

Issues: Compliance - Grievance Procedure (Other Issue), and Consolidation of grievances for a single hearing; Ruling Date: November 6, 2012; Ruling No. 2013-3466, 2013-3467; Agency: Virginia Department of Transportation; Outcome: Grievant Not in Compliance, Consolidation Granted.



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

**COMPLIANCE AND CONSOLIDATION RULING**

In the matter of the Virginia Department of Transportation  
Ruling Numbers 2013-3466, 2013-3467  
November 6, 2012

This ruling addresses the consolidation of the grievant's grievances filed with the Virginia Department of Transportation (the agency). For the reasons discussed below, EDR finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

In multiple grievances, the grievant has challenged three separate disciplinary actions issued to him. The grievant challenged a Group II Written Notice in a grievance dated July 23, 2012, and a Group I Written Notice in a grievance dated August 16, 2012. Thereafter, the grievant received a Group III Written Notice with termination on or about September 17, 2012. The Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management received a dismissal grievance, dated September 25, 2012, specifically challenging the Group III Written Notice on October 9, 2012. Shortly prior to that time, the grievant also submitted a packet of documentation, including two other dismissal grievances, each dated October 1, 2012, which appear to challenge again the Group I and Group II Written Notices and surrounding issues, including the grievant's termination.

After the parties failed to resolve the July 23, 2012 and August 16, 2012 grievances during the management resolution steps, the agency has asked for appointment of a hearing officer in these matters. EDR received these packets on October 31, 2012. The grievant has stated in correspondence that he would like to have all matters heard together.

DISCUSSION

*Compliance Matter*

The grievance procedure provides that a grievance must not challenge the same management action challenged by another grievance.<sup>1</sup> As the additional dismissal

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<sup>1</sup> *Grievance Procedure Manual* § 2.4.

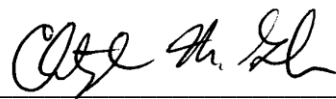
grievances (dated October 1, 2012) purport to challenge the Group I and Group II Written Notices, these grievances would duplicate the July 23, 2012 and August 16, 2012 grievances and will not be processed as separate grievances. However, inasmuch as these grievances and the documentation included with them challenge the surrounding circumstances of the grievant's termination, the documentation will be included with the grievant's September 25, 2012 dismissal grievance, which specifically challenges the Group III Written Notice, as supporting documentation.

### *Consolidation*

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.<sup>2</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>3</sup>

EDR finds that consolidation of the grievant's July 23, 2012, August 16, 2012, and September 25, 2012 grievances is appropriate. These grievances involve the same grievant and could share common themes, claims, and witnesses. The grievances all relate to disciplinary actions issued to the grievant resulting in his termination. Further, we find that consolidation is not impracticable in this instance. Therefore, the grievant's July 23, 2012, August 16, 2012, and September 25, 2012 grievances are consolidated for a single hearing. A hearing officer will be appointed in a forthcoming letter.

EDR's rulings on compliance are final and nonappealable.<sup>4</sup>



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Christopher M. Grab  
Director, Office of Employment Dispute Resolution

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<sup>2</sup> *Grievance Procedure Manual* § 8.5.

<sup>3</sup> *See id.*

<sup>4</sup> *See* Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).