

Issue: Access to the Grievance Procedure; Ruling Date: February 13, 2015; Ruling No. 2015-4097; Agency: Department of Aging and Rehabilitative Services; 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 Aging and Rehabilitative Services  
Ruling Number 2015-4097  
February 13, 2015

On February 9, 2015, the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management (DHRM) received a Dismissal Grievance Form A from the grievant. The Department of Aging and Rehabilitative Services (the agency) challenges the grievant's 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 agency states that the grievant began working with the agency on May 19, 2014 in a classified position. On February 6, 2015, the grievant was issued a separation memo, releasing her from employment due to allegedly unsatisfactory performance. The grievant subsequently filed a dismissal grievance directly with EDR to challenge her separation from employment. Upon receipt of a copy of the dismissal grievance, the agency has since informed EDR 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 February 6, 2015. 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 termination. As a result, this dismissal grievance filed will not proceed to a hearing and EDR will close its file.

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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.

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



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