspension for failure to perform assigned work and follow supervisor's instructions. On September 7, 2005, the grievant initiated a grievance to challenge the disciplinary action and suspension. By mutual agreement, the parties again elected to by-pass the respondent steps and proceed directly to qualification and the hearing. On September 22, 2005, the grievance 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

¹ The request for consolidation was made jointly by the grievant and DFP.

factual background, unless there is a persuasive reason to process the grievances individually.²

This Department finds that consolidation of the August 11 and September 6, 2005 grievances is appropriate. The grievances involve the same parties, potential witnesses, share a common factual background,³ and are essentially inextricably intertwined. Furthermore, consolidation is not impracticable in this instance. This Department's rulings on compliance are final and nonappealable.⁴

Claudia T. Farr
Director

June M. Foy
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²*Grievance Procedure Manual*, §8.5.

³ In both disciplinary actions, the grievant is cited for failure to timely process reimbursement transactions.

⁴ Va. Code § 2.2-1001 (5).