



**STATE OF NEVADA  
EMPLOYEE-MANAGEMENT COMMITTEE**

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**Meeting Minutes of the Employee-Management Committee  
Date: July 22, 2021**

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**

Ms. Jennifer Bauer	X
Ms. Mary Jo Scott	
Ms. Kathryn Ostrowsky	
Ms. Mechelle Merrill	
Ms. Christina Leathers	X
Ms. Sandie Geyer	

**Employee Representatives**

Ms. Turessa Russell	
Ms. Sherri Thompson	
Ms. Stephanie Parker	X
Mr. Gwyn Davies	X
Ms. Sonja Whitten	
Mr. Tracy DuPree	

**Staff Present:**

Mr. Peter Handy, EMC Counsel, Deputy Attorney General  
Ms. Breece Flores, EMC Coordinator  
Ms. Ivory Wright, EMC Hearing Clerk

**1. Call to Order**

Chair Parker called the meeting to order at approximately 9:02 am.

**2. Public Comment**

Chair Parker opened the meeting by asking for any public comment for the North or the South.

In the North: Matthew Lee, and Charity Clarke introduced themselves as the support staff of the Labor Relations Unit.

In the South none were heard.

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

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

Chair Parker requested a motion to approve the agenda.

**MOTION:** Moved to approve agenda.

**BY:** Member Leathers

**SECOND:** Co-Vice-Chair Davies

**VOTE:** The vote is unanimous in favor of the motion.

**5. Adoption of the Meeting Minutes – Action Item**

**MOTION:** Moved to approve minutes for March 04, 2021

**BY:** Member Bauer

**SECOND:** Co-Vice-Chair Davies

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

**6. Adoption of the Meeting Minutes – Action Item**

**MOTION:** Moved to approve minutes for April 22, 2021

**BY:** Member Bauer

**SECOND:** Co-Vice-Chair Davies

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

**7. Discussion and possible action related to the Motion to Dismiss Grievance #6911, Darrel Allen, Department of Employment, Training, and Rehabilitation – Action Item**

This matter came on for hearing before the Employee-Management Committee<sup>1</sup> (“EMC”) on July 22, 2021, pursuant to NAC 284.695 and NAC 284.6955, regarding Grievance #6911, filed by State of Nevada employee Jennifer Howard (“Grievant”). The agency-employer, the State of Nevada, Department of Employment, Training, and Rehabilitation (“DETR”), was represented by Brian Boughter, Personnel Officer III. The Grievant and Mr. Boughter were sworn in and testified at the hearing. There were no objections to any exhibits offered.

### **STATEMENT OF THE CASE**

The Grievant believed that another employee of DETR, employed in an intermittent Administrative Aid I position had at some time before November 7, 2019, been promoted to a permanent Administrative Assistant I position within DETR.

The Grievant believed that she was entitled to a promotional opportunity, which should have been afforded to her when this other DETR employee received the promotion to the Administrative Assistant I position.

The Grievant further believed that DETR failed to follow the correct statutory and regulatory procedure by not offering an Administrative Assistant I position through competitive means to current Administrative Aids.

DETR made a motion to dismiss the grievance for being substantially similar to Case #2289 Decision #02-13. In grievance #2289, the Grievant alleged that he was not promoted after expressing that he would like to “get promoted as soon as possible.”

DETR argued that the the Grievant was inappropriately relying on confidential information, and that it had the authority to reappoint employees pursuant to NRS 284.305 due to a then-pending reduction in force, and that an employee had been reappointed to an Administrative Aid I position but the employee had since promoted to an Administrative Assistant I position through automatic advancement—not by reappointment or appointment to an Administrative Assistant I position.

Member Bauer made a motion to deny Grievance #6911 for Darrel Allen, based on DETR’s appropriate and discretionary reappointment of an employee to the same class, grade, and step, which does not require competitive recruitment.

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<sup>1</sup> The Committee members present representing a quorum were: Chairwoman Stephanie Parker, Committee members Jennifer Bauer, Gwyn Davies, Christina Leathers, Counsel for the EMC, Deputy Attorney General Peter Handy, EMC Coordinator Breece Flores, and EMC Administrative Clerk Ivory Wright were also present.

## **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. The Grievant was a non-exempt State of Nevada employee.
2. The Grievant was employed by DETR as an Administrative Aid I.
3. The Grievant worked at the Northern Call Center in Carson City, NV.
4. At some time in 2019, the Grievant became aware that an Administrative Aid I, who was employed in an intermittent position, had been appointed to a different, permanent Administrative Aid I position and subsequently promoted to an Administrative Assistant I position.
5. The Grievant was informed by DETR that pending reductions in force would occur in July of 2019 and that all intermittent positions were being terminated.
6. DETR did not offer an Administrative Assistant I position through competitive appointment at the times and locations relevant herein.
7. The Grievant did not base her grievance on a request to “get promoted as soon as possible,” rather, she bases her grievance on what she perceived as inequality for a lack of offering a position through competitive means.
8. An Administrative Assistant I was reappointed from the intermittent Administrative Aid I position to a permanent Administrative Aid I position in 2019, as a result of a reduction in force.
9. The Administrative Assistant I was promoted to Administrative Assistant I after one year in service in an Administrative Aid I by way of automatic advancement pursuant to NAC 284.4375.

## **CONCLUSIONS OF LAW**

1. DETR failed to prove that this Grievance should be dismissed for being substantially similar to Case #2289 (Decision #02-13), as such, its Motion to Dismiss is DENIED.
2. 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).
3. For this grievance, it was the Grievant’s burden to establish by a preponderance of the evidence that DETR did not follow the appropriate rules when making appointments arising to constituting an “injustice” pursuant to NRS 284.384(6).
4. NRS 284.305 states, in relevant part:

The Commission may adopt regulations which provide for filling positions in the classified service without competition in cases involving: (c) The reemployment of a current or former employee who was or will be adversely affected by layoff . . . ; or (d) The reappointment of a current employee.

5. NAC 284.093 defines “reappointment” as “a noncompetitive appointment of a current employee to a class he or she formerly held or to a comparable class.”
6. DETR appropriately reappointed an employee to the same class, grade, and step pursuant to NRS 284.305, NAC 284.176(a), and NAC 284.404, and was therefore not required to offer the position through competitive means.

### **DECISION**

Based upon the evidence in the record, and the foregoing Findings of Fact and Conclusions of Law, and good cause appearing therefor: Grievance #6911 is hereby **DENIED**.

**MOTION:** Moved to deny Grievance #6911.  
**BY:** Member Bauer  
**SECOND:** Co-Vice-Chair Davies  
**VOTE:** The vote was unanimous in favor of the motion.

**8. Discussion and possible action related to Grievance #7651, Decker Loretz, Department of Business and Industry – Action Item**

Chair Parker opened the Committee up for discussion.

Member Bauer stated she thought this Grievance needed to be moved to hearing.

Co-Vice Chair Davies agreed with Member Bauer.

Member Bauer stated she motioned to move Grievance #7651 for Decker Loretz forward to hearing.

Member Leathers seconded the motion.

**MOTION:** Moved Grievance #7651 forward to hearing.  
**BY:** Member Bauer  
**SECOND:** Member Leathers  
**VOTE:** The vote was unanimous in favor of the motion.

**9. Discussion and possible action related to Grievance #7746, Connie Grimble, Department of Employment, Training, and Rehabilitation – Action Item**

Chair Parker opened the committee up for discussion.

Member Leathers stated when she reviewed the grievance it seemed they received the resolution they were seeking.

Co-Vice-Chair Davies stated he agreed with Member Leathers and since the Grievant did receive the remedy the Grievance should be denied.

Member Leathers stated she seconded.

Member Bauer stated that Grievance #7746 is agendaized as discussion to decide if the Employee-Management Committee could answer the Grievance without a hearing or if the Committee needed to hear it to answer it.

Member Bauer stated the agendaized Grievances the Committee is not deciding to grant or deny the Grievance it would be to deny the Grievance based on the facts presented were out of the EMC's jurisdiction or if the Grievance should be moved to be heard to make the decision.

Member Leathers responded since she was new to the Committee could she have an example of a motion on an agendaized grievance.

Chair Parker responded to Member Leathers that an example would be to make a motion to answer the grievance without a hearing based on jurisdiction or if it should be moved to hearing.

Member Leathers motioned that the Committee does not move this grievance to hearing as the matter was adjusted at the Agency level, and doesn't require EMC decision.

Member Bauer stated she would like to assist her fellow Member with some historical facts that the Committee has done in the past. She continued the language the Committee has used in the past is the Committee moves to answer the Grievance without a hearing.

Member Bauer continued when complying with open meeting law, the Committee does not get into the substance of the matter.

Member Bauer continued the Committee would only decide if they can answer the grievance based on past precedence, or if the EMC lacked jurisdiction.

Member Bauer stated she did support the intent of the motions, she stated when she reviewed the grievance it seemed the grievance didn't meet the definition of a grievance.

Co-Vice Chair Davies responded to Member Bauer the corrected motion would be the EMC would not hear this grievance as it doesn't meet the

definition of a grievance as resolution has already been made to the Grievant.

Member Bauer stated this grievance could be answered without a hearing, as it did not meet the definition of a grievance.

Member Bauer confirmed with Dag Hardy to find the statute for the definition of a grievance.

Member Bauer stated the statute for the definition of a grievance is NAC 284.658, which defines what a grievance is, and reviewing this grievance, it did not meet the definition.

Member Leathers motioned to answer Grievance #7746 for Connie Grimble without a hearing under NAC 284.658, as it did not meet the definition of a grievance.

Member Bauer seconded the motion.

**MOTION:** Moved to answer Grievance #7746 without a hearing based on NAC 284.658.

**BY:** Member Leathers

**SECOND:** Member Bauer

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

**10. Discussion and possible action related to Grievance #7740, Arwen Enriquez-Argonza, Department of Employment, Training, and Rehabilitation – Action Item**

Chair Parker opened the committee up for discussion.

Co-Vice Chair Davies stated the Grievants issue with the corrective action plan was addressed, he noted in the grievance it was noted allegation of discrimination and harassment.

Co-Vice Chair Davies stated it appeared to be a hostile work environment. He continued the Grievant should be advised of the appropriate venue for these allegations.

Co-Vice Chair Davies stated the Grievant had originally asked for the removal of the corrective action plan, later in the grievance it mentioned that was achieved. He felt it did not meet the requirements of a grievance.

Member Leathers stated she moved to answer Grievance #7622 for Arwen Enriquez-Argonza without a hearing according to NAC 284.658, based on the grievance doesn't meet the definition of a grievance and that the grievant be given the EEO venue that she may find remedy in that venue.

Co-Vice Chair Davies stated if there was standard verbiage the Committee usually uses.

Member Bauer stated she agreed with her fellow Members, it did not appear the Grievance met the definition of a Grievance due to the resolution the Agency had already remedied. She noted serious allegations of abuse and harassment.

Member Bauer offered Member Leathers a friendly amendment to the motion.

Member Bauer stated she agreed that the Grievant be directed to pursue appropriate remedies, she noted she did not want to limit what remedies were for them. She continued the Committee is aware the grievant could file a complaint with several venues.

Chair Parker responded to Member Bauer if she was referring to NAC 284.696 with the listing of venues the Grievant could be directed to.

Member Leathers stated she wanted to amend her motion.

Co-Vice Chair Davies stated since the motion was not seconded the motion would die.

Chair Parker acknowledged the first motion had died and noted a new motion was needed.

Member Leathers motioned to answer Grievance #7740 without a hearing on the basis that it did meet the definition of a grievance as per NAC 284.658, and refer the employee to NAC 284.696 regarding unlawful discrimination on the avenues she may pursue other actions.

Co-Vice Chair Davies second motion.

**MOTION:** Moved to answer Grievance #7740 without a hearing.

**BY:** Member Leathers

**SECOND:** Co-Vice Chair Davies

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

**11. Public Comment**

No public comment in the North or the South.

**13. Adjournment**

Chair Parker adjourned the meeting at approximately 11:08 am.