

Issue: Consolidation of Grievances for purpose of hearing; Ruling Date: May 15, 2009; Ruling #2009-2311, 2009-2312, 2009-2313; Agency: Virginia Department of Transportation; Outcome: Consolidation Granted.



*COMMONWEALTH of VIRGINIA*  
*Department of Employment Dispute Resolution*

**CONSOLIDATION RULING OF DIRECTOR**

In the matter of the Department of Transportation  
Ruling Numbers 2009-2311, 2009-2312, 2009-2313  
May 15, 2009

The Department of Transportation (the agency), has asked that the grievant's February 12, 2009 grievance and two other grievances, both dated April 6, 2009, 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 has initiated three grievances to challenge receipt of four disciplinary actions. These grievances challenge 1) a Group I Written Notice (grievance dated February 12, 2009); 2) a Group II Written Notice with termination (grievance dated April 6, 2009); and 3) two other Written Notices (Group I and Group II—grievance dated April 6, 2009).

By submission of applicable Form Bs, the agency has requested the appointment of a hearing officer in the grievant's February 12, 2009 and April 6, 2009 (Group II with termination) grievances. The third grievance (also dated April 6, 2009) is proceeding through the management resolution steps and has yet to be qualified for hearing. In a letter dated May 5, 2009, the agency asked that this Department consolidate the three grievances for hearing. The grievant does not object 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.<sup>1</sup> 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.<sup>2</sup>

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<sup>1</sup> *Grievance Procedure Manual* § 8.5.

<sup>2</sup> *See id.*

This Department finds that consolidation of the grievant's three grievances for hearing is appropriate, provided the third grievance (dated April 6, 2009) is not resolved during the remaining resolution steps. All three grievances involve the same grievant and may share common themes, claims, and witnesses. It appears all four disciplinary actions at issue in these grievances led to the grievant's termination. Moreover, we find that consolidation is not impracticable in this instance.

As such, the grievant's three grievances are consolidated for a single hearing. Appointment of the hearing officer will occur following qualification of the third grievance for hearing.

This Department's rulings on compliance are final and nonappealable.<sup>3</sup>

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Claudia T. Farr  
Director

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<sup>3</sup> See Va. Code § 2.2-1001(5), 2.2-3003(G).