

Issue: Consolidation of Grievances for a Single Hearing; Ruling Date: April 25, 2011; Ruling No. 2011-2955, 2011-2956; 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 2011-2955, 2011-2956
April 25, 2010

The Department of Corrections (the agency) has asked that the January 27, 2011 grievance of Grievant H be consolidated for hearing with the January 27, 2011 grievance of Grievant S. 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 January 3, 2011, Grievant H received a Written Notice for alleged misconduct related to offender count procedures. On or about January 7, 2011, Grievant S 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. While Grievant S has indicated that he does not object to the request, this Department has been unable to contact Grievant H for her input despite numerous attempts.

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 the January 27, 2011 grievances of Grievants H and S is appropriate. The two grievances involve similar allegations of misconduct arising from the same incident and will likely share common themes, claims, and witnesses. Consolidation is not impracticable in this instance. Although this Department has not heard from Grievant H, all other parties consent to the consolidation. Contact to Grievant H was attempted multiple times to no avail. Further, this Department received no response to the Notice of Receipt of Ruling Request sent to Grievant H. As such, having received no objection to the agency's consolidation request, 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 If Grievant H has strong objection to this consolidation, written notice of her grounds in support of her objection must be made to the EDR Director in writing within 5 work days of receipt of this ruling.

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