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ACCESS RULING

In the matter of the Department of Social Services
Ruling Number 2023-5479
November 7, 2022

On or about October 27, 2022, 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 her probationary period, the Department of Social Services (the “agency”) challenges whether she 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 working in a classified position at the agency on December 10, 2021, and was terminated from employment on or about October 26, 2022. As a result, she had not completed her 12-month probationary period at the time of her 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 her 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 her concerns about her termination. This ruling only determines that she is ineligible to pursue her claims through the state employee grievance procedure.

⁵ Va. Code § 2.2-1202.1(5).