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ACCESS RULING

In the matter of the Virginia Department of Transportation
Ruling Number 2025-5756
September 6, 2024

On or about August 29, 2024, the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management (DHRM) received a dismissal grievance initiated by the grievant to challenge his separation from employment at the Virginia Department of Transportation (the “agency”). In response, the agency has challenged the grievance on grounds that the grievant lacks access to the state employee grievance procedure because he was in his probationary period at the time of his separation.

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 Here, it appears that the agency hired the grievant on March 25, 2024, and separated him from employment on July 25, 2024. Therefore, the grievant would not have concluded his 12-month probationary period at the time of his separation. As such, we conclude that the employee does not have access to the grievance procedure.³ Accordingly, the dismissal grievance filed with EDR is unable to proceed and the file will be closed.

EDR’s rulings on access are final and nonappealable.⁴

Christopher M. Grab
Director
Office of Employment Dispute Resolution

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

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

³ This ruling determines only 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 may be available to the grievant in another forum to challenge his separation.

⁴ Va. Code § 2.2-1202.1(5).