

Issue: Access to the grievance procedure; Ruling Date: April 29, 2015; Ruling No. 2015-4145; Agency: Department of Social 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 Social Services  
Ruling Number 2015-4145  
April 29, 2015

On April 26, 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 Social 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 June 25, 2014 in a classified position. On March 27, 2015, the grievant was released 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 March 27, 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).