

Issue: Consolidation/consolidate three grievances for purposes of hearing; Ruling Date: November 17, 2006; Ruling Nos. 2007-1491, 2007-1492, 2007-1493; Agency: Department of Mental Health, Mental Retardation and Substance Abuse Services; Outcome: consolidation granted



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

CONSOLIDATION RULING OF DIRECTOR

In the matter of the Department of Mental Health,
Mental Retardation, and Substance Abuse Services
Ruling Numbers 2007-1491, 2007-1492, & 2007-1493
November 17, 2006

The Department of Mental Health, Mental Retardation, and Substance Abuse Services (the agency) has requested consolidation of the grievant's July 12, 2006, September 6, 2006, and September 14, 2006 grievances for hearing. For the reasons discussed below, these grievances are consolidated and will proceed to hearing together. The hearing officer, in his discretion, may address the grievances separately in one decision, or in separate decisions.

FACTS

The grievant's three grievances relate to her alleged refusal to work overtime on at least six days and challenge three separate Group II Written Notices, which progressively disciplined the grievant. The first Written Notice (June 27, 2006) was given without any suspension, but the second Written Notice (August 8, 2006) suspended the grievant for ten days. Following the third Written Notice (September 11, 2006) for allegedly refusing to work overtime, the grievant was terminated. The grievances proceeded through the management steps and were all qualified for hearing by the agency head on November 9, 2006. 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 grievant's July 12, 2006, September 6, 2006, and September 14, 2006 grievances is appropriate. The grievances concern the discipline of one grievant, involve the same parties and potential witnesses, and relate to the same conduct and claims. 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).