

Issue: Consolidation of Grievances for a Single Hearing; Ruling Date:  
September 29, 2009; Ruling #2010-2434, 2010-2435; Agency: Department of  
Behavioral Health & Developmental Services; Outcome: Consolidation Granted.



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

**CONSOLIDATION RULING OF DIRECTOR**

In the matter of the Department of Behavioral Health and Developmental Services  
Ruling Numbers 2010-2434, 2010-2435  
September 29, 2009

The Department of Behavioral Health and Developmental Services (the agency) has asked that the August 21, 2009 grievance of Grievant A be consolidated for hearing with the August 21, 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 July 23, 2009, Grievant A received a Written Notice related to an incident that occurred on July 19, 2009. On the same day, Grievant B received a Written Notice for her conduct during the same incident. 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. This Department attempted to contact the grievants to determine whether they object to the request for consolidation, but they did not respond to inquiries.

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>

---

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

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

This Department finds that consolidation of the grievances of Grievants A and B is appropriate. The two grievances involve the same alleged incident and will likely share common themes, claims, and witnesses. Consolidation is not impracticable in this instance. Accordingly, as this Department has received no objection from the grievants to the request for consolidation, 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 the matter in a forthcoming letter.

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

---

Claudia T. Farr  
Director

---

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