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ACCESS RULING

In the matter of the Department of Corrections
Ruling Number 2020-5078
April 14, 2020

On March 26, 2020, the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management (“DHRM”)¹ received a Dismissal Grievance Form from the grievant, which is dated March 20, 2020. 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 March 10, 2020, and was terminated from employment on or about March 13, 2020. 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. Therefore, this dismissal grievance will not proceed to a hearing and EDR will close its file.⁵

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. 2020-5017; EDR Ruling No. 2019-4920.

⁵ This ruling does not address whether any legal or other remedy may be available to the grievant based on her concerns about her termination. This ruling only determines that she is ineligible to pursue her claims through the state employee grievance procedure.

EDR's access rulings are final and nonappealable.⁶



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Director
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⁶ Va. Code § 2.2-1202.1(5).