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**ACCESS RULING**

In the matter of the Department of Corrections  
Ruling Number 2024-5711  
May 23, 2024

On or about May 2, 2024, the grievant submitted a Grievance Form A to the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management (DHRM), indicating that he was challenging his separation from employment. The agency has asserted that the grievant was a probationary employee at the time of his separation and, thus, lacks 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.”<sup>1</sup> The General Assembly has further provided that all *non-probationary* state employees may utilize the grievance process, unless exempted by law.<sup>2</sup> Employees who have not completed their probationary period do not have access to the grievance procedure.<sup>3</sup>

Here, it appears that the grievant began his employment with the agency on October 25, 2023. The parties do not appear to dispute that the grievant submitted a notice of resignation, dated April 26, 2024, effective immediately, and the agency accepted it.<sup>4</sup> Therefore, the grievant had not completed his probationary period at the time of his separation. Accordingly, he does not have access to the grievance procedure. His grievance will not proceed, and EDR will close its file.<sup>5</sup>

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<sup>1</sup> DHRM Policy 1.45, *Probationary Period*, at 1.

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

<sup>3</sup> E.g., EDR Ruling No. 2020-5017; EDR Ruling No. 2019-4920.

<sup>4</sup> Although the grievant alleges that the agency improperly designated his separation as a termination, the agency has clarified for EDR that the grievant’s separation is recorded as “Resigned in Lieu of Termination.”

<sup>5</sup> This ruling does not address whether any legal or other remedy may be available to the grievant for the issues raised in his grievance. This ruling determines only that he is ineligible to pursue his claims through the state employee grievance procedure.

EDR's access rulings are final and nonappealable.<sup>6</sup>

*Christopher M. Grab*  
Director  
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<sup>6</sup> Va. Code § 2.2-1202.1(5).