

Issue: Request to Reconsider Access Ruling No. 2016-4303; Ruling Date: March 15, 2016; Ruling No. 2016-4318; Agency: Department of Behavioral Health and Developmental Services; Outcome: Access Still denied.



*COMMONWEALTH of VIRGINIA*  
*Department of Employment Dispute Resolution*

**RECONSIDERED ACCESS RULING**

In the matter of the Department of Behavioral Health & Developmental Services  
Ruling Number 2016-4318  
March 15, 2016

The grievant has requested that the Office of Employment Dispute Resolution (EDR) reconsider its access determination in Ruling Number 2016-4303 (the initial access ruling), which held that the grievant's February 9, 2016 grievance did not have access to initiate the dismissal grievance.<sup>1</sup> For the reasons discussed below, we find no error with the initial access determination.

At issue in the February 25, 2016 initial access ruling was whether the grievant had access to the grievance procedure in order to challenge her separation from employment, because she had submitted a resignation prior to initiating her grievance.<sup>2</sup> In that ruling, EDR concluded that the grievant did not have access to the grievance procedure on the date she initiated a dismissal grievance, February 9, 2016.<sup>3</sup> In her request for reconsideration, the grievant alleges that the agency presented her with the option to resign rather than be terminated at a meeting on January 29, 2016, and her request for more time to consider this option was denied. Thus, she states that she felt forced to resign on January 29, 2016.

EDR has considered the additional information provided by the grievant; however, the analysis of the underlying issue remains unchanged. The grievant had been notified of the issues surrounding the contemplated discipline by letter on January 25, 2016, and presented at that time with a memorandum indicating that termination was recommended. She was provided with approximately 24 hours in which to respond to the allegations against her and placed on administrative leave pending the agency's review of the matter. When the agency proposed to issue the disciplinary action to the grievant at a meeting on January 29, 2016, the grievant provided the agency with a letter of resignation. Thus, the grievant had a total of four days to contemplate the proposed termination and her response to the agency. We cannot agree that, in this instance, the grievant was forced to make an immediate decision that would render her resignation involuntary. As such, EDR concludes that there are no grounds to reconsider or change the analysis of EDR's initial access ruling.

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<sup>1</sup> See EDR Ruling No. 2016-4303.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

The grievant's request for reconsideration is denied and the grievance remains closed. EDR's rulings on matters of access are final and nonappealable.<sup>4</sup>



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