

Issue: Consolidation of Grievances for a Single Hearing; Ruling Date: January 26, 2010; Ruling #2010-2517, 2010-2518, 2010-2519; 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 2010-2517, 2010-2518, 2010-2519
January 26, 2010

The Department of Health (the agency) has asked for consolidation of the grievant's July 30, 2009, August 10, 2009, and October 13, 2009 grievances ("Three Grievances"). For the reasons discussed below, this Department finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

The Three Grievances concern three separate Written Notices issued to the grievant leading to her termination. After the parties failed to resolve the Three Grievances during the management resolution steps, the agency head qualified the grievances for hearing. The agency has asked that the Three Grievances be consolidated for a single hearing, and the grievant agrees.

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 Three Grievances is appropriate. These grievances involve the same grievant and could share common themes, claims, and witnesses. Moreover, we find that consolidation is not impracticable in this instance. Therefore, in light of the parties' agreement that consolidation is acceptable, the grievant's July 30, 2009, August 10, 2009, and October 13, 2009 grievances are consolidated for a single hearing.

¹ *Grievance Procedure Manual* § 8.5.

² *See id.*

The grievant also seeks to have two other grievances she has filed consolidated with the Three Grievances for a single hearing. Because the other two grievances (reportedly dated August 18, 2009 and August 25, 2009) have not yet been qualified for a hearing and do not appear to be grievances that automatically qualify for a hearing,³ the question of consolidation of these other two grievances is not ripe for determination. As such, appointment of a hearing officer for the Three Grievances will be stayed until the issues of qualification and/or consolidation in the August 18, 2009 and August 25, 2009 grievances are determined. If either party objects or seeks to proceed with a hearing on the Three Grievances 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.⁴

Claudia T. Farr
Director

³ See *Grievance Procedure Manual* § 4.1(a).

⁴ See Va. Code §§ 2.2-1001(5), 2.2-3003(G).