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**COMPLIANCE and ACCESS RULING**

In the matter of Norfolk State University  
Ruling Number 2025-5805  
January 14, 2025

The grievant has requested a ruling from the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management (DHRM) on whether Norfolk State University (the “university” or “agency”) has failed to comply with the requirements of the state employee grievance procedure. In response, the university has asserted that the grievant lacks access to the grievance procedure.

**FACTS**

On or about October 31, 2024, the grievant filed a grievance with the university. The grievant identified her job title as “Assistant Professor” and alleged “[u]nauthorized use of . . . research, publication, presentation, [subject matter] certification, and course coordination efforts.” After the grievant received responses from three management resolution levels, it appears that she escalated the grievance to the university president on November 25, 2024. She apparently did not receive a response and requested a compliance ruling from EDR.

In response to the grievant’s ruling request, the university has asserted that the grievant lacks access to the state employee grievance procedure because she “has a faculty contract and is not a classified employee.”

**DISCUSSION**

The General Assembly has provided that all non-probationary state employees may utilize the state employee grievance process, unless exempted by law.<sup>1</sup> Generally speaking, employees who work in positions designated as exempt from the Virginia Personnel Act (“VPA”) do not have

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<sup>1</sup> Va. Code § 2.2-3001(A); *Grievance Procedure Manual* § 2.3.

access to the grievance procedure.<sup>2</sup> “[T]eaching and research staffs of state educational institutions” are exempt from the VPA.<sup>3</sup>

Because the record demonstrates that the grievant is employed in a teaching faculty position, she does not have access to the state employee grievance procedure. As such, the grievance procedure would not require the university president to respond, and thus no failure to comply is evident from the record.

It appears that, despite the grievant’s faculty status, university management chose to provide responses using the Grievance Form A, as would ordinarily be appropriate if the grievant did have access. The grievance procedure specifically contemplates this approach as a tool “[t]o promote improved employee relations,” including in situations where the agency would ordinarily have the right to administratively close a grievance.<sup>4</sup> Even if an agency uses this option, however, “[a]gency management may deny an employee access to the grievance procedure . . . at any point following receipt of a written grievance.”<sup>5</sup>

Accordingly, we find that the grievant does not have access to the state employee grievance procedure because she is a member of the university’s teaching faculty.<sup>6</sup>

EDR’s access rulings are final and nonappealable.<sup>7</sup>

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<sup>2</sup> Va. Code §§ 2.2-2905, 2.2-3002.

<sup>3</sup> *Id.* § 2.2-2905(8); *see* DHRM Policy 2.20, *Types of Employment*, at 1, 5 (describing “teaching, research, administrative and professional faculty” as “non-covered employees” whose terms and conditions of employment “are established by their agencies, the agencies’ governing bodies, or the Governor”).

<sup>4</sup> *Grievance Procedure Manual* § 2.4.

<sup>5</sup> *Id.* § 2.3.

<sup>6</sup> 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 are available to the grievant in another forum.

<sup>7</sup> Va. Code § 2.2-1202.1(5).