

Issue: Consolidation for purpose of hearing; Ruling Date: August 19, 2008;
Ruling #2009-2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074; Agency:
Department of Corrections; Outcome: Consolidation Granted.

August 19, 2008

Ruling #'s 2009-2067, 2009-2068, 2009-2069, 2009-2070, 2009-2071, 2009-2072,
2009-2073, and 2009-2074

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COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

CONSOLIDATION RULING OF DIRECTOR

In the matter of the Department of Corrections
Ruling Numbers 2009-2067, 2009-2068, 2009-2069, 2009-2070, 2009-2071,
2009-2072, 2009-2073, and 2009-2074
August 19, 2008

The Department of Corrections (DOC or the agency) has asked that the grievances of eight employees be consolidated for a single hearing. For the reasons discussed below, this Department finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

All eight grievants were employed on the nursing staff of one of the agency's facilities. After an incident involving Grievant A, the agency disciplined the grievants for alleged problems with inmates' medical charts--in particular, for allegedly noting in inmate charts that certain acts were performed per the verbal orders of the facility physician, when in fact they were instead performed in accordance with standing orders. Grievant A received a Group II Written Notice with a five-day suspension for allegedly failing to follow a supervisor's instruction, failing to comply with applicable established written process, and falsifying an inmate record; the remaining grievants received Group I Written Notices for allegedly falsifying inmate records and unsatisfactory job performance.

After the parties failed to resolve the grievances during the management resolution steps, the agency head qualified the grievances for hearing. On May 30, 2008, a hearing officer was appointed to hear Grievant A's grievance. Subsequently, the agency asked that the grievances of all eight grievants be consolidated for a single hearing. Grievant A's hearing has been stayed pending the issuance of this consolidation ruling.

By letter dated July 15, 2008, this Department advised the parties that it had received a request for consolidation and asked for any additional information from the parties. No 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

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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 eight grievances is appropriate. The grievances concern the same workplace and same alleged practice regarding verbal orders, and therefore they likely share common themes, claims, and witnesses. Moreover, although the number of grievances being consolidated in this matter is unusual, we find that in light of the shared witnesses and issues, 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), 2.2-3003(G).