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CONSOLIDATION RULING

In the matter of the Virginia Department of Transportation
Ruling Number 2024-5694
April 10, 2024

This ruling addresses the consolidation of two grievances filed with the Virginia Department of Transportation (the “agency”). For the reasons discussed below, the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management (DHRM) finds that consolidation of these grievances for a single hearing is appropriate and practicable.

FACTS

The grievant has initiated two grievances with the agency, both challenging formal disciplinary action and qualified for a hearing by the agency head. The two grievances are currently pending with EDR as follows:

- 1) Case Number 12054, a grievance dated September 28, 2023, challenges a Group I Written Notice¹ issued on September 8, 2023, scheduled to be heard by the appointed hearing officer on April 25, 2024; and
- 2) Case Number 12118, a grievance dated January 30, 2024, challenging a Group II Written Notice issued on January 2, 2024, awaiting appointment to a hearing officer.

The parties have indicated a desire for consolidation of these two matters, to both be heard at the proceeding already scheduled for April 25, 2024.

DISCUSSION

Approval by EDR 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.² EDR strongly favors consolidation and will

¹ It appears that the initial subject of this grievance was a Group II Written Notice, but information provided by the agency suggests that the disciplinary action was reduced to the Group I level during the management resolution steps.

² *Grievance Procedure Manual* § 8.5.

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.³

EDR finds that consolidation of these two cases is appropriate. These grievances involve the same parties and appear likely to share at least some common themes, claims, and witnesses. Further, we find that consolidation is not impracticable in this instance: although the hearing is scheduled to be held only two weeks following this ruling, we assume the parties will be prepared to proceed that day on both matters in the interests of efficiency, as they have jointly requested to do so. Therefore, the two grievances are consolidated for a single hearing.⁴ The hearing officer appointment in Case Number 12054 will be amended to include Case Number 12118 as well.

EDR's rulings on compliance are final and nonappealable.⁵

Christopher M. Grab
Director
Office of Employment Dispute Resolution

³ *See id.*

⁴ Pursuant to the fee schedule established by EDR's Hearings Program Administration policy, two consolidated grievances shall be assessed a total flat hearing fee of \$5,000. *See* EDR Policy 2.01, *Hearings Program Administration*, Attach. B.

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