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ACCESS RULING

In the matter of the Department of Agriculture and Consumer Services
Ruling Number 2023-5570
June 20, 2023

On June 8, 2023, the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management (“DHRM”) received a Dismissal Grievance Form from the grievant. Because the grievant was separated during his probationary period, the Department of Agriculture and Consumer Services (the “agency”) challenges whether he has access to the grievance procedure.

DHRM Policy 1.45, *Probationary Period*, states that employees “who begin either original employment or re-employment in classified positions must serve 12-month probationary periods effective from the dates of their employment.”¹ The General Assembly has further provided that all *non-probationary* state employees may utilize the grievance process, unless exempted by law.² The grievant began re-employment in a classified position at the agency on June 25, 2022, and was terminated from employment on June 8, 2023. As a result, he had not completed his 12-month probationary period at the time of his separation. Employees who have not completed their probationary period do not have access to the grievance procedure.³ Accordingly, the grievant does not have access to the grievance procedure to initiate a grievance challenging his termination. Therefore, this dismissal grievance will not proceed to a hearing and EDR will close its file.⁴

EDR’s access rulings are final and nonappealable.⁵

Christopher M. Grab
Director
Office of Employment Dispute Resolution

¹ DHRM Policy 1.45, *Probationary Period*, at 1.

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

³ *E.g.*, EDR Ruling No. 2020-5017; EDR Ruling No. 2019-4920.

⁴ This ruling does not address whether any legal or other remedy may be available to the grievant based on his concerns about his termination. This ruling only determines that his is ineligible to pursue his claims through the state employee grievance procedure.

⁵ Va. Code § 2.2-1202.1(5).