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## **ACCESS RULING**

In the matter of Old Dominion University  
Ruling Number 2023-5542  
April 17, 2023

Old Dominion University (the “university” or “agency”) has requested an access ruling from the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management (DHRM) concerning the grievant’s March 30, 2023 dismissal grievance.

### FACTS

On March 30, 2023, the grievant submitted a grievance to EDR, using a Grievance Form A – Dismissal Grievance. In his submission, the grievant indicated that he had begun working at the university in February 2023 through a private staffing agency. His grievance described a number of complaints about his management at the university. In response, the agency asserts that the grievant does not have access to the grievance procure because he was not an employee of the university, but rather was employed by the staffing agency and assigned to perform temporary work for the university.

### DISCUSSION

If a Grievance Form A does not comply with the requirements for initiating a grievance, the agency may notify the employee, using the Grievance Form A, that the grievance will be administratively closed.<sup>1</sup> Dismissal grievances are initiated directly with EDR, and thus an agency is essentially unable to follow this process as outlined. Accordingly, the agency has requested a ruling from this Office to address whether the grievant has access to the grievant procedure.

The General Assembly has provided that all non-probationary state employees may utilize the state employee grievance process, unless exempted by law.<sup>2</sup> There appears to be no dispute that the grievant was a contract employee assigned to work at the university, not a state employee. As a contract employee, the grievant does not have access to the state grievance procedure to challenge the matters identified in the grievance.<sup>3</sup> As such, the grievance is unable to proceed.

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<sup>1</sup> *Grievance Procedure Manual* § 6.2.

<sup>2</sup> Va. Code § 2.2-3001(A); *Grievance Procedure Manual* § 2.3.

<sup>3</sup> The grievant asserts that he contacted the DHRM AdviceLine for information related to his work at ODU and was told he could file a dismissal grievance. However, AdviceLine Consultants do not “[r]ender judgments, make

EDR will close its file and the parties are advised that no further action is required. To the extent the grievant may have access to another process to address the work-related issues identified, the grievant should contact the human resources office for the contract employer.

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

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decisions, or direct action on the issues presented by the caller.” *EDR AdviceLine*, available at [www.dhrm.virginia.gov/employment-dispute-resolution/advice-line](http://www.dhrm.virginia.gov/employment-dispute-resolution/advice-line). Therefore, while an AdviceLine Consultant could discuss possible options with the grievant, they would not have been in a position to determine whether or not the grievant had access to the grievance procedure or should choose to pursue a dismissal grievance.

<sup>4</sup> Va. Code § 2.2-1202.1(5).