

Issue: Consolidation of grievances for purpose of hearing; Ruling Date: May 6, 2008; Ruling #2008-2012, 2008-2013; Agency: Department of Mental Health, Mental Retardation and Substance Abuse Services; Outcome: Consolidated 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 2008-2012, 2008-2013
May 5, 2008

The Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS or the agency) has asked that Grievant A's grievance be consolidated for hearing with Grievant B's. For the reasons discussed below, this Department finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

Both Grievants A and B were employed by the agency as Certified Nursing Assistants. On February 25, 2008, the agency issued Group III Written Notices, with termination, to both grievants, for alleged client abuse. Both Grievants A and B initiated grievances challenging the disciplinary action taken against them by the agency.

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 April 18, 2008, this Department advised the parties that it had received a request for consolidation and asked for any additional information from the parties. Neither grievant has objected to the request or 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

¹ *Grievance Procedure Manual* § 8.5.

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 grievances is appropriate. Both grievances concern the same alleged incident or incidents of client abuse and therefore possibly share common themes, claims, and witnesses. 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).