

Issue: Consolidation of Grievances for a Single Hearing; Ruling Date: April 12, 2011;
Ruling No. 2011-2941, 2011-2942; Agency: Virginia Commonwealth University;
Outcome: Consolidation Granted.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

CONSOLIDATION RULING OF DIRECTOR

In the matter of Virginia Commonwealth University
Ruling Numbers 2011-2941, 2011-2942
April 12, 2011

This ruling addresses the consolidation for hearing of the grievant's January 19, 2011 grievance with his February 24, 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 January 19, 2011 grievance challenges a Group II Written Notice he received for allegedly failing to following instructions regarding keys and answering pages. The February 24, 2011 grievance challenges another Group II Written Notice for allegedly failing to follow instructions and/or policy regarding his work schedule and leave. Virginia Commonwealth University (the University) has qualified both grievances for a hearing and requested the appointment of a hearing officer. The University has asked that the grievances be consolidated for a single hearing, but the grievant objects to that request.

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 these two grievances for hearing is appropriate. Both grievances involve the same grievant and may share common themes, claims, and witnesses. Moreover, we find that consolidation is not impracticable in this instance.

¹ *Grievance Procedure Manual* § 8.5.

² *See id.*

The grievant has objected to the University's request for consolidation. The grievant states that he attempted to consolidate the grievances earlier in the process, but the University did not consent. Further, the grievant objects to the University's handling of the grievances during the management resolution steps, including an alleged failure to respond within the five workdays provided for step-respondent responses during the process and not providing real answers. The grievant does not approve of the University's attempts now at this later time to put everything together and speed the process along. In addition, he asserts that the grievances and challenged Written Notices concern different issues. The grievant also states that there is a possible third Written Notice that he has yet to receive.

While we understand the grievant's frustration with having been reportedly rebuffed by efforts to consolidate the matters earlier, this is not a sufficient reason to overcome this Department's strong preference for consolidating such grievances. Similarly, simply because the Written Notices at issue do not involve identical issues of misconduct does not render a hearing about both disciplinary actions too complex such that consolidation is impracticable in this case. Indeed, the commonalities of these two grievances involving the same grievant and likely similar witnesses provides efficiencies to the process that should not be lost absent strong indications of prejudice. The grievant has not asserted, and this Department does not find, that any prejudice would result by the consolidation in this case.

As such, the grievant's January 19, 2011 grievance is consolidated with the February 24, 2011 grievance for a single hearing. A hearing officer will be appointed in a forthcoming letter. This Department's rulings on compliance are final and nonappealable.³

Claudia T. Farr
Director

³ See Va. Code § 2.2-1001(5), 2.2-3003(G).