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ACCESS RULING

In the matter of the Virginia Department of Health
Ruling Number 2024-5731
June 28, 2024

On or about June 25, 2024, the grievant submitted a Grievance Form A – Expedited Process to the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management (DHRM), indicating that she was challenging unfair employment practices and seeking reinstatement to her position. The grievant had resigned on or about June 3, 2024. 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.”¹ The General Assembly has further provided that all *non-probationary* state employees may utilize the grievance process, unless exempted by law.² Employees who have not completed their probationary period do not have access to the grievance procedure.³

Here, it appears that the grievant began her employment with the agency on January 25, 2024. The parties do not appear to dispute that the grievant submitted a notice of resignation, dated June 3, 2024,⁴ effective immediately. 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.⁵

EDR’s access rulings are final and nonappealable.⁶

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

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

³ E.g., EDR Ruling No. 2020-5017; EDR Ruling No. 2019-4920.

⁴ The letter itself appears to have listed the date as “June 3, 2021.” However, that appears to be an unintended mistake as the grievant has stated in her grievance paperwork that she resigned June 3, 2024.

⁵ 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.

⁶ Va. Code § 2.2-1202.1(5).

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