

1. Call to Order

Co-Vice-Chair Bauer 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.

Co-Vice-Chair Bauer opened the meeting with Committee introductions.

4. Adoption of the Agenda – Action Item

Co-Vice-Chair Bauer requested a motion to adopt the agenda.

MOTION: Moved to approve the agenda.

BY: Member Novotny

SECOND: Member Keith

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

5. Approval of Minutes for April 4, 2019 – Action Item

Co-Vice-Chair Bauer requested a motion to adopt the meeting minutes.

MOTION: Moved to approve the minutes.

BY: Member Laney

SECOND: Member Novotny

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

There were no comments from the audience or Committee Members.

6. Discussion and possible action related to Grievance #6143 of Tylor Deshane, Grievance #6134 of Debra Boone-Sharp, Grievance #6112 of Shane Alleman, Grievance #6104 of Jesse Haines, Grievance #6142 of Rita Little, Department of Corrections – Action Item

Co-Vice-Chair Bauer opened the Committee for discussion.

Co-Vice-Chair Bauer stated five of the ten grievances scheduled on the agenda were similar enough in nature to discuss together.

Mr. Ott stated the grievance could be grouped together and consolidated in one discussion.

Co-Chair-Bauer asked the Committee if they would agree to combine agenda item #6, item #7, item # 8, item # 10 and item #15 grievance #'s

6143, 6134, 6112, 6145 and 6142.

Member Laney moved to combine agenda item #6, item #7, item # 8, item # 10 and item #15 grievance #'s 6143, 6134, 6112, 6145 and 6142 as one discussion.

Member Keith seconded the motion.

Co-Vice-Chair Bauer asked if there was any discussion.

MOTION: Moved to combine agenda item #6, item #7, item # 8, item # 10 and item #15 grievance #'s 6143, 6134, 6112, 6145 and 6142 as one discussion.

BY: Member Laney

SECOND: Member Keith

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

Co-Vice-Chair Bauer opened the Committee for discussion on the combined grievances and reminded the Committee this was not a hearing on the grievances, but a discussion to determine if the grievances be moved to hearing.

Member Laney stated on April 4, 2019, the Committee heard similar grievances from the same department and the outcome was to deny hearing based on no clear violation per NRS 284.695 or Administrative Regulation (AR) 301.

Member Laney stated after hearing the testimony from both sides the employee in the April 4, 2019 hearing stated there was a misinterpretation on the shift bid and the employee was following through the grievance process but also agreed there was no clear violation based on how the department handled the issue.

Member Laney stated the five grievances before the Committee followed the same path as the grievance heard on April 4, 2019 and referenced grievance #6074 of Joshua Rogers.

Co-Vice-Chair Bauer asked for clarification if the decision on April 4, 2019 was pursuant to the new, temporary AR 301.

Member Laney stated the Committee discussed the new, temporary AR versus the previous AR and whether it was being interpreted correctly, what action had been taken and the posting timeline and stated the timeline of the shift bid was include in that discussion.

Member Novotny stated she agreed, and the Committee had decided there was no clear violation.

Member Laney moved to deny hearing for the five grievances based on a prior decision by the EMC for grievance #6074, Joshua Rogers (EMC

Decision 12-19).

Member Novotny seconded the motion.

Co-Vice-Chair Bauer asked if there was any discussion, there was none.

MOTION: Moved to deny hearing for grievance #'s 6143, 6134, 6112, 6145 and 6142 based on a prior decision by the EMC for grievance #6074, Joshua Rogers (EMC Decision 12-19).

BY: Member Laney

SECOND: Member Novotny

VOTE: The vote was 5 to 1 in favor of the motion with Member Whitten voting nay.

7. Discussion and possible action related to Grievance #6185 of Eric Boardman, Grievance #6138 of Rita Little, Department of Corrections – Action Item

Co-Vice-Chair opened the Committee for discussion.

Co-Vice-Chair Bauer stated grievance #6185 and grievance #6138 were similar in nature.

Member Laney stated she agreed and motioned to combine agenda item # 9, grievance #6185 and agenda item #14, grievance #6138 into one discussion.

Co-Vice-Chair Bauer stated there was a motion and asked if there was any discussion or a second.

Member Laney stated she would like to include agenda item # 11, grievance #6160 and agenda item #13, grievance #6153 into her motion for one discussion.

Member Keith stated in grievance #6153 the proposed resolution was the grievant was asking for back pay and did not think the Committee could include the grievance with the other three as it was slightly different.

Co-Vice-Chair Bauer stated she agreed with Member Keith noting the injustice suffered was similar, however, the proposed resolution specifically requested back pay for 5 and 10 percent and stated that would be a different issue than grievance #6185 and #6138.

Co-Vice-Chair Bauer stated in grievance #6160, the substance of the injustice suffered was different from the other grievances as well.

Co-Vice-Chair Bauer stated the grievant was describing an injustice based on the rank of seniority based on ID number, not the lack of days of notice before the shift bid.

Member Keith stated she agreed that grievance #6160 had described a different NAC.

Member Whitten stated grievance #6160 and grievance #6153 were different from the motioned grouping and was not in support of the motion to combine the four grievances.

Member Thompson stated she agreed with Member Whitten.

Member Novotny stated she also agreed and did not support the motion of combining the four grievances.

Member Keith motioned to combine grievance #6185 and grievance #6138 into one discussion.

Member Laney seconded the motion.

Co-Vice-Chair Bauer asked if there was any discussion.

Member Whitten stated she felt it better to keep the grievances separate due to the difference in issues and to ensure each grievant received a specific and direct response.

MOTION: Moved to combine grievance #6185 and grievance #6138 into one discussion.

BY: Member Keith

SECOND: Member Laney

VOTE: The vote was 4 to 2 in favor of the motion with Members Whitten and Thompson voting nay.

Co-Vice-Chair opened the Committee for discussion.

Member Laney stated grievance #6185 and #6135 are both in regard to the shift bid process and how the seniority was ranked.

Member Laney stated both grievances fell in line with how AR 301 was interpreted and based on the decision the Committee rendered in regard to the first five grievances discussed, moved to deny hearing for grievance #6185 and #6135 based on previous decisions.

There was no second and the motion died.

The Committee resumed discussion.

Member Keith asked for clarification the grievances were referencing the same AR and if the decision rendered April 4, 2019 was based on the interpretation of that AR.

Member Laney stated the decision was based on AR 301 in regard to shift bid and seniority, and when the shift bid was posted.

Member Laney stated since the date of the grievances were filed, Nevada Department of Corrections (NDOC) withdrew the current bid and put out a new shift bid, which made these grievances null and void.

Co-Vice-Chair Bauer stated she agreed with Member Laney that the issues were resolved by the temporary AR and the new shift bid issued December 27, 2018, however, she what she identified in the grievances was there was not the 30 days prior to the shift bid and that was the nature of the injustice.

Co-Vice-Chair stated those comments notwithstanding, she felt the Committee did not have jurisdiction because there is a temporary AR in place, and no resolution the EMC can offer due to the time that has passed, there was already a resolution.

Member Thompson asked if there was a resolution, why haven't the grievances been withdrawn.

EMC Coordinator, Nora Johnson stated if the agency and employee have come to a resolution, grievances can be withdrawn at any step.

Ms. Johnson stated if a grievance is not withdrawn, the grievance must remain in the process pending the outcome of a hearing or decision after an agendized discussion.

Member Novotny stated grievance #6185 stated 'once again a new seniority list was generated December 27 and a rescheduled shift bid set to begin on December 27', and it seemed the grievance was filed in response to the shift bid that was scheduled.

Member Novotny stated the grievance was filed after the temporary AR and grievance #6185 should not be dismissed so quickly.

Member Keith stated the description stated, 'once again a new seniority list was generated December 17 and a rescheduled shift bid set to begin on December 27'.

Member Novotny stated they grievant's are grieving they do not have enough notice to review and dispute discrepancies with the seniority list.

Co-Vice-Chair Bauer stated the temporary AR 301 had an effective date of December 28, 2018 with the new shift bid December 27, 2018 and that grievance #6185 was submitted prior to both events.

Member Keith agreed.

Member Laney stated the response from NDOC on page 1 stated NDOC had opted to delay the shift bid in order to update AR 301 to ensure consistency with the seniority list.

Member Laney stated NDOC directed that if staff still had issues with AR 30, they could submit the feedback form delaying past December 27, 2018.

Member Novotny stated the grievants' were not grieving AR 301, but they were grieving the posting had not been up for the 30 days.

Co-Vice-Chair Bauer stated she saw the same issue; however, the current discussion was if the grievance could be answered with or without a hearing.

Co-Vice-Chair Bauer stated the agency has the right to run it as they see fit and did resolve substantial grievances by issuing a temporary AR.

Co-Vice-Chair Bauer stated the nature of these grievances, was the grievants' were not given time, however, the agency needs to run their operations as they see fit and since it is a calendar year shift bid, there wasn't the luxury for the 30 working days because of the timeframe the temporary AR was issued.

Co-Vice-Chair Bauer stated otherwise, they would have had potentially no shifts assigned come January 1 which would have been critical to their operations.

Co-Vice-Chair Bauer stated she didn't know if there was any other resolution to the situation as the grievants' filed prior to the new shift bid and prior to the new temporary AR being issued.

Member Laney stated she agreed and in the April 4 hearing, when the Committee reviewed the shift bid issue and the impact it would have on NDOC to cancel the shift bid, it would have been detrimental to NDOC based on the fact that it would have impacted a larger group of individuals.

Member Thompson stated the grievance should be moved to hearing as the Committee did not know the issue was resolved and needed more information.

Co-Vice-Chair Bauer stated the Committee knew it was resolved based on the April 4 hearing and the employee testimony within.

Member Thompson stated the Committee did not know if the issue was resolved to this person's satisfaction.

Co-Vice-Chair Bauer stated it was not the Committee's job to resolve grievances to the grievant's satisfaction but to resolve grievances based on the information presented as a neutral party.

Co-Vice-Chair Bauer stated the grievant's may not be satisfied with a decision, but based on the April 4th hearing, the matter of the shift bid

was substantially discussed and decided upon in regard to the temporary AR.

Member Thompson stated she felt the grievant had information to offer and the Committee should hear it.

Co-Vice-Chair Bauer stated she respected Member Thompsons opinion, however, giving the grievant their 'day in court' would belabor an issue that has been decided on.

Member Laney stated she agreed with Co-Vice-Chair Bauer and that any resolution to change the process after the fact would be detrimental to the staff as well as the agency.

Member Laney moved to deny hearing for grievance #6185 and grievance #6135 based on a prior decision by the EMC for grievance #6074, Joshua Rogers (EMC Decision 12-19).

Member Novotny seconded the motion.

Co-Vice-Chair Bauer asked if there was any discussion, there was none.

MOTION: Moved to deny hearing for grievance #6185 and grievance #6135 based on a prior decision by the EMC for grievance #6074, Joshua Rogers (EMC Decision 12-19).

BY: Member Laney

SECOND: Member Novotny

VOTE: The vote was 4 to 2 in favor of the motion with Members Whitten and Thompson voting nay.

8. Discussion and possible action related to Grievance #6160 of Justin Hunt, Department of Corrections – Action Item

Co-Vice-Chair Bauer opened the Committee for discussion.

Member Laney stated was in regard to the temporary changes to AR 301 but is a different situation to discuss.

Member Laney stated this was where they fall on the seniority list and while grievance #6074 was different as to how it impacted that employee, this same situation was discussed during the April 4 hearing.

Member Laney stated NDOC discussed the multiple issues with AR 301 in that hearing and while the department had responded with the same responses, it was not clear if this specific issue had been resolved.

Member Whitten motioned to move grievance #6160 to hearing.

Member Novotney stated while the agency has the right to run their

affairs, there were still valid concerns.

Co-Vice-Chair Bauer stated she agreed with the other members and had not seen evidence this specific issue had been discussed.

Co-Vice-Chair Bauer stated the Committee should hear this grievance.

Member Thompson seconded the motion.

Co-Vice-Chair Bauer asked if there was any discussion, there was none.

MOTION: Motion to move grievance #6160 to hearing.

BY: Member Whitten

SECOND: Member Thompson

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

9. Discussion and possible action related to #6104 of Jesse Haines, Department of Corrections – Action Item

Co-Vice-Chair Bauer opened the Committee for discussion.

Member Laney stated the requested resolution was all over the place in regard to the issues.

Member Laney stated the main issue of this grievance was the employee was requesting to maintain Wednesday and Thursday off due to a hardship, but it was not clear if the hardship was a direct impact of the changes to AR 301.

Member Laney stated the requested resolution had been previously determined by the EMC.

Co-Vice-Chair Bauer stated based on remedy #2 the hardship was created because the original bid was rescinded and redone.

Co-Vice-Chair Bauer stated based on prior decisions, the EMC would not ask the department to rebid the shifts.

Member Whitten stated she was trying to understand the request for step increases and over time.

Co-Vice-Chair Bauer stated this was an atypical request and liked the ‘compensation for 4 hours overtime and step increases in addition to attorney fees’ as more of a court or civil matter and the EMC would lack jurisdiction over those issues.

Member Laney moved to deny hearing for grievance #6104 based on lack of jurisdiction.

Member Keith seconded the motion.

Co-Vice-Chair Bauer asked if there was any discussion, there was any discussion.

Member Whitten stated she was trying to understand why there are different work hours for institutions as it would make sense to her there would be similar shifts at all locations.

Co-Vice-Chair Bauer stated that institution was chosen for a pilot program for hybrid shifts.

Member Laney stated it was discussed the department can create whatever shifts they like and while it is not always feasible, it is within the rights of the institution and not within the jurisdiction of the EMC.

Co-Vice-Chair Bauer asked if there was more discussion, there was none.

MOTION: Moved to deny hearing for grievance #6104 due to lack of jurisdiction.

BY: Member Laney

SECOND: Member Keith

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

10. Discussion and possible action related to Grievance #6153 of Jesse Haines, Department of Corrections – Action Item

Co-Vice-Chair opened the Committee for discussion.

Member Laney stated this grievance was similar to grievance #6160 and while it was moved to hearing due to similarities in seniority dates and list placement, this was a little different and these issues had not been specifically discussed.

Member Whitten asked if this grievance was moved to hearing, would the Committee be looking at all the proposed resolutions or if the Committee should specify the issues.

Co-Vice-Chair Bauer stated when the Committee moves grievances to hearing, they should not limit themselves to the resolution, the Committee should entertain other ideas and the injustice stated in the grievance is what should be addressed.

Co-Vice-Chair Bauer stated the grievant was asking for resolution of back pay based on the determination of minimum qualifications for the position rather than the determination for calculation of seniority.

Co-Vice-Chair Bauer stated this was a compensation issue, not a shift bid issue.

Member Laney stated there are two separate issues, one being education

and experience and the other is where the employee falls on the seniority list.

Member Laney moved to deny hearing based on lack of jurisdiction and based on prior decisions.

Member Novotny seconded.

Co-Vice-Chair Bauer asked if there was further discussion, there was none.

MOTION: Moved to deny hearing based on lack of jurisdiction and based on prior decisions.

BY: Member Laney

SECOND: Member Novotny

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

11. Public Comment

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

12. Adjournment

Co-Vice-Chair Bauer adjourned the meeting at approximately 10:49 am