

Issue: Consolidation of Grievances for a Single Hearing; Ruling Date: October 28, 2010; Ruling #2011-2805, 2011-2806; Agency: Department of Veterans Services; Outcome: Consolidation Granted.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

CONSOLIDATION RULING OF DIRECTOR

In the matter of the Department of Veterans Services
Ruling Number 2011-2805, 2011-2806
October 28, 2010

This ruling addresses the consolidation for hearing of the grievant's May 21, 2010 grievance with her October 14, 2010 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 May 21, 2010 grievance challenges a Group I Written Notice she received for alleged absence and tardiness issues. The October 14, 2010 grievance challenges the grievant's termination based on her receipt of a Group II Written Notice for absence and tardiness issues. The Department of Veterans Services (the agency) has already qualified the May 21, 2010 grievance for a hearing and requested the appointment of a hearing officer (Case Number 9446).¹ The October 14, 2010 grievance is proceeding through the management resolution steps and has yet to be qualified for hearing. Neither party objects to consolidating the grievances into one hearing.

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.² 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.³

¹ See also EDR Ruling No. 2011-2796 (clarifying issues in the May 21, 2010 grievance that have been qualified for a hearing).

² *Grievance Procedure Manual* § 8.5.

³ See *id.*

This Department finds that consolidation of these two grievances for hearing is appropriate, provided the October 14, 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 Written Notices that led to the grievant's termination and involve similar issues of misconduct. Moreover, we find that consolidation is not impracticable in this instance.

As such, the grievant's May 21, 2010 grievance is consolidated with the October 14, 2010 grievance for a single hearing. Appointment of a hearing officer 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 in the October 14, 2010 grievance.⁴ If either party objects or seeks to proceed with a hearing on the May 21, 2010 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.⁵

Claudia T. Farr
Director

⁴ If the October 14, 2010 grievance is otherwise resolved or closed prior to hearing, a hearing officer will be appointed in the May 21, 2010 grievance for hearing on that matter alone.

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