

Issue: Consolidation of Grievances for a Single Hearing; Ruling Date: January 31, 2011; Ruling No. 2011-2878; Agency: Department of Motor Vehicles; Outcome: Consolidation Granted.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

CONSOLIDATION RULING OF DIRECTOR

In the matter of the Department of Motor Vehicles
Ruling Number 2011-2878
January 31, 2011

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

FACTS

The grievance most immediately at issue in this ruling is the third of three of the grievant's grievances received by this Department for appointment of a hearing officer. This third grievance (Grievance 3), dated August 25, 2010, challenges a Group II Written Notice with disciplinary pay reduction. Grievance 3 has been qualified for a hearing and the agency has requested the appointment of a hearing officer. The agency also seeks to consolidate Grievance 3 with two other grievances of this grievant, dated September 2, 2009 (Grievance 1; Case No. 9273) and December 14, 2009 (Grievance 2; Case No. 9347), respectively, that have already been qualified for a hearing and previously consolidated in EDR Ruling Numbers 2010-2645, 2010-2646. Grievances 1 and 2 primarily concern the issuance to the grievant of two Written Notices.¹ Both the agency and the grievant approve of consolidating these grievances for a single 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 EDR Ruling Nos. 2010-2645, 2010-2646.

² *Grievance Procedure Manual* § 8.5.

³ See *id.*

This Department finds that consolidation of these three grievances is appropriate. The grievances involve the same grievant and could share common themes, claims, and witnesses. Moreover, the grievances concern the issuance of separate disciplinary actions to the grievant for similar acts of alleged misconduct. Further, we find that consolidation is not impracticable in this instance. Therefore, in light of the parties' agreement that consolidation is acceptable, the grievant's September 2, 2009, December 14, 2009, and August 25, 2010 grievances are consolidated for a single hearing. A hearing officer will be appointed in a forthcoming letter.⁴

This Department's rulings on compliance are final and nonappealable.⁵

Claudia T. Farr
Director

⁴ Grievances 1 and 2 were previously placed on hold by this Department at the request of the grievant in EDR Ruling No. 2010-2671. It is EDR's understanding that the circumstances for that hold are no longer in place and these cases are ready to proceed to hearing. As such, the hold imposed in EDR Ruling No. 2010-2671 is lifted.

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