

Issue: Consolidation/consolidate grievances for the purposes of hearing; Ruling Date: July 19, 2006; Ruling #'s 2007-1394, 2007-1395; Agency: Jamestown-Yorktown Foundation; Outcome: consolidated for hearing



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

CONSOLIDATION RULING OF DIRECTOR

In the matter of Jamestown-Yorktown Foundation
Ruling Number 2007-1394, 2007-1395
July 19, 2006

The Jamestown-Yorktown Foundation (the agency) has requested consolidation of the grievant's May 8, 2006 and May 12, 2006 grievances for hearing. 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

parties, legal issues, policies, and/or factual background, unless there is a persuasive reason to process the grievances individually.²

This Department finds that consolidation of the May 8th and May 12th grievances is appropriate. The grievances involve many of the same parties and potential witnesses, as well as related claims. Furthermore, consolidation is not impracticable in this instance.

We further note that although the agency head did not qualify the grievant's allegations of harassment, retaliation, and hostile environment, these claims are nevertheless properly before the hearing officer. In this case, these allegations are not asserted as independent claims, but rather as defenses to the challenged disciplinary actions. To allow a grievant to challenge a disciplinary action, while precluding her from raising appropriate arguments as to why that action was improper or unwarranted, would significantly undermine the purpose and effectiveness of the grievance procedure. Finally, by noting that the grievant's allegations of retaliation, harassment and hostile environment are properly before the hearing officer, we are in no way determining or suggesting that the agency's actions with respect to the grievant were retaliatory or otherwise improper. Rather, we are only clarifying that regardless of the merits of a grievant's defense to a disciplinary action, that defense shares the same automatic qualification status as the disciplinary action itself.

This Department's rulings on compliance are final and nonappealable.³

Claudia T. Farr
Director

² *Id.*

³ Va. Code § 2.2-1001 (5).