

Issue: Consolidation of grievances for purposes of hearing; Ruling Date: November 17, 2006;
Ruling Nos. 2007-1479, 2007-1480; Agency: Department of Corrections; Outcome:
consolidation granted.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

CONSOLIDATION RULING OF DIRECTOR

In the matter of the Department of Corrections
Ruling Number 2007-1479, 2007-1480
November 17, 2006

The Department of Corrections (DOC or the agency) has requested consolidation of the grievant's two grievances for hearing, both of which were initiated on October 2, 2006 for an event that occurred on July 19, 2006. 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 grievances separately in one decision, or in two separate decisions.

FACTS

The grievant was employed as a Corrections Lieutenant with the agency. On September 26, 2006, the grievant received two Group III Written Notice for (1) the appearance of fraternization, and (2) the appearance of creating a hostile workplace for staff. Both of these Written Notices relate to the grievant's response to a July 19, 2006 incident in which an employee allegedly allowed an inmate to remain in the pod and intimidate nurses. The grievant grieved the Written Notices on October 2, 2006 on separate grievance forms. Both grievances proceeded through the management steps and were qualified for hearing by the agency head. The agency has now asked that the grievances be consolidated for hearing and the grievant has no objection to consolidation.

DISCUSSION

Approval by the Director of this Department or her designee in the form of a compliance ruling is required before two or more grievances may be consolidated in a single hearing. Moreover, EDR may consolidate grievances for hearing without a request from either party.¹ EDR strongly favors consolidation and will consolidate grievances when they involve the same 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 two October 2nd grievances is appropriate. The grievances concern the discipline of one grievant, involve the same parties and potential witnesses, and relate to the same series of events. Furthermore, consolidation is not impracticable in this instance.

¹ *Grievance Procedure Manual* § 8.5.

² *Id.*

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

Claudia T. Farr
Director

³ Va. Code § 2.2-1001(5).