

Issue: Consolidation/four grievances for consolidation for purposes of hearing; Ruling  
Date: January 6, 2006; Ruling #'s 2006-1243, 2006-1244, 2006-1251, 2006-1246;  
Agency: Department of Social Services; Outcome: consolidated for purposes of hearing



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

In the matter of the Department of Social Services  
Ruling Numbers 2006-1243, 2006-1244, 2006-1251 and 2006-1246  
January 6, 2006

The Department of Social Services (DSS or agency) has requested a compliance ruling regarding four grievances initiated by one of its employees. The agency seeks to have the four grievances consolidated for a single hearing, to which the grievant agrees. For the reasons discussed below, the four grievances are consolidated and will proceed to hearing together. The hearing officer, in his discretion, may address the four actions separately in one decision, or in four separate decisions.

FACTS

The grievant is employed by the agency as a Quality Assurance Supervisor. She claims that in mid June 2005, an employee approached her complaining that an Acting Division Manager was inappropriately using a state vehicle for personal use. The grievant advised the employee that she should report her concerns to the state's Fraud, Waste and Abuse Hotline. The grievant claims that following a Fraud Waste, and Abuse investigation, the Acting Division Manager was given a warning and required to reimburse the state for his improper use of the state car.

The grievant asserts that somewhere around late July to mid August, she was approached by two employees, including the former Executive Secretary of the Acting Division Manager, and was asked why she had made the complaint against the Acting Division Manager. The grievant asserts that shortly thereafter, she received a Notice of Improvement Needed/Substandard Performance form issued by her immediate supervisor and the Acting Division Manager. The grievant then received a "Below Contributor" rating on her annual performance evaluation, which had been reviewed by the Acting Division Manager. In addition, the Acting Division Manager issued the grievant a Group II Written Notice with termination dated October 31, 2005, purportedly based on spelling and grammatical errors contained in performance evaluations that she prepared for her subordinates. The grievant challenged her performance evaluation, the Notice of Improvement Needed, and the Group II Written Notice in four separate November 17, 2005 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>

While the actions being grieved are separate and distinct actions, this Department finds that consolidation of the four grievances is nevertheless appropriate. In each of the four grievances, the grievant asserts that the actions taken against her were in retaliation for her involvement, or perceived involvement, with the Fraud, Waste and Abuse Hotline call. The grievances appear to involve the same parties and 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 in each of the grievances. 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).