

Issue: Consolidation of Grievances for a Single Hearing; Ruling Date: January 22, 2010; Ruling #2010-2516; 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 Number 2010-2516  
January 22, 2010

The grievant has asked that her recent January 15, 2010<sup>1</sup> grievance be consolidated for hearing with her August 18, 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 August 18, 2009 grievance challenges a Written Notice she received for alleged deficiencies in her work performance. The January 15, 2010 grievance challenges the grievant's termination based on an unsatisfactory re-evaluation of her work performance under Department of Human Resource Management Policy 1.40. A hearing officer has already been appointed in the grievant's August 18, 2009 grievance (Case Number 9247). The January 15, 2010 grievance is proceeding through the management resolution steps and has yet to be qualified for hearing. In an e-mail dated January 20, 2010, the grievant asked that this Department consolidate the grievances for hearing, and the Department of Health (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.<sup>2</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>3</sup>

---

<sup>1</sup> This date is taken from the date provided by the grievant on the Form A next to her signature and does not necessarily indicate the actual date of initiation of the grievance.

<sup>2</sup> *Grievance Procedure Manual* § 8.5.

<sup>3</sup> *See id.*

This Department finds that consolidation of these two grievances for hearing is appropriate, provided the January 15, 2010 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 that both grievances challenge issues with the grievant's work performance that led to her termination. Moreover, we find that consolidation is not impracticable in this instance.

As such, the grievant's January 15, 2010 grievance is consolidated with the August 18, 2009 grievance for a single hearing. Appointment of a hearing officer for the January 15, 2010 grievance will occur following completion of the management resolution steps, qualification of the grievance for hearing, and submission of a Form B with appropriate documentation by the agency. The hearing officer who has been assigned the August 18, 2009 grievance will be appointed for the January 15, 2010 grievance as well. The hearing officer is ordered to stay proceedings in Case No. 9247 until appointed to the January 15, 2010 grievance for a consolidated hearing. If either party objects or seeks to proceed with a hearing on the August 18, 2009 grievance alone without further delay, notification in writing should be made to this Department, with a copy to the opposing party, for consideration by the EDR Director.

This Department's rulings on compliance are final and nonappealable.<sup>4</sup>

---

Claudia T. Farr  
Director

---

<sup>4</sup> See Va. Code § 2.2-1001(5), 2.2-3003(G).