

Issue: Consolidation of grievances for a single hearing; Ruling Date: April 18, 2012;  
Ruling No. 2012-3321, 2012-3322; 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 2012-3321, 2012-3322  
April 18, 2012

This ruling addresses the consolidation for hearing of the grievant's two March 5, 2012 grievances. For the reasons discussed below, this Department finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

One of the grievant's March 5, 2012 grievances (Grievance 1) challenges a Group III Written Notice with termination for alleged tardiness. The second March 5, 2012 grievance (Grievance 2) challenges a Group II Written Notice for alleged tardiness. The Department of Behavioral Health and Developmental Services (the agency) qualified Grievance 1 for a hearing and requested the appointment of a hearing officer (Case Number 9805). Following appointment of Case Number 9805 to a hearing officer, this Department received the agency's request to appointment a hearing officer to hear Grievance 2, which had also been qualified by the agency. Following communication by this Department, both parties have agreed to consolidation of these grievances for a single hearing.

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.<sup>1</sup> 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.<sup>2</sup>

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. It appears that both grievances challenge Written Notices that led to the grievant's termination. Moreover, we find that consolidation is not impracticable in this

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<sup>1</sup> *Grievance Procedure Manual* § 8.5.

<sup>2</sup> *See id.*

instance. As such, the grievant's two March 5, 2012 grievances are consolidated for a single hearing. Appointment of a hearing officer in Grievance 2 will be made in a forthcoming letter. The hearing officer who has been assigned Grievance 1 will be appointed for Grievance 2 as well.

This Department's rulings on compliance are final and nonappealable.<sup>3</sup>

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Claudia T. Farr  
Director

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<sup>3</sup> See Va. Code § 2.2-1001(5), 2.2-3003(G).