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CONSOLIDATION RULING

In the matter of the Department of Corrections
Ruling Number 2024-5657
January 22, 2024

This ruling addresses the consolidation of two grievances filed with the Department of Corrections (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

EDR has received two grievances filed by the grievant, both pending appointment to a hearing officer, that challenge formal disciplinary actions. These two matters are:

- 1) Case No. 12069, a grievance filed on or about October 11, 2023, challenging a Group I Written Notice issued September 26, 2023, citing unprofessional behavior; and
- 2) Case No. 12070, a grievance filed on or about December 26, 2023, challenging the grievant’s termination stemming from two additional disciplinary actions, both issued on December 20, 2023: a Group II Written Notice citing failure to follow instructions, and a Group III Written Notice citing workplace civility violations.

The agency has requested consolidation of these matters.

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.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

¹ *Grievance Procedure Manual* § 8.5.

² *See id.*

EDR finds that consolidation of these two cases is appropriate. These grievances involve the same parties and appear likely to share common themes, claims, and witnesses. The grievances relate to similar charges of misconduct by the grievant, resulting in formal disciplinary actions. Further, we find that consolidation is not impracticable in this instance. Therefore, the two grievances are consolidated for a single hearing.³ A hearing officer will be appointed in a forthcoming letter.

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

Christopher M. Grab
Director
Office of Employment Dispute Resolution

³ 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.

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