



STATE OF NEVADA
EMPLOYEE-MANAGEMENT COMMITTEE
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Meeting Minutes of the Employee-Management Committee
October 6, 2016

Held at the Richard Bryan Building, 901 S. Stewart St., Tahoe Conference Room, Carson City, Nevada, and the Grant Sawyer Building, 555 E. Washington Ave., Room 1400, Las Vegas, Nevada, via videoconference.

Committee Members:

| Management Representatives | Present |
|-----------------------------------|----------------|
| Ms. Mandy Hagler–Chair | X |
| Ms. Pauline Beigel | |
| Mr. Guy Puglisi | X |
| Ms. Claudia Stieber | |
| Ms. Allison Wall–Co-Vice-Chair | |
| Ms. Michelle Weyland | |

| Employee Representatives | |
|------------------------------------|---|
| Ms. Stephanie Canter–Co-Vice-Chair | |
| Ms. Donya Deleon | |
| Mr. Tracy DuPree | X |
| Mr. David Flickinger | |
| Ms. Turessa Russell | |
| Ms. Sherri Thompson | X |

Staff Present:

Mr. Robert Whitney, EMC Counsel, Deputy Attorney General
Ms. Carrie Lee, EMC Coordinator
Ms. Jocelyn Zepeda, Hearing Clerk

- 1. Chair Mandy Hagler:** Called the meeting to order at approximately 9:00 a.m.
- 2. Public Comment**

There were no comments from the audience or Committee Members.

3. Adoption of the Agenda – Action Item

Chair Hagler requested a motion to adopt the agenda.

MOTION: Moved to approve the adoption of the agenda.

BY: Committee Member Tracy DuPree

SECOND: Committee Member Sherri Thompson

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

4. Discussion and possible action related to Motion to Dismiss of Grievance #4383 of Russell Garvin, submitted by the Department of Corrections, supporting documentation, and related oral argument, if any – Action Item

A Motion to Dismiss was submitted to the Employee-Management Committee (“EMC” or “Committee”) by the agency employer Department of Corrections (“NDOC”). Senior Deputy Attorney General Cameron Vandenberg represented NDOC. Russell Garvin (“Mr. Garvin” or “Grievant”) was present in proper person.

NDOC argued in substance the EMC did not have jurisdiction to hear Mr. Garvin’s grievance for three reasons, and that the grievance should therefore be dismissed. The first reason NDOC argued Mr. Garvin’s grievance should be dismissed was that Grievance #4383 was a response to a previous grievance which had been withdrawn (#4358) by Mr. Garvin. NDOC noted in substance that this was an improper use of the grievance system. NDOC also argued in substance that the (Nevada Employee Action and Timekeeping System, “NEATS”) Help Desk had looked into Mr. Garvin’s claim the grievance was unexplainably withdrawn, but was unable to verify that Mr. Garvin’s grievance had not been withdrawn in error. NDOC also stated in substance that Mr. Garvin never mentioned the error, or “glitch,” in his second grievance (#4383).

The second reason NDOC argued in substance Mr. Garvin’s grievance should be dismissed was that he was essentially grieving a 1982 Federal court order in an inmate class action suit (the *Stickney* case), and that the EMC lacked the jurisdiction to enforce a court order in an inmate class action suit.

The third reason NDOC argued in substance Mr. Garvin’s grievance should be dismissed was in substance that the actions by NDOC which Mr. Garvin was grieving fell within the purview of NRS 284.020, in that the Director or warden of NDOC had the ability to manage the affairs of NDOC as they saw fit, and that how the warden managed manpower at NDOC fell into this category.

Mr. Garvin argued in substance concerning the allegation there was a “glitch” with NEATS, and he continued to “mess around” with the computer he was using after he received NDOC’s response in an attempt to submit his response. Mr. Garvin added that the printout of the grievance event log he had submitted with his response to NDOC’s motion to dismiss showed nine minutes had elapsed from the time he received NDOC’s response to the time he submitted his response and NEATS provided him with the different grievance number. Mr.

Garvin also argued in substance the EMC had the authority to hear his grievance pursuant to the definition of “grievance” in NAC 284.658.

The Committee, after having read and considered all of the documents filed in this matter and having heard oral argument, deliberated on the issues presented. Committee Member DuPree stated in substance he did not believe the Grievant was doing anything nefarious when he submitted his grievance, and that the grievance involved a workplace safety issue which the Committee could hear. Committee Member Thompson noted in substance she believed it had been Mr. Garvin’s intent to proceed with, and not withdraw, his grievance and thought Mr. Garvin’s grievance should be heard by the Committee. Committee Member Guy Puglisi stated in substance that it seemed the safety of the employee was indicated in the grievance. Chair Hagler noted in substance she had concerns with Mr. Garvin’s proposed resolution, which was for the Committee to tell NDOC it must comply with *Stickney*, but that such a request was not within the Committee’s purview. Chair Hagler also noted in substance if the Committee moved forward with the grievance to a hearing it would need parameters as to what would be heard.

MOTION: Moved to deny the Motion to Dismiss as the EMC has jurisdiction over working conditions.

BY: Committee Member DuPree

SECOND: Committee Member Thompson

VOTE: The motion passed unanimously.

5. Discussion related to Grievance #4344 of Wade Westover, Department of Corrections – Action Item

Chair Hagler opened the discussion on Grievance #4344 to determine if the Committee may answer the request for consideration of the grievance without a hearing if the grievance is based upon the Committee’s previous decisions or does not fall within its jurisdiction.

Committee Member Puglisi stated in substance the EEOC (“Equal Employment Opportunity Commission”) had jurisdiction over most of the allegations mentioned in the grievance, and the EMC did not have jurisdiction over the remaining concerns being grieved. Committee Member DuPree stated in substance the grievant was offered promotions in the past but declined to commute to another institution. Committee Member Puglisi indicated in substance it was not reasonable to isolate an employee from attending staff meetings or to not allow to work overtime. Chair Hagler stated in substance the grievant felt he did not get a position due to discrimination owing to a 2010 incident which is not in the purview of the EMC.

MOTION: Moved to dismiss the grievance because the issues being grieved were outside the jurisdiction of the EMC.

BY: Committee Member Puglisi

SECOND: Committee Member DuPree

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

6. Public Comment

There were no comments from the audience or Committee Members.

7. Adjournment

Chair Hagler indicated if there were no objections, the hearing would adjourn at 9:50 a.m.