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STATE OF NEVADA
EMPLOYEE MANAGEMENT COMMITTEE
MEETING TRANSCRIPT
APRIL 18, 2024

DUPREE: -- the Eureka Building on Amigo Street in Las Vegas. The, uh, (inaudible) of one of our members is meeting from our office, which is in (inaudible), um, and we're meeting here at Carson City, at the State Library and Archives Building at 100 North Stewart Street, Room 110. Um, anybody in the south want to talk about exit plans if you need to exit in the event of fire drill? Let's hope nobody down there needs to exit.

JOHNSON: Um, you know what, hold one moment, Chair. Sorry to interrupt, but I don't believe that they're set and ready to go.

DUPREE: Okay. Should (inaudible)? Okay. Um, I'm gonna guess it was gonna be (inaudible), and if we need to evacuate this building, please dear God, no, uh, we're gonna go to the -- turn right out the front doors and out the top of the steps exit right there, and wait for people with the -- or (inaudible) to direct us what to do. Uh, first thing you're calling the --

1 JOHNSON: Tracy?

2 DUPREE: Yep.

3 JOHNSON: I'm sorry. They're not ready. I don't
4 believe they can hear us.

5 DUPREE: Las Vegas, can you hear us?

6 UNIDENTIFIED: Yes, we can.

7 JOHNSON: Okay.

8 DUPREE: You got us?

9 JOHNSON: Perfect. Thank you.

10 DUPREE: Okay. With that, um, we'll call the
11 meeting to order and ask for public comment. No action can be
12 taken on anything raised during public comment, but you can
13 tell -- you can tell us what you want and if it needs to be,
14 we can add it to a future agenda for discussion and possible
15 action. Do we have any public comment in the north? Hearing
16 none, we have any public comment in the south? Ava, do you
17 have anything to get off your chest just so we can get
18 everybody?

19 CASE: No.

20 DUPREE: With that ,I'm gonna go with committee
21 introductions. I'm gonna start with me. My name is Tracy
22 DuPree. I am with the Department of Employment, Training and
23 Rehab. I'm the Chair of this committee and I've been a state
24 employee for 29 years and nine months. So wanna go next,
25 Doug?

1 FROMM: Sure. My name is Doug Fromm. I work for
2 Department of Transportation, um, been with the state, uh,
3 about 22, 23 years.

4 GORDON: Mary Gordon, I work at the Department of
5 Public Safety. I've been with the state of Nevada for 19
6 years.

7 LAUB: Deputy Attorney General Jordan Laub on
8 behalf of the Office of the Attorney General, Counsel for the
9 EMC Court.

10 JOHNSON: Nora Johnson, Division of Human Resource
11 Management, Human Resource Analyst for grievances and appeals.

12 CASE: My name is Ava Case. I'm with the
13 (inaudible) Security Division with DETR as a manager for the
14 rural areas. I've been with the -- for 12 years.

15 JOHNSON: Chair Dupree? We actually -- uh, we
16 actually don't have any members today in the south.

17 DUPREE: Okay.

18 JOHNSON: That's, uh, public and agency for the
19 case.

20 DUPREE: Gotcha. All right, I was wondering. Now
21 that I know that, um, all right, that ends that one. Uh,
22 Chair would like to entertain a motion to adopt the agenda as
23 submitted.

24 CASE: This is Ava Case for the record. I make a
25 motion to adopt the agenda as posted.

1 DUPREE: Okay. I'll second your motion, Ava. All
2 in favor say aye.

3 MEMBERS: Aye.

4 DUPREE: Agenda passes without opposition. All
5 right, Item 5, discussion, possible motion to dismiss
6 Grievance, uh, 8732 of Krista Harris, uh, submitted by
7 Department of Corrections, uh, supporting documentation and
8 all that. Anybody have any discussions on that one and?

9 FROMM: Doug Fromm for the record. Um, in
10 reviewing this grievance, um --

11 JOHNSON: Um, sorry, procedurally, I'm sorry. One
12 moment, Chair. Uh, procedurally we do have the members of
13 the, uh, agency here. Are you Ms. Harris?

14 HARRIS: I am.

15 JOHNSON: Uh, we do have the employee here so this
16 will be a similar hearing procedure with about 15 minutes for
17 each side to present their case. If we could get everybody
18 sit at the witness tables? Thank you.

19 DUPREE: Anybody that's here as a witness needs to
20 sign in and, um -- right there and after everybody signs in,
21 we'll stand up and swear you in. And the standing up is
22 metaphorical coming from me.

23 JOHNSON: Right. And they -- they are -- they'll be
24 (inaudible).

25 DUPREE: Okay. Anybody that is going to appear as

1 a witness, please raise your hand. Do you swear to tell us
2 the truth and the whole truth as you see it?

3 UNIDENTIFIED: I do.

4 DUPREE: Thank you. Uh, anybody have any
5 objections to any (inaudible) submitted by either side?
6 Hearing none, okay. In this matter, what -- why don't we let
7 the grievance go ahead and we can let you play case in chief
8 (inaudible) to questions and --

9 JOHNSON: Chair Dupree, point of order. Nora
10 Johnson for the record. The motion to dismiss was submitted
11 by the agency. They should start the discussion.

12 DUPREE: You -- you can start. You're right.

13 JOHNSON: Thank you.

14 DUPREE: Agency, please start -- record. Sorry, I
15 got that backwards. Oops. That's why I don't do this
16 professionally. Uh, Agency, you can present your case,
17 please.

18 TAN: Hi. Hi. Good morning, everyone. My --
19 my name is Gerald Tan from the AG'S office here on behalf of,
20 uh, MDOC (phonetic). Here just to address the motion to
21 dismiss. Uh, can you hear me okay?

22 DUPREE: Yep, sure can.

23 TAN: Okay. I appreciate that. Um, it -- it
24 was, um, quite the experience, um, preparing for this
25 particular motion. It's almost like going back in time cause

1 it's the -- the time period that we're talking about was just
2 so different and so far from normal than what it feels like
3 today. But the lens that we need to view this revisit to this
4 motion, uh, through, um, the time period that we were looking
5 at in a state of emergency during a pandemic, uh, that
6 affected everybody in the state. Um, so, uh, I -- I won't
7 regurgitate all the points that are in the motion, but I just
8 wanted to highlight, uh, just a couple of points. First,
9 we're dealing with the application of the COVID admin leave
10 policy. That's -- that's the relief that we're -- that the
11 grievant is asking for. Um, the COVID admin leave policy has
12 been attached as -- as an exhibit, that's Exhibit B to our
13 motion, um, and it's -- the language of that policy is crystal
14 clear. If an employee is unvaccinated, that employee is not
15 entitled to, uh, admin leave that in the event that they
16 contract, uh, the -- uh, contract COVID, and I -- I think Ms.
17 Harris, uh, has admitted, and I don't think it's in real
18 dispute that she was unvaccinated at this time, and so she was
19 denied COVID admin leave, um, at this time. And so to provide
20 admin leave under this policy, the EMC, this committee, would
21 have to supersede this policy, um, and time and again, this --
22 this committee has declined to do that. Uh, I -- I -- like I
23 said, in three decisions, um, in our motions to that effect,
24 that's the Andrews -- uh, Andrews decision, Ringwald
25 (phonetic,) to Chung, uh, all three of those, uh, the EMC had

1 declined to supersede a governor's, uh, mandate or a
2 governor's directive regarding admin leave policies,
3 especially, again, when we're dealing with a state of
4 emergency like we were back in 2022. Um, so in sum, COVID
5 admin leave policy can't be superseded by the EMC, so the
6 relief can't be granted to this employee. I do wanna address
7 one point that the -- that Ms. Harris had raised in her
8 grievance on the, uh -- I -- I don't know if it was in the
9 opposition, but it was definitely in grievance that this is
10 somehow discriminatory not providing her admin leave. The --
11 to be honest, the -- the -- the grievance isn't crystal clear
12 as to exactly what the -- the basis for discrimination is, um,
13 a body of case law saying that vaccination status is not a
14 protected classification, but in any event, um, if there is
15 some sort of discrimination claim, then that falls outside of
16 what the grievance is supposed to address, uh, but NAC 284.658
17 is crystal clear. If there's a, uh, federal law that provides
18 you a remedy, provides you a hearing, um, and we would submit
19 that all the federal discrimination laws, to the extent that
20 Ms. Harris has a claim that would address her -- their issues
21 here, um, that brings this issue outside of the grievance
22 process and outside the EMC's jurisdiction. So, um, all in
23 all, um, you know, in addition to the points that we made in
24 the motion, the EMC just respectfully lacks jurisdiction to
25 address these issues, uh, so we'd ask for the grievance to be

1 -- uh, the grievance to be dismissed.

2 DUPREE: Thank you. I assume you have nothing
3 further on your side?

4 TAN: Nothing further from the Agency.

5 DUPREE: Okay. None at this time. Ms. Harris, you
6 ready to go with your case?

7 HARRIS: Yes.

8 DUPREE: Okay, go ahead.

9 HARRIS: Um, so just for my opening statement, I'd
10 like to thank the EMC for taking time to review this hearing.
11 Um, I understand that the pandemic was a difficult time for
12 everyone and added (inaudible) to management. The pandemic
13 was unfamiliar territory as you discussed and (inaudible).
14 Um, the only thing that I want out of this hearing is
15 fairness. Um, while I understand the pressures at the time,
16 now we can step back and reflect on that time period. I hope
17 that you can agree that returning my earned annually would be
18 a fair thing to do. I ask both for equal treatment, which
19 would be the same treatment my vaccinated coworkers received
20 at the time of their illness at the difficult time. So if the
21 NDOC was able to remove the letters of reprimand that they
22 received during that vaccination time, they can also restore
23 my annual. That's all I have.

24 TAN: Chair, do you mind if I -- do you mind if
25 I respond just as a quick rebuttal?

1 DUPREE: Sure, go ahead.

2 TAN: Um, just as far as the, uh, letters of rep
3 -- reprimand, you know, that -- that wasn't -- that wasn't the
4 product of NDOC's doing, it was the emergency regulation that
5 allowed us to force that, uh, expired and then the legislative
6 commission de -- declined to, uh, renew that emergency
7 regulation. So that was the basis for it. It wasn't a
8 unilateral decision based on, uh, NDOC and it -- and frankly,
9 I do believe that NDOC treated their employees equally and
10 fairly. Uh, all vaccinated employees were treated equally and
11 fairly, all unvaccinated employees were treated equally and
12 unfairly, um, and again, you know, vaccination status is not a
13 protected classification, um, and so with all respect, I do
14 think that the, uh -- the grievance should still, uh, be
15 dismissed.

16 DUPREE: Ms. Harris, you gave us your opening
17 statement. Do you have any other evidence to present?

18 HARRIS: I do not. I, uh, presented my, uh,
19 responses to the grievances. Um, the only other rebuttal I
20 have is the lack of responses of the grievances. After, uh,
21 the first grievance was submitted, there was no responses to
22 set 3 or 4, uh, so that's why we're at this level. And then
23 also, um, I think my response for motion to dismiss is pretty
24 consistent with my opening statement.

25 DUPREE: Okay. Yeah. Seemed pretty similar, but I

1 thought I'd make sure you didn't have anything else you wanted
2 to add.

3 HARRIS: No.

4 DUPREE: All right. Anybody have any thoughts (on
5 what we've heard so far?

6 FROMM: Doug Fromm for the -- for the record, um,
7 I just have a couple of questions in regards to the grievance.
8 Um, some of the highlights I have in here, maybe I get some
9 clarification. Um, one of 'em says that the NDOC will not be
10 following CDC guidelines and will continue 10-day quarantine
11 timeframe. Um, sorry.

12 JOHNSON: Chair Dupree.

13 DUPREE: Oh, we go, uh -- Nora, for the record,
14 right?

15 JOHNSON: Thank you. Uh, Nora Johnson for the
16 record. Uh, correct me if I'm wrong, DAG Laub, but right now
17 with the motion to dismiss, we are not discussing the crux and
18 content of the grievance itself. It has not been determined
19 if it should proceed to hearing based on the motion to
20 dismiss. Right now, what's in front of us is the motion to
21 dismiss based on what the agency submitted and that the crux
22 and content of the grievance would be discussed once the
23 disposition of the motion to dismiss has been determined.

24 LAUB: All right. That's correct, Nora. This is
25 Deputy Attorney General Jordan Laub. I think the crux of the

1 issue here is the applicability of the vaccination or
2 unvaccinated, um, to this department under the directive of
3 the governor. So the question before the Board, more
4 succinctly, is whether or not the NDOC has made sufficient
5 showing to establish that the policy applied in this case.

6 GORDON: Mary Gordon for the record. I -- based on
7 the information presented, I believe that the department has
8 provided sufficient showing of policies and I (inaudible)
9 motion, um, to dismiss this grievance.

10 DUPREE: Okay, based on what I've heard and seen,
11 uh, the department was following a governor directive that
12 this (inaudible) again (inaudible) the ability to override.
13 Um, cons -- consequences of not getting vaccinated were
14 spelled out very clearly and I agree (inaudible) motion. I --
15 I am inclined to, uh, vote for (inaudible) motion to dismiss.
16 Does anybody have a motion that they're gonna work out?

17 CASE: This is Ava Case for the record. I make a
18 motion to dismiss, um, grievance 8732, um, as we, uh, cannot
19 supersede in the governor's, uh, directive.

20 DUPREE: Okay, Ava, I'll second that motion. All
21 in favor say aye.

22 DUPREE: Aye.

23 CASE: Aye.

24 GORDON: Aye.

25 DUPREE: Okay. And all opposed?

1 FROMM: Aye.

2 DUPREE: Uh, for the record, Doug is raising his
3 hand. Based on that, the motion to dismiss carries by a three
4 in favor and one opposed.

5 TAN: Thank you (inaudible).

6 DUPREE: Um, that moves us to, uh, I believe 6,
7 adjustment of Grievance 8732, Ms. Harris. Um, and like the
8 last one, is this a motion to dismiss that we're looking at?

9 JOHNSON: Uh, Nora Johnson for the record. With the
10 agency's motion to dismiss be -- being granted, um, the case
11 itself has -- uh, the grievance itself has been denied, the
12 hearing has been denied, and we would be moving on to Agenda
13 Item Number 7.

14 DUPREE: Okay. Item Number 7, discussion, possible
15 action, uh, Grievance 100126 (SIC), uh, Karina Leaf (SIC),
16 (inaudible), uh, Department of Corrections. Item Number 7,
17 uh, did anybody have any, uh, feeling on any of the packets
18 submitted by either side? (Inaudible.)

19 JOHNSON: This is an agen -- Nora Johnson for the
20 record. This is an agendized discussion item for the
21 committee to determine hearing.

22 DUPREE: Okay. Got it. Anybody have any feelings
23 about grievance, item number 7? Anybody have any thoughts on
24 it?

25 GORDON: So this is Mary Gordon for the record.

1 Um, in reading, I -- um, if anybody could help me, maybe I
2 missed it, did we identify -- I know, um, salary adjustments
3 are -- are temporary. Um, the -- the grievant is saying that
4 she was denied the grievance -- or excuse me, the salary
5 adjustment from September 3rd to November 20th or so, which
6 was when the (inaudible).

7 DUPREE: It looked like they were giving -- there
8 was salary adjustment until the new person took over and when
9 the new person took over, they stopped giving the adjustment,
10 that's what it looked like to me. (Inaudible?)

11 GORDON: Yeah. And maybe that's where I need help
12 with -- with clarifying, because to me it seemed like the
13 salary adjustment stopped on September 3rd, but the ASO didn't
14 start until November 20th. So I wasn't quite sure did it --
15 if I missed something where maybe it said -- I mean, who was
16 doing the duties of that position she was covering from the
17 September 3rd to the November 20th if it came -- if it stopped
18 on September 3rd?

19 DUPREE: Which leads to the next question. Does
20 this question rise to the level that we need to hear about it,
21 we need to have a hearing on it?

22 GORDON: Well, like I said, a temporary --
23 temporary salary adjustments, but again, are temporary or
24 until when the need ceased, but I -- and -- and here I didn't
25 see where the need -- I -- I saw -- in the grievance I see

1 where on November 20th I saw -- I could see where maybe it was
2 no longer needed because that's when the new (inaudible)
3 started.

4 DUPREE: Yeah. So the whole crux of it is we need
5 to determine was this person properly paid between, uh, 9/3
6 and 11/20. I -- I don't know.

7 GORDON: So --

8 DUPREE: (Inaudible.)

9 GORDON: So maybe perhaps it says sound like that
10 we would maybe need to provide a hearing.

11 DUPREE: Okay. In that case, do you have a motion?
12 Nora?

13 JOHNSON: Nora Johnson for the record. Should the
14 committee determine that this grievance go to hearing, we can
15 on behalf of the committee request a subject matter expert
16 from either compensation or payroll to help walk through some
17 of the nuances of salary adjustment, et cetera, if that is
18 what the committee does do.

19 DUPREE: I would love to do that if this goes to --
20 to -- yeah, we need to have some -- somebody from payroll.

21 JOHNSON: Noted, sir. Thank you.

22 DUPREE: Yeah. (Inaudible.) Okay. Mary?

23 GORDON: Mary Gordon for the record. I motion to
24 move this grievance to hearing -- I -- I -- excuse me, Mary
25 Gordon for the record. I motion grievance number 10026 to a

1 hearing.

2 DUPREE: Do we have a second?

3 CASE: This is Ava Case for the record. I
4 second.

5 DUPREE: Mary motions, Ava seconds. All in favor,
6 say aye.

7 DUPREE: Aye.

8 CASE: Aye.

9 GORDON: Aye.

10 DUPREE: Any opposed?

11 FROMM: Aye.

12 DUPREE: Okay. Uh, in that case, the -- this
13 matter, uh, grievance number 10026, uh, we will move to
14 hearing. Item Number 8, discussion and possible action on
15 grievance 10018. Andrea Villa -- Villanova (SIC) --
16 Valenzuela. Yeah (inaudible) Valenzuela. Anybody have any
17 thoughts on this one?

18 GORDON: Mary Gordon for the record. (Inaudible)
19 propose resolution, I -- I don't -- I don't see where we can
20 provide (inaudible).

21 DUPREE: Mary, do you see something in there where
22 we could provide relief?

23 FROMM: No. Doug Fromm for the record for the
24 record. She took, uh, a -- a lateral transfer to get out of
25 the section and now she -- when -- part of her resolution and

1 she's worried that -- where did I have that? She's fearful of
2 continued retaliation in her new position. I mean, but at the
3 end of the day, she put in for a transfer, the other division
4 took her, so there must be -- they must, you know, be fond of
5 her to take her for a transfer so --

6 DUPREE: Yeah.

7 FROMM: -- as far as providing her relief on
8 retaliation, um, you know, I don't -- she filed a complaint
9 with EEO, it's a needs --

10 DUPREE: Yeah.

11 FROMM: -- during -- uh, at a different venue.

12 So, um, I, Doug Fromm, for the record motion to dismiss.

13 DUPREE: All right, I'll second that motion. All
14 in favor of dismissing mis -- dismissing this grievance, say
15 aye.

16 FROMM: Aye.

17 DUPREE: Aye.

18 CASE: Aye.

19 DUPREE: Any opposed?

20 GORDON: Well, I'm not sure. I'm not opposed.

21 DUPREE: Okay.

22 GORDON: But maybe the language, because if she
23 filed and -- and I -- and this is education, she filed through
24 a different venue, so part of the grievance would be addressed
25 through a different venue.

1 DUPREE: Yeah, we can -- probably going to have --

2 LAUB: This is Deputy General Jordan Laub. Sorry
3 to interject. I just would like offer a bit of guidance as
4 far as --

5 DUPREE: That's what we count on you for. Go
6 ahead.

7 LAUB: Right, what -- what we can offer. Um, in
8 considering this motion to deny a hearing, um, I believe the
9 Board should consider the factors as it has previously
10 elucidated, such as, um, potentially an incorrect forum and
11 also the inability to address the grievance. So any
12 discussion may be best considered on those factors --

13 DUPREE: Okay.

14 LAUB: -- when considering a motion to dismiss or
15 deny hearing.

16 DUPREE: So I'm not even gonna call a vote on this
17 grievance number. I -- I'm going to, um, ask for an amended
18 grievance. Actually, wait, I did ask for a second. So let's
19 vote and deny this grievance and then we'll bring that -- all
20 in favor of -- of approving this grievance as given, say aye.
21 All opposed say aye.

22 MEMBERS: Aye.

23 DUPREE: Or all opposed say nay. (Inaudible) nay.
24 Nay from Mary, nay from Ava, and nay from Doug. Okay. Let's
25 try a new (inaudible).

1 GORDON: Mary Gordon for the record. In accordance
2 with NAC 284.69591, I motion to deny grievance 10018 as the
3 EMC lacks jurisdiction lacks jurisdiction over the substance
4 of this grievance. However, relief may be offered through
5 another venue.

6 DUPREE: I'll second that motion. All in favor of
7 this motion, say aye.

8 MEMBERS: Aye.

9 DUPREE: Motion carried unanimously. Okay. Where
10 are we? And this is Grievance Number 9, it's discussion,
11 possible motion, Grievance 10104, Andrea Villanueva (SIC),
12 same grievance. Any thoughts on (inaudible) Number 2, Ms.
13 Villanueva (SIC)?

14 GORDON: Mary Gordon for the record.

15 DUPREE: Yes, ma'am.

16 GORDON: Again, reading the proposed resolution, I
17 do not believe that we would be able to provide any relief.

18 DUPREE: Any relief. Okay. So anybody want to put
19 that into the formal motion? (Inaudible.)

20 GORDON: This is Mary Gordon for the record. In
21 accordance with NAC 284.695(1), I motion to grievance number
22 101014 as the EMC lacks jurisdiction over the substance of
23 this grievance.

24 FROMM: Doug Fromm for the record. Second that
25 motion.

1 DUPREE: All in favor of the motion, say aye.

2 MEMBERS: Aye.

3 DUPREE: Motion carries unanimously. All right,
4 uh, that brings us to public comment. Does anyone have any
5 public to comment on anything? Hearing none, without
6 objection, the Chair -- Chair would like to adjourn this
7 meeting.

8 CASE: Tr -- Tracy? I'm sorry, I didn't get, um
9 -- did we not get another grievance that we were gonna be
10 hearing?

11 DUPREE: Did I skip one?

12 CASE: Randy? Randy Andrews?

13 UNIDENTIFIED: No, it's already been heard.

14 DUPREE: No? What about Randy Andrews?

15 JOHNSON: Nora Johnson for the record. Uh, the
16 Randy Andrews grievance and documentation that you were sent
17 was the reference documentation for the agency motion to
18 dismiss for Agenda Item Number 5. I wanted to make sure that
19 all of the committee members had that for reference.

20 DUPREE: Got it. Thank you.

21 CASE: Thank you. Alright.

22 DUPREE: Without objection, I move to adjourn this
23 meeting. Hearing none, meeting adjourned. Thank you,
24 everybody.

25 JOHNSON: Thank you everyone in the south.

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DUPREE: See you next time.

CASE: Thank you.

*** END OF MEETING ***