



**STATE OF NEVADA
EMPLOYEE-MANAGEMENT COMMITTEE
100 N. Stewart Street, Suite 200 | Carson City, Nevada 89701
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**Meeting Minutes of the Employee-Management Committee
April 20, 2023
(Subject to Committee Approval)**

Held at the Nevada State Library and Archives Building, 100 N. Stewart St., Board 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. Sandie Geyer	X
Ms. Ava Case	X

Employee Representatives	
Mr. Tracy DuPree – Chair	X
Ms. Turessa Russell	X
Mr. Doug Fromm	

Staff Present:

Ms. Lisa Evans, EMC Counsel, Deputy Attorney General (DAG)
Mr. Todd Weiss, EMC Counsel, Deputy Attorney General (DAG)
Ms. Nora Johnson, DHRM, Interim EMC Coordinator
Ms. Ivory Wright, DHRM, EMC Hearing Clerk

1. Call to Order

Chair DuPree called the meeting to order at approximately 9:30 am.

2. Public Comment

There was no public comment in the North or in the South.

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

Chair DuPree opened the meeting with Committee introductions.

4. Adoption of the Agenda..... Action Item

Chair DuPree requested a motion to adopt the agenda.

Member Case motioned to adopt the agenda.

Chair DuPree seconded and asked if there was any Committee discussion, there was none.

MOTION: Moved to approve the agenda.

BY: Member Case

SECOND: Chair DuPree

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

5. Adjustment of Grievance of Abdelqader Abuhantash, #7451, Department of Corrections Action Item

This matter came on for hearing before the Employee-Management Committee¹ (“EMC”) on April 20, 2023, pursuant to NAC 284.695 and NAC 284.6955, regarding Grievance No 7451, filed by Nevada Department of Corrections (“NDOC”) employee Abdelqader Abuhantash (“Grievant”). Grievant was present and represented himself. No representative of NDOC was in appearance for the hearing. Grievant was sworn in prior to testimony.

STATEMENT OF THE CASE

Grievant argued that he is a Correction Officer with NDOC and joined that position in 2017. Grievant, after transferring to the Casa Grande Transitional Housing facility, was informed that the facility did not have a traditional shift bid but instead had a “wish list” that employees could sign up for to potentially receive desired shifts. Grievant believed that his work facility was required to comply with Administrative Regulation

¹ The Committee members present at the hearing representing a quorum were as follows: Tracy DuPree (Chair), Sandra Geyer, Turessa Russell, and Ava Case. Deputy Attorney General Todd Weiss and Lisa Evans, and EMC staff Nora Johnson and Ivory Wright were also present.

(“AR”) 301, which requires that facilities which meet certain requirements, including having more than 20 officer, which Casa Grande had, utilize a shift bid to assign employees shifts. When Grievant brought this to the attention of his superiors, his concerns were dismissed. Due to changes in personnel over time and the switch over to collective bargaining since the time of the original grievance filing in 2020, Grievant recently filed a new grievance covering similar issues and concerns with shift bidding. He added that he believed NDOC management intentionally disregarded shift bid in order to keep certain, favored employees in certain positions and keep other, disfavored employees out of such positions.

DAG Evans questioned Grievant whether he was covered under a collective bargaining labor agreement. Grievant confirmed he was at the present time. However, it was determined Grievant was not covered under a collective bargaining agreement at the time grievance in question was filed in September 2020, therefore, no collective bargaining changes to shift bidding policy would be considered as part of the present Grievance. DAG Weiss questioned Grievant on the section of AR 301 (Section 5) concerning allowable discretionary exemption of positions from shift bids otherwise required under the Regulation. Grievant indicated that he believed that NDOC’s exemption of the entire Casa Grande facility from shift bidding was a violation of AR 301 as there is a 12.5% limit on positions which can be exempted. DAG Weiss further noted that a further section of AR 301 specifically stated that the 12.5% limit did not apply to the discretionarily exempted positions referenced earlier.

Chair DuPree commented that he was concerned that, based on the circumstances of this grievance, there was a lack of cognizable action the Committee could take, regardless of the outcome. Specifically, that the grievance was filed nearly three years under now outdated regulations that are no longer in effect with the new collective bargaining agreements. The Committee did not have the ability to go back in time three years and compel a shift bid at that time and present shift bid requirements would be controlled exclusively by the collective bargaining agreement. Grievant responded by noting that he too was concerned about the applicability of a potential determination by the Committee under the circumstances and reminded that he has since filed a new grievance on this issue that is currently making its way through the process.

Grievant closed by arguing that it is not customary or proper to exempt an entire facility from shift bidding and NDOC failed to appear for this hearing to explain the rationale and basis of that action. Grievant reiterated that removing Casa Grande from shift bidding was done for the express purpose of keeping favored individuals in preferred positions and depriving those opportunities for less favored individuals. He added that he is personally aware of individuals at the Casa Grande facility who have been and remained in their preferred shifts for 4-5 years even

though AR 301 states that shifts should be rotated at least every two years.

At that time, Member Case stated that she believed it was improper to discuss favoritism as a possible motivation for NDOC's actions with exempting the Casa Grande facility from shift bidding as there was no evidence of that in the record. Grievant responded that, based on NDOC's failure to appear for the properly noticed hearing and explain their actions, he only had his perceptions and beliefs to go off of. Member Case stated that she believed the Committee had heard all it could on this matter and should proceed to deliberations and that she was in favor of a denial of the Grievance. Member Russell stated that she would like to make a more detailed motion explaining the basis for the denial. DAG Evans questioned Grievant to confirm that the basis of his Grievance is that he believes NDOC violated AR 301 by exempting the entire Casa Grande facility from shift bidding. He disagreed that Section 5 of AR 301 gave NDOC the discretion to exempt an entire facility with nearly 30 employed officers.

Member Geyer stated that she was not sure there was anything the Committee could do about the grievance previously filed back in 2020 for NDOC's failure to perform a shift bid at that time. Even though she understood the Grievant's frustration with the situation, she believed that, given the jurisdictional issues, the more recently filed grievance was likely his best route to obtaining relief.

At that time, Member Russell made a Motion to DENY Grievance #7451 per AR 301, Section 5 and the July 1st, 2020, exemption of all Casa Grande positions from the shift bid. Member Case seconded that motion. A vote on the motion was unanimously approved 4-0.

FINDINGS OF FACT

Based upon the testimony of the witnesses, the arguments made by the parties, the briefs, evidence, and documents on file in this matter, the EMC makes the following findings of fact. All findings made are based upon a preponderance of the evidence.

1. Grievant is a non-exempt State of Nevada employee.
2. Grievant is employed by NDOC as an officer the Casa Grande Transitional Housing facility.
3. On July 1, 2020, NDOC issued a memorandum exempting all positions at the Casa Grande facility from shift bidding pursuant to Administrative Regulation 301. That memorandum was duly signed by Deputy Director Brian E. Williams.

CONCLUSIONS OF LAW

1. A grievance is any act, omission, or occurrence which an employee who has attained permanent status feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee. NRS 284.384(6). "Any Condition" includes a State employee's working conditions.

2. For this grievance, it was Grievant's burden to establish that NDOC's exemption of all Casa Grande facility positions from shift bidding was in violation of Administrative Regulation 301.
3. Grievant has failed to carry that burden or credibly demonstrate why the actions of NDOC were not expressly permitted by Administrative Regulation 301, Section 5.

MOTION: Moved to deny Grievance #7451 per AR 301, Section 5 and the July 1st, 2020, exemption of all Casa Grande positions from the shift bid.

BY: Member Russell

SECOND: Member Case

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

6. Adjustment of Grievance of Marquise Franklin, #7465, Department of Corrections Action Item

Chair DuPree opened the Committee for discussion.

Chair DuPree asked if the parties were in either location.

Member Russell stated there was no one in the South.

Chair DuPree stated as the grievant was not in attendance, he would entertain a motion to deny the grievance based on failure to appear.

Member Geyer made the motion, Chair DuPree seconded and there was no discussion.

MOTION: Moved to deny grievance #7465 due to employee's failure to appear.

BY: Member Geyer

SECOND: Chair DuPree

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

7. Adjustment of Grievance of Richard Adams, #7767, Department of CorrectionsAction Item

Chair DuPree opened the Committee for discussion.

Chair DuPree asked if the parties were in either location.

Member Russell stated there was no one in the South.

Chair DuPree stated as the grievant was not in attendance, he would entertain a motion to deny the grievance based on failure to appear.

Member Russell made the motion, Chair DuPree seconded and there was no discussion.

MOTION: Moved to deny grievance #7767 due to employee's failure to appear.
BY: Member Russell
SECOND: Chair DuPree
VOTE: The vote was unanimous in favor of the motion.

8. Discussion and possible action related to Grievance #9351 Dana Howry, NDOT, an appeal of a withdrawal of the grievance by Division of Human Resource Management (DHRM) pursuant to NAC 284.693 Action Item

Chair DuPree opened the Committee for discussion.

Chair Dupree stated this would be a motion based on DHRM's determination to remove the grievance.

Chair DuPree stated he agreed with DHRM's decision to remove the grievance.

DAG Evans asked Chair DuPree for clarification as to why he agreed with DHRM's decision.

Chair Dupree stated the reason for DHRM's removal was the grievance did not meet the definition of a grievance as it did not arise from the employee/employer relationship and the EMC is not the venue for those issues.

Member Russell stated she disagreed this was completely outside the EMC's jurisdiction and employees should go to their supervisor to the 'fix' these types of issues but also stated since the grievant was claiming bullying and harassment, those issues were outside of the Committee's jurisdiction.

Member Russell stated she did not agree with the initial reason the grievance was removed but did agree that it should not be heard by the EMC.

Member Case stated she agreed, this was not within the Committee's jurisdiction.

Member Geyer stated situations like this typically go to mediation and stated she wasn't sure if this grievance had been addressed through another venue.

Member Geyer stated mediation was done with an agreement between both parties and asked if, as a grievance, mediation was mandatory

before coming to the EMC.

Ms. Nora Johnson, Personnel Analyst with DHRM stated mediation can be requested by either party, at step 1, 2, or 3 in the grievance process, through the State Mediation Program to resolve the grievance at the lowest level possible.

Ms. Johnson stated once a grievance is submitted to step 4, a resolution conference can be requested by either party; it is strictly voluntary.

Ms. Johnson stated since this grievance had yet to reach step 4, a resolution conference would be outside of the purview of DHRM and that she was not privy to whether mediation had been requested and completed for this grievance.

DAG Evans asked for clarification if the Committee thought the decision to remove the grievance was correct, but the basis might be expanded upon and that could be reflected in the motion.

Ms. Johnson stated the decision letter for this matter was a similar template to other decision letters and the language could be expanded to accommodate the Committee's motion.

Member Russell Moved to uphold DHRM's decision to remove grievance #9351 based on lack of jurisdiction as the issues within the grievance are employee/employee and do not arise from the employee/employer relationship, and relief may be provided in another venue.

Member Cased seconded, there was no discussion.

MOTION: Moved to uphold DHRM's decision to remove grievance #9351 based on lack of jurisdiction as the issues within the grievance are employee/employee and do not arise from the employee/employer relationship, and relief may be provided in another venue.

BY: Member Russell

SECOND: Member Case

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

9. Public Comment

There was no public comment in the North or in the South.

10. Adjournment

Chair DuPree adjourned the meeting at approximately 10:43 a.m.