

Issue: Consolidation/request to consolidate three individuals' grievances for purposes of hearing; Ruling Date: December 14, 2005; Ruling #2006-1207, 2006-1208, 2006-1209; Agency: Virginia Information Technologies Agency; Outcome: consolidation is appropriate and practicable.

December 14, 2005

Ruling #'s 2006-1207, 2006-1208, 2006-1209

Page 2



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

In the matter of  
Virginia Information Technologies Agency  
Ruling Numbers 2006-1207, 2006-1208, and 2006-1209  
December 14, 2005

Grievants #1, #2, and #3 seek a compliance ruling consolidating their three grievances for a single hearing. The Virginia Information Technologies Agency (VITA or the agency) agrees to the consolidation. For the reasons discussed below, this Department finds that consolidation is appropriate and practicable.

FACTS

On September 15, 2005, the agency issued each of the three grievants a Group II Written Notice for alleged violations of state and agency policies regarding Internet and electronic mail use. The grievants initiated individual grievances challenging the disciplinary actions on October 13, 2005. The three grievances were unresolved during the management resolution steps, and subsequently qualified for hearing by the agency head. The grievants have asked that their grievances be consolidated for hearing, on the ground that the grievances involve "overlapping issues based on the same actual or alleged Agency policies." The agency has agreed to this request.

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>1</sup>

This Department finds that consolidation of the three grievances is appropriate. The three grievances apparently involve the same legal issues and policies, the parties have agreed to consolidate the grievances, and consolidation is not impracticable in this instance. The hearing officer shall independently assess the merits of each grievance and

---

<sup>1</sup> *Grievance Procedure Manual*, § 8.5.

December 14, 2005

Ruling #'s 2006-1207, 2006-1208, 2006-1209

Page 3

separately address the merits of each grievance.<sup>2</sup> This Department's rulings on compliance are final and nonappealable.<sup>3</sup>

---

Claudia T. Farr  
Director

---

Gretchen M. White  
EDR Consultant

---

<sup>2</sup> The hearing officer is granted the discretion of addressing the merits of the three grievances in a single consolidated decision or three separate decisions. The grievants have asked, as a "caveat or proviso" to their request for consolidation, that the consolidated hearing last a minimum of 12 hours. Determinations regarding the appropriate length of hearing are squarely within the hearing officer's discretion.

<sup>3</sup> Va. Code § 2.2-1001 (5).