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**ACCESS RULING**

In the matter of the Department of Corrections  
Ruling Number 2024-5713  
May 31, 2024

On or about May 17, 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 she was challenging her separation from employment. The agency has asserted that the grievant was a probationary employee at the time of her 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 her employment with the agency on October 10, 2023. The parties do not appear to dispute that the grievant submitted a notice of resignation, dated May 13, 2024, effective immediately. The agency has confirmed that her resignation was accepted.<sup>4</sup> Based on these dates, the grievant had not completed her probationary period at the time of her separation. Accordingly, she does not have access to the grievance procedure. Her 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> It appears that there may have been some confusion as to whether the grievant was issued a Written Notice with termination. The agency has clarified for EDR that no such written notice was issued to the grievant as a probationary employee, and her separation is recorded as “Resignation 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 her grievance. This ruling determines only that she is ineligible to pursue her claims through the state employee grievance procedure.

*An Equal Opportunity Employer*

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).