

Issue: Access to the Grievance Procedure; Ruling Date: May 17, 2013; Ruling No. 2013-3606; Agency: Department of Corrections; Outcome: Access Denied.



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

ACCESS RULING

In the matter of the Department of Corrections
Ruling Number 2013-3606
May 17, 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. However, because the grievant was separated during her probationary period, there is a question as to whether she has access to the grievance procedure. 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 began working with the Department of Corrections (the agency) on July 16, 2012 in a classified position. Subsequent to an incident report submitted April 27, 2013, the agency concluded that the grievant had demonstrated an inability to follow policy pertaining to employee relationships with offenders. Further, agency management became aware that the grievant had received a traffic citation and consequent conviction and had failed to report either, as required by policy. On or about May 2, 2013, the grievant was issued a Termination Memorandum.

DISCUSSION

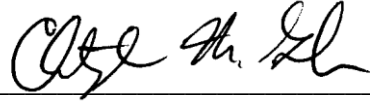
Pursuant to DHRM Policy 1.45, employees serve a 12-month probationary period, which can be extended by the agency for up to six months.¹ The General Assembly has provided that all *non-probationary* state employees may utilize the grievance process, unless exempted by law.² The grievant had not completed her twelve-month probationary period when she was terminated on May 2, 2013. Employees who have not completed their probationary period do not have access to the grievance procedure.³ Accordingly, the grievant does not have access to the grievance procedure to initiate a grievance to challenge her termination. Therefore, this dismissal grievance will be closed and not proceed to hearing.

¹ DHRM Policy 1.45, *Probationary Period*.

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

³ *E.g.*, EDR Ruling No. 2011-2940.

EDR's access rulings are final and nonappealable.⁴



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Director
Office of Employment Dispute Resolution

⁴ Va. Code § 2.2-1202.1(5).