



**STATE OF NEVADA
EMPLOYEE-MANAGEMENT COMMITTEE
100 N. Stewart Street, Suite 200 | Carson City, Nevada 89701
Phone: (775) 684-0135 | <http://hr.nv.gov> | Fax: (775) 684-0118**

**Meeting Minutes of the Employee-Management Committee
January 10, 2019**

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
Mr. Guy Puglisi - Chair	X
Ms. Jennifer Bauer	
Ms. Pauline Beigel	X
Mr. Ron Schreckengost	
Ms. Jennelle Keith	
Ms. Tonya Laney	X

Employee Representatives	
Mr. Tracy DuPree	
Ms. Turessa Russell	X
Ms. Sherri Thompson	
Ms. Adria White	
Ms. Sonja Whitten	X
Ms. Dana Novotny	X

Staff Present:

Ms. Tiffany Breinig, EMC Counsel, Deputy Attorney General
Ms. Nora Johnson, EMC Coordinator
Ms. Ivory Wright-Tolentino, EMC Hearing Clerk

1. Call to Order

Chair Puglisi called the meeting to order at approximately 1:00 pm.

2. Public Comment

Chair Puglisi asked if there was public comment. For public comment in the North, Mr. Steve Lennon, Department of Corrections (NDOC) came to the table.

Mr. Lennon stated he was a correctional officer for the Department of Corrections (NDOC).

Mr. Lennon stated he noticed his name on docket and that was his purpose for attending the meeting.

Mr. Lennon stated he had an issue with the bid process and wanted to ask the Committee for consideration and a fair and unbiased platform for himself and his peers to hear their grievances.

Mr. Lennon stated he had been with the Department for 12 years and the policies and procedures regarding the shift bid were tested and true.

Mr. Lennon stated this last November, 6 days before the bid was to take place, the Department decided to change its own Ars and violate them.

Mr. Lennon stated it disrupted about 100 employees.

Mr. Lennon reiterated he was in attendance to ask for a fair chance to hear the grievances.

There were no comments in the South.

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

Chair Puglisi opened the meeting with Committee introductions.

4. Adoption of the Agenda – Action Item

Chair Puglisi requested a motion to adopt the agenda.

MOTION: Moved to approve the agenda.
BY: Member Russell
SECOND: Member Whitten
VOTE: The vote was unanimous in favor of the motion.

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5. Discussion and possible action related to Grievance #5984 of Arturo Buen, Department of Corrections – Action Item

Chair Puglisi stated he would allow the Committee a few minutes to review the packet.

Chair Puglisi opened the Committee for discussion.

Member Laney stated in reviewing the grievance for Mr. Buen, she didn't see where the grievant cited any specific policy or procedure was violated outside of the code of ethics.

Member Laney stated based on how the agency responded to the grievant as far as the need to change the shifts for the charge nurses based on a shortage of nurses and having to have the critical care 24/7, the employee asked, and the agency answered.

Member Laney stated the agency answered several times that it was not based on seniority, that it was based on business need, therefore, there was no need to follow the protocol of the seniority list to schedule those shifts.

Member Laney stated she did not see where the employee has a viable grievance.

Chair Puglisi stated he did research the EMC decision database and found similar issues.

Chair Puglisi stated in reviewing the Department of Corrections (NDOC) shift bid process, it only applies to correctional officers, therefore, he didn't see where that applied to this grievance.

Chair Puglisi stated the EMC had a previous decision from the Department of Motor Vehicles (DMV) that may apply to a couple of grievances the Committee was looking at.

Chair Puglisi stated the decision was related to the DMV having 4 x 10 hour shifts and based on the agency need, the DMV scheduled employees and based on seniority there were only so many slots.

Chair Puglisi stated that grievance ended up being denied because the agency had the right to manage its department as it sees fit in relation to work schedule.

Chair Puglisi stated varied scheduled are a condition of continued employment for the class specification; 'as a condition of continued employment, positions are subject to call back, overtime on short notice, standby status, work various hours and shifts including evenings, weekends and/or holidays.

Chair Puglisi stated that may be the point of contention here, the grievant wants to rotate the weekend schedule as opposed to having static schedules based on the agency's needs.

Member Beigel stated she was for moving this grievance to full hearing as the grievant feels there is a conflict of interest because the person doing the schedules gave himself the best shifts.

Member Beigel stated that did seem like a conflict and that was where she could see a violation could occur.

Chair Puglisi stated on page 1 of the grievance, Mr. Mattinson is the person who wrote the schedules and the other person who's in the same position is a Correctional Nurse III, Peret.

Member Russell stated the responsibility of staffing and scheduling is being done by Peret and was assigned to him by Mattinson.

Member Russell stated she agreed with Member Beigel in moving the grievance forward.

Member Whitten also stated she agreed with Member Beigel.

Member Novotny stated in reading the whole grievance, Peret had more experience and the agency made the decision to put Peret on days based on her experience.

Member Novotny stated someone had to take that schedule and someone would end up being unhappy, in this case, Mr. Buen is unhappy.

Member Novotny clarified the Committee was deciding whether to hear the grievance or not.

Chair Puglisi stated the Committee was to determine whether to hear it, deny it based on a prior decision or lack of jurisdiction.

Member Novotny stated she didn't see where the grievance was valid.

Member Laney stated the responses from the agency made it clear several times and the individuals that approved the schedules of the nurse in question.

Member Laney stated Scott Mattinson and Bob Faulkner, were in fact the ones who approved the schedule for the nurses.

Member Laney stated she understands Member Beigel saying there could be a conflict with the one in charge making his own schedule, but it's clear the schedule was approved by upper management.

Chair Puglisi asked if Member Laney could point out where in the grievance that was stated.

Member Laney stated page 2 of 6 in the response section, the response by Scott Mattinson, the entire section discusses it and the last sentence stated 'Bob and I met and discussed the scheduling assignments of our CNIII team and we're not obligated to disclose the rationale of our personnel decisions'.

Member Laney stated it was referenced again on page 3 of 6 in Teresa Wickham's response, citing a meeting that included the grievant as well as the other employees where they discussed the schedule changes.

Member Laney stated the fourth paragraph in that response goes back to the decision was made purely off business needs.

Chair Puglisi stated it looked like there are 4 charge nurses and they're the supervisors and prior to this, the supervisors had evenings and weekends off, so someone was going to have to work evening and weekends.

Chair Puglisi stated 2 paragraphs down starting with 'starting with my rounds', 'the decision to change your schedule and not another charge nurse was more than likely had to do with your level of nursing experience and attributes that makes you the nurse you are'.

Chair Puglisi stated that was the agency's response to why seniority wasn't a factor.

Chair Puglisi asked if there was any other discussion or a motion.

Member Beigel stated page 2 of 6 states 'please refer to AR 339.01' and did any one on the Committee have that for reference.

Member Laney stated on page 4 of 6 in the response by the grievant, he had copy and pasted AR 339.01-Code of Ethics.

Chair Puglisi stated there was a flow chart in the back of the grievance that shows the person in charge of scheduling then it shows supervisor night shift, supervisor day shift but the grievant is not listed.

Chair Puglisi stated that may be because he is a CNA supervisor, not an RN supervisor.

Chair Puglisi asked if anyone was ready to make a motion.

Member Laney moved to deny grievance #5984 based on lack of jurisdiction, the Committee cannot tell an agency how to run their operations.

Chair Puglisi stated referencing NRS 284.020(2) which states the agency has the right to manage its department as it sees fit.

Member Laney agreed with that citation.

Chair Puglisi restated the motion and referenced NRS 284.020(2) and asked for a second.

Member Novotny seconded Member Laney's motion.

Chair Puglisi asked if there was discussion on the motion.

Member Beigel stated she thought the EMC has jurisdiction because the employee feels grieved and lack of jurisdiction should be used if the grievance is EEO or federal court.

Chair Puglisi asked if someone wanted to propose a friendly amendment.

Ms. Breinig stated with past decisions, the Committee has used the language 'lack of jurisdiction' when citing NRS 284.020(2) that the agency should be able to run their operations as they see fit.

Chair Puglisi stated the grievance from the DMV was similar and it stated 'when the EMC receives a request for consideration of a grievance, it may answer the request without a hearing based on the EMC's previous decisions or does not fall within its jurisdiction. Based on the above on or about June 16, 2016 your request for EMC consideration of your grievance has been voted on and denied and your grievance will not proceed to hearing before the EMC as the EMC has already addressed the issue of shift changes in a previously heard decision'.

Ms. Breinig asked EMC Coordinator, Nora Johnson if she was aware of letters that had gone out to grievants informing them their grievances had been denied based on lack of jurisdiction per NRS 284.020(2).

Ms. Johnson stated the letters were not so much based on NRS 284.020(2) and that the decisions that had gone out stated the EMC lacks jurisdiction over this grievance *and* based on NRS 284.020(2) the agency has the right to run their business as they see fit.

Chair Puglisi stated the Committee was in discussion, there was a motion and a second and the Committee would either need an amendment to satisfy the wishes of the conversation or the Committee could vote and if the motion fails, the Committee resume discussion followed by a new motion.

Member Beigel asked Chair Puglisi to read back the motion.

Chair Puglisi stated, ‘move to deny grievance based on lack of jurisdiction per NRS 284.020(2)’.

Chair Puglisi stated the motion could be restated in a different way because NRS 284.020(2) states the agency has the right to manage its department as it sees fit versus discussing jurisdiction.

Chair Puglisi stated the decision that he read from doesn’t say it was for one or the other, it referred to NAC 284.695(1) which states the EMC can deny a hearing based on a previous decision *or* if it does not fall within its jurisdiction.

Ms. Breinig stated the Committee has decided it lacked jurisdiction for instance to order another employee to issue an apology in which case the Committee would not have jurisdiction in that type of situation to order that employee to issue an apology.

Ms. Breinig stated lack of jurisdiction doesn’t necessarily have to be and EEO complaint or something in a federal matter.

Ms. Breinig stated she did not see an issue with the Committee stating it lacks jurisdiction to hear a matter because of NRS 284.020(2).

MOTION: Moved to deny grievance based on lack of jurisdiction per NRS 284.020(2)

BY: Member Laney

SECOND: Member Novotny

VOTE: The vote was a tie with Members Whitten, Beigel and Russell voting nay. A tie vote goes to hearing.

6. Discussion and possible action related to Grievance #6030 of Jaouad Bouakka, Department of Corrections – Action Item

Chair Puglisi opened the Committee for discussion.

Member Beigel asked if the Committee was going to hear the grievances together.

Chair Puglisi stated #6030 was grieving exempted posts and seniority and the other 3 grievances on the agenda are in regard to hybrid shifts 8, 10 or 12 hours.

Chair Puglisi stated #6030 should stand on its own merit and the other 3 would be reviewed together.

Chair Puglisi stated he researched the database and decision #22-17 was similar and the decision stated, ‘you noted in substance that NDOC’s Administrative Regulation (AR) specifically exclude the post at issue in Mr. Sorich’s grievance from the bidding process so that it did not matter

the grievant believed he was the most senior officer with respect to the post'.

Chair Puglisi stated the decision was on a Motion to Dismiss (MTD), the grievance came to hearing, the agency presented an MTD and the Committee upheld that request and the grievance was dismissed.

Chair Puglisi stated it pointed to AR 301.01 and the Committee had the regulations as they were before December 28, 2018 and the Committee has the regulations as they are being amended, currently in a temporary status effective December 28, 2018.

Chair Puglisi stated to note the exemptions of posts did not change from one to the other.

Chair Puglisi stated the regulations stated seniority is not a factor, it's based on need and expertise.

Member Beigel stated on page 2 of 8 of AR 301 'the selection of one exempt position is discretionary and not based on seniority or length of service'.

Chair Puglisi stated Member Beigel pointed out AR 301, the old version bullet point #5 and on the new version, the bullet point number is different, but the AR did say 'the selection of warden exempt positions is discretionary and not based on seniority or length of service. Since the selection of officers for warden exempt positions are completely discretionary wardens also have the discretion to remove officers from these positions'.

Chair Puglisi stated the crux of this grievance was the grievant stated he had more seniority than most of the correctional officers selected and the grievant's attendance is 'always impeccable and I have no write ups'.

Member Laney stated she agreed; in reading AR 301, and looking at the grievant's proposed resolution of updating the AR's and OP's (Operating Procedures) as a clear and objective tool of how CO's are selected it was clear that posts were not a criteria already listed in the AR.

Member Laney stated she thought the AR was clear on how the agency makes the selections outside of that criteria.

Chair Puglisi stated with the information Member Laney pointed out, the Committee does not have the jurisdiction to order an agency to change its' regulations unless they are in violation of law, NAC or NRS.

Member Beigel moved to deny grievance #6030 based on the agency did not violate AR 301.01 based on the information provided.

Member Whitten seconded Member Beigel's motion.

Chair Puglisi asked if there was discussion on the motion.

Member Russell asked if the Committee could add a friendly amendment that the dates regarding the specific AR's be listed in the motion for future reference.

Chair Puglisi stated the one posted online, has an effective April 9, 2018 and asked Member Russell if she wished to use that date.

Member Russell stated she did.

Chair Puglisi read the motion with the friendly amendment stating, 'move to deny grievance #6030 based on the Nevada Department of Corrections did not violate AR 301.01 with the effective date of April 9, 2018'.

Member Whitten accepted the amendment.

Chair Puglisi asked if there was any further discussion on the motion, there was none.

The vote was unanimous in favor of the motion.

MOTION: Moved to deny grievance #6030 based on the Nevada Department of Corrections did not violate AR 301.01 with the effective date of April 9, 2018

BY: Member Beigel

SECOND: Member Whitten

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

7. Discussion and possible action related to Grievance #6041 of Steve Lennon, Department of Corrections – Action Item

Chair Puglisi stated agenda items 7, 8 and 9 were requested to be placed on the same agenda due to the similar nature but are not exact.

Chair Puglisi stated the Committee would begin discussion on item #7, grievance #6041.

Chair Puglisi stated there was public comment on this grievance; AR 301 was revised, and the Committee should have copies of that.

Chair Puglisi stated the Department of Corrections shift bid occurs in November and the issue of the way seniority was being applied came up in a prior grievance.

Chair Puglisi stated on November 20, 2018 a memo was sent from NDOC stating 'to ensure we are in compliance with AR 100 the proposed revisions to AR 301 will follow the appropriate public review process, therefore, judicially remaining in compliance with AR 301. Each

institution will post a seniority list provided by HR on November 2, 2018 for a 30-day preview period. Each institution will then conduct their shift bid on or after Monday December 17. If your institution already successfully completed the shift bid using the November 2nd report, you will not be required to re-bid. Once the revisions to AR 301 have been finalized, this should resolve any future issues with the shift bid process. Again, our goal is to make sure you are given an opportunity to bid in a manner that is fair and consistent with all facilities’.

Chair Puglisi stated on December 5, 2018 the regulations were sent out for comment and the employees have form DOC-049 where they can provide input.

Chair Puglisi stated on December 11, 2018 the agency sent out another memo about shift bidding and the AR 301 update including revisions.

Chair Puglisi stated his understanding on the revisions was they are in a temporary status because the process hasn’t been completed.

Chair Puglisi stated the revisions were completed at the agency level but still under review at ‘legal’.

Chair Puglisi stated at the bottom of the memo, and this may be the main point of contention with the grievances coming forward, is regarding seniority and the memo stated ‘we are working on the exact verbiage for the Administrative Regulation, which will be published soon. In summary, the changes will be: Seniority for correctional officers will be based on continuous service dates with the State of Nevada, not just Corrections, which will be adjusted for breaks in service; Seniority for senior correctional officers will be based on date of promotion to senior correctional officer; In the event of the same date of seniority, seniority will be awarded by the current, lower employee ID number.

Chair Puglisi asked if there were any comments or if more review was needed.

Member Laney stated her understanding was the same as the recap Chair Puglisi stated.

Member Laney stated in reading the grievances that are in relation to the shift bid process, she did not see how the Committee could make a decision whether to hear them or not because what the grievants are grieving is not a finalized policy or process.

Member Laney stated her understanding was the revisions were still under review and with them still being under review, she wasn’t sure how decisions could be made on shifts, so the Committee could not decide if an employee has been grieved or not.

Member Laney stated the Committee had bullet points stating the order

it *should* go in but did not know if that had changed based on any recommendations or changes submitted on the form the agency provided for employee input.

Chair Puglisi stated he posed four questions to the agency Human Resources department for clarification.

Chair Puglisi stated the first question was: What is the status of the 2019 annual shift bid? Answer: All institutions will be completed by the end of January 2019. Question: Other than the attached memo, were there any other formal communications regarding the shift bid for 2019, please provide copies.

Chair Puglisi stated that answer was read by the Chair to the Committee above.

Chair Puglisi stated the third question was: If the bidding process was suspended, did employee schedules remain the same until the bidding process resumed? Answer: Yes

Chair Puglisi stated he asked for a copy of the proposed regulations and they were provided.

Chair Puglisi stated at his agency, they have their policies and procedures and they are in writing, but they come across situations that have to change and there is a clearance process to get those policies and procedures changed so in the interim there is a policy transmittal or all staff memo or an informational memo that explains how to act in the interim and that would supersede the existing practice or policy.

Chair Puglisi stated once the updated policy is through the clearance process and in writing, then it's effective, everyone has it in writing.

Chair Puglisi stated as long as the agency is communicating these changes to its staff, they should know what is going on.

Chair Puglisi stated the agency recognizes a problem with seniority, the agency referred it to the Division of Human Resource Management (DHRM) for opinion, DHRM opined how seniority should be calculated.

Chair Puglisi stated in the past, seniority was based on when the employee became a correctional officer, if there was a break in service, the seniority started over, if an employee was promoted it started a new date and the agency was looking at the time with the institution without a break in service.

Chair Puglisi stated now it has been simplified down to the continuous service date with the State of Nevada, unless there is a break in service.

Chair Puglisi stated that would make sense because a break in service,

unless it is a reinstatement, would change the service date.

Member Beigel stated the grievant stated the 60-day period couldn't be followed.

Member Beigel stated if the new version of AR 301 was adopted on December 28, 2018 and the seniority list needs to be posted for 60 days, the email stated the shift bid finalization would be the end of January, the 60 days would not be followed and that is a valid grievance.

Chair Puglisi stated he was reading from page 4, #3a of the old version of AR 301: the annual shift bid should occur in November, and 90 days prior to that, the agency will post the exempt positions.

Chair Puglisi stated 60 days prior to bidding, the seniority list will be posted.

Chair Puglisi stated in this situation, the bidding was suspended because of the seniority list.

Chair Puglisi stated the shift bid happens in November for January, it's 60 days, the seniority list must go out at the beginning of that time.

Chair Puglisi stated what the Committee needed to figure out was when the seniority list was posted, as the agency stated the shift bid would be completed in January but did not give a date.

Chair Puglisi stated the memo dated November 20, 2018 stated they 'posted the seniority list provided by HR for the 30-day preview period and each institution must conduct their shift bid on or after Monday December 17, 2018'.

Member Beigel stated the memo on December 11, 2018 stated there were potential changes to the AR.

Member Beigel stated the 60 days did not appear to be followed and the grievance should go to full hearing.

Member Laney stated she felt the reason why the 60-day process had not occurred was because the agency was changing the process, so the 60 days would not come into play until the process and AR is finalized.

Member Laney stated the agency can follow the process once that is finalized.

Member Laney stated in the grievant response, page 2 of 4, the agency response was 'in response to your grievance regarding the 2019 shift bid, NDOC has opted to delay the shift bid process in order to update AR 301 to ensure consistency with the seniority list. If you desire changes with AR 301, please submit a 049 form'.

Member Whitten stated even in the new version, the AR still stated 90 days for the exempt and 60 days for shift, that did not change.

Chair Puglisi stated the regulation stated the annual shift bid *should* occur every year during November, the 60 days prior to that shift bid, whenever it does occur, and stated will post a seniority list.

Chair Puglisi stated one could reasonably interpret that it is not mandatory it occur in November and everyone's shift has continued to be the same throughout this process so at this point, Chair Puglisi did not think anyone's schedule had changed unless they were in the institutions that had completed the shift bid before November 2, 2018.

Chair Puglisi stated he did not believe that applied to this institution.

Chair Puglisi stated the requested relief is to keep the shift bid in accordance with AR 301 without changing it.

Member Russell stated she believed the Committee should move the grievance forward to hearing to get the facts as to whether the shift bid will meet the posted requirements because of the delays and there are multiple issues in this grievance.

Chair Puglisi stated if the Committee could figure out the information with what they have, due to logistics, if the Committee did move forward with this grievance, by the time the Committee heard the grievance, it may be too late.

Chair Puglisi stated if there was a way to ascertain what is actually happening, that would be better.

Chair Puglisi stated the only resolution to this problem would be to delay this new process and implement this for the 2020 shift bid and the Committee doesn't have the authority to make the agency do that.

Chair Puglisi stated on the top of page 3, there is a reference to the decision requested by Member Russell, there was a grievance in the past that had to do with the date of seniority and that decision stated to go by the date of rank versus the date of hire and now the Committee is back to date of hire.

Member Russell stated the decision she had requested was the 15-year-old decision that gave the specifics on how it was supposed to be laid out.

Chair Puglisi stated the grievance had evolved and had gone from the timeframe of the bidding to the application of seniority and the grievant's last statement was they did not want the policy to change.

Chair Puglisi stated going to hearing may not change that because by

then, the new policy will be adopted and in the interim, the agency stated that is what they will do moving forward.

Chair Puglisi stated he did not have the history from 15 years ago, but it was logical to use your hire date with the State of Nevada because seniority should be the same as the seniority as a State employee, not based on what job you took two weeks ago.

Chair Puglisi stated it would be to an employee's advantage if you got promoted three weeks ago and that is the date the agency is going to use for shift bidding, and if you have 20 years of service, you would probably want that hire date of 20 years ago versus the promotional date of a few weeks ago.

Member Novotny stated the Committee should hear the grievance before the decision is made but also felt it was up to NDOC make their decisions.

Member Novotny stated it's difficult, and asked rhetorically, does the Committee go by the decision made 15 years ago.

Chair Puglisi stated the Committee should look at the policies as the decision from 15 years ago was different, the Committee cannot base it around the decision from 15 years ago if the policy has changed.

Member Novotny stated the decision from 15 years ago was from changing Forensic Specialist to Correctional Officers.

Chair Puglisi stated page 4 of the grievant response stated the resolution was to return the bid back to it's previous process by date of rank and if the grievance goes to hearing, the Committee will not have that authority.

Member Novotny stated for clarification, that all the grievants were asking for the same thing; shift bid process to stay the same for this year and change next year.

Chair Puglisi asked if Member Novotny meant by all, she meant the next two agenda items.

Member Novotny stated yes.

Member Russell stated part of what the grievants are grieving was not just the change in the where they place on the seniority list but the fact that the time frames were not being followed to allow challenges to an individual's position on the seniority list.

Member Russell stated those sections of the AR are not changing.

Chair Puglisi stated the seniority changed and as a result, the bidding process was suspended so the it has resumed or will resume.

Chair Puglisi stated his understanding of the regulation as to why it is 60 days is for the employer's convenience to get the process laid out.

Chair Puglisi stated there is no bidding late, that no shift bid will be delayed because an officer has missed a deadline regardless of the circumstances.

Member Russell motioned to moved grievance #6041 to hearing.

Member Beigel seconded Member Russell's motion.

MOTION: Moved to move grievance #6041 to hearing
BY: Member Russell
SECOND: Member Beigel
VOTE: The vote was 5 to 1 in favor of the motion with Chair Puglisi voting 'nay'.

8. Discussion and possible action related to Grievance #6088 of Robert Suwe and #6089 of Kenny Clark, Department of Corrections – Action Item

Chair Puglisi stated that due to the similar nature of grievance #6088 and #6089, he would entertain the Committee discuss them together unless there was opposition.

There was none.

Chair Puglisi stated the proposed resolution for both grievances was to have the institution complete the bidding process this year based on the AR as it was written and if it is believed the AR should be rewritten, it should be done after this year's bid.

Member Laney stated that by moving grievance #6041 to hearing, the Committee would not be doing due diligence if they did not agree to do the same thing with these grievances as they are the same issue.

Chair Puglisi asked if Member Laney would like to restate her opinion in the form of a motion.

Member Laney motioned to move grievance #6088 and grievance #6089 to hearing based on the decision to move grievance #6041 to hearing.

Member Whitten seconded Member Laney's motion.

Chair Puglisi restated the motion and asked if there was any discussion.

Member Beigel asked if the Committee could hear all three grievances together if they move forward.

Chair Puglisi asked EMC Coordinator Nora Johnson if the grievances could be scheduled together per Member Beigel's request.

Ms. Johnson stated there was no formal process for requesting grievances being scheduled together and the request would be noted.

Ms. Johnson stated there had been a discussion with the EMC counsel regarding the proper way to combine grievances and asked if the three grievances would be scheduled separately but on the same day, or if they would be combined into one grievance.

Chair Puglisi stated he had a discussion with Ms. Breinig and he would need to have a discussion with Ms. Johnson regarding the proper way to calendar other grievances that were not before the Committee today, so the Committee did not have numerous grievances coming to hearing.

Chair Puglisi stated regarding the three grievances before the Committee today, to make sure they were on the same calendar.

Ms. Johnson stated that would be noted on the EMC scheduler.

Member Laney asked if the Committee was able to, with grievances that are the same issue, that are asking for the same resolution to combine them with existing grievances that have been scheduled as they come in.

Ms. Breinig stated the Committee needed to keep the discussion to the agenda items and the motion that was on the table.

Member Laney stated she could redirect the question to tie into what was currently being discussed.

Member Laney asked if there are additional grievances that come in that are similar to #6088 and #6089 and #6041, can the Committee tie them to these grievances if they are the same issue and the same proposed resolution.

Chair Puglisi stated that generically, grievances come to the Committee, they get sent to the three Chairs for determination and some of those determinations have been made.

Chair Puglisi stated the grievances that come in after determination of prior grievances, the Chair's could keep in mind prior determinations for the purposes of the EMC calendar.

Ms. Breinig stated if there are questions regarding procedure, the Committee could discuss that outside of the current agenda and issues at hand.

Ms. Breinig stated the Committee is discussing grievance #6088 and #6089 and there is a motion on the table and the Committee is to be

discussing that motion.

Chair Puglisi asked if there was any more discussion on grievance #6088 and #6089.

There was none.

The vote was unanimous in favor of the motion.

MOTION: Moved to move grievance #6088 and grievance #6089 to hearing based in the decision to move #6041 to hearing.

BY: Member Laney

SECOND: Member Whitten

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

9. Discussion and possible action related to Grievance #5942 of Lloyd May, Public Works Division – Action Item

Chair Puglisi stated he would give the Committee time to review.

Chair Puglisi opened the Committee for discussion.

Member Russell stated the Committee should move this grievance to hearing to determine if there is consistency in the way the actions are being applied.

Member Russell stated that would help to determine if the oral warning was justified.

Member Beigel stated she agreed with Member Russell.

Member Whitten also agreed.

Chair Puglisi stated the grievance on page 3 above the number bullets stated ‘I’ve been yelled at, bullied, harassed in front of my colleagues’ and in the past if the Committee had issues that were potentially EEO, if the grievance is scheduled for full hearing, the scope would be limited to non-EEO issues.

Member Russell stated her intent on moving this grievance forward was strictly to determine whether the actions relating to the oral warning in question and the policy behind the oral warning was being applied evenly to all other employees.

Ms. Breinig stated if there is a grievance with separate issues, one which the Committee would like to set a hearing for, the other which the Committee lacks jurisdiction over, the Committee could indicate limited scope in the motion.

Member Beigel stated they were talking about something in the step 2 response and she was focused on the step 1 response.

Member Beigel stated she was not sure how the grievance turned into something for EEO and that is why she was not concerned with the EEO issue.

Member Russell clarified when the motion was made, the motion would state in moving this grievance forward, the EMC will not hear any issues heard by EEO.

Ms. Breinig stated it would be helpful to present the motion in a positive by stating move to a hearing but limited to the scope the Committee wants to hear.

Chair Puglisi stated the grievant is grieving he received an oral warning and the grievant stated he did not perform the action on purpose.

Chair Puglisi stated the employee was Absent Without Leave (AWOL) for 3 or more days, which according to the Penalties and Prohibitions (P&P's) is grounds for dismissal but the employee was given an oral warning and the employee is grieving issues that were not part of the oral warning.

Chair Puglisi stated if the grievance was moved to hearing and for the discussion at hand, the Committee should focus on the oral warning and whether it was appropriate.

Member Laney stated she had reached the same conclusion that the oral warning stemmed from 3 days of AWOL and the fact the grievant is asking for a resolution to 'be fair and treat everyone the same' didn't tie back to the AWOL, it tied back to him being trained differently than other staff using codes in the system.

Member Laney stated she did not know how the Committee could hear the grievance without crossing that line.

Member Laney stated the grievant was not asking for reversal of the time notated in the oral warning.

Member Laney stated the proposed resolution tied directly to the unfair, unequal treatment.

Member Novotny stated she agreed that the grievance was about the unequal training the grievant received.

Chair Puglisi asked if there was more discussion or if someone was ready with a motion.

Member Russell stated the grievance should be moved forward with the limitation the Committee is looking at whether the policy is applied consistently.

Chair Puglisi clarified nothing to do with the oral warning.

Member Russell stated it was the actions behind the warning that was the basis of the grievance.

Chair Puglisi stated that may be too broad a scope.

Chair Puglisi stated, 'I, Lloyd May, was given an oral write up on a mistake that was done on my behalf regarding my timesheet I did not perform this action on purpose'.

Chair Puglisi stated even if the employee did not mean to perform the action, if the action was performed, and there was a consequence of that action, correct or not, that is what should be relevant.

Chair Puglisi stated the mention of applying policy the same, but if someone no call, no shows for 3 days or more, the penalty for that is termination and the employee wasn't terminated.

Chair Puglisi stated it was to the employee's advantage to have an oral warning versus no job.

Member Russell stated seeing an employee use the grievance process to ask for training for himself.

Member Russell stated if the employee is unsure how to properly code their timesheet or what the policies are to adhere by, it would benefit both the agency and the employee for the employee to stay within the policies of the department.

Member Russell stated the Committee should be within its jurisdiction if a grievant needed additional training.

Chair Puglisi stated there have been past cases where the Committee could not direct agencies to provide training.

Member Russell stated that was additional training for other staff, if an employee is asking for training for himself, the Committee may not have covered that ground.

Chair Puglisi stated his point of contention was the no call, no show for several days.

Chair Puglisi stated 'during a phone conversation on August 6th, you did indicate to me you had appointments for the rest of the week but at no time did you inform me of the nature of the appointments or that you

would be away from work on leave. Additionally, the 3 days you were absent from work, you did not call in and report your absence or your need to be on leave. Follow-up phone calls to you were not answered or returned. A message was left on your duty station phone indicating your potential for being AWOL, to date has not been addressed. Absences without supervisor approval can be coded as AWOL’.

Chair Puglisi stated the agency gave the grievant sick leave for August 8, 9 and 10.

Member Russell stated she did not remember the specific case names or the agencies, but she did remember there have been a couple of hearings where going through the process, the grievant learned what they could and could not do, and about what they should and should not do and did not think the Committee was limited to just whether the agency violated code or regulation.

Member Russell stated this could also be an educational process for the parties.

Chair Puglisi asked if there was a motion.

Member Beigel motioned grievance #5942 be moved to hearing regarding the oral warning.

Member Russell seconded Member Beigel’s motion.

Chair Puglisi asked if there was discussion on the motion.

There was none.

The vote was 4 to 2 with Chair Puglisi and Member Laney voting ‘nay’.

MOTION: Moved to

BY: Member Beigel

SECOND: Member Russell

VOTE: The vote was 4 to 2 with Chair Puglisi and Member Laney voting ‘nay’.

10. Public Comment

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

11. Adjournment

Chair Puglisi adjourned the meeting at approximately 3:19 p.m.