

Issue: Consolidation of Grievances for a Single Hearing; Ruling Date: March 8, 2012; Ruling No. 2012-3297, 2012-3298; 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 & Developmental Services
Ruling Numbers 2012-3297, 2012-3298
March 8, 2012

The Department of Behavioral Health and Developmental Services (the agency) has asked that the November 22, 2011 grievance of Grievant F be consolidated for hearing with the November 22, 2011 grievance of Grievant P. For the reasons discussed below, this Department finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

Grievant F received a Written Notice for alleged misconduct related to a violation of safety rules. Grievant P 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 November 22, 2011 grievances of Grievants F and P 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. 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.³

Claudia T. Farr
Director

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