

Issue: Access to the Grievance Procedure; Ruling Date: April 8, 2016; Ruling No. 2016-4337; Agency: Virginia Military Institute; Outcome: Access Denied.



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

**ACCESS RULING**

In the matter of the Virginia Military Institute  
Ruling Number 2016-4337  
April 8, 2016

The grievant has requested a ruling from the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management (“DHRM”) on whether he had access to the grievance procedure to initiate a February 11, 2016 grievance with the Virginia Military Institute (the “agency”).

The grievant began his employment with the agency as a Grounds Worker on February 10, 2015. He applied for a position as a Carpenter and was notified that he had not been selected to interview for the position between January 20 and January 28, 2016. The grievant submitted a grievance disputing the agency’s selection process for the Carpenter position on or about February 11, 2016. Pursuant to DHRM Policy 1.45, *Probationary Period*, employees serve a 12-month probationary period that is “effective from the date[] of their employment.”<sup>1</sup> The General Assembly has provided that all non-probationary state employees may utilize the grievance process, unless exempted by law.<sup>2</sup> The *Grievance Procedure Manual* further states that, in order to have access to the grievance procedure, the grievant “[m]ust have been a non-probationary employee of the Commonwealth *at the time the management action or omission that formed the basis of the dispute occurred.*”<sup>3</sup>

In this case, the grievant had not completed his twelve-month probationary period when he learned that he had not been selected to interview for the Carpenter position. Accordingly, EDR finds that the grievant did not have access to the grievance procedure to initiate a grievance challenging the agency’s selection process for that position. The parties are advised that the grievance should be marked as concluded and no further action is required. EDR’s access rulings are final and nonappealable.<sup>4</sup>

A handwritten signature in black ink, appearing to read "Chris M. Grab", written over a horizontal line.

Christopher M. Grab  
Director  
Office of Employment Dispute Resolution

<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> *Grievance Procedure Manual* § 2.3 (emphasis added).

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