

Issue: Access to the Grievance Procedure; Ruling Date: June 11, 2015; Ruling No. 2015-4166; Agency: Department of Alcoholic Beverage Control; 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 Alcoholic Beverage Control  
Ruling Number 2015-4166  
June 11, 2015

The grievant filed a dismissal grievance with the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management to challenge his termination from his position with the Department of Alcoholic Beverage Control (the agency). The agency asserts that the grievant does not have access to the grievance procedure to challenge this termination because he was a wage employee. For the reasons set forth below, EDR concludes that the grievant does not have access to the grievance process for this grievance.

The General Assembly has provided that all non-probationary state employees may utilize the grievance process, unless exempted by law.<sup>1</sup> Pursuant to Virginia Code § 2.2-2905(11), “employees compensated on an hourly or daily basis” are exempted from the Virginia Personnel Act (VPA). Under Va. Code § 2.2-3002(4), employees “in positions designated in § 2.2-2905 as exempt from the Virginia Personnel Act (§ 2.2-2900 et seq.)” do not have access to the grievance procedure. Because the grievant was employed as a wage (hourly) employee, he was exempt from the VPA and did not have access to the grievance procedure.<sup>2</sup>

For the reasons discussed above, EDR has determined that the grievant does not have access to the grievance procedure to file the dismissal grievance. EDR’s file will be closed and the grievance will not proceed to hearing. EDR’s rulings on access are final and nonappealable.<sup>3</sup>

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

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Christopher Grab  
Director  
Office of Employment Dispute Resolution

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<sup>1</sup> Va. Code § 2.2-3001(A); *Grievance Procedure Manual* § 2.3.

<sup>2</sup> See also Department of Human Resource Management (DHRM) Policy 2.20, *Types of Employment* (stating that “[w]age employees are not eligible to use the state grievance procedure”).

<sup>3</sup> Va. Code § 2.2-1202.1(5).