

Issue: Consolidation/request to consolidate two grievances for purposes of hearing; Ruling Date: May 4, 2006; Ruling #2006-1221, 2006-1222; Agency: Department of Forensic Science; Outcome: consolidation granted



## ***COMMONWEALTH of VIRGINIA***

### ***Department of Employment Dispute Resolution***

#### **CONSOLIDATION RULING OF DIRECTOR**

In the matter of the Department of Forensic Science  
Ruling Number 2006-1221 and 2006-1222 (addendum)  
May 4, 2006

For the reasons set forth below, this Department consolidates the two November 7, 2005 grievances qualified in Ruling Number 2006-1221 and 1222 for a single hearing.

#### **FACTS**

The grievant was employed as a Forensic Evidence Specialist with Department of Forensic Science. On September 12, 2005, the grievant was issued a Written Notice for her job performance. The grievant challenged the Written Notice by initiating a grievance. During the management resolution steps the discipline was rescinded by the second-step respondent because the grievant's immediate supervisor stated, at the second-step meeting, that the conduct for which the grievant was being disciplined had been observed with others who were not disciplined.

In October, the grievant was presented with her 2005 performance evaluation. The evaluation rated her overall as "Below Contributor" with "Contributor" marked for three elements and "Below Contributor" rating for the remaining three elements. Dissatisfied with her evaluation, the grievant initiated a grievance on November 7, 2005 challenging the evaluation as arbitrary and capricious. The grievant initiated a second grievance on the same day, asserting that she was being retaliated against for having grieved the Written Notice that was rescinded.

After the agency head declined to qualify the grievances, the grievant requested that this Department qualify the grievances. On May 3, 2006, this Department qualified both grievances.

#### **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 November 7, 2005 grievances is appropriate. The grievances involve the same parties, potential witnesses, and share a common theme of purported retaliation. Furthermore, consolidation is not impracticable in this instance. This Department's rulings on compliance are final and nonappealable.<sup>2</sup>

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Claudia T. Farr  
Director

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William G. Anderson, Jr.  
EDR Consultant, Sr.

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

<sup>2</sup> Va. Code § 2.2-1001 (5).