

Issue: Consolidation of grievances for purpose of hearing; Ruling Date: February 19, 2008; Ruling #2008-1932, 2008-1933, 2008-1934; 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 2008-1932, 2008-1933, 2008-1934
February 19, 2008

The Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS or the agency) has asked that the grievant's July 25, 2007 and two October 26, 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 Licensed Practical Nurse (LPN). On May 1, 2007, the grievant was temporarily reassigned from working as an LPN in a direct care capacity to a non-direct care position. On July 25, 2007, the grievant initiated a grievance challenging her reassignment. Subsequently, on October 11, 2007, the agency issued the grievant two Written Notices—a Group I Written Notice for her alleged accumulation of unplanned leave and a Group II Written Notice for allegedly failing to follow her supervisor's instruction—and terminated her employment. On October 26, 2007, the grievant initiated two grievances challenging these disciplinary actions. All three grievances have now been qualified for hearing and the agency has requested the appointment of a hearing officer.

By letter dated January 31, 2008, this Department advised the parties that it had received the agency's consolidation request and asked for any additional information from the parties. The grievant has not objected to the agency's request and has not provided any additional information.

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

¹ *Grievance Procedure Manual* § 8.5.

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 three grievances is appropriate. The grievances concern the discipline of a single grievant and possibly share common themes and 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

² *Id.*

³ Va. Code § 2.2-1001(5).