

Issue: Consolidation of grievances for a single hearing; Ruling Date: September 17, 2012; Ruling No. 2013-3427; Agency: Department of Juvenile Justice; Outcome: Consolidation granted.



COMMONWEALTH of VIRGINIA
Department of Human Resource Management
Office of Employment Dispute Resolution

CONSOLIDATION RULING

In the matter of the Virginia Department of Juvenile Justice
Ruling Number 2013-3427
September 17, 2012

This ruling addresses the consolidation for hearing of the grievant's dismissal grievance and a grievance regarding a disciplinary action. For the reasons discussed below, EDR finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

On or about August 27, 2012, the grievant's employment with the Department of Juvenile Justice (the agency) was terminated. The grievant submitted a dismissal grievance (Grievance 1) on the same date. Prior to her termination, the grievant also reportedly received a Group II Written Notice, which she has grieved in a separate grievance (Grievance 2), submitted on or about August 20, 2012. Grievance 1 is awaiting appointment of a hearing officer. Grievance 2 is currently pending in the resolution steps. However, both the grievant and the agency have agreed to forego the remaining resolution steps in Grievance 2 and allow it to proceed immediately to hearing. The agency has sought consolidation of these two grievances and the grievant does not object.

DISCUSSION

Approval by the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management 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

EDR finds that consolidation of Grievance 1 and Grievance 2 for hearing is appropriate. 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. Moreover, we find that consolidation is not impracticable in this instance.

¹ *Grievance Procedure Manual* § 8.5.

² *See id.*

As such, in light of the parties' agreement that consolidation is acceptable, Grievance 1 and Grievance 2 are consolidated for a single hearing. The agency is directed to submit a fully completed Form B, signed approval for qualification by the agency head or designee, and other appropriate documentation for Grievance 2 to EDR **within five workdays of receipt of this ruling**. Appointment of a hearing officer will occur following receipt of these materials.³ If either party objects or seeks to proceed with a hearing on Grievance 1 alone without further delay, notification in writing should be made to EDR, with a copy to the opposing party.

In addition, EDR has been advised that the grievant has at least two other grievances pending with the agency not involving disciplinary actions. Because these other grievances have not yet been qualified for hearing and, it is presumed, do not challenge issues that automatically qualify for a hearing, they will not be consolidated with Grievance 1 and Grievance 2 at this time. Should the parties come to an agreement as to further proceedings and/or resolution of these other grievances, the question of consolidation of any remaining grievances may be revisited at that time. However, until that time, the remaining grievances will proceed through the management resolution steps consistent with the provisions of the grievance procedure or as altered by agreement between the parties. This ruling lifts the stay of all pending grievance matters, previously issued by e-mail on September 10, 2012.

EDR's rulings on compliance are final and nonappealable.⁴



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³ Because EDR has yet to review any documentation in Grievance 2, we reserve the right to address any unknown issues that could arise with or impact this consolidation determination and/or any further compliance matters based upon a review of the documentation when submitted.

⁴ See Va. Code § 2.2-1202.1(5), 2.2-3003(G).