

Issue: Consolidation of grievances for a single hearing; Ruling Date: February 2, 2011; Ruling No. 2011-2852, 2011-2853, 2011-2854; Agency: Department of Corrections; Outcome: Consolidation Granted.



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

**CONSOLIDATION RULING OF DIRECTOR**

In the matter of the Department of Corrections  
Ruling Numbers 2011-2852, 2011-2853, 2011-2854  
February 2, 2011

This ruling addresses the consolidation for hearing of the grievant's three grievances with the Department of Corrections (the agency). For the reasons discussed below, this Department finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

On or about August 27, 2010, the grievant received a Group I Written Notice for violating a security policy. The grievant initiated a grievance on or about September 21, 2010 to challenge this disciplinary action (Grievance 1). The agency head has qualified this grievance for a hearing and requested the appointment of a hearing officer.

On or about October 22, 2010, the grievant also reportedly received a Group III Written Notice for refusing to obey instructions, and a Group III Written Notice for fraternization. The grievant has challenged these subsequent disciplinary actions in separate grievances dated November 19, 2010 (Grievances 2 and 3). As a result of these disciplinary actions, the grievant has been terminated. Grievances 2 and 3 are still proceeding through the management resolution steps and have yet to be qualified for hearing. The grievant has sought consolidation of these three grievances and the agency does not object.

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>

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

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

This Department finds that consolidation of these three grievances for hearing is appropriate, provided Grievances 2 and/or 3 are not resolved during the remaining resolution steps. All three grievances involve the same grievant and may share common themes, claims, and witnesses. It appears that the grievances challenge Written Notices that led to the grievant's termination. Moreover, we find that consolidation is not impracticable in this instance.

As such, in light of the parties' agreement that consolidation is appropriate, the grievant's September 21, 2010 grievance (Grievance 1) and two November 19, 2010 grievances (Grievances 2 and 3) are consolidated for a single hearing. Appointment of a hearing officer will occur following completion of the management resolution steps, qualification of the grievances for hearing, and submission of a Form B with appropriate documentation by the agency in Grievances 2 and 3.<sup>3</sup> If either party objects or seeks to proceed with a hearing on Grievance 1 only 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>

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Claudia T. Farr  
Director

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<sup>3</sup> If Grievance 2 or 3 are otherwise resolved or closed prior to hearing, a hearing officer will be appointed in the remaining grievance(s) for hearing on those matters alone.

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