

Issue: Consolidation of Grievances for a Single Hearing; Ruling Date: August 31, 2011; Ruling No. 2012-3062, 2012-3063, 2012-3064; Agency: Virginia Department of Transportation; Outcome: Consolidation Granted.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

CONSOLIDATION RULING OF DIRECTOR

In the matter of the Virginia Department of Transportation
Ruling Numbers 2012-3062, 2012-3063, 2012-3064
August 31, 2011

This ruling addresses the consolidation for hearing of the grievant's October 2, 2010, December 14, 2010, and July 2, 2011 grievances. 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 October 2, 2010 grievance challenges the grievant's receipt of a Group II Written Notice for alleged violation of safety rules. The December 14, 2010 grievance challenges the grievant's receipt of a Group III Written Notice for alleged workplace violence. The July 2, 2011 grievance challenges the grievant's receipt of another Group II Written Notice and his resulting termination. The Department of Transportation (the agency) has already qualified the October 2, 2010 and December 14, 2010 grievances for a hearing and requested the appointment of a hearing officer. The agency also seeks consolidation of all three grievances for a single hearing. The July 2, 2011 grievance is proceeding through the management resolution steps and has yet to be qualified for hearing. The grievant does not object to the consolidation 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

¹ *Grievance Procedure Manual* § 8.5.

² *See id.*

This Department finds that consolidation of these three grievances for hearing is appropriate, provided the July 2, 2011 grievance is not resolved during the remaining resolution steps. The grievances involve the same grievant and may share common themes, claims, and witnesses. Further, it appears that the grievances challenge disciplinary actions that led to the grievant's termination and may relate to a common "pattern of behavior" as alleged by the grievant. Moreover, we find that consolidation is not impracticable in this instance.

As such, in light of the parties' agreement that consolidation is acceptable, the grievant's three grievances are consolidated for a single hearing. Appointment of a hearing officer will occur following completion of the management resolution steps, qualification of the grievance for hearing, and submission of the Form B with appropriate documentation by the agency in the July 2, 2011 grievance.³ If either party objects or seeks to proceed with a hearing on the grievances already received by EDR alone without further delay, notification in writing should be made to this Department, with a copy to the opposing party, for consideration by the EDR Director.

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

Claudia T. Farr
Director

³ If the July 2, 2011 grievance is otherwise resolved or closed prior to hearing, a hearing officer will be appointed in the remaining grievances.

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