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ACCESS RULING

In the matter of the Department of Corrections
Ruling Number 2024-5629
October 18, 2023

On or about October 5, 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 Employees who have not completed their probationary period do not have access to the grievance procedure.³ Here, it appears that the grievant began her employment with the agency on August 10, 2023. On October 5, 2023, the agency issued her written confirmation of her separation from state service. As such, the grievant had not completed her probationary period at the time she filed her grievance. Therefore, EDR finds that the grievant does not have access to the grievance procedure. Her 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 for the issues raised in her grievance. This ruling determines only that she is ineligible to pursue her claims through the state employee grievance procedure.

⁵ Va. Code § 2.2-1202.1(5).