

Issue: Consolidation of Grievances for Purpose of Hearing; Ruling Date: July 7, 2009; Ruling #2009-2353, 2009-2354; Agency: Virginia Department of Health; Outcome: Consolidation Granted.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

CONSOLIDATION RULING OF DIRECTOR

In the matter of the Department of Health
Ruling Numbers 2009-2353, 2009-2354
July 7, 2009

The Department of Health (the agency) has asked that the April 13, 2009 grievance of Grievant A be consolidated for hearing with the April 14, 2009 grievance of Grievant B. For the reasons discussed below, this Department finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

On March 24, 2009, Grievant A received a Written Notice for alleged unsatisfactory work performance. On the same day, Grievant B received a Written Notice for allegedly engaging in the same or similar conduct. Both grievants initiated grievances challenging the Written Notices.

After the parties failed to resolve the grievances during the management resolution steps, the agency head qualified the grievances for hearing. The agency has asked that the two grievances be consolidated for a single hearing, and the grievants have indicated to the agency that they do 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

This Department finds that consolidation of the grievances of Grievants A and B is appropriate. The two grievances involve the same alleged misconduct and will likely share

¹ *Grievance Procedure Manual* § 8.5.

² *See id.*

common themes, claims, and witnesses. Moreover, it appears that all parties seek a combined hearing. Consolidation is not impracticable in this instance. Accordingly, the grievances are consolidated to be heard by the same hearing officer in a single hearing. The hearing officer shall independently assess the merits of each grievance and issue two separate decisions. A hearing officer will be appointed for these matters in a forthcoming letter.

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).