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**ACCESS RULING**

In the matter of the Virginia Department of Corrections  
Ruling Number 2025-5816  
January 29, 2025

On or about January 8, 2025, the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management (DHRM) received a Dismissal Grievance Form A from the grievant. In response, the Virginia Department of Corrections (the “agency”) challenges whether he has 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 policy further provides that “[p]robationary periods may be extended for up to 6 additional months for performance reasons. The reasons for the extensions must be documented on a Probationary Progress Review form. . . .”<sup>2</sup> The General Assembly has further provided that all *non-probationary* state employees may utilize the grievance process, unless exempted by law.<sup>3</sup>

It appears that the grievant began working in a classified position at one of the agency’s facilities on November 20, 2023. On May 7, 2024, agency management completed an interim probationary progress review. The review noted that the grievant is “not meeting performance expectations in regards to the call out procedures” and, as a result, management had deemed it appropriate to extend his probationary period to conclude on March 20, 2025. The agency terminated the grievant’s employment by letter dated December 9, 2024, citing violation of agency policy.

Employees who have not completed their probationary period do not have access to the grievance procedure.<sup>4</sup> Moreover, EDR has reviewed nothing to indicate that the agency’s decision to extend the grievant’s probationary period was inconsistent with DHRM policy.<sup>5</sup> Because the

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

<sup>2</sup> *Id.* at 2.

<sup>3</sup> Va. Code § 2.2-3001(A); *Grievance Procedure Manual* § 2.3.

<sup>4</sup> *E.g.*, EDR Ruling No. 2020-5017; EDR Ruling No. 2019-4920.

<sup>5</sup> EDR notes that the Probationary Progress Review documentation provided by the agency contains certain inconsistencies and/or irregularities. For example, it purports to be a three-month review but is dated approximately six months after the grievant’s hire date. It indicates that the extension is for three months but states a probationary end date four months after the original end date. However, these inconsistencies do not affect our conclusion that the

grievant had not completed his probationary period at the time of his termination, he does not have access to the grievance procedure. Therefore, this dismissal grievance will not proceed to a hearing and EDR will close its file.

This ruling does not make any determinations as to whether the grievant's termination itself was consistent with law. This ruling also does not address whether any legal or other remedy may be available to the grievant. This ruling only determines 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>

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extension appears to have been consistent with policy and in any event would have been in effect as of December 9, 2024. Although it is unusual to extend the probationary period at six months, nothing in DHRM Policy 1.45 prohibits the agency from doing so if performance considerations warrant it.

<sup>6</sup> Va. Code § 2.2-1202.1(5).