

Issue: Consolidation - Consolidation of grievances for purposes of hearing; Ruling Date: August 28, 2007; Ruling #2008-1781, 2008-1782; 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 2008-1781, 2008-1782  
August 28, 2007

The Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS or the agency) has asked that the grievant's February 26, 2007 and March 1, 2007 grievances be consolidated for hearing. For the reasons discussed below, this Department finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

The grievant was employed by the agency as an LPN. On February 5, 2007, she received a Group I Written Notice for allegedly using unprofessional and non-therapeutic language in the presence of a client. Subsequently, on February 7, 2007, the agency issued the grievant a Group I Written Notice for her accumulation of unplanned leave.

The grievant initiated two grievances challenging these disciplinary actions. After the parties failed to resolve the grievances during the management resolution steps, the agency head qualified the grievances for hearing. The agency has asked that the two grievances be consolidated for a single hearing. By letter dated August 23, 2007, this Department advised the parties that it had received the agency's request and asked for any additional information from the parties. Neither party has provided any additional information, and the grievant has not objected to consolidation of the grievances for hearing.

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.<sup>1</sup> EDR strongly favors consolidation and will consolidate grievances when they involve the same

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<sup>1</sup> *Grievance Procedure Manual* § 8.5.

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

This Department finds that consolidation of the grievant's February 26<sup>th</sup> and March 1<sup>st</sup> grievances is appropriate. The grievances concern the discipline of one grievant, involve the same parties and certain potential witnesses, and possibly share common themes and claims. Furthermore, the grievances do not appear to involve unusually complex or difficult claims and consolidation is not impracticable in this instance.

This Department's rulings on compliance are final and nonappealable.<sup>3</sup>

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Claudia T. Farr  
Director

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<sup>2</sup> *Id.*

<sup>3</sup> Va. Code § 2.2-1001(5).