

Issue: Consolidation of Grievances for Purpose of Hearing; Ruling Date: June 30, 2009; Ruling #2009-2339, 2009-2340; 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 2009-2339, 2009-2340
June 30, 2009

The grievant has asked that his recent grievance with the Department of Mental Health, Mental Retardation and Substance Abuse Services (the agency) be consolidated for hearing with his April 16, 2009 grievance. For the reasons discussed below, this Department finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

The grievant's April 16, 2009 grievance concerns a Group II Written Notice for allegedly leaving work without permission and failing to follow a supervisor's instructions. The agency head has already qualified the April 16, 2009 grievance for a hearing. By submission of an applicable Form B, the agency has requested the appointment of a hearing officer in that case, as well. However, the grievant has recently initiated another grievance, on or about June 9, 2009, concerning a subsequent disciplinary action and termination. The second grievance is proceeding through the management resolution steps and has yet to be qualified for hearing. In an e-mail dated June 9, 2009, the grievant asked that this Department consolidate the two grievances for hearing. The agency 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.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

¹ *Grievance Procedure Manual* § 8.5.

² *See id.*

This Department finds that consolidation of the grievant's two grievances for hearing is appropriate, provided the recent second grievance is not resolved during the remaining resolution steps. Both grievances involve the same grievant and may share common themes, claims, and witnesses. It appears the disciplinary actions at issue in these grievances led to the grievant's termination, which is the subject of the recent second grievance. Moreover, we find that consolidation is not impracticable in this instance.

As such, the grievant's two grievances are consolidated for a single hearing. Appointment of a hearing officer will occur for both grievances following qualification of the second grievance for hearing (assuming it is) and submission of a Form B with appropriate documentation.

This Department's rulings on compliance are final and nonappealable.³

Claudia T. Farr
Director

³ See Va. Code § 2.2-1001(5), 2.2-3003(G).