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ACCESS RULING

In the matter of the Department of Corrections
Ruling Number 2020-5017
November 19, 2019

On November 18, 2019, the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management (“DHRM”)¹ received a Dismissal Grievance Form 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.”² The General Assembly has further provided that all *non-probationary* state employees may utilize the grievance process, unless exempted by law.³ The grievant began working in a classified position at one of the agency’s facilities on November 4, 2019, and was terminated from employment on or about November 14, 2019. As a result, she had not completed her 12-month probationary period at the time of her separation. Employees who have not completed their probationary period do not have access to the grievance procedure.⁴ Accordingly, the grievant does not have access to the grievance procedure to initiate a grievance challenging her termination. As a result, this dismissal grievance will not proceed to a hearing and EDR will close its file.

EDR’s access rulings are final and nonappealable.⁵

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

Christopher M. Grab, Director
Office of Employment Dispute Resolution

¹ The Office of Equal Employment and Dispute Resolution has separated into two office areas: the Office of Employment Dispute Resolution and the Office of Equity, Diversity, and Inclusion. While full updates have not yet been made to the *Grievance Procedure Manual* to reflect this change, this Office will be referred to as “EDR” in this ruling. EDR’s role with regard to the grievance procedure remains the same.

² DHRM Policy 1.45, *Probationary Period*, at 1.

³ Va. Code § 2.2-3001(A); *Grievance Procedure Manual* § 2.3.

⁴ E.g., EDR Ruling No. 2011-2940.

⁵ Va. Code § 2.2-1202.1(5).