



JANET L. LAWSON
DIRECTOR

COMMONWEALTH OF VIRGINIA
Department Of Human Resource Management
Office of Employment Dispute Resolution

James Monroe Building
101 N. 14th Street, 12th Floor
Richmond, Virginia 23219

Tel: (804) 225-2131
(TTY) 711

ACCESS RULING

In the matter of the Virginia Community College System
Ruling Number 2024-5628
October 27, 2023

On or about September 29, 2023, the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management (DHRM) received a dismissal grievance initiated by the grievant to challenge her separation from employment. The grievant's former employer, a community college within the Virginia Community College System (the "college"), challenges whether the grievant has access to the state employee grievance procedure to initiate this grievance.

The General Assembly has provided that all non-probationary state employees may utilize the state employee grievance process, unless exempted by law.¹ Generally speaking, employees who work in positions designated as exempt from the Virginia Personnel Act ("VPA") do not have access to the grievance procedure.² "[T]eaching and research staffs of state educational institutions" are exempt from the VPA.³ Moreover, "administrative and professional faculty" do not have access to the state employee grievance procedure.⁴ The grievant in this matter was employed by the college as a dean and professor in a 12-month administrative faculty role. Accordingly, she does not have access to the state employee grievance procedure. Her dismissal grievance will not proceed to a hearing, and EDR will close its file.⁵

EDR's access rulings are final and nonappealable.⁶

¹ Va. Code § 2.2-3001(A); *Grievance Procedure Manual* § 2.3.

² Va. Code §§ 2.2-2905, 2.2-3002.

³ *Id.* § 2.2-2905(8).

⁴ DHRM Policy 2.20, *Types of Employment*, at 1, 5 (describing "teaching, research, administrative and professional faculty" as "non-covered employees" whose terms and conditions of employment "are established by their agencies, the agencies' governing bodies, or the Governor"); see *Grievance Procedure Manual* § 2.3; see also EDR Ruling No. 2013-3477.

⁵ This ruling only determines that the grievant lacks access to the state employee grievance procedure. It does not address, and has no bearing on, whether other legal or equitable remedies are available to the grievant in another forum.

⁶ Va. Code § 2.2-1202.1(5).

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Christopher M. Grab
Director
Office of Employment Dispute Resolution