



STATE OF NEVADA
EMPLOYEE-MANAGEMENT COMMITTEE
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Meeting Minutes of the Employee-Management Committee
July 11, 2019

Held at the Nevada State Library and Archives Building, 100 N. Stewart St., Conference Room 110, Carson City, Nevada, and the Grant Sawyer Building, 555 E. Washington Ave., Room 1400, Las Vegas, Nevada, via videoconference.

Committee Members:

Management Representatives	Present
Mr. Guy Puglisi - Chair	X
Ms. Jennifer Bauer	X
Ms. Pauline Beigel	
Mr. Ron Schreckengost	
Ms. Jennelle Keith	
Ms. Tonya Laney	

Employee Representatives	
Mr. Tracy DuPree	X
Ms. Turessa Russell	
Ms. Sherri Thompson	
Ms. Sonja Whitten	X
Ms. Dana Novotny	

Staff Present:

Mr. Robert Whitney, EMC Counsel, Deputy Attorney General
Ms. Nora Johnson, EMC Coordinator
Ms. Ivory Wright-Tolentino, EMC Hearing Clerk

1. Call to Order

Chair Puglisi called the meeting to order at approximately 9:00 am.

2. Public Comment

There were no comments from the audience or Committee Members.

3. Committee introductions and meeting overview and/or update - For discussion only.

Chair Puglisi opened the meeting with Committee introductions.

Member DuPree stated on the Eckard matter, the employee's issues are against Department of Employee Training and Rehabilitation (DETR) and that he (Mr. DuPree) is currently employed by DETR.

Chair Puglisi stated he did not feel like this was a conflict as the employee currently works for and the grievance was against the Department of Corrections.

Mr. Whitney stated he agreed.

4. Adoption of the Agenda – Action Item

Chair Puglisi requested a motion to adopt the agenda.

MOTION: Moved to approve the agenda.

BY: Member DuPree

SECOND: Member Whitten

VOTE: The vote was unanimous in favor of the motion.

5. Discussion and possible action related to Grievance #6201 of David Eckard, Department of Corrections – Action Item

Chair Puglisi opened the Committee for discussion.

Chair Puglisi stated as he understood the grievance, the employee worked for DETR, there was a separation of service, the employee filed a grievance while employed with DETR and did agency level resolution conference.

Chair Puglisi stated as part of that resolution, the employee was reinstated and told if the requirements of that resolution agreement were met, the employee would not incur a break in service.

Chair Puglisi stated it appeared there was a conflicting opinion on if that agreement was satisfied and the employee's continuous service date was the reinstatement date and the employee is alleging that he met the terms of the agreement.

Chair Puglisi stated the Committee made numerous requests for a copy of the agreement, but the employee had not provided the agreement.

EMC Coordinator, Ms. Nora Johnson stated the employee did provide a copy of the agreement, sent to her email at 10:02 pm the night before the hearing and she had emailed it to the Committee the morning of the hearing.

Ms. Johnson stated EMC Hearing Clerk, Ms. Ivory Tolentino did have copies for the Committee in the south.

Chair Puglisi stated he would allow the Committee a moment to review the agreement.

Chair Puglisi stated the resolution agreement was dated March of 2014 and part of the agreement stated the employee agreed to resign and not rescind his resignation effective May 23, 2014 but now, in January of 2019 there is a conflict regarding the employee's reinstatement date.

Chair Puglisi stated based on that, he did not think the grievance was timely even though he did not feel the Committee had jurisdiction over the matter at all.

Chair Puglisi stated on page 2 of 4 in the grievance, the employee stated there was a 1-month break in service.

Chair Puglisi stated the employee worked at DETR, moved to NDOC, did the agency level resolution agreement.

Chair Puglisi stated if the employee was back in State service between March and June of 2014, he did not see how the Committee had jurisdiction almost 5 years later.

Member DuPree stated the conflict was not when he was reinstated, the conflict was from his original hire date for State service.

Member DuPree stated there was at least 1 year of seniority that was not reflected and that could be significant.

Member DuPree stated he was concerned NDOC contacted DETR for the employee's hire date, rather than contacting DHRM.

Chair Puglisi stated on page 1 of the agreement, bullet points #2 and #3, they agreed the employee would be reinstated on a temporary basis in order for the employee to resign.

Member Bauer asked if anyone had noted the date the employee started at NDOC.

Chair Puglisi stated all he could see was the employee incurred a 1-

month break in service based on his statement and his response to step 1.

Member Bauer stated the Committee did not have enough evidence and the Committee may be making assumptions.

Chair Puglisi stated his issue was the timeliness 5 years later.

Member DuPree stated last year during the shift bid, the process was changed to State seniority.

Chair Puglisi stated the employee should have been aware of his hire date and is talking about retirement now as he cashed out his retirement when he left.

Member Bauer stated the substance of the grievance is the employee wants his seniority calculated pursuant to the new Administrative Regulation (AR).

Member Bauer stated the employee has the event date as January 1, 2019 and she believes the new AR was effective January 1, 2019.

Chair Puglisi stated he believed the effective date was December 18, 2018.

Member Whitten stated the notice came out in December of 2018 with an effective date of January 2019.

Chair Puglisi reviewed the timeline and stated; November 20, 2018 was the shift bid update memo.

Member Whitten stated NDOC had to re-do the shift bid, the agency sent a memo that wasn't correct then had to resend a new memo in December.

Member DuPree stated the was why the employee was grieving after 4 years, he wanted the seniority for the shift bid and for that reason, felt the grievance should be moved to hearing.

Chair Puglisi asked if an employee resigns, does the Committee have the authority to change the reinstatement date.

Member DuPree stated no, the reinstatement date would be according to State service and the Committee would have to know what DHRM said.

Chair Puglisi stated per the NDOC memo that seniority for correctional officers would be based on the continuous service date with the State of Nevada, not just Corrections, which will be adjusted for breaks in service.

Member DuPree stated the employee was fighting for every day he could get because it mattered for shift bid.

Member Whitten stated she felt the reason the employee did not file a grievance before was the AR had not changed until 5 years after the grieved situation.

Member Whitten stated for that reason, she believed the grievance could be moved to hearing so the Committee could hear all the facts.

Member DuPree stated he agreed with Member Whitten.

Member Bauer stated the temporary AR for NDOC number 301 was effective December 20, 2018 and the employee was aware of the event January 1, 2019 and in her opinion, the employee did file his grievance timely as that was when the employee was made aware of the event that created the perceived injustice of the break in service and loss of seniority.

Member Bauer stated for those reasons, she felt the Committee had jurisdiction over this grievance and could move the grievance to hearing and adjust the grievance if appropriate and was in support of moving the grievance to hearing.

Chair Puglisi asked if anyone was ready to make a motion.

Member Whitten motioned to move grievance #6201 to hearing.

Member DuPree seconded the motion.

Chair Puglisi asked if there was any discussion, there was none.

MOTION: Moved to answer grievance #6201 with a hearing.

BY: Member Whitten

SECOND: Member DuPree

VOTE: The vote was 3 to 1 in favor of the motion with Chair Puglisi voting 'nay'.

6. Discussion and possible action related to Grievance #6319 of Micaela Garofalo, Department of Corrections – Action Item

Chair Puglisi opened the Committee for discussion.

Chair Puglisi stated this grievance was complicated and there were two grievances that covered the same circumstances.

Chair Puglisi stated those two grievances were moved to hearing, continuances were requested and granted pending a resolution conference.

Chair Puglisi stated upon his initial review of this grievance, there was a pending whistleblower complaint filed with the Hearing Officers

Division that had since been unsubstantiated and dismissed.

Chair Puglisi stated the crux of the grievance revolved around being reverted from a trial period, which the Committee does not have jurisdiction over.

Chair Puglisi stated one of the other grievances was related to a written reprimand that followed the reversion and essentially, he thought the grievant was alleging she may be being retaliated against.

Chair Puglisi stated he felt the grievant did not get along with the appointing authority, but that person was no longer with NDOC.

Chair Puglisi stated the agency has requested a resolution conference for the other two grievances, and the conflict may no longer exist.

Chair Puglisi stated it would be prudent for the Committee, since the other grievances had been advanced to hearing, the Committee move this grievance to hearing as well.

Member Whitten stated she agreed with the Chair.

Member Bauer stated she disagreed.

Member Bauer stated she thought the substance of this grievance was an interpersonal working relationship issue between a supervisor and employee and regardless of whether the supervisor is still employed with the department, Member Bauer stated she did not feel the Committee had jurisdiction to resolve interpersonal relationships, it should be addressed in other venues.

Member Bauer stated if the grievance was alleging retaliation or hostile work environment, there was another venue for that issue as well.

Member Bauer stated she did not feel moving this grievance forward would be productive.

Member DuPree stated if the Committee was moving two grievances similar to this grievance to hearing, moving this one and hearing them together would be the best use of the Committee's time.

Chair Puglisi agreed and stated he would bundle the three grievances together.

Member Whitten motioned to move grievance # 6319 to hearing and combine it with the two similar grievances.

Member DuPree seconded the motion.

Chair Puglisi asked if Member Whitten would remove the statement to

combine the grievances due to potential scheduling conflicts.

Member Whitten restated the motion to move grievance #6319 to hearing.

Member DuPree seconded the amended motion.

Chair Puglisi asked if there was any discussion, there was none.

MOTION: Moved to answer grievance #6319 with a hearing.

BY: Member Whitten

SECOND: Member DuPree

VOTE: The vote was 3 to 1 in favor of the motion with Member Bauer voting 'nay'.

7. Discussion and possible action related to Grievance #6401 of Jesse Haines, Department of Corrections – Action Item

Chair Puglisi opened the Committee for discussion.

Chair Puglisi stated this grievance was a stand-alone issue and not contingent on any other issue.

Chair Puglisi stated the employee believes NDOC should be doing its POST training differently and POST establishes guidelines and parameters for that training.

Chair Puglisi stated the employee concern seemed to be the agency could be held liable for not instituting best practices as determined by a Supreme Court decision.

Chair Puglisi stated he did not feel the employee had suffered any injustice; it was a difference of opinion regarding the training.

Chair Puglisi stated on page 5 of the grievance, bullet number 7, was “please send your suggestions regarding training to the Employee Development Manager, we are always looking to improve the training our staff receives within the resources provided to us by the Legislature.”

Chair Puglisi stated the agency solicited feedback outside of the grievance process and the history of this grievant, from his last grievance, stated he knew there was nothing the Committee could do and assumed his grievance would be denied, the employee wanted the grievance to be a matter of public record and this may be a similar scenario.

Member Bauer stated she did not see where the grievant was alleging the department did not follow its own regulation or policy.

Member Bauer stated she did see the employee was alleging the department may need to change its policy, therefore, this grievance would fall under the statute that allows the agency to run its affairs as they see fit.

Chair Puglisi stated he did not feel the Committee had the authority to mandate the agency change its policy or change its training procedures.

Chair Puglisi stated if the agency was following the regulations and statutes as they were written, which it appeared they were, it would fall under NRS 284.020 subsection 2.

Member DuPree stated based on the fact the EMC appeared to have no authority in this matter, he moved the Committee deny the grievance.

Chair Puglisi asked Member DuPree to include the NRS citation.

Member Dupree restated his motion to include NRS 284.020 subsection 2.

Member Whitten seconded the motion.

Chair Puglisi asked if there was any discussion, there was none.

MOTION: Moved to answer grievance #6401 without a hearing based on lack of jurisdiction and NRS 284.020 (2).

BY: Member DuPree

SECOND: Member Whitten

VOTE: The vote was unanimous in favor of the motion.

8. Discussion and possible action related to Grievance #6484 of Tanya Armendariz, Department of Corrections – Action Item

Chair Puglisi opened the Committee for discussion.

Chair Puglisi stated the employee received a Letter of Instruction (LOI) and a copy of the LOI was provided and the Committee best practice states “the EMC usually will not hear a grievance based solely on a dispute over an LOI. The exception is when an LOI is drafted in such a manner that it appears to be a warning or failure to comply will lead to further discipline.”

Chair Puglisi stated the grievant provided screenshots from the updated progressive discipline training in eLearn which outlined the new procedures in NAC for issuing an LOI.

Chair Puglisi stated the fifth slide of the training stated if the employee disputes a documented oral warning or written reprimand they can submit a grievance but an LOI is a coaching tool and not used for

discipline and cannot be grieved as it is not placed in the employees permanent State personnel file.

Chair Puglisi stated NRS 284.020 subsection 2, the agency has the right to manage its affairs as they see fit, would also apply to this grievance.

Member Bauer stated she agreed that statute would apply but also thought based on the letter of instruction not demonstrating further punishable action, the LOI was a coaching tool, therefore, the grievant had not suffered an injustice.

Member DuPree motioned to deny a hearing based on NRS 284.020 subsection 2 as well as the LOI is an instructional tool and not a punitive measure.

Chair Puglisi requested Member DuPree restate the motion to include the agency has not violated any statute or regulation.

Member Bauer asked if the reference was to NRS 284.384 subsection 6 that defines a grievance.

Chair Puglisi stated he felt the motion could include the agency had acted within its authority.

Member Whitten motioned to deny grievance #6484 based on the agency acted within its authority per NRS 284.020 subsection 2 as well as the EMC lacks jurisdiction.

Member DuPree seconded the motion.

Chair Puglisi asked if there was any discussion, there was none.

MOTION: Moved to answer grievance #6484 without a hearing based on lack of jurisdiction and NRS 284.020 (2).

BY: Member Whitten

SECOND: Member DuPree

VOTE: The vote was unanimous in favor of the motion.

9. Public Comment

There were no comments in the North or in the South.

10. Adjournment

Chair Puglisi adjourned the meeting at approximately 9:53 am.