

Issue: Consolidation of Grievances for Purpose of Hearing; Ruling Date: May 13, 2009; Ruling #2009-2291, 2009-2292, 2009-2293; Agency: Department of Juvenile Justice Services; Outcome: Consolidation Granted.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

CONSOLIDATION RULING OF DIRECTOR

In the matter of the Department of Juvenile Justice
Ruling Numbers 2009-2291, 2009-2292, 2009-2293
May 13, 2009

The Department of Juvenile Justice (DJJ or the agency), has asked that the grievant's February 20, 2009 grievance and two February 21, 2009 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 with the agency as a probation officer. On January 29, 2009, the grievant received a Group II Written Notice for allegedly failing to follow his supervisor's instructions. Subsequently, on February 23, 2009, the grievant received a Group III Written Notice and was terminated from his employment.

That same day, the grievant apparently initiated three grievances. One of these grievances (dated February 21, 2009) challenged the Group II Written Notice; a second grievance (dated February 20, 2009) challenged his termination¹; and a third (dated February 21, 2009) challenged his unit director's allegedly abusive and threatening behavior.

The February 20th grievance was the first of the grievances to complete the management steps, and it was qualified by the agency head on March 10, 2009. By letter dated April 6, 2009, the agency asked that this Department delay the appointment of a hearing officer for the February 20th grievance until the remaining two grievances have

¹ The Grievance Form A does not expressly mention the Group III Written Notice and appears to have been completed prior to the issuance of the Written Notice. However, the grievance was apparently initiated the same day the grievant received the Group III Written Notice and has been treated by the parties as challenging the Group III Written Notice with termination. Accordingly, we deem the Group III Written Notice to be qualified for hearing.

been qualified for hearing, at which point the agency would request consolidation of the three grievances for hearing.² The grievant has objected to this request.

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.³ 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.⁴

This Department finds that consolidation of the three grievances is appropriate, provided the two February 21st grievances are not resolved during the remaining resolution steps. All three grievances involve the same grievant and may 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.⁵

Claudia T. Farr
Director

² For the sake of efficiency, this Department will treat the agency's April 6, 2009 request to stay appointment as a request to consolidate as well.

³ *Grievance Procedure Manual* § 8.5.

⁴ *See id.*

⁵ *See* Va. Code § 2.2-1001(5), 2.2-3003(G).