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ACCESS RULING

In the matter of the Department of Corrections
Ruling Number 2024-5587
July 13, 2023

On June 28, 2023, the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management (“DHRM”) received a Dismissal Grievance Form from the grievant. In response, the grievant’s former employer, the Department of Corrections (the “agency”), has asserted that the grievant was a probationary employee and, thus, lacks 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

Here, information provided by the agency indicates that the grievant began his employment with the agency on February 27, 2023, and was subsequently terminated for unsatisfactory job performance on June 16, 2023. Accordingly, it appears that the grievant was still serving his 12-month probationary period at the time of his termination from employment. Employees who have not completed their probationary period do not have access to the grievance procedure.³

Accordingly, EDR finds that 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

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 he is ineligible to pursue his claims through the state employee grievance procedure.

⁵ Va. Code § 2.2-1202.1(5).

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