

Issue: Consolidation of grievances for purpose of hearing; Ruling Date: October 23, 2007; Ruling #2008-1826, 2008-1827; Agency: Department of State Police; Outcome: Consolidation Granted.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

CONSOLIDATION RULING OF DIRECTOR

In the matter of the Virginia State Police
Ruling Numbers 2008-1826, 2008-1827
October 23, 2007

The Virginia State Police (VSP or the agency) has asked that the grievant's July 11, 2007 and August 20, 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 a Special Agent. On June 19, 2007, he received a Group II Written Notice for allegedly failing "to document [a] crime scene, note measurements, and otherwise authenticate the crime scene," and for allegedly failing "to submit proper documentation and a crime scene examination within the timeframe required by Department policy." On July 11, 2007, he initiated a grievance challenging this disciplinary action. Subsequently, on July 23, 2007, the grievant received a Group III Written Notice for alleged inadequate or unsatisfactory performance, "[f]ailure to follow a supervisor's instructions, perform assigned work or otherwise comply with applicable established written policy," and "[e]ngaging in conduct, whether on or off the job, that undermines the effectiveness or efficiency of the Department's activities." He initiated a grievance challenging this second disciplinary action on August 20, 2007.

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 September 28, 2007, this Department advised the parties that it had received the agency's request and asked for any additional information from the parties. The grievant has objected to the agency's request to consolidate the grievances and asked that separate hearing officers be appointed to hear each grievance.

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 two grievances is appropriate. Both grievances concern the discipline of the grievant and possibly share common themes and claims. The grievant asserts that the grievances arose from separate events and consolidation of the two grievances risks "prejudicial confusion and overlap." However, we believe that the benefit of consolidation outweighs any such risk, as the grievances do not appear to involve unusually complex or difficult claims. Moreover, we find that consolidation is not impracticable in this instance.

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

Claudia T. Farr
Director

¹ *Grievance Procedure Manual* § 8.5.

² *Id.*

³ Va. Code § 2.2-1001(5).