

Issue: Access to the Grievance Procedure; Ruling Date: September 29, 2017;  
Ruling No. 2018-4619; Agency: Virginia Department of Health; Outcome: Access  
Denied.



**COMMONWEALTH of VIRGINIA**  
**Department of Human Resource Management**  
**Office of Equal Employment and Dispute Resolution**

**ACCESS RULING**

In the matter of the Virginia Department of Health  
Ruling Number 2018-4619  
September 29, 2017

On or about September 13, 2017, the Office of Equal Employment and Dispute Resolution (“EEDR”) at the Department of Human Resource Management (“DHRM”) received a Dismissal Grievance Form A from the grievant. The Virginia Department of Health (the “agency”) challenges the grievant’s access to the grievance procedure. For the reasons set forth below, EEDR concludes that the grievant does not have access to the grievance process to initiate this grievance.

FACTS

In this case, the agency indicates that the grievant began working with the agency in a classified position on October 19, 2016. On September 19, 2017, the grievant was terminated from employment. The grievant subsequently filed a dismissal grievance directly with EEDR to challenge her separation from employment. Upon receipt of a copy of the dismissal grievance, the agency has since informed EEDR that the grievant was terminated prior to the end of her probationary period and, thus, should not have access to file this grievance.

DISCUSSION

DHRM Policy 1.45, *Probationary Period*, provides 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.”<sup>1</sup> The grievant had not completed her twelve-month probationary period when she was terminated on September 13, 2017. The General Assembly has provided that all *non-probationary* state employees may utilize the grievance process, unless exempted by law.<sup>2</sup> Employees who have not completed their probationary period do not have access to the grievance procedure.<sup>3</sup> Accordingly, the grievant does not have access to the grievance procedure to initiate a grievance to challenge her

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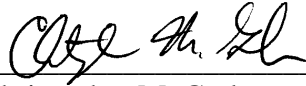
<sup>1</sup> DHRM Policy 1.45, *Probationary Period*.

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

<sup>3</sup> *E.g.*, EDR Ruling No. 2005-1032.

termination. As a result, this dismissal grievance will not proceed to a hearing and EEDR will close its file.

EEDR's access rulings are final and nonappealable.<sup>4</sup>



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Christopher M. Grab  
Director  
Office of Equal Employment and Dispute Resolution

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<sup>4</sup> Va. Code § 2.2-1202.1(5).