

Issue: Consolidation of grievances for a single hearing; Ruling Date: December 4, 2012; Ruling No. 2013-3487; Agency: Department of Conservation and Recreation; Outcome: Consolidation Denied.



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

CONSOLIDATION RULING

In the matter of the Department of Conservation and Recreation
Ruling Numbers 2013-3487
December 4, 2012

This ruling addresses the request from Grievant F and Grievant M to consolidate their respective August 28, 2012 grievances filed with the Department of Conservation and Recreation (the agency). For the reasons discussed below, EDR finds that consolidation of these grievances into a single hearing is not appropriate and the grievants' request is denied.

FACTS

The two grievances at issue, both dated August 28, 2012, primarily concern the issuance of two separate Written Notices to Grievant F and Grievant M. After the parties failed to resolve the grievances during the management resolution steps, the agency has asked for appointment of a hearing officer in these matters. The grievants seeks to have their grievances consolidated to be heard at a single hearing. The agency objects to the request.

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 However, in this instance, there are compelling reasons not to grant the consolidation request.


First, the grievances involve different employees. While the grievances of separate employees can still be consolidated, EDR does so cautiously due to the personnel issues inherently involved in grievances and the potential for discovery of confidential matters about a co-worker. Consequently, if there is an objection made by any party to the grievances, we are reluctant to grant a consolidation request in the grievances of separate employees. Here, the agency has objected.

¹ *Grievance Procedure Manual* § 8.5.

² *See id.*

In addition, although the disciplinary actions at issue in these grievance appear to arise out of a similar course of events, the grievants were disciplined for different issues of misconduct, which also reflected the different levels in the chain of command held by Grievant F and Grievant M. In short, outside of the common course of events, the two grievances raise different questions and are not so closely linked that consolidation is procedurally obvious and/or efficient. As such, the grievants' request for consolidation of their two August 28, 2012 grievances is denied. These grievances will proceed to separate hearings. A hearing officer will be appointed in each case in forthcoming letters to the applicable parties.

EDR's rulings on compliance are final and nonappealable.³



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Director, Office of Employment Dispute Resolution

³ See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).