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ACCESS RULING

In the matter of the Department of Corrections
Ruling Number 2020-5116
July 7, 2020

On June 22, 2020, the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management (“DHRM”) received a Dismissal Grievance Form A from the grievant. Because the grievant was separated during her probationary period, the Department of Corrections (the “agency”) challenges whether she has access to the grievance procedure.

DHRM Policy 1.45, *Probationary Period*, states 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.”¹ The General Assembly has further provided that all *non-probationary* state employees may utilize the grievance process, unless exempted by law.² The grievant began working in a classified position at one of the agency’s prisons on May 10, 2020 and was separated from employment on June 22, 2020. Although the grievant’s notice of resignation appears to contain inconsistent language describing the nature of her separation,³ it is clear that she was a probationary employee regardless of the nature of the separation. Accordingly, EDR finds that the grievant does not have access to the grievance procedure.⁴ As a result, this dismissal grievance will not proceed to a hearing and EDR will close its file.⁵

EDR’s access rulings are final and nonappealable.⁶

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

Christopher M. Grab
Director
Office of Employment Dispute Resolution

¹ DHRM Policy 1.45, *Probationary Period*, at 1.

² Va. Code § 2.2-3001(A); *Grievance Procedure Manual* § 2.3.

³ The grievant states that she resigned whereas the agency noted that she was “removed.”

⁴ E.g., EDR Ruling No. 2011-2940.

⁵ This ruling does not address whether the grievant may have some other remedy, legal or otherwise, as to this situation. This ruling only determines that she is ineligible to pursue her claims through the state grievance procedure.

⁶ Va. Code § 2.2-1202.1(5).