

Issue: Consolidation of Grievances for a Single Hearing; Ruling Date: April 25, 2011; Ruling No. 2011-2953, 2011-2954; 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 2011-2953, 2011-2954
April 25, 2011

The Department of Corrections (the agency) has asked that the January 26, 2011 grievance of Grievant M1 be consolidated for hearing with the January 26, 2011 grievance of Grievant M2. For the reasons discussed below, this Department finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

Grievant M1 received a Written Notice for alleged misconduct related to an offender search. Grievant M2 also received a Written Notice for engaging in similar conduct related to the same event. Both grievants initiated grievances challenging the Written Notices. After the parties failed to resolve the grievances during the management resolution steps, the agency head qualified the grievances for hearing. The agency has asked that the two grievances be consolidated for a single hearing, and the grievants have indicated that they do not object to this 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 the January 26, 2011 grievances of Grievants M1 and M2 is appropriate. The two grievances involve similar allegations of misconduct arising from the same incident and will likely share common themes, claims,

¹ *Grievance Procedure Manual* § 8.5.

² *See id.*

and witnesses. Moreover, it appears that all parties agree to a combined hearing. Consolidation is not impracticable in this instance. Accordingly, the grievances are consolidated to be heard by the same hearing officer in a single hearing.³ The hearing officer shall independently assess the merits of each grievance and issue two separate decisions. A hearing officer will be appointed for these matters in a forthcoming letter.

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

Claudia T. Farr
Director

³ In addition, it appears that Grievant M1 initiated a second grievance regarding some similar and slightly different issues about the Written Notice he received. It appears that this second grievance, also dated January 26, 2011, was qualified by the agency head for a hearing. As such, to the extent qualified, Grievant M1's second grievance is additionally consolidated for this single hearing as it appears to challenge the surrounding circumstances of the same management action challenged by his other grievance.

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