

Issue: Access to the Grievance Procedure; Ruling Date: June 6, 2013; Ruling No. 2013-3602; Agency: Virginia State University; Outcome: Access Denied.



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

ACCESS RULING

In the matter of Virginia State University
Ruling Number 2013-3602
June 6, 2013

The Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management (“DHRM”) has received a Grievance Form A challenging the grievant’s termination from Virginia State University (“University”). For the reasons set forth below, EDR concludes that the grievant does not have access to the grievance process to initiate this grievance.

FACTS

The grievant was employed by the University as a police officer/investigator. On April 3, 2013, he was terminated from his employment after receiving a Group II Written Notice.¹ That same day, the University advised the grievant in writing that he had the right to challenge his dismissal under either the state employee grievance procedure or the Law Enforcement Officer’s Procedural Guarantee Act (“Procedural Guarantee Act”) but not both. The grievant elected to proceed under the Procedural Guarantee Act. After failing to gain relief through that process, the grievant initiated a dismissal grievance under the state employee grievance procedure on May 3, 2013.

DISCUSSION

Virginia Code Section 2.2-3002(3) provides that the state employee grievance procedure does not apply to law-enforcement officers who have elected to pursue their claims through the Procedural Guarantee Act. In this case, it is undisputed that the grievant elected to challenge his dismissal under the Procedural Guarantee Act and that a decision was subsequently rendered. Accordingly, the grievant does not have access now to initiate a grievance to challenge his termination. Therefore, this dismissal grievance will be closed and not proceed to hearing.

EDR’s access rulings are final and nonappealable.²

A handwritten signature in black ink, appearing to read "Chris M. Grab".

Christopher M. Grab
Director
Office of Employment Dispute Resolution

¹ It appears that after the grievant advised the University that he could not be terminated under DHRM Policy 1.60, *Standards of Conduct*, with a Group II Written Notice, the agency issued a Group III Written Notice with termination on April 4, 2013.

² Va. Code § 2.2-1202.1(5).