

Issue: Consolidation of Grievances for a Single Hearing; Ruling Date: April 18, 2011;
Ruling No. 2011-2939; Agency: Department of Behavioral Health and Developmental
Services; Outcome: Consolidation Granted.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

CONSOLIDATION RULING OF DIRECTOR

In the matter of the Department of Behavioral Health and Developmental Services
Ruling Number 2011-2939
April 18, 2011

This ruling addresses the consolidation for hearing of the grievant's August 26, 2010 grievance with her January 25, 2011 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 26, 2010 grievance challenges a Written Notice. The January 25, 2011 grievance challenges the grievant's termination based on her receipt of a second Written Notice. The Department of Behavioral Health and Developmental Services (the agency) qualified the January 25, 2011 grievance for a hearing and requested the appointment of a hearing officer (Case Number 9531). Following appointment of Case Number 9531 to a hearing officer, this Department instructed that the case be placed on hold to consider the issue of consolidation of these grievances. The August 26, 2010 grievance has since been partially qualified for hearing by the agency. The grievant has requested that the grievances be consolidated for a single hearing 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.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

¹ *Grievance Procedure Manual* § 8.5.

² *See id.*

This Department finds that consolidation of these two grievances for hearing is appropriate. 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. Moreover, we find that consolidation is not impracticable in this instance. Further, both parties agree that consolidation is acceptable.

As such, the grievant's August 26, 2010 grievance, to the extent qualified by the agency, is consolidated with the January 25, 2011 grievance for a single hearing. A hearing officer will be appointed in a forthcoming letter. The hearing officer who has been assigned the January 25, 2011 grievance will be appointed for the August 26, 2010 grievance as well. The hearing officer is ordered to continue to stay proceedings in Case No. 9531 until appointed to the August 26, 2010 grievance for a consolidated hearing.³

This Department's rulings on compliance are final and nonappealable.⁴

Claudia T. Farr
Director

³ If the grievant appeals the agency's partial qualification of the August 26, 2010 grievance to this Department, the appointment will be held until the completion of that review.

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