

Issue: Consolidation of Grievances for Purpose of Hearing; Ruling Date: July 7, 2009; Ruling #2009-2344, 2009-2345, 2009-2346; Agency: Department of Alcoholic Beverage Control; Outcome: Consolidation Granted.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

CONSOLIDATION RULING OF DIRECTOR

In the matter of the Department of Alcoholic Beverage Control
Ruling Numbers 2009-2344, 2009-2345, 2009-2346
July 7, 2009

The Department of Alcoholic Beverage Control (the agency) has asked that the grievant's March 24, 2009 grievance be consolidated for hearing with two of the grievant's other grievances. 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 March 24, 2009 grievance concerns a Written Notice for alleged unsatisfactory attendance. The agency head has already qualified the March 24, 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 also initiated two other grievances, both dated May 14, 2009, concerning subsequent disciplinary actions for similar attendance issues (allegedly leaving the work site without permission) and termination. The May 14, 2009 grievances are proceeding through the management resolution steps and have yet to be qualified for hearing. In requesting the appointment of a hearing officer for the March 24, 2009 grievance, the agency asked that this Department consolidate all three grievances for hearing. The grievant has not provided any objection to this request to EDR.

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.*

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This Department finds that consolidation of the grievant's three grievances for hearing is appropriate, provided the two May 14, 2009 grievances are not resolved during the remaining resolution steps. The three 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, the subject of the May 14, 2009 grievances. Moreover, we find that consolidation is not impracticable in this instance.

As such, the grievant's March 24, 2009 grievance is consolidated for a single hearing with the two May 14, 2009 grievances. Appointment of a hearing officer will occur for these three grievances following qualification of the two May 14, 2009 grievances for hearing (assuming they are) and submission of applicable Form B's 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).