

Issue: Consolidation/consolidate grievances for purposes of hearing; Ruling Date:
March 20, 2006; Ruling #2006-1294, 2006-1295; Agency: Department of Corrections;
Outcome: consolidated for purposes of hearing.



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

In the matter of Department of Corrections
Ruling Number 2006-1294 and 2006-1295
March 20, 2006

For the reasons discussed below, the grievant's two grievances of January 19, 2006 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 was formerly employed by the agency as a Regional Ombudsman. On December 19, 2005, he was issued a Group III Written Notice with termination for falsifying state documents.¹ On the same date, he was also issued a Group II Written Notice with termination for failure to perform assigned work.² On January 19, 2006, he initiated separate grievances challenging each disciplinary action and the termination of his employment. The two grievances were unresolved during the management respondent steps, and on February 2 and February 21, 2006, were qualified for hearing by the agency head.

DISCUSSION

This Department may consolidate grievances with or without a request from either party whenever more than one grievance is pending involving the same parties, legal issues, and/ or factual background.³ EDR strongly favors consolidation and will grant consolidation unless there is a persuasive reason to process the grievances individually.⁴ In this instance, both parties agree to consolidation.

¹ Grievant allegedly falsified reports indicating that he had conducted a quarterly visit to two facilities on April 7, 2005.

² Grievant allegedly failed to conduct quarterly visits to his assigned institution from January to October 2005.

³ *Grievance Procedure Manual*, § 8.5.

⁴ *Id.*

This Department finds that consolidation of the two January 19th grievances is appropriate. The grievances involve the same parties, potential witnesses, share a common factual background, and are essentially inextricably intertwined. Furthermore, consolidation is not impracticable in this instance. This Department's rulings on compliance are final and nonappealable.⁵

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Director

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⁵ Va. Code § 2.2-1001 (5).