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ACCESS RULING

In the matter of the University of Virginia Medical Center
Ruling Number 2023-5470
October 27, 2022

The University of Virginia Medical Center (“Medical Center” or “the agency”) has requested an access ruling from the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management (“DHRM”) concerning the grievant’s October 5, 2022 dismissal grievance.

FACTS

On October 5, 2022, the grievant submitted a grievance to EDR, using a Grievance Form A – Dismissal Grievance. On the form, the grievant describes their termination by “UVA Hospital administration” on September 23, 2022 because of an accidental charting error. The notification of termination was done so through a three-way phone call with the grievant’s supervisor and a University Physicians Group (“UPG”) Human Resources representative. Leading up to this final phone call, there were multiple back-and-forth phone calls and emails between the grievant and their supervisors.¹ As relief, the grievant requests reinstatement of their Acute Care Nurse Practitioner position. In response, the Medical Center asserts that the grievant was in fact terminated by UPG, a separate organization from the Medical Center with its own administratively supported group practice, and because UPG employees are not state employees, the grievant lacks the ability to access the State Employee Grievance Procedure.

DISCUSSION

If a Grievance Form A does not comply with the requirements for initiating a grievance, the agency may notify the employee, using the Grievance Form A, that the grievance will be administratively closed.² Dismissal grievances are initiated directly with EDR, and thus an agency is essentially unable to follow this process as outlined. Accordingly, the Medical Center has

¹ The grievant also claims to have been locked out of their work email and relevant work notes with no explanation, making the grievant unable to fully describe and argue their situation to their supervisors.

² *Grievance Procedure Manual* § 6.2.

requested a ruling from this Office to address whether the grievant has access to the grievant procedure.

As an initial matter, the General Assembly has provided that all non-probationary state employees may utilize the state employee grievance process, unless exempted by law.³ The information available to EDR confirms that in regards to the agency responsible for the termination, the grievant is not a state employee. Since the grievant is not a state employee for this particular employer responsible for termination, the grievant does not have access to the state employee grievance procedure to challenge the matters identified in the grievance. As such, the grievance is unable to proceed. In addition, the grievant's simultaneous status as a wage employee for the Medical Center also does not grant access to the state grievance procedure.⁴ EDR will close its file and the parties are advised that no further action is required. To the extent the grievant may have access to another process to address the work-related issues identified, the grievant should contact the human resources office for UPG, to the extent they have not already done so.⁵

EDR's rulings on access are final and nonappealable.⁶

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

⁴ *Grievance Procedure Manual* § 2.3.

⁵ This ruling only determines that the grievant lacks access to the state employee grievance procedure. It does not address, and has no bearing on, whether other legal or equitable remedies may be available to the grievant in another forum.

⁶ Va. Code § 2.2-1202.1(5).